

City of Coral Gables Quarterly Litigation Report - Prepared March 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 #	Claim Number	Defense Atty	Loss Date	Cause	Description	Suit Status	Current Demand & Subsequent Demands
Active Litigation with Assigned Defense Counsel									
Planning/Zoning/City Code Challenges									
Cascar, LLC v. City of Coral Gables	State	13-25997-CA-01	563923	John Lukaes 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. Trial period beginning 5/15/17.	The initial demand on this case was \$7m.
Planning/Zoning/City Code Challenges Totals									(1) Claims
Automobile Accident									
William Dickerson v. City of Coral Gables	State	14-1958 CA-30	530449	Andrew Boese, Leon Cosgrove	12/06/2011	Collision	City garbage truck rolling into rear of Plaintiff's vehicle.	Case settled with wife. Case pending with husband. Were not able to settle at August 2016 mediation. Case set for trial.	
Hector M Ortiz v City of Coral Gables	State	15-026136 CA 01	566521	Eric Hernandez with Wallen, Hernandez, Lee, and Martinez LLP	04/12/2013	Collision	Unmarked police vehicle involved in a crash. Questionable all injuries alleged are related to the MVA. (Broke his ankle in 2015 while playing football with his friends.)	Mediation was held on 10/24/2016 and ended in impasse. Trial is scheduled for 3 week period beginning on 5/8/17.	Proposal for settlement filed for \$200,000.
Fernando Arias-Benitas v City of Coral Gables	State	15-28132-CA 01	689874	Jon Neuman with Neuman 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.	The plaintiff and defense have exchanged written responses to discovery. Defense has also filed an amended answer that lists the owners of the other vehicle (PT Cruiser) possibly involved in the accident. Plaintiff's deposition and our driver's deposition were taken. City served proposal for settlement. No trial date set.	\$65,000 demand.
Bejarano, Antonio v. Urbina , Vento & City of Coral Gables	State	15-023014-CA-01	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 Judgement filed on 12/27/16. Plaintiff filed second amended complaint. Motion for Summary Judgement hearing 5/11/17.	Initial Demand of \$450,000.00 received. There are no changes to the demand at present.
Garcia Castelanos, Erick v City of Coral Gables	State	16-CA-020241	723660	John McClure, Angones, McClure and Garcia	4/8/2015	Collision	The Claimant was struck on the driver's side by a COCG Public Works vehicle	Working to schedule mediation. Trial scheduled for 2 week period beginning 7/17/17	The initial demand is \$200,000.00 and there has been no change to date.
Automobile Accident Totals									(7) Claims
Trip & Fall									

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Lethbridge v. City of Coral Gables	State	16-004881-CA-34	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.	None
Perez v. City of Coral Gables & Miracle Mile South, LLC.	State	16-1030-35-CA	616062	Jaime Pozo with Pozo Diaz & Pozo, P.A.	11/11/2014	Alleged trip and fall on a City sidewalk.	Claimant allegedly tripped and fell on elevated sidewalk.	Suit filed March 2016. Abutting property owner is co-defendant. Deposition of Ernesto Pino taken. No mediation or trial date. Scheduling co-defendant's corporate representative for deposition.	Pre-suit demand of \$450,000.00 received.
Noda v City of Coral Gables and Cava Nvestments, LTD	State	16-2199 CA 01	645984	Eric Hernandez with Hernandez Lee Martinez, LLC	11/10/2014	Allegedly tripped and fell on City sidewalk .	Claimant allegedly tripped on sidewalk that was elevated due to the trees the City planted. City has no record of the fall.	Suit filed April 2016. Took Plaintiff's deposition. Exchanged written discovery. IME confirmed a well healed right patella fracture. Mediation is scheduled for 5/26/17.	None.
Vivian Acosta v. City of Coral Gables	State	16-030688-CA-01	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.	None
Manuel Rodriguez v. City of Coral Gables, Miami Dade County and Florida Department of Transportation	State	2016-029378-CA-01	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.	Initial demand was for \$95,000.00
Cobos, Elisa v City of Coral Gables	State	15-024965-CA-01	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.	Initial demand is for \$200,000.00 and no changes to date.
Pozo, Martha v. AJE 3138-3190 Ponce LLC and City of Coral Gables	State	2016-031786 CA 10	727076	Jon Neuman with Neuman 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. Case is in early stages with written discovery exchanged. The city has filed cross claim against AJE for indemnification.	There was no pre-suit demand and no current demand amount is known.
Courbier, Mertice v. Fernandez and City of Coral Gables	State	2017-000950-CA-01	614940	Jon Neuman with Neuman 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.	In presuit demand, the plaintiff demanded \$200,000 from Coral Gables and \$500,000 from the property owner's insurance carrier (State Farm).

