

proceed

To Sheila Birnbaum
917.777.2458

10:50 AM CST
1/18/07

Dear Sheila,

This is for your eyes only. Your proposal to Hood is fair, and your letter is great. I think that today is the Day. I think he will take the deal. However, if Hood lacks the wisdom to go through with this deal, it would be in State Farm's best interest to proceed just with us, and we offer to do that. Here is why State Farm should do this:

- (1) Most of the people on the Coast are desperate financially and blame their insurers. This settlement would reposition ^{State Farm} in the national and local spot light.
- (2) We would work vigorously with you to make (1) happen.
- (3) Going forward with this settlement vastly reduces the chance that Hood would go forward with an indictment (especially if you publically dismiss the bad actors). The pendency of a class settlement would reduce any possibility of a conviction.

Remember who we represent. Call me if you aren't sure what I mean. All of our clients will support you, and we and they will vigorously help with your PR. We have a lot of political allies who will help you. It may well be that Hood has become wary of ethics issues and has decided he has to put some distance between the civil litigation and the criminal investigation. Going forward with us now solves that problem.

- (4) The settlement is in the best interest of State Farm from a purely litigation/financial standpoint.

In this regard, consider Judge Senter. If State Farm goes forward with this deal in his court, State Farm will reposition with him, also. You will have created a highway to clearing his docket that allows him to crown his career with a shining achievement. No doubt he would protect State Farm, as he should, from any further punitives.

On the other hand, if the deal falls through, he is likely to ratchet up the stakes, probably by a very high stakes common issues trial (on punitives, perhaps) which could result in a disaster for State Farm. I get no pleasure from this prospect. I loathe the idea of returning to nuclear combat. However, my group can do what it has to do.

To settle now also serves State Farm in that the litigating public's expectations would likely increase as the buzz about Senter's ruling spreads and sinks in, and especially if Hood does get an indictment and we aren't there to help you through that.

I would not be surprised if State Farm had an alternate plan (if Hood goes south) to redline the Coast immediately, then maybe to withdraw from the state altogether. That would probably hurt Hood, but it would further degrade State Farm's standing with any jury pool in Mississippi. I entreat you and your client to go forward with us, assuming that Hood balks, and to let us, our clients and friends, and no doubt Judge Senter, be your allies.

I do not blame State Farm, to this point, of holding off with us, to see if everything could be wrapped up once. I think that you and Jeff have seen that we have done everything we knew to do to make this work. That Hood may fall his state is not your fault and not ours.

If Hood falters, let's do the deal and continue to work together. Think about this now, because things will happen fast and our ability to help will diminish. Who knows, but Judge Senter might even go back and certify Judy Gulce's case, and then all control is lost.

Regardless of what course Hood takes, or you choose to take thereafter, you have been great to work with. You are the best I've seen in our profession.

Best regards,

Don
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