

**BARBARA MILLER (ALIAS)  
vs. PUBLIX**

As Barbara Miller (alias) reached into her purse for the cash to pay her grocery bill, she had no reason to suspect that her eighteen month old son, Bobby, was in serious danger. He sat securely belted in the Publix shopping cart seat directly at her side and within her reach. But sitting within Bobby's easy reach, dangling invitingly over the side of the elevated counter above the grocery conveyor belt, was a plastic spring coil. One end of the coil was attached to a holder affixed to the counter. The other end was attached to a ballpoint pen that snapped into the holder -- a convenience for customers writing checks for their purchases.

The dangling cord caught Bobby's attention. In an instant he reached for it and pulled. The coil stretched, the pen snapped out of the holder, and the sharp, unguarded metal tip of the pen flew directly into Bobby's eye. Bobby Miller will spend the rest of his life half-blind and disfigured by a prosthetic substitute for the eye he lost.

Jack Scarola and David Sales working with referring lawyer, John White of Shutts and Bowen, were initially confronted with an absolute refusal on the part of Publix Supermarkets to acknowledge any liability for what they characterized as a freak accident. Expert opinions strongly supported Publix's obligation to child-proof the check-out area where Publix knew parents would necessarily be distracted away from focus on their children to the check-out process. Nevertheless, Publix took the position that responsibility for Bobby's safety rested with his mother and that her negligence alone caused Bobby's injury.

The Defendant's litigation posturing and economic pressures on the Miller family finally led to a compromise of the Millers' claims and a structured settlement that produces an expected total value for Bobby of \$1.2 million, including an initial payment of \$150,000 and the balance over his lifetime. ■