

IN THE CIRCUIT COURT OF THE 11th  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

Case No:

06-20149

CA30

Florida Bar No: 379352

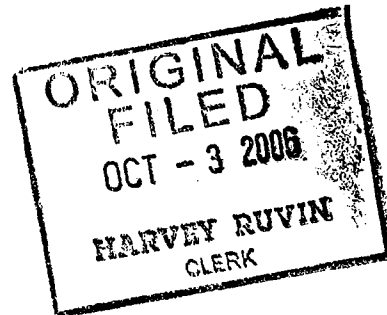
**BARBARA SOMONTE, individually,  
and as Personal Representative of the  
Estate of DINORAH ALONSO  
GARCIA, on behalf of herself and  
JONATHAN SOMONTE**

**Plaintiff**

vs.

**PROFESSIONAL MANAGEMENT,  
INC. and PINNACLE HOUSING  
GROUP, INC. d/b/a OLD CUTLER  
VILLAGE APARTMENTS**

**Defendant**



**COMPLAINT**

The plaintiff, BARBARA SOMONTE, individually, and as Personal Representative of the Estate of DINORAH ALONSO GARCIA, on behalf of herself and JONATHAN SOMONTE, sues the defendants, PROFESSIONAL MANAGEMENT, INC. and PINNACLE HOUSING GROUP, INC. d/b/a OLD CUTLER VILLAGE APARTMENTS, and as grounds therefore would state as follows:

1. This is an action for wrongful death resulting from negligence, with damages in excess of Fifteen Thousand (\$15,000.00) Dollars exclusive of costs and interest, the minimal jurisdictional limits of this Court.
2. At all times relevant and material to this Complaint, BARBARA SOMONTE was the daughter of DINORAH ALONSO GARCIA, and has been appointed as the Personal

Representative of the ESTATE OF DINORAH ALONSO GARCIA by the Miami-Dade County Circuit Court Probate Division. A copy of the Order Appointing Personal Representative is attached hereto as "Exhibit A."

3. JONATHAN SOMONTE is the surviving son of DINORAH ALONSO GARCIA.

4. BARBARA SOMONTE, as the Personal Representative of the ESTATE OF DINORAH ALONSO GARCIA, is entitled to bring this wrongful death action on behalf of the Estate, herself, and her brother, JONATHAN SOMONTE.

COUNT I

**Claim Against Professional Management, Inc.**

5. Plaintiff repeats and realleges allegations 1 through 4 of the Complaint as if set forth herein at length and further states:

6. At all times relevant and material to this Complaint, defendant, PROFESSIONAL MANAGEMENT, INC., was and is a Florida corporation authorized to do business and doing business as a property manager in Miami-Dade County, Florida.

7. At all times relevant and material to this Complaint, defendant, PROFESSIONAL MANAGEMENT, INC., managed the apartment complex known as Old Cutler Village Apartments located at 10425 Old Cutler Road, Miami-Dade County, Florida.

8. At all times relevant and material to this Complaint, the lease agreement for Old Cutler Village Apartments provided for an access gate requiring an access card and/or Personal

Access Code number so as to limit access to the property to residents and their guests, thereby providing security for the residents.

9. At all times relevant and material to this Complaint, DINORAH ALONSO GARCIA was a resident of an apartment at Old Cutler Village Apartments.

10. At all times relevant and material to this Complaint, defendant, PROFESSIONAL MANAGEMENT, INC., maintained control over all entrances to the complex, including the parking lot and all common areas.

11. At all times relevant and material to this Complaint, defendant, PROFESSIONAL MANAGEMENT, INC., owed a duty to its tenants, including DINORAH ALONSO GARCIA, to exercise reasonable and ordinary care to keep and maintain the apartment building in a condition reasonably safe for the use of such tenants. In particular, defendant, PROFESSIONAL MANAGEMENT, INC., had a duty to take such precautions as were reasonably necessary to protect its tenants, including DINORAH ALONSO GARCIA, from criminal attacks at the complex which were reasonably foreseeable.

12. That prior to the incident described herein, PROFESSIONAL MANAGEMENT, INC. knew or through the exercise of reasonable care, should have known that numerous and frequent violent crimes did and were in fact occurring in and about the premises and neighborhood of the subject apartment complex, which necessitated the notification of the police on numerous occasions. Furthermore, these crimes and acts of violence had occurred, were occurring and continued to occur up to the date of the incident described herein. This defendant knew or through the exercise of reasonable care should have

COMPLAINT

known that further criminal attacks were reasonably likely to be perpetrated on tenants of Old Cutler Village Apartments, unless this defendant took steps to provide adequate security for such tenants.

13. At all times relevant and material to this Complaint, specifically including October 15, 2004, the aforementioned access gate was non-functional, allowing open access to the apartment complex.

14. At all times relevant and material to this Complaint, PROFESSIONAL MANAGEMENT, INC. knew, or in the exercise of reasonable care, should have known, that persons intent on criminal activity could enter the apartment complex through the non-functional access gate.

