

RenovationTrap.com

<http://www.RenovationTrap.com>

We're the newcomers to Washington who were brought to the verge of financial ruin by Windermere, the Northwest's largest real estate firm.

We're attempting to turn our negative experiences into something positive for our community and the American Homestead.

Our website is dedicated to a study of
Public Interest * Public Conscience * Public Duty

November 7, 2008

Brent L. Nourse
Grant S. Degginger
Dennis M. Strasser
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Lane Powell
1450 Fifth Avenue
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Gentlemen:

Congratulations! The Jury Verdict of October 31 was a great victory for us all. There could be no better testimonial to the competence of your firm and of its lawyers. Top praise goes to the two foremost lawyers, of course, the brilliant Brent Nourse, so ably assisted by Andrew Gable. And top praise goes to Cheryl Jacobs, Bruce Volbeda, Abe Lorber, Melissa Gallant, and Susan Reich. Such excellent people! We are so, so grateful to Brent and to your firm.

And now we stand at a decision point. As you know, we have already paid your firm \$108,000. But by our reckoning, we now owe you somewhere in the neighborhood of \$300,000. A hefty sum! And this sum does not include future appeals.

By a coincidence, one or more of the parties with whom we were litigating has offered us a valuable consideration of \$270,000 for settlement. The check has been made out to the Lane Powell law firm and Carol and Mark DeCoursey.

The issue before us is this: What is to happen to that money? We must all come to a decision against this interesting backdrop:

Contemporary lawyers recognize that a law firm is a business enterprise, and that lawyers are in many respects businessmen. Business rewards are materialistic and measured in dollars and cents. Obligations must be met. Salaries must be paid.

On the other hand, the American system of government and justice is based on "equal justice under law" and "liberty and justice for all." These are not materialistic considerations, and cannot be measured in dollars and cents.

The legal profession also recognizes that a well-heeled party to a lawsuit can devastate its opposition by unnecessarily increasing the cost of litigation and spending its opponents under the table.

In our case, Windermere has used tactics including these:

1. When, in April and May, 2006, we told Windermere what their agent had done to us and showed them our documentation, they refused to help us. Windermere insisted we sue them, knowing we did not have the skills or funds to engage in the litigation they were planning,
2. When we were *pro se*, Windermere engaged in reprehensible tactics, which included conducting abusive depositions. In conjunction with an attorney representing the jurisdiction in which we live, Windermere participated in a threat to have our home demolished ("abated") if we did not abandon our legal claims. (Voice recording on our website.)
3. When we were *pro se* and attending an August 23, 2007 hearing concerning abusive depositions. Windermere was aided by Judge John Erlick who selectively gave us legal advice from the bench, and then ruled we had waived our attorney fees -- even though we did not have an attorney at the time.¹
4. When we did get representation through Lane Powell, Windermere sent our legal bills sky high by foot-dragging and frivolous legal maneuvers.
5. Windermere was aided in these efforts by Judge John Erlick, a former litigator, who permitted Windermere to engage in frivolous sophistry, knowing full well we'd have to defend against such and that the effect that would have on our legal fees. So flagrant was his behavior that at Summary Judgment hearing, Judge Erlick's comments and deportment strongly suggested he had not bothered to read our briefs beforehand. At the hearing, he ordered supplementary briefs to be written on a sophomoric subject -- of course necessitating more legal fees.
6. Windermere made niggardly settlement offers. Acceptance of the offers would have advantaged them more than us, and would have rewarded them for their treachery. All the fooling around wasted Brent's time and good will.
7. Windermere's settlement demands typically require their opponents to sign a Dark Clause. We would have been required to keep forever silent about our experience with Windermere. Signing a Dark Clause would make us complicit in their predatory business practices. We could

¹ The videotape of the August 23 hearing shows many signs that ex parte communications on the hearing may have taken place before the hearing -- communications between the judge and the lawyers opposing us. In one action involving Windermere and Gary Kruger, such ex parte communications did take place, and Mr. Kruger has the documentation to prove it.

never do so, for we sincerely believe executives who run companies the way Windermere runs its company, and lawyers who aid them, deserve prison terms. ²

Our views on social responsibility are not novel. While at court to testify, one of our witnesses, Mary Lee Calmes, apologized to us because she and her husband did not take action against Paul Stickney and his vest-pocket construction company after their bad experience. Had they taken such action, Mary Lee said, we might not have been victimized. As the famous novelist Louis Lamour wrote in *A Man Called Noon*, "Our giving up what is ours merely to escape trouble would only create greater trouble for someone else." How many people would we harm by keeping silent about our experience? We were not willing to harm others.

