



VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council

Franklin H. Caplan, *Mayor*

Michael W. Davey, *Vice Mayor*

Theodore J. Holloway

Michael E. Kelly

Mayra P. Lindsay

Ed London

James S. Taintor

Village Manager

John C. Gilbert

DATE: January 14th, 2014
TO: Honorable Mayor and Members of the Village Council
FROM: John C. Gilbert, Village Manager
RE: Red Light Traffic Camera "Local Hearing Officer Appointment"

RECOMMENDATION

It is recommended that the Village Council consider the Village Manager's appointment of Ms. Michele Aimee Vargas to serve as the Village's Local Hearing Officer to conduct hearings related to violations of Section 316.0083 of the Florida Statutes and Section 26-46 of the Village Code of Ordinances (Red Light Traffic Camera Violations).

The cost of the Local Hearing Officer will be \$250.00 per hearing.

BACKGROUND

Florida State Statutes 316.0083 entitled "Mark Wandall Traffic Safety Program" as amended July 1, 2013 was adopted by the Village of Key Biscayne via Ordinance 2013-6 amending Chapter 26 of the Village Code of Ordinances (the "Village Code") to comply with the provisions of the amended Statute.

Section 26-46; entitled "Definitions"; "Local Hearing Officer" directs the Village Manager to appoint a "Local Hearing Officer" authorized to conduct hearings related to a notice of violation issued pursuant to Florida State Statutes 316.0083, and this enabling Ordinance. This Section also calls for the ratification of the appointment by the Village Council.

Section 26-52; entitled "Notice of Violation Hearing Procedures" states in part: "A Petitioner who elects to request a hearing shall be scheduled for a hearing by the clerk of the Local Hearing Officer to appear before a Local Hearing Officer with notice to be sent by first-class mail"; "The Local Hearing Officer shall take testimony from a traffic infraction enforcement officer and the Petitioner, and may take testimony from others. The Local Hearing Officer shall review the photographic or electronic images or the

streaming video made available under F.S. § 316.0083(1)(b)1.b., as amended. Formal rules of evidence do not apply, but due process shall be observed and govern the proceedings”; and “At the conclusion of the hearing, the Local Hearing Officer shall determine whether a violation under F.S. § 316.0083, as amended, has occurred, in which case the hearing officer shall uphold or dismiss the violation. The Local Hearing Officer shall issue a final administrative order including the determination and, if the notice of violation is upheld, require the Petitioner to pay the penalty assessed.”

Ms. Vargas has been practicing law as a good standing member of the Florida Bar. Ms. Vargas has the experience and qualifications to responsibly and professionally perform the requisite duties (see attached Resume as Exhibit A).

Ms. Vargas is also recommended by the Police Department who received applications and conducted interviews for the position. Additionally, Ms. Vargas successfully passed the background testing conducted by the Police Department.

Reviewed by Mr. Chad Friedman from Weiss Serota Helfman Pastoriza Cole & Boniske as to form and legal sufficiency.

RESOLUTION NO. 2014-

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, RATIFYING THE VILLAGE MANAGER'S APPOINTMENT OF MICHELE AIMEE VARGAS AS THE LOCAL HEARING OFFICER AUTHORIZED TO CONDUCT HEARINGS RELATED TO A NOTICE OF VIOLATION ISSUED PURSUANT TO SECTION 316.0083, FLORIDA STATUTES AND SECTION 26-46 OF THE CODE OF ORDINANCES OF THE VILLAGE OF KEY BISCAYNE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne, Florida (the "Village") wishes to conduct hearings related to notices of violation that are issued pursuant to Section 316.0083, Florida Statutes, and Section 26-46 of the Village Code of Ordinances; and

WHEREAS, in order to issue said notices of violation, the Village must appoint a Local Hearing Officer to conduct hearings related to those violations; and

WHEREAS, the Village has determined that Michele Aimee Vargas has the requisite qualifications and experience to perform the duties of the Local Hearing Officer (see attached resume as Exhibit "A"); and

WHEREAS, the Village Council has determined that it is in the best interests of the Village to ratify Michele Aimee Vargas as the Local Hearing Officer.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Ratification. The Village Council hereby ratifies the appointment of Michele Aimee Vargas as the Local Hearing Officer

Section 3. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this ____ day of January, 2014.

MAYOR FRANKLIN H. CAPLAN

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

EXHIBIT "A"
Resume of Michele Aimee Vargas

Michele Aimee Vargas

504 Giralda Avenue; Coral Gables, FL 33134 | 305.632.8229 | aimee2102@msn.com

BAR ADMISSIONS

- Florida.
- Southern and Middle Districts of Florida.
- Eleventh Circuit Court of Appeals.

EXPERIENCE

Armor Correctional Health Services, Inc., Miami, Florida

Associate General Counsel

Aug. 2012 – Sept. 2013

Advise and report to the owner, CEO, and COO on all legal aspects of regulatory compliance, contractual matters (including negotiation, execution, revocation, and amendments), medical/nursing licensing, and reporting of professional violations. Oversee litigation strategy and defense in complex medical malpractice and commercial litigation claims and lawsuits. Draft proposals to RFPs, hire and manage outside appellate counsel, respond to media inquiries, draft and implement companywide document retention policy, and recover multimillion-dollar account receivables. Head Armor's regulatory compliance in FL, NY, GA, VA, and OK, including Medicaid, Medicare, ADA, EEOC, FMLA, HIPAA, DEA, PPACA, HITECH, PREA, and review of other federal or state law or municipal ordinance.

