

**Forte, Anthony, GSD**

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**From:** Forte, Anthony, GSD  
**Sent:** Thursday, April 23, 2015 8:43 PM  
**To:** Gardner, Keith, GOV  
**Cc:** Hernandez, Jessica, GOV  
**Subject:** DPS Case

Keith,

Here are my thoughts and professional opinion on the Ruben Maynes matter.

I have had good conversations with both you and Jessica on this topic, and I understand your strong beliefs that Maynes' claims are completely without merit and that the State would ultimately prevail at trial. You have expressed that you would rather defend this case in litigation than reach a settlement ahead of time. Based on our investigation of the matter to this point, and the fact that numerous potential witnesses would strongly contradict Maynes' claims, I wholeheartedly agree with you that the assertions being made by Maynes are bogus and would likely be proven false in the end.

However, this is a personnel matter and an employment dispute not unlike many which we have to handle on a regular basis. And while there is a good chance of prevailing at trial, I strongly urge you to consider a number of other factors.

Depending upon when the lawsuit is actually filed and served, it is reasonable to expect that discovery and motions phases could take as long as two years before the case is ever heard; during this time, there will be significant attorneys' fees and litigation costs for outside counsel. It would involve multiple state agencies, each of which would need counsel, and discovery around a myriad of wide-ranging, unsupported, and vague claims directed at these agencies – leading to what would surely be numerous motions and hearings relating to documents, witnesses, and privilege issues. Trial costs and the cost of potential appeals would further increase the price tag.

Given our experience in these types of cases, we reasonably anticipate that the cost of defense in this matter over the course of two years of discovery and a lengthy trial will be in the area of \$1 million, if not more. If the State prevailed, as we would expect but could never guarantee, the cost of appeals could exceed another \$250,000.

I have already had conversations with Maynes' attorney about potential settlement and have been successful, in my opinion, in exposing the numerous flaws and untruths in Maynes' claims. At this point, I believe that we could limit the State's risk in this matter to roughly \$200,000. I am not dismissing that amount of money as insignificant, but as the State's Risk Management Director, I absolutely believe that it would be a far better use of taxpayer dollars to reach a settlement at that level than expend potentially six times that amount throughout the course of litigation.

Again, I concur that Maynes' claims are completely without merit, but in an effort to properly mitigate the State's risk and utilize taxpayer money most responsibly, I urge you to support my recommendation of a settlement in this matter.

Sincerely,

AJ Forte

Risk Management Director