

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NO:
DIVISION:

ULISES ANGEL, as Personal Representative
of the Estate of ZUHEILY ROMAN ROSADO,
deceased,

Plaintiff,

v.

HIS BUNNEL II, LLC, d/b/a BUNNELL'S FOOD
MART, MOHAMMED ANSARI, an individual,
MOHAMMED ANSARI d/b/a BUNNELL'S FOOD
MART and JOHN DOE, an unknown individual.

Defendants

COMPLAINT

COMES NOW, the Plaintiff, ULISES ANGEL as Personal Representative of the Estate of ZUHEILY ROMAN ROSADO, Deceased, by and through his undersigned attorney, and hereby files this complaint against Defendants, HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, hereinafter referred to as "BUNNEL II", a domestic corporation, MOHAMMED ANSARI, an individual, MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART and JOHN DOE, an unknown individual, and alleges as follows:

INTRODUCTORY ALLEGATIONS

1. For jurisdictional purposes, Plaintiff alleges that this is an action in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00), exclusive of interest, costs, and attorneys' fees.

2. At all times material, Plaintiff, ULISES ANGEL was lawfully married to ZUHEILY ROMAN ROSADO, deceased, and is in the process of petitioning the Court for issuance of Letters of Administration appointing him as Personal Representative of the Estate of ZUHEILY ROMAN ROSADO. Said Estate will be opened in Flagler County, Florida.

3. At all times material, Ulises Angel was a resident of Flagler County, Florida. He currently resides in the State of Georgia but consents to this Court's jurisdiction.

4. All potential beneficiaries of any recovery for wrongful death and their relationship to the deceased, ZUHEILY ROMAN ROSADO, are identified as follows:

(a) The Estate of ZUHEILY ROSADO c/o ULISES ANGEL, as putative Personal Representative of the Estate of ZUHEILY ROSADO;

(b) ULISES ANGEL, the lawful husband of ZUHEILY ROSADO, deceased; and

(b) ULISES YARIM ANGEL, ZUHEILY VIDAL, JOSE VIDAL, MARIA VIDAL, KALEY ROMAN and TEISHA SILVA, the natural children of ZUHEILY ROSADO,

5. Plaintiff, ULISES ANGEL, as putative Personal Representative of the Estate of ZUHEILY ROSADO is entitled and empowered by the Florida Wrongful Death Act to recover for ZUHEILY ROSADO's survivors, beneficiaries, and estate, all the damages allowed pursuant to the Florida Wrongful Death Act.

6. The incidents giving rise to this action occurred in and around the Mobil convenience store owned by Defendant BUNNEL II and/or MOHAMMED ANSARI and

located at 6020 East Highway 100, Flagler Beach, Flagler County, Florida 32136, where ZUHEILY ROSADO was an employee and was acting within the scope of her employment when she was fatally shot.

7. At all times hereinafter mentioned and at the time of the incident complained of, Defendant BUNNEL II was a corporation for profit organized and existing under the laws of the State of Florida, and said Defendant operated, maintained, managed, and controlled the subject store located at 6020 East Highway 100, Flagler Beach, Flagler County, Florida 32136; and further, Defendant BUNNEL II and/or MOHAMMED ANSARI exercised jurisdiction and control over the functioning of the subject store and did employ agents, employees, officers, staff, administrators, representatives, servants, and security personnel. Defendant BUNNEL II and/or MOHAMMED ANSARI determined the qualifications or lack of qualifications of said agents, employees, officers, staff, administrators, representatives, servants, and security personnel. Defendant BUNNEL II and/or MOHAMMED ANSARI also devised all procedures and duties for the aforementioned agents, employees, officers, staff, administrators, representatives, servants and security personnel.

THE INCIDENT

8. At an unknown time and date, but approximately a week before ZUHEILY ROSADO's death, while ZUHEILY ROSADO was working with her employer as a store clerk at the Mobil convenience store operated by the Defendant BUNNEL II and/or MOHAMMED ANSARI, a person suspected to be John Doe, his agents or assigns

entered the store, began an argument with ZUHEILY ROSADO and then told ZUHEILY ROSADO that he would soon return to the store and kill her.

