



Mark DeCoursey &lt;mhdecoursey@gmail.com&gt;

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## Please let us know your intentions

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**Degginger, Grant** <DeggingerG@lanepowell.com>

Fri, Feb 25, 2011 at 1:02 PM

To: Carol DeCoursey &lt;cdecoursey@gmail.com&gt;, "Gabel, Andrew J." &lt;GabelA@lanepowell.com&gt;, "McBride, Ryan P." &lt;McBrideR@lanepowell.com&gt;

Cc: Mark DeCoursey &lt;mhdecoursey@gmail.com&gt;

Carol,

Lane Powell represents you—and you know that. Please see the responses to your questions below.

We are going over and over the same issues. Now, we need an answer to our question: Do we have authority to file the brief as written?

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**From:** Carol DeCoursey [mailto:cdecoursey@gmail.com]**Sent:** Friday, February 25, 2011 11:17 AM**To:** Gabel, Andrew J.; Degginger, Grant; McBride, Ryan P.**Subject:** Re: Please let us know your intentions

Andrew, Grant, Ryan:

In our last email, we asked questions of you, Grant, the answers to which will affect our decision. Perhaps you do not consider yourself to be our lawyer, as Ryan's and Andrew's names appear on our filings? Since Ryan is not available, and you do not answer our questions, we will spell out our questions more painstakingly and will specifically ask Andrew:

Andrew:

1. If we cross appeal or are seen as cross-appealing by writing an "in the alternative" option, will the attorney fees and costs be covered under CPA, or charged to us, and eventually subtracted by Lane Powell from our damages award? If you **not** cross petition and the petition is denied, you likely will receive fees for that portion of the briefing devoted to the CPA issue, as was the case at the Court of Appeals. If you **DO** cross petition and both the petition and the cross petition are denied you may not get any fees for the CPA issues because you may not be deemed the prevailing party. I don't fully understand your question about our fees, but suffice to say we will continue to charge for our time and costs incurred as set forth in our fee agreement.

2. Does the answer to the above question depend on whether we win the cross-appeal/"in the alternative" option of lose? **No because you will not win the cross petition.**

3. Will the fact that Lane Powell has not filed any motion for CR 11 sanctions argue against our prevailing in our "Windermere has vitiated the CPA through attrition warfare" position? (Be reminded that Brent mentioned Windermere's attrition warfare tactics in his brief on attorney fees/costs.) **We do not believe the cross petition you proposed is legally meritorious so this is a non-issue. Remember that the likely remedy for a CR 11 violation would have been your attorneys fees which the court granted to you anyway. In fact, the court gave you a multiplier.**

Andrew, these are reasonable questions. Could you please answer them?

By the way, Mark and I make it a practice to agree to the emails we send. But right now, I can't get in touch with Mark. So I will send this off without the benefit of his review.

Many thanks,

Carol

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