



Legislation Details (With Text)

File #: 19-0769 **Version:** 1 **Name:**

Type: Consent Item **Status:** Agenda Ready

File created: 12/2/2019 **In control:** Board of County Commissioners

On agenda: 12/10/2019 **Final action:**

Title: Request from City of Miami Beach to join in Brief of Amici Curae in Yanes v. O C Food and Beverage, LLC (Case No. 5D19-1853)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 2019-11-19 Yanes Amicus Curiae Brief (9) (003).pdf, 2. 2019-11-26 Approved-Pending-No-Unknown for Yanes Brief (3).pdf, 3. LETTER from Robert Rosenwald City of Miami Beach Attorney's Office (006).pdf, 4. Human Rights Ordinance (Resolution-Friend of the Court).pdf

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Agenda Item Name:

Request from City of Miami Beach to join in Brief of Amici Curae in Yanes v. O C Food and Beverage, LLC (Case No. 5D19-1853)

Presenter:

County Attorney's Office

Description:

On April 6, 2018, Plaintiffs, Anita Yanes and Brittney Smith ("Plaintiffs") filed a complaint in Orange County Circuit Court against O C Food & Beverage, LLC., , alleging unlawful discrimination on the basis of sex pursuant to the Orange County's Human Rights Ordinance and seeking injunctive relief and compensatory damages. The lawsuit was initiated after the Plaintiffs were denied entry to the Defendant's establishment unless they were accompanied by a male companion. In their complaint, Plaintiffs argued that the Defendant's policy was in violation of the Orange County's Human Rights Ordinance, which prohibits discrimination in a place of public accommodation on the basis of sex. The Defendant filed a motion to dismiss, arguing that the complaint should be dismissed for failure to state a cause of action because the lawsuit should have been filed under the Florida Civil Rights Act ("FCRA") rather than the Orange County Human Rights Ordinance, which, Defendant alleged, is preempted by the FCRA. On May 20, 2019, the Circuit Court entered an order granting the dismissal of the Plaintiffs' complaint finding the FCRA preempted the Orange County's Human Rights Ordinance, and that the FCRA provides a complete structure for litigating discrimination cases. The City of Miami Beach sought leave of court to appear as amicus curiae ("friend of the court") and is scheduled to file a brief in support of the Plaintiffs on or before December 16, 2019. The City of Miami Beach has requested counties and cities in Florida with similar Human Rights ordinances to join the City of Miami Beach in support of their brief.

Recommended Action:

Provide the County Attorney's Office approval to participate in the City of Miami Beach's Brief by

adopting Resolution 2019-121.

Prior Board Motions:

N/A

Fiscal Consideration:

N/A

Background:

The basic arguments included in the requested brief are as follows:

1. The Circuit Court lacked subject matter jurisdiction to invalidate the Orange County Human Rights Ordinance because Orange County was not made a party to the litigation.
2. The Florida Civil Rights Act does not preempt or conflict with local Human Rights Ordinances (Charter Counties have broad powers unless preempted or an ordinance directly conflicts with state law).

The brief does expressly state that none of the participants in the brief concede that a negative ruling in this case would invalidate the participants' Human Rights Ordinance, and request that if the Court invalidates the Orange County's HRO, the Court narrow and limit its holding to the Orange County HRO.

For reference, Alachua County Human Rights Ordinance:

Chapter 111 of the Alachua County Code: [CHAPTER 111. - HUMAN RIGHTS](https://library.municode.com/fl/alachua_county/codes/code_of_ordinances/?nodeId=PTIADCO_TIT11OF_CH111HURI)
<https://library.municode.com/fl/alachua_county/codes/code_of_ordinances/?nodeId=PTIADCO_TIT11OF_CH111HURI>