

IN THE CIRCUIT COURT OF THE 9TH  
JUDICIAL CIRCUIT IN AND FOR  
ORANGE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO:

MARLON MARCANO and YMA SU-LING SCARBRIEL, as  
Personal Representatives of the Estate of MIYA MARCANO  
Deceased,

Plaintiffs,

vs.

ARDEN VILLAS APARTMENTS LLC, a foreign limited  
liability company; D.P. PREISS COMPANY, INC., d/b/a  
THE PREISS COMPANY, a foreign profit company; and  
The Estate of ARMANDO CABALLERO, deceased, a Florida  
Resident,

Defendants.

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**ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL**

COMES NOW Plaintiffs, MARLON MARCANO and YMA SU-LING SCARBRIEL, as  
Personal Representatives of the Estate of MIYA MARCANO, deceased, by and through  
undersigned counsel and hereby sues Defendants, ARDEN VILLAS APARTMENTS LLC, D.P.  
PREISS COMPANY, INC., d/b/a THE PREISS COMPANY, and The Estate of ARMANDO  
CABALLERO, and alleges as follows:

**GENERAL ALLEGATIONS**

1. This is an action for damages in excess of \$30,000.00 exclusive of interest, costs, and attorneys' fees.
2. The incident giving rise to this Complaint occurred in Orange County, Florida, and therefore venue is proper in this Court.

3. Plaintiffs are, or will be the duly appointed, qualified, and acting Personal Representatives of the Estate of MIYA MARCANO, deceased, and are the proper party to bring this action for Wrongful Death pursuant to Fla. Stat. §§ 768.16–26, on behalf of the decedent’s Estate.

4. At all material times, ARDEN VILLAS APARTMENTS LLC, was a foreign limited liability company, with its principal address at 730 Third Avenue, MS 730/12/02, New York, New York 10017, was authorized to do, and was doing business in the State of Florida, with its registered agents located at 1201 Hays Street, Tallahassee, Florida 32301, and was owning/operating the property located at 3303 Arden Villas Boulevard, Orlando, Florida 32817, known as “Arden Villas,” where the subject incident occurred.

5. At all material times, D.P. PREISS COMPANY, INC., d/b/a THE PREISS COMPANY, was a foreign profit company, with its principal address located at 1700 Hillsborough Street, Raleigh, North Carolina, 27605, and was authorized to do, and was doing business in the State of Florida, with its registered agent, Paracorp Incorporated, located at 155 Office Plaza Drive, 1st Floor, Tallahassee, Florida 32301, and was operating/managing the Arden Villas.

6. At all material times, ARMANDO CABALLERO, did reside in Orange County, Florida.

7. At the time of her death and at all material times, decedent, MIYA MARCANO, resided in Orange County, Florida.

8. At all material times, MIYA MARCANO, decedent, is survived by her parents, MARLON MARCANO and YMA SU-LING SCARBRIEL.

9. On or about June 29, 2021, MIYA MARCANO (“MARCANO” or “Miya”), a 19-year-old college student at Valencia College, was hired by the D.P. PREISS COMPANY, INC., d/b/a THE PREISS COMPANY (“PREISS”) to work in the front office at the ARDEN VILLAS where she was also a tenant. MARCANO’s decision to reside at the ARDEN VILLAS was based primarily

on a number of representations made by PREISS. While working for PREISS, MARCANO met several of her co-employees, including Defendant ARMANDO CABALLERO. Upon information and belief, MIYA MARCANO and her co-employees exchanged phone numbers and would all communicate with each other. At no time was MIYA MARCANO made aware by the management of the ARDEN VILLAS that Caballero had a criminal background, a history of harassing women, nor was she aware that Caballero would have unsupervised and/or free access to her apartment. Caballero, who was much older than MARCANO, appeared to be interested in MARCANO and this made her extremely uncomfortable.. MARCANO expressed her concerns to employees of the ARDEN VILLAS as well as to her parents who were concerned that Jessica Decker (“Decker”), the manager of the ARDEN VILLAS, was not taking the safety concerns of the employees and tenants, very seriously. Management at the Arden Villas had a reputation for ignoring the complaints made by both tenants and employees.

10. On or about September 24, 2021, MARCANO arrived at work around 1:00 p.m. and was scheduled to get off at 5:00 p.m. On that same day, MARCANO was confirmed on a flight to Ft. Lauderdale, Florida where she would attend the Annual Miami Carnival with her family. MARCANO had attended the Miami Carnival with her family since she was a young girl, and she would never miss the family event. Prior to leaving her apartment for work, MARCANO packed her personal belongings and left her room in an immaculate condition as she always did. MARCANO exchanged messages with her parents and expressed her love for them like she always did. MARCANO’s last text message to her father telling him “Love you too” was delivered at or around 5:06 p.m.

