

CITY OF MIAMI OFFICE OF THE CITY ATTORNEY



EXECUTIVE SUMMARY OCTOBER 1, 2013 – AUGUST 31, 2014

Victoria Méndez, City Attorney

Message from the City Attorney

September 15, 2014

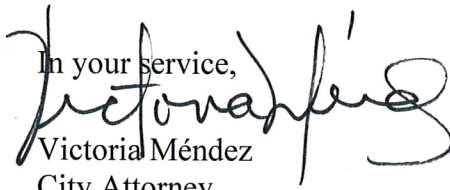


On September 12, 2013, I was appointed to serve as the City Attorney to lead the Office of the City Attorney. On September 27, 2013, I accepted the challenge. I would like to thank the members of the City Commission for allowing me the privilege to serve in this capacity. Leading a team of professionals committed to providing excellent legal services and advice to the Mayor, City Commission, City Manager, and Department Directors, while maintaining and interpreting the City Charter and City Code for the benefit of the residents of the City of Miami, is an amazing job. I am extremely excited for the opportunity I have received and to report our successes.

In this, my first Executive Summary, I highlight accomplishments made by our Office during the period of October 1, 2013 to August 31, 2014. This report supplements the present monthly litigation reports of significant cases and issues presented to the City's Administration which are also posted on our website for all to view. The monthly reports provide a summary of the array of litigation cases handled by our Office and the status of those cases. The City Commission is updated on land use, transactional, and general government matters through this Executive Summary and through various electronic mails and memoranda I send weekly.

My attorneys, staff, and I accept the responsibility and challenge to represent the City. We are committed to providing premier legal services to our clients, defending the City's interests, and doing our part to promote our City as a world class destination with a world class Law Office. We work hand-in-hand with other City departments and agencies to reduce crime, rid the City of unsafe structures and environmental hazards, improve the quality of life of our residents, and assure our citizens that we are doing our part to help make the City of Miami a sustainable, safe, and beautiful place to live, work, and play.

As the Mayor advised in his State of the City, "Miami is Back!" This Office has contributed significantly to Miami's resurgence from the Great Recession. We are a proactive office that seeks to serve the elected officials, City Administration, and residents, while preserving the constitutionality of our laws.

In your service,

Victoria Méndez
City Attorney

"We are committed to providing excellent legal services!"

Table of Contents

Message from the City Attorney	1
Objective.....	3
Overview	4
Budget.....	5
Attorney Organizational Chart	6
Client Work Statistics.....	7
Number of Matters Handled Per Client.....	8
Litigation Summary.....	9
General Litigation and Appeals.....	10
Civil Rights.....	11
Commercial Litigation	13
Constitutional and Government Law Challenges.....	14
Torts.....	15
Land Use.....	18
Unsafe Structures	19
Collections.....	20
Labor and Employment	21
Civil Service Board	23
Workers' Compensation.....	24
Land Use and Transactions	26
Contracts and Procurement	27
General Government	29
Internship & Legal Corps Program	31

Objective

Mission

To provide the highest quality legal services while proactively, ethically, and zealously representing all stakeholders in the City of Miami in a timely, efficient, and cost-effective manner.

Vision

To build a highly skilled, technologically advanced, and nationally recognized legal team by mentorship, exemplifying strong ethics, and providing access to the most up-to-date legal research data to assure our success for the new breed of lawyers committed to excellence in the practice of municipal law.



Goals

- To proactively advise our client to ensure that their interests are always protected.
- Expand the successful collections program brought to fruition by this Office to collect fees, liens, judgments, and all debts owed to the City.
- Continue intense involvement in state and federal legislative initiatives impacting the City.
- Aggressively negotiate the various collective bargaining agreements, recognizing that employees' rights should be protected and management's rights should be enforced.

Overview

The City Attorney leads the in-house legal department of the City of Miami and supervises the services of all attorneys employed by the City and its agencies. The City Attorney is a charter officer of the City, responsible for all legal matters related to the City's municipal government and corporate affairs.

During this reporting period, the Office of the City Attorney performed legal services essential to support the operations and functions of all City departments, and completed commercial and financial legal transactions related to the administration of approximately 4,000 employees and an operating budget of more than \$534 million. Significant legal services were provided to the City in the area of General Government which included drafting approximately 56 ordinances, of which 55 were adopted, and 396 resolutions, of which 355 were enacted, by the City Commission along with negotiating almost 1,085 contracts and agreements.

Additionally, the City Attorney issues legal opinions informing and updating the City Commission and the Administration on federal, state, and local laws. The City Attorney and staff attorneys also provide legal representation and advice at all meetings of the City Commission and to approximately 38 City Authorities, Boards, and Committees. The City Attorney continues to meet regularly with members of the City Commission, the Mayor, the City Manager, and other City officials and department directors to advise and counsel them on legal issues pertaining to their official duties.

Approximately 2,879 matters were opened during the reporting period. This number includes all matters received pursuant to "Legal Services Requests," lawsuits, appeals, grievances, workers' compensation claims, civil service cases, and claims filed against or by the City. Of the 261 new civil litigation cases, 44 new appeals, 28 new labor grievances, and 16 new Civil Service Board cases, only seven (7) matters required outsourcing because of conflict or legal specialty. Of those cases that were outsourced, we were successful in negotiating competitive rates to retain first-class attorneys at a substantial savings to the City. In-house attorneys assigned to our General Government, Land Use and Transactional, Labor and Employment, and General Litigation Divisions are counsel of record for all of the remaining new litigated matters.

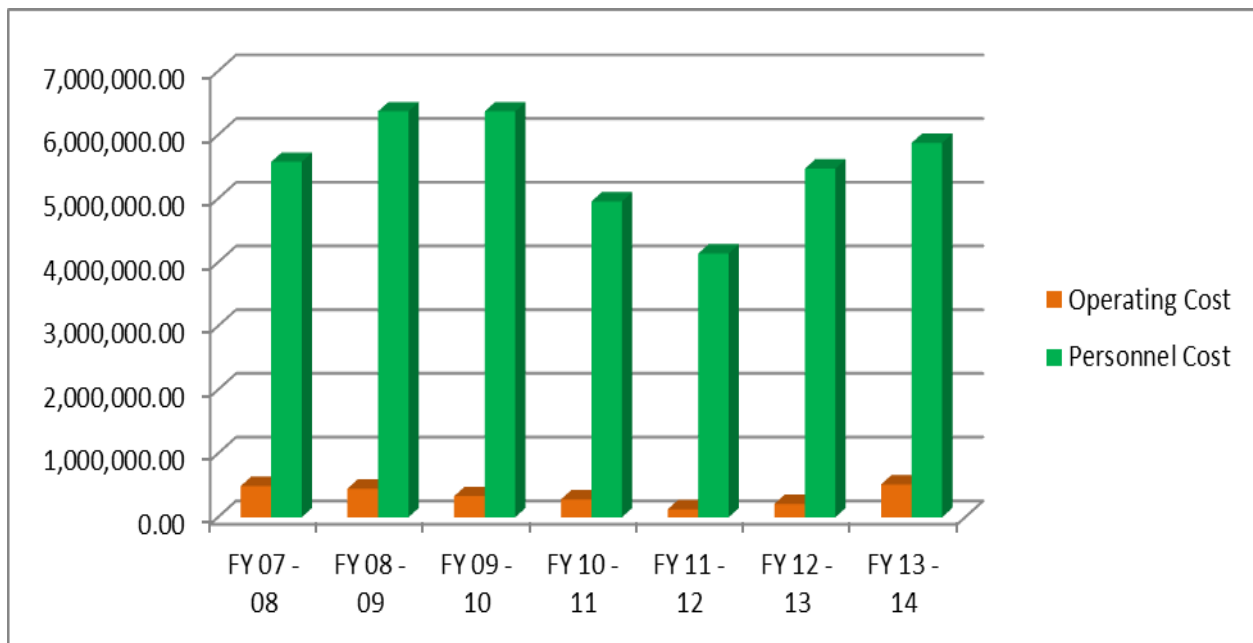
This year, the Office of the City Attorney was tasked with the collection of outstanding Unsafe Structure Liens and Lot Clearing Liens. The Office of the City Attorney received and reviewed these files from the Administration; made determinations whether liens were properly recorded, valid, and enforceable; and sent letters to the owners of record of the properties with collectible liens demanding payment of the liens and warning of legal action to foreclose the liens if not paid. During the period covered by this Executive Summary, the total amount collected from the owners of the properties for outstanding liens totaled \$491,521.50.

Budget

The 2013-2014 fiscal year budget as amended for the Office of the City Attorney is \$6,322,500.00, including operations and personnel expenses. Since 2008, the Office of the City Attorney has suffered a decrease in the number of attorneys and support staff employed due to a combination of budget cuts and attrition. The Office of the City Attorney formally held 62 employee positions during the 2008 fiscal year. This number has declined to 41 employees in 2013, which reflects a 34% decrease in the last five (5) years. Notwithstanding the substantial reduction in staff, the commitment and dedication to excellence exemplified by this Office has not wavered.

