



Mark DeCoursey <mhdecoursey@gmail.com>

Please let us know your intentions

Degginger, Grant <DeggingerG@lanepowell.com>

Thu, Feb 24, 2011 at 9:12 AM

To: Carol DeCoursey <cdecoursey@gmail.com>

Cc: "Gabel, Andrew J." <GabelA@lanepowell.com>, Mark DeCoursey <mhdecoursey@gmail.com>, "McBride, Ryan P." <McBrideR@lanepowell.com>

Carol and Mark,

First, Mark, I wanted to express my condolences over your father's passing and I hope your family found strength by being together in Vancouver over the weekend.

Second, if we understand your email correctly, we are glad to see that you no longer intend to file the additional three pages of argument that we discussed last week. We continue to strongly believe that your highest priority should be to have the Supreme Court deny review and one of our takeaways from our call last week was that you agreed. However, what we understand your new alternative to be--adding a footnote or an additional sentence in the text requesting "in the alternative" that the Court grant review of the scope of attorneys fees and costs recovery if they grant review of Windemere's appeal--presents the same multiple dilemmas. First, it allows Windemere yet another opportunity to submit a brief in opposition to granting review of your issue. As we have said multiple times, giving Windemere the last word is not in your best interest. Second, the request itself is not legally viable--the reasons for which we discussed at length last week. Finally, merely "slipping it in" to the brief will be insufficient to have the Court give it serious consideration.

We do not wish to withdraw. The brief that Ryan wrote is excellent, and I believe you agree with that. We have thoroughly and seriously considered the points you raised last week. Our best professional judgment is that the brief should be filed as is. We have won at the trial court. We have won at the Court of Appeals. We have repeatedly demonstrated our commitment to your case. We are mindful that in litigation there are no guarantees, however, we have provided you with the best advice we have. We sincerely hope that over the last three years of work for you that we have earned your trust. At the end of the day, the final decision is yours. We ask that you authorize us to file Ryan's brief as it has been written.

I will be heading into a deposition for the better part of the day. Andrew is available if you would like to talk further. I can speak with you late in the day as well.

Grant

From: Carol DeCoursey [mailto:cdecoursey@gmail.com]
Sent: Wednesday, February 23, 2011 2:59 PM
To: McBride, Ryan P.; Gabel, Andrew J.; Degginger, Grant
Cc: Mark DeCoursey
Subject: Please let us know your intentions

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