

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No. SJ-2020-730

Dudley District Court
No. 2064CV167

MARGARITA MELENDEZ

v.

SHAW'S SUPERMARKETS, INC.

RESERVATION AND REPORT

This matter came before the Court, Kafker, J., on a petition filed by Shaw's Supermarkets, Inc. (Shaw's), seeking relief under G. L. c. 211, § 3, from the denial of its motion to dismiss Margarita Melendez's complaint on statute of limitations grounds. Melendez commenced the underlying tort action in the District Court, alleging essentially that she was injured at a Shaw's supermarket when a Shaw's employee negligently collided with her. Shaw's contends that Melendez's claim accrued on September 3, 2017, the date of the alleged incident; that her complaint was filed on September 24, 2020, more than three years after the accrual date, see G. L. c. 260, § 2A; and that Melendez is not entitled to tolling under the tolling orders issued by this court in response to the COVID-19 pandemic, because, in its view, those orders apply only to statutes of limitations that were set to expire between March 17, 2020 and June 30, 2020. For her part, Melendez argues that the tolling orders are not so limited in application, but applied to toll the statute of limitations in all civil actions, including her own.

Upon consideration of the parties' submissions, it is hereby ORDERED that the petition is hereby reserved and reported to the full court for determination. I recognize that the defendant

has an adequate remedy in the ordinary course of trial and appeal, and therefore that review of the matter interlocutorily pursuant to G. L. c. 211, § 3, is not absolutely required, but I nevertheless exercise my discretion to report the matter because it is novel, recurring, important, and very timely. See Charbonneau v. Presiding Justice of Holyoke Div. of Dist. Court Dep't, 473 Mass. 515, 517-518 (2016); Pare v. Commonwealth, 420 Mass. 216, 218 n.1 (1995).

The record shall include the following:

- a. All the papers filed in No. SJ-20-730, Margarita Melendez vs. Shaw's Supermarkets, Inc.;
- b. This reservation and report; and
- c. The docket sheet in No. SJ-20-730.

Shaw's shall be designated the appellant. The allegations in Melendez's District Court complaint shall serve as the statement of facts for the full court's review. The clerk of the county court shall assemble the record and transmit it to the full court forthwith. Oral argument shall take place at such time as the full court may direct.

By the Court, (Kafker, J.),

/s/ Maura S. Doyle
Maura S. Doyle, Clerk

December 23, 2020