

City of Coral Gables Quarterly Litigation Report - Prepared September 2016

Risk Management Division - Human Resources Department

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Summons and Complaint	Federal/ State Court	Case #	Claim Number	Defense Attly	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 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. Depositions scheduled for July 2016.	The initial demand on this case was \$7m.
Planning/Zoning/City Code Challenges Totals									(1) Claims
Automobile Accident									
Rosalyn Dickerson and William Dickerson v. City of Coral Gables and Manuel Ojeda	State	14-1958-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. Discovery has concluded. Mediation failed for Mr. Dickerson; likely settlement for Ms. Dickerson. Trial scheduled for September 2016	Demand for cap of \$300,000.00 received pre-suit.
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-Díaz & Pozo, P.A	01/16/2014	Collision	City vehicle failed the ROW and collided into claimant's vehicle. Plaintiff's counsel withdrew; pending notification of new counsel.	Mediation was held on June 3, 2016 and ended in an impasse. Defense is scheduling an IME for the plaintiff and examining her previous accident history to look into potential pre-existing injuries.	Demand received 5/14/14 for \$200,000.00.
Hector M Ortiz v City of Coral Gables	State	15-026136 CA 01	566521	Bridgette Thornton with Thornton Legal Group	04/12/2013	Collision	Unmarked police vehicle involved in a crash.	Written discovery has been exchanged. Recently sent Plaintiff a HIPAA Release. Once records are received will depose Plaintiff and retain an expert and conduct an IME. Pre-trial conference scheduled for 11/10/2016. Trial set for the 3 week period beginning on 11/21/2016.	Demand for \$350,000 received.
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 two owners of the other vehicle (PT Cruiser) possibly involved in the accident. Plaintiff's deposition is being scheduled. Will be scheduling early mediation.	\$65,000 demand.
Bejarano, Antonio v. Urbina etal.	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 and filing of Motion for Summary Judgement.	Demand of \$450,000.00 received. There are no changes to the demand at present.
Barreto, Rafael v City of Coral Gables	State	16-3529-CA 01	690765	Oscar Marrero with Marrero & Wydler	5/8/2015	Collision	The claimant was riding a motorized scooter on the sidewalk and collided with the right rear of a CGFD vehicle.	City has filed answers and defense is awaiting answers from the plaintiff and prior medical records. In the process of scheduling mediation.	No demand has been received.
Automobile Accident Totals									(6) Claims

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Trip & Fall									
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 water meter cover	Alleged trip and fall on water meter cover. The City does not own or maintain the sidewalk or water meter.	Deposition is scheduled for September 28, 2016. It appears the County is responsible for the water meter covers and FDOT controls the sidewalk.	None
Melba Wynelle Sebree v. City of Coral Gables & Gables International Plaza Co.	State	14-018430 CA 01	608221	Jamie Pozo with Pozo-Diaz & Pozo, P.A.	02/29/2012	Alleged trip and fall on a purported 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. Pending scheduling of mediation and discovery. Trial set for November. Motion for Continuance pending.	
Patricia Mitts v. City of Coral Gables and R & D Electric	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. The co-defendant (R & D Electric) has agreed to defend and indemnify the City per their contract agreement as they were responsible for the cemet work where the plaintiff tripped and fell.	Last demand from 02/2014 was for \$200k for the Claimant's injuries and \$100k for husband loss of consortium.
Moscoso, Lourdes	State	15-08455-CA-01	573459	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.	Plaintiff's counsel has not been pushing the case. After answering the complaint both parties exchanged some discovery and were talking about scheduling discovery. Depositions of City employees are in the process of being scheduled. Obtained medical records. Will schedule IME and Plaintiff's deposition.	None
Lethbridge v. City of Coral Gables	State	16-004881-CA-34	551586	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 on February 29, 2016. Assigned to counsel on March 10, 2016. Medical records requested. Will 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. Plaintiffs' deposition taken last week.	Pre-suit demand of \$450,000.00 received.
Fernandez, Carina v City of Coral Gables	State	16-008674-CA-01	591697	Oscar Marrero with Marrero & Wydler	1/8/2014	Alleged trip and fall outside a parking garage	Claimant alleges fall due to poor lighting	Suit filed April 2016. Scheduling depositions.	Demand from September 2014 for \$200K received.

