

## FROM THE COURTS

# Law Firm Accused of Defaulting on \$18M Debt to Litigation Funder



CARMEN NATALE

Besides failing to repay its debt, Callagy Law of New Jersey has refused to provide Legal Capital Group of Boca Raton any information about the status of the cases for which the funds were borrowed, according to the suit, which is before U.S. District Judge Madeline Cox Arleo.

by Charles Toutant

A New Jersey law firm faces an \$18 million suit over its alleged failure to repay a litigation funder that helped finance personal injury cases.

Besides failing to repay its debt, Callagy Law of Paramus has refused to provide the funder any information about the status of the cases for which the funds were borrowed, according to the suit by Legal Capital Group of Boca Raton, Florida.

Legal Capital provided 16 advances totaling \$441,794 from January to September 2013 on personal injury cases brought by the Callagy firm and an additional \$150,000 to attorney Benjamin Light and his firm, Aromando & Light, who are not named as defendants in the suit. Callagy, who was litigating several cases on behalf of Light, agreed to give a security interest in his firm's cases to secure the advance to Light, the suit says.

The loans carried interest rates ranging from 1.99% to 4.99%, compounded monthly. The loan agreement includes a clause agreeing to cross-collateralize all personal injury cases the firm has pending and in the future.

The case, before U.S. District Judge Madeline Cox Arleo of the District of New Jersey, names Callagy Law and its principal, Sean Callagy, as defendants.

Callagy referred a reporter's questions about the case to his law partner, Michael Smikun. Smikun said the Callagy Law Firm is not liable for the loans, because they were taken out by a separate entity, The Law Office of Sean R. Callagy, Esq. In addition, the loans were made on a nonrecourse basis and were made in cases that did not result in any recovery. As a result, no repayment is due on the loans, said Smikun, who disputed the claim that his firm withheld the status of the cases from its lender.

The volume of inquiries to legal funders has been strong, and is getting a further boost thanks to the COVID-19 pandemic. The increased volume has resulted in more suits by funders against law firms over nonpayment of advances.

In the Callagy case, despite the seemingly disproportionate amount of interest compared to the sum originally borrowed, it's unlikely that the loan contract would be set aside by a New Jersey court, said Anthony Sebok, a professor at Cardozo Law School who studies litigation funding. He said many in the legal community consider such high-interest loans a violation of the court's ethics rules, but judges are unlikely to object for that reason. Sebok said he's "puzzled" why this firm agreed to such a high rate of interest. But notwithstanding the Callagy firm's assertion that it's off the hook for the debt because the underlying cases failed to recover, the cross-collateralization clause "increases the likelihood that the obligation to repay is triggered," said Sebok, who reviewed court documents in the case.

The suit against Callagy Law represents a reversal of roles, since the firm, with 21 lawyers, is accused of defaulting on a litigation funding after representing litigation funders in suits against other parties that allegedly defaulted on such loans. Beginning in 2014, Callagy Law represented Prospect Funding Holdings in a dispute with a personal injury litigant who received a \$15,000 advance on his case, then claimed the funding company charged usurious rates.

Callagy, the firm principal, has represented George Prussin, the principal of Legal Capital Group, in litigation on behalf of another litigation funding company he owned, Law Funder. In 2014, Callagy won a \$33 million verdict on behalf of Law Funder in Bergen County Superior Court.

The suit was filed by Christopher McHattie of the McHattie Law Firm in Boonton. He did not respond to a request for comment.

The suit brings claims for breach of contract and breach of the implied covenant of good faith and fair dealing and seeks an equitable accounting.

**Charles Toutant is a litigation writer for the New Jersey Law Journal, an ALM affiliate of the Daily Business Review. Contact him at [ctoutant@alm.com](mailto:ctoutant@alm.com).**



## CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **VIRTUAL COUNCIL ZONING MEETING** on **Wednesday, May 13, 2020 beginning at 11:30 AM**, to consider prohibiting Medical Marijuana Treatment Center Dispensaries within all zoning districts in the City of Doral. The City Council will consider this item for **SECOND READING**. The meeting will be held with the elected officials, administration and City staff participating via video conferencing.

