



mhdecoursey . <mhdecoursey@gmail.com>

RE: FW: V&E Medical Imaging Services v. DeCoursey, No. 85563-3

1 message

McBride, Ryan P. <McBrideR@lanepowell.com>

Mon, May 16, 2011 at 2:27 PM

To: Carol DeCoursey <cdecoursey@gmail.com>

Cc: Mark DeCoursey <mhdecoursey@gmail.com>, "Gabel, Andrew J." <GabelA@lanepowell.com>, "Degginger, Grant" <DeggingerG@lanepowell.com>

Okay. I'll try to make the stuff in section II clearer, and I'll add the sentence about the amicus and another sentence summarizing what the amicus said re Windermere litigation tactics. I hope you are generally pleased with the effort. I plan on filing this first thing tomorrow.

From: Carol DeCoursey [mailto:cdecoursey@gmail.com]**Sent:** Monday, May 16, 2011 2:22 PM**To:** McBride, Ryan P.**Cc:** Mark DeCoursey**Subject:** Re: FW: V&E Medical Imaging Services v. DeCoursey, No. 85563-3

Ryan:

1. There is some language in Section II that does not communicate, at least to us. We don't quite know what you mean to say, and suggest that you might want to rewrite those sentences.

The language begins with the words "The court's commissioner recognized that the DeCourseys would have been . . ." and ends with the words " . . . contained only the CPA issue."

2. Your brief would be strengthened by adding certain words the end of the passage that begins "If ever there was a case . . ." and ends with the words "a foregone conclusion." These words are as follows:

"This conduct is habitual for Windermere, as the Ruebel/bloor amicus brief (attached) pointed out to the Supreme Court. Against Windermere's objection, the Supreme Court accepted the amicus brief, and subsequently made its award of attorney fees without excluding fees incurred to address non-CPA matters."

Ryan, the Ruebel/Bloor brief pointed out to the Supremes IN SPADES what we are pointing out . . . and the Supremes *accepted* the brief over objections – obviously they thought the information meaningful for their deliberations. And their conclusion was just what it should have been. Including mention of the content of amicus brief would immeasurably strengthen our arguments here.

Best wishes,

Carol

On Mon, May 16, 2011 at 11:12 AM, Mark DeCoursey <mhdecoursey@gmail.com> wrote:

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

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

Date: Mon, May 16, 2011 at 10:50 AM

Subject: RE: FW: V&E Medical Imaging Services v. DeCoursey, No. 85563-3

To: Mark DeCoursey <mhdecoursey@gmail.com>

Cc: "Gabel, Andrew J." <GabelA@lanepowell.com>, "Degginger, Grant" <DeggingerG@lanepowell.com>

Mark, when I used the word "probably" I meant to convey the fact that I had not yet devoted a lot of time thinking about the order of argument or what specific arguments to make; I promised I would make the argument that we are entitled to all fees in the reply, and I will do so. I have attached the brief. It is due tomorrow.

Once again, however, I must take time to correct some things you have written below. One, you did not instruct us to argue about Windermere's litigation history in response to Windermere's petition; you demanded that we cross-petition for review. For reasons that are well-known to you, we wouldn't do that as it was not in your best interests. Two, we did not refuse to obtain an extension for you so that you could obtain another lawyer. If you recall, that is precisely what we offered to do; I specifically remember telling you on the phone that if you wanted to hire another firm to represent you in opposing the petition for review and/or cross-petitioning for review, we would seek an extension of 30 days so that we could withdraw and you could retain new counsel. Thanks.

From: Mark DeCoursey [mailto:mhdecoursey@gmail.com]

Sent: Monday, May 16, 2011 10:26 AM

To: McBride, Ryan P.

Cc: Gabel, Andrew J.

Subject: Re: FW: V&E Medical Imaging Services v. DeCoursey, No. 85563-3

Looking forward to your early response. As usual, Carol and I will need time to discuss.

On Mon, May 16, 2011 at 12:44 AM, Mark DeCoursey <mhdecoursey@gmail.com> wrote:

Well, Ryan, let's review the situation.

We studied Windermere's litigation history, while you and Grant did not. We told you Windermere would petition the Supreme Court, and they did.

In our response to Windermere's petition, we instructed you to argue Windermere's litigation history vis a vis the CPA and attorney fees. We drafted the text for you. But you and Grant refused to include our argument. We begged you to get an extension so another lawyer could evaluate Grant's statement that there was no support in law or precedent for our argument; if we wanted to change "the law," Grant said, we should go to the Legislature.

You refused to ask for an extension and threatened to withdraw if we insisted on using the CPA argument.

On the billing submission to the Supreme Court, again we asked you to argue Windermere's litigation history vis a vis the CPA and atty fees. Again we wrote the text for you. You said you would make the argument in the reply "if" Windermere tried to whittle down the attorney award. On May 6, at 3:32 PM, you wrote:

... if they do, I have ample opportunity to address the issue in the reply (and the last word). If Windermere argues that we can only get CPA-related fees, we can take that on in our reply.