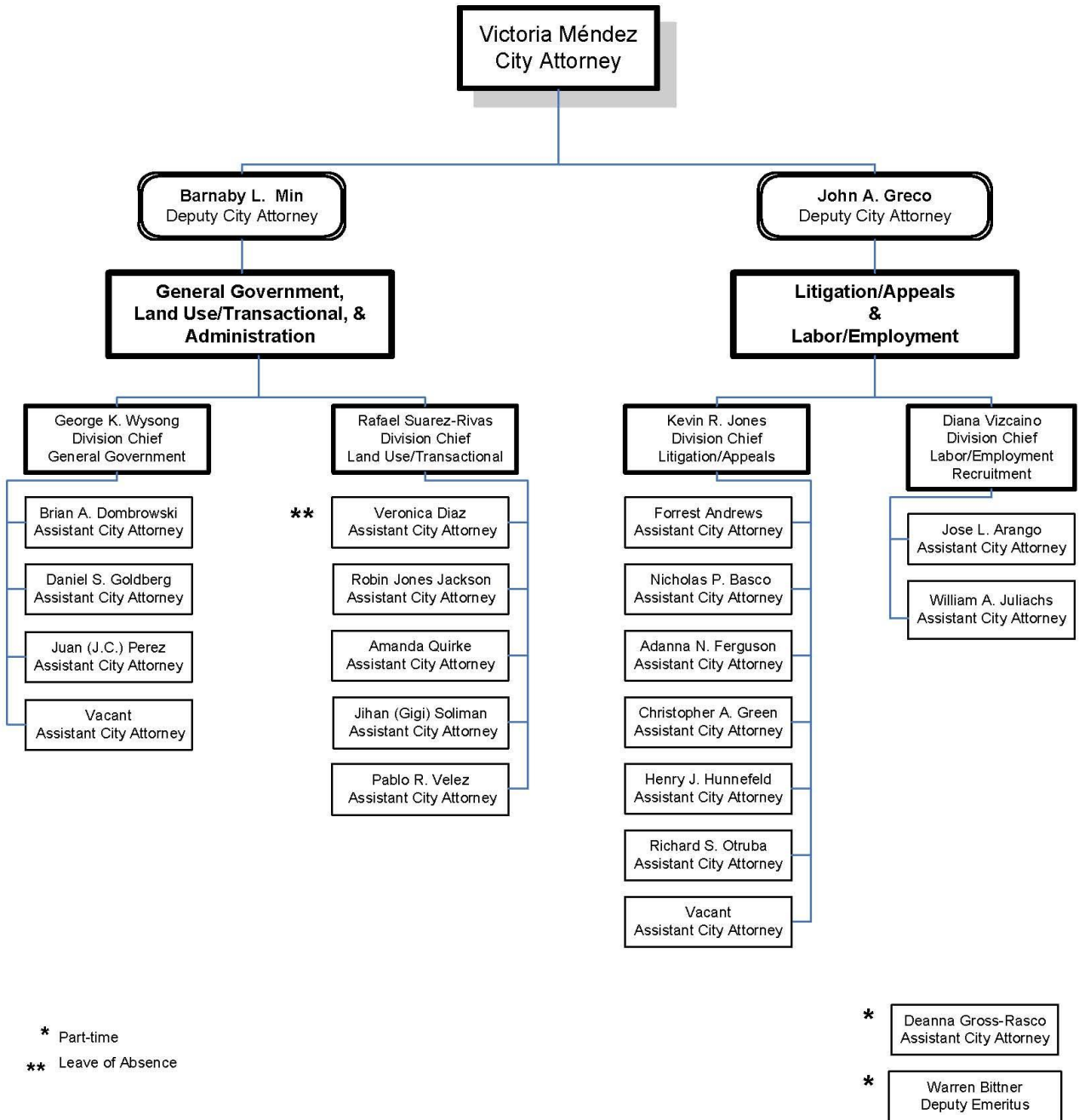
Currently, 96% of the budget is allocated for personnel costs attributed to 47 full time employee positions. This number includes twenty-five (25) attorneys, an office administrator, an executive assistant to the City Attorney, a management information specialist, an administrative assistant, one (1) paralegal, twelve (12) litigation assistants, and five (5) legal services staff, as authorized by the City Commission.

Noteworthy recognition must be given for the outstanding work and commitment of the support staff. They continue to provide efficient, effective, and competent support services, in spite of the dramatic downsizing.



Attorney Organizational Chart

Office of the City Attorney Organizational Chart

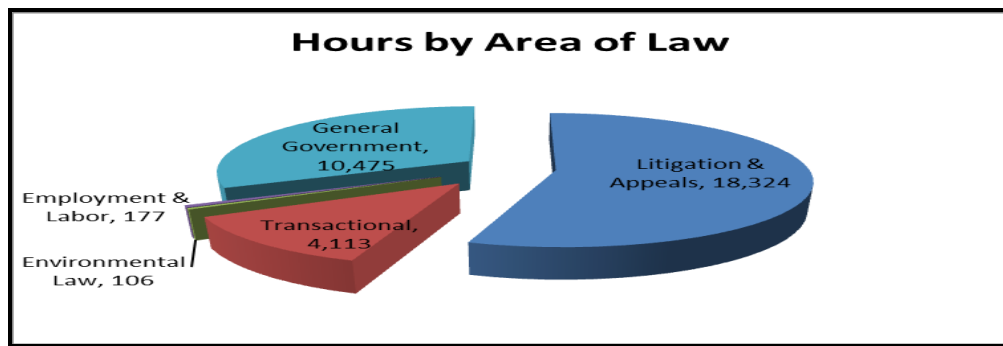


Rev.8/27/2014

Client Work Statistics

City officials, departments, agencies, and boards (our “Clients”) obtain legal services by completing a Legal Services Request (“LSR”) form. Once the LSR is received, the information is entered into a tracking system and assigned to an attorney by one of the Deputy City Attorneys. In addition to the issuance of a matter identification number, an area of law is assigned. Currently there are five (5) Areas of Law which are handled by all four (4) of our Divisions:

- Litigation and Appellate Practice - includes all lawsuits in the practice areas of Torts, Torts Claim Bills, Subrogation, Civil Rights, Commercial, Land Use, Special Assessments, Labor/Employment, Public Records/Sunshine/Elections Matters, and Workers’ Compensation.
- Transactional – includes all contracts in the areas of Professional Service Agreements, Expert Consultant Agreements, Use Agreements, Maintenance Agreements, Affordable Housing Projects, etc.; Procurement Issues; Development Projects; Real Property; and Public Finance.
- Land Use and Environmental Law – includes all non-litigation land Use Matters and Special Assessments/Fees.
- Employment and Labor - includes all non-litigation Employment matters and Labor issues.
- General Government – includes the remaining practice areas including Legislation, Garnishments, Third Party Subpoenas, and Legal Advice and Counsel.



The tracking system assists in the management of all matters where legal advice or assistance is required and provides the data necessary to facilitate analysis and reporting updates. The attorneys and paralegal enter time worked on each individual matter. This enables the Office to calculate the time worked on a matter in the event that there is an ability to recover attorneys’ fees which this Office is now aggressively pursuing. Tracking time also enables this Office to report the amount of time worked on a particular matter to our clients, keeping them better informed.

