



**CITY OF HALLANDALE BEACH, FLORIDA
MEMORANDUM**

TO: Honorable Mayor and City Commission

FROM: V. Lynn Whitfield, City Attorney

DATE: January 27, 2015

SUBJECT: Status Report of Pending Litigation

This report lists the pending litigation cases involving the City, with the exception of worker's compensation claims, which are handled by risk management; municipal information; and uniform traffic citations issued for red light camera violations enforced by the Hallandale Beach Police Department.

Closed Cases since Last Status Report

1. Gregory Ehlers as personal representative of the Estate of Gregory Ehlers, Jr.

On November 14, 2013, Officer Edward McGovern individually and in his capacity as a Police Officer, and Dwayne Flournoy in his official capacity as Chief of Police of the Hallandale Beach Police Department were served with Plaintiffs' complaint alleging a civil right claims violation under 42 U.S.C. § 1983 – wrongful death, vicarious liability. Outside Counsel representing Chief Flournoy and Officer Edward McGovern filed a Motion to Dismiss the Complaint. Chief Flournoy was dismissed from the complaint, and Plaintiff filed an amended complaint, adding the City of Hallandale Beach as a defendant. The City filed its answer and affirmative defenses to the Complaint. Discovery and depositions continue. The parties were able to agree on settlement in this case. On October 22, 2014, the parties filed the Stipulation of Final Dismissal.

2. **Mr. Tax 1111, LLC v. Sauternes V, LLC, City of Hallandale Beach (Quiet Title Action)**

On June 2, 2014, Plaintiff filed its action against the City and Sauternes V, LLC seeking to quiet the title of the property located at 417 N.W. 1st Avenue, Hallandale Beach. This parcel is a part of the lots that the City is seeking to acquire for the construction of the new main fire station. Simultaneously, the City has filed for an Order of taking on the same property. The hearing was held on August 15, 2014, and the court granted the City's Order of taking. This case is closed.

State Court Cases

1. **Valeriy Bogatov as father and Representative of Alex Bogatov v. City of Hallandale Beach (Judge Carol Lisa Phillips)**

On June 29, 2012, Plaintiff filed its action alleging negligence on part of the City as a result of his son Alex Bogatov allegedly having fallen from the play structure at South Beach Park. The City filed a Motion to Dismiss the complaint and a Motion for Protective order as to video depositions of the Mayor and Vice Mayor. On September 11, 2012, the Court denied the motion to dismiss without prejudice and granted the protective order. The City filed its answer and affirmative defenses. Discovery and depositions are in progress. Trial is scheduled to comment June 29, 2015.

2. **Miguel Charun v. City of Hallandale Beach (Judge Marina Garcia-Wood) – DOI – 5/30/12**

On September 24, 2013, Plaintiff filed suit against the City alleging that on May 30, 2012, that City employee Kevin Herbert, negligently operated a City vehicle to cause a collision with Plaintiff's vehicle causing bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, hospital expenses, and loss of earning. The City filed its answer and affirmative defenses to the complaint. Discovery and depositions are in progress.

3. **Jossica Devis v. City of Hallandale Beach – (Judge Dale Ross)**

On April 24, 2012, Plaintiff filed suit against the City alleging that on February 2, 2011, at the intersection of NW 2nd Avenue and NW 2nd Street, Officer Frederick Allen Sanks carelessly and negligently operated a City vehicle so to cause a collision with the Plaintiff's vehicle causing serious and permanent bodily injuries and resulting pain and suffering disability and disfigurement, mental anguish, hospital expenses, and loss of the ability to earn money. The City filed its answer and affirmative defenses to the complaint. Discovery and depositions continue.

4. **Angela Herrera v. Transfield Services Infrastructure, Inc., VMS Maintenance Systems, Inc., FDOT, VMS, Inc., f/k/a Maintenance Systems, Inc., and City of Hallandale Beach (Judge William Haury) DOI 12/24/09**

On August 18, 2014, the City was served with Plaintiff's complaint alleging that on December 24, 2009, sustained severe permanent injuries when she tripped and fell due to a dangerous condition involving an uneven, broken, depressed walking surface on the sidewalk of located on State Road A1A of South Ocean Drive, in Hallandale Beach. The City filed its Motion to Dismiss Plaintiff's complaint. The hearing is scheduled for January 15, 2015.