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Trip & Fall Totals								(8) Claims	
Miscellaneous									
Michael Varkarakis (MINOR) v. City of Coral Gables	State	13-11234-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 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 . Plaintiff Attorney in process of scheduling depositions.	Demand for \$100,000.00 pre-suit received.
Michael Wollman v City of Coral Gables and Miami-Dade County	State	14-032264-CA 01	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. Hearing has not been set.	Demand received July 2014 for \$200,000.00.
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.	Plaintiff convicted of burglary, grand theft and criminal mischief. Sentenced to 30 years in prison.
Friguls et al. v. City of Coral Gables, et al	State	TBD	Not being handled through Johns Eastern or Risk Management	Craig Collier & Frances Guacsh (Holland & Knight)	12/11/2015 02/02/16	Declaratory & Injunctive Relief	Action arises from Paseo de la Riviera approval.	Petition for prohibition and appeal pending at Third DCA.	n/a
Friguls et al. v. City of Coral Gables, et al	State	2016-000091-AP-01	Not being handled through Johns Eastern or Risk Management	Craig Collier & Frances Guacsh (Holland & Knight)	12/11/2015 02/02/16	Petition for Cert	Action arises from Paseo de la Riviera approval.	Opinion issued by 11th Judicial Circuit Appellate Division dismissing for lack of standing. Decision affirmed by Third DCA.	n/a
Murhee v. City of Coral Gables	State	13-20731-CA-01	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 Judgement 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/GARBER	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.	Multiple Motions to Dismiss have been filed - granted in part/denied in part. Appeal to 11th circuit dismissed. Case pending.	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	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 Court's Motion to Dismiss for lack of prosecution scheduled for 4/21/17.	

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Florida Retail Federation, Inc. & Super Progreso Inc., v. City of Coral Gables	State	16-018370-CA-01	Not being handled through Johns Eastern or Risk Management	Coral 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 has been filed to Third DCA.	
Shinholster, Charles v City of Coral Gables	U.S. District	1:16-cv-23025-UU	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. City witness depositions scheduled for April. Court orders and deadlines have been provided, discovery continues. Scheduled for 2-week trial period beginning July 24, 2017. Scheduled for mediation April 27, 2017.	n/a
Peter Blanco and Ivette Blanco, his wife vs The City of Coral Gables, a municipal corporation	State	16-027741-CA 30	689403	Eric Hernandez with Wallen, Hernandez, Lee, and Martinez LLP	11/14/2014	General 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.	
Jesus Cordero, Individually vs The City of Coral Gables, a Florida Municipal Corporation	U.S. District	1:16-cv-23869-MGC	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. Scheduled for 2-week trial period beginning 2/20/18. Mediation is scheduled for September 22, 2017.	
Earle, Donovan v Michael Valdes	U.S. District	16-cv-25196-KMW	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 is 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. COCG has not been named. Motion to Dismiss filed.	

Miscellaneous Totals

(17) Claims

Property-related Litigation									
City of Coral Gables v. Pacific Coast Development, et al.	State	15-3778 CA 01 (13)	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.	n/a
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.	n/a

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Portola Investments 8324, Inc. v. Carlos Marroquin, et al.	State	15-8906 CA 01 (13)	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.	n/a
JP Morgan Chase v. Pacific Coast Development	State	15-16635 CA 01 (13)	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.	n/a
Ditech Financial LLC, f/k/a Green Tree Servicing, LLC v. Seth Sklarey, et al.	State	10-34634 CA 01 (05)	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.	n/a
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 filing its notice of intent to appear as amicus.	n/a
In Re: forfeiture of property located at 1411 Mantua Avenue	State	16-012742-CA-01	Not being handled through Johns Eastern or Risk Management	Manual Guarch, The Reyes Law Firm	n/a	Forfeiture Action	City filed action seeking to forfeit the property.	Pending scheduling of adversarial preliminary hearing to determine probable cause to proceed with the forfeiture. Structure demolished, case remains pending.	n/a
Properties-related Totals									(7) Cases