

From: Keith Martens
Sent: Tuesday, August 25, 2020 12:25 PM
To: 'Don Brown (brownandassociatespllc@gmail.com)' <brownandassociatespllc@gmail.com>
Subject: Morningstar Proposal

Don,

I have now had a chance to talk with Michael Kendree. One of the issues I had not considered when you and I talked this morning is the fact that there is a fairly significant level of turnover on the County Council in January 2021 (three new members, if memory serves). Therefore, it seems to make sense to let the new members have some voice in the County's ultimate decision on how it wants to deal with Morningstar and the "litigation-related issues" moving forward. My belief is that new members are going to be less personally-invested in what has already taken place and, therefore, likely to be more receptive to the idea of "burying the hatchet," but I have not talked to any of the Council members-elect, so I am guessing. I also think that it makes sense for both of our clients to stop spending money on litigation, particularly if there are other opportunities for resolution of this dispute.

Why don't you and I propose to our clients the following?

- (1) Morningstar dismisses its FOIA lawsuit without prejudice;
- (2) Morningstar voluntarily dismisses the remaining claim (against Johnson) in the federal case, without prejudice (or we can just wait for the court to decide our pending motion to dismiss);
- (3) The parties agree to 40(j) the remainder of the 2013 state court case (which would then give either side the opportunity to reinstate the case within a year without SOL issues); and
- (4) The federal appeal moves forward for now (though Morningstar may ultimately decide to drop the appeal, and we would certainly welcome that!).

That would result in a cessation of all current litigation except the appeal, and may also lay some groundwork for our clients to "restart" their relationship in a less adversarial way. Let me know what you think.

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