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CITY OF HALLANDALE BEACH
CITY MANAGER

CITY OF HALLANDALE BEACH, FLORIDA
MEMORANDUM

TO: Honorable Mayor and City Commission
FROM: V. Lynn Whitfield, City Attorney VLW
DATE: May 6, 2014
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.

Federal Court Cases

(This case is being handled by outside counsel and in-house counsel)

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 completed, adding the City of Hallandale Beach as a defendant. The City filed its answer and affirmative defenses to the Complaint. Discovery and depositions continue.

(These cases are being handled by in-house counsel)

State Court Cases

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 is pending.

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. **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.

5. **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. . Afterwards, the Third District Court of Appeal held the similar City of Aventura Red Light Camera Ordinance constitutional. The Plaintiff is attempting to appeal to the Florida Supreme Court. Based on the Masone decision, after an executive session, the City Commission withdrew its authorization to settle the case. The City has recently filed a Motion for Summary Judgment and is awaiting a ruling.

6. **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 and Plaintiff's deposition and IME is scheduled.

7. **Valeriy Bogotov 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 remains in progress.

8. **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 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.

9. 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 is pending.

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.

- 10. La Salle v. Marcia Carvalho – (Judge Sandra Perlman) Property Address 641 S.W. 3 Street, Hallandale Beach, Florida 33009**
- 11. U.S. Bank v. Hector Vidaurre – (Judge Sandra Perlman) Property Address 724 Moffet Street, Hallandale Beach, Florida 33009**
- 12. Aurora Loan v. Sampson Ward, (Judge Sandra Perlman) Property Address 646 N.W. 4th Court, Hallandale Beach, Florida 33009**
- 13. U.S. Bank v. Nasai Enterprises, (Judge Sandra Perlman) Property Address 114 N.W. 9th Street, Hallandale Beach, Florida 33009**
- 14. JP Morgan Chase Bank v. Clifton Hart – (Judge Sandra Perlman) Property Address 825 S.W. 10th Street, 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.

15. **Deutsche Bank National Trust Company v. Emmanuel Duperme, et al – (Judge Sandra Perlman) Property Address 638 N.W. 4th Court, Hallandale Beach, Florida 33009**
16. **Bank of America v. Marcio M. De Souza – (Judge Sandra Perlman) Property Address 1301 Northeast 7 Street, Unit 311 Hallandale Beach, Florida 33009**
17. **Bac Home Loans v. Janice Kasper – (Judge Sandra Perlman) Property Address 213 S.W. 2nd Street, Hallandale Beach, Florida 33009**
18. **Bac Home Loans v. Gloria Gamboa – (Judge Sandra Perlman) Property Address 620 N.W. 8th Avenue, Hallandale Beach, Florida 33009**
19. **American Home Mortgage v. Marcos Gabriel – (Judge Sandra Perlman) Property Address 12178 St Andrew Place, 109, Miramar, Florida**
20. **LaSalle Bank v. Maria Rodriguez – (Judge Sandra Perlman) Property Address 9723 NW 37th Street, Sunrise, Florida**
21. **Bank Atlantic v. Daniel Oberti – (Judge Sandra Perlman) Property Address 112 Holiday Drive, Hallandale Beach, Florida 33009**
22. **CitiMortgage, Inc. v. Jesse Cuerto – (Judge Sandra Perlman) Property Address 1024 NE 4th Court, Hallandale Beach, Florida 33009**
23. **Deutsche Bank v. Orestes Cardoso et al. – (Judge Sandra Perlman) Property Address 1250 Atlantic Shores Blvd., #120, Hallandale Beach, Florida 33009**
24. **Suntrust Mortgage v. Dana Morris – (Judge Sandra Perlman) Property Address 1029 NW 8th Street, Hallandale Beach, Florida 33009**
25. **Wells Fargo Bank v. Yosef Kalfa – (Judge Sandra Perlman) Property Address 180 NE 12th Avenue, #15A, Hallandale Beach, Florida 33009**

