

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case Number: 13-21021-CIV-MORENO

ADRIAN MUSSON, through his court-appointed
guardian Maxwell Sargent; MAXWELL
SARGENT; ROSALIE MUSSON; and JAMES
MUSSON,

Plaintiffs,

vs.

BRADSHAW CONSTRUCTION
CORPORATION, a foreign corporation,

Defendant.

_____ /


ORDER GRANTING SUMMARY JUDGMENT FOR DEFENDANT

Plaintiff Adrian Musson, who sustained severe injuries while conducting a concrete pour at a construction site during his employment by the Defendant, seeks damages under Florida's statutory intentional tort exception to employers' immunity under Florida's Workers' Compensation regime. The Court finds that the Plaintiffs have failed to prove by clear and convincing evidence that: (1) the employer knew based on explicit warnings specifically identifying a known danger that was virtually certain to result in injury, and (2) the employer deliberately concealed or misrepresented the danger. Therefore, the exception to employers' immunity pursuant to Fla. Stat. § 440.11(1)(b) has not been met.

The Court adopts United States Magistrate Judge Alicia Otazo-Reyes' Report and Recommendation after a *de novo* review of all of the evidence including the transcripts of the depositions taken. The Plaintiffs' objections are overruled.

It is ADJUDGED that summary judgment is GRANTED in favor of Defendant Bradshaw Construction Corporation.

DONE AND ORDERED in Chambers at Miami, Florida, this 25th day of February, 2014.



FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record