

MIAMI BEACH

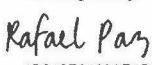
City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

MEMO #

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, City Attorney

DocuSigned by:

 4B242F61639E4B0...

DATE: June 28, 2023

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

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

1. **PENROD BROTHERS, INC A FLORIDA CORPORATION V. BOUCHER BROTHERS, MIAMI BEACH, LLC, A FLORIDA LIMITED LIABILITY COMPANY, AND THE CITY OF MIAMI BEACH, FL** Case No. 2023-016657-CA-44 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action for injunctive, declaratory, and monetary relief relating to the City's process to procure a new lease and/or concession agreement for the property located at 1 Ocean Drive, together with its related concession area, in anticipation of the May 2026 expiration of the current lease and concession agreement between the City and Penrod Brothers, Inc. ("Nikki Beach"). Nikki Beach seeks to enjoin the May 17, 2023 Resolution that authorized the commencement of a competitive bid process and further seeks damages for an alleged breach of the lease's "peaceful enjoyment" provision, among other claims. The Office of the City Attorney will vigorously defend this action.

2. **BATH CLUB ENTERTAINMENT, LLC V. THE RESIDENCES AT THE BATH CLUB CONDOMINIUM ASSOCIATION, INC., THE RESIDENCES AT BATH CLUB MAINTENANCE ASSOCIATION, INC. THE CITY OF MIAMI BEACH; COMPLETE HEALTH AND FITNESS CONCEPTS, INC.; AND TFC PARTNERS, INC.** Case No. 2023-015926-CA-23 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action seeking declaratory and injunctive relief relating to the provision of services at The Bath Club, a social club located at 5937 Collins Avenue. It is primarily a dispute between the plaintiff/limited liability corporation and the defendants/condo association & management association over their respective rights and duties relating to such services. The Complaint states: "The City is added solely as a nominal party to assure that—if the Court determines that [the plaintiff] is entitled to operate the club related facilities—that the City issue the necessary licenses to [the plaintiff] and revokes the licenses as to the Associations." The Office of the City Attorney will vigorously defend this action.

3. **DONALD GALIANO V BELL SOUTH TELECOMMUNICATIONS, LLC, A FOREIGN LIMITED LIABILITY COMPANY D/B/A AT&T SOUTHEAST; BLUE STREAK, LLC A FLORIDA LIMITED LIABILITY COMPANY; AND CITY OF MIAMI BEACH, A MUNICIPALITY OF THE STATE OF FLORIDA** Case No. 2023-011870-CA (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County,

City Attorney Status Report

June 28, 2023

Page 2

Florida)

This is an action for damages claiming negligence by the City of Miami Beach and numerous other Defendants. Donald Gagliano asserts that he fell into an open/unsecured utility hole on the sidewalk near 1743 Bay Road and injured himself. The Office of the City Attorney will vigorously defend this action.

4. **PARKVIEW POINT CONDOMINIUM ASSOCIATION, INC. a Florida Not For Profit Corporation v. JAI MARSHALL; UNKNOWN SPOUSE OF JAI MARSHALL; THE CLERK OF THE SPECIAL MAGISTRATE, CITY OF MIAMI BEACH; UNKNOWN TENANT # 1 IN POSSESSION OF SUBJECT PROPERTY AND UNKNOWN TENANT # 2 IN POSSESSION OF SUBJECT PROPERTY, ET AL** Case No. 2023-015719-CA-10 (Circuit Court of the 11th Judicial Circuit in and or Miami-Dade County, Florida)

This is an action to foreclose a Claim of Lien for condominium assessments on real property located at 7441 Wayne Avenue, Unit 21, Miami Beach, FL

The Summons and Complaint were served on the City on May 15, 2023

The City's Answer was timely filed

5. **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION V CLAUDIA VALDERRAMA; CARLOS VALDERRAMA; CITY OF MIAMI BEACH; FLORIDA; UNKNOWN PERSON(S) IN POSSESSION OF THE SUBJECT PROPERTY** Case No. 2023-016314-CA-13 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an action to foreclose a home equity mortgage on real property located at 13261 NW 10th Terrace, Miami, FL.

The Summons and Complaint were served on the City on May 19, 2023

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

6. **RIC-MAN CONSTRUCTION FLORIDA, INC. V. CITY OF MIAMI BEACH, FLORIDA** Case No. 2023-016016-CA-23 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is a breach of contract claim by contractor Ric-Man Construction Florida, Inc. relating to the Indian Creek Drive improvements from south of 25th Street to 41st Street. Ric-Man alleges that the City breached the contract by failing to increase the project completion time and price. The Office of the City Attorney will vigorously defend this action.

7. **ANDREA UPEGUI V CITY OF MIAMI BEACH** Case No. 2023-013631-23 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is a claim of negligence against the City of Miami Beach by an individual injured while rollerblading on the beach boardwalk near 21st Street when she allegedly struck an uneven surface on the boardwalk and fell. The Office of the City Attorney will vigorously defend this action.

8. **ERIK FELLERS, as Parent and Natural guardian of DAHLIA FELLERS, a minor, v. CITY OF MIAMI BEACH, DL PARK HOLDINGS, LLC, DEZERLAND PARK LLC, and NINJA LOUNGE** Case No. 2023-009963-CA-05 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is a claim of negligence against the City of Miami Beach and numerous other Defendants. Erik Fellers asserts that his daughter, Dahlia Fellers, was in the City's care when she was injured on a trampoline at the Ninja Lounge located at 14401 NE 19th Avenue. The Office of the City Attorney will vigorously defend this action.

9. **DANIEL CARCASSES V. CITY OF MIAMI BEACH** Case No. 2023-010571-CA-08 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is a claim for automobile negligence relating to a collision on Espanola Way on May 11, 2020. The Office of the City Attorney will vigorously defend this action.

10. **DAVID BECERRA V. CITY OF MIAMI BEACH** Case No. 23-015870-CA-23 (Circuit Court of the 11th 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 Meridian Avenue and 18th Street on August 21, 2020. The Office of the City Attorney will vigorously defend this action.

11. **1100 WEST INVESTMENTS, LLC V. CITY OF MIAMI BEACH** Case No. 2023-000034AP-03 (Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida)

This is an appeal of an order of the Special Magistrate adjudging 1100 West Investments, LLC (Mondrian South Beach) to have violated the City's noise ordinance by having loud music coming from the pool area. The Office of the City Attorney will vigorously defend this action.

RAP/lr