

City of Coral Gables Quarterly Litigation Report - Prepared December 2017

Risk Management Division - Labor Relations and Risk Management Department

Total Incurred = Total Paid to Date + Total Reserve Balance on Report Run Date

Summons and Complaint	Federal/ State Court	Case # & Judge	Claim Number	Defense Atty	Loss Date	Cause	Description	Suit Status
Active Litigation with Assigned Defense Counsel								
Planning/Zoning/City Code Challenges								
Cascar, LLC v. City of Coral Gables	State	13-25997-CA-01 Beatriz Butchko	563923	John Lukacs with Hinshaw & Culbertson LLP	02/15/2013	Planning/Zoning Dispute	Bert J Harris Act Claim for alleged diminishment of real property value based on the action of a governmental body. The plaintiff is claiming the City's denial to permit the demolition of a historically designated house reduced the value of his property by approximately \$7,000,000.	Summons and Complaint served on August 5, 2013. Motion to Dismiss was denied on 12/3/13. Filing Motion for Summary Judgment. New judge recently appointed on this case. A Case Management Conference is set with the new judge and opposing counsel in January 2018.
Planning/Zoning/City Code Challenges Totals								(1) Claims
Automobile Accident								
Fernando Arias-Benitas v City of Coral Gables	State	15-28132-CA 01 Antonio Marin	689874	Jon Neuman with Neauman Legal	06/11/2013	Collision	City vehicle changed lanes and struck the front bumper of the tow truck the claimant was driving. The City employee is reporting he quickly switched lanes to avoid being rear-ended by a third vehicle (PT Cruiser) that left the scene after the accident.	Plaintiff's Counsel has withdrawn from the case. No further activity.
Bejarano, Antonio v. Urbina , Vento & City of Coral Gables	State	15-023014-CA-01 Antonio Marin	541174	John McClure, Angones, McClure and Garcia	04/26/2012	Collision	Claimant alleges that City tree affected his visibility which contributed to the accident.	City filed answer. Pending depositions. Motion for Summary Judgment filed on 12/27/16. Plaintiff filed second amended complaint. Motion for Summary Judgment hearing 5/11/17. Summary Judgment granted on 11/17/17 in favor of City. 12/5/17 Plaintiff filed Notice of Appeal.
Automobile Accident Totals								(2) Claims
Trip & Fall								
Lethbridge v. City of Coral Gables	State	16-004881-CA-34 Rodney Smith	551586	Eric Hernandez with Hernandez Lee, LLC	11/23/2012	Alleged trip and fall on City sidewalk/swale.	Claimant allegedly tripped and fell on elevated sidewalk and swale.	Claim filed on February 29, 2016. Assigned to counsel on March 10, 2016. Medical records requested. Defense Counsel to schedule IME, Plaintiff and witness' depositions.
Vivian Acosta v. City of Coral Gables	State	16-030688-CA-01 Samantha Ruiz-Cohen	703120	Oscar Marrero with Marrero & Wylder	2/13/2014	Allegedly tripped and fell due to uncovered water meter	Claimant alleges she tripped on an uncovered water meter. The meter was found to be in the County's jurisdiction and the claim was denied in August of 2016.	Suit filed on 11/30/2016, served on 01/10/2017. Location outside City. Waiting on filing of dismissal.
Manuel Rodriguez v. City of Coral Gables, Miami Dade County and Florida Department of Transportation	State	2016-029378-CA-01 Antonio Marin	551582	Eric Hernandez with Hernandez, Lee, Martinez, LLC	11/16/2012	Allegedly tripped and fell on City sidewalk .	Claimant alleges he tripped on uneven pavement along Miracle Mile Sidewalk. Johns Eastern was obtaining Medicare information when suit was filed.	Suit filed on 11/14/2016, served on 12/2/2016. Defense has answered the complaint and currently in discovery stages. Pending Plaintiff's medical records. Notice of trial filed but trial date has not been set.

