

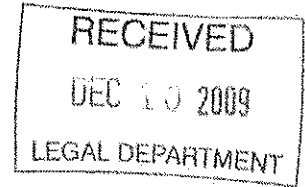


“Never Give Up, Never Give In”

KELSO LAW OFFICE

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December 10, 2009

Mike Gridley
City Hall
City of Coeur d’Alene Attorney

Mike Kennedy
City of Coeur d’Alene City Council
Candidate for Seat 2
c/o Mike Gridley

HAND DELIVERED

RE: Election Contest

Gentlemen:

By now, through various means, each of you have had an opportunity to consider the Complaint filed by Jim Brannon contesting the 2009 City of Coeur d’Alene General Election.

For a number of reasons, not the least of which is recovering from my recent bilateral eye surgeries, I have not previously been able to serve the Summons and Complaint, even though Mr. Gridley has offered to accept service. This lapse in time gave me the opportunity to reflect upon the suit, the issues it raises, and the necessary parties. This time was not a luxury that I had in preparing the original complaint due to the statutory time constraints, and the number of matters that had to be reviewed. As a result of this time for reflection, I have been able to eliminate some of the parties and I have filed an Amended Complaint. Those eliminated as parties will no doubt be witnesses, and they may even attempt to intervene, but upon reflection they are not necessary parties.

As you know, in essence, the contest challenges the manner in which the election was held as well as various ballots that were actually counted. Both of you,

having had the opportunity to review the Complaint, have been able, at least on a preliminary basis, to formulate your own opinions regarding the issues raised.

At this time, prior to your responding to the contest, I would suggest that we are presented with an opportunity to meet and see if, at least on a preliminary basis, we can agree that there are substantial substantive issues raised by the contest. If we can agree on this point, perhaps we agree to a manner of resolution that will not require Court proceedings and the inherent time and acrimony.

Hopefully, from your review of the Complaint, you can appreciate that the issues are not ones of personalities. While the contest could result in ruling that in effect determines who won the election, the issues focus on the election process itself.

Jim believes, and I concur, that the election process itself is the matter that is of primary concern. At the end of the day, although personalities and feelings are obviously involved as in any election, the fundamental issue which we are presented with is not who ultimately wins, now or after a new election. The issues presented by the contest are focused on ensuring that all future elections, not just ones that turn on razor thin margins, are run with precision.

I hope, perhaps naively, by approaching this incredibly close contest, in a constructive manner, that we will be able to ensure that all future elections are conducted in a manner that does not raise the fundamental type of questions with which we are faced. I suggest that such an approach will go a long way towards renewing the faith of the voters in government, and in the election process. I would suggest, on the other hand, that a hotly contested Court fight, focused on personalities and who won the election, will only serve to alienate voters. I believe that all but an extremely insignificant number of voters would be pleased with a constructive resolution rather than a Court battle. While Jim chose to contest the election, instead of a perfunctory computerized recount that would merely do what computers do, count the ballots exactly the same as it did the first time, he has an overriding wish that the contest be resolved in a positive manner.

As a wise law school professor once told me, "An attorney best serves his client by keeping him out of court." I would suggest, despite the formal designation of parties in this contest, that the City's, Mr. Kennedy's, Jim's, and thus the attorneys', clients are actually the voters.

I am providing you with this letter, along with the Summons and Amended Complaint, thirty seven Requests for Admission. I believe, if responded to in a straight forward fashion as opposed to a legalistic and inherently obstructive manner, that they will streamline resolution and lessen costs, if Court proceedings are the only option.

If we must proceed to a judicial resolution, given the unique fact that all of the "declared" winners are incumbents and they will, by statute, carry on in their respective positions until this matter is decided by the Court, I have included a request for an injunction to stay "installation" at the first City Council meeting in January. If the injunction is granted, and I see no legitimate reason why it should not be granted given the fact that if the "installation" proceeds in the face of the contest it could negatively impact any actions taken by the City Council if the election is overturned all or in part, it will allow a thorough and complete review of the election process. This in and of itself is unique given that we otherwise would have the "rush to justice" time constraints that are typically involved in these type of contests.

Please give this suggestion due consideration. If you are willing to approach the issues raised by this election contest in such a constructive manner, please contact me as soon as possible. Hopefully, given the time that has already passed between the filing of this contest already, you will be able to quickly make your determinations, in this limited regard, and let me know by Tuesday the 15th. If you need more time to decide that certainly is acceptable. I just ask that you let me know that the suggestion is still being considered by that date.

If all of us are in agreement we can schedule at least a preliminary meeting within a few days. If we are not all in agreement with this suggestion, the Court will always be there to sort out the issues. If Court is the end result, because of the nature of election contests and the legal process, the "winner" in the Court of law may eventually turn out to have also "lost."

Very truly yours,


Starr Kelso

C: Jim Brannon

Enclosures: Amended Complaint
Requests for Admission