

UNITED STATE DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

**FLAVA WORKS, INC.,**  
A Florida Corporation doing business as  
**COCODORM.COM, and**  
**ANGEL BARRIOS,**

CASE NO.: 07-22370-civ-MGC

Plaintiffs/Petitioners,

v.

**CITY OF MIAMI, FLORIDA,**  
A Florida municipal corporation; and  
**CITY OF MIAMI CODE ENFORCEMENT**  
**BOARD,**

Defendants/Respondents.

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**PLAINTIFF'S NOTICE OF FILING CASE STATUS REPORT**

COMES NOW, Plaintiff, Flava Works, Inc., by and through undersigned counsel, and hereby files its Notice of Filing Case Status Report and in support thereof states as follows:

1. This is a case stemming from alleged violations of city ordinances and seeking relief from the City of Miami's Code Enforcement Board's Order regarding the same based upon, *inter alia*, constitutional grounds/violations. [D.E. 1].
2. The parties filed cross-motions for summary judgment. [D.E. 18 and 21].
3. On January 27, 2009, this Court denied Defendant's Motion for Summary Judgment, granted Plaintiff's Motion for Partial Summary Judgment and quashed and voided the code enforcement board's Order. [D.E. 57].
4. On June 25, 2010, the 11<sup>th</sup> Circuit Court of Appeals reversed the district court order and rendered partial summary judgment in favor of the Defendant and remanded for further proceedings on the constitutional claims.

5. In the interim, Plaintiffs were attempting to overturn the decision of the Court of Appeals.
6. On November 30, 2010, in response to Plaintiff's Motion to Stay/Abate Case Pending Appellees' Motion to Recall Mandate of the United States Court of Appeals, 11<sup>th</sup> Circuits' Decision dated June 25, 2010 and Mandate dated July 26, 2010 [D.E. 90], this Court issued an Order Staying Case as, again, the Plaintiffs were seeking to recall the 11<sup>th</sup> Circuit's mandate on appeal.
7. Said Order from this Court also indicated Plaintiff was to file a status report 30 days from the order and every thirty days thereafter advising the Court of the status of the matter on appeal. [D.E. 91].
8. This task was incumbent upon myself, Jonathan J. Warrick, Esq., and myself alone. I personally failed to do so through inadvertence and request this Court deem this Status Report, as required in its Order dated November 30, 2010, timely filed and in compliance with said Order.
9. On January 24, 2011, the 11<sup>th</sup> Circuit Court of Appeals Denied Plaintiff's Motion to Recall Mandate. As such, Plaintiff had until approximately April 24, 2011, within which to file its writ of certiorari with the US Supreme Court.
10. Based upon information and belief<sup>1</sup>, Plaintiff had been contemplating doing so but had just recently decided against filing the writ for certiorari.
11. At this point, Counts II, V, VI and VII are all pending before this Court and unresolved.

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<sup>1</sup> Plaintiff has recently filed its Motion to Withdraw as counsel for Plaintiff [D.E. 92] which was denied by this Court. [D.E. 99]. The undersigned has been attempting to contact the Plaintiff unsuccessfully.

12. However, given the fact that the case was decided by this Court and overturned on appeal, the parties should be given a reasonable opportunity to amend its pleadings and file renewed Motions for Summary Judgment on the remaining issues before this Court. The Defendants have already filed a Renewed Motion for Summary Judgment [D.E. 95] which will be ripe for resolution once the case is opened and it is fully briefed.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the above and foregoing was filed using with the Court using CM/ECF and served to all persons listed on the attached service list by US mail, first class, pre-postage paid on this 6<sup>th</sup> Day of May, 2011.

Respectfully submitted,

By: /s/Jonathan J. Warrick  
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