Governor DeSantis' Executive Order Number 20-69 suspended the requirements of Section 112.286, Florida Statutes and the Florida Sunshine Law, that a quorum to be present in person, and that a local government body meet at a specific public place. The Executive Order also allows local government bodies to utilize communications media technology, such as telephonic and video conferencing for local government body meetings.

**Public Comment:** members of the public that wish to provide comments may do so by emailing the City Clerk at [cityclerk@cityofdoral.com](mailto:cityclerk@cityofdoral.com). Comments must be submitted with your name and full address by **Tuesday, May 12, 2020**. The comments will be circulated to the elected officials and administration, as well as remain as a part of the record for the meeting.

The meeting will be broadcasted live for members of the public to view on the City of Doral's website (<https://www.cityofdoral.com/government/city-clerk/council-meetings>) as well as Channel 77 and Facebook Live.

The City of Doral proposes to adopt the following Ordinance:

### ORDINANCE No. 2020-01

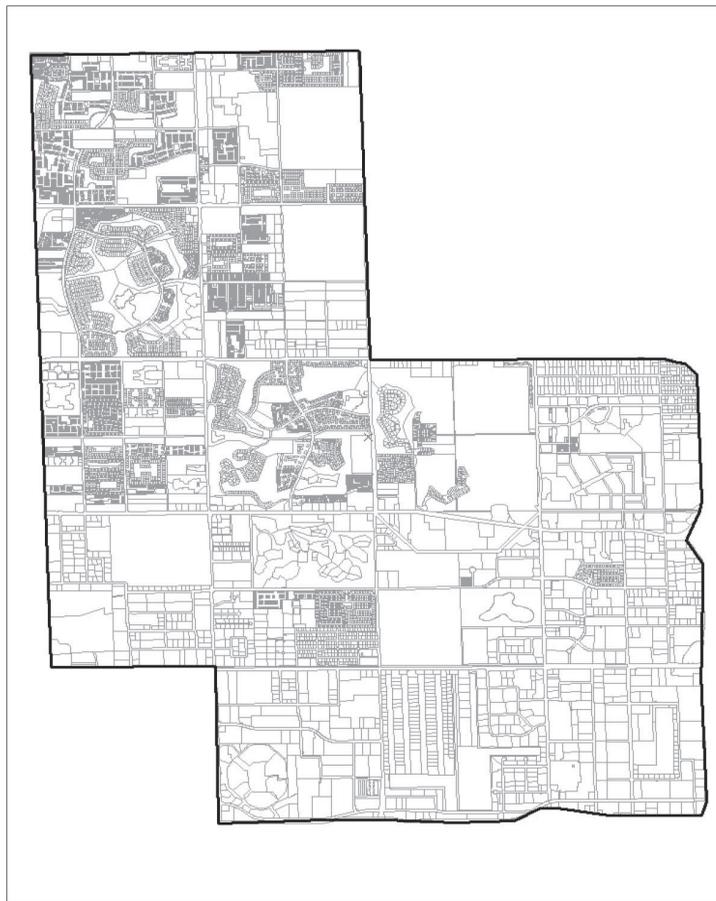
**AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING CHAPTER 53, ARTICLE II, DIVISION 5, SECTION 53-128, ENTITLED "USE COMPATIBILITY TABLE", OF THE CITY OF DORAL LAND DEVELOPMENT CODE; PROHIBITING MEDICAL MARIJUANA TREATMENT CENTER DISPENSARIES WITHIN ALL ZONING DISTRICTS IN THE CITY OF DORAL; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR CONFLICTS; PROVIDING FOR INCORPORATION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE**

**HEARING NO.:** 20-05-DOR-13

**APPLICANT:** City of Doral

**REQUEST:** The City of Doral (the "Applicant") is requesting Mayor and City Council approval to prohibit the establishment of Medical Marijuana Treatment Center Dispensaries within all zoning districts in the City of Doral.

### Location Map



Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes if a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, any person who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

Connie Diaz, MMC  
City Clerk  
City of Doral

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