There is no "if" about it. Of course, Windermere would try to whittle down the atty fee award, exactly as we predicted. Now we recall your promise. Yet you are telling us what you will "probably" do. Why is there any question?

On Fri, May 13, 2011 at 4:31 PM, McBride, Ryan P. <McBrideR@lanepowell.com> wrote:

probably i will first argue that the court should give us all our fees; then i will argue that, even if we are limited to cpa-related fees, the amount hickman proposes is not right; and third that my rate is reasonable and the court of appeals has already rejected the same argument based on hickman's arbitrary assessment that my very fine services are only worth \$300 an hour even if his not-so-fine services are only worth \$175.

From: Mark DeCoursey [mailto:mhdecoursey@gmail.com]
Sent: Friday, May 13, 2011 8:19 AM
To: McBride, Ryan P.
Cc: Degginger, Grant; Gabel, Andrew J.
Subject: Re: FW: V&E Medical Imaging Services v. DeCoursey, No. 85563-3

Please give us a short paragraph outlining how you will answer this.

On Thu, May 12, 2011 at 4:35 PM, McBride, Ryan P. <McBrideR@lanepowell.com> wrote:

[Hickman's objection.](#)

From: Key, Cathi [mailto:ckey@rmlaw.com]
Sent: Thursday, May 12, 2011 3:25 PM
To: supreme@courts.wa.gov
Cc: McBride, Ryan P.; mdavis@demcolaw.com; peter@tal-fitzlaw.com; Hickman, William; Clifton, Mary
Subject: V&E Medical Imaging Services v. DeCoursey, No. 85563-3

from
William R. Hickman WSBA #1705
Reed McClure
601 Union Street, Suite 1500
Seattle, WA 98101-1363
TEL: (206) 386-7060
FAX: (206) 223-0152
Email: whickman@rmlaw.com

by
Cathi Key
*Assistant to Earle Q. Bravo, Michael N. Budelsky,
William R. Hickman, William L. Holder and Pamela A. Okano*
Reed McClure
601 Union Street, #1500
Seattle, WA 98101-1363
Direct: (206) 386-7145

Confidentiality:

The preceding message (including attachments) is covered by the Electronic Communication Privacy Act, 18 U.S.C. sections 2510-2521, is confidential and may also be protected by attorney-client or other privilege. If you believe that it has been sent to you in error, please delete it. Thank you.

This message is private or privileged. If you are not the person for whom this message is intended, please delete it and notify me immediately, and please do not copy or send this message to anyone else.

Please be advised that, if this communication includes federal tax advice, it cannot be used for the purpose of avoiding tax penalties unless you have expressly engaged us to provide written advice in a form that satisfies IRS standards for "covered opinions" or we have informed you that those standards do not apply to this communication.

--

Carol & Mark DeCoursey
8209 17 2nd Ave NE
Redmond, WA 98052
Home: [425.885.3130](tel:425.885.3130)
Cell: 206-234-3264

This message is private or privileged. If you are not the person for whom this message is intended, please delete it and notify me immediately, and please do not copy or send this message to anyone else.

Please be advised that, if this communication includes federal tax advice, it cannot be used for the purpose of avoiding tax penalties unless you have expressly engaged us to provide written advice in a form that satisfies IRS standards for "covered opinions" or we have informed you that those standards do not apply to this communication.

--

Carol & Mark DeCoursey
8209 17 2nd Ave NE
Redmond, WA 98052
Home: [425.885.3130](tel:425.885.3130)
Cell: 206-234-3264

--

Carol & Mark DeCoursey
8209 17 2nd Ave NE
Redmond, WA 98052
Home: [425.885.3130](tel:425.885.3130)
Cell: 206-234-3264

This message is private or privileged. If you are not the person for whom this message is intended, please delete it and notify me immediately, and please do not copy or send this message to anyone else.

Please be advised that, if this communication includes federal tax advice, it cannot be used for the purpose of avoiding tax penalties unless you have expressly engaged us to provide written advice in a form that satisfies IRS standards for "covered opinions" or we have informed you that those standards do not apply to this communication.

--

Carol & Mark DeCoursey
8209 17 2nd Ave NE
Redmond, WA 98052
Home: [425.885.3130](tel:425.885.3130)
Cell: 206-234-3264

This message is private or privileged. If you are not the person for whom this message is intended, please delete it and notify me immediately, and please do not copy or send this message to anyone else.

Please be advised that, if this communication includes federal tax advice, it cannot be used for the purpose of avoiding tax penalties unless you have expressly engaged us to provide written advice in a form that satisfies IRS standards for "covered opinions" or we have informed you that those standards do not apply to this communication.