5. **Irwin Knohl v. FDOT and City of Hallandale Beach (Judge Bowman) DOI-7/14/12**

On July 18, 2014, the City was served with Plaintiff's complaint alleging that on July 14, 2012, tripped and fell forcefully to the ground on the sidewalk of A1A/South Ocean Drive, suffering grievous bodily injury including multiple fractures, permanent injury, aggravation of pro-existing injury, pain and suffering, impairment, disability, disfigurement, mental anguish, medical and loss of capacity for the enjoyment of life. The City filed its answer and affirmative defenses to the complaint. Discovery and depositions continue. Trial for this case is tentative scheduled to commence November 2, 2015.

6. **Madelyne Lazarus v. City of Hallandale Beach, American Traffic Solutions, LLC, and ATS American Traffic Solutions, Inc. (Judge John Murphy III) DOI – 12/6/09**

On August 10, 2010, the City was served with Plaintiffs uncertified class action complaint for damages, declaratory, and injunctive relief against the City of Hallandale Beach and American Traffic Solutions (ATS). Plaintiff's complaint arises out of the City's Ordinance base red light program. The complaint alleges that the City's program is an invalid exercise of municipal power and that the City is otherwise preempted by the State legislature in this area of law. Although, the City Commission approved Plaintiff's settlement offer of up to thirty (30%) percent of the funds received from ordinance base program. . The Florida Supreme Court has recently stricken the ordinance in Aventura and Orlando as unconstitutional. Counsel for the City of Aventura has requested a rehearing for clarification. It is unclear whether or not everyone who received a red light ticket is required to be refunded or just those that contested the ticket and were required to pay. We are waiting for the court's decision.

7. **Phillip Mcenany, et al v. Ronald Beukers – (Judge Milly Rodriguez-Powell) DOI – 7/7/11**

On October 6, 2011, Officer Beukers was served with Plaintiff's complaint for negligence. Plaintiff alleges Sgt. Beukers negligently struck Plaintiff causing personal

injuries. At the time of the accident, Sgt. Beukers was driving a city owned take home vehicle. Sgt. Beukers is represented by counsel provided by his rider insurance carrier. On April 10, 2012, the City was served with Plaintiff's amended complaint. The City has filed its answer and affirmative defenses, a Motion to strike Count II of Plaintiffs' amended Complaint, and Motion to Dismiss Count IV of Plaintiffs' amended complaint. The City's Motion to Dismiss Count IV of the amended complaint was granted on July 23, 2012. On November 25, 2013, Plaintiff filed a motion for leave to amend to file a 3rd amended complaint, which the City opposed. On December 17, 2013, the Court granted the Plaintiff's motion to file a 3rd amended complaint. The City has filed its answer and affirmative defenses. Discovery and depositions continue. Trial is scheduled to commence May 12, 2015.

8. John Motes and Shirley Motes v. City of Hallandale Beach (Judge John J. Murphy III)

On June 26, 2012, Plaintiffs filed its action alleging negligence on the part of the City as a result of a car accident involving Police Officer Anthony Distefano. Plaintiffs claim to have suffered personal injuries and a loss of consortium as a result of the accident. The City filed an answer and affirmative defenses denying negligence. The City also filed a Motion to Dismiss Plaintiff's consortium claim. On August 22, 2012, Plaintiffs filed a Voluntary Dismissal as to the consortium claim. Discovery continues.

9. Christina Sam Niego, as Personal Representative of the Estate of Eduardo Prieto, Deceased v. Wal-Mart Stores, Inc., Broward Sheriff's Office, Hallandale Beach Police Department, and Broward County (Judge John Bowman) – DOI 9/6/2012

On November 17, 2014, Plaintiff filed its action against the Hallandale Police Department alleging the wrongful death due to negligence due to the subsequent actions on September 6, 2012, which cause the death of Eduardo Prieto, Jr. The City filed a limited appearance to respond to Plaintiff's complaint, by filing a Motion to Dismiss stating that the Hallandale Police Department is not its own entity. On November 20, 2014, Plaintiff filed its Notice of Voluntary Dismissal without Prejudice as against the Hallandale Beach Police Department. On November 25, 2014, the Plaintiff filed a Motion for Leave to file Second Amended Complaint by adding the City of Hallandale Beach, however the City has not been served as of this reporting.

