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FW: DeCoursey

1 message

Nourse, Brent L. <NourseB@lanepowell.com>
To: Mark DeCoursey <mhdecoursey@gmail.com>

Thu, Sep 25, 2008 at 11:03 AM

Brent L. Nourse



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From: Matt Davis [mailto:mdavis@demcolaw.com]
Sent: Tuesday, September 23, 2008 3:40 PM
To: Nourse, Brent L.
Subject: DeCoursey

You asked for something in writing about settlement. I'll give it my best shot.

If this case is going to settle, your clients need to start being more responsive and decisive. I don't want to be overly harsh, but the DeCourseys seem to be paralyzed by the fear that they will settle for too little. That or else they can't agree between themselves. Trial is upon us, and it is time to shift our efforts away from settlement and towards everything that trial is.

The DeCoursey could settle with Windermere in one of two ways. First, they could reach a monetary settlement with Windermere and Stickney. At this point, a global settlement appears to be out of the question because [REDACTED] insurer won't cooperate with us. I have never seen a settlement demand to Windermere and Stickney. If the DeCourseys want to pursue a cash settlement with Windermere and Stickney, they need to make an offer. I have more authority than I would ever recommend, but the DeCourseys are not going to know what it is unless they make an offer. And an offer needs to have some relationship with reality. They paid \$280,000 for the house, and even if they prevailed wildly at trial, their damages would be a fraction of that.

The other possible means of settlement is for the DeCourseys to sell the house in a settlement. For discussion purposes, I am thinking something along the lines of paying what the house should be worth with the work that was paid for. In today's real estate market, I don't know how much that is. I am not even positive that such a settlement is possible. First, I would need to get people into the house. I have been waiting weeks for a simple request for access. For what it is worth, a number of houses in the immediate are have sold over the past 3 years. I am attaching a PDF with the dates and amounts. Eastside prices are actually down about 5% since 2006. If we want to determine whether this is even a possibility, I need to start with making a determination of value so that we could float a number. If we don't get access, this won't go anywhere.

The ball in the in the DeCourseys' court.

The good lawyer is not the man who has an eye to every side and angle of contingency, and qualifies all his qualifications, but who throws himself on your part so heartily, that he can get you out of a scrape.

- Ralph Waldo Emerson

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