11. Unbeknownst to MARCANO, ARMANDO CABALLERO used a key fob, or other access control device given to him by Defendants, in order to access MIYA MARCANO’s apartment

within the Arden Villas. It is believed that Caballero used a key fob to enter MARCANO's apartment, once at approximately 2:14 p.m., according to a timeline prepared by the Orange County Sheriff's Office, and again at approximately 4:34 p.m. Once inside, Caballero waited for MARCANO to arrive home. Once MARCANO arrived home, she encountered Caballero, who is believed to have attacked MARCANO during a struggle. Caballero placed a dresser against MARCANO's bedroom door to prevent the entry into MARCANO's bedroom. Caballero would then leave the ARDEN Villas with MARCANO, undetected by Defendants due to their lack of security cameras, policies, and procedures.

12. At approximately 10:30 p.m., MARCANO's parents confirmed that Miya was not on her flight to Ft. Lauderdale and became extremely concerned because that was outside of the norm for Miya. Miya's parents attempted to call her, but her phone went straight to voicemail. It was at that point that Miya's family made the decision to travel to the Arden Villas. While enroute to Orlando, MARCANO's family called the ARDEN VILLA's emergency number but to date have not received a returned call. The family later discovered that no one checked the messages because the phone was not working.

13. MARCANO's family made multiple attempts to reach management of the ARDEN VILLAS but no one responded. Upon information and belief, Caballero sent a text message to Decker advising her that MARCANO was missing but no one from the PREISS COMPANY, including Decker, came out to the ARDEN VILLAS to assist with locating one of their tenants and employees.

14. On September 26, 2001, Caballero was filmed by one of Miya's family members at the San Jose Apartment exiting his vehicle carrying gloves, a pink blanket, and a backpack. On September 27, 2021, ARMANDO CABALLERO was found dead, from a suspected suicide.

15. Eight days after MARCANO's disappearance, she was found dead. At no time during the search for Miya did Decker or any of the Defendants attempt to reach out to Miya's parents. Had Decker made an effort to immediately confirm if anyone had entered Miya's apartment, she could have possibly been found alive.

16. As a result of the attack by Caballero and the negligence of the Defendants, MARCANO sustained severe mental anguish and bodily injury, resulting in her death. Miya's body was found bound and duct taped.

17. At all material times, ARMANDO CABALLERO was employed by ARDEN VILLAS APARTMENTS LLC, and/or their agents/employees, including THE PREISS COMPANY. Caballero was provided with unfettered access to Miya's and other tenants' apartments.

**COUNT I**  
**NEGLIGENCE CLAIM AGAINST**  
**ARDEN VILLAS APARTMENTS LLC**

18. Plaintiffs re-allege paragraphs 1 through 17.

19. At all material times, through its agents and/or employees, ARDEN VILLAS owed a non-delegable duty to its residents and invitees, to exercise reasonable and ordinary care to maintain the Arden Villas, in a condition reasonably safe for use by its residents and invitees.

20. In particular, Defendant, had a non-delegable duty to take such precautions as were reasonably necessary to protect its residents, including MARCANO, from reasonably foreseeable criminal attacks, especially by employees.

21. At all material times, Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that their employees and/or their agent's employees, posed a danger to residents and invitees, by virtue of their access to Arden Villas. In light of such, and specifically that some employees had access control devices that enabled them

to enter apartments within Arden Villas, including that which MARCANO lived, Defendant had a non-delegable duty to ensure that all persons that sought to work for Defendant and/or at Arden Villas, were properly vetted, and that only appropriate persons were hired.

22. At all material times, Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that their employees and/or their agent's employees, posed a danger to residents and invitees, by virtue of their access to Arden Villas. In light of such, and specifically that some employees had access control devices that enabled them to enter apartments within Arden Villas, including that which MARCANO lived, Defendant had a non-delegable duty to ensure that all such employees were properly trained and supervised.

23. At all material times, Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that their employees and/or their agent's employees, posed a danger to residents and invitees, by virtue of their access to Arden Villas. In light of such, and specifically that some employees had access control devices that enabled them to enter apartments within Arden Villas, including that which MARCANO lived, Defendants had a non-delegable duty to ensure that all such employees were monitored, as to ensure that employees that posed a threat to residents and/or invitees were not retained.

24. Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that prior to September 24, 2021, Armando Caballero posed a heightened risk to residents and/or invitees at Arden Villas, including MARCANO, and that he should have not been hired, not been retained, and/or not been given a key fob (or other access device) that provided unfettered access to apartments, including MARCANO's.

25. At the above-mentioned time and place, the Defendant, by and through its agents and employees, breached its non-delegable duty to exercise reasonable care for the safety and

protection of residents, including MARCANO, and acted in a negligent manner in various respects, including but not limited to the following acts of omission or commission:

- a. Failing to provide adequate security for its residents, including MARCANO;
- b. Failing to adequately vet prospective employees, including Caballero;
- c. Failing to contact the prior employers of prospective employees, including Caballero;
- d. Failing to conduct criminal background searches of prospective employees, including Caballero;
- e. Negligently providing access devices, including but not limited to key fobs, to employees and vendors, including Caballero;
- f. Failing to warn its residents, including MARCANO, that employees would have unfettered access to their apartments;
- g. Failing to warn, protect, guard, and secure the safety of its residents, including MARCANO, when Defendant knew or should have known that Caballero had a history of committing aggressive and/or criminal acts against others;
- h. Failing to police, patrol, guard, deter, and otherwise provide adequate protection for its residents and/or invitees, when Defendants knew or should have known of foreseeable criminal acts on persons;
- i. Failing to have and/or maintain an adequate number of surveillance cameras in working condition, such that crimes perpetrated near residential apartments are captured on camera, and available to assist law enforcement in subsequent investigations;
- j. Failing to prepare and/or implement and/or properly implement adequate security

policies, security measures, and security procedures necessary to protect MARCANO and other residents and/or invitees;

- k. Failing to adequately provide an overall security plan that would meet known industry standards and customs for safety in the community;
  - l. Failing to adequately assess the levels of crime on the premises and in the area;
  - m. Failing to implement or execute an adequate screening process for potential employees, thereby allowing persons, that otherwise would be deemed dangerous, to work at Arden Villas;
  - n. Failing to adequately monitor the actions of their employees, while they were at the Arden Villas;
  - o. The proceeding paragraphs, individually and/or as a whole, represent strict deviations from the existing standard of care with regard to security as recognized by similar premises in the local community; and,
  - p. Additional acts of negligence not yet discovered.
26. At all material times, Defendant, through its agents and employees, negligently failed to hire persons, employees, companies, and/or agents reasonably suited for providing, implementing, and maintaining proper security measures adequate to ensure the safety of its residents and invitees.
27. Defendant, through its agents, servants, and employees, created and/or allowed to be created said dangerous conditions as stated above on the subject premises. Further, the Defendant failed to warn its residents and/or invitees, including but not limited to MARCANO, deceased, of the existence of said dangerous conditions; or in the alternative, did allow said dangerous conditions to exist for a sufficient length of time such that a reasonable inspection would have



disclosed the danger.

28. As a direct and proximate result of Defendant's negligence, MARCANO, decedent, suffered severe mental anguish and bodily harm which led to her death.

29. As a further direct and proximate result of the negligence of Defendant, which caused the death of MARCANO, the Defendant is liable to the Plaintiffs for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat.* §768.21. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- a. The past and future mental pain and suffering of decedent, MARCANO's statutory survivors;
- b. The past and future loss of decedent, MARCANO's support and services from the date of her death to her statutory survivors;
- c. Expenses of funeral arrangements arising from the injury and death of MARCANO;
- d. Loss of the decedent's prospective net accumulations; and
- e. Any and all other damages as specified in F.S. 768.21.

**WHEREFORE** the Plaintiffs demand judgement against the Defendant for damages, interest, costs, and any further relief to which Plaintiffs are entitled under the applicable law and further demands trial by jury of all issues triable as of right by a jury.

**COUNT II**  
**NEGLIGENCE CLAIM AGAINST**  
**THE PREISS COMPANY INC., d/b/a THE PREISS COMPANY**

30. Plaintiffs re-allege paragraphs 1 through 29.

31. At all material times, through its agents and/or employees, owed a duty to its residents and

invitees, to exercise reasonable and ordinary care to maintain the Arden Villas, in a condition reasonably safe for use by its residents and invitees.

32. In particular, Defendant, had a duty to take such precautions as were reasonably necessary to protect its residents, including MARCANO, from reasonably foreseeable criminal attacks.