10. Gabriel Tamarez v. City of Hallandale Beach and the School Board of Broward County (Judge Marina Garcia-Wood)

On September 26, 2012, Plaintiff filed its action against the City and the Broward County School Board alleging negligence as a result of personal injuries sustained during a football practice at Peter Bluestein Park. It is alleged that Plaintiff ran into bleachers that were in the middle of the field. On September 25, 2012, the City filed an answer and

affirmative defense denying negligence. Plaintiff has since been deposed. Discovery and depositions continue.

11. Robert Tartaglia v. City of Hallandale Beach – (Judge Marina Garcia-Wood) – DOI 5/23/11

On July 25, 2014, the City was served with the complaint alleging that on May 23, 2011, that the Police Department K-9 Tobar assaulted and battered the Plaintiff causing bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish. The Plaintiff and his girlfriend got into a physical altercation, the girlfriend demanded that Plaintiff leave her residence, but he refused. Plaintiff's girlfriend called the police for assistance, and when police arrived, the Plaintiff was asleep on the couch. The Plaintiff was given verbal warnings to get up and leave his girlfriend's residence, but did not comply, and the Police K-9, Tobar was released. The City filed its Motion to Dismiss Plaintiff complaint. The Plaintiff will be dismissing the count as to the Police Officer, and amending the complaint. The City will have thirty (30) days to file its response. Discovery is pending.

12. Rod Tony v. City of Hallandale Beach – (Judge John Bowman) – DOI 2/3/2012

On August 5, 2013, Plaintiff filed its suit against the City alleging that on February 3, 2012, that City employee Juan Lewis, negligently operated a City vehicle to cause a collision with Plaintiff's vehicle causing bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, hospital expenses, and loss of earning. The City filed its answer and affirmative defenses to the complaint. Discovery and depositions continue

Appellate Cases

13. Golden Horn Condominium Association, Inc. v. City of Hallandale Beach – (Appellate Division)

This appeal stems from a violation of the Florida Fire Prevention Code. The violation occurred at the Golden Horn Condominium located at 437 Golden Isles Drive, Hallandale Beach. The source of the violation is the condominium's fire alarm panel. Specifically, work was conducted on the fire alarm panel without securing the proper City permits.

14. TS&B, III, LLC v. City of Hallandale Beach (Appellate Division)

On December 17, 2014, Petitioner filed a Petition for Writ of Certiorari, by challenging the City's approval of the Regional Agency Center (RAC), and the notice to the Petitioner. The Writ of Cert appeal is filed in an abundance of caution to avoid a potential

jurisdictional trap.

15. TS&B, III, LLC v. City of Hallandale Beach (Appellate Division)

On December 17, 2014, Petitioner filed Complaint for Declaratory Judgment and Injunctive Relief alleging that the three (3) ordinance passed on November 5, 2014 are inconsistent with the City's Comprehensive Plan, and seeks to enjoin the change in zoning as it applies to the Petitioner's subject property.

Mortgage Foreclosures¹

The following are foreclosure cases in which the City has been named as a defendant as a result of code enforcement liens or liens associated with affordable housing loans. In all cases the City has asked the Court to award any surplus funds to satisfy the City's lien.

- 16. La Salle v. Marcia Carvalho – (Judge Sandra Perlman) Property Address 641 S.W. 3 Street, Hallandale Beach, Florida 33009**
- 17. U.S. Bank v. Hector Vidaurre – (Judge Sandra Perlman) Property Address 724 Moffet Street, Hallandale Beach, Florida 33009**
- 18. Aurora Loan v. Sampson Ward, (Judge Sandra Perlman) Property Address 646 N.W. 4th Court, Hallandale Beach, Florida 33009**
- 19. U.S. Bank v. Nasai Enterprises, (Judge Sandra Perlman) Property Address 114 N.W. 9th Street, Hallandale Beach, Florida 33009**
- 20. JP Morgan Chase Bank v. Clifton Hart – (Judge Sandra Perlman) Property Address 825 S.W. 10th Street, Hallandale Beach, Florida 33009**
- 21. Deutsche Bank National Trust Company v. Emmanuel Duperme, et al – (Judge Sandra Perlman) Property Address 638 N.W. 4th Court, Hallandale Beach, Florida 33009**
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- 22. Bank of America v. Marcio M. De Souza – (Judge Sandra Perlman) Property Address 1301 Northeast 7 Street, Unit 311 Hallandale Beach, Florida 33009**