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Cobos, Elisa v City of Coral Gables	State	15-024965-CA-01 John Schlesinger	721265	Jaimie Pozo Pozo-Diaz & Pozo	3/16/2015	Allegedly fell backward boarding a trolley bus involving the City	The Claimant was boarding a trolley bus in the City. She alleges that the bus driver began to move the bus while the Claimant was attempting to board falling backward and injuring herself.	Suit filed 10/18/2016 Exchanged written discovery. Plaintiff asserts City not being looked at as responsible for maintenance of area. Holding off on depositions and pleadings.
Pozo, Martha v. AJE 3138-3190 Ponce LLC and City of Coral Gables	State	2016-031786 CA 10 Peter Lopez	727076	Jon Neuman with Neauman Legal	3/26/2016	Allegedly tripped and fell on City sidewalk.	The claimant was walking on the sidewalk in front of 3190 Ponce de Leon Blvd. when she allegedly tripped due to uneven/broken sidewalk.	Suit filed 12/20/16. The city has filed cross claim against AJE, abutting property owner, for indemnification. Claimant's deposition has been delayed due to illness.
D'Lorenntti, Stephen v. LSF Shuttle, Juan De La Cruz, and City of Coral Gables	State	2017-017470-CA-01 Dennis Murphy	721644	Robert Oldershaw of Hamilton, Miller & Birthisel	10/16/3875	Fell from a sudden stop while riding the trolley	The Claimant was injured when the trolley driver slammed on his brakes in order to avoid an accident	Suit was filed on 07/20/2017 Answer with affirmative Defense Commenced discovery with investigation of driver.
Estrada, Mayra v. The City of Coral Gables	State	2017-025392-CA-09 Pedro Echarte	793725	John McClure, Angones, McClure and Garcia	3/29/2017	Trip and fall on sidewalk	Trip and fall causing multiple injuries on Salzedo sidewalk between Vizcaya and Aleslo.	Suit was filed on 11/07/2017. Defense was appointed. Plaintiff's counsel filed a Motion for Leave to file Amended Complaint Dec. 2017
Moscoso, Lourdes v. City of Coral Gables	State	2015-008455-CA-15 Jose Rodriguez	L573459	Eric Hernandez with Hernandez, Lee, Martinez LLC	7/25/2011	Claimant allegedly tripped and fell over an extension cord in COCG garage	The Claimant tripped and fell over an extension cord in a COCG garage causing injury and lost work time. She was in the course & scope of her employment when the incident occurred.	Suit filed 10/18/2016 Exchanged written discovery. Plaintiff asserts City not being looked at as responsible for maintenance of area. Holding off on depositions and pleadings. Pending IME
Michael Wollman v City of Coral Gables and Miami-Dade County	State	14-032264-CA 01 Eric Hendon	607289	Jaime Pozo with Pozo-Diaz & Pozo, P.A	05/18/2014	Alleged injury due to negligent maintenance.	The claimant was riding a Trikke Tricycle on Sevilla Ave when he crossed over the road and over a reflector which was allegedly loose, causing him to lose his balance and fall.	Complaint was served on January 14, 2015. Discovery is ongoing. A Motion for Summary Judgment was filed.
Courbier, Mertice v. Fernandez and City of Coral Gables	State	2017-000950-CA-01 Monica Gordo	614940	Jon Neuman with Neauman Legal	09/01/2014	Allegedly tripped and fell on City sidewalk while jogging.	The claimant allegedly tripped and fell on a raised portion of sidewalk while jogging at 6:30 p.m. at 1501 South Greenway Drive. A passerby drove her to Baptist Hospital where a CT was performed showing multiple fractures to facial structures.	Suit filed 01/20/2017. Early stages of litigation. Answer filed. No trial date has been set. Written discovery has been exchanged between the parties. Abutting property owner also a defendant.