Number of Matters Handled Per Client

All Matters Opened and Closed for the Period of 10/1/2013 to 8/31/2014

Clients/Departments	Open as of 10/1/2013	Opened Within Period	Closed Within Period	Open as of 08/31/2014
ELECTED OFFICIALS				
Commission - COM	8	7	8	7
Mayor's Office - COM	5	18	15	8
(Gort) Office of Commissioner - District 1 - COM	7	19	18	8
(Sarnoff) Office of Commissioner - District 2 - COM	23	28	39	12
(Carollo) Office of Commissioner - District 3 - COM	1	8	5	4
(Suarez) Office of Commissioner - District 4 - COM	9	9	13	5
(Hardemon) Office of Commissioner - District 5 - COM	4	12	12	4
OFFICERS				
Auditor General's Office - COM	7	8	11	4
City Clerk's Office - COM	2	7	6	3
City Manager's Office - COM	50	82	65	67
DEPARTMENT/CLIENTS				
Agenda Office - COM	7	21	4	24
Audio Visual and Broadcast Operations - COM	2	0	1	1
Building - COM	230	67	137	160
Capital Improvement Program - COM	102	159	213	48
Civilian Investigative Panel (Department) - COM	4	4	3	5
Code Compliance Department -	25	39	22	42
Community and Economic Development - COM	139	312	285	166
Employee Relations -	70	18	39	49
Finance - COM	1130	372	441	1061
Fire-Rescue - COM	108	120	136	92
General Services Administration - COM	24	11	16	19
Grants Administration - COM	36	50	73	13
Hearing Boards - COM	1	2	2	1
Human Resources - COM	14	35	19	30
Information Technology - COM	13	11	15	9
Management and Budget - COM	9	14	15	8
Miami Homeless Assistance Program - COM	9	18	23	4
Miami Office of Sustainable Initiatives - COM	1	0	1	0
Miami River Commission - COM	0	1	1	0
Neighborhood Enhancement Team - COM	6	2	6	2
Office of Communications - COM	4	8	8	4
Office of Equal Opportunity and Diversity Programs - COM	0	11	0	11
Office of Film & Entertainment - COM	0	1	0	1
Parks & Recreation - COM	63	60	46	77
Planning and Zoning - COM	75	186	189	72
Police - COM	558	246	350	454
Procurement - COM	45	75	87	33
Public Facilities - COM	141	227	242	126
Public Works - COM	278	247	260	265
Risk Management - COM	120	51	87	84
Solid Waste - COM	64	43	37	70
AUTHORITIES, BOARDS & COMMITTEES				
Bayfront Park Management Trust - COM	10	34	36	8
Civil Service Board - COM	1	3	2	2
Coconut Grove Business Improvement District Board - COM	30	21	25	26
Downtown Development Authority - COM	12	19	9	22
Firefighters' and Police Officers Retirement Trust - COM	0	1	0	1
General Employees' and Sanitation Employees' Retirement Trust - COM	0	2	0	2
Liberty City Community Revitalization Trust - COM	2	4	2	4
Miami Sports & Exhibition Authority Board - COM	5	5	8	2
Midtown (CRA) - COM	1	3	1	3
Off-Street Parking Board - COM	20	29	26	23
OMNI (CRA) - COM	2	18	11	9
SEOPW (CRA) - COM	8	14	6	16
Virginia Key Beach Park Trust - COM	9	11	13	7
Wynwood Business Improvement District Board - COM	0	71	25	46
TOTALS	3494	2844	3114	3224

Litigation Summary

Reporting Period:	10/01/13 – 8/31/14
Lawsuits*	
New Lawsuits	241
Total Lawsuits Tried	10
Trial Wins	8
Trial Losses	2
Summary Judgments	7
Dismissals	58
Settlements	47
Appeals	
New Appeals	44
Total Appeals Resolved	55
Appeal Wins	45
Appeal Losses	10
Grievances	
New Grievances	28
Grievances Resolved	26
Unemployment Comp	
New Unemployment	3
Unemployment Resolved	3
Workers' Compensation (WC)	
New WC Claims	51
WC Adjudicated	5
WC Settled	7
WC Dismissed	23
Civil Service (CS)	
New CS Cases	16
CS Settled	24
CS Adjudicated	21
Foreclosure	
New Foreclosures	191
Foreclosures Resolved	259

Reporting Period:	10/01/13 – 8/31/14
Quiet Titles	
New Quiet Title	50
Quiet Title Resolved	37
Garnishments	
New Garnishments	29
Garnishments Resolved	36
Bankruptcies	
New Bankruptcies	52
Bankruptcies Resolved	31
Code Enforcement	
New Code Enforcement	758

General Litigation and Appeals

The attorneys assigned to this practice area defend the City and its various agencies, departments, officers, agents, employees, and elected officials in lawsuits filed in federal and state courts. The bulk of the litigation cases involve allegations of personal injury, property damage, automobile negligence, premises liability, breach of contract, false arrests, battery, malicious prosecution, and violations of civil rights.

The Land Use and Transaction Division, General Government Division, and Labor and Employment Division handle disputes assigned to those attorneys with specific expertise in those respective sections. In addition, staff attorneys litigate real estate matters, including foreclosure, eminent domain, and quiet title actions; public purchasing protests; public records cases; and ethics violations.

This practice area also pursues affirmative litigation which seeks to recover money for breach of contract, damages to City property, and collection of various debts or financial obligations owed to the City.

This Office is currently handling 802 cases on behalf of the City in the area of real estate litigation, which includes foreclosure, and quiet title actions. While the real estate market has started to improve, the City continues to be named in an unprecedented number of foreclosure and quiet title cases. The City may be either a plaintiff filing an action to collect its money or a defendant to protect the City's interest. In spite of the economic downturn, staff attorneys successfully collected \$419,856.76 in foreclosure or quiet title matters during this reporting period. Moreover, this year, the City is aggressively intervening in foreclosure cases in order to protect the City's interests.

Some of the more significant matters litigated during this reporting period are summarized in the following pages by practice area.



Civil Rights

INSURANCE COMPANY ACCEPTS COVERAGE AND DEFENSE

Jesse Campodonico v. City of Miami, et. al.,
Case No. 12-24077-Civ-Cooke

The Plaintiff filed suit based on an incident that occurred as he attempted to enter the Ultra Music Festival in downtown Miami. Upon receipt of the lawsuit, this Office obtained a copy of the insurance policy from Ultra in which the City was listed as an additional insured “but only with respect to activities/operations of the named insured [Ultra].” After demand and argument from this Office, the insurance company, National Casualty Company (“NCC”), agreed to provide a “courtesy defense . . . subject to a full reservation of rights.” Subsequently, two (2) of the co-defendants were convicted of crimes in Federal court.

Prior to a mediation, the insurance company had sent the City and the officers extensive correspondence regarding their position that the acts alleged were not covered under various theories addressed in the policy of insurance. Further, the insurance company wrote to demand that the

City appear at the mediation and make a substantial contribution to any proposed settlement. This Office responded by rejecting the legal position of NCC and refusing to appear at the mediation or participate in funding any settlement. NCC eventually agreed to settle all claims with the Plaintiff for \$400,000.00 without any participation or contribution by the City.

SUMMARY JUDGMENT GRANTED FOR CITY

Julina Belizaire, et. al. v. City of Miami, et. al.,
Case No. 12-29122 CA 13

In this case, Miami police officers responded to a 911 call reporting a domestic dispute. Gibson Belizaire opened fire at the officers and the officers returned fire killing the decedent. The decedent’s mother filed a state battery claim and a federal civil rights claim against the City in federal court. The Court granted the City’s motion for summary judgment finding that the officers’ use of force was reasonable and that the City had no custom or policy of using excessive force in cases where officers are being fired upon.

CITY DISMISSED FROM CASE

James Edward Hoefling, Jr. v. City of Miami, et. al., Case No. 11-22358-Civ-Leonard

The Plaintiff was the owner of a 29.7 foot sailboard, "Metis O", that was anchored in the open waters of the City in Biscayne Bay. The Plaintiff alleged that he was issued a Florida Uniform Boating Citation by Police Marine Patrol officers for not having a working marine sanitary device ("MSD") and a separate Code Enforcement violation. The Plaintiff further alleged that several months later, after he obtained the required MSD, his vessel was seized by Police Marine Patrol officers, removed from the water, and destroyed, all without warning or notice to him. The Plaintiff alleged that his home and all his worldly possessions were lost. The Plaintiff asserted a federal maritime/admiralty claim for negligent and intentional destruction of property, a federal civil rights claim for deprivation of due process and unreasonable seizure, and federal and state takings claims. After the City filed a Motion to Dismiss, the court dismissed the Amended Complaint and granted the police officers qualified immunity on both the federal civil rights and maritime tort claims. The Plaintiff requested leave to amend, and, over the objection of the City, was granted leave to file a Second Amended Complaint. Following the filing of the Second Amended Complaint, the City again moved to dismiss all claims and the Court dismissed the Second Amended Complaint and again granted qualified immunity to the officers.



CITY DISMISSED FROM CASE

Roberto Delgado v. City of Miami, et. al.,
Case No. 13-CV-23702-KMM

The Plaintiff alleged that he went to Grapeland Park to exercise and sat on a park bench approximately sixty (60) feet from a building rented for a child's birthday party. The Plaintiff further alleged that the birthday party was attended by Sergeant Carlos Rosario of the Miami-Dade County Police Department and other officers, who filmed the Plaintiff adjusting himself multiple times. Sgt. Rosario called the Miami police complaining that the Plaintiff was a sexual predator conducting lewd and lascivious activity in front of children at the park. The Plaintiff claimed the County officers pushed him to the ground and detained him until Miami police officers arrived. Officer Giraldo Linares arrested the Plaintiff and Sergeant Jean Paul Guillot notarized the arrest affidavit. The Plaintiff initially asserted claims of negligence, defamation, false arrest, and malicious prosecution against the City and the County. The Plaintiff filed an amended complaint with civil rights claims against the City police officers. The City removed the case to federal court. Upon removal to federal court, the Plaintiff voluntarily dismissed Miami-Dade County from the lawsuit. The City moved to dismiss the state law claims

of false arrest, negligence, and defamation. The Plaintiff conceded the motion was well-taken with respect to the negligence and defamation claims. The Court granted the City's motion to dismiss the false arrest claim finding Officer Linares had sufficient probable cause to make the arrest.