¹ Chapter 162 of the Florida Statutes code enforcement liens attach to all of a Respondent's property throughout the State.

23. **Bac Home Loans v. Janice Kasper – (Judge Sandra Perlman) Property Address 213 S.W. 2nd Street, Hallandale Beach, Florida 33009**
24. **Bac Home Loans v. Gloria Gamboa – (Judge Sandra Perlman) Property Address 620 N.W. 8th Avenue, Hallandale Beach, Florida 33009**
25. **American Home Mortgage v. Marcos Gabriel – (Judge Sandra Perlman) Property Address 12178 St Andrew Place, 109, Miramar, Florida**
26. **LaSalle Bank v. Maria Rodriguez – (Judge Sandra Perlman) Property Address 9723 NW 37th Street, Sunrise, Florida**
27. **Bank Atlantic v. Daniel Oberti – (Judge Sandra Perlman) Property Address 112 Holiday Drive, Hallandale Beach, Florida 33009**
28. **CitiMortgage, Inc. v. Jesse Cuerto – (Judge Sandra Perlman) Property Address 1024 NE 4th Court, Hallandale Beach, Florida 33009**
29. **Deutsche Bank v. Orestes Cardoso et al. – (Judge Sandra Perlman) Property Address 1250 Atlantic Shores Blvd., #120, Hallandale Beach, Florida 33009**
30. **Suntrust Mortgage v. Dana Morris – (Judge Sandra Perlman) Property Address 1029 NW 8th Street, Hallandale Beach, Florida 33009**
31. **Wells Fargo Bank v. Yosef Kalfa – (Judge Sandra Perlman) Property Address 180 NE 12th Avenue, #15A, Hallandale Beach, Florida 33009**
32. **Deutsche Bank v. Gerald Dean – (Judge Sandra Perlman) Property Address 726 NW 1st Court, Hallandale Beach, Florida 33009**

33. **Wells Fargo Bank v. Jose Ortiz – (Judge Sandra Perlman) Property Address 906 NE 4th Court, Hallandale Beach, Florida 33009**
34. **Bank of America v. Oscar Sanchez – (Judge Sandra Perlman) Property Address 1800 S. Ocean Drive, #4207, Hallandale Beach, Florida 33009**

35. **Duetsche Bank v. Yoli Contreras, - (Judge Sandra Perlman) Property Address 22 S.W. 7th Street, Hallandale Beach, Florida 33009**
36. **Wells Fargo Bank v. Vasile Jelescu – (Judge Sandra Perlman) Property Address 1000 N.E. 7th Street, Hallandale Beach, Florida 33009**
37. **Saxon Mortgage Services v. Peter Gordon – (Judge Sandra Perlman) Property Address 204 S.E. 3rd Street, Hallandale Beach, Florida 33009**
38. **CitiMortgage v. German Arbelaez – (Judge Sandra Perlman) Property Address 110 SE 2nd Street, Hallandale Beach, Florida 33009**
39. **Bac Home Loans v. Irene Jurberg – (Judge Sandra Perlman) Property Address 1008 NE 3rd Street, Hallandale Beach, Florida 33009**
40. **CitiMortgage Inc. v. Freddy Leroy – (Judge Sandra Perlman) Property Address 709 SW 6th Terrace, Hallandale Beach, Florida 33009**
41. **CitiMortgage Inc. v. Kevin McNair – (Judge Sandra Perlman) Property Address 22-24 SW 10th Street, Hallandale Beach, Florida 33009**
42. **U.S. Bank v. Fredesvinda Diaz, et al – (Judge Sandra Perlman) Property Address 27 SW 7th Street, Hallandale Beach, Florida 33009**
43. **HSBC Mortgage v. Lenidalva DeSilva – (Judge Sandra Perlman) Property Address 1000 NE 12th Avenue, #304, Hallandale Beach, Florida 33009**
44. **New York Community Bank v. Juan Santurian, et al. - (Judge Sandra Perlman) Property Address 1945 S. Ocean Drive, #1506, Hallandale Beach, Florida 33009**