33. At all material times, Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that their employees and/or their agent's employees, posed a danger to residents and invitees, by virtue of their access to Arden Villas. In light of such, and specifically that some employees had access control devices that enabled them to enter apartments within Arden Villas, including that which MARCANO lived, Defendant had a duty to ensure that all persons that sought to work for Defendant and/or at Arden Villas, were properly vetted, and that only appropriate persons were hired.

34. At all material times, Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that their employees and/or their agent's employees, posed a danger to residents and invitees, by virtue of their access to Arden Villas. In light of such, and specifically that some employees had access control devices that enabled them to enter apartments within Arden Villas, including that which MARCANO lived, Defendant had a duty to ensure that all such employees were properly trained.

35. At all material times, Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that their employees and/or their agent's employees, posed a danger to residents and invitees, by virtue of their access to Arden Villas. In light of such, and specifically that some employees had access control devices that enabled them to enter apartments within Arden Villas, including that which MARCANO lived, Defendant had a duty to ensure that all such employees were monitored, as to ensure that employees that posed a

threat to residents and/or invitees were not retained.

36. Defendant, through its agents and/or employees, knew, or in the exercise of reasonable care should have known, that prior to September 24, 2021, Armando Caballero posed a heightened risk to residents and/or invitees at Arden Villas, including MARCANO, and that he should have not been hired, not been retained, and/or not been given a key fob (or other access device) that provided unfettered access to apartments, including MARCANO's.

37. At the above-mentioned time and place, the Defendant, by and through its agents and employees, breached its duty to exercise reasonable care for the safety and protection of residents, including MARCANO, and acted in a negligent manner in various respects, including but not limited to the following acts of omission or commission:

- a. Failing to provide adequate security for its residents, including MARCANO;
- b. Failing to adequately vet prospective employees, including Caballero;
- c. Failing to contact the prior employers of prospective employees, including Caballero;
- d. Failing to conduct criminal background searches of prospective employees, including Caballero;
- e. Negligently providing access devices, including but not limited to key fobs, to employees, including Caballero.
- f. Failing to warn its residents, including MARCANO, that employees would have unfettered access to their apartments;
- g. Failing to warn, protect, guard, and secure the safety of its residents, including MARCANO, when Defendant knew or should have known that Caballero had a history of committing aggressive and/or criminal acts against others;

- h. Failing to police, patrol, guard, deter, and otherwise provide adequate protection for its residents and/or invitees, when Defendant knew or should have known of foreseeable criminal acts on persons;
  - i. Failing to have and/or maintain an adequate number of surveillance cameras in working condition, such that crimes perpetrated near residential apartments are captured on camera, and available to assist law enforcement in subsequent investigations;
  - j. Failing to prepare and/or implement and/or properly implement adequate security policies, security measures, and security procedures necessary to protect MARCANO and other residents and/or invitees;
  - k. Failing to adequately provide an overall security plan that would meet known industry standards and customs for safety in the community;
  - l. Failing to adequately assess the levels of crime on the premises and in the area;
  - m. Failing to implement or execute an adequate screening process for potential employees, thereby allowing persons, that otherwise would be deemed dangerous, to work at Arden Villas;
  - n. Failing to adequately monitor the actions of their employees, while they were at the Arden Villas;
  - o. The proceeding paragraphs, individually and/or as a whole, represent strict deviations from the existing standard of care with regard to security as recognized by similar premises in the local community; and,
  - p. Additional acts of negligence not yet discovered.
38. At all material times, Defendant, through its agents and employees, negligently failed to

hire persons, employees, companies, and/or agents reasonably suited for providing, implementing, and maintaining proper security measures adequate to ensure the safety of its residents and invitees.

39. Defendant, through its agents, servants, and employees, created and/or allowed to be created said dangerous conditions as stated above on the subject premises. Further, the Defendant failed to warn its residents and/or invitees, including but not limited to MARCANO, deceased, of the existence of said dangerous conditions; or in the alternative, did allow said dangerous conditions to exist for a sufficient length of time such that a reasonable inspection would have disclosed the danger.

40. As a direct and proximate result of Defendant's negligence, MARCANO, decedent, suffered severe bodily harm which led to her death.

41. As a further direct and proximate result of the negligence of Defendant, which caused the death of MARCANO, the Defendant is liable to the Plaintiffs for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat.* §768.21. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- a. The past and future mental pain and suffering of decedent, MARCANO's statutory survivors;
- b. The past and future loss of decedent, MARCANO's support and services from the date of her death to her statutory survivors;
- c. Expenses of funeral arrangements arising from the injury and death of MARCANO;
- d. Loss of the decedent's prospective net accumulations; and

- e. Any and all other damages as specified in F.S. 768.21.

