

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

BETH E. SPIEGEL,

Plaintiff,

GENERAL JURISDICTION DIVISION

CASE NO. 13-013466 CA 20

v.

YVENOLINE DARGENSON a/k/a
YVE DARGENSON, PENELOPE
TOWNSLEY and PAMELA L.
LATIMORE,

Defendants.

_____ /

RENEWED MOTION FOR TEMPORARY INJUNCTION AND OTHER RELIEF

Florida Bar No. 292771

COMES NOW the Plaintiff BETH E. SPIEGEL, by and through her undersigned counsel, and moves this Court for injunctive and other appropriate relief and as grounds therefor would state:

1. Section 7-5 of the North Miami Beach Code requires a candidate for the office of Council to be, *inter alia*, a qualified elector of the City and to be a bona fide resident of the City during the entire term of office for which he or she is a candidate.

2. Section 7-5.c. defines the term bona fide resident as meaning a permanent, fixed place of domicile within the City of North Miami Beach, to the exclusion of all other places.

3. DARGENSON filed for the office of City Council Member providing an address within the City of North Miami Beach, 1151 Northeast 161st Street, North Miami Beach, Florida 33162, and DARGENSON filed her Loyalty Oath for Candidates for Public Office indicating that she is a bona fide resident of the City of North Miami Beach

and that the City of North Miami Beach is her permanent, fixed place of domicile to the exclusion of others.

4. Article III, Section 11 of the Code of the City of North Miami Beach requires that a candidate must have continuously resided in the City of North Miami Beach for a period of twelve (12) months preceding qualification.

5. Pursuant to the Order of May 15, 2013, the Defendant DARGENSON has produced documents including but not limited to her varying insurance policies, her bank statements and some credit card statements. (She did not produce all documents which she was ordered to produce.

6. Defendant DARGENSON qualified to run for City Council on March 30, 2013.

7. From Defendant DARGENSON's production it is clear that she has not continuously resided in the City of North Miami Beach for a period of twelve months prior to qualifying.

8. Defendant DARGENSON produced verification of her auto insurance policy for a 1997 Mitsubishi Eclipse and a 2006 Toyota Sienna. Both of those verifications show YVENOLINE DARGENSON as the named insured, verify that the policy period is March 28, 2013 through September 28, 2013, and that DARGENSON's address is 9620 Boulder Street, Miramar, Florida.

9. Defendant DARGENSON apparently renewed her automobile insurance with her home address in Miramar, Florida, **two days before qualifying** to run for office in North Miami Beach.

10. Defendant DARGENSON produced a copy of her Florida Vehicle Registration for the 2006 Toyota Sienna which she drives. This is the vehicle which she had driven to work and was in when she was personally served with process in this litigation.

11. The Florida Vehicle Registration shows that the Defendant DARGENSON's address is 9620 Boulder Street, Miramar, Florida.

12. Defendant DARGENSON produced proof of her health insurance with Av-Med Insurance by way of a printout dated May 16, 2013.

13. According to Defendant DARGENSON's health insurance policy she resides at 9620 Boulder Street, Miramar, Florida.

14. Defendant DARGENSON produced two life insurance policies on her life, both of which policies included her application for insurance. Those two life insurance policy applications list the primary residence of Defendant DARGENSON as 9620 Boulder Street, Miramar, Florida.

15. This application for insurance by Defendant DARGENSON is particularly noteworthy in light of her testimony before the Court that she is a twenty (20) year resident of North Miami Beach, Florida.

16. Defendant DARGENSON has supplied no documentation as the owner and insured of those life insurance policies that her primary residence is other than 9620 Boulder Street, Miramar, Florida.

17. Defendant DARGENSON has provided her Bank of America checking account statements for 2012 and 2013, into which her paychecks are electronically deposited. That Bank of America account address is 9620 Boulder Street, Miramar, Broward County, Florida.

18. When one looks at the numerous debits from this account, Defendant DARGENSON routinely shopped and conducted her activities of everyday living in Broward County, Florida, for the one year period prior to the date of qualifying. These include but are not limited to ongoing and fairly regular grocery purchases at Publix in Miramar, shopping at Sam's Club in Miramar, gasoline purchases in Miramar, etc.

19. The trail of activity evinced on those statements makes it clear that she did not continuously reside in North Miami Beach for one year preceding March 30, 2013.

20. Defendant DARGENSON testified on May 3, 2013, that there was a Bank of America account which she obtained when she refinanced the residence at 9620 Boulder Street, Miramar, Florida, which she rarely used. The Bank of America statements make clear that she regularly and on an ongoing basis uses this checking account as her primary checking account.¹

21. Defendant DARGENSON has produced limited statements from a Credit Union account into which she apparently has savings directly deposited by her employer. While those account statements go to her mother's residence in North Miami Beach, most of the activity, the ATM and withdrawal activity, in the one year period preceding the date of qualification were conducted in Miramar and surrounding towns in Broward County, Florida.

22. Defendant DARGENSON's banking activity establish that she pays for music lessons for her daughters in Broward County, Florida, that she pays for utility service for the house in Broward County, and that she did so throughout the one year period prior to qualifying when she must have been a resident of North Miami Beach to the exclusion of all other places.

23. Defendant DARGENSON has already testified that her three daughters, ages 5, 8 and 11, live at 9620 Boulder Street, Miramar, and that they attend school in Miramar, Florida.

24. The totality of the evidence produced by Defendant DARGENSON herself establishes that she did not, in fact, reside in North Miami Beach, for a period of one year prior to the date of qualifying to run, and that she did not, in fact, reside in North

¹ It is from this Bank of America checking account that the electronic payment check issued to pay the Homeowners Association fees, which check was put into evidence on May 3, 2013, was sent, again contradicting Ms. Dargenson's testimony.

Miami Beach to the exclusion of all other residences for the one year period prior to the date of qualifying.

25. The affirmative allegations of the prior Motion for Injunctive Relief and Emergency Hearing and supporting Affidavit are incorporated by reference as if fully set forth herein.

WHEREFOR, the Plaintiff Beth E. Spiegel, asks that this Court grant immediate relief prohibiting the Supervisor of Elections from counting, tabulating or releasing any vote totals in the City of North Miami Beach, City Council, Group 4 election until further order of this Court and asks that this Court grant such other relief as may be appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via electronic mail and facsimile this 17th day of May, 2013, to: Beth E. Spiegel, (bespiegelesq@aol.com), 20801 Biscayne Blvd, Suite 304, Aventura, FL 33180, Darcee S. Siegel, Esquire, (courtdocs@citynmb.com), Attorney for Pamela L. Latimore, City Attorney, City of North Miami Beach, 17011 Northeast 19th Avenue, North Miami Beach, Florida; Oren Rosenthal, Esquire, (orosent@miamidade.gov), Attorney for Penelope Townsley, Miami-Dade County Attorney's Office, Stephen P. Clarke Center, 111 Northwest 1st Street, Suite 2810, Miami, Florida 33128; and via facsimile and United States mail to: Frank Wolland, Esquire, (fwolland@wolland.com) Attorney for Yvenoline Dargenson, 12865 West Dixie Highway, 2nd Floor, North Miami, Florida 33161.

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BY: /s/Joseph S. Geller
JOSEPH S. GELLER,
Fla. Bar No. 292771

C: Beth E. Spiegel, Esquire