



Mark DeCoursey <mhdecoursey@gmail.com>

Slightly Revised Answer to Petition

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

Mon, Feb 7, 2011 at 10:59 AM

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.

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