

ARDC COMPLAINT AGAINST THOMAS J. POPOVICH AND HANS MAST

CHAPTER 1: POPOVICH AND MAST CONTROL OF DULBERG’S PERSONAL INJURY CASE 12LA178

CHAPTER 2: CLAIMS AGAINST POPOVICH AND MAST

COUNT 1: DISCOVERY ABUSE

1-A: Redirected medical lien liability from the Defendants to Plaintiff

1-B: Evidence destruction and fabrication, forgery

1-C: Corrupted the interrogatory and document production process to sabotage client’s case and to benefit defendants (in collaboration with opposing attorneys)

1-D: Suppressed information on mental health issues related to Dulberg’s injury

1-E: Corrupted the deposition process to sabotage client’s case and to benefit defendants (in collaboration with opposing attorneys)

1-F: Knew Defendant Gagnon effectively admitted to negligence for Dulberg’s injury

1-G: Knew Defendant Gagnon committed perjury

1-H: Knew Defendant Carolyn McGuire committed perjury

COUNT 2: SETTLEMENT FRAUD to sabotage client’s recovery and benefit defendants

COUNT 3: VIOLATION OF FEDERAL BANKRUPTCY LAWS to sabotage client’s recovery and benefit defendants

APPENDIX A: An analysis of Tilschner v Spangler. Was Tilschner sabotaged, too?

Chapter 1: Popovich and Mast Control of Dulberg’s PI case 12LA178

Relevant Facts

1-1. On or about June 28, 2011, Dulberg assisted Caroline McGuire (“Caroline”), William McGuire (“William”) (Caroline and William collectively referred to herein as “the McGuires”), and David Gagnon (“Gagnon”) in trimming long branches of a pine tree on the McGuires’ property.

1-2. Caroline McGuire and William McGuire are a married couple, who own real property in McHenry Township, McHenry County, Illinois (“the Property”).

1-3. David Gagnon is Caroline’s son and William’s stepson.

- 1-4.** Paul Dulberg (Dulberg) lives in the next neighborhood over from the McGuire family.
- 1-5.** Dulberg was invited to the McGuire's property to see if he wanted any of the wood from the tree.
- 1-6.** On June 28, 2011, at the Property, Gagnon was operating a chainsaw to remove branches from a tree and cut it down on the Property.
- 1-7.** The McGuire's purchased and owned the chainsaw that was being utilized to trim, remove branches and cut down the tree.
- 1-8.** William physically assisted with removing the cut branches from the work area while supervising Gagnon's actions.
- 1-9.** Caroline physically assisted by retrieving and providing any and all tools requested by William McGuire and David Gagnon while supervising Gagnon's and William's actions.
- 1-10.** Gagnon was acting on behalf of the McGuires' under their supervision and at the McGuires' direction.
- 1-11.** Caroline, William, and Gagnon all knew, or should have known that a chainsaw was dangerous and to take appropriate precautions when utilizing the chain saw.
- 1-12.** The safety information was readily available to Caroline and William as the safety instructions are included with the purchase of the chainsaw.
- 1-13.** The safety information indicated that the failure to take appropriate caution and safety measures could result in serious injury.
- 1-14.** The safety information indicated that the likelihood of injury when not properly utilizing the chainsaw or not following the safety precautions is very high.
- 1-15.** The safety instructions outlined are easy to follow and do not place a large burden on the operator of the chainsaw or the owner of the property.
- 1-16.** Caroline McGuire, William McGuire, and David Gagnon had notice of the potentially dangerous conditions by acquiring a chain saw that was provided with attached warnings and safety information implying that a reasonable person should exercise appropriate caution and follow the safety instructions for the chainsaw.
- 1-17.** Caroline, William, and Gagnon failed to act as reasonable persons by either not exercising appropriate care, failing to follow the safety instructions, or failing to instruct Gagnon to exercise appropriate care and/or follow the safety instructions.
- 1-18.** Caroline and William, owners of the property and the chainsaw, instructed Gagnon to use the chain saw despite Gagnon not being trained in operating the chainsaw.

1-19. Caroline and William failed to instruct and require that Gagnon utilize the chainsaw only in compliance with the safety measures outlined in the owner's manual.

1-20. Gagnon failed to utilize the chainsaw in compliance with the safety measures outlined in the owner's manual.

1-21. Caroline and Gagnon asked Dulberg to assist.

1-22. Caroline, William and Gagnon failed to provide Dulberg with any of the safety Information outlined in the owner's manual.

1-23. Caroline and William McGuire failed to provide Gagnon or Dulberg with any of the protective equipment necessary for the type of work to be performed as written within the safety measures outlined in the owner's manual.

1-24. Gagnon operated the chainsaw in close proximity to Dulberg and it struck Dulberg in the right arm, Dulberg's dominant arm, cutting him severely requiring medical attention to save Dulberg's life.

1-25. Dulberg incurred substantial and catastrophic injuries, including, but not limited to, pain and suffering, loss of use of his right arm which resulted in a finding of permanent disability by Social Security Administration on April 20, 2017¹; current and future medical expenses in amount in excess of \$260,000.00; Dulberg's lifelong career in photography, graphic design, and commercial printing; lost wages in excess of one million dollars; and other damages.

1-26. On December 1, 2011 Dulberg hired Mast, Popovich, and Thomas J. Popovich, individually to represent him in prosecuting his claims against Gagnon and the McGuires.²

1-27. Mast, Popovich, and Thomas J. Popovich, individually entered into an attorney client relationship with Dulberg.

1-28. Based upon the attorney client relationship, Mast, Popovich, and Thomas J. Popovich, individually owed professional duties to Dulberg, including a duty of care.