Carlton Fields, Miami, Florida

Senior Litigation Associate

Mar. 2008 – July 2012

Primary practice: insurance defense involving multi-million dollar claims under CGL, PL, homeowners, life, health, and AD&D policies. Secondary practice: business litigation with an emphasis on commercial and residential foreclosures.

- Draft pre-trial pleadings and motions.
- Draft coverage and reservation of rights letters.
- Conduct discovery, including fact witness depositions and oversee production of ESI discovery.
- Draft trial motions: in limine, *Daubert* motions, bench briefs, and special jury instructions.
- Successfully argue motions in federal and state court.
- Routinely settle multi-million dollar claims for under \$50,000.
- Participate in trial team involving \$110 million claim for coverage in federal court.

Adorno & Yoss, LLP, Miami, Florida

Associate

Nov. 2005 – Mar. 2008

Primary practice: pharmaceutical, products liability, tobacco, benzene, asbestos, and insurance defense. Secondary practice: commercial litigation and appeals.

- Draft and argue pre-trial and dispositive motions.
- Conduct discovery, including fact and expert witness depositions.
- Obtained dismissal of several Celebrex and Bextra lawsuits against Pfizer in multiple states.
- Settled multi-million dollar pharmaceutical case and commercial litigation cases.
- Prepare expert witnesses for depositions and trial.
- Draft appellate briefs, trial motions, and jury instructions.
- Draft direct and cross-examination of fact and expert witnesses.
- Participate and argue in multi-million dollar pharmaceutical defense trial team in federal court.
- Participate in multi-million dollar asbestos defense trial team in state court.
- Participate in bad faith defense trial team in federal court.

Law Offices of Wolpe, Leibowitz, Miami, Florida

Associate

May 2004 – Nov. 2005

Insurance defense, commercial litigation, and medical malpractice defense.

- Legal research.
- Draft pre-trial and dispositive motions.
- Conduct discovery, including fact and expert witness depositions.
- Argue discovery and dispositive motions.
- Draft mediation statements.

Law Offices of J.P. Gonzalez-Sirgo, Miami, Florida

Associate

Sept. 2003 – May 2004

Insurance, premises liability, personal injury, wrongful death, and products liability.

- Draft and argue discovery and dispositive motions.
- Conduct discovery, including fact witness depositions.
- Settle cases.

ASSOCIATIONS, PRO BONO, AWARDS, & SPEAKING ENGAGEMENTS

- *Lawyers for Children America*: pro bono representation of abused and abandoned children in dependency court.
- *Hispanic National Bar Association (HNBA)*: Florida Regional Deputy President of External Affairs, responsible for vetting of judicial candidates (state, appellate, and federal district courts) in Miami-Dade County seeking HNBA endorsement; Human Trafficking Task Force Director.
- *HNBA* Chair/Speaker at March 2011 Immigration Symposium on Arizona SB 1090 and similar legislation in other states.
- *HNBA* Co-supervisor of FIU and STU law school students participating in 2011 clearing house project involving research and analysis of current immigration legislation introduced at the state level.
- *HNBA* Chair/Speaker at January 2012 and 2013 Human Trafficking Conferences.
- 2013 HNBA First Annual Bra Drive Chair.
- Guest Speaker, NBC 6 South Florida Morning Show.
- Nominated for *HNBA* “Rising Star” award.
- *Congressional Hispanic Caucus*: speaker at the 2011 “Ready to Lead” project in Miami.
- Carlton Fields, recipient of the 2010 and 2011 pro bono award for approximately 200 hours of volunteer work.
- Nominated for *South Florida Business Journal* “40 Under 40” 2012 Award.

DECISIONS & PUBLICATIONS

- *Lori Jo Bailey v. Johnson & Johnson, Inc. et. al.* (11th Cir. 2008).
- Co-authored, “*Vioxx: Setting the Standard for Future Mass Tort Litigation and Settlements*,” DRI Products Liability Conference, part of “*What’s Hot in Pharmaceutical and Medical Device Litigation* (March 2008).
- Author of chapter on Florida domestic partnership agreements for the Florida Equality Project.

EDUCATION

St. Thomas University School of Law, Miami, FL

Juris Doctor

May 2003

Honors:

Dean’s List: Fall 2000, Fall 2001, Spring 2002 & Fall 2002; Academic Scholarship Recipient 2001 – 2003; Book Award: Environmental Law, Fall 2002.

Clerkship:

Honorable Gisella Cardonne, Circuit Court of the Eleventh Judicial Circuit, Summer 2001.

St. Thomas University, Miami, FL

Bachelor of Arts, Cum Laude

May 2000

Double Major: Political Science & Psychology.

Honors:

Dean’s Scholarship Recipient, 1996 – 2000; Honors Program Graduate; Outstanding Achievement Award in Political Science, Spring 2000.

LANGUAGE

Fluent in Spanish.