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MIAMIBEACH

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, City Attorney

DocuSigned by:
Rafael Paz
4B242F61639E4B0...

DATE: September 14, 2022

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

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

1. **RAOUL CAPPELL V. CITY OF MIAMI BEACH, a municipal corporation, and LILIA MONTERO-DIAZ** Case No. 2022-011838-CA-30 (Circuit Court for the 11th Judicial Circuit in and for Miami Dade County)

   This is a claim of negligence against the City of Miami Beach and another bicycle rider by an individual injured when his bike collided with Lilia Montero-Diaz's bike on the beach boardwalk near 50th street. Plaintiff claims the City negligently designed and maintained the beach boardwalk. The City will vigorously defend this claim.

2. **MORAIMA LIMA V. CITY OF MIAMI BEACH** Case No. 2022-000043-AP-01 (Circuit Court in and for Miami-Dade County, Florida – Appellate Division)

   This is a Petition for Certiorari from multiple orders entered by the special master relating to code enforcement violations. The City will vigorously defend this petition.

3. **SECURITY NATIONAL INSURANCE COMPANY, a foreign entity, THE CITY OF MIAMI BEACH, FLORIDA, a Florida entity, THE CITY OF MIAMI BEACH, FLORIDA, a Florida municipal corporation, A & A DRAINAGE, INC., a Florida corporation, and MONICA O'CHANEY** Civil Action No. 1:22-cv-22357 (United States District Court for the Southern District of Florida)

   This is an action for declaratory relief relating to insurance coverage for a claim brought against the City of Miami Beach and A & A Drainage for negligence arising out of an alleged fall into an open manhole. The City will vigorously defend this claim and seek a declaration that there is insurance coverage.

4. **JONATHAN P. TELLEZ V CITY OF MIAMI BEACH** Case No. 2022-013698 CA27 (Circuit Court in and for Miami-Dade County, Florida)

   This is an action for automobile negligence brought against the City of Miami Beach by a bicyclist allegedly injured by a City vehicle. The City will vigorously defend this claim.

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5. **NICHOLAS CUNNINGHAM OSIRIS MIAMI LLC V MIAMI BEACH PARKING DEPARTMENT AND MONICA BELTRAN** Case No. 2022-23355 SP 05 (County Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida)

   The City was served with this Statement of Claim on August 16, 2022, alleging that the Miami Beach Parking Department improperly towed an Osiris Miami LLC company vehicle, and seeking $1,500 in damages.

6. **NICHOLAS CUNNINGHAM OSIRIS MIAMI LLC V CARLOS VELLADARES AND MIAMI BEACH POLICE DEPARTMENT** Case No. 2022-23195 SP 05 (County Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida)

   The City was served with this Statement of Claim on August 16, 2022, alleging that Miami Beach Police Officer Velladares illegally seized paraphernalia items from Osiris Miami LLC as evidence, and seeking $1,500 in damages. The City will vigorously defend this lawsuit.

7. **DARIOS STEPHENS OSIRIS MIAMI LLC V CARLOS VELLADARES AND MIAMI BEACH POLICE DEPARTMENT** Case No. 2022-23516 SP 05 (County Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida)

   The City was served with this Statement of Claim on August 8, 2022, alleging that Miami Beach Police Officer Velladares illegally issued citations to Darios Stephens, and seeking damages for lost wages. The City will vigorously defend this lawsuit.

8. **DECO WALK HOTEL & GOLF CLUB, LLC, D/B/A VOODOO ROOFTOP LOUNGE & HOOKAH; SPICE ART RESTAURANTS, INC. D/B/A JALAPENO MEXICAN KITCHEN; 524 OCEAN, LLC; IL GIARDINO, LLC D/B/A IL GIARDINO; TNT GIGINO HOLDING, LLC D/B/A ESPAÑOLA CIGAR BAR & LOUNGE; SOBE USA, LLC D/B/A OCEANS TEN, MANYPLUS LIMITED, LLC D/B/A 7 SPICES, AND SURI SOUTH BEACH, INC. D/B/A D'VINE HOOKAH LOUNGE V THE CITY OF MIAMI BEACH, FLORIDA** Case No. 2022-014995-CA-44 (Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida)

   Plaintiffs sued in Miami-Dade County Circuit Court, challenging the City's adoption of its outdoor dining concession program. The City will vigorously defend this lawsuit.

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9. **ANA MARIA BUSTAMANTE V. CITY OF MIAMI BEACH AND FLORIDA DEPARTMENT OF TRANSPORTATION** Case No. 2022-012254-CA-27 (Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida)

   This is an action for negligence against the City of Miami Beach relating to a fall from a bicycle on the sidewalk on the westbound approach to the State Road 907 Indian Creek drawbridge on March 18, 2022. The City will vigorously defend this claim.

10. **HECTOR VAZQUEZ AND SHAHEEN OCASIO V. CITY OF MIAMI BEACH** Case No. 2022-014923-CA-15 (Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida)

    This is a claim for automobile negligence relating to a collision at or near the intersection of Collins Avenue and 12th Street on December 4, 2020. The City will vigorously defend this claim.

RAP/lr