ALEX J. FERNANDEZ
COMMISSIONER

MEMORANDUM

To: Honorable Mayor and Members of the Miami Beach City Commission

Date: September 14, 2022

From: Alex J. Fernandez, Commissioner

Subject: **INFORMATIONAL ITEM: RECENT LEGAL VICTORIES**

From time to time, we receive Letters to Commission informing us of results achieved in state or federal litigation, or administrative appeals. However, I did not realize until recently that all legal victories achieved by the City Attorney's Office are not memorialized in a LTC. I was very impressed upon receiving additional information I requested regarding the work of the City's litigation team. The purpose of this informational item is to share with you and the public the information I received on the full measure of the successes the litigation team has achieved in the past year.

I have, therefore, prepared this informational item to compile a few of these recent victories in a single document, and would like to commend the City Attorney's Office for its dedicated efforts to defend and protect the City's interests, and serve the public, in a wide variety of litigation, including constitutional claims, civil rights cases, employment cases, and land use appeals, including the following:

- MCGRIFF v. CMB (LTC 116-2022). This lawsuit brought by the American Civil Liberties Union claimed a violation of Plaintiffs' First Amendment rights relating to the removal of divisive artwork. The case was dismissed on summary judgment.

- TREEHOUSE v. CMB (Case No. 2022-05498-CA-01). This lawsuit sought to enjoin the curfew imposed by the City Manager during Spring Break 2022. The Petition for Injunction was denied, and the case was dismissed.

- SAINT-VIL v. CMB and Senko v. CMB (LTC 205-2022). These federal lawsuits claimed false arrest and excessive force against the City on behalf of certain police officers. The claims against the City were dismissed on summary judgment.

- Smart v. CMB (LTC 299-2022). This federal lawsuit claimed employment discrimination on the basis of sex and race, as well as retaliatory employment action. The case was dismissed on summary judgment.

- Gil v. CMB (LTC 345-2022). This federal lawsuit claimed employment discrimination on the basis of national origin. The case was dismissed for failure to state any plausible claim in the Complaint.

- Mitchell v. CMB (LTC 215-2022). This federal lawsuit claimed employment discrimination on the basis of age, race, national origin, and gender. The case was dismissed for failure to state any plausible claim in the Complaint.

CITY OF MIAMI BEACH
1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FLORIDA 33139
305.673.7106 | ALEX@MIAMIBEACHFL.GOV

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- In Re Delano Hotel Project (LTC 303-2022). The City won a favorable ruling from the Historic Preservation Board Special Magistrate affirming a certificate of appropriateness for the Delano renovation.

- In Re Seagull Hotel Project (LTC 233-2022). The City won various favorable rulings from the Historic Preservation Board Special Magistrate and the Circuit Court of the Eleventh Judicial Circuit in challenges to the Historic Preservation Board's approval of the renovation of the Seagull Hotel into the first Bulgari Hotel.

- Club Madonna INC. v. CMB (LTC 312-2022). The U.S. Court of Appeals for the Eleventh Circuit upheld the constitutionality of the City's ordinance requiring two forms of identification for performers at strip clubs, as part of the City Commission's effort to curb the exploitation of minors.

- RIOS v. CMB (Case No. 2022-20181-CIV-SCOLA). This federal lawsuit claimed employment discrimination on the basis of sex, as well as retaliatory employment action. The case was dismissed on the pleadings.

- CUNNINGHAM v. MBPD AND CHIEF CLEMENTS (Case No. 2022-9501-SP-05). This was an action relating for damages claiming conversion of property seized by the police department. The case was dismissed on the pleadings.

- DE URIARTE v. CMB (Case No. 2021-011246-CA-01). This was an action for Declaratory Judgment and Injunctive Relief stemming from two Code Violations issued to a residential property owner for storing a commercial and/or recreational vehicle in violation of the City Code on the property. The case was dismissed on the pleadings.

- IM v. CMB (Case No. 2018-37089-CA-01). This was an action for damages based on alleged negligent sidewalk maintenance. The case was dismissed with prejudice.

- THOMPSON v. CMB (Case No. 2019-25090-CA-01). This was an action for damages based on alleged employment discrimination. The case was dismissed after substantial discovery.

- POWERS v. CMB (Case No. 2021-19898-SP-05). This was an action relating to public records seeking both records and damages. The case was dismissed after a finding by the Court that the City complied with the public records request and met its requirements under Chapter 119 of the Florida Statutes.

Please join me in congratulating the City Attorney's Office for its hard work in successfully representing the City in the above litigation matters.

Thank you.

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