

# Jurors Award \$7 Million In Deaths

Publix attorney says  
the company is not  
responsible for  
the amount.

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The Ledger

BARTOW — In one of the largest civil court verdicts in Polk County history, a jury on Friday awarded nearly \$7 million to the family of two Lakeland teens killed in a crash with a Publix truck in 1991.

But an attorney for Publix Super Markets called the award meaningless because the damages were assessed before a jury could decide who was actually at fault in the accident.

"None of the payment is Publix's responsibility," said Raymond Haas of Tampa. "The verdict is meaningless because we didn't cause the accident. The liability issue has to be tried."

It is unusual that the four men and two women of the jury were asked only to assess damages in the deaths of Michael and Michelle Mayberry, not determine who was responsible for the crash.

But that decision was made in September, after six years of litigation, when Circuit Judge J. Tim Strickland ruled that Publix attorneys deliberately refused to comply with court orders to release information and make witnesses available to attorneys for the Mayberry family.

Ultimate sanctions are justified, Strickland wrote in a court order, because of a "willful and deliberate" pattern of obstructing the discovery process.

Attorneys for the family, who asked for \$11.5 million in damages, declined to discuss the case.

Michael Mayberry Jr., 16, and his sister, Michelle, 15, died of injuries they suffered in December

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## Publix

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1991 when the Ford Pinto they were riding in collided with a Publix tractor-trailer driven by Dewey R. Harrell of Lakeland.

The victims' sister, Monique Mayberry, 18, and her boyfriend, Kenneth Joseph Stripling, who was driving, were injured in the crash at Clark Road and New Tampa Highway.

Although the jury was told nothing about how the crash happened, the issue is not resolved.

Based on witness accounts, initial Florida Highway Patrol reports indicated that the driver of the Pinto ran a stop sign then sped under the truck's wheels.

But in court records, an attorney for the family wrote that a Publix employee, Ed Yelvington, prepared a document "which essentially admits the accident was Dewey Harrell's fault."

Publix "would like nothing better than to keep a witness like Ed Yelvington from the jury so the jury can never see the admission he has made about the accident," wrote attorney Todd Falzone of Fort Lauderdale.

The document does not say how Harrell was at fault.

After a week-long trial and four hours of deliberations, the jury awarded the family \$6,965,095:

■ \$6 million in damages to Michael C. Mayberry Sr. and Debra Mayberry for pain and suffering as a result of the deaths of their son and daughter.

■ \$1,859 in medical and funeral expenses for Michael Mayberry Jr.

■ \$47,757 for medical and funeral expenses for Michelle Mayberry.

■ \$915,479 in damages for Monique Mayberry.