

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CITY OF CORAL GABLES,
a Florida Municipal Corporation,

CASE NO.

Plaintiff,

v.

BIJAN'S CORAL GABLES, LLC d/b/a
BIJAN'S KEY WEST GRILL, a Florida Corporation
and BIJAN NAKHJAVAN, individually,

Defendants.

_____ /

COMPLAINT

Plaintiff, CITY OF CORAL GABLES ("CITY"), by and through its undersigned counsel, hereby sues Defendants, BIJAN'S CORAL GABLES, LLC d/b/a BIJAN'S KEY WEST GRILL ("BIJAN'S") and its managing member, BIJAN NAKHJAVAN ("OWNER"), individually, and alleges as follows:

1. This Court has jurisdiction over the claims stated herein as the matters in controversy exceed \$15,000.00, exclusive of costs, interest, and attorney's fees.
2. This is an action under Florida law for breach of contract.
3. The City of Coral Gables is a Florida municipal corporation located in Miami-Dade County, Florida.
4. Defendant, Bijan's, is a Florida limited liability corporation that transacts business in Miami-Dade County, Florida.
5. Owner is sui juris and a resident of Miami-Dade County, Florida.

COUNT I

6. On or about July 9, 2009, CITY and BIJAN'S entered into a lease agreement for the property located at 2325 Galiano Street, Coral Gables, Florida, to be utilized as an exceptional service and quality, full service restaurant (A copy of the Lease Agreement and First Amendment to the Lease Agreement are attached hereto as Composite Exhibit "A").

7. CITY has fully performed all its duties under the Agreement.

8. Pursuant to Section IV, Base Rent, rent payments of Seven Thousand Four Hundred Eighty Four Dollars and 58/100 (\$7,484.58), plus sales tax, all other applicable taxes; costs to operate premises; and municipal, county or sales taxes.

9. To date, BIJAN'S has failed to make rental payments and the payment of other sums due under the lease.

10. Pursuant to Section XXIII, Default, subsection A, the CITY provided BIJAN'S notice of its default on March 25, 2010, and again on April 9, 2010, requesting BIJAN'S make payment of all outstanding debts due CITY (A copy of the Default Notices are attached hereto as Composite Exhibit "B").

11. BIJAN'S has failed to respond to CITY's requests for payment and has materially breached the Agreement entered into between the parties on July 9, 2009.

12. Pursuant to Section XXIII, Default, subsection (F) (2), BIJAN'S would be in material breach of the Lease Agreement if it should vacate, abandon, or desert the premises; and under subsection (F) (3), if it ceased the continual operation of its business for fifteen (15) continuous days.

13. BIJAN'S vacated the premises and has ceased the continual operation of its business continually for over fifteen (15) days.

14. As a result of BIJAN'S breach, CITY has sustained damages for funds withheld which are due to CITY plus interest, other expenses and taxes due under the agreement, costs of filing and prosecuting this action, and attorney's fees.

15. All conditions precedent, including all contractual notice requirements, have been performed or have been waived.

COUNT II

16. On June 15, 2009, OWNER, as a principal of BIJAN'S, executed a personal guarantee in consideration of the lease rental agreement with CITY (A copy of the Personal Guarantee is attached hereto as Exhibit "C").

17. Pursuant to the terms of the Guarantee, OWNER "absolutely and unconditionally personally guarantees the full, prompt and faithful performance of each and all the terms, covenants and conditions of the Agreement to be kept or performed by the Company, including all payments of rent, additional obligations and all other charges, expenses and costs of every kind and nature which are or may be due now or in the future under the terms of the Agreement."

18. Pursuant to Section XXIII, Default, subsection A, the CITY provided OWNER notice of its default on March 25, 2010, and again on April 9, 2010, requesting OWNER make payment of all outstanding debts due CITY (A copy of the Default Notices are attached hereto as Composite Exhibit "D").

19. OWNER has failed to respond to CITY's requests for payment and has materially breached the Agreement entered into between the parties on July 9, 2009.

20. As a result of OWNER'S breach, CITY has sustained damages for funds withheld which are due to CITY plus interest, other expenses and taxes due under the agreement, costs of filing and prosecuting this action, and attorney's fees.

21. All conditions precedent, including all contractual notice requirements, have been performed or have been waived.

WHEREFORE, the CITY OF CORAL GABLES demands judgment against BIJAN'S and/or OWNER for damages, interest, attorney's fees, and costs of suit.

DEMAND FOR JURY TRIAL

Plaintiff, CITY OF CORAL GABLES, hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

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