9. Said argument and threat was overheard by ZUHEILY ROSADO's employer, Mohammed Ansari and/or his agent, Razzi Enseri, or other unknown agents of the Mobil convenience store.

10. On February 21, 2013, ZUHEILY ROSADO was acting as a store clerk at the Mobil store located at 6020 East Highway 100, Flagler Beach, Flagler County, Florida 32136 and owned by Defendant BUNNEL II and/or MOHAMMED ANSARI.

11. At said place and on said date, at around 10:00 P.M., the Defendant JOHN DOE, entered the store, walked up to the counter where ZUHEILY ROSADO was working, and shot and killed ZUHEILY ROSADO.

COUNT I

NEGLIGENCE RESULTING IN WRONGFUL DEATH – HIS BUNNEL II, LLC, HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI, and MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART

Plaintiff hereby incorporates by this reference all the allegations above and further alleges:

12. BUNNEL II and/or MOHAMMED ANSARI owned the subject convenience store and owed a duty to all employees, including ZUHEILY ROSADO, to exercise reasonable care to keep and maintain its premises in a condition reasonably safe for the benefit of its employees and patrons. In particular, the Defendant BUNNEL II and/or MOHAMMED ANSARI had a duty to take precautions as reasonably necessary to protect its employees from imminent criminal attacks for which it was aware and for which are reasonably certain to occur.

13. Defendant BUNNEL II and/or MOHAMMED ANSARI knew, or in the exercise of reasonable care, should have known, that convenience stores and gas stations are commonly targeted for crime, especially during nighttime hours.

14. Defendant BUNNEL II and/or MOHAMMED ANSARI knew, or in the exercise of due care, should have known, that its employee, ZUHEILY ROSADO, was in danger and that the previous threat of harm to her was credible.

15. Defendant BUNNEL II and/or MOHAMMED ANSARI knew, or in the exercise of due care, should have known, that no individual, including ZUHEILY ROSADO, had it within their own power to take the necessary precautions to provide for their own security on the premises of a convenience store and that the Defendants BUNNEL II and/or MOHAMMED ANSARI are in a superior position to take reasonable and necessary precautions to prevent and/or deter such criminal attacks from occurring.

16. Defendant BUNNEL II and/or MOHAMMED ANSARI breached the duty of reasonable care owed to ZUHEILY ROSADO in one or more of the following ways:

(a) By failing to provide adequate security for the protection of ZUHEILY ROSADO while on the premises of the convenience store after a threat against her life had been made;

(b) By negligently failing to have competent security guards to protect its employees, including ZUHEILY ROSADO;

(c) By negligently failing to implement adequate security policies, security measures, and security procedures necessary to protect its employees and guests, including ZUHEILY ROSADO;

(d) By negligently failing to provide additional employees to accompany ZUHEILY ROSADO on a night shift after a threat of harm to her had been made;

(e) By negligently failing to report the threat to law enforcement;

(f) By negligently breaching the duty to protect ZUHEILY ROSADO from reasonably foreseeable or readily visible or apparent criminal acts;

17. The negligence described above directly and proximately caused the incident, injuries, and death sustained by ZUHEILY ROSADO in that it directly, and in natural and continuous sequence, produced or contributed substantially to her injuries and death.

18. As a direct and proximate result of the foregoing conduct of Defendant BUNNEL II and/or MOHAMMED ANSARI, ZUHEILY ROSADO sustained injuries that resulted in her death. As a result of her death, the Estate of ZUHEILY ROMAN ROSADO has suffered damages including medical or funeral expenses that have become a charge against her Estate or were paid by or on behalf of the decedent. Further, as a direct and proximate result of the aforementioned conduct of the Defendants and death of ZUHEILY ROSADO, the Estate has lost its prospective net accumulations that might have reasonably been expected but for the wrongful death, reduced to present value. The Estate and survivors are also entitled to all other damages as allowed by 768.21, Florida Statutes.

19. The negligence of Defendants is not barred by workers' compensation immunity, as Defendants failed to have said security in place.

