

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI/ DADE COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

ALFONSO “ALFIE” LEON,

Plaintiff,

vs.

2017_____

**JOE CAROLLO, CHRISTINA
WHITE in her official capacity as
the Supervisor of Elections in Miami-
Dade County, TODD HANNON, in
his official capacity as CLERK OF
THE CITY OF MIAMI.**

Defendants.

_____ /

EMERGENCY COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
(Temporary Injunction Requested)

The Plaintiff, ALFONSO “ALFIR” LEON (LEON), sues the Defendants JOE CAROLLO (CAROLLO), CHRISTINA WHITE (WHITE) in her official capacity as the Supervisor of Elections in Miami-Dade County, TODD HANNON (HANNON), in his official capacity as Clerk of the City of Miami, and alleges as follows:

1. This action is initiated pursuant to § 86.021, Florida Statutes (F.S.) and pursuant to the General Equity Jurisdiction of the Court as established in F.S. §26.012, asking this court to declare that, CAROLLO, who has qualified to run as a candidate for City of Miami Commissioner District 3, has violated § 4(c) of the City of Miami Charter which required him to reside in District 3 for a year before he qualified to run for office.

2. Plaintiff also seeks Injunctive relief to direct the Defendants, WHITE AND HANNON to remove CAROLLO from the list of qualified Candidates for the November 21, 2017 Election for City of Miami Commissioner, District 3.
3. Because this action involves an election that will take place solely in the City of Miami which is contained solely within Miami-Dade County, Florida, venue is proper in the 11th Circuit Court in and for Miami-Dade County, Florida.
4. The Plaintiff, Alfonso “Alfie” Leon, is a candidate for Miami Commission, District 3 and a qualified elector within District 3, entitled to vote in the runoff election for District 3 Commissioner to be held on November 21, 2017.
5. The Defendant, CAROLLO, is a candidate in the runoff election for City of Miami Commission, District 3.
6. The Defendant, WHITE, is the Supervisor of Elections for Miami-Dade County, Florida and is sued in her official capacity as the officer charged with conducting all elections within Miami-Dade County, Florida where City of Miami Commission, District 3 is located and thus is an indispensable party to this action because of the relief requested.
7. The Defendant, HANNON, is the Clerk for the City of Miami and is sued in his official capacity as the officer charged with qualifying all candidates for, and conducting all elections within the City of Miami where City Commission, District 3 is located and thus is an indispensable party to this action because of the relief requested.

FACTS

8. On September 23, 2017, the Defendant, JOE CAROLLO presented paperwork to the City Clerk in Miami Florida in order to file and qualify to run as a candidate for City Commission in District 3.
9. As part of the paperwork CAROLLO presented to the Division of Elections, he also submitted a Candidate Oath swearing under oath that he had lived within District 3 for a period of a year or more before qualifying to run. [See Exhibit “A”]
10. Carollo, however, did not move into the apartment stated on his candidate oath until, at the earliest, October of 2016 and likely December of that year. Carollo, in fact, did not change the address on his voter registration until October 18, 2016 to an address listed as 110 SW 10th Street in Miami. In all actuality, that seemed to be the property appraiser address of the building where Carollo was alleging to live, however, no one, not even the building itself used that address for mailing purposes.
11. In December of 2016, Carollo again changed his voter registration to 100 SW 10th Street in Miami. While this was the address he intended to have, Carollo did not list it on his Voter Registration until less than a year before qualifying for office. [See Exhibit “B”, Response to public records request by Miami Dade Elections.]
12. To make matters more suspicious, Carollo did not change the address on his driver’s license until January of 2017. [See Exhibit “C”]

