


MIAMI BEACH

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

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Raul Aguila, City Attorney 

DATE: February 13, 2019

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

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

1. **JUAN CARLOS GIL V CITY OF MIAMI BEACH, FLORIDA** Case No. 18-dv-24795-JEM (United States District Court for the Southern District of Florida Miami Division)

Plaintiff alleged that documents on the City's website are not ADA compliant for blind users. The City Attorney's Office is evaluating the merits of those allegations in the lawsuit, and will formalize an appropriate legal course of action for this matter.

2. **PIERRE M. PETIT V. CITY OF MIAMI BEACH** Case No. 2018-040540-CA-01 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

Plaintiff alleges that he was terminated in violation of the ADA. The City Attorney's office will be defending the merits of this lawsuit.

3. **AIRBNB, INC., V CITY OF MIAMI BEACH**, Case No. 19-CV-20045 (U.S. District Court for the Southern District of Florida)

On January 7, 2019, the Plaintiff served the above-subject lawsuit upon the City of Miami Beach. The Plaintiff attempts to challenge the constitutionality and statutory validity of City's Ordinance 2018-4211, which requires hosting platforms to only publish short-term rental listings that contain business tax receipt and resort tax certificate numbers. More specifically, the Plaintiff seeks to challenge the Ordinance by alleging that the Ordinance (1) violates the Communications Decency Act (the "CDA") because it allegedly treats Plaintiff like a publisher rather than a mere service provider and (2) violates Plaintiff's First Amendment rights under both the U.S. and Florida Constitutions because it allegedly imposes content-based restrictions on commercial speech.

The City Attorney's Office considers the causes of action set forth in the lawsuit to be devoid of any legal merit, and this matter will be defended by the City to the fullest extent of the law.

4. **RAJEEV RASINGHANI V RIC-MAN INTERNATIONAL, INC. AND CITY OF MIAMI BEACH** Case No. 2018-030315 CA-(01) (Circuit Court of the 11th Judicial Circuit in and for the 11th Judicial Circuit in and for Miami-Dade County, Florida)

The Plaintiff, Rajeev Rasinghani, filed this Complaint against the City and a Contractor hired by the City, Ric-Man International, Inc. The lawsuit relates to alleged damages that the Plaintiff sustained, which arose out of the City's construction for those of water pump's located near the Plaintiff's Property. Plaintiff has alleged counts of Negligence, Gross Negligence and Nuisance against the City. The City has sent notice to tender this claim to the City's Contractor, Ric-Man International, Inc., based on Ric-Man International, Inc.'s contractual indemnity and defense obligations pursuant to the contraction agreement. The City is awaiting a reply from Ric-Man International, Inc. In the meantime, the City is evaluating Plaintiff's allegations against the City, and this matter will be appropriately defended.

5. **JEANETTE FARACH V CITY OF MIAMI BEACH** Case No. 2018-034695 CA01 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

The City was served with this complaint on January 25, 2019. The lawsuit alleges that on December 24, 2014, the plaintiff, Jeanette Farach, was a the driver in an Audi Q7 that was driving along Collins Avenue when the Audi was struck in the rear by a City of Miami Beach police vehicle, which was driven by Wayne Jones. Plaintiff is alleging injuries as a result of the rear end collision, and she is suing the City of Miami Beach for personal injury and damages. We shall answer the complaint and propound discovery to the Plaintiff.

6. **COMPLETE BUSINESS SOLUTIONS GROUP, INC. AND HERITAGE BUSINESS CONSULTING, INC. V. INVESTIQUEST PARTNERS, INC., JOSE PARILLA, SR HOMES, LLC, TOORAK REPO SELLER 1 TRUST, MIAMI-DADE COUNTY, JOSE R FERNANDEZ, OREN DAVID DINKEL, AS TRUSTEE OF THE DD FAMILY REVOCABLE TRUST DATED 12/08/04, CITY OF MIAMI BEACH, 1230 STILLWATER LLC, ANGEL OAK PRIME BRIDGE, LLC** Case No. 18-37513 CA 01(Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a mortgage on real property located at 1230 Stillwater Drive, Miami Beach. The Summons and Complaint were served on the City on January 28, 2018.

The City's Answer and Affirmative Defense will be timely filed.