1-29. At the December 1, 2011 Attorney-Client Engagement meeting Dulberg brought and submitted for safekeeping the folder from the Law Firm of Botto, Gilbert, Schottland & Andrie which contained Defendant David Gagnon's home address. Dulberg also submitted his originals of all relevant documentation including Walgreens RX receipts. The original documents that Hans A. Mast collected from Dulberg on December 1, 2011 are as follows:

Caroline McGuire's hand-written insurance information³

Release papers from the Hospital⁴

¹ Exhibit 1_2017-04-20_SSA-Notice of Decision_Fully Favorable_Redacted.pdf

² Exhibit 2_2011-12-01_Contract for Legal Services with Popovich-Mast_Removed Bates Stamp.pdf

³ Group Exhibit 1: 2011-06-28_Carolyn McGuire address claim adjuster phone number_POP000399.pdf

⁴ Missing

McGuire's home address¹

David Gagnon's home address²

All the paperwork from Botto Gilbert Schottland Lancaster, P.C.³

MEDICAL DOCUMENTS:

2 Original Walgreens Rx Pharmacy receipts with timestamps⁴

Meijer Receipt for medical supplies⁵

CENTEGRA NORTHERN ILLINOIS MEDICAL CENTER - 07/02/2011 - SUMMARY OF CHARGES - \$1,323.75⁶

Northern Illinois Medical Center Lien delivered to Dulberg's home on 07/06/2011 \$1,323.75⁷

UB-04 Billing Statement⁸

2011-07-06 Centegra Health System Medical Records Requests - Reference Account Number B1117900323⁹

Centegra Northern Illinois Medical Center - 08/05/2011, 09/04/2011 Billing Statements - \$1,323.75¹⁰

NORTHERN ILL MED CTR - Billing Statements - \$1,323.75¹¹

MORaine EMERGENCY PHYSICIANS - 07/16/2011 Billing Statement - \$1,346.00¹²

MORaine EMERGENCY PHYSICIANS - 08/18/2011 Billing Statement - \$1,346.00¹³

Radiologists Imaging Associates - 07/07/2011 Billing Statement - \$50.00¹⁴

Dr Frank W. Sek - 07/01/2011, 07/08/2011 Receipts for Payments - \$160.00¹⁵

Dr Frank W. Sek - 07/01/2011 Receipts for Payments - \$80.00¹⁶

1 Missing

2 Missing

3 Group Exhibit 1: 2011-11-28_Botto Gilbert declination letter_POP000391-POP000393.pdf

4 Group Exhibit 1: 2011-06-28_Walgreens Prescriptions.pdf

5 Group Exhibit 1: Meijer receipt

6 Group Exhibit 1: 2011-07-20_Centegra bill_POP000737.pdf

7 Group Exhibit 1-POP 000600 - POP 000601

8 Group Exhibit 1: 2011-07-05_Centegra UB-04 bill_POP000722.pdf

9 Group Exhibit 1-POP 000833

10 Group Exhibit 1: 2011-08-05_Centegra bill_POP000735-POP000736.pdf

11 Group Exhibit 1: 2011-07-05_Centegra UB-04 bill_POP000722.pdf

12 Group Exhibit 1: 2011-07-16_Moraine Emergency Physicians bill_POP000811.pdf

13 Group Exhibit 1: 2011-08-18_Moraine Emergency Physicians bill_POP000734.pdf

14-Group Exhibit 1: 2011-07-11_McHenry Radiologist billing_POP000817.pdf

15 Group Exhibit 1: 2011-07-01_sek_bill_80_dollars_POP000819.pdf

16 Group Exhibit 1: 2011-07-01_sek_bill_80_dollars_POP000819.pdf

Receipt for Payment - \$105.00¹

ASSOCIATED NEUROLOGY SC - 07/31/11 Billing Statement - \$90.00²

ASSOCIATED NEUROLOGY SC - 08/10/2011 Payment receipt \$90.00³

ASSOCIATED NEUROLOGY SC - 08-31-2011 Billing Statement - \$930.00⁴

ASSOCIATED NEUROLOGY SC - 10/31/2011 Billing Statement - \$930.00⁵

A list of all Doctors that Dulberg has seen since the hospital , their contact information, upcoming appointment dates⁶

1-30. On December 5, 2011 Hans Mast caused to be sent two letters, one (not by certified mail) to David Gagnon⁷ and one (by certified mail) to Thomas Malatia⁸, Adjuster for Auto Owners Insurance concerning “your insured” Caroline and Bill McGuire. Lien⁹

1-31. Sometime soon after the MEMORANDUM¹⁰ of December 5, 2011 from Defendant Hans Mast to his supervisor Defendant Thomas J. Popovich and associates Maria, Diana, and Alarie Dullum, Thomas J. Popovich wrote on the aforesaid MEMORANDUM advising and instructing Hans Mast regarding who is available to pay the damages.

1-32. There is a draft of a letter to Centegra dated December 5, 2011 among the Popovich bates-numbered documents.¹¹

1-33. Popovich was in possession of Centegra medical documents labelled “SJS0422”¹² and printed on December 8, 2011.

1-34. On December 28, 2011 Thomas Malatia, Claims Representative for Auto-Owners Insurance wrote¹³ to Thomas J. Popovich individually, on behalf of Defendants William & Carolyn McGuire seeking required information about injured Plaintiff Paul Dulberg.

1 Group Exhibit 1: 2011-07-01_sek_bill_105_dollar_POP000882.pdf

2 Group Exhibit 1: 2011-07-31_Associated Neurology bill_POP000740.pdf

3 Group Exhibit 1: 2011-08-10_Associated Neurology receipt_POP000733.pdf

4 Group Exhibit 1: 2011-08-31_Associated Neurology bill_POP000730.pdf

5 Group Exhibit 1: 2011-10-31_Associated Neurology bill_POP000741.pdf

6 Missing

7 Exhibit 3_2011-12-05_LTR_Mast to Gagnon_RE Injury to Dulberg-forward this LTR_to your insurance company_POP 000381.pdf

8 Exhibit 4_2011-12-05_CERTIFIED MAIL-LTR_Mast to AutoOwners-Tom Malatia_MISSING Enclosure-NOTICE OF ATTORNEYS LIEN_POP 000384.pdf