Trip & Fall Totals

(10) Claims

Miscellaneous

Michael Varkarakis (MINOR) v. City of Coral Gables	State	13-11234-CA-01 Eric Hendon	448019	Eric Hernandez with Hernandez Lee, LLC	04/08/2009	Alleged Negligent maintenance	Plaintiff (a toddler at the time of accident) allegedly sustained injuries to his leg while purportedly playing on an alleged City playground. Allegations are a lack of signage and that the playground equipment was not age appropriate for preschoolers.	Summons and Complaint served on March 28, 2013. Defense Motion to Dismiss was denied. Depositions of Plaintiff, Caretaker, and parents completed. Plaintiff did not work case for several months. No mediation. No trial date. Defense filing Motion for Summary Judgment . In process of scheduling depositions.
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Steve Austin v. CGPD, et al.	Small claims	16-036415 SP 05	Not being handled through Johns Eastern	Eric Hernandez			Allegation that police stole money and tools after arresting Plaintiff.	Motion to dismiss filed and working to schedule hearing.
Murhee v. City of Coral Gables	State	13-20731-CA-01 Thomas Rebull	Not being handled through Johns Eastern or Risk Management	Cantero with White & Case	n/a	COLA/Pension	City did not pay COLA to retirees due to State law regarding negative actuarial experience. Parties brought suit claiming it is a violation of the City code.	Class certified. Motion for Summary Judgment to be filed. Settlement reached, in principle (subject to court approval).
Parker, et al. v. American Traffic Solutions, Inc., et al.	Federal - S.D. of Florida	14-24010-CIV-Moreno	Not being handled through Johns Eastern or Risk Management	Ed Guedes, Weiss, Serota, Helfman		Class action	Class action seeking refunds in connection with post-Act red light camera programs. 80 named defendants.	Case stayed pending resolution of <i>Jimenez v. Aventura</i> where Florida Supreme Court accepted jurisdiction - oral argument is scheduled for 2/7/18.
Bahamian Village, LLC, et al. v. Miami-Dade County v. Homeowners' Foundation of Coral Gables, Inc.	State	15-15755-CA-01 Eric Hendon	Not being handled through Johns Eastern or Risk Management	Frances Guasch-de la Guardia (Holland & Knight)		Declaratory Action	Action filed by Bahamian Village and Kolsky Trust against M-D County to determine rights of the parties with respect to property located in Coral Gables.	Parties working toward settlement. Pending Motion to Intervene filed. Motion to Dismiss denied. Hearing on Motion to Dismiss for lack of prosecution denied on 4/21/17 and case to remain pending.
Florida Retail Federation, Inc. & Super Progreso Inc., v. City of Coral Gables	State	16-018370-CA-01 Jorge Cueto	Not being handled through Johns Eastern or Risk Management	Corali Lopez-Castro, Kozyak Tropin Throckmorton		Injunction Action	Action filed by Florida Retail Federation & Super Progreso challenging the polystyrene ordinance adopted by the City.	Court ruled in favor of City finding 3 State Statutes unconstitutional. Appeal filed to Third DCA and oral argument heard in Dec. 2017. Pending Court's decision.
Shinholster, Charles v City of Coral Gables	U.S. District	1:16-cv-23025-UU Ursula Ungaro	683528	Denise M Heekin Bryant, Miller & Olive	n/a	Discrimination	The Claimant alleges race and age discrimination against him denying promotion	City filed answer. Plaintiff's deposition taken. Exchanged discovery. Settled for \$13,000 on 5/11/17
Peter Blanco and Ivette Blanco, his wife vs The City of Coral Gables, a municipal corporation	State	16-027741-CA 30 Reemberto Diaz	689403	Eric Hernandez with Wallen, Hernandez, Lee, and Martinez LLP	11/14/2014	Auto Liability	Negligence based on vicarious liability against City of Coral Gables for the alleged negligent driving by Sergeant Vicky Merino.	Complaint filed November 2016. Defense filed MTD based on sovereign immunity. Plaintiff amended the complaint, defense to file MTD again. City to file Motion to Dismiss and was denied after hearing. City filed appeal to 3rd DCA on 11/14/17.
Jesus Cordero, Individually vs The City of Coral Gables, a Florida Municipal Corporation	U.S. District	1:16-cv-23869-MGC Marcia Cooke	693138	Denise Heekin Olive, Miller, Bryant	08/17/2015	Racial Discrimination	Plaintiff alleges: Intentional Race and National Origin Discrimination (Black Dominican Puerto-Rican American) in Violation of Title VII and Florida Statute Section 760) Retaliation in Violation of Title VII	Complaint filed September 2016. City filed a Motion to Dismiss - pending order. Court orders and deadlines have been provided, discovery continues. Joint Motion for Continuance was made Mediation is currently scheduled for January 18, 2018
Earle, Donovan v Michael Valdes	U.S. District	16-cv-25196-KMW Kathleen Williams	778229	Christine L. Welstead Akerman LLP and City Attorney's Office	12/15/2016	False Arrest/Detention	Plaintiff alleges for no reason Officer Valdes lunged at him, threw his cell phone and slammed him against a police unit.	Complaint was served on 12/21/2016. Defense has been assigned. City Attorney's office will be co-counsel. Motion to Dismiss filed. Set for trial the 2 week period beginning on 9/4/18.
Mejia Mardis, Raiza v. The City of Coral Gables	U.S. District	510-2016-01124	723898	Denise Heekin Olive, Miller, Bryant	3/1/2014	Sexual Harrassment	Plaintiff alleges sexual harrassment from a fellow Coral Gables employee	The matter is still with the EEOC no recent updates since 2016
D'Lorenntti, Stephen v. City of Coral Gables	State	17-020018 CA 02 Monica Gordo	Not being handled through Johns Eastern or Risk Management	Robert Oldershaw of Hamilton, Miller & Birthisel	3/30/2017	Public Records	Plaintiff alleges that the City failed to provide all public records requested within a resonable period of time.	Additional documents were obtained from Limousines of South Florida and provided to opposing counsel. One responsive document is pending which the City is working to obtain.

