

RESOLUTION NO. 199-19

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, DIRECTING THE CITY ATTORNEY TO SEEK LEAVE OF COURT TO APPEAR AS *AMICUS CURIAE* AND FILE A BRIEF IN SUPPORT OF THE PLAINTIFFS IN ANY APPEAL OF A TRIAL COURT ORDER IN *YANES V. O C FOOD & BEVERAGE, LLC* (CASE NO. 18..CA- 003554-0), WHICH FOUND THAT THE ORANGE COUNTY HUMAN RIGHTS ORDINANCE WAS PREEMPTED BY THE FLORIDA CIVIL RIGHTS ACT.

WHEREAS, on April 6, 2018, Plaintiffs, Anita Yanes and Brittney Smith ("Plaintiffs"), filed a complaint in Orange County Circuit Court against O C Food & Beverage, LLC., d/b/a/ Rachel's and West Palm Beach Food and Beverage, LLC, d/b/a Rachel's Adult Entertainment and Steakhouse ("Defendant"), alleging unlawful discrimination on the basis of sex pursuant to Orange County's Human Rights Ordinance and seeking injunctive relief and compensatory damages; and

WHEREAS, the lawsuit was initiated after the Plaintiffs were denied entry to the Defendant's adult establishment unless they were accompanied by a male companion; and

WHEREAS, in their Complaint, Plaintiffs argued that the Defendant's policy was in violation of Orange County's Human Rights Ordinance, which prohibits discrimination in a place of public accommodation on the basis of sex; and

WHEREAS, Defendant filed a motion to dismiss, arguing that the complaint should be dismissed for failure to state a cause of action because the lawsuit should have been filed under the Florida Civil Rights Act ("FCRA") rather than the local human rights ordinance, which, Defendant alleged, is preempted by the FCRA; and

WHEREAS, on May 20, 2019, the Circuit Court entered an order granting the dismissal of the Plaintiffs' complaint, finding that the FCRA preempted Orange County's Human Rights Ordinance, and that the FCRA provides a complete structure for litigating discrimination cases; and

WHEREAS, the Mayor and City Commission assert that the Circuit Court's order of dismissal is erroneous and jeopardizes the validity of local human ordinances across the State of Florida, including the City's own Human Rights Ordinance; and

WHEREAS, the City of Delray Beach has always been at the forefront of protecting civil rights and has one of the most progressive and comprehensive human rights ordinances in the country; and

WHEREAS, as such, the Mayor and City Commission desire that the City Attorney seeks leave of court to appear as *amicus curiae* ("friend of the court") and file a brief in support of Plaintiffs and in defense of Orange County's Human Rights Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby affirmed and ratified.

Section 2. The Mayor and City Commission hereby direct the City Attorney to seek leave of court to appear as *amicus curiae* and file a brief in support of the Plaintiffs in the case of *Yanes v. O C Food & Beverage, LLC* (Case No. 1B·CA-003554·0), which case found that the Orange County Human Rights Ordinance was preempted by the Florida Civil Rights Act.

Section 3. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the ____ day of _____, 2019

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney