

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR MIAMI-DADE COUNTY
CIVIL DIVISION
CASE NO. 2013-21112-CA-01 (25)**

KEVIN BURNS

vs.

**LUCIE TONDREAU,
PENELOPE TOWNSLEY,
MICHAEL A. ETIENNE,
CITY OF NORTH MIAMI and
CANVASSING BOARD**

**NOTICE OF FILING AFFIDAVIT OF FORMER MAYOR
ANDRE PIERRE IN OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

The defendants notify the parties and this court of the filing of the Affidavit of Former Mayor Andre Pierre in Opposition to Plaintiff's Motion for Summary Judgment.

CERTIFICATE OF SERVICE

This document was served via email on July 31, 2013:

Joseph S. Geller
Florida Bar No. 292771
Greenspoon Marder, PA
100 W. Cypress Creek Rd, Ste 700
Fort Lauderdale, FL 33309
Tel: 954.491.1120
Fax: 954.771.9264
Joseph.Geller@gmlaw.com
Francine.Williams@gmlaw.com

Oren Rosenthal
Florida Bar No. 86320
Miami-Dade County Attorney
111 NW 1st Street, Suite 2810
Miami, FL 33128
Tel: 305.375.5151
Fax: 305.375.5634
orosent@miamidade.gov

Regine M. Monestime, City Atty
Florida Bar No. 97357
776 NE 125 Street
North Miami, FL 33161
Tel: 305.895.9810
Fax: 305.895.7029
rmonestime@northmiamifl.gov

Joseph P. Klock
Florida Bar No. 156678
Gabriel E. Nieto
Florida Bar No. 147559
Hilton Napoleon II
Florida Bar No. 17593
RASCO KLOCK PEREZ NIETO
283 Catalonia Avenue
Tel: 305.476.7111
Fax: 305.675.7707
jklock@rascoklock.com
gnieto@rascoklock.com
hnapoleon@rascoklock.com

Respectfully submitted,

**LAW OFFICE OF
BENEDICT P. KUEHNE, P.A.**
100 S.E. 2nd St., Suite 3550
Miami, FL 33131-2154
Tel: 305.789.5989
Fax: 305.789.5987
ben.kuehne@kuehnelaw.com
efiling@kuehnelaw.com

By: 
BENEDICT P. KUEHNE
Florida Bar No. 233293

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PENELOPE TOWNSLEY,
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CITY OF NORTH MIAMI
CANVASSING BOARD**

**AFFIDAVIT OF FORMER MAYOR ANDRE PIERRE IN
OPPOSITION TO PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

1. I, Andre Pierre, execute this affidavit under oath, after having been sworn.

2. I am the former Mayor of North Miami, having been first elected as Mayor in 2009, and serving continuously until the North Miami Run-Off election in June 2013.

3. I am familiar with the Charter provisions, ordinances, rules, and procedures governing municipal elections in North Miami. During my tenure as Mayor, the North Miami Commission reviewed, evaluated, and

considered the election requirements applicable to the City.

4. The only mandatory requirements for candidate eligibility in North Miami are those set forth in the North Miami Charter. Pursuant to the Charter, the Commission is the final and sole arbiter of the qualifications of its members.

5. The North Miami Ordinance governing candidate qualifications, City Code §6-78(b), do not impose any additional requirements from those set forth in the Charter. The Ordinance is not and has never been considered a mandatory requirement for candidate eligibility. The listing of documents supportive of a candidate's residency certification is only directory and not mandatory.

6. In fact, during the May 14, 2013 North Miami General Election, the voters were asked to approve the following Charter Amendment governing proof of residency requirements that were not a part of the Charter existing as of the qualifying period for the 2013 election. The proposed Charter Amendment states:

The Charter currently does not require a candidate for City Council and City Clerk to show State of Florida identification. It is proposed that the Charter be amended to require a candidate for City Council to submit a Florida government

issued identification with proof of residency showing the candidate has continuously resided in the district for which the candidate is seeking election, one (1) year prior to the time of qualification.

Shall the above-described Charter Amendment be adopted?

7. The North Miami voters approved the Charter Amendment at the May 14, 2013 General Election, thereby incorporating for the first time a specific proof of residency requirement.


8. During my terms of office, neither the North Miami Commission nor the North Miami Clerk has considered the provisions of City Code §6-78(b) to be mandatory.

9. During my tenure in office, no candidate attesting to being a North Miami resident for one year preceding qualifying for office has ever been required to submit the documents listed in the City Code §6-78(b) as a condition of qualifying for office.

10. During my tenure in office, no candidate has been disqualified for having failed to produce any of the documents listed in City Code §6-78(b).

11. I am personally aware that during the campaign period preceding the May 14, 2013 general election, Kevin Burns claimed to have

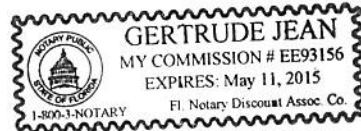
information purporting to establish that candidate Lucie Tondreau was not a qualified resident of North Miami. During that same period, Kevin Burns claimed that other North Miami candidates were not qualified residents.


ANDRE PIERRE, ESQ.

Before me personally appeared Andre Pierre on July 31, 2013, who is a person personally known to me, was first placed under oath, swore to tell the truth, and affixed his signature in my presence.



Notary Public, State of Florida



Name of Notary:



Benedict P. Kuehne

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