WHEREFORE, Plaintiff, ULISES ANGEL, as putative Personal Representative of the Estate of ZUHEILY ROMAN ROSADO, demands judgment against Defendants HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI, MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART and JOHN DOE jointly and severally, for compensatory damages, costs, interest as allowed by law, and for such other relief as this Court deems just and proper.

COUNT II - GROSS NEGLIGENCE

DEFENDANTS HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI, and MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART

Plaintiff hereby incorporates by this reference Counts 1 - 18 above and further alleges:

20. Defendant BUNNEL II and/or MOHAMMED ANSARI owned the subject convenience store and owed a duty to all employees, including ZUHEILY ROSADO, to exercise reasonable care to keep and maintain its premises in a condition reasonably safe for the benefit of its employees and patrons. In particular, the Defendant BUNNEL II and/or MOHAMMED ANSARI had a duty to take precautions as reasonably necessary to protect its employees from imminent criminal attacks for which it was aware and for which are reasonably certain to occur.

21. Defendant BUNNEL II and/or MOHAMMED ANSARI knew, or in the exercise of reasonable care, should have known, that convenience stores and gas stations are commonly targeted for crime, especially during nighttime hours.

22. Defendant BUNNEL II and/or MOHAMMED ANSARI knew, or in the exercise of due care, should have known, that its employee, ZUHEILY ROSADO, was in danger and that the previous threat of harm to her was credible.

23. Defendant BUNNEL II and/or MOHAMMED ANSARI knew, or in the exercise of due care, should have known, that no individual, including ZUHEILY ROSADO, had it within their own power to take the necessary precautions to provide for their own security on the premises of a convenience store and that the Defendants BUNNEL II and/or MOHAMMED ANSARI are in a superior position to take reasonable and necessary precautions to prevent and/or deter such criminal attacks from occurring.

24. Defendant BUNNEL II and/or MOHAMMED ANSARI breached the duty of reasonable care owed to ZUHEILY ROSADO in one or more of the following ways:

- (a) By failing to provide adequate security for the protection of ZUHEILY ROSADO while on the premises of the convenience store after a threat against her life had been made;
- (b) By negligently failing to have competent security guards to protect its employees, including ZUHEILY ROSADO;
- (c) By negligently failing to implement adequate security policies, security measures, and security procedures necessary to protect its employees and guests, including ZUHEILY ROSADO;
- (d) By negligently failing to provide additional employees to accompany ZUHEILY ROSADO on a night shift after a threat of harm to her had been made;

- (e) By negligently failing to report the threat to law enforcement;
- (f) By negligently breaching the duty to protect ZUHEILY ROSADO from reasonably foreseeable or readily visible or apparent criminal acts;

25. Said actions and omissions constitute gross negligence as Defendants acted or failed to act with willful and wanton disregard or indifference to the life, safety and security of ZUHEILY ROMAN ROSADO when she was furthering their business as a store clerk.

26. The gross negligence described above directly and proximately caused the incident, injuries, and death sustained by ZUHEILY ROSADO in that it directly, and in natural and continuous sequence, produced or contributed substantially to her injuries and death.

27. As a direct and proximate result of the foregoing conduct of Defendant BUNNEL II and/or MOHAMMED ANSARI, ZUHEILY ROSADO sustained injuries that resulted in her death. As a result of her death, the Estate of ZUHEILY ROMAN ROSADO has suffered damages including medical or funeral expenses that have become a charge against her Estate or were paid by or on behalf of the decedent. Further, as a direct and proximate result of the aforementioned conduct of the Defendants and death of ZUHEILY ROSADO, the Estate has lost its prospective net accumulations that might have reasonably been expected but for the wrongful death, reduced to present value. The Estate and survivors are also entitled to all other damages as allowed by 768.21, Florida Statutes.

WHEREFORE, Plaintiff, ULISES ANGEL, as putative Personal Representative of the Estate of ZUHEILY ROMAN ROSADO, demands judgment against Defendants HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI, MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART and JOHN DOE jointly and severally, for compensatory damages, costs, interest as allowed by law, and for such other relief as this Court deems just and proper.