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City of Coral Gables v. FPL	State	17-026330-CA-01 Rodolfo Ruiz	Not being handled through Johns Eastern or Risk Management	Corali Lopez-Castro, Kozyak Tropin Throckmorton	9/9/2017	Breach of franchise agreement	City brought suit against FPL for breach of the existing franchise agreement.	FPL filed Motion to Dismiss on 12/21/2017. City is preparing its response.
City of Coral Gables v. Facebook/Instagram	State	17-017450-CA 01 Reemberto Diaz	Not being handled through Johns Eastern or Risk Management	Anna Marie Gamez & Frances Guasch de la Guardia, Holland & Knight	5/1/2017	Pure Bill of Discovery	City filed Pure Bill of Discovery to obtain the identify of an individual/group that used the City's trademark and posted false informaton.	Defendant filed Motion to Dismiss. Negotiations with defendant continue.

Miscellaneous Totals

(11) Claims

Property-related Litigation

City of Coral Gables v. Pacific Coast Development, et al.	State	15-3778 CA 01 (13) Thomas Rebull	Not being handled through Johns Eastern or Risk Management	Alexander L. Palenzuela, P.A.	n/a	Injunction Action	Action for injunction, declaratory judgment, and specific performance, regarding a property located at 5626 Granada Blvd, requiring the responsible parties to correct all code violations to bring abandoned real property (unfinished house and pool) into compliance with the City code.	Court entered injunctions and appointed a receiver who hired a contractor to correct the code violations by finishing the house and pool. Construction was completed in October 2016. The Court entered an order allowing the parties until April 10, 2017 to agree to a sale of the property or the receiver will sell it.
JP Morgan Chase v. City of Coral Gables, et al.	State	3D15-1182 and 3D15-1371	Not being handled through Johns Eastern or Risk Management	Alexander L. Palenzuela, P.A.	n/a	Appeals of Injunction Action	These are appeals of orders entered simultaneously in the City's injunction action (See #41 above) (a) requiring the mortgagee to show cause why the court should not impose sanctions and (b) appointing a receiver.	Appeals filed by JP Morgan Chase are stayed by agreement of the parties pending the outcome of the receivership in #41 above.
Portola Investments 8324, Inc. v. Carlos Marroquin, et al.	State	15-8906 CA 01 (13) Thomas Rebull	Not being handled through Johns Eastern or Risk Management	Alexander L. Palenzuela, P.A.	n/a	Quiet Title Action	This is a quiet title action filed by the purported purchaser of the property that is in receivership at the City's request in the injunction action (See #41 above) against the record owner.	The City intervened in this action and moved to have it transferred to the same judicial decision division as the City's injunction action against the record order (See #41 above). The record owner has moved for summary judgment and to dissolve the lis pendens. The claimants settled this action, which has been dismissed.
JP Morgan Chase v. Pacific Coast Development	State	15-16635 CA 01 (13) Thomas Rebull	Not being handled through Johns Eastern or Risk Management	Alexander L. Palenzuela, P.A.	n/a	Foreclosure Action	This is a foreclosure action filed by the mortgagee against a property that is the subject of the City's injunction action (See #41 above).	The City intervened in this action and moved to have it transferred to the same judicial decision division as the City's injunction action against the record order (See #41 above). The plaintiff has filed an amended complaint and the purported owner has requested discovery from the plaintiff. The plaintiff placed a hold on this action, pending the outcome of the receivership in the injunction action (#49) above.
Ditech Financial LLC, f/k/a Green Tree Servicing, LLC v. Seth Sklarey, et al.	State	10-34634 CA 01 (05) John Schlesinger	Not being handled through Johns Eastern or Risk Management	Alexander L. Palenzuela, P.A.	n/a	Foreclosure Action	This is a foreclosure action filed by the mortgagee against a property, located at 4600 Brooker St, that constitutes abandoned real property approved for further enforcement action by the City (See #41 above).	The City intervened in this action and moved to expedite issuance of the certificate of title in the foreclosure and removal of the occupant of the property in order to allow the remaining parties under the City's abandoned real property ordinance to correct the code violations. The property was sold to Fannie Mae and the case has since been closed.

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Ober v. Town of Lauderdale-by-the-Sea	State	4D14-4597	Not being handled through Johns Eastern or Risk Management	Alexander L. Palenzuela, P.A.	n/a	Appeal of Judgment in Quiet Title Action	This is an appeal of a judgment in a quiet title action in which the Court held that municipal code enforcement liens that were recorded after a foreclosure judgment, but before the certificate of title, attached as a lien on the property.	The City filed an amicus brief supporting the Town's argument. The 4th DCA initially ruled in favor of the Town, however, after the appearance of numerous amici curiae, the Court reversed itself on rehearing. 4th District Court certified matter to the Supreme Court. City will be filings its notice of intent to appear as amicus.

Properties-related Totals

(6) Cases