DECLARATORY RELIEF

13. Plaintiff reaffirms and realleges paragraphs numbered 1 through 12 as set forth above.

14. Section 4(c) of the City of Miami Charter required Carollo to reside in District 3 for a year before he qualified to run for office.
15. Based on his voter registration information and his driver's license, CAROLLO did not move into District 3 until LESS than a year before qualifying to run.
16. As CAROLLO does not meet the requirements of Section 4(c) of the Miami Charter, he can not run for Commissioner in District 3 and must be removed as a candidate.
17. As a candidate for Commissioner, District 3 and a qualified elector in the City of Miami District, LEON has standing and the duty to request this Court to declare the candidacy of the Defendant CAROLLO to be void as it is prohibited by the City of Miami Charter.
18. The Defendants WHITE and HANNON are joined in this action as a necessary and indispensable parties for the purposes of relief sought. In the absence of a judicial declaration and order directing Defendant WHITE AND HANNON, to remove CAROLLO from the list of qualified Candidates for City of Miami Commission, District 3, the Plaintiff and other electors of District 3 will be denied their right to a fair and uniform election and will be irreparably injured as voters will be mistakenly voting for an individual who has not been a resident of the District for a year prior to qualifying for office and is thus not eligible or qualified to run for City Commissioner.
19. Leon is without an adequate remedy at law. The Plaintiff, in the absence of a declaration by this Court accompanied by supplemental injunctive relief determining that the Defendant CAROLLO is prevented by the Miami Charter from running for office and directing the Defendant WHITE AND HANNON to remove his name from the list of qualified candidates for City Commission, District 3 and prevent him from appearing on the ballot for the November 21, 2017 election, the

Plaintiff and the electors of District 3 will not only be deprived of the right to a legal, proper and effective vote but will also be denied the effective enforcement of the law requiring candidates for City office to be residents of the District for at least a year prior to qualifying for office and thereby will be irreparably injured.

20. Plaintiff reaffirms and realleges paragraphs numbered 1 through 12 as set forth above.
21. LEON seeks temporary and permanent injunctive relief from this Court, enjoining CAROLLO from running for City Commissioner ordering Defendants WHITE and HANNON to remove CAROLLO from the list of qualified Candidates for City Commission, District 3.
22. LEON meets the standard to seek injunctive relief.
23. “The issuance of a preliminary injunction is an extraordinary remedy which should be granted sparingly, which must be based upon a showing of the following criteria: (1) The likelihood of irreparable harm; (2) the unavailability of an adequate remedy at law; (3) substantial likelihood of success on the merits; and (4) considerations of the public interest.” *City of Jacksonville v. Naegele Outdoor Advertising Co.*, 634 So.2d 750 (Fla. 1st DCA, 1994)
24. Should CAROLLO not be enjoined from running for City Commissioner, District 3 when he has not resided there for the past 365 days, the Plaintiff and the other qualified electors in District 3 will be damaged and irreparably harmed by a candidacy of someone who has violated the City of Miami Charter.
25. CAROLLO has violated his oath of candidacy and is thus attempting to secure votes from electors in State Senate District 3 when he has not resided there for 365 days prior to qualifying and is thus materially misconstruing his oath to unsuspecting voters.
26. Without an injunction removing CAROLLO from the ballot, the Plaintiff and the voters in Miami

Commission 3 have no other adequate remedy at law and will suffer damages.

27. Plaintiff, LEON, has a substantial likelihood of success on the merits as the information is clear that CAROLLO did not live in the district for longer than 365 days prior to qualifying to run for office.
28. The issuance of an injunction will protect the public interest by ensuring that only candidates that meet the requirement of the City Charter are allowed to run for office in the City.

WHEREFORE, the Court is respectfully requested to assert and assume jurisdiction and enter judgment declaring that CAROLLO is prevented by City of Miami Charter from seeking election to Miami Commission for District 3 when he HAS NOT lived there of for the 365 days preceding his qualifying for office and ordering Defendants WHITE AND HANNON remove the name of the Defendant CAROLLO from the list of qualified candidates for City of Miami Commission, District 3 and enjoining CAROLLO from running as a Candidate for City Commission as well as granting such other relief as would be just and equitable.

Respectfully Submitted this 20th day of November, 2017 by,

KYMP
Counsel for Plaintiff
600 Brickell Avenue, Suite 1715
Miami, Florida 33131
Telephone: 305-531-2424
Email: jcplanas@kymplaw.com

By: **JUAN-CARLOS PLANAS,**
ESQ. Fla. Bar No.: 156167

EXHIBIT “A”

AFFIDAVIT OF CANDIDATE

CITY OF MIAMI, FLORIDA

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2017 SEP 23 PM 3:25
CITY OF MIAMI

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)
CITY OF MIAMI)

Joe CAROLLO (hereinafter "affiant"), being first duly sworn, deposes and says:

- 1. My name is Joe CAROLLO
- 2. For those candidates seeking the office of Mayor, please check the appropriate subsection (a) below. Those candidates seeking the office of Commissioner please check and fill in the blank in subsection (b) below:

(a) I am offering myself as a candidate for the office of Mayor of the City of Miami, Florida. If elected, I fully understand that I must maintain an actual and real residence within the City of Miami for the duration of my term of office.

