



Mark DeCoursey <mhdecoursey@gmail.com>

Last three pages regarding attorney fees

1 message

Carol DeCoursey <cdecoursey@gmail.com>

Tue, Feb 8, 2011 at 3:19 AM

To: "McBride, Ryan" <mcbriider@lanepowell.com>

Cc: Mark DeCoursey <mhdecoursey@gmail.com>

Ryan--

We have been considering your comments, below.

Allow me to pose a question: Why is it OK for a corporation like Windermere to rip off consumers, and get the courts' help in doing so?

Windermere concocted BS arguments for the Appeals Court on non-CPA issues. You mean to say that with the shared decades of experience between the Reed McClure and Demco attorneys, they did not know what they are doing? Didn't know they were rewinding our legal fees once again? And even if you wish to regard the McClure/Demco attorneys as congenital idiots, incapable of forming intention, we need only look to the *effect* of their actions. No need to speculate on motivation. Windermere is making the cost of winning so high for us we won't be winning. Windermere is certainly affecting social policy.

The Supreme Court is concerned with social policy. Access to justice is a social policy issue. And so is litigation by attrition.

"The law" allows what judges say it allows. That's the nature of court decisions. One year slavery is OK. The next year slavery is not OK. One year abortions are a no-no. The next year, abortions are OK.

If lawyers did not have the chutzpah to make new arguments, there would never be precedents.

Please include the three pages we'd like included.

The guys in the black robes sitting on the high stools can say "No," if they want to. So what if they do? We'll not be any worse off.

"Nothing ventured, nothing gained."

Mark would like you to include those pages, too. Please reconsider.

Think "chutzpah."

:-)

Carol

----- Forwarded message -----

From: **McBride, Ryan P.** <McBrideR@lanepowell.com>

Date: Mon, Feb 7, 2011 at 10:59 AM

Subject: Slightly Revised Answer to Petition

To: Mark DeCoursey <mhdecoursey@gmail.com>
Cc: "Degginger, Grant" <DeggingerG@lanepowell.com>

Mark, thank you for your comments and suggestions. I accepted some, modified a few, and rejected others. I did not accept the three pages you suggested regarding attorneys fees, or the request that the court retroactively award the fees that we did not recover in the Court of Appeal. We will not make those arguments, and we cannot – because the Supreme Court has no such authority and most of your arguments (regarding Windermere's litigation tactics) involve manipulations in the trial court, for which we received an award for all our fees (plus enhancement). The fact remains that we are entitled only to fees on the CPA claim; the Supreme Court, like the Court of Appeals, has no discretion in the matter. I know we want more, but the law does not allow more. Moreover, even putting the law aside, I don't believe these pages further our strategy to convince the Supreme Court to summarily deny the petition. That is what we want.

I feel very very strongly that this brief puts our best case forward. I'd like to have my assistant begin the process of finalizing it. I'd like to file today or tomorrow.

Ryan P. McBride