9 Exhibit 5_2011-12-05_1700 PM_LTR_Mast to AutoOwners-Tom Malatia_NOTICE OF ATTORNEYS LIEN_doesnt say Certified Mail_POP 000386.pdf

10 Group Exhibit 2_2011-12-05 memo

11 Exhibit 6_2011-12-06_draft of letter to Centegra for medical records_POP000389.pdf

12 Exhibit 7_Extracted pages from Exhibit 43_2012-09-14_Letter to Centegra NMCI Medical Records Custodian From Barch 9.4.12.pdf

13 Exhibit 8_2011-12-28_LTR_AutoOwners-Malatia to Thomas J Popovich_additionally asks for theory of liability_POP 000379.pdf

1-35. On January 3, 2012 Defendant Hans Mast responded¹ on behalf of Thomas J. Popovich, individually to the December 28, 2011 inquiry by Thomas Malatia, Claims Representative for Auto-Owners Insurance regarding “Your insured: Caroline and Bill McGuire Claim No.: 13-2779-11.

1-36. On or around January 24 Mast told Dulberg to go to NIMC and obtain medical records from them (even though they already had NIMC medical records). Dulberg signed an authorization² for the documents to be released and obtained a second set of records³ with a CD containing xray images. Dulberg gave this second set of records to Mast. Mast said he did not want the CD. The second set of Centegra records that Dulberg obtained on 2012-01-24 do not exist in any version of the case file that Mast provided to subsequent counsel.

1-37. On March 19, 2012 the Defendant Law Office of Thomas J. Popovich P.C. (author uncredited) created “MEDICAL EXPENSE REPORT PAUL DULBERG DATE OF ACCIDENT: JUNE 28, 2011 DATE OF REPORT: MARCH 19, 2012”⁴

1-38. On March 21, 2012 Plaintiff Paul Dulberg and Defendant Hans Mast engage in a series of (3) three emails⁵ to determine their next face to face meeting.

1-39. On April 4, 2012 Plaintiff Paul Dulberg and Defendant Hans Mast next met to discuss the status of the case. During this meeting Defendant Han’s Mast informed Plaintiff Paul Dulberg that David Gagnon had not responded to Hans Mast’s December 5, 2011 letter, that they did not know if Gagnon was insured for the Dulberg injury, and that Dulberg should drive to Gagnon’s home to confirm David Gagnon’s correct address.

1-40. In Hans Mast’s MEMORANDUM to file dated April 5, 2012 he stated⁶:

”I suggested that maybe we will file suit immediately so we can at least get the case in suit and proceeding forward until we know how and when we will be able to settle the case.”

1-41. On April 10, 2012, 131 days after Defendants Hans Mast, Thomas J. Popovich and The Law Offices of Thomas J. Popovich, P.C. were retained to represent Plaintiff Paul Dulberg, Defendant Hans Mast created a MEMORANDUM⁷ to Alarie Dullum with a copy to file stating:

“ I want to sue the McGuire’s too for failure to supervise the cutting down of the tree and failure to provide proper equipment, etc. so that it can be done safely without injuring our client.”

1 Exhibit 9_2012-01-03-c_LTR_Mast to AutoOwners-Malatia_Mast does not provide theory of liability_POP 000380.pdf

2 Exhibit 10_2012-01-24_Centegra authorization for document release.jpg

3 Exhibit 11_2012-01-24_Centegra-Medical Records and authorization for release.pdf

4 Exhibit 12_2012-03-19_MEDICAL EXPENSE REPORT-7.333k_POP 000714 - POP 000716.pdf

5 Exhibit 13_DUL000001 to DUL008708.pdf; DUL001245

6 Exhibit 14_2012-04-05_Memorandum_POP000958.pdf

7 Exhibit 15_2012-04-10_Memorandum_POP000957.pdf

1-42. On April 10, 2012 Plaintiff Dulberg emailed to Defendant Mast stating:¹

“Here is David Gagnon’s address: 39010 90th PL Powers Lake Wisconsin, 53159 Attached below is a photo of David taken yesterday in front of his house with the address on the outside. ... Apparently you already have his address because the first thing he said was, “I stopped talking to you a few months back when I received a letter at my house from your lawyer at Popovich. It really really really me off to have anything come to my house about this.”

1-43. The email exhibit above has “a placeholder” and does not display the photo that was taken on April 9, 2012 of David Gagnon showing his address mounted on the wall, confirming the address Hans Mast had been previously given on December 1, 2011.

1-44. On April 11, 2012 Minuteman Press printed (6) six copies of a partial/cropped image of the picture² sent by Plaintiff Dulberg to Defendant Mast that is referenced as “a placeholder” above.

1-45. On September 17, 2022 Dulberg recovered the original image³ from an old broken (i-pad) computer and it was not cropped like the photos Mast had provided to opposing counsel and used as an exhibit.

1-46. On April 11, 2012 Plaintiff Paul Dulberg sent an email⁴ to Defendant Hans Mast about the Complaint to be filed against Defendants David Gagnon and the McGuires inquiring:

“Do I need to come in and sign anything?”.

1-47. Neither Defendant Hans Mast nor anyone from Defendant Law Offices of Thomas J. Popovich, P.C. replied to this question.

1-48. On April 11, 2012 Hans Mast sent a second letter⁵ to David Gagnon requesting that David Gagnon notifies his homeowner’s liability insurance carrier and requesting a conversation to avoid the necessity of filing suit.

1-49. On April 12, 2012 Plaintiff Paul Dulberg sent an email to Defendant Hans Mast stating⁶:

“...I just received a call from David Gagon. He was a bit upset because he received another letter at his house from you asking for his homeowner’s insurance. When he got to the part about calling you if he had any questions, I told him to please do so...Wish I had a tape recorder for you to hear these conversations.”

