



**GENTNER DRUMMOND  
ATTORNEY GENERAL**

February 14, 2023

Mr. Michael Burrage, Esq.  
Mr. Reggie Whitten, Esq.  
Whitten & Burrage, LLP  
512 North Broadway Avenue, Suite 300  
Oklahoma City, OK 73102

***Re: Contract for Legal Services Opioid Litigation***

Dear Messers Burrage and Whitten:

This letter's purpose is to expressly terminate your firm's *Contract for Legal Services Opioid Litigation* (the "Contract") to represent the State of Oklahoma and the Office of Attorney General in holding opioid companies accountable for the irreparable harm they have caused countless Oklahoma families.

Pursuant to Paragraph 18 of the Contract, I hereby direct you to turn over to my office all work product and financial records relating to the Contract, including but not limited to receipts, invoices, emails, text messages, notes, exhibits, documents, and drafts, in electronic form where available.

While your efforts under the Contract have certainly succeeded in enriching yourselves far beyond what you deserve, those efforts have fallen far short of delivering the results that Oklahomans are entitled to receive. For instance, at the time your firm executed its agreement with then-Attorney General Mike Hunter, it did not include a cap on overall fees, unlike agreements for similar services between other states and their outside counsel. Subsequent addenda to the Contract eventually provided for lower fees, and potentially an overall cap, but only after I criticized the arrangement publicly.

Under this arrangement, your firm has been empowered to pocket over \$34 million in fees, profiting from an opioid crisis that continues to cause irreversible damage to Oklahoma citizens. Given Mr. Burrage's prominent feature on the front page of the enclosed Mansion Section of the Wall Street Journal on January 6, 2023, for purchasing three separate luxury condominiums at the Four Seasons Hotel and Residences in Fort Lauderdale, Florida, for \$13.45 million, it is evident that each of you personally benefitted from the excessively profitable payment provisions of the Contract that I am terminating.

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In contrast, this Contract proved to be unnecessarily costly for the State of Oklahoma. By way of example, in the settlement that you negotiated with opioid distributors Cardinal Health, McKesson, and AmeriSource Bergen, Oklahoma received \$293 million. However, had the State joined the multistate efforts and not retained your firm as outside counsel, Oklahoma's recovery would still have been the same amount, except the State would not have paid \$26 million in fees and \$2 million in expenses to outside counsel. In other words, by virtue of the Contract with your firm, Oklahoma's recovery from the settlement with the opioid distributors was reduced by \$28 million, from \$293 million to \$265 million. Similarly, under the Purdue Pharma settlement that you facilitated, outside counsel was paid \$52.5 million in fees, accounting for a full 19% of the total settlement amount. Your firm's staggering share of this settlement was over \$16 million. Had the Contract implemented even a 15% cap, as has been done in other similar opioid settlements,<sup>1</sup> Oklahoma citizens would have benefited from an additional \$12 million to fight the present and continuing effects of opioid addiction.

You may recall that I was an unapologetically vocal critic of this agreement in my 2018 campaign for Attorney General. I noted that the Contract was executed outside of an open bidding process that would have resulted in lower fees. Additionally, I questioned the fact that such a lucrative no-bid, no-cap contract was executed mere weeks after you and your spouses donated the maximum legal amount to the campaign of the man who signed the Contract.

I was not the only Oklahoman to find the whole arrangement objectionable. The Legislature and Governor wisely took action to ensure that such a back-room deal could not be struck again. What should have been common sense then is law now: future contingency fee agreements for outside counsel are capped. Furthermore, as an additional safeguard, in cases where attorney's fees and expenses are expected to exceed \$1 million, contracts for representation may only be entered into upon the completion of an open and transparent bidding process. This will ensure the best possible representation for the State at the best possible price for Oklahoma taxpayers.

