

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

BETH E. SPIEGEL,

GENERAL JURISDICTION DIVISION

Plaintiff,

CASE NO.

v.

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

Defendants.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Florida Br No. 254541

Plaintiff, BETH E. SPIEGEL, sues Defendants, YVENOLINE DARGENSON a/k/a  
YVE DARGENSON, PENELOPE TOWNSLEY and PAMELA L. LATIMORE. and states  
as follows:

**PARTIES, VENUE AND JURISDICTION**

1. This is a complaint for declaratory and injunctive relief.
2. Plaintiff, BETH E. SPIEGEL (hereinafter "SPIEGEL") is a candidate for the position of Council Member, Group 4, City of North Miami Beach.
3. Defendant, YVENOLINE DARGENSON a/k/a YVE DARGENSON (hereinafter "DARGENSON") is a candidate for the position of Council Member, Group 4, City of North Miami Beach.
4. Defendant, PENELOPE TOWNSLEY (hereinafter "TOWNSLEY") is the Supervisor of Elections of Miami-Dade County, Florida, and is responsible for certain aspects of the May 7, 2013, municipal election in the City of North Miami Beach under contract to the City and is sued solely in her official capacity.

5. Defendant, PAMELA L. LATIMORE (hereinafter "LATIMORE") is the City Clerk of the City of North Miami Beach and is responsible for the conduct of the municipal election for North Miami Beach, scheduled for May 7, 2013, and is sued in her official capacity.

### **FACTUAL ALLEGATIONS**

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

7. Section 7-5.c. of the City Code defines the term of a bona fide resident and states:

"The term 'bona fide resident' shall mean a permanent, fixed place of domicile within the City of North Miami Beach, to the exclusion of all other places."

8. Article III, Section 11 of the North Miami Beach City Charter requires:

"Each candidate at the time of qualifying with the Clerk must have continuously resided in the City of North Miami Beach for at least one (1) full year."

9. DARGENSON filed for the office of City Council Member providing an address within the City of North Miami Beach of 1511 Northeast 161<sup>st</sup> Street, North Miami Beach, Florida.

10. Plaintiff has good reason to believe that DARGENSON has not been a bona fide resident of the City of North Miami Beach for a period of one (1) year prior to the date of qualifying.

11. Plaintiff has good reason to believe that DARGENSON, at the time of qualifying with the Clerk, had not continuously resided in the City of North Miami Beach for at least one (1) full year prior to qualifying.

12. Upon information and belief the Plaintiff asserts that at the time that DARGENSON executed her Loyalty Oath for Candidates for Public Office, a copy of which is attached hereto as Exhibit 1 and incorporated by reference herein, she was not a bona fide resident within the meaning of the Code and Charter of the City of North Miami Beach, Florida.

13. Plaintiff has good reason to believe that as of May 12, 2012, less than one (1) year prior to the date of qualifying Defendant DARGENSON was, in fact, residing at 9620 Boulder Street, Miramar, Broward County, Florida.

14. If this is correct DARGENSON would not be a qualified candidate for a position on the City Council and no vote should be counted for her in the election of May 7, 2013.

**COUNT I**  
**DECLARATORY RELIEF**

Plaintiff readopts and realleges Paragraphs 1-14 as if set forth herein.

15. Consistent with the practices and policies of the City of North Miami Beach, there are official investigations of the residency and qualification for office of DARGENSON on the issue of her residency within the City.

16. As a result of these investigations it is apparent that DARGENSON does not qualify for the office of Council Member in North Miami Beach for which she is on the election ballot for May 7, 2013.

17. Plaintiff brings this action so that the Court can render its judgment on the existence, if any, of the right and/or privilege of DARGENSON to participate as a candidate in the municipal election scheduled for May 7, 2013, and/or for the Court to determine the status of DARGENSON's residency for the purposes of said election and/or for the Court to determine Plaintiff's rights, status or interest in regard to May 7, 2013, election *vis a vis* her opponent.

**COUNT II**  
**INJUNCTIVE RELIEF**

Plaintiff readopts and realleges Paragraphs 1 through 17 as if fully set forth herein.

18. It is not in the public interest for a candidate who is not qualified for the office for which she seeks election to be elected to that office.

19. If an unqualified candidate for office is allowed to participate in the election such that votes cast for that candidate are counted both the Plaintiff and the public at large will suffer an injury for which there is no adequate remedy at law.

20. Based upon the available evidence Plaintiff will show that it is more likely than not that DARGENSON is unqualified for the office of North Miami Beach City Council Member, Group 4.

21. Plaintiff will attempt to provide Defendant DARGENSON with sufficient notice for an emergency hearing to be held on a Motion for Injunctive Relief.

22. If Plaintiff were to be unable to timely locate Defendant DARGENSON to give her notice of the hearing sought, and due to lack of time and notice, this Court therefor were to refuse to act, irreparable injury of an election with an unqualified candidate's participation would occur.

23. Plaintiff seeks an emergency hearing in order to avoid that irreparable injury, with notice if notice is possible, but without notice if that is the only alternative.

24. Upon information and belief, DARGENSON has concealed her true and bona fide residence and has deceived public officials by filing qualification papers listing an address which is not her bona fide address and/or which has not been her bona fide residence for the required period of time in order to qualify to run for City Council.

WHEREFOR, Plaintiff prays this Court grant unto her the following relief:

A. Set an emergency hearing at which a temporary, preliminary and/or permanent injunction may be granted; and

B. Order that Plaintiff's Affidavit filed concurrently herewith, may be used to support an application for temporary injunction unless DARGENSON appears at the hearing or unless DARGENSON has received reasonable notice of the emergency hearing and fails to appear; and

C. Enter a declaratory decree that DARGENSON is not a qualified candidate for North Miami Beach City Council because she is not and has not been a bona fide resident of the City of North Miami Beach; and

D. Enjoin Defendants TOWNSLEY and LATIMORE from counting any votes cast for DARGENSON in the May 7, 2013, election for North Miami Beach City Council, Group 4; and

E. Such other and further relief as this Court deems just and proper.

DATED this 12<sup>th</sup> day of April, 2013.

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