COUNT III - FRAUD

DEFENDANTS HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI, and MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART

Plaintiff hereby incorporates by this reference Counts 1 -11 above and further alleges:

28. Defendants BUNNEL II, MOHAMMED ANSARI, and MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART had a duty, as ZUHEILY ROMAN ROSADO's employer, under Chapter 440 Florida Statutes to secure workers' compensation insurance for the benefit of ZUHEILY ROMAN ROSADO should she become injured or deceased due to the execution of her duties as a store clerk and employee of Defendants. Said duty is enforceable by way of criminal penalty under the laws of the State of Florida.

29. Defendant MOHAMMED ANSARI, as owner of BUNNEL II d/b/a BUNNELL'S FOOD MART has been criminally charged under Chapter 440 Florida Statutes for failure to secure workers' compensation insurance for ZUHEILY ROSADO and its other employees.

30. Due to the duty placed on the Defendants to secure workers' compensation insurance by the laws of the State of Florida, ZUHEILY ROMAN ROSADO was entitled to

rely on her employer to secure workers' compensation insurance and her continued employment with Defendants served as a representation that workers' compensation insurance had in fact been secured to protect ZUHEILY ROMAN ROSADO and her family should she become injured or deceased while furthering the business of her employer.

31. ZUHEILY ROMAN ROSADO relied to her detriment on her continued employment and implied representations that Defendants had secured workers' compensation insurance.

32. Due to the reliance of ZUHEILY ROMAN ROSADO and the fraudulent representations of Defendants HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI and MOHAMMED ANSARI d/b/a BUNNELL'S FOOD MART, the Estate of ZUHEILY ROMAN ROSADO has suffered damages including medical or funeral expenses that have become a charge against her Estate or were paid by or on behalf of the decedent. Further, as a direct and proximate result of the aforementioned fraudulent misrepresentations of the Defendants and death of ZUHEILY ROSADO, the Estate and its beneficiaries have lost a death benefit guaranteed under the workers' compensation laws of the State of Florida that would have been reasonably been expected but for the fraud committed by the Defendants.

WHEREFORE, Plaintiff, ULISES ANGEL, as putative Personal Representative of the Estate of ZUHEILY ROMAN ROSADO, demands judgment against Defendants HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI and JOHN DOE

jointly and severally, for compensatory damages, costs, interest as allowed by law, and for such other relief as this Court deems just and proper.

COUNT IV - WRONGFUL DEATH
DEFENDANT JOHN DOE, an Unknown Individual

Plaintiff hereby incorporates by this reference Counts 1 - 11 above and further alleges:

33. On or about February 21, 2013 at approximately 10:00 P.M., Defendant JOHN DOE unlawfully and intentionally murdered ZUHEILY ROMAN ROSADO.

34. As a direct and proximate result of Defendant JOHN DOE's actions, ZUHEILY ROSADO suffered bodily injury and the resulting pain and suffering that caused her death.

35. As a result of the death of ZUHEILY ROMAN ROSADO and the actions of Defendant JOHN DOE, the Estate of ZUHEILY ROMAN ROSADO has suffered damages including medical or funeral expenses that have become a charge against her Estate or were paid by or on behalf of the decedent. Further, as a direct and proximate result of the aforementioned conduct of the Defendants and death of ZUHEILY ROSADO, the Estate has lost its prospective net accumulations that might have reasonably been expected but for the wrongful death, reduced to present value. The Estate and survivors are also entitled to all other damages as allowed by 768.21, Florida Statutes.

WHEREFORE, Plaintiff, ULISES ANGEL, as putative Personal Representative of the Estate of ZUHEILY ROMAN ROSADO, demands judgment against Defendants HIS BUNNEL II, LLC d/b/a BUNNELL'S FOOD MART, MOHAMMED ANSARI and JOHN DOE

jointly and severally, for compensatory damages, costs, interest as allowed by law, and for such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for all issues so triable.

LAW OFFICE OF JOHN M. PHILLIPS, LLC

A handwritten signature in black ink, appearing to read 'John M. Phillips', is written over a horizontal line.

JOHN M. PHILLIPS, ESQUIRE

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