In addition, your misguided efforts to hold Johnson & Johnson liable for its role in the opioid crisis solely through an untested use of Oklahoma's public nuisance doctrine resulted in the squandering of a multi-million-dollar recovery for the State. In its opinion overturning the lower court's decision in *Johnson & Johnson*, the Oklahoma Supreme Court expressly provided that the state's nuisance law "does not extend to the manufacturing, marketing, and selling of prescription opioids[.]" because it is not a doctrine intended to address policy problems, such as the opioid crisis. *State ex rel. Hunter v. Johnson & Johnson*, 2021 OK 54, 499 P.3d 719, 720. As contracted outside counsel, your firm had an obligation to provide competent representation, but by stretching the limits of settled law as the only foundation for recovery, you clearly erred and in turn, failed in your obligations. In short, I believe that you cut corners for a quick pay day.

I further find your efforts to secure additional funding from the Allergan settlement, which was not negotiated by your firm, unconscionable. Addendum Six to the Contract was executed on the eve before I took office and was an obvious attempt to forcibly bind my administration into

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<sup>1</sup> In fact, in the multidistrict settlements with opioid distributors Cardinal, McKesson, and AmeriSourceBergen, as well as opioid manufacturer Johnson & Johnson, a federal judge recognized that a contingent fee for private counsel of participating subdivisions in excess of 15% of the participant's total award is presumptively unreasonable. *In re Nat'l Prescription Opiate Litig.*: Order, Case No. 1:17-MD-2804 Doc#: 3814 (Aug. 6, 2021).

even further enrichment of your firm while putting unenforceable restrictions on the State's Attorney General. This Contract, and the profit it allows you to amass, undermines the duties I must uphold as Attorney General, and I will not tolerate such agreements.

Your prompt fulfillment of the above directive is required. A representative from my office will contact your firm to answer any relevant questions and make the appropriate arrangements for the transfer of all records pertaining to this matter.



Gentner Drummond  
Oklahoma Attorney General

Enclosure: Wall Street Journal extract





**Turret Time**  
A renovation transforms a Kentucky home. **M3**

# MANSION

**\$55 Million**  
One year after purchase, owner sells Aspen home at huge profit. **M7**



HOMES | MARKETS | PEOPLE | REDOS | SALES

THE WALL STREET JOURNAL.

Friday, January 6, 2023

**Sale Price:**  
**\$4.3 Million**



## Fort Lauderdale Gets an Upgrade

Once known as a spring break destination, the city has come into its own as a high-end real-estate hot spot. But can its market survive the housing downturn?

By **Cecilia Rohwedder**

**M**ichael Burrage liked Fort Lauderdale ever since his first visit as a college student in the 1970s but bought a home there only in March 2022, when the latest addition to a burgeoning luxury market, Four Seasons Hotel and Private Residences, opened in the Florida beach town.

Last spring, with the slowdown on the horizon, Mr. Burrage spent \$13.45 million to buy three condominiums in the complex's yacht-shaped building on the Atlantic Ocean. Mr. Burrage, 72, co-founder of Oklahoma City-based law firm Whitten Burrage, said he trusted the chain's brand and had studied sales and resale prices at its other residence projects, including one in Miami.

"I thought it was a decent investment, given what happened in other places," said Mr. Burrage. With high-end residences and restaurants, he said, Fort Lauderdale no longer lags behind luxury Florida destinations such as Miami and Palm Beach. "Fort Lauderdale has grown up," he said.

Known as a spring-break destination since the 1960 movie "Where the Boys Are," a

comedy about four college girls letting loose in Fort Lauderdale, the resort town is transforming itself into a year-round, urban community rife with glitzy developments. That transformation began around 2016 when Fort Lauderdale, long a modest, middle-class destination with dive bars for shoeless and shirtless tourists, attracted developers looking for lower-priced land on the same coastline as its more glamorous neighbors.

Early prestige projects such as Auberge Beach Residences & Spa and 100 Las Olas sold out swiftly, and more upscale projects piled in. The trend was fueled by the pandemic, with its influx of remote workers from northern states relocating for sunnier surroundings, fewer Covid restrictions and lower taxes, said Jenni Morejon, president and chief executive of the Fort Lauderdale Downtown Development Authority, a public-private partnership.

