


MIAMI BEACH

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

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Raul Aguila, City Attorney 

DATE: February 8, 2017

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

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

1. Fountain Park Village Homes Condominium Association, Inc. vs Anna Rodriguez, et al., Case No. 16-31976 CA 34 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a condominium lien on real property located at 6960 NW 166 Terrace, #1501, Miami Lakes, Florida. The Summons and Complaint were served on the City on January 4, 2017.

The City's Answer and Affirmative Defense was filed on January 9, 2017.

2. The City of Miami Beach, Florida vs The School Board of Miami-Dade County Case No. 17-672 CA 21 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to collect monies owed to the City as a result of the School Board's failure to timely pay stormwater and related charges for numerous school properties located in the City. The Complaint was filed on January 11, 2017.

3. Kevin J. Stewart v. City of Miami Beach, Case # 16-032858 CA 01 (10) (Circuit Court – 11th Judicial Circuit In And For Miami Dade County).

The City was served with this complaint on January 10, 2017 alleging that on March 11, 2016, the Plaintiff, Kevin J. Stewart, was falsely arrested by a City Police Officer and charged with disorderly conduct in alleged violation of Florida Statutes section 877.03. The complaint alleges that Stewart was standing on a sidewalk near Ocean Drive and 8th Street in the City of Miami Beach. Without warning or cause, Stewart – while standing on the sidewalk – was apprehended by two City Police Officers, who pushed him face down on the sidewalk, handcuffed him, and then put him into the back of a van where he remained for several hours. At no time was Stewart advised why he was apprehended, that he was under arrest, or what charges were made against him. We shall file our response and propound discovery to the Plaintiff.

4. Frances Mora v. S&W of Miami, L.L.C., and City of Miami Beach, Case # 16-009356 CA 01 (Circuit Court – 11th Judicial Circuit in and for Miami Dade County).

The City was served with this complaint on January 12, 2017 alleging that on March 12, 2015, the plaintiff, Frances Mora, was walking at 1 Washington Avenue at South Pointe Park by the outdoor sitting area of Smith and Wollensky Restaurant when she tripped around the location between the raised differential in the sidewalk and the seating area of the Smith and Wollensky Restaurant outdoor sitting area. Plaintiff tripped from the sidewalk unto the outdoor sitting area in question. The Plaintiff is suing S&W as a co-defendant in the case. We shall file our answer to the complaint and propound discovery to the plaintiff. We shall also tender the case to S&W's insurance carrier pursuant to the concession agreement with the City that gives S&W the right to use the outdoor location.

5. Megan Adamescu, v The City of Miami Beach, and Phillipe Archer Case No. 17-CV20034 (United States District Court for the Southern District of Florida)

Plaintiff sued the City and an individual officer in federal court alleging false arrest and excessive force. The City Attorney's Office will vigorously defend this lawsuit.

6. Bake House SB, LLC d/b/a Bake House, v. The City of Miami Beach Case No. 17-000067-CC-24 (Circuit Court - 11th Judicial Circuit in and for Miami-Dade County)

Plaintiff sued the City alleging that the City's prohibition on entertainment establishments in the South of Fifth neighborhood violates the First Amendment. The City Attorney's Office will vigorously defend this lawsuit.

7. The City of Miami Beach, Florida vs Anileys Albelo, Case No. 17-133 CC 24 (County Court in and for Miami-Dade County, Florida)

This is a tenant eviction action to eviction Anileys Albelo from the premises located at 1965 Washington Avenue, Apartment 202, Miami Beach, FL. The complaint was filed on January 19, 2017.

8. Niki Colleen Livingston v. City of Miami Beach, Officer Jesus Dominguez and Officer Michelle Sayegh Case No. 1:17-CV-20092-DPG United States District

Plaintiff sued the City and an individual officer in federal court alleging false arrest and excessive force. The City Attorney's Office will vigorously defend this lawsuit.

9. Patricia Wilcox v. City of Miami Beach et al, Case No. 062016 CA 01 (Circuit Court – 17th Judicial Circuit in and for Broward County).

The City was served with this complaint on January 25, 2017 alleging that on September 4, 2012, the plaintiff, Patricia Wilcox, was walking on the sidewalk in front of a subway shop at 7415 Collins Avenue, in Miami Beach, FL when she tripped and fell due to an uneven sidewalk and got injured. She is suing the City and various defendants including the Subway Group in Broward County. I spoke to Plaintiff counsel, Mr. Charles Barnard, to inform him that I will be filing a motion to dismiss for improper venue as he had sued the City in Broward County as opposed to Dade County where our municipality is located. He said he is going to voluntarily move the case to Dade County in lieu of our not filing the motion to dismiss for improper venue. Once the case is moved to Dade County, we shall file our answer and propound discovery to the plaintiff.

10. Walder Stinfi v. City of Miami Beach Case No. 16-032364-CA11 (Circuit Court - 11th Judicial Circuit in and for Miami-Dade County, Florida)

Plaintiff sued the City alleging that the City's workforce violence policy violates state law preempting gun regulation to the state. The City Attorney's Office will vigorously defend this lawsuit.