26. **Deutsche Bank v. Gerald Dean – (Judge Sandra Perlman) Property Address 726 NW 1st Court, Hallandale Beach, Florida 33009**
27. **Wells Fargo Bank v. Jose Ortiz – (Judge Sandra Perlman) Property Address 906 NE 4th Court, Hallandale Beach, Florida 33009**
28. **Bank of America v. Oscar Sanchez – (Judge Sandra Perlman) Property Address 1800 S. Ocean Drive, #4207, Hallandale Beach, Florida 33009**
29. **Duetsche Bank v. Yoli Contreras, - (Judge Sandra Perlman) Property Address 22 S.W. 7th Street, Hallandale Beach, Florida 33009**
30. **Wells Fargo Bank v. Vasile Jelescu – (Judge Sandra Perlman) Property Address 1000 N.E. 7th Street, Hallandale Beach, Florida 33009**
31. **Saxon Mortgage Services v. Peter Gordon – (Judge Sandra Perlman) Property Address 204 S.E. 3rd Street, Hallandale Beach, Florida 33009**
32. **CitiMortgage v. German Arbelaez – (Judge Sandra Perlman) Property Address 110 SE 2nd Street, Hallandale Beach, Florida 33009**
33. **Bac Home Loans v. Irene Jurberg – (Judge Sandra Perlman) Property Address 1008 NE 3rd Street, Hallandale Beach, Florida 33009**
34. **CitiMortgage Inc. v. Freddy Leroy – (Judge Sandra Perlman) Property Address 709 SW 6th Terrace, Hallandale Beach, Florida 33009**
35. **CitiMortgage Inc. v. Kevin McNair – (Judge Sandra Perlman) Property Address 22-24 SW 10th Street, Hallandale Beach, Florida 33009**
36. **U.S. Bank v. Fredesvinda Diaz, et al – (Judge Sandra Perlman) Property Address 27 SW 7th Street, Hallandale Beach, Florida 33009**
37. **HSBC Mortgage v. Lenidalva DeSilva – (Judge Sandra Perlman) Property Address 1000 NE 12th Avenue, #304, Hallandale Beach, Florida 33009**

38. **New York Community Bank v. Juan Santurian, et al. - (Judge Sandra Perlman)
Property Address 1945 S. Ocean Drive, #1506, Hallandale Beach, Florida 33009**
39. **Bayview Loan Servicing, LLC v. Nelly Heffez, et al. – (Judge Sandra Perlman)
Property Address 620 NE 4th Court, Hallandale Beach, Florida 33009**
40. **Federal National Mortgage Association v. Gabriel Lung, et al. – (Judge Sandra Perlman)
Property Address 219 – 221 NE 11th Avenue, Hallandale Beach, Florida 33009**
41. **US Bank v. Denyse Badall, et al. – (Judge Sandra Perlman) Property Address 110
SE 2nd Street, #105, Hallandale Beach, Florida 33009**
42. **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)**
43. **Deutsche Bank v. Gary Banks, et al. – (Judge Sandra Perlman) Property Address
132 NW 6th Avenue, Hallandale Beach, Florida 33009**
44. **Federal National Mortgage v. Jessica Llorens, et al. – (Judge Sandra Perlman)
Property Address 701 SW 1st Street, Hallandale Beach, Florida 33009**
45. **Branch Banking v. Moises Shames, et al. – (Judge Sandra Perlman) Property
Address 800 SW 10th Avenue, Hallandale Beach, Florida 33009**
46. **Wells Fargo Bank v. Jaimie Paul, et al – (Judge Sandra Perlman) Property Address
940 SW 9th Street, Hallandale Beach, Florida 33009**
47. **Wells Fargo Bank v. Enrique Betancourt, et al – (Judge Sandra Perlman) Property
Address 401 SW 4th Avenue, Hallandale Beach, Florida 33009**
48. **Bank of America v. Cesar Yataco, et al – (Judge Sandra Perlman) Property Address
501 NE 14th Avenue, #702, Hallandale Beach, Florida 33009**

