

## Peebles affiliate must pay \$1M in sanctions over Bath Club dispute

*Court denies developer's second attempt to fight penalty over failure to provide F&B services*

By [Lidia Dinkova](#)



*A photo illustration of Don Peebles along with 5959 Collins Avenue (left) and 5937 Collins Avenue Avenue (right) (Getty, Google Maps)*

An entity tied to developer Don Peebles is once again on the hook for \$1 million after a court denied its latest attempt to fight off sanctions over a dispute at the Bath Club in Miami Beach.

In one of the disputes, Miami-Dade Circuit Court Judge Michael Hanzman slapped Bath Club Entertainment with a **\$1 million** penalty last year for failing to provide outdoor food and beverage services to condo owners or repair and maintain the property's cabanas at the level of a world-class resort. Even when food and beverage service was provided, it was subpar, Hanzman wrote in his order issued in February last year.

Bath Club Entertainment appealed to a higher court but lost in September, when a three-judge panel said its claims had "no merit." Bath Club Entertainment took another loss last week when its motion for a rehearing of the September decision was denied.

"[Peebles] had the temerity to file a motion for rehearing and a rehearing en banc, saying the court got the first opinion all wrong, even though it ruled his positions were without merit," said Steve Silverman, one of the attorneys for the condo and maintenance associations.

An en banc request is for all the judges in the appeals court to hear the case, instead of just the three-judge panel.

Silverman represented the associations with Alan Kluger of law firm Kluger Kaplan, as well as Eugene Stearns and Albert Lichy of Stearns Weaver Miller Weissler Alhadeff & Sitterson.

"It's unfortunate that this is what the ruling is," said Glen Waldman, Bath Club Entertainment's attorney. "We understand it and we respect it. ... The judgment will be satisfied."

For his part, Peebles maintains that the associations have lost "90 percent" of the legal battles, but haven't kept residents informed of this "reality," he wrote in an emailed statement. Bath Club Entertainment's past wins, including attorney fees, amount to a lot more than the \$1 million in sanctions the associations just won, he said.

The boards "trickle bits of information and totally mislead their residents who never get full information ... [It] reminds me of a propaganda-driven dictatorship," he said.

Bath Club Entertainment took out a \$1 million bond after Hanzman's decision, a standard move when a trial court's order is on appeal, according to attorneys on

both sides.

This means that the condo and maintenance associations, which will split the sanctions payment, will only have to go after the surety bond provider for the funds, Kluger said.

The sanctions are the latest turn in a 15-year dispute between Peebles and the two associations.

A 2007 lawsuit filed by the condominium association ended with a 2010 settlement, which dictated that future disputes would go to arbitration. So when a conflict arose a few years later, an arbitration panel ruled in 2013 that Bath Club Entertainment was on the hook for the cabana, as well as food and beverage services. Among other provisions, the ruling also required Bath Club Entertainment to obtain and show proof of liability insurance when it holds parties at the property.

The associations complained that Bath Club Entertainment wasn't living up to its responsibilities outlined in the arbitration order, court filings show. Although they initially lost a court push to compel compliance, they eventually won their case in 2017 in an order that imposed a \$1,000 fine on Bath Club Entertainment for each day it failed to provide the food and beverage services and maintain the cabanas, records show.

A year later, the associations again alleged that Bath Club Entertainment wasn't complying. Hanzman heard the complaint in late 2020 and issued the \$1 million sanctions order the following February. The judge, however, didn't find that Bath Club Entertainment failed to comply with the proof of liability insurance requirement.

Peebles and other representatives of Bath Club Entertainment testified in court that the entity hadn't provided snack bar service at the property, Hanzman wrote in his order.

Hanzman ruled Bath Club Entertainment failed to comply from Dec. 20, 2017, to Dec. 10, 2020, amounting to just over \$1 million pursuant to the 2017 order imposing a \$1,000-per-day penalty.

Previous battles have spanned the legal gamut. In 2018, Bath Club Entertainment **sued the associations** and two condo board members for trying to

foil a sale and purchase the property themselves for a lowball offer of \$10 million, less than the original **\$30 million** asking price and a \$17 million offer from a potential buyer, according to the complaint. Records show Bath Club Entertainment dropped the suit in October.

In another dispute, Bath Club Entertainment scored a win in September when the court affirmed the entity is due roughly \$132,000, an award reached in arbitration, from the maintenance association over its responsibility to provide valet parking for Bath Club guests, records show. The arbitration panel ruled that the maintenance association has to provide valet service at the entrance of the Bath Club, but the club was denied other requests, such as that the valet service be provided free of charge, Silverman said.

Generally considered the first private social club in the South East. U.S., the Bath Club in its 1920s heyday counted William Vanderbilt II and former President Herbert Hoover as members, but was off limits to Blacks and Jews, **Forbes** has reported.

**Peebles**, one of America's most prominent Black developers, bought it through an affiliate in 1999. Using a different affiliate, he developed the 19-story, 118-unit condo next door at 5959 Collins Avenue. While the condo association is responsible for the residential building, the maintenance association oversees parts of the shared amenities.

Last year, Peebles **reopened the Bath Club** following years of renovations.