(b) I am offering myself as a candidate for the office of Commissioner in District Number 3 of the City of Miami, Florida. If elected, I fully understand that I must maintain an actual and real residence within the district for the duration of my term of office.

- 3. I have resided in the City of Miami for a minimum of one year before qualifying if applying for Mayor, and one year in the district if applying for the Commission, and I am a registered voter and a duly qualified elector of the City of Miami, Florida, presently registered to vote in Precinct No. 563.

I presently reside at the following address (must include zip code):

1005 W. 10th Street, Apt. 504, MIAMI, FL 33130

which is my legal address, and I have resided continually at said address from the 22nd day of September 2014 to the present.

- 4. Immediately prior to residing at the above-stated address, I have resided at the hereinbelow listed addresses for the cited periods of time (list hereinbelow all addresses at which you have resided for the past five years, as well as the length of time at each address):

<u>Prior Addresses</u>	<u>For the Period</u>
<u>3230 MORRIS LANE</u>	<u>MARCH 1st, 2002 to</u>
<u>MIAMI, FL 33133</u>	<u>September 21, 2016</u>

- 5. In addition to the residence that I have listed as my present address, I also reside at the following listed addresses on a temporary basis as a secondary domicile or domiciles:

N/A

- 6. Affiant's spouse resides at the following address (must include city, state and zip code):

100 SW. 10th Street, Apt. 504, MIAMI, FL 33130

7. Affiant's minor children reside at the following address (must include city, state and zip code):

N/A

8. At the present time, affiant (is) (is not) registered to vote in any city, county or state other than as stipulated in subparagraph 3 above.

9. Name and business address of affiant's employer:

Consulting Associates Group, Inc.
3126 Coral Way, Miami, FL 33145

10. Affiant's occupation Consultant - Self Employed

Affiant's business telephone number(s): 305-305-2534

11. Affiant has been employed in the above-cited capacity for the following period of time:

FROM MARCH 2, 2015 TO PRESENT

(Note: In the event the occupation of affiant has been for a period of less than one year, or the employment period with the same employer has been for a period of less than one year, affiant shall give the name(s) and address(es) of his/her employer(s) and occupation(s) for the period of one year prior to the date of this affidavit).

N/A

12. Affiant represents that he/she (is) (is not) currently holding another elective or appointive office – whether city, county or municipal – the term of which or any part thereof runs concurrently with that of the office he/she seeks, and that he/she has resigned from any office from which he/she is required to resign pursuant to F.S. 99.012 and/or the City of Miami Charter.

13. Affiant represents that, as of this date, he/she (is) (is not) seeking to qualify for public office which is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise him/her and who has qualified as a candidate for reelection to that office.

Note: If affiant is an employee of the City of Miami, affiant shall take a leave of absence, without pay from his/her employment during the period in which affiant has become a candidate for elective public office. This subsection does not apply to the Commissioners and Mayor, City Manager, City Attorney, City Clerk, and Independent Auditor General. Such leave of absence shall be effective upon whichever occurs first:

- (a) Such employee receives contributions or makes expenditures, or gives her or his consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to public office; or
- (b) At the time such employee appoints a campaign treasurer and designates a primary depository; or
- (c) At the time such employee files qualification papers and subscribes to a candidate's oath as required by law.

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2015 SEP 23 PM 3:28
CITY OF MIAMI
OFFICE OF THE CITY CLERK

14. Affiant's campaign headquarters address and telephone number:

Campaign mailing address - 3126 CORAL WAY, MIAMI, FL 33145
305-305-2534

Affiant's campaign treasurer's name:

JAVIER BAÑOS MACHADO

Affiant's campaign treasurer's address:

3126 CORAL WAY, MIAMI, FL 33145

Telephone numbers: (work) 786-476-2000

(home) N/A

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15. Affiant represents that, if elected, he/she shall serve in the elective office to which he/she seeks election.

16. Following is the exact way in which affiant would like to have his/her name printed on the official ballot:

JOE CAROLLO

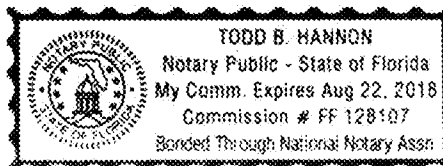
SIGNED THIS 23RD DAY OF September, 2017

Joe Carollo
AFFIANT

BEFORE ME, the undersigned authority, personally appeared Joseph X. Carollo who, after first being duly sworn, deposes and states that he executed the foregoing to the best of his knowledge and belief.