What principles, then, must guide our actions?

Legal positivism is a philosophy of law that sees no inherent connection between law and ethics or morality. Wikipedia tells us that legal positivism "stands in opposition to various contrary ideas in the tradition of natural law - a body of legal theory asserting that there is an essential connection between law and justice / morality. Many legal positivists endorse the separation thesis: the idea that legal validity has no essential connection with morality or justice. A law is a valid law if posited, in the proper manner, by a recognized authority, regardless of its moral implications." Thus trading in human flesh -- or shooting ugly people on sight -- would be allowed by legal positivists, provided the right laws were passed.

Surely no one can say Windermere's lawyers are "just doing their jobs" when they do what they do? They enable unscrupulous, predatory agents to continue their practices. They perform much the same function as Arthur Anderson did when it enabled Enron to defraud its investors and employees. We suspect that many lawyers at Lane Powell eschew legal positivism and its ramifications to society.

We have all heard stories of law firm clients who won their legal cases but were financially ruined after paying their lawyers. In a system like that, both the abusive lawyers and those who defend against them gain financially, at the expense of the victims.

While we have no doubt that Lane Powell is appalled by such situations, we are concerned we may not be able to withstand Windermere's scorched earth legal tactics and that, as a consequence, we will never be "made whole." Should Windermere succeed in its efforts to ruin us, they will be emboldened even further. Windermere's message would be repeated: "We are invulnerable. Our agents can do anything they wish. We won't help you voluntarily. And we will ruin you if you sue."

² Another lawyer, representing the contractor in our case, employed extortion, attempted to entice us into helping him fabricate evidence, lied about us in signed pleadings before the court, and filed a claim against us he knew was meritless at the time he filed the claim. After the lawyer had been replaced by other counsel and the bogus claim was dismissed, we wrote a heavily documented report to Judge Bruce Hilyer telling him of the situation: We thought he'd be interested in maintaining the integrity of the court. You can imagine our surprise when his bailiff returned our letter and documentation to us and told us he was not interested.

In an appeal of Judge Erlick's legal fees decision, we suspect this lawyer may oppose us. He has already stated before the court that on August 23, we knowingly, willfully, and rationally renounced our right to attorney fees, and that he was a witness.

Gentlemen, in summary: We are all to some degree captives of the Washington legal system. But most especially, we -- Mark and Carol DeCoursey -- are captives.

What are our options? We, Carol and Mark, have none. The treatment we received at the hands of the court when we were *pro se* litigants demonstrated self-representation is suicidal. Without Lane Powell, we have no access to justice whatsoever.

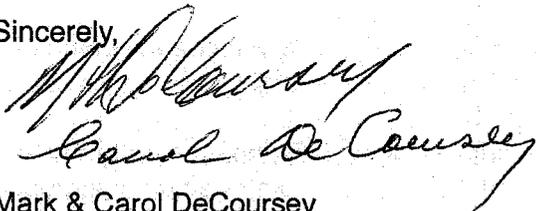
Of course we support your rightful claim to be paid for the outstanding work you did. But you, on the other hand, have several options in pursuing your rightful payment.

You could take responsibility for how the judicial systems works in Washington. (Our webpage documents some of the state's problems -- especially its disregard for truth and judicial integrity.) You could ask for CR 11 sanctions against the Windemere law firm. You could continue to represent us "on credit," and petition the Court through appeals to reverse the Erick ruling on attorney fees. You could appeal the legal fees *pro bono*. You could take some, most, or all, of the \$270,000.

We don't see that we have a meaningful voice. We have no access to justice without you. We have no bargaining chips. We await your decision.

In the meantime, we are very, very grateful for what you have done for us, and the trust you have placed in us.

Sincerely,



Mark & Carol DeCoursey
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