POLICE OFFICERS DISMISSED FROM CASE

Richard Malcolm v. Glenda Perez, et. al.,
Case No. 13-22111-Civ-Ungaro

The Plaintiff alleged he was unlawfully searched and falsely arrested for a felony drug charge and that Police Officers Glenda Perez and Sabine Raymonvil violated his Fourth Amendment rights. The Defendant officers asserted there was probable cause for the Plaintiff's arrest and they moved to dismiss the complaint asserting qualified immunity. The Court granted the officers' motions to dismiss and granted qualified immunity.

PARTIAL SUMMARY JUDGMENT GRANTED AND DEFENSE VERDICT AFTER TRIAL

James Ozell Holloway, Jr. v. Wily Diaz, et. al., Case No. 11-23069-Civ-Altonaga

The Plaintiff alleged that he was arrested and subjected to excessive force in violation of his Fourth Amendment rights. The Plaintiff asserted claims against one City of Miami police officer and two County police officers under 42 USC 1983 for violation of civil rights and sought monetary compensation. The Court granted Officer Wily Diaz's motion for partial summary judgment on all claims of excessive force prior to the point the Plaintiff was placed in handcuffs. The remaining claims proceeded to trial. After trial, the jury rendered a verdict in favor of all defendants. Additionally, the Clerk executed a judgment of costs in the amount of \$1,470.10 against the Plaintiff for Officer Diaz.

Commercial Litigation

CITY SUCCESSFUL IN A FORECLOSURE ACTION

City of Miami v. GVI, et. al.,
Case No. 07-33666 CA 01

This foreclosure and breach of contract action was filed against GVI, a Florida dissolved corporation. The suit named as defendants the original borrower of a loan from the City, the current owner of the property, and the two guarantors of the loan. The current owner, Big League Dove, LLC, purchased the property at a tax deed sale and attempted to quiet title which would have extinguished the City's \$282,000.00 mortgage on the property. The City filed

this foreclosure action alleging that its mortgage was superior to the new purchaser's tax deed. The new owners agreed and entered into a mortgage modification agreement assuming responsibility for the City's mortgage and agreed to keep the property affordable for the benefit of the residents of Miami.

CASE DISMISSED AGAINST CITY

Lee R. Pelcher d/b/a/ LRP Builders, LLC v. City of Miami, Case No. 12-49068 CA 25

The Plaintiff sued the City under a theory of negligence, intentional infliction of emotional distress, and violation of the

federal Fair Credit Reporting Act. The Plaintiff sought an amount exceeding \$15,000.00, plus costs and attorney's fees and alleged that the City negligently maintained records and attempted to collect a wrongful debt which caused the Plaintiff severe emotional distress. The City removed the case to federal court based on the federal claim and moved to dismiss,

arguing failure to properly notice the City, failure to state a cause of action, and sovereign immunity. The federal court granted the City's motion to dismiss with respect to the federal claim and remanded the remaining state law claims to state court. The City moved to dismiss the remaining state law claims which was also granted by the state court.

Constitutional and Government Law Challenges

DISMISSAL OF UNCONSTITUTIONAL POLICY OR PRACTICE CLAIM AGAINST POLICE DEPARTMENT

Ioannis Kralievits v. City of Miami,
Case No. 13-20637 CA 01

The Plaintiff filed a suit against the City of Miami alleging that the City had an unconstitutional policy or practice, within the meaning of 42 USC 1983 and the 5th and 14th Amendments, of suppressing or failing to disclose *Brady* information in criminal proceedings. The specific claims in this case were predicated on a police officer's cognitive impairment as a result of an accident in 1996 and 1997. The Plaintiff alleged that the officer's cognitive impairment was *Brady* information that should have been disclosed in the Plaintiff's criminal trial. The Plaintiff further alleged that the officer failed to disclose his cognitive impairment in thousands of criminal trials spanning two decades. This case was the first of its kind on this issue and had the potential to create a new line of potential claims. The City filed a motion to dismiss and while a decision was pending

from the Court, the Plaintiff dismissed the claim.

SUNSHINE LAW DISMISSAL AFFIRMED ON APPEAL IN FAVOR OF THE CITY

Reynaldo Goyos, et. al. v. City of Miami,
Case No. 3D13-1223

The Plaintiff sued the City arguing that the Chief of Police's Firearms Review Board is subject to the Sunshine Law. The trial court dismissed the case. The Plaintiff filed an appeal to the Third District Court of Appeal. After oral argument, the Third District issued an opinion affirming the order of dismissal.

SUNSHINE LAW CLAIM DISMISSED

Fraternal Order of Police v. City of Miami,
Case No. 10-48397 CA 04

This action was brought by the Fraternal Order of Police ("FOP") claiming that the City had violated F.S. 286.011 ("Sunshine Law") by conducting a meeting that included the City Commission and the Mayor immediately prior to a City

Commission meeting at which labor terms were imposed on the FOP. The FOP sought to void the labor terms imposed based on the alleged Sunshine Law violation. This case was aggressively litigated and tried before the Honorable Spencer Eig. After the trial, but before entering his ruling, Judge Eig granted a motion for recusal submitted by the FOP. Before the case was retried, the parties filed a Stipulation for the Dismissal of this action and each party bore its own fees and costs.

AMERICANS WITH DISABILITIES ACT SETTLEMENT

Andres Gomez v. City of Miami, Case No.
13-23426-Civ-Moreno

This was an action brought under the Americans with Disabilities Act (“ADA”) for declaratory and injunctive relief as well as attorneys’ fees and costs by a rider of the City Trolley. The Plaintiff claimed that the drivers of City Trolleys failed to announce stops along the fixed trolley system in violation of the ADA. The Plaintiff was visually impaired and alleged that he needed the stop announcements to ensure he did not miss his stops. The City concluded the litigation without paying any damages,

attorneys’ fees, or costs to the Plaintiff. The co-defendant agreed to pay all of the Plaintiff’s damages, attorneys’ fees, and costs and the City agreed to install automated announcement equipment. This equipment had already been planned for installation before the suit and the City is utilizing dedicated County funds for the purchase and installation of the equipment.

SUMMARY JUDGMENT GRANTED FOR CITY IN A TAX CHALLENGE

Milan Investment Group, Inc. v. City of Miami, et. al., Case No. 08-77800 CA 08

The Plaintiff alleged that the enabling legislation for the Downtown Development Authority (“DDA”) was illegally enacted, that the City did not properly create the DDA or properly expand its boundaries, and that the .5 mills ad valorem tax levied by the DDA violated equal protection and due process. The trial court granted summary judgment for the defendants, and denied the Plaintiff’s motion for rehearing. The court entered judgment for the defendants in two other cases raising the same challenges albeit in different tax years. The cases are currently pending on appeal.

Torts

FAVORABLE JURY VERDICT

Teresa Tronosco v. City of Miami,
Case No. 12-2551 CA 21

The Plaintiff filed suit against the City alleging that as she was crossing the street on SW 26th Street, near SW 37th Avenue, she tripped and fell as a result of a broken and cracked curb, resulting in bodily injury. The Plaintiff further alleged that the

City was negligent in failing to maintain the sidewalk and curb in a reasonably safe condition, and by failing to warn her of the dangerous condition. The Plaintiff fractured both wrists and underwent emergency surgery to install titanium plates and screws. She was disabled for two months while she had casts on both of her arms from her elbows to her fingers. She was left with pain

and swelling of the wrist joints, limitation of movement, and loss of grip strength in the right hand. She incurred over \$45,000.00 in medical expenses. The Plaintiff requested \$270,826.97 in damages. After trial, the jury found no negligence on the part of the City and returned a verdict for the City.

FAVORABLE JURY VERDICT

Martina Minguez v. Daisy Pelaez, et. al.,
Case No. 10-38385 CA 06

The Plaintiff, a mail carrier, filed a lawsuit alleging that while she was walking along the sidewalk at 2701 SW 30th Avenue delivering mail, she tripped as a result of a cracked and misleveled sidewalk. The Plaintiff further alleged that the City was negligent in failing to maintain the sidewalk in a reasonably safe condition, and by failing to warn her of the dangerous condition. The Plaintiff alleged she suffered injuries to her right wrist, right knee, back, and neck. Prior to trial, the Plaintiff had demanded \$30,000.00 to settle this case with the City. At trial, the City was successful in striking the Plaintiff's claims for lost wages, lost earning capacity, and future medical expenses. The Plaintiff requested \$65,000.00 in damages from the jury. The jury awarded Plaintiff past medical expenses in the amount of \$26,214.62, \$5,000.00 for past pain and suffering, and zero for future pain and suffering. However, the Court reduced the award by 80% to account for the Plaintiff's own negligence. As a result, after trial, the City was only responsible for \$6,442.92. The amount will be further reduced by a Workers' Compensation Lien of \$6,255.62.