Now, the economic downturn is casting a cloud on this transformation: Home sales in Broward County in November 2022 were down 35% from November 2021, and real-estate listings rose for the fifth straight month, according to the Miami Association of Realtors and MLS. But high-end home buyers aren't balking, and developers keep

Please turn to page M4



Michael and Aletha Burrage bought several condos in March 2022, including one they are using as a home, below, and two for family, above. They also rent the guest units out.

**\$13.45 MILLION**  
Total cost of three condos purchased by the Burrages at the Four Seasons Hotel and Residences.

**Sale Price:**  
**\$4.7 Million**



## The Biggest Sales of 2022

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MANSION

Fort Lauderdale

Continued from page M1  
building, banking on South Florida's long-term growth prospects, said Ken H. Johnson, an economist at Florida Atlantic University in Boca Raton. Six new condo buildings are being planned in downtown Fort Lauderdale.

The region's real-estate market, Mr. Johnson said, benefits from a continuing inflow of residents that boosts housing demand, low inventory that props up prices, and a changing economy drawing affluent buyers to its growing technology and financial services sectors.

"Florida's economy is evolving, and this downturn will slow it down, but it will not stop it," said Mr. Johnson.

Sales and prices of luxury homes in Fort Lauderdale are declining from record highs in 2021 but are still well above pre-pandemic levels. The average sale price of the city's homes over \$1 million



The Burrages on the deck of their new condo

dropped to \$2.7 million in November 2022, according to Broward, Palm Beaches & St. Lucie Realtors, an association with several South Florida locations, down from \$3.5 million in the red-hot market of November 2021—but up from \$2.1 million in November 2019. Similarly, sales of homes in Fort Lauderdale over \$1 million fell to 40 in November 2022, down from 77 in

November 2021, but up from 30 in November 2019, according to the Miami Association of Realtors and the MLS. There were more homes in the city priced over \$1 million for sale in November 2022 than in November 2021, but fewer than in November 2019, according to the association.

Softening the downturn in Fort Lauderdale are sun-seeking foreigners flocking

to its new residential towers, said David Dweck, president of the Broward-Miami Association of Realtors, a division of Miami Realtors.

"Our international market is what's keeping luxury sales pushing forward," he said.

Fort Lauderdale's real-estate market is also benefiting from a high number of cash buyers undeterred by rising rates. All-cash trans-



Mr. Burrage said the couple preferred Fort Lauderdale to Miami because the larger city felt too densely packed.

actions accounted for 43% of Broward County sales in November, according to Miami Realtors, compared with 26% nationwide, according to the National Association of Realtors. Donna Incorvaja, a local agent with RelatedISG Realty, said for buyers with tighter budgets, Fort Lauderdale is more affordable than its prominent neighbors. "For what you can buy a house here, you can afford a condo in Miami," said Ms. Incorvaja. She said buyers also like that Fort Lauderdale is now more cosmopolitan, but still quieter, safer and more laid-back than its glamorous neighbors.

"We're the Goldilocks between Palm Beach and Miami," said Ms. Morejon from the Downtown Development Authority. She predicts that in the coming months, some projects would stop for lack of credit, but investors would continue to recognize the town's long-term potential.

Mr. Burrage, the buyer, preferred Fort Lauderdale to Miami because the larger city felt like "an ant hill,

where everyone is on top of each other." Mr. Burrage is planning to spend part of the winter in the two-bedroom, 2,200-square-foot condo on the 11th floor that he bought for \$4.7 million for himself and his wife, Aletha Burrage, 72, a retired teacher. The other two units, both on the fifth floor, are a \$4.3 million, 1,900-square-foot, two-bedroom apartment and a \$4.45 million, 2,200-square-foot, three-bedroom apartment for their sons Sean, 54, and David, 46, and their families. When not needed for family gatherings such as Sean's coming January wedding, those condos are in the Four Seasons' rental pool. From his own 11th-floor unit, Mr. Burrage likes to watch the boats on the ocean, people on the beach and the traffic on Fort Lauderdale Boulevard below.

"It's like having a movie theater out there," he said. Of the 83 Four Seasons residences, three are still unsold, including a five-bedroom, 6,200-square-foot lower penthouse on the 21st floor for \$15.5 million.