1 Exhibit 16_POP000057-POP000059.pdf

2 Folder B7: all photos labelled “cropped image”

3 Folder B7: original photo.JPG

4 Exhibit 17_POP000056.pdf

5 Exhibit 18_2012-04-12_LTR_Mast to Gagnon_POP000371.pdf

6 Exhibit 19_POP000367.pdf

1-50. On April 13, 2012 Defendant Hans Mast originated a MEMORANDUM¹ to file which purports to be an incomplete written rendering of “Subject: PAUL DULBERG-RECORDED PHONE STATEMENT FROM DEFENDANT, DAVID GAGNON”

1-51. On April 13, 2012 Defendant Hans Mast sent an email to Plaintiff Paul Dulberg stating²:

“You can cool him down by saying we need to do it for insurance purposes.”

1-52. On April 16, 2012 Plaintiff Paul Dulberg sent an email to Defendant Hans Mast stating³:

“David Gagnon did get a hold of me again today. Said that he had talked to you and now he wanted to talk to me.”

1-53. On April 16, 2012 Plaintiff Paul Dulberg sent another email to Defendant Hans Mast stating⁴:

“One more thing to add. He said he would give us a copy of his policy if we need it.”

1-54. On May 14, 2012 Defendant Hans Mast again sent Plaintiff Paul Dulberg to personally meet with Defendant David Gagnon at David Gagnon’s residence in the State of Wisconsin to obtain through personal attendance and discussion Defendant David Gagnon’s homeowner’s insurance information.⁵

1-55. On May 15, 2012 at 02:19 AM Plaintiff Paul Dulberg responded to Defendant Hans Mast’s email communicating the requested Gagnon homeowner’s insurance information.⁶

1-56. On May 15, 2012 on or about 3:30 PM Defendants Mast, Popovich, and Thomas J. Popovich, individually on behalf of Dulberg filed an unverified Complaint⁷ and Summons⁸ against Gagnon and the McGuires numbered 12 LA 178 wherein David Gagnon’s Homeowner’s Insurance Policy information was not utilized or stated.

1-57. The unverified claims against the McGuires included (a) common law premises liability, (b) statutory premises liability, (c) common law negligence, and (d) vicarious liability for the acts of their son and agent David Gagnon.

1-58. The Complaint was filed without review, signing and verification by Party/Plaintiff Paul Dulberg.

1-59. Complaint 12 LA 178 included an Illinois Supreme Court Rule 222(b) Affidavit re

1 Exhibit 20_2012-04-13_Memorandum_POP001318-POP001319.pdf

2 Exhibit 21_POP000369.pdf

3 Exhibit 21_POP000369.pdf

4 Exhibit 21_POP000369.pdf

5 Exhibit 22_POP0000361-POP0000362.pdf

6 Exhibit 22_POP0000361-POP0000362.pdf

7 Group Exhibit 3: 2012-05-15_complaint_POP001163-POP001169.pdf

8 Group Exhibit 3: summons_POP001184-POP001188.pdf

Damages Sought.¹

1-60. The included Illinois Supreme Court Rule 222(b) Affidavit re Damages Sought was not signed by Party/Plaintiff Paul Dulberg but was signed by Defendant Hans Mast.

1-61. The Illinois Supreme Court Rule 222(b) Affidavit re Damages Sought stated “2. That on behalf Plaintiff, PAUL DULBERG, I am hereby requesting money damages in an amount not to exceed \$50,000.00, together with the costs of this action, against each of the above-named Defendants.”²

1-62. Popovich never asked the judge to approve a change to over \$50,000 during his representation of Dulberg even as the medical bills alone grew and came to exceed \$60,000.

1-63. Hans A. Mast had the clerk send summons to all defendants on May 15, 2012 with “Amount Claimed \$50,000.00+”³

1-64. On May 16, 2012 Defendant Hans Mast caused to be sent by U.S. mail to Plaintiff Paul Dulberg a letter⁴ informing Plaintiff Dulberg that suit was filed on his behalf without indicating when it was filed and without including or offering Plaintiff Paul Dulberg an opportunity after filing to read the Complaint.

1-65. On May 18, 2012 Plaintiff Paul Dulberg sent an email to Defendant Hans Mast inquiring⁵:

“...if David Gagnons home owners insurance policy number checked out? Thereafter Defendant Hans Mast responded “ Paul, it’s a fair concern. But until the suit is served on him and his insurance appears in the case, Im not gonna be able to tell you anything. Also, be aware that **many policies have only \$100,000 in coverage. So we need to find this out first...**” [Emphasis Added]

1-66. On June 3, 2012 Defendants Caroline (Carolyn) McGuire and Bill (William) McGuire were served with Summons-30 Day.⁶

1-67. On June 11, 2012 Thomas J. Popovich, individually received a letter from Attorney Ronald A. Barch indicating that Mr. Barch had been requested by Auto-Owners Insurance Company to appear and defend Mr. and Mrs. McGuire.⁷

1-68. On June 12, 2012 Plaintiff Paul Dulberg sent medical scheduling information that will take place at Northwest Community Hospital.⁸

1 Group Exhibit 3: 2012-05-15_affidavit_POP001170.pdf

2 Group Exhibit 3: 2012-05-15_affidavit_POP001170.pdf

3 Group Exhibit 3: summons_POP001184-POP001188.pdf

4 Exhibit 23_2012-05-16_LTR_Mast to Dulberg_DUL001679.pdf

5 Exhibit 24_POP000358.pdf

6 Exhibit 25-2012-06-07_12LA178_SUMMONS_Caroline McGuire.pdf

7 Exhibit 26_2012-06-11_LTR_Barch to Mast_POP000349.pdf

8 Exhibit 27_POP000350.pdf

1-69. On June 18, 2012 Defendant David Gagnon was served with Summons-30 Day.¹

1-70. On June 21, 2012 at 09:05 AM Defendant Hans Mast received a fax from MidAmerica Orthopaedics by way of what is currently listed as an unallocated phone number (847-321-2043) consisting of 6 pages of which only the last 5 pages have been located.²

1-71. In the first full paragraph of the section titled “History & Physical” of the third page at lines 3-5 of the fax Marcus G. Talerico, M.D. stated:

“**He apparently was using a chain saw** when he accidentally struck the volar medial aspect of his right forearm in roughly the mid forearm range with a chain saw” [Emphasis Added]

1-72. On June 21, 2012 at 9:05 AM Defendant Hans Mast caused to be sent an email³ to Plaintiff Paul Dulberg stating:

“Paul, just a quick note. I saw records come in from MidAmerica Hand and Shoulder Clinic- Dr. Talerico. **The history of your injury suggests you were operating the chain saw yourself -not someone else.** [Emphasis Added] This might be troublesome unless you clear that up with Dr. next visit. thanks”

1-73. On June 21, 2012 at 3:10 PM Plaintiff Paul Dulberg sent an email to Defendant Hans Mast stating⁴:

“I just called the libertyville office for MidAmerica Hand and Shoulder Clinic. Talked with Gabby. She told me she could not change the record but would make an addendum to the record to clarify that I was not the one operating the chainsaw. She apologized for the confusion and said that it was lost between the Dr.’s notes and the person who transcribes the records. She is going to call your office and fax over the addendum. Please let me know if you get the addendum and if it is ok”

1-74. On June 25, 2012 Northwest Community Healthcare sent a fax⁵ to Defendant Hans Mast requesting the name and address of the homeowners insurance, claim number, name of responsible party and date of incident.

1-75. On June 25, 2012 Defendant Hans Mast causes to be made a MEMORANDUM⁶ to Alarie C; File regarding the need to have Plaintiff Paul Dulberg’s medical expense report updated.

1-76. On June 27, 2012 Defendant Hans Mast responded to the June 25, 2012 request by failing to give the requested information.⁷ Mast wrote:

1 Exhibit 28-2012-06-18_12LA178_SUMMONS_David Gagnon.pdf

2 Exhibit 29_2012-06-21_fax from Talerico DUL002189-DUL002193.pdf

3 Exhibit 30_POP000348.pdf

4 Exhibit 30_POP000348.pdf

5 Exhibit 31_2012-06-25_fax_NCH Catie Harrison to Mast_POP000620-POP000621.pdf

6 Exhibit 32_2012-06-25_Memorandum_POP000953.pdf

7 Exhibit 33_2012-06-27_fax_Mast answer to NCH_POP000345-POP000346.pdf

“Unfortunately, we just filed suit and it is still relatively early on and I have not yet obtained the adverse parties insurance information. I would be happy to provide that to you shortly.

In the meantime, please feel free to forward a lien to my attention and I would be happy to honor it for purposes of settlement and/or recovery obtained in this case.”

1-77. Note that Mast’s request is contrary to Illinois law. Mast is informing the NCH representative to:

- a) Serve the lien notice with information on the injured party only
- b) Serve the lien notice by sending it to the attorney of the injured party
- c) Serve the lien notice without having the required information on the party responsible for the injury

1-78. A Northwest Community Hospital universal billing form UB-04¹ dated July 17, 2012 (in Box 38) has the responsible party listed as: AUTO OWNERS INS 6000 TALLGATE SUIT D ELGIN IL and (in Box 50) has the payer listed as: AUTO OWNERS INS and (in Box 60) has the INSURED’S UNIQUE ID listed as CLM#13-2779-11.

1-79. On June 27, 2012 Defendant Hans Mast causes to be filed with the Clerk of Circuit Court a PROOF OF SERVICE with the Document Description: PLAINTIFF’S REQUEST FOR PRODUCTION TO DEFENDANTS, BILL McGUIRE AND CAROLINE McGUIRE, PLAINTIFF’S INTERROGATORIES TO DEFENDANTS, BILL McGUIRE AND CAROLINE McGUIRE, RULE 237(b) NOTICE TO PRODUCE AT TRIAL AND/OR ARBITRATION TO DEFENDANTS, BILL McGUIRE AND CAROLINE McGUIRE AND NOTICE OF DEPOSITION S OF DEFENDANTS² addressed to Counsel for Defendants Caroline and Bill McGuire.

1-80. On July 19, 2012 “RELEASE OF INFORMATION PREBILL”³ was sent to Thomas J. Popovich from Northwest Community Hospital.

1-81. On July 24, 2012 Mast sent a letter to Ronald A. Barch stating:⁴

“See medical expense report itemizing bills (with bills attached) in the amount of \$7,313.43. Plaintiff is still treating and bills are coming treaters including Associates in Neurology, Dr. Frank Sek, Fox Lake Dynamic Hand Therapy, Hand Surgery Associates and Dr. Sagerman/Biafora, Mid-America Hand to Shoulder Clinic and Dr. Talerico, Northern Illinois Medical Center and Northwest Community Hospital. Investigation continues.”

1 Exhibit 34_2012-07-17_NCH UB-04_DUL002358.pdf

2 Exhibit 35_2012-06-27_12LA178_PROOF OF SERVICE_Plaintiff Request for Production-Interrogatories-Rule 237b-Depositions-McGuires_Mast copy-OCR.pdf

3 Exhibit 36_2012-07-19_RELEASE OF INFORMATION PREBILL NCH to Popovich_POP000626p.pdf

4 Exhibit 37_2012-07-24_LTR_Mast to Barch_DUL004204-DUL004205.pdf

“Medical records are attached obtained thus far from Drs. Karen Levin at Associated Neurology, Northern Illinois Medical Center, Mid-America Hand to Shoulder Clinic and Open Advanced MRI. Investigation continues.”

1-82. Sometime between July 9, 2012 and August 6, 2012 The Law offices of Thomas J. Popovich P.C. sent the following to the McGuires:

“PLAINTIFF’S INTERROGATORIES TO DEFENDANTS, BILL McGUIRE AND CAROLINE McGUIRE”¹

“PLAINTIFF’S REQUEST FOR PRODUCTION TO DEFENDANTS, BILL McGUIRE AND CAROLINE McGUIRE”²

1-83. On August 6, 2012 The McGuires send to Hans A. Mast the following:

“ANSWER TO PLAINTIFF’S INTERROGATORIES TO DEFENDANTS BILL McGUIRE AND CAROLYN McGUIRE”³

“ANSWER TO PLAINTIFF’S REQUEST TO PRODUCE BY DEFENDANTS BILL McGUIRE AND CAROLINE McGUIDRE”⁴

Note: Dulberg did not have access to these documents until July 16, 2015 (Mast never showed them to Dulberg).