FAVORABLE JURY VERDICT

Miriam Rosello v. City of Miami,
Case No. 12-2417 CA 11

The Plaintiff filed suit alleging that she was walking on the sidewalk at or near 520 SW 14th Avenue when she tripped over a section of the brick paver sidewalk that was uneven and significantly broken in sections, amounting to a hazard, and resulting in bodily injury. The Plaintiff further alleged that the City was negligent in failing to maintain the sidewalk in a reasonably safe condition, and by failing to warn her of the dangerous condition. The Plaintiff fractured her left wrist and her right elbow and underwent surgery to install a plate and screws in her wrist. She was partially disabled for three months while she had a cast on her left wrist and a brace and sling on her right elbow. She was left with a 5% permanent impairment as opined by the City's own expert witness. She incurred over \$60,000.00 in medical expenses. The City was successful in striking the Plaintiff's expert liability witness and reducing the medical expenses to the amount of the Medicare lien, \$21,792.41. The Plaintiff requested medical expenses plus \$150,000.00 for pain and suffering damages. After trial, the jury found no negligence on the part of the City and returned a verdict for the City.

FAVORABLE JURY VERDICT

Cesar Mazzotta v. City of Miami, et. al.,
Case No. 12-36328 CA 09

The Plaintiff filed suit against the City of Miami and the property owners alleging he was jogging on a sidewalk maintained by the City, when the property owners' overgrown hedges caused him to

enter the swale area, where he tripped over a cut sign post. The Plaintiff alleged he suffered an injury to his left knee which required arthroscopic surgery. Prior to trial, the Plaintiff had demanded \$100,000.00 from the City. The case proceeded to trial and after deliberations, the jury awarded zero damages for the Plaintiff's pain and suffering and determined the Plaintiff was 50% at fault. The jury awarded the Plaintiff his prior medical bills in the amount of \$44,107.00. However, this amount was substantially reduced because the Plaintiff received insurance benefits and the court reduced the award by 50% to account for the Plaintiff's own negligence.

FAVORABLE JURY VERDICT

Alan Christian Chovel, et. al. v. City of Miami, Case No. 10-25173 CA 13

In this wrongful death action, the Plaintiffs claimed that the decedent called 911 requesting Fire-Rescue because of severe head pain. Although the decedent died of a brain aneurysm, Fire-Rescue personnel allegedly concluded that the decedent was suffering from no more than a "classic migraine" and recommended that she take an Advil. The decedent allegedly complied with Fire-Rescue personnel's instructions and was found two days later in her apartment by the police unconscious and covered in blood. The decedent was transported to Mercy Hospital and pronounced dead the following day. The Plaintiffs alleged negligence on the part of the City's Fire-Rescue personnel, which proximately resulted in the death of the decedent, and sought \$6.2 million. The case proceeded to trial and after deliberations, the jury returned a verdict in favor of the City

finding no negligence on behalf of the Fire-Rescue personnel.

SUPREME COURT DENIES REVIEW OF FAVORABLE APPELLATE DECISION

City of Miami v. Carlos Guzman, et. al.,
Case No. 3D12-811

The Appellee was an invitee at Grapeland Park Water Park and was using the Blackbeard Beach water slide facility. At that time and place, the Appellee used a slide which was designed and installed in a manner which would not allow her to clear the slide and enter the pool. As she used the slide, the Appellee stopped at the bottom, short of entering the pool and when she attempted to exit the slide by climbing or jumping over the side, she slipped and struck her face on the slide. As a result of the fall, the Appellee sustained severe injuries to her face, mouth, and teeth. The case was tried by a jury and a final judgment was rendered for the Appellee in excess of the statutory cap of \$100,000.00. The City appealed, and the judgment was affirmed. The City paid the statutory cap of \$100,000.00, but the Appellee asserted the cap was instead \$200,000.00, and sought judicial enforcement. The trial court entered an order compelling the City to pay an additional \$100,000.00 and the City appealed. The Third District Court of Appeal filed an opinion reversing the judgment in part and finding that the City was not liable for the additional \$100,000.00. The Appellee filed a Notice to Invoke the Discretionary Jurisdiction of the Florida Supreme Court. The parties briefed the issue of jurisdiction and the Supreme Court denied the petition for review. As a

result, the City did not need to pay an additional \$100,000.00.

Land Use

PETITION AGAINST THE CITY DISMISSED

5th Street Marina, LLC v. Francisco J. Garcia, et. al., Case No. 13-2013 CA 03

This mandamus action was filed against the City and Francisco J. Garcia in his official capacity as Planning Director for Mr. Garcia to issue a notice of intended decision on a Warrant application for a gym within the time prescribed in Miami 21, the City's Zoning Ordinance. At a court hearing, the parties agreed to an informal extension of time for the Director to issue a notice of intended decision. Mr. Garcia issued the Warrant approving the gym as an ancillary use. As a result, the Plaintiff dismissed its Petition for Alternative Writ of Mandamus.

BERT J. HARRIS CLAIM DISMISSED

Milano, Inc., et. al. v. City of Miami, Case No. 13-33167 CA 01

Various property owners in the City's MIMO Historic District filed a Bert J. Harris Private Property Rights Act claim alleging that their properties are now subject to height reduction limits with the adoption of Miami 21, the City's Zoning Ordinance. The Plaintiffs further alleged an inordinate burden to their properties. The City filed a Motion to Dismiss for failure to state a cause of action. The Court heard the City's motion and dismissed all counts without prejudice. The Plaintiffs have amended their complaint.



WRIT OF CERTIORARI DENIED IN SIGN CASE

Carter Pritchett Hodges, Inc. v. City of Miami, Case No. 14-004 AP

The Petitioner filed a Petition for Writ of Certiorari challenging the City of Miami's denial of its request to relocate an outdoor advertising sign from one location to another location in the City. After submission of briefs, the Appellate Division denied the Petition for Writ of Certiorari.

SUMMARY JUDGMENT GRANTED FOR CITY

Graciela Solares, et. al. v. City of Miami, et. al., Case No. 10-58379 CA 27

The Plaintiffs alleged that the lease of City-owned land directly to the Museum of Science, Inc. violated City Charter Sections 29A and 29B. The Plaintiffs also allege that the Major Use Special Permit ("MUSP") granted by the City Commission for the Museum of Science in Bicentennial Park was not consistent with the City's Comprehensive Plan. Specifically, the Plaintiff asserted that (a) the project is a "capital facility" within the meaning of the Comprehensive Plan and (b) the "capital facility" is located in the Coastal High Hazard Area where public expenditures are limited to "those required to eliminate existing level of service deficiencies,

maintain adopted level of service standards in non-high hazard areas, improve hurricane evacuation time, or reduce the threat to public health and safety from storm events," and which "do not measurably increase the risk to public health and safety from storm damage." The Plaintiff sought a declaratory judgment that the lease of the land and the granting of the MUSP was invalid and an injunction to enjoin the project. The trial court dismissed the Plaintiffs' consistency challenge and granted summary judgment on the remaining claims in favor of the City.



WRIT OF CERTIORARI DENIED IN LAND USE CASE

1000 Brickell, Ltd., et. al. v. City of Miami,
Case No. 13-292 AP

The City Commission passed certain Resolutions and adopted Ordinances which effectuated the transfers and changed the uses of parcels of property in the Brickell area. The Petitioners, 1000 Brickell, Ltd. and Kai Properties, Ltd., filed a Petition for Writ of Certiorari challenging the actions taken by the City Commission, arguing that the City Commission was equitably estopped from passing the Resolutions and adopting the Ordinances because of a deed restriction requiring one of the parcels to be used as a park which the Petitioners claim was breached by La Cucina Management d/b/a Perricone's Restaurant. After oral argument, the Appellate Division denied the Petition.

Unsafe Structures

At the directive of the City Commission, the Building Department along with the Office of the City Attorney aggressively pursued a number of unsafe structures for demolition. The Office of the City Attorney reviewed hundreds of files provided by the Building Department for legal sufficiency with regard to unsafe structures to facilitate demolition of those properties. Proper service was obtained on hundreds of individuals and corporations owning such structures resulting in settlements of lien claims and the successful demolition of more than twenty-one structures.