WINDSOR

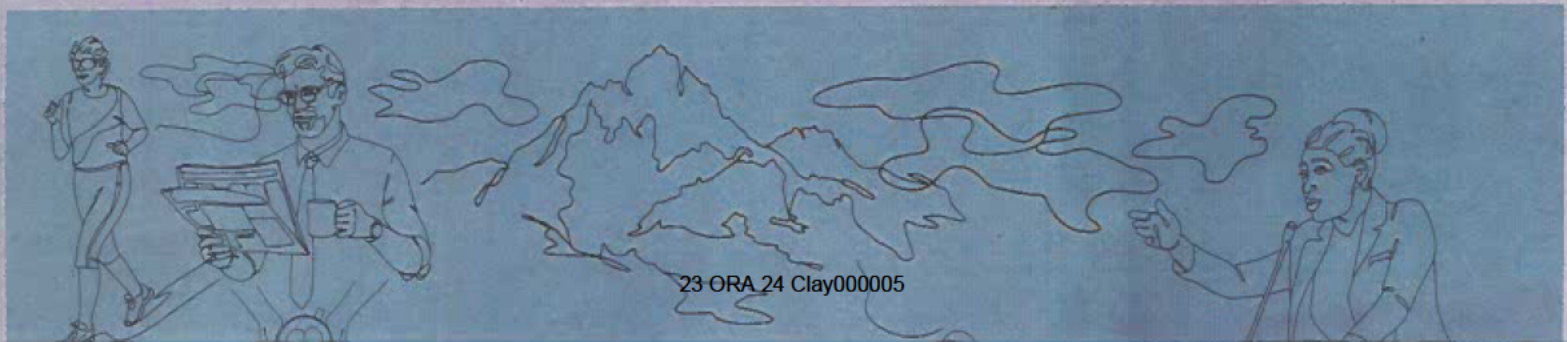


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The beach in Fort Lauderdale with the Four Seasons Hotel and Residences in the background.





MANSION

Ramzi Achi, principal of Miami-based Fort Partners, the lead developer, said Fort Lauderdale was ready for five-star condos, and for prices once unthinkable in the resort town. The building's strong sales and resale prices, he said, suggested that a sinking economy isn't sinking the city's luxury real estate.

"Fort Lauderdale has new developments offered every day, and there are many in the pipeline," said Mr. Achi. "I don't see a major slowdown."

Dan Carinci and his fiancée, Jodie Sweeney, bought a contemporary, 3,700-square-foot, four-bedroom house in Victoria Park, a quaint neighborhood for \$2.1 million in January 2022. The pair chose Fort Lauderdale over Scottsdale and Las Vegas for its outdoor lifestyle and community, where Mr. Carinci, 44, competes in jiu-jitsu and Ms. Sweeney, 38, in the International Fitness and Body Building Federation. Mr. Carinci, who owns an independent insurance company, The Daniel Carinci Agency, wanted a quiet neighborhood to walk the couple's three dogs, Charlie,

Bo and Lou. The newly built, stark white house replaced an older home torn down on the same lot, a common occurrence in Fort Lauderdale's low-inventory market, according to Ms. Incorvaja at Related ISG Realty. It was 35% to 40% done when Mr. Carinci signed the contract, and completion dragged on, frustrating the couple. At the same time, Mr. Carinci said he sees similar homes

selling for more, suggesting that he didn't overpay. Even though he said he and Ms. Sweeney "aren't beach people," they love crossing the Intracoastal Waterway and seeing the expanse of the Atlantic Ocean.

