

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

VELA WALDEN,)	
)	
Plaintiff,)	
)	Case No. 2:11-cv-763-MEF
v.)	(WO—Do not publish)
)	
FOOD GIANT SUPERMARKETS,)	
INC. doing business as PIC AND SAV,)	
et. al.,)	
)	
Defendants.)	

ORDER

This cause comes before the Court on Defendant Food Giant Supermarkets, Inc.’s Motion to Dismiss (Doc. # 1-7). Food Giant claims that the case is ripe for dismissal solely because the plaintiff, Vela Walden, named Pic and Sav as the defendant instead of Food Giant, the owner and operator of the store where her accident allegedly took place. Food Giant’s Corporate Disclosure Statement (Doc. # 2) makes clear, however, that Pic and Sav is a trade name under which Food Giant does business. Thus, Pic and Sav and Food Giant are one in the same.¹ See *Clark v. Transcontinental Ins. Co.*, No. 08-cv-903, 2009 WL 387129, at *1 n.1 (M.D. Ala. 2009) (“Since Greg Clark Roofing & Construction is alleged to be a trade name under which Greg Clark does business, it is

¹ Indeed, it is difficult to imagine why Food Giant would have incurred the legal expenses necessary to remove the case to federal court, and then move to have the action against Pic and Sav dismissed, unless Pic and Sav was part and parcel of its operation.

not a separate legal entity.”); *Cogan v. Allianz Life Ins. Co. of N.A.*, 592 F. Supp. 2d 1349, 1351 n.1 (N.D. Ala. 2008) (“‘Senior Info Center’ is merely a trade name under which RPC does business and not a separate legal entity.”); *Noall v. Howard Hanna Co.*, No. 09-cv-2510, 2011 WL 5086376, at *3 (N.D. Ohio 2011) (“A corporation and its trade or fictitious name are not separate entities.”).

For these reasons, it is hereby ORDERED as follows:

1. Food Giant’s Motion to Dismiss (Doc. # 1-7) is DENIED.
2. Walden is to file an amended complaint on or before January 30, 2012. In the amended complaint, the case’s styling should read, *Vela Walden v. Food Giant Supermarkets, Inc. d/b/a Pic and Sav*, 2:11-cv-763-MEF-SRW. If Walden fails to file such an amendment, the Court will dismiss the action.

Done this the 19th day of January, 2012.

/s/ Mark E. Fuller

UNITED STATES DISTRICT JUDGE