SUMMARY JUDGMENT GRANTED FOR CITY

*Greene Dreams Shoe Care, Inc. v. City of
Miami, et. al.,* Case No. 13-22231-Civ-
Ungaro

The Plaintiff sued the City and Miami-Dade County alleging that its Fourteenth Amendment Due Process Rights

were violated when the location from where the business operated was demolished. Green Dreams alleged that it received no notice of the City's Unsafe Structures Panel's hearing and as a result it was unable to have a meaningful pre-deprivation hearing before the building was demolished. Miami-Dade County owned the building and all notices were sent to

Miami-Dade County. The City filed a motion for summary judgment arguing, among other things, that notices posted on the business were constitutionally sufficient,

although the notices were addressed to Miami-Dade County. The Court agreed and granted the City's motion for final summary judgment.

Collections

CITY COLLECTS \$376,252.00

This Office worked closely with the Department of Solid Waste and the Office of the Independent Auditor General to collect \$376,252.00 in overdue and disputed franchise fees including all principal amounts as well as interest and audit fees.

CITY OBTAINS JUDGMENT FOR \$466,000.00 AND ALLOWS PLANS FOR THE COCONUT GROVE PLAYHOUSE RENOVATIONS TO PROCEED

Various matters were opened and pending against the Coconut Grove Playhouse ("Playhouse") for purposes of enforcing City liens and Code Enforcement violations. This Office obtained a pro bono receiver for the Playhouse saving the City thousands of dollars. After negotiations with the State of Florida, Miami-Dade County, and Florida International University ("FIU"), the City obtained judgments in the total amount of \$466,000.00, which allowed the City to negotiate a parking program for the Playhouse with the Miami Parking Authority and allows FIU to rehabilitate and operate the Playhouse.

CITY COLLECTS \$419,856.76 IN FORECLOSURE DEFENSES

The Office of the City Attorney has one attorney who is dedicated to aggressively protect the City's interests on

all foreclosure actions, quiet title actions, tax deed applications, lien validity, bankruptcies, and miscellaneous real estate litigation. With all the foreclosure cases that are filed and handled, the Office of the City Attorney is now aggressively contesting these cases, especially cases where the City holds any special assessment liens. Since last fiscal year, the Office of the City Attorney has collected \$419,856.76 in these matters.

CITY COLLECTS \$123,743.06 IN LOT CLEARING LIENS

The Office of the City Attorney spearheaded the collection of outstanding Lot Clearing Liens at the request of elected officials. This Office received and reviewed hundreds of files from the Administration and made determinations as to whether liens were properly recorded, valid, and enforceable. The Office of the City Attorney sent letters to owners of properties with collectible liens demanding payment of the liens, and threatening to file suit to foreclose the liens, if not paid. Since October 2013, the Office of the City Attorney has collected \$123,743.06 in outstanding Lot Clearing Liens. Throughout the life of this project, this Office has collected \$277,480.27.

CITY COLLECTS \$265,541.09 IN UNSAFE STRUCTURE LIENS

The Office of the City Attorney, at the direction of the City Commission, started the collection of outstanding Unsafe Structure Liens. This Office received and reviewed numerous files from the Administration and made determinations as to whether liens were properly recorded, valid, and enforceable. The Office of the City Attorney sent letters to owners of the properties with collectible liens demanding payment of the liens, and threatening to file suit to foreclose the liens, if it was not paid. Since October 2013, this Office has collected \$265,541.09 in outstanding Unsafe Structure Liens. Throughout the life of this project, this Office has collected \$481,728.27.

CITY COLLECTS \$130,000.00

The Office of the City Attorney, as further described below, is now aggressively pursuing forfeitures with the Police Department pursuant to the Florida

Contraband Forfeiture Act. In August 2013, pursuant to the City's Petition for Final Judgment of Forfeiture, a 2008 Porsche Cayman and \$130,000.00 in U.S. currency were forfeited to the City.

CITY COLLECTS \$53,183.00

A developer, through the City's Home Commercial Loan Committee, was given a \$2.1 million loan in HOME funds to develop a 71 unit condominium building with 36 of those units devoted to affordable housing. The developer sold 35 of the 36 affordable housing units, but as the real estate market crashed, the developer could not sell the at-market-units and defaulted on the construction loan from a private lender. The private lender foreclosed on the property, wiping out the City's subordinated mortgage and making the developer insolvent. Nonetheless, the City was able to recover its outstanding balance of the \$2.1 million loan through the private lender's proceeds when the lender sold the units after the foreclosure and after negotiations with the Office of the City Attorney.

Labor and Employment

This practice area relates to the City's role as the employer of approximately 4,000 union and non-union workers, including all litigation in state and federal court in connection with labor contracts, discipline, discharge, and promotions. The Office of the City Attorney also advises management on labor relations' issues and on compliance with state and federal labor laws. The Office of the City Attorney collaborates with special outside labor negotiator regarding the unionized workforce in matters involving collective bargaining, union contract administration, and certain grievances. Attorneys assigned to this area represent the City and its employment actions before the Civil Service Board, the Miami-Dade County Equal Employment Opportunity Board, the Public Employees Relations Commission, the Department of Veterans Affairs, and the Department of Administrative Hearings. This Office also handles Unemployment Compensation Appeals, Workers' Compensation matters, and related litigation.

Diana Vizcaino, the Division Chief for the Labor and Employment Division, is currently actively involved in labor/collective bargaining negotiations with all four unions. Some other significant matters handled by the Labor and Employment Division of the Office of the City Attorney during this reporting period are:



**CITY DISMISSED FROM NEGLIGENT
PROMOTIONAL EXAMINATION
CLAIM**

Neal Muhammad v. City of Miami,
Case No. 11-02171 CA 10

The Plaintiff filed suit against the City of Miami alleging the City was negligent in the way it administered its promotional exam as it relates to his actual test. The Plaintiff alleged that his test papers had a missing or altered page. Ultimately, the Plaintiff did not score high enough on the examination to be promoted. The Plaintiff first brought a claim before the Civil Service Board seeking to have his test score recalculated but he was unsuccessful. After his unsuccessful attempt before the Civil Service Board, the Plaintiff brought a *de novo* claim in Circuit Court seeking damages to include a retroactive promotion and salary increase. The City filed a motion to dismiss challenging the Court's jurisdiction to hear the claim and the court granted the City's motion, dismissing the claim with prejudice.

**CITY DISMISSED FROM BREACH OF
CONTRACT CLAIM**

Barbara Gomez v. City of Miami,
Case No. 08-24348 CA 27

The Plaintiff, a former Community Development Director, brought suit against the City of Miami alleging breach of an oral contract and breach of an implied-in-fact contract seeking severance benefits above and beyond those allowed by an existing Administrative Policy. The Plaintiff was seeking reinstatement, back pay, and other emoluments. The City filed a motion to dismiss that was not responded to and the case was dismissed by the Court.

**CITY DISMISSED FROM WRONGFUL
TERMINATION CASE**

Francisco Lopez v. City of Miami,
Case No. 12-36383 CA 20

The Plaintiff filed a complaint alleging that he was terminated from his employment in the Parks Department in retaliation and violation of F.S. 440.205 for filing a worker's compensation claim as a result of an accident. Through investigation, the City was able to establish that the Plaintiff was assaulted on two occasions after the industrial accident for which he had to seek medical treatment, but failed to advise the doctors that were treating him for

the work related accident. The doctors opined that the Plaintiff had not been truthful in relaying the history of his complaints and they opined that the Plaintiff's medical problems were not related to his work accident, but to the subsequent assaults. The Plaintiff subsequently abandoned his claim and the Judge dismissed the case.

AMERICANS WITH DISABILITIES CLAIM SETTLED

Miguel A. Hervis v. City of Miami,
Case No. 12-22418-Civ-Scola

The Plaintiff was former police lieutenant who filed a complaint for damages before the Southern District Court of Florida alleging that the City violated the Americans with Disabilities Act and the Florida Civil Rights Act. Specifically, the Plaintiff claimed that the City and former Chief of Police John Timoney failed to promote him to the position of Police Commander based on his disability. The Plaintiff sought compensatory, declaratory, injunctive relief, back pay, front pay, punitive damages, costs, and attorney's fees. The matter was dismissed with prejudice pursuant to a settlement of all claims including attorney's fees approved by the City Commission.

TERMINATION UPHELD

Raul Cabrera v. City of Miami,
Case No. 12-02

The Grievant filed a grievance alleging that the City violated Article 4 of

the Collective Bargaining Agreement by terminating him without proper cause. The Grievant sought to have his termination reversed and made whole. The case proceeded to arbitration and the Arbitrator issued an opinion and award in favor of the City, thereby denying the grievance.



CITY SUCCESSFUL IN ARBITRATION

Fraternal Order of Police v. City of Miami,
Case No. 09-05

The Fraternal Order of Police ("FOP") filed a class action grievance alleging violations of the Collective Bargaining Agreement. Specifically, the FOP claimed the City failed to pay police officers wage increases due under the 2007-2010 Collective Bargaining Agreement. The FOP sought "parity" in wages with the International Association of Fire Fighters retroactive to 2007. The matter proceeded to arbitration and the Arbitrator issued an opinion and award in favor of the City, thereby denying the grievance.