[Signature]
CITY CLERK
CITY OF MIAMI, FLORIDA

(SEAL)



Did take an oath

Produced identification

Type of identification produced: FL DRIVER'S LICENSE

EXHIBIT “B”



J.C. Planas <jcplanas@kymplaw.com>

Public Records Request

Trutie, Suzy (Elections) <suzy.trutie@miamidade.gov>

Wed, Nov 15, 2017 at 3:20 PM

To: "J.C. Planas" <jcplanas@kymplaw.com>

Cc: "White, Christina (Elections)" <Christina.White@miamidade.gov>, "Rosenthal, Oren (CAO)" <Oren.Rosenthal@miamidade.gov>, "McClain, Michelle (Elections)" <Michelle.McClain@miamidade.gov>, "Ramirez, Vanessa (Elections)" <Vanessa.Ramirez@miamidade.gov>, "Cruz, Leiric (Elections)" <Leiric.Cruz@miamidade.gov>, "Innocent, Vanessa (Elections)" <Vanessa.Innocent@miamidade.gov>, "Records Request (Elections)" <RECREQELEC@miamidade.gov>

J.C.,

See attachments. The address was changed on 10/18/2016 to 110 SW 10th Street Apt. 504. On 12/30/2016, he changed from 110 SW 10th Street Apt. 504 to the current address of 100 SW 10th Street Apt. 504.

Suzy Trutie

Deputy Supervisor of Elections, Government Affairs and Media Relations

Miami-Dade County Elections Department

2700 NW 87 Avenue

Miami, FL 33172

Direct: 305-499-8409 | Fax: 305-499-8501 | Mobile: 305-495-7557

Email: suzy.trutie@miamidade.gov
www.miamidade.gov/elections



Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. Email messages are covered under such laws and thus subject to disclosure.

From: J.C. Planas [mailto:jcplanas@kymplaw.com]

Sent: Wednesday, November 15, 2017 2:49 PM

To: Trutie, Suzy (Elections) <suzy.trutie@miamidade.gov>

[Quoted text hidden]

[Quoted text hidden]

2 attachments

Joseph Carollo - Voter Audit Report_Redacted.pdf

81K



Joseph Carollo - Voting History Report.pdf

78K

EXHIBIT “C”

Driver's License Information (4 Found) [\[Back to Table of Contents\]](#)

JOSEPH XAVIER CAROLLO

3230 MORRIS LN, MIAMI, FL 33133-3231 (MIAMI-DADE COUNTY)

DL#: C640-499-55-092-0

Issuing State: FL

License Type: CLASS E

Original Issue Date: 03/31/1977

Issue Date: 04/11/2013

Expiration Date: 03/12/2021

Date of Birth: 03/12/1955 , Born 62 years ago

Gender: Male

Race: White

Height: 6'0"

Attention Flag: ORGAN DONOR

Privacy Flag: T

*Duplicate Replacement
in 1/2017 w/ address
change to 100 SW 10th Street*

JOSEPH XAVIER CAROLLO

100 SW 10TH ST APT 504, MIAMI, FL 33130-4081 (MIAMI-DADE COUNTY)

DL#: C640-499-55-092-0

Issuing State: FL

License Type: CLASS E

Original Issue Date: 03/31/1977

Issue Date: 04/11/2013

Expiration Date: 03/12/2021

Date of Birth: 03/12/1955 , Born 62 years ago

Gender: Male

Race: White

Height: 6'0"

Attention Flag: ORGAN DONOR

Privacy Flag: T

JOSEPH XAVIER CAROLLO

2642 NATOMA ST, MIAMI, FL 33133-2426 (MIAMI-DADE COUNTY)

DL#: C640-499-55-092-0

Issuing State: FL

Issue Date: 02/20/1995

Date of Birth: 03/12/1955 , Born 62 years ago

Gender: Male

Race: White

JOSEPH X CAROLLO

3230 MORRIS LN, MIAMI, FL 33133-3231 (MIAMI-DADE COUNTY)

DL#: C640-499-55-092-0

DL State: FL

Reported Date: 08/22/2016

Date of Birth: 03/12/1955 , Born 62 years ago

Richard L. Barbara, Esq.



224 Palermo Avenue