

SYLVIA MARCIAL,
Plaintiff,

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR PALM
BEACH COUNTY, FLORIDA

v.

CIRCUIT CIVIL DIVISION

BOCA GALA FOODS, LLC. d/b/a
GALAFRESH FARMS,
Defendant.

CASE NO.:

COMPLAINT FOR DAMAGES

Plaintiff, SYLVIA MARCIAL, by and through his undersigned counsel, hereby sues the Defendant, BOCA GALA FOODS, LLC. d/b/a GALAFRESH FARMS (hereinafter referred to as “GALAFRESH”), and alleges as follows:

1. This is an action for damages in excess of Fifty Thousand Dollars (\$50,000.00), not inclusive of attorney’s fees and costs, and is within the jurisdictional limits of this Court.
2. At all times material hereto, Plaintiff, SYLVIA MARCIAL, was and is a resident of Broward County, Florida, over the age of majority, and is otherwise *sui juris*.
3. At all times material hereto, Defendant, BOCA GALA FOODS, LLC, was and is a Florida Limited Liability Company authorized to and doing business in the State of Florida as a retail market with a store known as GALAFRESH FARMS, located at 23072 Sandalfoot Plaza Drive, Boca Raton, FL 33428 (also referenced to as the “subject premises”).
4. On or about September 12, 2024, the Plaintiff, SYLVIA MARCIAL, was lawfully on the subject premises as a customer and business invitee.
5. At all times material hereto, the Defendant, GALAFRESH, by and through its agents, servants, and/or employees, had dominion, possession and/or control over the subject premises.
6. On or about September 12, 2024, and at all times material hereto, the Defendant’s agents, servants, and/or employees acted and were acting within the course and scope of their

employment and/or agency for the Defendant, and the Defendant is vicariously responsible for their conduct.

7. At all times material hereto, the Defendant, GALAFRESH, owed a nondelegable duty of care to maintain the subject premises in a reasonably safe condition for invitees such as the Plaintiff, and owed a nondelegable duty to warn invitees of hazards and dangers present on its premises.

8. On or about September 12, 2024, the Plaintiff, SYLVIA MARCIAL, was shopping in or around the milk section of the subject premises when an agent, employee or servant of the Defendant carelessly and negligently placed carts of overloaded boxes of merchandise so as to cause a load of products to fall off of the cart or dolly and strike the Plaintiff on the head, causing serious and permanent bodily harm to the Plaintiff.

9. On or about September 12, 2024, the Defendant, GALAFRESH, by and through its agents, servants, and/or employees, breached its nondelegable duty of care by committing one or more of the following acts or omissions:

- a. Carelessly and negligently overloading boxes of merchandise stacked high on the cart on the subject premises so as to cause a load of products to fall off and strike the Plaintiff;
- b. Failing to properly secure or stack the load on the cart so as to prevent the load from falling off the cart while in the aisles;
- c. Allowing its employees and/or agents to operate the cart or dolly in an unsafe or unreasonably dangerous manner;
- d. Failing to properly train, educate and/or instruct its employees and/or agents on the safe and proper use and operation of the aforementioned cart;

- e. Failing to use a spotter to guide the operation of the cart, to warn customers in the area, and/or to prevent customers from being within a certain proximity or distance from the cart while it was in operation;
- f. Failing to cordon or section off a safe distance around the aforementioned cart while it was in operation;
- g. Failing to train and/or certify its employees and/or agents on the operation of the subject cart or dolly in compliance with OSHA and/or other federal and state law;
- h. Leaving the subject cart or dolly unattended in the subject aisle; and
- i. Allowing its employees, agents and/or servants to engage in a dangerous and/or ultrahazardous activity which Defendant knew or should have known should not be performed while customers were in the store.

10. At all times material hereto, the Defendant, GALAFRESH, the aforementioned dangers were known or should have been known to the Defendant and Defendant failed to warn the Plaintiff about these dangers and failed to warn the Plaintiff about the load falling off from its carts.

11. As a direct and proximate result of Defendant's breach of its nondelegable duties, the Plaintiff, SYLVIA MARCIAL, suffered severe bodily injuries with resulting past and future pain and suffering, disability, disfigurement, inconvenience, mental anguish, loss of capacity for the enjoyment of life, medical expenses, including the expense of hospitalization and surgery, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. These losses are permanent and continuing, and the Plaintiff, SYLVIA MARCIAL, will suffer such losses in the future.

WHEREFORE, the Plaintiff, SYLVIA MARCIAL, hereby demands judgment for all damages, costs, and interest against the Defendant, BOCA GALA FOODS, LLC. d/b/a GALAFRESH FARMS, together with any additional relief this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff, SYLVIA MARCIAL, hereby demands trial by jury of all issues triable as a right by a jury.

SIMON TRIAL FIRM
Attorneys for Plaintiff
2601 South Bayshore Drive
Suite 1010
Miami, FL 33133
Telephone: (305) 375-6500
Facsimile: (305) 375-0388
Email: pleadings@simon-trial.com

By: /s/ Alfredo D. Ravinet
RONALD M. SIMON, ESQ.
Florida Bar No.: 165262
ALFREDO D. RAVINET, ESQ.
Florida Bar No.: 1059249

NOTICE OF DESIGNATION OF E-MAIL ADDRESSES

The undersigned, in accordance with Florida Rules of Judicial Administration 2.516, hereby designates the following as their e-mail addresses:

Primary: pleadings@simon-trial.com

Secondar: alfredo@simon-trial.com

/s/ Alfredo D. Ravinet
RONALD M. SIMON, ESQ.
Florida Bar No.: 165262
ALFREDO D. RAVINET, ESQ.
Florida Bar No.: 1059249