



February 16, 2011

Mark and Carol DeCoursey  
8209 172<sup>nd</sup> Ave NE  
Redmond, WA 98052

Re: Income Tax on Litigation Award

Dear Mark and Carol:

Pursuant to our recent discussion regarding the income tax impact to you with respect to your anticipated receipt of your litigation award for attorneys fees and costs in the approximate amount of \$532,000, please be advised that your previous understanding that the award for attorneys fees and costs would be nontaxable is mistaken. Damages received as a result of litigation founded in tort are nontaxable only when the damage award is compensatory for bodily harm. This means that the attorney's fees and costs which you have been awarded as a result of your litigation with respect to the tortious damage to your home are includable in your gross income.

Furthermore, since only attorney's fees and costs awarded with respect to litigation claims founded in employment discrimination or wrongful termination of employment cases are deductible above the line in the computation of adjusted gross income and even though you would end up paying over to your attorneys 100% of the fees and costs award your payment of these fees is only deductible as a miscellaneous itemized deduction. This means that most of the fees and costs that you paid are not allowable as a deduction for purposes of computing your alternative minimum tax liability. Unfortunately, the result of this deduction disallowance is that you will have approximately \$154,000 of alternative minimum tax to pay on your attorneys fees award even though you have paid all of the cash received from that award over to the attorneys.

Thus, unless your attorney fee award is grossed up for the alternative minimum tax effect, the award that you anticipate

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receiving will not have the result of placing you in the same economic position as you would have been if the tortious damages to your property had not occurred, because, due to the alternative minimum tax on the attorney fee award, the portion of your award that represents your actual damages will suffer the burden of the alternative minimum tax effect from the attorney fee award.

If you have any questions, comments, or need for further information, please don't hesitate to contact me.

Very truly yours,



D. Edson Clark