45. **Bayview Loan Servicing, LLC v. Nelly Heffez, et al. – (Judge Sandra Perlman) Property Address 620 NE 4th Court, Hallandale Beach, Florida 33009**
46. **Federal National Mortgage Association v. Gabriel Lung, et al. – (Judge Sandra Perlman) Property Address 219 – 221 NE 11th Avenue, Hallandale Beach, Florida**

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47. **US Bank v. Denyse Badall, et al. – (Judge Sandra Perlman) Property Address 110 SE 2nd Street, #105, Hallandale Beach, Florida 33009**
48. **Bayview Loan Servicing, LLC v. Besanell, Inc., et al – (Judge Sandra Perlman) Property Address 620 NE 4th Court, Hallandale Beach, Florida 33009 (Receiver appointed by the Court)**
49. **Deutsche Bank v. Gary Banks, et al. – (Judge Sandra Perlman) Property Address 132 NW 6th Avenue, Hallandale Beach, Florida 33009**
50. **Federal National Mortgage v. Jessica Llorens, et al. – (Judge Sandra Perlman) Property Address 701 SW 1st Street, Hallandale Beach, Florida 33009**
51. **Branch Banking v. Moises Shames, et al. – (Judge Sandra Perlman) Property Address 800 SW 10th Avenue, Hallandale Beach, Florida 33009**
52. **Wells Fargo Bank v. Jaimie Paul, et al – (Judge Sandra Perlman) Property Address 940 SW 9th Street, Hallandale Beach, Florida 33009**
53. **Wells Fargo Bank v. Enrique Betancourt, et al – (Judge Sandra Perlman) Property Address 401 SW 4th Avenue, Hallandale Beach, Florida 33009**
54. **Bank of America v. Cesar Yataco, et al – (Judge Sandra Perlman) Property Address 501 NE 14th Avenue, #702, Hallandale Beach, Florida 33009**
55. **Frederick Burton v. Angel Cachinero, et al – (Judge Sandra Perlman) Property Address 836 & 840 NW 10th Street, Hallandale Beach, Florida 33009**

56. **Bank of America v. Cenker Ozkurt, et al – (Judge Sandra Perlman) Property Address 812 NE 6th Street, Hallandale Beach, Florida 33009**
57. **Fannie Mae v. Osmond Knight, et al – (Judge Sandra Perlman) Property Address 324 NW 3rd Street, Hallandale Beach, Florida 33009**

58. **Bac Home Loan v. Christine Dittrich, et al – (Judge Sandra Perlman) Property Address 110 SE 2nd Street, #205, Hallandale Beach, Florida 33009**
59. **Bayview Loan Servicing v. Besanell, Inc., et al – (Judge Sandra Perlman) Property Address 620 NE 4th Court, Hallandale Beach, Florida 33009**
60. **Wells Fargo Bank v. Noemi Aquiriano, et al – (Judge Sandra Perlman) Property Address 213 SE 4th Street, Hallandale Beach, Florida 33009**
61. **Aventin Capital Fund v. Vivien McDonald, et al – (Judge Sandra Perlman) Property Address 744 NW 6th Street, Hallandale Beach, Florida 33009**
62. **JJLR Mortgage Acquisitions v. Rodney Robinson, et al – (Judge Sandra Perlman) Property Address 700 NW 1st Court, Hallandale Beach, Florida 33009**
63. **Green Tree Services, LLC v. Eduardo Gonzalez, et al – (Judge Sandra Perlman) Property Address 13500 SW 17th Court, Miramar, Florida 33027**
64. **Wells Fargo v. Allen Caplan, et al – (Judge Sandra Perlman) Property Address 1980 S. Ocean Drive, 15E, Hallandale Beach, Florida 33009**
65. **Flagstar Bank v. Loretta Lewis, et al – (Judge Sandra Perlman) Property Address 705 NW 10th Court, Hallandale Beach, Florida 33009**
66. **OneWest Bank v. Oscar Sanchez, et al – (Judge Cynthia Imperato) Property Address 500 SW 11th Avenue, Hallandale Beach, Florida 33009**
67. **Rose Acceptance, Inc. v. Amer Abdelquader, et al – (Judge Cynthia Imperato) Property Address 700 SW 6th Street, Hallandale Beach, Florida 33009**
68. **~~JP Morgan Chase Bank v. Reginald Legros, et al – (Judge Cynthia Imperato) Property Address 707 NW 10th Court, Hallandale Beach, Florida 33009~~**
69. **Diplomat Golf & Racquet Club v. Anne-Katrin Spiess, et al – (Judge Cynthia Imperato) Property Address 26 Diplomat Parkway, #2266, Hallandale Beach, Florida 33009**