1-84. On August 8, 2012 Defendants Carolyn McGuire and Bill (William) McGuire served Answers to Plaintiff’s Written Interrogatories and “Responses to Plaintiff’s Production” **ON PLAINTIFF**. [EMPHASIS ADDED]⁵

1-85. On September 5, 2012 Defendant David Gagnon’s Appearance⁶ was filed by attorney Perry Accardo (around 78 days after Gagnon was served with a summons 30 day).

1-86. On September 04, 2012 McGuire attorney Barch subpoenaed the records of NIMC

1-87. The only existing representation of the Barch subpoenaed documents⁷ are in:

Gooch Thumbdrive/Dulberg Paul Dulberg Files from Client/ TJP & Attorney Documents/
Letter to Centegra NMCI Medical Records Custodian From Barch 9.4.12.pdf

1 Exhibit 38_PLAINTIFF’S INTERROGATORIES TO MCGUIRES_DUL001980-DUL001986.pdf

2 Exhibit 39_Plaintiff’s RTP to McGuires_DUL001991-DUL001993.pdf

3 Exhibit 40_2012-08-06_ANSWER TO PLAINTIFF’S INTERROGATORIES TO MCGUIRES_DUL000162-DUL000175.pdf

4 Exhibit 41_McGuire RTP Response_DUL000156-DUL000161.pdf

5 Exhibit 42_2012-08-08_12LA178_NOTICE OF SERVING DISCOVERY-Answers to Plaintiffs Interrogatories & Response to Production_CERTIFICATE OF SERVICE_Barch-McGuire copy-OCR.pdf

6 Exhibit 43_2012-09-05_12LA178_APPEARANCE_Accardo-Gagnon.pdf

7 Exhibit 44_2012-09-14_Letter to Centegra NMCI Medical Records Custodian From Barch 9.4.12.pdf

1-88. Pages 2, 3, 4,¹ and 5² of the alleged 35 page reply were documents with billing information and a certification page. The documents appear to be a construction of information taken from a Centegra form UB-04³ but the UB-04 is not included. It appears someone was trying to craft documents with UB-04 billing information. The original UB-04 later appears in 2019 among the Popovich bates-numbered documents.

1-89. The 3 documents are not included among the documents subpoenaed from Barch's office. When Barch was subpoenaed for all documents related to case 12LA178 Barch produced a list of file names of his medical records only:

List of Medical Records and Bills.2.19.20.pdf⁴

1-90. A list of medical documents included in the Barch subpoena claims Barch is in possession of Centegra medical records but not Centegra billing.

1-91. The documents that appear to be reconstructed from the Centegra UB-04 are located in Popovich construction of NIMC documents produced responding to the Barch subpoena. Either:

(a) Barch is the source of the altered documents or

(b) Popovich arranged his case file to make it look as if Barch sent him a 35 page fax with the documents subpoenaed from Centegra.

1-92. On October 1, 2012 Defendant Hans A. Mast sent to Perry Accardo, Law Office of M. Gerard Gregoire, attorney for Defendant David Gagnon the previously filed Discovery Responses⁵ that were served upon and answered by Plaintiff before Defendant David Gagnon appeared.

1-93. On October 3, 2012 Mast filed Proof of Service⁶ of Request to Produce and Interrogatories with the court. It is not known whether Mast actually sent any Request for Production or Interrogatories on Defendant Gagnon. The only Interrogatories⁷ and Request for Production⁸ on Gagnon by Mast that exist are not dated.

1-94. Gagnon's attorney has never responded to interrogatories served upon Gagnon by Mast.

1-95. A short time before November 27, 2012 a meeting between Dulberg and Mast occurred. At the meeting Mast told Dulberg the defendant Carolyn McGuire claimed she paid for Dulberg's prescriptions following the Hospital visit on June 28, 2011.

1 Folder B8: pages 2 3 4 of Letter to Centegra NMCI Medical Records Custodian From Barch 9.4.12.pdf

2 Folder B9: Barch certificate of compliance.pdf

3 Group Exhibit 1: 2011-07-05_Centegra UB-04 bill_POP000722.pdf

4 Exhibit 45_Barch List of Medical Records and Bills.2.19.20.pdf

5 Exhibit 46_2012-10-01_LTR_Mast to Accardo_POP000315.pdf

6 Group Exhibit 4: 2012-10-03_Proof of Service_DU002089, 4476.pdf and 2012-10-03_Proof of Service_DUL006581.pdf

7 Group Exhibit 4: Undated_Plaintiff's interrogatories to Gagnon_DUL002094-2100, 4481-4487.pdf

8 Group Exhibit 4: Undated Request To Produce_DUL002091-2093, DUL004478-4480.pdf

1-96. Dulberg rebuked this claim and stated that he paid for the prescriptions and that it would be impossible for Caroline McGuire to give him money because the pharmacy was the first place he went after leaving the hospital. The hospital recorded the time he left and the pharmacy recorded the time he turned in the prescriptions he had filled. It would be impossible to make a round trip from the hospital to the McGuires home and back to the pharmacy in the times that are recorded.

1-97. Mast claimed that the pharmacy receipt didn't record the time (only the date).

1-98. Dulberg told Mast he remembers a timestamp on the receipts.

1-99. Mast said something like "well okay, lets take a look" and Mast took out 2 pharmacy receipts¹ from a manila folder and showed them to Dulberg.

1-100. While Dulberg was looking at the documents, Mast said something like "you can't even prove you paid for the prescriptions". Dulberg said he knows there was a timestamp on here.

