

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.

THEARSA HARRELL,

Plaintiff,

-vs-

HOLIDAY CVS, L.L.C.,  
a foreign limited liability company,  
doing business as CVS PHARMACY  
#5125

Defendant.

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**COMPLAINT FOR DAMAGES**

**COMES NOW**, the Plaintiff, THEARSA HARRELL, by and through her undersigned counsel and hereby files this Complaint for Damages against Defendant, HOLIDAY CVS, L.L.C., a foreign limited liability company, doing business as CVS PHARMACY #5125 (hereinafter referred to as “CVS”), and further alleges as follows:

**GENERAL ALLEGATIONS**

1. That this is an action for damages which exceeds THIRTY THOUSAND (\$30,000.00) DOLLARS exclusive of interest, costs, and fees and within the jurisdiction of this Court.
2. At all times material hereto, the Plaintiff, THERESA HARRELL was and is a resident of Miami-Dade County, Florida and is otherwise sui juris.
3. At all times material hereto, the Defendant, “CVS” was and is a foreign limited liability company operating under the fictitious name “CVS PHARMACY #5125” which was duly registered in the State of Florida and doing business in Miami-Dade County, Florida.

4. At all times material hereto, Defendant, “CVS” did, upon information and belief, own, operate, lease, control and/or maintain real property in Miami-Dade County, Florida.
5. At all material times hereto, the Defendant, “CVS” owned, operated, leased and/or maintained a “CVS PHARMACY” located at 735 N.W. 119<sup>th</sup> Street in Miami-Dade County, Florida which among other goods and services sold prescription medications to the public.
6. That on or about May 30<sup>th</sup>, 2018, Plaintiff, THEARESA HAROLD went to CVS store #5125 to pick up her prescription medications as she had done in the past.
7. That on May 30<sup>th</sup>, 2018, Plaintiff informed a CVS clerk at the CVS Pharmacy that she was picking up her prescriptions. The clerk asked her name and date of birth, and a short time later brought a white CVS bag with the medications inside the bag which was stapled shut and the prescription receipts stapled to the outside of the bag. In total, there were four (4) Medications in the bag and four (4) prescription receipts. The clerk sold the medications to Plaintiff who took the bag and went home.
8. Unknown to Plaintiff who is illiterate, the “CVS clerk” had accidentally placed a prescription medication (Metformin 500 mg) belonging to “Patrick Harris” in the CVS bag meant for Plaintiff “Thearsa Harrell.’
9. The “CVS clerk” also stapled a prescription receipt for “Patrick Harris” to the CVS bag which contained PLAINTIFF’s three medications plus the Metformin which was meant for another customer.
10. Plaintiff, unaware that she had an extra medication in her bag, and unable to read the label on the bottle, consumed the medications provided for the next week, including the diabetes medication that was meant for someone else.
11. That on or about June 6<sup>th</sup>, 2018, Plaintiff became ill, ultimately passing out, falling to the floor, and suffering serious injuries in and about her body and extremities.

12. At all times material hereto, the subject CVS clerk was in the course and scope of her employment with Defendant, CVS.
13. The employee in question was not a pharmacist or pharmacy technician, but clerk tasked with simply gathering a bag with Plaintiff's name on it, ringing it up in the cash register and handing the bag to Plaintiff.
14. The negligent acts alleged in this complaint did not require professional skill or judgment.
15. All of the acts or omissions of alleged herein took place in Miami-Dade County, Florida.

**COUNT I**  
**SIMPLE NEGLIGENCE AGAINST "CVS"**

16. Plaintiff realleges and reaffirms all of the allegations in paragraphs One (1) through Fifteen (15) inclusive above and incorporates same herein by reference as through follow set forth herein.
17. At all times material hereto the subject CVS clerk owed Plaintiff a duty to use ordinary care and ordinary caution to insure that she checked the names on the labels and sold the proper medications to Plaintiff.
18. That the subject CVS clerk breached the duty owed to Plaintiff by doing or failing to do one or more of the following acts or omissions:
  - a. Failure to check the name labels on the bag before selling the medication to Plaintiff.
  - b. Negligently selling the wrong medication to Plaintiff.
19. That at all times material hereto the subject "clerk" was in the course and scope of her employment with "CVS" when she committed the negligent acts.

20. Defendant, “CVS” is vicariously liable and therefore legally responsible for the negligent acts of its “clerk” committed within the course and scope of her employment with “CVS.”
21. As a direct and proximate result of the above-mentioned negligence, the Plaintiff, THEARSA HARRELL, was injured in and about her body and extremities, suffered pain therefrom, incurred medical expenses in the treatment of the injuries and suffered physical handicap. Plaintiff suffered bodily injury and resulting pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life and expense of medical treatment and loss of earnings, and loss of the ability to earn money. The losses are either permanent or continuing in nature, and the Plaintiff will suffer the losses and impairment in the future.

**WHEREFORE**, Plaintiff, THEARSA HARRELL, demands a judgment for damages against the Defendant, “CVS” and requests a trial by jury of all issues so triable as a right by jury.

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/s/ *Christopher F. Lanza*

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