

# City of Coral Gables Quarterly Litigation Report - Prepared February 2016

## Risk Management Division - Human Resources Department

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

Summons and Complaint	Federal/ State Court	Case #	Claim Number	Defense Atty	Loss Date	Cause	Description	Suit Status	Current Demand & Subsequent Demands
<b>Active Litigation with Assigned Defense Counsel</b>									
<b>Property Damage Claims</b>									
Pure Insurance Company vs. Florida Power & Light Company and City of Coral Gables	State	14028665-CA-01	572520	Jamie Pozo & Ralph Suarez with Pozo-Diaz & Pozo, P.A.	07/25/2013	Property Damage	Carrier for two residents alleges negligent maintenance of City trees caused damage to homes.	FPL filed a Motion to Dismiss and a Motion to file Amended Complaint which addresses the issues raised by FPL in their Motion, and the hearing on the Motion to Dismiss was subsequently cancelled. Amended Complaint and Answer and Defenses were filed on 1/8/15. FPL has recently filed an Amended Third Party Complaint.	Claim was denied on 8/8/14 and suit was filed 11/10/14. Estimated total damages for the damage to the 2 homes per defense attorney report on 4/14/15 : \$94, 848.13 + \$67,491.07 = \$162,339.20; FPL is offering to remove the tree in question.
<b>Property Damage Claims Totals</b>									<b>(1) Claims</b>
<b>Planning/Zoning/City Code Challenges</b>									
Cascar, LLC v. City of Coral Gables	State	2013-25997-CA-01	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. No trial date has been set.	The initial demand on this case was \$7m.
<b>Planning/Zoning/City Code Challenges Totals</b>									<b>(1) Claims</b>
Murhee v. City of Coral Gables	State	13-20731-CA-01		Cantero & McAilley 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.	
<b>Automobile Accident</b>									
Rosalyn Dickerson and William Dickerson v. City of Coral Gables and Manuel Ojeda	State	2014-1958-CA-30	530449	Andrew Boese with León Cosgrove LLC	12/06/2011	Collision	Claimant's vehicle allegedly involved in an accident with a purported City vehicle.	Summons and Complaint were served on January 2014. Case is in discovery. No mediation or trial date set. A new attorney has appeared on behalf of the plaintiff. Discovery responses are pending.	Demand for \$150,000.00 received pre-suit. The last demand was for settle was on 4/17/14 in the amount of \$75,000 for William and \$16,000 for Rosalyn.
Zobeida Carricaburu & Luis Carricaburu vs City of Coral Gables	State	14-028444-CA-01	520056	Eric Hernandez with Hernandez Lee, LLC.	12/07/2010	Collision	Purported City vehicle allegedly rear-ended Claimant's vehicle.	Summons and Complaint were filed on November 6, 2014. Discovery has concluded and the case has been notified for Trial. Same will be on the week of February 22, 2016.	A demand was not made pre-litigation.
Emilia Delgado v. Royal Rent a Car Systems of Florida and City of Coral Gables	State	15-002159 CA 01	582599	Jaime Pozo with Pozo-Diaz & Pozo, P.A	01/16/2014	Collision	City vehicle failed the ROW and collided into claimant's vehicle.	Complaint was filed on January 28, 2015. Case is in discovery. No mediation or trial date set. The Co-Defendant successfully argued a Motion to Dismiss.	Demand received 5/14/14 for \$200,000.00

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Hector M Ortiz v City of Coral Gables	State	15-026136 CA 01	566521	Bridgette Thornton with Thornton Legal Group	04/12/2013	Collision	Umarked police vehicle involved in a crash.	Early discovery is ongoing in this case.	Demand for \$350,000 received. Last offer was for \$15,000
Fernando Arias-Benitas v City of Coral Gables	State	5-28132-CA	689874	Jon Neuman with Neauman Legal	06/11/2013	Collision	City vehicle rear ended the plaintiff's car.	Early discovery is ongoing in this case.	Demand has not been received. Case is currently in discovery.
Jonathan Lowrey v. City of Coral Gables	State	14-30860 CA 06	560551	Jaime Pozo with Pozo-Diaz & Pozo, P.A.	01/17/2013	left foot was run over by the right wheel of a patrol unit	Claimant alleges the wheel of a patrol unit ran over his foot while crossing the street	Complaint filed on 12/17/2014. Discovery ongoing. Depositions have been taken. No Trial date has been set.	Demand has not been received. Case is currently in discovery.
Bejarano, Antonio v. Urbina etal.	State	15-023014-CA-01		John McClure, Angones, McClure and Garcia	04/26/2012	Collission	Claimant alleges that City tree affected his visibility which contributed to the accident.	City filed answer.	Demand for \$450,000 received.
<b>Automobile Accident Totals</b>								<b>(6) Claims</b>	
<b>Trip &amp; Fall</b>									
Sergio L. Santana, JR v Miami-Dade water sewer and City of Coral Gables	State	14-21725-CA-01	574197	Eric Hernandez with Hernandez Lee LLC	08/24/2010	Alleged trip fall on on water meter cover	Alleged trip and fall on water meter cover. The City does not own or maintain the sidewalk or water meter.	Complaint was served on 9/3/2014. 4/6/15 Note: Motion to Compel was filed and Plaintiff sent the discovery.	None
Melba Wynelle Sebree v. City of Coral Gables & Gables International Plaza Co.	State	14-018430 CA 01	608221	Yaneris Figueroa	02/29/2012	Alleged trip and fall on a purpoted City Sidewalk	Claimant allegedly tripped and fell while walking on a purported City sidewalk	Amended Complaint filed August 25, 2014. A Motion was filed for Lack of Prosecution - granted & subsequently vacated.	None.
Leonor Portela v. City of Coral Gables	State	15-015695	542876	Johnathan Newman with Johnathan M. Neuman, PA	05/16/2012	Alleged trip and fall on the main entrance of City Hall	Claimant allegedly tripped and fell on the main entrance exterior stairs of Coral Gables City Hall.	Discovery in this case is ongoing. Both sides have exchanged responses to written discovery, and we are currently negotiating the Defendant's objections to Plaintiff's discovery. There have been no depositions or medical exams to date.	The attorney demanded \$140,000 , our last offer was \$15,000