On the Intracoastal, local businessman Michael Velez bought two units at Edition Residences Fort Lauderdale, two 11-story towers for 65 luxury condos planned to be

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Dan Carinci and Jodie Sweeney in front of their 3,700-square-foot home in the Victoria Park neighborhood



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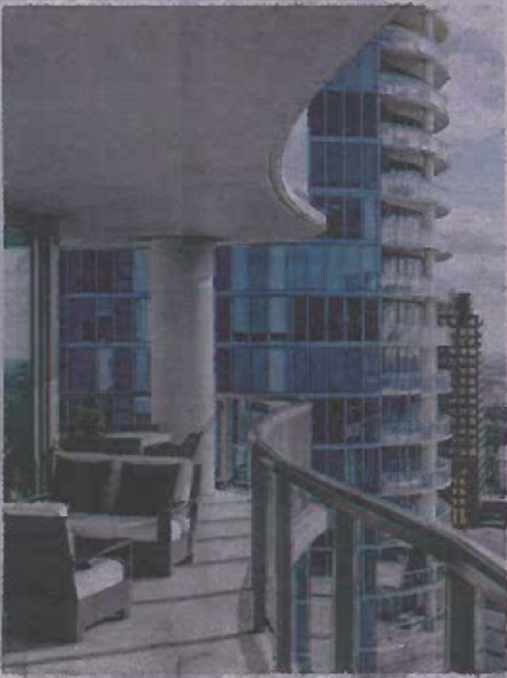


Sale Price:  
**\$1.24 Million**

Continued from the prior page built by 2026. Sales kicked off in October. Undaunted by the softening market, Mr. Velez snapped up a fourth-floor, three-bedroom Villa with a private plunge pool and a sixth-floor Tower Residence for \$4.5 million each. Mr. Velez, 50, partner at an entertainment and public relations firm, said he might buy a third unit, plus a boat dock, an enclosed two-car garage and a cabana. When the building is finished, Mr. Velez will move from his current, 9,000-square-foot house in nearby Las Olas Isles. He said he didn't mind paying top-of-the-market prices.

"I was fine with the price per square foot," he said. "If it goes up or goes down, I'm good." To reserve the units, he has put down 10% of the total purchase price.

One month into the launch, 25% of the condos



are sold, according to Coral Gables-based Location Ventures, which is developing the building with Marriott International's Edition Hotels brand. The presales proved buyers' ongoing appetite, said chief executive Rishi Kapoor.

"We certainly see the storm clouds that are gathering across the country, but you don't call it sunny South Florida for nothing," he said.

Jason and Cassie Amato bought a three-bedroom, 1,900-square-foot condo at 100 Las Olas, a 46-story tower in downtown Fort Lauderdale, for \$1.24 million in February 2021. Hoping to move from Chicago, the Amatos visited Fort Lauderdale in the spring of 2020 when they caught Covid-19 and quarantined in the Hyatt Centric Las Olas, a hotel attached to the residences that would become



Jason and Cassie Amato at their condo at 100 Las Olas, Fort Lauderdale's tallest building. They bought it in 2021.

their future home.

"We said, we're not coming back here ever again, and now we live in the same building," says Mr. Amato, 47, a banker in wealth management. With his wife, 49, recruiting manager at a bank, he now lives on the 30th floor of Fort Lauderdale's tallest building. The condo faces west, giving the Amatos views of the river and vibrant sunsets. Mr. Amato said he didn't mind buying at the height of the market. The couple had made offers on two other units before buying their new home, sight unseen, because the condos were selling so fast at the time.

"Our interest was, let's find something we really love," he said. "We didn't buy it to sell it or as an investment. We bought it as a home."

One of the 113 condos in the two-year-old building is still for sale, a two-level, four-bedroom unit with a den for \$5.9 million. The developer, Delray Beach-based Kolter Group, said it

started looking for downtown properties around 2015, after concluding that Fort Lauderdale had enough affluent buyers for luxury condos away from the beach, said Ed Jahn, senior vice president in its Kolter Urban division. Since then, he said, retirees and empty nesters have been joined by second homeowners establishing full-time residence, both for Florida's low taxes and for remote work during the pandemic.

Kolter is now building twin condo towers called Selene Oceanfront Residences in Fort Lauderdale Beach that it is planning to complete in 2024. Its 194 units cost upward of \$2.7 million, with penthouses starting at \$10.8 million. The high-rise project is 70% sold. Mr. Jahn said sales traffic has slowed down, but the company isn't changing its strategy or discounting units.

"We are keeping things steady for now," he said. "We haven't changed our incentives on any of our Fort Lauderdale projects."

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