

This '8-Figure' Miami Ruling Could Have Implications for Area Schools

Greenberg Traurig was pitted against Kluger, Kaplan, Silverman, Katzen & Levine and William Petros Law at the Third District Court of Appeal.

by Michael A. Mora

A Florida appellate ruled that a charter school is entitled to a share of property-tax money that Miami-Dade County voters approved for increasing teacher pay and school safety several years ago.

Alan J. Kluger of Kluger, Kaplan, Silverman, Katzen & Levine, and William L. Petros of William Petros Law, represented the City of Aventura and Archimedean Academy Inc., respectively, against the School Board of Miami Dade County in the Third District Court of Appeal.

Kluger said if the school board's exposure is held to be retroactive, the "eight-figure" ruling would have significant implications.

"Every charter school in Miami-Dade County is going to be able to go back against the school board for all the years they refused to give them referendum money," Kluger said. "They owe the City of Aventura alone in excess of \$3 million."

Now, Miami-Dade Circuit Judge Barbara Areces will determine when the school board will share the money with the charter schools—pending a potential appeal by the Miami-Dade School Board to the Florida Supreme Court.

Jay A. Yagoda of Greenberg Traurig, who is the lead attorney for the Miami-Dade School Board, did not respond to a request seeking comment on Wednesday.

The underlying dispute in this case stemmed from a



Alan J. Kluger (L) of Kluger, Kaplan, Silverman, Katzen & Levine and Jay A. Yagoda (R) of Greenberg Traurig

referendum that Florida voters passed in November 2018 in which the state levied an additional 0.75 mills of property taxes for four years, according to court documents.

The point of contention centered on the fact that charter schools, which are public institutions operated by entities outside of the regular educational system, were not mentioned in the ballot measure.

But one year later, the legislature amended the 2018 version of Florida Statutes Sec. 1011.71(9), to include: “For the purpose of distributing taxes collected pursuant to this subsection, the term ‘school operational purposes’ includes charter schools sponsored by a school district.”

The amended version of the statute also provided that each school board must share the money with the charter schools in their county, depending on a formula that considers enrollment and other factors, court documents show.

When Archimedean and the city sought the money that they believed the Miami-Dade School Board owed them, Areces consolidated the cases. She ultimately ruled in favor of the Miami-Dade School Board, according to court documents.

However, Third DCA Judges Eric Hendon, Edwin Scales and Bronwyn Miller pointed to a similar ruling in the Fourth District Court of Appeal against the School District of Palm Beach County in which they must allocate money to the charter schools.

The Third DCA ruled that the language in the Palm



(Credit: ALM/Courtesy photos)

L-R: Third District Court of Appeal Judges Edwin Scales, Eric Hendon and Bronwyn Miller.

Beach County referendum that specifically excluded charter schools and the language in the Miami-Dade referendum that excluded charter schools by omission had the same result—the counties’ referendum had to be interpreted in a manner consistent with state law.

Students who are “enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district,” according to the opinion.

The appellate judges added that the “funding of charter schools must be on a pro-

rata share based on the number of each school’s weighted full-time equivalent students from ‘funds from the school district’s current operating discretionary millage levy.’”

But the Third DCA side-stepped the issue of when the sharing of funds generated from the 2018 referendum must commence, leaving the power with Areces to conduct the remaining hearings, evidentiary or otherwise, to reach a conclusion.

Meanwhile, Kluger noted that the appellate ruling determined that charter schools must be treated the same as public schools.

“Charter schools are public schools,” Kluger said. “That’s what this opinion says.”