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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. The property owner believes the City is responsible due to a beautification project.	Suit filed April 2016. Took Plaintiff's deposition. Exchanged written discovery. Scheduling IME.	None.
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 to file Motion for Summary Judgment.	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 P 05		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		Craig Collier & Frances Guacsh (Holland & Knight)	12/11/2015 02/02/16	Declaratory & Injunctive Relief	Action arises from Paseo de la Riviera approval.	Pending judge's order on motion.	n/a
Friguls et al. v. City of Coral Gables, et al	State	TBD		Craig Collier & Frances Guacsh (Holland & Knight)	12/11/2015 02/02/16	Petition for Cert	Action arises from Paseo de la Riviera approval.	Oral argument set for November.	n/a
Barnett, et al. v. City of Coral Gables, et al.	State	10-47078-CA-06	501891	Ed Guedes, Weiss, Serota, Helfman		Class action	March 7, 2013: Courts awarded Pltf final judgment and settlement		
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. Motion for Summary Judgement to be filed.	

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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 working toward settlement. Pending Motion to Intervene.	
Valencia 34 Development, LLC v. City of Coral Gables	State					Declaratory Action Injunction Action	Action filed by Valencia 34 Development challenging Ordinance 16-4911.		
Florida Retail Federation, Inc. & Super Progreso Inc., v. City of Coral Gables	State	16-018370-CA-01		Coral Lopez-Castro, Kozyak Tropin Throckmorton		Injunction Action	Action filed by Florida Retail Federation & Super Progreso challenging the polystyrene ordinance adopted by the City.	Motion to Dismiss filed August 31, 2016.	City served. Parties entered into stipulation for 120-day stay and an agreed order to be filed with the Court. If the Order is not granted, the City will have 90 days from 8/25/16 to file and serve its response.
In Re: forfeiture of \$40,000 in U.S. Currency	State	16-022044-CA 01		Manual Guarch, The Reyes Law Firm	n/a	Forfeiture Action	CGPD is seeking forfeiture of \$40K in U.S. Currency pursuant to Florida Contraband Forfeiture Act due to the currency being used to facilitate the trafficking in narcotics.	A preliminary probable cause order has been entered by the Court. A complaint will be filed on or before September 30, 2016.	n/a
In Re: forfeiture of \$5,000 in U.S. Currency	State	16-0133500-CA 01		Manual Guarch, The Reyes Law Firm	n/a	Forfeiture Action	CGPD is seeking forfeiture of \$5K in U.S. Currency pursuant to Florida Contraband Forfeiture Act due to the currency being used to facilitate the trafficking in narcotics.	Probable cause to proceed has been found. A complaint was filed and attempts to serve via personal service have failed. Service by publication will be completed by December 21, 2016.	
Miscellaneous Totals								(16) Claims	
Property-related Litigation									
City of Coral Gables v. Pacific Coast Development, et al.	State	15-3778 CA 01 (13)		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. The house should be completed in two months.	n/a
JP Morgan Chase v. City of Coral Gables, et al.	State	3D15-1182 and 3D15-1371		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)		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.	n/a
JP Morgan Chase v. Pacific Coast Development	State	15-16635 CA 01 (13)		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.	n/a
Ditech Financial LLC, f/k/a Green Tree Servicing, LLC v. Seth Sklarey, et al.	State	10-34634 CA 01 (05)		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.	n/a
Ober v. Town of Lauderdale-by-the-Sea	State	4D14-4597		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 appellate court ruled in favor of the Town. A title agent's association has indicated that it will seek leave to file an amicus brief in support of a motion for rehearing of the Court's decision.	n/a
In Re: forfeiture of property located at 1411 Mantua Avenue	State	16-012742-CA-01		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. Pursuing consent order for demolition and forfeiture simultaneously.	n/a

Properties-related Totals

(7) Cases