15. At all times relevant and material to this Complaint, PROFESSIONAL MANAGEMENT, INC. undertook the duty to provide security guard patrol of the apartment complex. Having done so, PROFESSIONAL MANAGEMENT, INC. had an obligation to provide such security in a reasonable manner.

16. At all times relevant and material to this Complaint, PROFESSIONAL MANAGEMENT, INC. knew or through the exercise of reasonable care, should have known, that the non-functioning access gate and lack of adequate security at the subject apartment complex was such as to provide a haven for dangerous and disreputable persons, encouraging persons intent upon criminal and violent activities to participate in those activities with reduced opportunities for detection, capture and avoidance, thereby constituting a defacto invitation of such violent criminals upon the premises of Old Cutler Village Apartments.

17. At all times relevant and material to this Complaint, this defendant failed to take reasonable precautions to provide for the safety of its tenants, including DINORAH ALONSO GARCIA, and was otherwise careless and negligent in that this defendant:

- a) Failed to provide and/or maintain a functional access gate so as to prevent entry by unauthorized persons;
- b) Failed to provide a system of announcement for authorized visitors to the complex;
- c) Failed to provide adequate, reasonable and secure premises and grounds for the residents, including but not limited to alarms, surveillance devices, guards and security patrols;
- d) Failed to retain, hire and maintain security guards and other employees in and about the premises to protect the residents from foreseeable violence and harm;
- e) Failed to retain, hire and maintain an adequate number of adequately trained security guards or other employees in or about the grounds and premises to protect the residents from foreseeable violence and harm;
- f) Failed to warn DINORAH ALONSO GARCIA and other residents of prior and actual acts of violence and other violations of the laws of the State of Florida that occurred in and about the Old Cutler Village Apartments complex and neighborhood;
- g) Failed to conform with the duty of care established for the benefit of DINORAH ALONSO GARCIA and the public by reason of the laws of the State of Florida and the nature and circumstances of the type of business engaged in specifically including but not limited to Florida Statutes §83.51.

18. As a direct and proximate result of the aforescribed negligence of PROFESSIONAL MANAGEMENT, INC., DINORAH ALONSO GARCIA was shot and killed on the premises of the Old Cutler Village Apartments on October 15, 2004.

COUNT II

**Claim Against Pinnacle Housing Group, Inc**

19. Plaintiff repeats and realleges allegations 1 through 4 of the Complaint as if set forth herein at length and further states:

20. At all times relevant and material to this Complaint, defendant, PINNACLE HOUSING GROUP, INC., was and is a Florida corporation authorized to do business and doing business owning and operating properties in Miami-Dade County, Florida.

21. At all times relevant and material to this Complaint, defendant, PINNACLE HOUSING GROUP, INC., owned and operated the apartment complex known as Old Cutler Village Apartments located at 10425 Old Cutler Road, Miami-Dade County, Florida.

22. At all times relevant and material to this Complaint, the lease agreement for Old Cutler Village Apartments provided for an access gate requiring an access card and/or Personal Access Code number so as to limit access to the property to residents and their guests, thereby providing security for the residents.

23. At all times relevant and material to this Complaint, DINORAH ALONSO GARCIA was a resident of an apartment at Old Cutler Village Apartments.

24. At all times relevant and material to this Complaint, defendant, PINNACLE HOUSING GROUP, INC., maintained control over all entrances to the complex, including the parking lot and all common areas.

25. At all times relevant and material to this Complaint, defendant, PINNACLE HOUSING GROUP, INC., owed a duty to its tenants, including DINORAH ALONSO GARCIA, to exercise reasonable and ordinary care to keep and maintain the apartment building in a condition reasonably safe for the use of such tenants. In particular, defendant, PINNACLE HOUSING GROUP, INC., had a duty to take such precautions as were reasonably necessary to protect its tenants, including DINORAH ALONSO GARCIA, from criminal attacks at the complex which were reasonably foreseeable.

26. That prior to the incident described herein, PINNACLE HOUSING GROUP, INC. knew or through the exercise of reasonable care, should have known that numerous and frequent violent crimes did and were in fact occurring in and about the premises and neighborhood of the subject apartment complex, which necessitated the notification of the police on numerous occasions. Furthermore, these crimes and acts of violence had occurred, were occurring and continued to occur up to the date of the incident described herein. This defendant knew or through the exercise of reasonable care should have known that further criminal attacks were reasonably likely to be perpetrated on tenants of Old Cutler Village Apartments, unless this defendant took steps to provide adequate security for such tenants.

27. At all times relevant and material to this Complaint, specifically including October 15, 2004, the aforementioned access gate was non-functional, allowing open access to the apartment complex.

28. At all times relevant and material to this Complaint, PINNACLE HOUSING GROUP, INC. knew, or in the exercise of reasonable care, should have known, that persons intent on criminal activity could enter the apartment complex through the non-functional access gate.

29. At all times relevant and material to this Complaint, PINNACLE HOUSING GROUP, INC. undertook the duty to provide security guard patrol of the apartment complex. Having done so, PINNACLE HOUSING GROUP, INC. had an obligation to provide such security in a reasonable manner.