1-101. Dulberg asked to keep the receipts. Mast said something like " sure, I have more copies of them." Dulberg wrote on one receipt: "need timestamp from when this prescription was filled & picked up" and later wrote the contact information for the custodian of records for Walgreens.²

1-102. Dulberg went home and contacted the Walgreens pharmacy where the prescriptions were filled. Dulberg asked them for the time of day the prescriptions were filled and he was given instructions on where to get that information. Dulberg recorded³ this on the receipt:

"Walgreens Custodian of Records
(217)554-8949
8am-5pm Mon-Friday"

1-103. Dulberg then contacted the Walgreens custodian of records and was instructed that the request must be in writing. Dulberg wrote⁴ the address and fax number on the receipt:

"Walgreens Custodian of Records
P.O. Box 4039
Danville, IL. 61834
217-554-0955 Fax Request"

1-104. Dulberg followed through and requested the records. A report⁵ was generated by the Walgreens Custodian of Records on November 27, 2012.

1-105. Dulberg got the report⁶ from the custodian of records at Walgreens and did not see the

1 Exhibit 47_2012-11-27_Dulberg's note about needing timestamp_DUL006350-6351.pdf

2 Exhibit 47_2012-11-27_Dulberg's note about needing timestamp_DUL006350-6351.pdf

3 Exhibit 47_2012-11-27_Dulberg's note about needing timestamp_DUL006350-6351.pdf

4 Exhibit 47_2012-11-27_Dulberg's note about needing timestamp_DUL006350-6351.pdf

5 Exhibit 48_2012-11-27_Walgreens purged data report_DUL006687.pdf

6 Exhibit 48_2012-11-27_Walgreens purged data report_DUL006687.pdf

time of day he was after in the report. Dulberg then called the custodian of records and told them he is looking for the time of day in the report and it is not there.

1-106. The Custodian of records informed Dulberg that the audit of the local store they performed wouldn't have that information. A timestamp is handed to a customer on the 'prescription drop off receipt' the local store gives someone when they first drop off a prescription to be filled. No timestamp appears on the 'payment receipt'. The prescription drop off receipt shows the customer the time of day the customer turned in the prescription so the customer knows how long they have had to wait for their prescription to be filled. The payment receipt is a different receipt and only the payment receipt is kept in the archives.

1-107. Dulberg, having turned over all the original paperwork he had to Mast, realized that he **could not independently prove the time of day he was at the pharmacy** and stopped investigating and started to question his own memory and whether he actually kept the prescription drop off receipt or turned it over to Mast.

1-108. On September 17, 2022 Dulberg recovered the original image¹ from an old broken (i-pad) computer that he recently had repaired². It was at that moment when Dulberg realized for the first time that the pharmacy receipt came on a single long piece of paper and the Popovich law firm must have cut the paper into a number of smaller bits and showed Dulberg only certain cuttings of the original 'prescription drop off receipts'.

1-109. On January 24, 2013 Dulberg was deposed.³

1-110. On February 1, 2013 Ron Barch filed CROSS-CLAIM FOR CONTRIBUTION AGAINST CO-DEFENDANT DAVID GAGNON⁴. In the cross-claim the McGuires state as follows:

7. At the time and place alleged, notwithstanding his aforementioned duty, Defendant David Gagnon was then and there guilty of one or more of the following negligent acts and/or omissions:

- a. Caused or permitted a chainsaw to make contact with Plaintiffs right arm;
- b. Failed to operate said chainsaw in a safe and reasonable manner so as to avoid injuring Plaintiff's right arm;
- c. Failed to maintain a reasonable and safe distance between the chainsaw he was operating and Plaintiff's right arm;
- d. Failed to properly instruct Plaintiff prior to approaching him with an operating chainsaw;

1 Group Exhibit 1: 2011-06-28_Walgreens Prescriptions.pdf

2 Exhibit 49_2022-09-17_2027 PM_Recv_Your Repair Status has been updated.pdf

3 Group Exhibit 11_2013-01-24_Dulberg depositions (all)

4 Exhibit 50-2013-02-01_12LA178_CROSS CLAIM FOR CONTRIBUTION AGAINST CODEFENDANT DAVID GAGNON_CERTIFICATE OF SERVICE_Barch-McGuires copy-OCR.pd

- e. Failed to properly warn Plaintiff prior to approaching him with an operating chainsaw;
- f. Failed to maintain the chainsaw in the idle or off position when he knew or should have known that Plaintiff was close enough to sustain injury from direct contact with the subject chainsaw;
- g. Failed to maintain a proper lookout for Plaintiff while operating the subject chainsaw;
- h. Failed to maintain proper control over an operating chainsaw;
- i. Was otherwise negligent in the operation and control of the subject chainsaw.

8. That the injuries alleged by Plaintiff PAUL DULBERG, if any, were the direct and proximate result of negligence on the part of Defendant David Gagnon.”

1-111. Gagnon’s attorney Accardo has never filed an answer on behalf of Gagnon (effectively admitting all allegations as true).

1-112. On February 1, 2013 the McGuires filed DEFENDANTS’ AFFIRMATIVE DEFENSE in which they stated:¹

- 1. That on the date and the place alleged in the Plaintiffs Complaint, the Plaintiff, PAUL DULBERG, was guilty of negligence by failing to exercise due care and caution for his own safety in that he:
 - b. Failed to use due care and caution as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches when he knew and appreciated the dangers associated with chainsaw usage.
 - c. Was inattentive and unobservant to surrounding conditions and dangers as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches.
 - d. Notwithstanding a reasonable opportunity to do so, failed to maintain a safe distance between himself and an operating chainsaw.
 - e. Was otherwise careless and negligent as will be demonstrated by the evidence at trial.
- 2. That by reason of the aforesaid negligence of the Plaintiff, PAUL DULBERG, and as a direct and proximate result thereof, the Plaintiff sustained the damages claimed.”

1-113. On February 6, 2013 Mast filed an ANSWER TO AFFIRMATIVE DEFENSE² on behalf of Dulberg which denied each of these allegations.

