

Wal-Mart Canned Ham Attacks Plaintiff - Lesson - Stick With Turkey

1107 - Premises Liability - Cardboard strikes a woman in the nose as she looks for a canned ham; jury finds for defense on liability

Grider v. Wal-Mart, 98 CI 0823

Plaintiff: William Moore, Versailles

Defense: Christopher Cashen, *Woodward Hobson & Fulton*, Lexington

Verdict: Zero Verdict

Circuit: **Franklin** (1), J. Crittenden,
9-7-99

The case of the “elusive” canned ham began on Christmas Eve 1997 when Betty Grider, age 58, went shopping for the ham. While turkey was ready for Christmas dinner, her husband wanted ham, and the hunt was on. Winn-Dixie was closed, but Grider found Wal-Mart open. She found the hams in the freezer area, and it is here that the stories diverge.

On this day, the freezers were covered with cardboard sheets, to protect them should there be a power loss on Christmas Day. Grider recalled that a young male employee lifted the cardboard off, and lost control of it as he did. As a result, it struck her on the nose. Grider was certain that she did not attempt to lift the cardboard.

Two on-site store employees recalled differently. Namely, they thought that Grider had “slung” the piece of cardboard into the air, and gravity being as it is, it came down upon her nose. While one had attempted to catch the cardboard as it fell, he missed. From this version of the facts, Wal-Mart argued fault rested with the plaintiff alone.

However it happened, there was an impact with the cardboard, and Grider sustained a broken nose. Photographs reveal the nose injury and associated black eyes. A surgical treatment was undertaken, and she incurred medical bills of \$7,709. Lost wages were \$425, and she sought another \$25,000 for suffering. While her nose is mostly healed, she reports it occasionally is a “little stuffy.”

The matter went to a Frankfort jury which first considered whether Wal-Mart exercised ordinary care in assisting Grider as she looked for the canned ham. Before ruling the panel had questions. The first was whether each side had specifically stated that the incident broke her nose. The court answered that plaintiff’s doctor had done so. The second question, not answered, was whether Wal-Mart’s failure to have a policy was a violation of the standard of care. The panel again deliberated and found no deviation by Wal-Mart, not reaching Grider’s duties, apportionment or damages, and awarding her nothing. Judgment has since been entered for Wal-Mart.