

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMO #

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, Acting City Attorney

RP

DATE: June 23, 2021

SUBJECT: **City Attorney's Status Report**

LAWSUITS FILED BY OR AGAINST THE CITY OF MIAMI BEACH SINCE THE LAST REPORT:

1. **ANGELA SALAFIA and LUIS VELAZQUEZ, her husband vs. CITY OF MIAMI BEACH, a municipality** Case No. 2021-008614-CA-01 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

The City was served with this lawsuit on May 17, 2021, wherein the Plaintiff, Angela Salafia, alleges that on or about July 24, 2020, she tripped and fell on a paved sidewalk located at or near 2555 Collins Avenue (by the Club Atlantis Condominium), which Plaintiff Salafia alleges had been recently constructed by the City, or a contractor whom the City allegedly hired and supervised (and inspected such contractor's work prior to final approval). Plaintiff Salafia further alleges that the pavers were not properly installed on a level plane, but rather, were installed unevenly and allegedly had a differential riser of approximately one (1) inch.

Plaintiff Salafia alleges that as a result of the City's purported negligence causing her to trip and fall, she suffered a displaced comminuted distal radius and displaced distal ulna with dorsal angulation of the right wrist, which required surgery and follow-up physical therapy. The second Plaintiff, Luis Velazquez, who is Plaintiff Salafia's husband, alleges that he lost the consortium (care, comfort, society and attentions) of his wife as a result of her injury.

A timely Answer and Affirmative Defenses will be filed on behalf of the City in this matter, and discovery will be propounded upon the Plaintiffs.

2. **CLEVELANDER OCEAN, LP, V. CITY OF MIAMI BEACH**, Case No. 2021-11642 CA 22 Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida

On May 5, 2021, the Plaintiff, Clevelander Ocean, LP (the "Clevelander"), served the above-subject lawsuit, which essentially seeks declaratory, temporary and permanent injunctive relief against the City of Miami Beach (the "City") pertaining to: i.) the closure of Ocean Drive to vehicular traffic; ii.) the City's alleged violation of Clevelander's due process rights regarding the rollback of alcohol hours to 2:00 a.m.; and iii.) the City's alleged violation of the Clevelander's due process rights pertaining to the Eastbound noise

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exemption and “unappealable” noise warnings.

In addition to serving the Complaint, the Clevelander also filed a Motion for Temporary Injunction which the Circuit Court Judge (Hon. Beatrice Butchko) shall hear, on an emergency basis, on June 7, 2021. In response to the Clevelander’s filings, the City has responded by asserting that the actions taken by its Mayor and City Commission, and City Administration, have been legally appropriate, bear a rational relations to the City’s legitimate governmental interest, and the Clevelander has no vested rights to any activity or behavior relating to its foregoing claims.

Accordingly, the City, by and through the City Attorney’s Office, will take all necessary and appropriate legal action to defend its duly enacted legislation and appropriately assumed Administrative action.

3. **ERICA M. GUILLAUME V CITY OF MIAMI BEACH** (Case No. 2021-011286-CA-01)
Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida

The City was served with this complaint on June 3, 2021 alleging that on May 29, 2019, the Plaintiff, Erica Guillaume, was driving a 2018 Toyota eastbound on NW 54th Street and NW 13 Ave, in unincorporated Miami-Dade. Purportedly, at that time, Andrew L. Villa, in the course and scope of his employment with the City, was driving a 2018 Dodge owned by PV Holding Company, and drove the vehicle in front of the Plaintiff, causing Plaintiff to crash into the vehicle and bringing about damages.

We shall file our answer and propound discovery to the Plaintiff.

4. **PEDRO DE URIARTE V DAN GELBER, MAYOR, and CITY OF MIAMI BEACH** (Case No. 2021-011246-CA-01) Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida

This is an action for Declaratory Judgement and Injunctive Relief stemming from two Code Violations issued to the property owner of 7734 Hawthorne Avenue, Miami Beach, for storing a Commercial and/or Recreational Vehicle in violation of the City Code on the property.

The Summons and Petition were served on the City on June 9, 2021.

The City’s Pleadings will be timely filed.

RAP/lr