**WHEREFORE** the Plaintiffs demand judgement against the Defendant for damages, interest, costs, and any further relief to which Plaintiffs are entitled under the applicable law and further demands trial by jury of all issues triable as of right by a jury.

**COUNT III  
CLAIM OF BATTERY AGAINST  
ARMANDO CABALLERO**

42. Plaintiffs re-allege paragraphs 1 through 41.

43. On or about September 24, 2021, Defendant used a key fob, or other access control device issued by PREISS, to enter the residence of MARCANO without her consent. After entry, Defendant attacked MARCANO causing her to sustain severe bodily injuries, ultimately leading to her death.

44. On or about September 24, 2021, CABALLERO bound MARCANO's body with duct tape, and abandoned her body in a nearby wooded area.

45. As a direct and proximate result of Defendant's unlawful attack upon MARCANO, decedent, she suffered severe bodily harm which led to her death.

46. As a further direct and proximate result of Defendant's attack upon MARCANO, which caused her death of MARCANO, the Defendant is liable to the Plaintiffs for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat.* §768.21. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- a. The past and future mental pain and suffering of decedent, MARCANO's statutory survivors;

- b. The past and future loss of decedent, MARCANO's support and services from the date of her death to her statutory survivors;
- c. Expenses of funeral arrangements arising from the injury and death of MARCANO;
- d. Loss of the decedent's prospective net accumulations; and
- e. Any and all other damages as specified in F.S. 768.21.

**WHEREFORE** the Plaintiffs demand judgement against the Defendant for damages, interest, costs, and any further relief to which Plaintiffs are entitled under the applicable law and further demands trial by jury of all issues triable as of right by a jury.

**COUNT IV**  
**CLAIM OF VICARIOUS LIABILITY AGAINST**  
**ARDEN VILLAS APARTMENTS, LLC**

47. Plaintiffs re-allege paragraphs 1 through 46.

48. At all material times, Defendant, ARMANDO CABALLERO, was employed by Defendant and/or acting upon Defendant's behalf. Plaintiffs seek relief upon the belief that CABALLERO was on the Arden Villas property at the authority of Defendant, at the time of CABALLERO's entry into MARCANO's residence.

49. As a direct and proximate result of CABALLERO's actions, MARCANO suffered severe bodily injury which resulted in her death. Accordingly, the Defendant is liable to the Plaintiffs for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat. §768.21*. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- a. The past and future mental pain and suffering of decedent, MARCANO's statutory survivors;

- b. The past and future loss of decedent, MARCANO's support and services from the date of her death to her statutory survivors;
- c. Expenses of funeral arrangements arising from the injury and death of MARCANO;
- d. Loss of the decedent's prospective net accumulations; and
- e. Any and all other damages as specified in F.S. 768.21.

**WHEREFORE** the Plaintiffs demand judgement against the Defendant for damages, interest, costs, and any further relief to which Plaintiffs are entitled under the applicable law and further demands trial by jury of all issues triable as of right by a jury.

**COUNT V**  
**CLAIM OF VICARIOUS LIABILITY AGAINST**  
**THE PREISS COMPANY**

50. Plaintiffs re-alleges paragraphs 1 through 49.

51. At all material times, Defendant, ARMANDO CABALLERO, was employed by Defendant and/or acting upon Defendant's behalf. Plaintiffs seek relief upon the belief that CABALLERO was on the Arden Villas property at the authority of Defendant, at the time of CABALLERO's entry into MARCANO's residence.

52. As a direct and proximate result of CABALLERO's actions, MARCANO suffered severe bodily injury which resulted in her death. Accordingly, the Defendant is liable to the Plaintiffs for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat. §768.21*. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- a. The past and future mental pain and suffering of decedent, MARCANO's statutory survivors;



- b. The past and future loss of decedent, MARCANO's support and services from the date of her death to her statutory survivors;
- c. Expenses of funeral arrangements arising from the injury and death of MARCANO;
- d. Loss of the decedent's prospective net accumulations; and
- e. Any and all other damages as specified in F.S. 768.21.

**WHEREFORE** the Plaintiffs demand judgement against the Defendant for damages, interest, costs, and any further relief to which Plaintiffs are entitled under the applicable law and further demands trial by jury of all issues triable as of right by a jury.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury of all issues triable as a right by jury.

DATED THIS 18th day of October 2021.

RESPECTFULLY SUBMITTED,

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BY:  /s/ Michael A. Haggard, Esq.   
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