

Pearson, Linda F.

From: William Collins <collinsw@assembly.state.ny.us>
Sent: Monday, April 16, 2012 12:01 PM
To: Kirschner, Kenneth
Subject: RE: A Message from William Collins

Ken,

We also pointed to the fact that they have argued that they were both fired in retaliation for having invoked our sexual harassment grievance process but, factually, (a) they never invoked the process and (b) they never came off the Assembly payroll. We have argued that the value of keeping them on the payroll in 2012 on leave, and then at VERY low-pressure, low-expectation "work" assignments should be counted as if it were a "backpay" settlement amount (adds up to another \$50,000 or so). Our position throughout has been; we pay and then everyone waives any future proceeding of any sort based upon anything related to their Assembly employment. Margaret certainly understands that. We agree that this is about three complainants lawyers getting a substantial "cut". We never met Gloria Allred but, we did pass her in the halls a few times; tacky dresser...

Presently, we have no additional face-time scheduled with Margaret. Dealing by phone or e-mail. Will keep you posted.

Bill

From: Kirschner, Kenneth [mailto:kenneth.kirschner@hoganlovells.com]
Sent: Monday, April 16, 2012 11:25 AM
To: William Collins
Subject: RE: A Message from William Collins

Bill,

Thanks for the update. I agree with your strategy. You have put about a year's pay on the table for both which is very reasonable. It is definitely plaintiff's and the Assemblyman's next move. If you are meeting through "closed doors", you may want me to be present so I can get a better read from Margaret where the case is going. I think you have probably met the expectations of the plaintiffs and now this is all about attorneys' fees.

Sounds like they have little or no case with regard to the counsel and she is along for the ride. Have they both agreed to give up their positions for a monetary settlement?

Ken

From: William Collins [mailto:collinsw@assembly.state.ny.us]
Sent: Monday, April 16, 2012 11:06 AM
To: Kirschner, Kenneth
Subject: RE: A Message from William Collins

Ken,

Thanks for your continuing interest (and thanks, again, for your guidance). Margaret had clearly read our pre-mediation submission and hit the ground running. She was very professional and worked very hard in a "shuttle diplomacy" role. We actually never met with the complainants or their lawyers last Monday. Apparently, the principle complainant spent most of the day in tears. We spent the day "caucusing" with the Assemblyman and his lawyers and meeting with

Margaret when she wasn't meeting with the other side. We left last Monday still very far apart but, with a notion that we would continue dialog.

They came down from an initial, absurd position of \$1.2M by cutting it in half to \$600,000. We ended the day at around \$100,000 which included \$20,000 kicked in by the Assemblyman. Over the course of the day, we learned some awkward things about his interactions with one of the complainants via transcriptions of recorded conversations. We had anticipated buying our way out of this ourselves but, everyone realized pretty quickly that the Assembly actually had very little liability as an institution and the Assemblyman had made some serious mistakes but, is pretty judgment-proof.

We told Margaret we are in internal conversations and conversations with the Assemblyman's lawyers about some small movement. We're presently disinclined to put much more on the table for fear of bidding against ourselves; in our judgment, the other side hasn't done any earnest "bidding" yet and we're close to our actual bottom line.

Bill

From: Kirschner, Kenneth [<mailto:kenneth.kirschner@hoganlovells.com>]
Sent: Monday, April 16, 2012 10:42 AM
To: William Collins
Cc: kearnsc@assembly.state.ny.us
Subject: RE: A Message from William Collins

Bill,

Just checking on the status of the mediation? How did things go with Ms. Shaw?

Ken

From: William Collins [<mailto:collinsw@assembly.state.ny.us>]
Sent: Thursday, March 29, 2012 6:15 PM
To: Kirschner, Kenneth
Cc: kearnsc@assembly.state.ny.us
Subject: Re: A Message from William Collins

Ken,

We'd greatly appreciate your critical review and have some additional time so, please take a thorough look over the weekend if you can. Thanks,

Bill

From: Kirschner, Kenneth [<mailto:kenneth.kirschner@hoganlovells.com>]
Sent: Thursday, March 29, 2012 06:10 PM
To: Alicia Searles <searlesa@assembly.state.ny.us>
Cc: 'William Collins' <collinsw@assembly.state.ny.us>
Subject: RE: A Message from William Collins

Bill,

Do you have time for me to look at this over the weekend or do you need comments tomorrow. I think it needs more development to say that the Member was joking when he said they were fired (assume he has done that before) and

otherwise there was no adverse employment action or constructive discharge. Although the letter indicates this happened frequently, it seems it was less so towards the counsel and therefore not repeated and pervasive.

Will provide more details after a thorough review.

Ken

From: Alicia Searles [<mailto:searlesa@assembly.state.ny.us>]

Sent: Wednesday, March 28, 2012 12:41 PM

To: Kirschner, Kenneth

Cc: 'William Collins'

Subject: A Message from William Collins

Ken,

We had a non-productive, unsatisfying pre-mediation conference call with Margarat Shaw this morning. Allegedly, Ms. Wang has some "smoking gun" tapes of phone conversations between the Assemblyman and [REDACTED]. To date, Ms. Wang has simply ignored three requests by the Assemblyman's counsel for a copy of the tapes to enable the Assemblyman - and us, of course - to assess the strength of their case and potential downside risk for settlement purposes.

We subsequently spoke to Ms. Shaw who agreed with us that we need more info they have before we have any earnest discussions with the Comptroller's Office and the Attorney General's Office; necessary predicates to us having any authority to commit any State dollars. She is going to push Ms. Wang to get us some specifics beyond her initial shock letter.

We are, as we advised, hardpressed to come up with even ad arguendo legal arguments and citations without more on the alleged "facts".

Thanks in advance for taking a look at this stuff,

Bill

Alicia D. Searles
Executive Assistant
Office of Counsel to the Majority
New York State Assembly
State Capitol, Room 448M
Albany, NY 12248

Office Phone (518) 455-4191

Office Fax (518) 455-4103

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