Civil Service Board

The attorneys in the Labor and Employment Division represent management before the Civil Service Board. They have successfully assisted management in upholding disciplinary action taken in the workplace by presenting the supporting evidence and argument convincing

the Civil Service Board that the City’s actions were correct. An example of the important work of the attorneys in this division include:

TERMINATION UPHELD

Terrel Cheever v. City of Miami,
Case No. 12-31D

The Appellant, Communications Assistant Terrel Cheever, was terminated after his third instance of sleeping while on duty. The Appellant appealed his termination to the Civil Service Board and a hearing on

his appeal was heard. The Board did not conclude that Appellant was sleeping on the job, but did find him guilty of Neglect/Inattention to Duty and of Violation of Communications S.O.P. 11.I – Screener Duties. The Board recommended a reprimand in lieu of termination. The City Manager sustained Mr. Cheever’s termination.

Workers’ Compensation



During this reporting period, the Workers’ Compensation Section continued to build on this Office’s past successes in workers’ compensation. By continuing the team approach between Gallagher-Bassett Services, Inc., the City’s claims adjusters, the Department of Risk Management, and this Office, excellent results were achieved. Data provided by Gallagher-Bassett Services, Inc. indicates that the involvement of dedicated attorneys such as Senior Assistant City Attorney William Juliachs has resulted in significantly less payouts to petitioners in workers’ compensation claims.

While Attorney Involved cases are more costly, City of Miami is much better at managing litigation rates, decreasing Attorney Involvement to the point where they significantly outperform their peer mix in all accident years.

Attorney Involved – Average Lost Time Incurred

Avg Lit Incurred	12					24					36			48		60
	2008	2009	2010	2011	2012	2008	2009	2010	2011	2008	2009	2010	2008	2009	2008	
City of Miami	\$24,137	\$28,087	\$48,534	\$32,367	\$40,647	\$36,182	\$73,864	\$68,498	\$99,410	\$60,900	\$80,744	\$97,542	\$66.34	\$93,104	\$85,699	
Other	\$64,295	\$64,065	\$55,405	\$56,792	\$71,357	\$97,113	\$82,481	\$102,203	\$83,825	\$122,972	\$90,494	\$115,905	\$129,407	\$96,919	\$142,257	

Some of the significant matters handled by the Workers' Compensation Section during this reporting period are:

MOTION FOR ATTORNEYS' FEES DENIED

William Miles v. City of Miami,
Case No. 93-012696SMS

The Claimant filed a Petition for Benefits requesting that the City reinstate supplemental benefits on permanent total disability benefits from March 9, 2013 to the present and continuing, penalties, interest, attorney's fees, and costs. The City responded to the Petition within a few days of receipt, but within 14 days, changed its position and reinstated the benefits. The Claimant's attorney requested that the City pay him attorney's fees in the amount of \$25,795.00. A hearing was held before the Judge of Compensation Claims who agreed with the City and denied the Claimant's attorney any entitlement to fees or costs. The Claimant's attorney appealed the Judge's ruling to the First District Court of Appeal, as this was a case of first impression, involving the interpretation of F.S. 440.34 regarding entitlement to attorney's fees. After submission of briefs on the issue, the First District Court of Appeal affirmed the order and denied the motion for attorney's fees.

SETTLEMENT ENFORCED

Paul Walters v. City of Miami,
Case No. 12-024740SMS

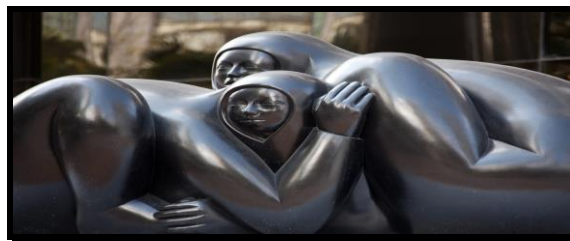
The City agreed to settle three separate dates of accident with the Claimant for a total of \$75,000.00. Prior to obtaining City Commission approval, the Claimant's counsel was provided with the settlement papers. After counsel was advised that the

City Commission had approved the settlement resolution, counsel for the Claimant returned the documents with substantial changes, in particular to the social security offset paragraph. The City refused to accept the changes and counsel for the Claimant filed multiple motions to compel the City to settle the case under his terms. Counsel filed motions for sanctions, deposed counsel for hours, and subpoenaed the City Commissioners and the Mayor – ultimately engaging in close to 60 additional hours of litigation. The matter was heard before the Judge of Compensation Claims who agreed with the City and found that there was no meeting of the minds and the Claimant could not force the City to settle the case on his terms. After this lengthy litigation, counsel conceded and signed the documents based on the City's original terms.

PETITION FOR BENEFITS DISMISSED

Nivaldo Quintana v. City of Miami,
Case No. 13-015069SMS

The Claimant filed various petitions for benefits requesting authorization of medical care and treatment for a hernia, payment of medical bills for hernia surgery, and attorney's fees and costs. At the final hearing, the Claimant did not appear for the hearing and the Judge dismissed the petition for benefits.



Land Use and Transactions

In the area of Land Use and Transactions, this Office deals with many areas of law such as contracts, zoning, land use, building, subdivision regulations, sustainable initiatives, solid waste matters, utilities law, franchises, and community development, just to name a few.

The most significant matter in this division was handled directly by the City Attorney. In June 2009, Florida Power & Light Company (“FPL”) filed an application with the Department of Environmental Protection, under the Power Plant Siting Act, to construct two new nuclear reactor units and miles of oversized transmission lines. This process included several rounds of completeness evaluations, the issuance of a determination of need by the Public Service Commission, and a certification hearing by the Division of Administrative Hearings. The City participated in the completeness evaluations and the certification hearing. At the conclusion of the certification hearing, the Administrative Law Judge issued a Recommended Order suggesting approval of FPL’s application as a whole and specifically recommended certification of two transmission line corridors: 1) an eastern line that would run near residences alongside U.S. 1 and through the City, and 2) a western line that would cross into Everglades National Park. In May 2014, the matter went to the Governor and the Cabinet, sitting as the Electrical Power Plant Siting Board (“Board”), for the final decision. The City Attorney, along with representatives from neighboring municipalities, passionately urged the Board to remand the matter back to the Administrative Law Judge for further findings as the quality of life of all residents in South Florida would be significantly affected by the proposal from FPL. The Governor and the Cabinet rendered a Final Order allowing Certification. The City Attorney was able to get a major concession from FPL which is reflected in the Final Order: FPL needs the approval of the U.S. Nuclear Regulatory Commission before construction can begin on the portion of the eastern transmission lines that will run through the City and should also keep the western transmission lines outside the boundaries of Everglades National Park. The City is now appealing the Final Order to challenge both the due process errors suffered by the City and the mistaken conclusions of law that have infected this entire proceeding.

Another significant matter was handled by one of our newest additions to the Office of the City Attorney, Amanda Quirke. Ms. Quirke is a former chemical engineer who was recruited from private practice. Within her first week with the City, Ms. Quirke was involved in the MetSquare archaeological discoveries. Significant archaeological discoveries were made on the MetSquare site related to the historical occupation of the property by the Tequesta Indians, and later, Henry Flagler’s Royal Palm Hotel. The Historic Preservation Board denied an action plan by the developer, which denial was appealed to the City Commission. The developer, the State of Florida, the City, and several organizations from the historic archaeological preservation community participated in a two day mediation to address the preservation and interpretation of the archaeological resources found on the site. A revised action plan for preservation and prominent display of the significant archaeological features was presented to the City

Commission for their review and final approval. The revised action plan, which was publicly supported by organizations from the historic and archaeological preservation community, was approved by the City Commission.

Additionally, after almost a thirteen year delay, the State of Florida Board of Trustees of the Internal Improvement Fund finally approved a partial modification of Original Restrictions to Deed 19447. This modification allows the Florida Department of Environmental Protection, the City, and Developer Flagstone Island Gardens, LLC to finally move forward with the first phase component of a ground lease for a mega yacht marina on the City's Watson Island. Senior Assistant City Attorney Robin Jones Jackson has worked on this matter tirelessly throughout the years.

This Office also handled several notable cases in the area of Code Enforcement. The Office of the City Attorney prosecuted in excess of 500 cases which addressed Code violations, including but not limited to, illegal construction, tree removal, illegally maintaining or depositing junk or trash, graffiti, failure of a business to have the appropriate certificate of use or business tax receipt, and violations pertaining to vacant, blighted, unsecured, or abandoned structures.