70. **Wells Fargo v. Eduardo Gonzalez, et al – (Judge Cynthia Imperato) Property Address 722 SW 8th Street, Hallandale Beach, Florida 33009**
71. **Deutsche Bank National Trust v. Charles Conley, et al – (Judge Cynthia Imperato) Property Address 228 S.W. 3rd Avenue, Hallandale Beach, Florida 33009**
72. **Deutsche Bank v. Cesar Encarnacion, et al – (Judge Cynthia Imperato) Property Address 1073 SW 3rd Street, Hallandale Beach, Florida 33009**
73. **One West Bank v. Linda Cox, et al – (Judge Cynthia Imperato) Property Address 23 N.W. 10th Street, Hallandale Beach, Florida 33009**
74. **Wells Fargo Bank v. Meghan Tallon, et al – (Judge Cynthia Imperato) Property Address 111 NW 2nd Avenue, #3, Hallandale Beach, Florida 33009**
75. **Bank of America v. Noel Torres, et al – (Judge Cynthia Imperato) Property Address 627 Southwest 9th Street, Hallandale Beach, Florida 33009**
76. **B & Z Asset Management Corp. v. Jean Victor, et al – (Judge Cynthia Imperato) Property Address 520 NW 2nd Avenue, Hallandale Beach, Florida 33009**
77. **GMAC Mortgage, LLC v. Gloria Gamboa, et al – (Judge Cynthia Imperato) Property Address 1118 NE 8th Street, Hallandale Beach, Florida 33009**
78. **Resurgent Capital Services v. Estate of Concetta T. Wolter, et al – (Judge Cynthia Imperato) Property Address 601 SW 6th Avenue, Hallandale Beach, Florida 33009**
79. **US Bank v. Patricia Bingue, et al – (Judge Cynthia Imperato) Property Address 26 Diplomat Parkway, #2338, Hallandale Beach, Florida 33009**
80. **Wells Fargo Bank v. Carole R. Trepanier, et al – (Judge Cynthia Imperato) Property Address 732 SW 9th Street, Hallandale Beach, Florida 33009**

81. **JP Morgan Chase Bank v. Valerie R. Galsky, et al – (Judge Cynthia Imperato) Property Address 313 Holiday Drive, Hallandale Beach, Florida 33009**
82. **Beneficial Florida, Inc. v. Delcie R. King, et al – (Judge Cynthia Imperato) Property Address 700 N.W. 9th Court, Hallandale Beach, Florida 33009**

83. **Wells Fargo v. William Adderly, et al – (Judge Cynthia Imperato) Property Address 303 NW 7th Court, Hallandale Beach, Florida 33009**

84. **Northern Trust Company v. Cindy Berkley, et al – (Judge Cynthia Imperator) Property Address 611 SW 10th Street, Hallandale Beach, Florida 33009**

- 85 **US Bank v. Estate of Virginia Valdes, et al – (Judge Cynthia Imperator) Property Address 409 NW 7th Court, Hallandale Beach, Florida 33009**

cc: Renee C. Miller, City Manager
Andre Mckenney, Assistant City Attorney
Taren Kinglee, Director Human Resources/Risk Manager