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Patricia Mitts v. City of Coral Gables	State	15-001646 CA-01	511172	Bridgette Thornton with Thornton Legal Group	01/24/2011	Alleged trip and fall on a City sidewalk.	Claimant allegedly tripped and fell due to an elevated sidewalk.	Discovery in this case is ongoing. A co-defendant has agreed to defend and indemnify the City per their contract agreement.	Demand for \$200,000.00 for claimant's injuries and pain and suffering in addition to a \$100,000 loss of consortium claim for claimant's husband.
Francisco Fernandez v. Miracle Center, Inc. and City of Coral Gables	State	14-31402 CA-4	608460	Thomas Korge with Korge Law	07/12/2014	Alleged trip and fall on a City sidewalk.	Claimant allegedly tripped and fell due to an elevated sidewalk.	Discovery is ongoing. A Proposal for Settlement in the amount of \$450,000 was received.	Last demand from the plaintiff attorney was in the amount of \$450,000.
Moscoso, Lourdes	State	15-08455-CA-01		Eric Hernandez with Hernandez Lee, LLC	07/25/2011	Alleged trip and fall on electrical cord in parking lot owned by City.	Claimant allegedly tripped and fell on an electrical cord in a City parking lot. Claimant was a trolley driver employed by First Transit.	Claim filed 4/14/15. Discovery is ongoing.	None
Lethbridge v. City of Coral Gables	State	16-004881-CA-34		Bridgette Thornton with Thornton Legal Group	11/23/2012	Alleged trip and fall on City sidewalk/swale.	Claimant allegedly tripped and fell on elevated sidewalk and swale.	Claim filed 2/29/16. Assigned to counsel 3/10/16.	Unkown
<b>Trip &amp; Fall Totals</b>									<b>(8) Claims</b>
<b>Miscellaneous</b>									
Michael Varkarakis (MINOR) v. City of Coral Gables	State	2013-11234-CA-01	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 are being taken. Discovery is ongoing.	Demand for \$100,000.00 pre-suit.
Michael Wollman v City of Coral Gables and Miami-Dade County	State	510-2014-04174	607289	Jaime Pozo with Pozo-Diaz & Pozo, P.A	05/18/2014	Alleged injury due to Segway accident	Claimant alleges injury due to riding his segway on a reflector.	Complaint was served on 1/14/2015. Discovery is ongoing. A Motion for Summary Judgment was filed. Hearing has not been set.	Demand received 7/2014 for \$200,000.00. Plaintiff refused our offer of \$5000. It was decided by the City on 2/17/16 to file a Proposal for Settlement in the amount of \$5000.

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Merrick Partners et al. v. City of Coral Gables	State	15-020048-CA-25		Adolfo Jimenez with Holland & Knight	n/a	(1) Breach of Contract (2) Quantum Meruit (3) Unjust Enrichment		Court granted dismissal with limited leave to amend within 30 days.	
Steve Austin v. CGPD, et al.	Small claims	16-036415 P 05		Eric Hernandez			TBD	Filed 3/8/16	
Friguls et al. v. City of Coral Gables, et al	State	TBD		Craig Collier & Frances Guacsh (Holland & Knight)	12/11/2015 2/2/16	Declaratory & Injunctive Relief	Suit arises from Paseo de la Riviera approval.	Initial stages.	n/a
Friguls et al. v. City of Coral Gables, et al	State	TBD		Craig Collier & Frances Guacsh (Holland & Knight)	12/11/2015 2/2/16	Peition for Cert	Action arises from Paseo de la Riviera approval.	Initial stages.	n/a
Barnet, et al. v. City of Coral Gables, et al.	State	10-47078-CA-06		Ed Guedes, Weiss, Serota, Helfman		Class action	Class action filed in connection with red light camera programs prior to enactment of Act which authorized red light camera programs.	No movement in case since remand of <i>Masone v. City of Aventura</i> .	None
Parker, et al. v. American Traffic Solutions, Inc., et al.	Federal - S.D. of Florida	14-24010-CIV-MORENO/GARBER		Ed Guedes, Weiss, Serota, Helfman		Class action	Class action seeking refunds in connection with post-Act red light camera programs. 80 named defendants.	Multiple Motions to Dismiss have been filed - granted in part/denied in part. Defendants took appeal to 11th Circuit Court of Appeals seeking review of district court's denial of sovereign immunity defense. District court stayed all proceedings pending resolution of appeal.	Refunds for fines paid.
Bahamian Village, LLC, et al. v. Miami-Dade County v. Homeowners' Foundation of Coral Gables, Inc.	State	15-15755-CA-01		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 agreed to stay/dismiss case without prejudice pending discussion and drafting of agreement. Drafting of agreement is in progress with City assisting. Status conference before court being scheduled. (City seeking to join as amicus or intervenor.)	

**Miscellaneous Totals**

**(7) Claims**