With respect to one of the significant transactional matters handled by our Office, in October 2013, the Internal Revenue Service ("IRS") concluded its examination of the City's Limited Ad Valorem Tax Refunding Bonds, Series 2007A (Homeland Defense/Neighborhood Capital Improvements Projects) and Limited Ad Valorem Tax Bonds, Series 2007B (Homeland Defense/Neighborhood Capital Improvements Projects) dated July 10, 2007, which totaled \$153,060,000.00. The IRS issued a No Change of Status Letter finding that the City was in compliance and required continuing compliance. Senior Assistant City Attorney Robin Jones Jackson led the effort to respond to the examination and worked with the various City departments including Capital Improvements Program, Finance, Management and Budget, and Parks and Recreation in obtaining this successful result.

Contracts and Procurement

The work in this practice area touches upon all aspects of financial, commercial and contractual transactions undertaken by the City. In this reporting period, approximately 1,085 contracts were reviewed by this Office totaling approximately \$182,346,187 in valuation.

In October 2013, the Office of the City Attorney hired Jihan "Gigi" Soliman as an Assistant City Attorney to work on all community development matters. In her new role, Ms. Soliman was able to conduct a number of time-sensitive transactions of major significance to our community including:

Brickell View Terrace Project. The project involved over \$1 million in Community Development Block Grant funds which were at risk of being recalled. Had the closing and the

funds not disbursed within a certain time frame, HUD would have recalled the funds and future CDBG allocations by HUD would have been lessened due to the untimely use of such funds.

Edificio Pineiro Project. This transaction ensured the City's retention of the Neighborhood Stabilization Program ("NSP"). NSP was a temporary program by HUD to help maintain and develop neighborhoods at risk of being dilapidated and over run by blight. Had the transaction, using NSP funding, not been completed all within a week's time, from negotiations to closing, the funds would have been recalled and any future allocations under NSP would have ceased entirely.

Gibson Center Project. Gibson Center is a \$20 million project located in the heart of the West Grove. The project is a first of its kind for this much needed community. The Gibson Center includes an education center, office space for not-for-profit and for-profit businesses and mixed-income living with units specifically set aside for low to moderate income residents.

In November 2013, the City had a Referendum Special Election for the development of approximately seven (7) acres of City-owned waterfront property in Coconut Grove. The Referendum was the result of a Request for Proposal ("RFP") to develop a marina and restaurant. The RFP was awarded to Grove Bay Investments Group, LLC. The Referendum revealed that a majority of the City's voters supported the development. The Office of the City Attorney has been actively involved in the procurement process, Referendum process, and defending the resulting litigation in order to bring this successful development to one of the City's most valuable parcels of property.

In the area of public procurement and purchasing, we are pleased to report there has been a dramatic decline in actual bid protests filed before the City Commission due in great part to the effective counsel offered by Division Chief Rafael Suarez-Rivas, our in-house procurement expert. Mr. Suarez-Rivas has been able to guide the Procurement Department even in the current time of change in leadership and he has been able to stem the tide of bid protests with the issuance of protest denials supported by cogent and compelling analysis, thereby foreclosing the need for a hearing before the City Commission.



General Government

During this reporting period, the City experienced many transitions in the upper management of the Administration. Consequently, the Office of the City Attorney, through its Attorneys, Legislative Section, and Administrative Staff, assisted the new personnel by providing guidance and advice on all aspects of municipal governance, including but not limited to, compliance with open government, sunshine law, public records, and conflict of interest regulations.

One of the most significant projects handled by this division includes an investigation of the Miami Police Department by the United States Department of Justice (“DOJ”) regarding an alleged pattern and practice of violations. The defense of this investigation includes the City Attorney, Deputy City Attorney John A. Greco, Police Legal Advisor and Division Chief of the General Government Division George Wysong, Division Chief of the Litigation Division Kevin R. Jones, Division Chief of the Labor and Employment Division Diana Vizcaino, and Senior Assistant City Attorney Henry Hunnefeld. This team has acted as the liaison with the DOJ and the City and has conducted several marathon negotiation sessions that have lasted several days each with attorneys from the DOJ in an attempt to successfully conclude the investigation.

This Office has worked closely with the elected officials and the Administration in the preparation of legislation adopted by the City Commission and implemented by the Administration during the reporting period. Some notable legislation includes: clarifying and updating the regulations regarding garage sales to encourage further compliance and improve quality of life for our residents; legislation prohibiting the sale of electronic cigarettes to minors within the City; legislation regarding the adoption of the annual solid waste special assessment, the millage, and the City’s budget; legislation enhancing police funding in order to recover investigative costs incurred by the Police Department in all cases where defendants plead guilty or are found guilty; legislation approving special events; legislation creating public-private partnership opportunities within the City’s Procurement Code; ballot language legislation; and legislation accepting millions of dollars in grants including accepting \$800,000.00 from the United States Department of Commerce for a grant to establish a cooking school at Miami Dade College.

The Office of the City Attorney advised the Administration on public records matters, defended lawsuits regarding public records issues, monitored sensitive matters, and assisted the Administration with its Administrative Policy on public records and departmental policies on use of social media by City employees.

Last year, the State Legislature amended the Mark Wandall Traffic Safety Act. This resulted in the red light camera citations being handled by the City directly, rather than referred to the Eleventh Judicial Circuit. Our attorneys have assisted the Administration in these efforts to continue the use of traffic infraction detectors within the City to improve safety on our streets.

Due to the City Commission’s focus in prioritizing public safety matters, the Office of the City Attorney added a second Police Legal Advisor in October 2013. Juan Carlos (J.C.) Perez is responsible for providing legal advice and training to all of the City’s police officers. Additionally, with the hiring of Mr. Perez, the City has been able to utilize the forfeiture provisions of the State Statute to the fullest extent possible in order to have a significant impact upon crime, yet protect innocent owners, while providing the Police Department with the maximum amount of economic benefit available under the Forfeiture Act. Mr. Perez has revitalized the prosecution of civil forfeiture cases pursuant to the Florida Contraband Forfeiture Act and oversees the Vehicle Impoundment Program. In doing so, the City Attorney seeks to generate revenue for the Police Department pursuant to the Forfeiture Act which authorizes the Department to seize and forfeit any property, real or personal, which has been used, is being used, was intended to be used, or was acquired with proceeds in violation of the law. In addition, the Vehicle Impoundment Program as enumerated in the City of Miami, Code of Ordinances, Chapter 42, Article V, Sections 42-120 through 42-125, authorizes the Police Department to seize and temporarily impound motor vehicles used in the commission of drug related crimes, prostitution, and illegal dumping of waste.

Additionally, because of the recent real estate crisis, “squatting” in abandoned properties is a potential public safety issue for the City affecting quality of life. The Office of the City Attorney has been working closely with the Chief of Police, the Executive Staff of the Miami Police Department, Code Compliance, the City Manager’s Office, and elected officials to devise and implement a plan of action that proactively addresses squatting so that it is prohibited, and includes measures to protect public health and safety, thus improving quality of life. Legislation increasing the City’s police powers with respect to squatting is being presented to the City Commission for consideration.

As quality of life is a major focus of the General Government Division, one of the important matters addressed this past year is the modification to the *Pottinger* Agreement. In furtherance of the City’s continuing commitment to assist homeless persons within the jurisdictional boundaries of the City and its desire to comply with the *Pottinger* Agreement, the Office of the City Attorney has drafted and negotiated an agreement with Camillus House to procure additional shelter space and services to homeless persons.



Internship & Legal Corps Program

For the 9th consecutive year, the Office of the City Attorney has offered the unparalleled opportunity for law school students to participate as interns within the Office. Students participate in the internship program during their Fall, Spring, and Summer semesters. The Office offers a highly competitive internship, with hundreds of applications each year. This program is viewed as a great opportunity to explore a career in the challenging practice of municipal law. Students gain excellent legal experience by working closely with experienced attorney supervisors on a variety of substantive legal matters in all of our areas of law. Students from the University of Miami, Florida International University, Florida Coastal University, Nova Southeastern University, St. Thomas University, Florida State University, University of Florida, Stetson University, and other law schools outside of Florida, such as Emory, Columbia, Loyola University in California, and the University of Iowa have interned in the Office of the City Attorney over the years. Students comply with their school's clinical program guidelines, while participating in a sophisticated internship program. During the reporting period, more than 40 interns participated in this program. It is a great opportunity for the students and the City as a whole.

Through this Office's constant search to provide the City with excellent legal services with limited legal resources, the Office of the City Attorney continues to implement a very successful legal consultant program through grants provided by the University of Miami School of Law *Legal Corps Program*. Attorneys who recently graduated from the University of Miami were paid by the University to work half a year in the Office. We engaged six talented attorneys, this reporting period, who



provided free legal work to the City, for the benefit of the Office and the City as a whole. Due to the success of this program, Duke University has also implemented a similar program and the Office of the City Attorney was able to engage a young lawyer from Duke to assist on significant matters, including the FPL matter discussed in this report.



CITY OF MIAMI
Office of the City Attorney
Miami Riverside Center
444 S.W. 2nd Avenue, Suite 945
Miami, FL 33130

