

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

GENERAL JURISDICTION DIVISION

CASE NO.: 16-023904 CA 01

REGINE M. MONESTIME,

Plaintiff,

v.

CITY OF NORTH MIAMI,

Defendant.

_____ /

AMENDED COMPLAINT FOR DAMAGES FOR BREACH OF CONTRACT

Plaintiff, Regine M. Monestime. (“Monestime”), through undersigned counsel sues Defendant, the City of North Miami (“North Miami”), for damages and states as follows:

PARTIES AND JURISDICTION

1. This is a complaint for damages for breach of an employment contract between Monestime and North Miami.
2. Jurisdiction is vested in this Court pursuant to Article VII, Section 5 of the Florida Constitution and Section 26.012(2)(a), Fla. Stat.
3. The claims are in excess of \$15,000.00, exclusive of interest, costs, and attorney’s fees.
4. A true and correct copy of the “Employment Contract between the City of North Miami, Florida and Regine M. Monestime” (“Contract”) is attached hereto as **Exhibit “A”**.
5. Monestime is a citizen and resident of Miami-Dade County, Florida.
6. Monestime is an attorney, a member of the Florida Bar and served as City Attorney for North Miami.

7. The Defendant, the City of North Miami, is a municipal corporation organized and existing under the laws of the State of Florida.

8. Venue is appropriate in this county, because this is the county in which North Miami is located.

9. All conditions precedent to bring in this action have been performed.

FACTS

10. Monestime entered into the Contract with the City of North Miami, in which Monestime was employed by North Miami as City Attorney. The contract, as entered into, provided in Section 3 as follows:

Term:

The term of this Contract shall be for three (3) years, commencing on March 12, 2012 (the "Term, Date"), and ending on March 11, 2015. The term of the contract shall automatically renew unless the contract is terminated by COUNCIL pursuant to Section 4 below.

11. Section 15 (D) of the Contract provided :

No alteration, modifications or amendments to the terms of this Agreement shall be effective unless contained in writing and executed by the CITY and the CITY ATTORNEY

12. On or about December 9, 2014, at a City Council meeting, the City Council of North Miami passed a motion which purported to delete the second sentence in Section 3, so that the provision which provided "the term of the contract shall automatically renew, unless the contract is terminated by COUNCIL pursuant to Section 4 below" was purported to be deleted from the Contract.

13. The purported deletion of the automatic renewal provision was not in writing or executed by Monestime, as City Attorney.

14. The purported reason given by the Council for its action on December 9, 2014 was that it wanted to renegotiate the terms of the Contract.

15. The purported deletion of the last sentence of Section 3 was ineffective.

16. The City did not make a good faith effort to renegotiate the terms of the Contract.

17. Following March 11, 2015, Monestime continued to work for the City and the City continued to pay her. The Contract was treated as it was still in effect.

18. At a City Council meeting of June 23, 2015, with no notice to Monestime, North Miami purported to terminate Monestime. She was given until the end of June, 2015 to gather her effects and vacate her place of employment at City Hall. The City Council instructed that she not have any access to documents.

19. North Miami has not sent Monestime written notice, as required by the Contract. Nor has North Miami given Monestime 90 days written notice, as required by the Contract.

20. The purported termination of Monestime was without cause.

21. As applicable here, the Contract contains the following termination and severance provisions:

Termination and Severance:

Nothing in this Contract shall prevent, limit or otherwise interfere with the absolute right of the COUNCIL to terminate the services of the CITY ATTORNEY at any time, with or without cause, This Contract may be terminated by the COUNCIL upon ninety (90) days written notice to the CITY ATTORNEY, and a duly adopted Resolution of the COUNCIL, which notice shall specify the effective date of termination which shall not be less than ninety (90) days from the date said written notice is given. In the event that the CITY ATTORNEY voluntarily resigns, then she shall give the COUNSEL at least (90) days written notice in advance, unless the parties agree to waive such notice.

(A) Any termination of this Contract without "cause", as defined below, shall entitle the CITY ATTORNEY to (i) payment of all accrued, unused, longevity, vacation and sick leave at the

rate of pay in effect at the time of termination and (ii) five (5) months severance if less than five months remain in the term of the Contract or the remaining amount due under the Contract if more than five months remain in the term of the Contract. However, no severance shall be paid if the remaining amount due under the Contract is paid to the CITY ATTORNEY and no such payment shall be construed as severance.

COUNT I
BREACH OF CONTRACT

22. Monestime readopts and realleges the allegations of Paragraphs 1 through 21 above.

23. North Miami has breached the terms of the Contract by, among other specific breaches, (i) purporting to change the terms of the Contract in a manner that was specifically prohibited by the Contract, (ii) treating the Contract as if it had terminated, when it had not, and thus denying Monestime her employment, (iii) failing to pay Monestime or pay on Monestime's behalf, the Annual Base Salary, Deferred Compensation, Automobile and Communication Equipment Allowance to which Monestime is entitled under Sections 5, 6 and 7 of the Contract, respectively, and (iv) provide Monestime the Health, Dental, Life and Disability Insurance benefits to which Monestime was entitled under Sections 9 and 10 of the Contract, respectively.

24. Alternatively, if Monestime's Contract was validly terminated by North Miami pursuant to Section 4 of the Contract, the City has breached the terms of the Contract by failing to pay Monestime all accrued, unused longevity, vacation and sick leave, as well as severance which Monestime was due under Section 4(A) of the Contract.

25. As a result of North Miami's multiple breaches of the attached Contract, Monestime has incurred damages, including without limitation, loss of the Annual Base Salary, Deferred Compensation, Automobile and Communication Equipment Allowance to which Monestime was entitled, payment by North Miami of Monestime's Health, Dental, Life and

Disability Insurance benefits, or alternatively, the vacation, sick leave and severance payments which Monestime would be entitled to receive if her employment was validly terminated.

26. Monestime has been required to retain the undersigned to vindicate her rights under the Contract.

27. Monestime is entitled to attorney's fees under Florida Statute Section 448.08.

WHEREFORE, based on the above and foregoing, Monestime respectfully requests the entry of a judgment against North Miami awarding damages, interest, together with such other and further relief as is appropriate, including her costs and attorney's fees.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial.

Dated this 2nd day of August, 2017.

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