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**Answering Brief (Round 3)**

1 message

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**McBride, Ryan P.** <McBrideR@lanepowell.com>  
To: Mark DeCoursey <mhdecoursey@gmail.com>

Mon, Oct 5, 2009 at 3:33 PM

Mark and Carol:

Here is a redline version reflecting your changes and our discussion this morning. I accepted almost all of your changes, which were well-taken, and added a substantive sentence regarding the [REDACTED] settlement/allocation issue. I also removed a sentence regarding the attorneys' fee claim in response to your earlier email; I could go either way on leaving the sentence in our out, but I don't think we should highlight the issue with further discussion. I left out the comment regarding the "emergency repairs" that you had to pay for; it is very minor and I wanted to emphasize the point that you guys didn't have enough cash to put any more money into your house to fix it. I also took out the reference to the "gentlemen's agreement" regarding Stickney, [REDACTED] responsibility to make monthly payments; I understand that this was not part of the JV's written provisions, but I also did not want to undercut the "formality" of the JV by referencing this oral understanding if I didn't need to; the brief says "Pursuant to their agreement . . ." which I think is vague enough to be inclusive of both written and unwritten understandings. Finally, as to the "quid pro quo," I thought about this quite a bit, I decided to say nothing more. My thought is that if it comes up in their reply or oral argument, I will argue to the judges what you have said: it simply doesn't matter because Stickney gave up nothing; he did not claim that he was denied evidence that was important for trial and, with respect to atty fees, he was able to, and did in fact, challenge your motion for fees during the post-trial proceedings.

Anyway, give it a read and, if we are in agreement that we are a go with this version, I will have my assistant begin preparing the tables, etc.

Have a good one!

**Ryan P. McBride**

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*Lane Powell, one of Washington's "Best Workplaces" and a "Top Corporate Philanthropist" (Puget Sound Business Journal), and one of the "100 Best Companies" and "100 Best Green Companies to Work For in Oregon" (Oregon Business magazine).*

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