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PRESS RELEASE

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City of Miami Beach Leads Coalition of 21 Local Governments in Appeals Court Fight to Defend Authority to Enact Local Human Rights Ordinances

— Controversial Orange County Trial Court Decision Found that Local Governments Do Not Have the Constitutional Authority to Enact Discrimination Laws that are More Protective than the State of Florida —

Miami Beach, FL — Today, the City of Miami Beach filed an amicus brief on behalf of a coalition of 21 Florida counties and cities urging Florida's Fifth District Court of Appeal to reverse a controversial trial court ruling finding that the Florida Civil Rights Act preempts and prohibits the long-standing authority of local governments to enact Human Rights Ordinances (HRO) to more effectively protect against harmful and invidious discrimination within their jurisdictions.

The trial court decision stemmed from a lawsuit alleging that two women in Orange County were denied entry to an establishment based on their gender, which violates the jurisdiction's HRO. The defendant establishment defended the case by arguing that local governments do not have the power to enact local HROs to govern its discriminatory conduct. The Orange County trial court agreed with that erroneous argument and entered an order invalidating the Orange County HRO.

"If allowed to stand, the trial court's decision will harm the most vulnerable people across our state by preventing local governments from barring discrimination against people not yet protected by state or federal law," said Mayor Dan Gelber. "Together with 21 other local governments, we are taking a stand in court today to ensure that the additional protections offered by local discrimination laws will continue to make our cities and counties the fairest and most equitable places to live, work, and play."

While the Florida Civil Rights Act bars discrimination on the basis of race, color, religion, sex, national origin, age, physical disability and marital status, it does not explicitly protect people from being treated differently because of their sexual orientation, gender identity, intersexuality, height, weight, domestic partner status, labor organization membership, familial situation or political affiliation. Because discrimination against these additional classes of vulnerable people can be a problem, the City of Miami Beach has enacted an HRO that prohibits discrimination based upon these additional characteristics. Forty-five other counties and cities in the State of Florida have also passed their own more protective discrimination ordinances, many of which also prohibit

discrimination on the basis of sexual orientation, gender identity and a host of other persecuted characteristics.

“The Florida Supreme Court decided in 1989 that local governments have the constitutional authority to enact more protective discrimination laws than the one enacted by the State of Florida and that Florida law does not preempt the more protective local law,” stated First Assistant City Attorney Robert Rosenwald who is lead counsel for the local governments. “Since that time, every single court to face the question of local governments’ authority to enact HROs has followed the Supreme Court’s precedent and upheld the ordinance. We are asking the appellate court to do nothing more than follow the law and reverse this rogue decision that endangers protections for so many people.”

The other local governments joining this amicus brief include: Orange County, Alachua County, Broward County, Leon County, Monroe County, Osceola County, Palm Beach County, Pinellas County, City of Atlantic Beach, City of Delray Beach, City of Dunedin, City of Ft. Lauderdale, City of Gainesville, City of Mascotte, City of Miami Beach, City of North Port, City of Orlando, City of Sarasota, City of Tampa, City of Wilton Manors, and Village of Wellington.

Briefing in the case will continue for approximately the next three to six months, followed by probable oral argument before a panel of three Fifth DCA appellate judges at some point thereafter. The court does not have any deadline to issue its opinion in the case.

The case is *Yanes v. O C Food & Beverage, LLC*, Case No. 5D19-1853 (Fla 5th DCA).

[Click here to read the full amicus brief.](#)

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