

**CIRCUIT COURT – GENERAL JURISDICTION DIVISION**

**DETOURNAY, RANDOL and RIVIERA NEIGHBORHOOD ASS'N v. CITY OF  
CORAL GABLES and Intervenor, AMACE PROPERTIES  
Case No. 07-29458 CA 13**

The case was tried as a bench trial before Judge Ellen Leesfield from March 1, 2011 through March 3, 2011. The Court ruled in favor of the City. On March 12, 2011, Plaintiffs filed a motion to disqualify Judge Leesfield from entering any further orders in this case. The motion to disqualify was denied. Plaintiffs then filed a petition for writ of prohibition in the Third District. On May 10, 2011, the Third District disqualified itself from the case and transferred it to the Fourth District. On June 29, 2011, the appellate court denied the petition for writ of prohibition. On July 25, 2011, the Plaintiff filed a notice of appeal in the Third District Court of Appeals. Appellants have requested an extension of time to file their initial Brief.

**CITY OF CORAL GABLES vs. BIJAN'S CORAL GABLES, LLC D/B/A BIJAN'S  
KEY WEST GRILL AND BIJAN NAKHJAVIAN.  
Case No. 10-26973 CA 13**

This is a pending matter for Breach of Commercial Lease and Breach of Personal Guarantee, et al. In July 2009, the City entered into an eight year commercial lease agreement with Defendant Bijan's Key West Grill, wherein the City leased certain property to Bijan's Key West Grill for the purpose of operating an upscale restaurant within the City of Coral Gables. Defendant Bijan executed a Personal Guarantee simultaneously with the Lease, whereby he guaranteed the performance of every obligation under the Lease. In March 2010, Defendant Bijan Key West breached the Lease by failing to pay rent when due and by failing to continue to operate the restaurant on a continuous basis. Demand letters were sent to both Defendants in March and April 2010, to no avail. In April 2010, Defendant Bijan Key West abandoned the lease. However, the Defendants impermissibly removed several items from the premises which were subject to a landlord's lien for non-payment of rent, as provided for in the Lease. Despite several attempts by the City to resolve this matter without litigation, the City eventually filed suit against the Defendants. The City obtained a Final Default Judgment against Defendant Key West Grill on July 6, 2010 and the litigation is currently proceeding against Defendant Bijan only, pursuant to the Personal Guarantee.

Defendant Bijan's Response to the Amended Complaint was due on October 24<sup>th</sup> 2011. In the interim, we began preparing a Motion for Summary Judgment. However, Bijan failed to file a Response to the Amended Complaint when due. After waiting a week to see if Bijan would file any response or otherwise communicate with our office regarding a response to the Amended Complaint, we drafted a Motion for Default and Final Default Judgment against Bijan for failure to file any response to the Amended Complaint. We are preparing an Affidavit in Support of the Motion for Default, detailing the

damages owed to the City by Bijan. **Once the Affidavit is finalized and executed, we will proceed to schedule a hearing on the Motion for Default at the earliest opportunity.**

**SOMERSET ACADEMY, INC. v. CITY OF CORAL GABLES  
Case No. 10-36228 CA 40**

Three planning and zoning board hearings have been held on Somerset's application in the past few months. At the June 22, 2011 PZB hearing, the applicant moved for a continuance on the application and represented that it would be filing an amended application. The amended application was submitted August 5, 2011.

**CITY OF WESTON, FLORIDA vs. THE HONORABLE CHARLIE CRIST,  
Governor of the State of Florida.  
Case No. 09-CA-2639**

The City of Weston, as the lead plaintiff, has determined that, in addition to defending the appeal, we should cross-appeal as to the single subject issue. We also intend to seek by-pass review at the First District Court of Appeal and request that the Florida Supreme Court hear the matter directly.

**STEVE PHILLIPS V. CORAL GABLES  
Case No. 06-21210 CA31**

**Description:** Trip and fall in swale in front of plaintiff's residence at 1032 Malaga Avenue.

**Date of incident:** December 19, 2005

**Activity:** No activity in last 30 days.

**BERTHA POHUDKA V. CORAL GABLES, HORIZON COMMUNICATIONS &  
COMCAST  
Case No. 10-48599 CA20**

**Description:** Trip and fall in grassy area behind 427 Biltmore Way. City has pending cross claims for indemnity against both co-defendants.

**Date of incident:** September 19, 2007

**Activity:** Deposition of Fire Rescue Lt. Fabyan taken. Determination made that cable installation was inspected by Coral Gables about one year after incident. Both co-defendants have motions for summary judgment pending, based on the "open and obvious" defense. **No new trial date set.**

**JUANA SANCHEZ V. CORAL GABLES  
Case No. 11-35859 CA23**

**Description:** Trip and fall by elderly woman over street light base on sidewalk at Le Jeune Road & Andalusia Avenue. Location of incident was reportedly under construction and/or owned by FDOT, not City.

**Date of incident:** March 8, 2008

**Activity:** Lawsuit was served but no answer filed yet. Plaintiff's attorney has produced correspondence from FDOT denying responsibility for area of incident. We are looking for any documentation to indicate that area in question was FDOT's responsibility.

**AMY CISNEROZ V. CORAL GABLES  
Case No. 11-42321 CA32**

**Description:** Trip and fall by 39-year-old female on entrance steps at 427 Biltmore Way, allegedly as result of loose or uneven tile. A work order for repair of tile at entrance had been pending for several months before incident.

**Date of incident:** January 21, 2011

**Activity:** Answer and initial discovery filed.

**CIRCUIT COURT – APPELLATE DIVISION**

**WALDO & J.C. TOYOS v. CITY OF CORAL GABLES**

**Circuit Court – Appellate Division Case. No.: 10-460AP HPB  
Case No.: LHD 2003-18**

The City filed its response brief on January 13<sup>th</sup>, 2011. The Appellant filed their Reply Brief on February 7, 2011.