30. At all times relevant and material to this Complaint, PINNACLE HOUSING GROUP, INC. knew or through the exercise of reasonable care, should have known, that the non-functioning access gate and lack of adequate security at the subject apartment complex was such as to provide a haven for dangerous and disreputable persons, encouraging persons intent upon criminal and violent activities to participate in those activities with reduced opportunities for detection, capture and avoidance, thereby constituting a defacto invitation of such violent criminals upon the premises of Old Cutler Village Apartments.

31. At all times relevant and material to this Complaint, this defendant failed to take reasonable precautions to provide for the safety of its tenants, including DINORAH ALONSO GARCIA, and was otherwise careless and negligent in that this defendant:



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- a) Failed to provide and/or maintain a functional access gate so as to prevent entry by unauthorized persons;
- b) Failed to provide a system of announcement for authorized visitors to the complex;
- c) Failed to provide adequate, reasonable and secure premises and grounds for the residents, including but not limited to alarms, surveillance devices, guards and security patrols;
- d) Failed to retain, hire and maintain security guards and other employees in and about the premises to protect the residents from foreseeable violence and harm;
- e) Failed to retain, hire and maintain an adequate number of adequately trained security guards or other employees in or about the grounds and premises to protect the residents from foreseeable violence and harm;
- f) Failed to warn DINORAH ALONSO GARCIA and other residents of prior and actual acts of violence and other violations of the laws of the State of Florida that occurred in and about the Old Cutler Village Apartments complex and neighborhood;
- g) Failed to conform with the duty of care established for the benefit of DINORAH ALONSO GARCIA and the public by reason of the laws of the State of Florida and the nature and circumstances of the type of business engaged in specifically including but not limited to Florida Statutes §83.51.

32. As a direct and proximate result of the aforescribed negligence of PINNACLE HOUSING GROUP, INC., DINORAH ALONSO GARCIA was shot and killed on the premises of the Old Cutler Village Apartments on October 15, 2004.

DAMAGES

33. Plaintiff adopts and realleges all of the allegations of the Complaint as if set forth at length herein and further states:

34. As a direct and proximate result of the above-described negligence of the defendants, which caused the death of DINORAH ALONSO GARCIA, the plaintiff is entitled to the following elements of damages:

a) BARBARA SOMONTE, as Personal Representative of the Estate: the Estate's loss of earnings; the Estate's loss of net accumulations; and medical and funeral expenses due to DINORAH ALONSO GARCIA'S death, including prejudgment interest thereon, all as defined in Florida Statutes § 768.21.

b) BARBARA SOMONTE, individually as surviving daughter: the value of lost support and services, including interest, past and future; the loss of parental companionship, instruction and guidance, and her mental pain and suffering as a result of her mother's death.

c) JONATHAN SOMONTE, individually as surviving son: the value of lost support and services, including interest, past and future; the loss of parental companionship, instruction and guidance, and his mental pain and suffering as a result of his mother's death.

WHEREFORE, plaintiff demands judgment for damages against defendants, including costs and interest, and further demands trial by jury of all issues triable as of right by a jury.

KUTNER, RUBINOFF & BUSH, P.A.  
Attorneys for Plaintiff(s)  
P.O. Box 9700  
Miami, FL 33101-9700  
Phone: (305) 358-6200  
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BY   
KENNETH J. BUSH

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

PROBATE DIVISION

IN RE: ESTATE OF  
DINORAH ALONSO GARCIA,

CASE NO.: 05-4485 CP 01

Deceased.

**ORDER APPOINTING PERSONAL REPRESENTATIVE**  
(Intestate-Single Petitioner)

INVENTORY SHALL BE  
FILED WITHIN 60 DAYS

On the petition of Barbara Somonte, for administration of the estate of Dinorah Alonso Garcia, deceased, the court finding that the decedent was found dead on October 15, 2004, and that Dinorah Alonso Garcia is entitled to appointment as personal representative by reason of being interested person as parent of the decedents, it is

ADJUDGED that Barbara Somonte is appointed personal representative of the estate of decedent, and that upon taking the prescribed oath, filing designation of resident agent and accepting and entering into a bond in the sum of depository required, letters of administration shall be issued

ORDERED on \_\_\_\_\_, 2005.

THE PERSONAL REPRESENTATIVE SHALL PLACE ALL LIQUID ASSETS IN A DEPOSITORY DESIGNATED BY THE COURT PURSUANT TO THE F.S. 88.081.  
THIS IS A FROZEN ACCOUNT WHICH MEANS THAT NO FUNDS CAN BE WITHDRAWN WITHOUT ORDER OF COURT.

Confirmed Copy

NOV - 9 2005  
NORMAN S. GIBSON  
CIRCUIT COURT JUDGE

Copies furnished to:  
Edward I. Golden, Esq.  
Barbara Somonte

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ATTORNEY OF RECORD SHALL FILE RECEIPT OF ASSETS BY RESTRICTED DEPOSITORY WITHIN 30 DAYS OF ISSUANCE OF LETTERS.

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA  
IN THE EVENT OF SALE OF REAL ESTATE ASSETS, THE NET PROCEEDS OF SALE SHALL BE DEPOSITED IN A COURT ORDERED DEPOSITORY PER F.S. 88.081