49. **Frederick Burton v. Angel Cachinero, et al – (Judge Sandra Perlman) Property Address 836 & 840 NW 10th Street, Hallandale Beach, Florida 33009**
50. **CitiMortgage, Inc. v. Gregory Pizzano, et al, - (Judge Sandra Perlman) Property Address 728 SW 5th Court, Hallandale Beach, Florida 33009**
51. **Bank of America v. Cenker Ozkurt, et al – (Judge Sandra Perlman) Property Address 812 NE 6th Street, Hallandale Beach, Florida 33009**
52. **Fannie Mae v. Osmond Knight, et al – (Judge Sandra Perlman) Property Address 324 NW 3rd Street, Hallandale Beach, Florida 33009**
53. **Bac Home Loan v. Christine Dittrich, et al – (Judge Sandra Perlman) Property Address 110 SE 2nd Street, #205, Hallandale Beach, Florida 33009**
54. **Bayview Loan Servicing v. Besanell, Inc., et al – (Judge Sandra Perlman) Property Address 620 NE 4th Court, Hallandale Beach, Florida 33009**
55. **Wells Fargo Bank v. Noemi Aquiriano, et al – (Judge Sandra Perlman) Property Address 213 SE 4th Street, Hallandale Beach, Florida 33009**
56. **Aventin Capital Fund v. Vivien McDonald, et al – (Judge Sandra Perlman) Property Address 744 NW 6th Street, Hallandale Beach, Florida 33009**
57. **JJLR Mortgage Acquisitions v. Rodney Robinson, et al – (Judge Sandra Perlman) Property Address 700 NW 1st Court, Hallandale Beach, Florida 33009**
58. **Green Tree Services, LLC v. Eduardo Gonzalez, et al – (Judge Sandra Perlman) Property Address 13500 SW 17th Court, Miramar, Florida 33027**
59. **Wells Fargo v. Allen Caplan, et al – (Judge Sandra Perlman) Property Address 1980 S. Ocean Drive, 15E, Hallandale Beach, Florida 33009**
60. **Flagstar Bank v. Loretta Lewis, et al – (Judge Sandra Perlman) Property Address 705 NW 10th Court, Hallandale Beach, Florida 33009**

61. **OneWest Bank v. Oscar Sanchez, et al – (Judge Sandra Perlman) Property Address 500 SW 11th Avenue, Hallandale Beach, Florida 33009**
62. **Rose Acceptance, Inc. v. Amer Abdelquader, et al – (Judge Sandra Perlman) Property Address 700 SW 6th Street, Hallandale Beach, Florida 33009**
63. **JP Morgan Chase Bank v. Reginald Legros, et al – (Judge Sandra Perlman) Property Address 707 NW 10th Court, Hallandale Beach, Florida 33009**
64. **Diplomat Golf & Racquet Club c. Anne-Katrin Spiess, et al – (Judge Sandra Perlman) Property Address 26 Diplomat Parkway, #2266, Hallandale Beach, Florida 33009**
65. **Wells Fargo v. Eduardo Gonzalez, et al – (Judge Sandra Perlman) Property Address 722 SW 8th Street, Hallandale Beach, Florida 33009**
66. **Deutsche Bank National Trust v. Charles Conley, et al – (Judge Sandra Perlman) Property Address 228 S.W. 3rd Avenue, Hallandale Beach, Florida 33009**
67. **Nationstar Mortgage, LLC v. Ruby Alston, et al – (Judge Sandra Perlman) Property Address 647 NW 3rd Court, Hallandale Beach, Florida 33009**
68. **Deutsche Bank v. Cesar Encarnacion, et al – (Judge Sandra Perlman) Property Address 1073 SW 3rd Street, Hallandale Beach, Florida 33009**
69. **One West Bank v. Linda Cox, et al – (Judge Sandra Perlman) Property Address 23 N.W. 10th Street, Hallandale Beach, Florida 33009**
70. **Wells Fargo Bank v. Meghan Tallon, et al – (Judge Sandra Perlman) Property Address 111 NW 2nd Avenue, #3, Hallandale Beach, Florida 33009**
71. **Bank of America v. Noel Torres, et al – (Judge Sandra Perlman) Property Address 627 Southwest 9th Street, Hallandale Beach, Florida 33009**
72. **B & Z Asset Management Corp. v. Jean Victor, et al – (Judge Sandra Perlman) Property Address 520 NW 2nd Avenue, Hallandale Beach, Florida 33009**
73. **GMAC Mortgage, LLC v. Gloria Gamboa, et al – (Judge Sandra Perlman) Property Address 1118 NE 8th Street, Hallandale Beach, Florida 33009**

74. **Resurgent Capital Services v. Estate of Concetta T. Wolter, et al – (Judge Sandra Perlman)
Property Address 601 SW 6th Avenue, Hallandale Beach, Florida 33009**

75. **US Bank v. Patricia Bingue, et al – (Judge Sandra Perlman) Property Address 26 Diplomat
Parkway, #2338, Hallandale Beach, Florida 33009**

76. **Wells Fargo Bank v. Carole R. Trepanier, et al – (Judge Sandra Perlman) Property
Address 732 SW 9th Street, Hallandale Beach, Florida 33009**

cc: Renee C. Miller, City Manager
Jim Buschman, Risk Manager