1-114. On February 4, 2013 David Gagnon was deposed.³

1-115. The transcript as it was provided by Urbanski Reporting Services had a certification

1 Exhibit 51_2013-02-01_AMENDED ANSWER AND AFFIRMATIVE DEFENSE BY DEFENDANTS BILL McGUIRE AND CAROLYN McGUIRE.pdf

2 Exhibit 52_2013-02-06_12LA178_PLAINTIFFS REPLY TO DEFENDANTS BILL AND CAROLYN MCGUIRES AFFIRMATIVE DEFENSE_Mast-Dulberg copy-OCR.pdf

3 Group Exhibit 16_2013-02-06_Gagnon depositions (all)

page¹ signed by a person named “Maggie Margaret Orton”.

1-116. On March 25, 2022 Margaret Orton was subpoenaed² for 20 signatures and she provided 20 signatures on April 19, 2022.

1-117. Omni Document Examination did an analysis of the signatures and issued a report.³

1-118. In the interview Mast led the witness Gagnon and intentionally did not follow up on easily impeachable testimony during the Gagnon deposition. An example of Mast leading Gagnon during his deposition occurs in this exchange:⁴

Q. All right. Let me stop you because I understand what you’re saying. You’re saying after his injury you drove his car with him as a passenger to the hospital?

A. Yes.

Q. He got treated, discharged, and then you were back in his car going back to your mom’s house?

A. Never left the parking lot and he said that.

Q. No, I understand that --

A. Yes, but that’s --

Q. -- but that’s where you were going?

A. Yes. Yes.

Q. All right. Let’s try not to -- I’ll try and won’t talk over you; you try not to talk over me. All right. So you’re leaving the hospital still in his car on the way to your mother’s house, right? Right? That’s on the way? That’s where you were going?

A. Right, that’s where we were going, but we still had not left the parking lot.

Q. All right. I didn’t say anything about where you were. I’m saying you’re in the car on the way to your mother’s house, right?

A. Yes.

Q. Okay.

A. Yes.

1-119. Popovich and Mast were in possession of the Walgreens RX pharmacy timestamps so Popovich and Mast knew the actual time Dulberg was at the pharmacy.

1-120. Mast knew that Dulberg told him that Dulberg and Gagnon drove from the hospital

¹ Folder B4: Gagnon depo certification page.pdf

² Group Exhibit 5_2022-03-25_Margaret Orton subpoena (all)

³ Group Exhibit 6-Margaret Orton signatures analyzed (all)

⁴ Group Exhibit 16_2013-02-06_Gagnon depositions (all) pages 12 and 13

directly to a pharmacy on the day of the accident. Mast was in possession of the timestamps. The timestamps on the pharmacy receipts prove Dulberg's description is accurate. Both Gagnon and Carolyn McGuire insisted Dulberg went from the hospital directly to McGuire's house before returning to the pharmacy. In the above exchange Mast is leading the witness and helping Gagnon lie and contradict his own client.

1-121. Popovich and Mast were in possession of the Walgreens RX pharmacy timestamps so Popovich and Mast knew the actual time Dulberg was at the pharmacy.

1-122. Dulberg went from the hospital directly to the nearest pharmacy and had his prescription filled. David Gagnon pulled Dulberg's wallet from Dulberg's back pocket and handed the pharmacist cash from Dulberg's wallet (since Dulberg could not).

1-123. The last recorded time at Hospital is recorded at 3 different places within the Hospital report:

5:13 pm or 17:13 discharge instructions¹

5:13 pm or 17:13 Pain 4 time²

5:13 pm Discharge by WJD0610 @ 1713³

1-124. Dulberg gave the pharmacist 2 prescriptions and the prescription drop off receipts are marked "WAITING TUE 5:39PM New"⁴

1-125. On June 28, 2011 26 minutes elapsed between the last recorded time at the Hospital and the Walgreens Pharmacy at the busiest time of day for traffic in McHenry, Illinois.

1-126. With no traffic at midnight it takes 16 minutes (using the fastest route)⁵ to drive from the Hospital (located at 4201 Medical Centre Dr, McHenry, IL) to the McGuires home (at 1016 W Elder Ave. McHenry, IL). It takes 14 minutes (using the fastest route)⁶ to drive from the McGuires home (at 1016 W Elder Ave. McHenry, IL) to the Walgreens Pharmacy (at 3925 W Elm St, McHenry). Driving both routes, one after the other, takes 30 minutes. This does not include the time to walk from the emergency department to the car (in the parking lot), parking and visiting with Carolyn McGuire in her home (and getting \$50.00), or time to park and walk from the car to the back of the Walgreens store (where the pharmacy is located).

1-127. Rt. 120 in McHenry (between Rt. 31 North and Rt. 31 South) has undergone a major construction change to increase the flow and amount of traffic it can handle since the June 28, 2011 accident. In addition, Johnsburg has removed stop signs from Johnsburg Rd and built a new 'roundabout' in the center of town so all traffic keeps moving rather than getting backed

1 Exhibit 53_DUL000227, 2156, 5719, 5727, 7540 .pdf

2 Exhibit 54_DUL002150, 2163, 5712, 5734, 7546.pdf

3 Exhibit 55_DUL000229, 2158, 5721, 5729, 7542, 7604.pdf

4 Group Exhibit 1: 2011-06-28_Walgreens Prescriptions.pdf

5 Group Exhibit 7: 2011-06-28_McGuire-Gagnon Claimed RX route.png

6 Group Exhibit 7: 2011-06-28_McGuire-Gagnon Claimed RX route.png

up at the stop signs. Because of the major construction projects, accurate travel times from the Hospital to the McGuires home and back to the pharmacy back in June 2011 cannot be provided. But it can be assumed that the travel times given in ‘Group Exhibit 7’ are faster than the actual travel time on the day of the accident.

1-128. Also note there are 3 other pharmacies, (Walmart, Meijer, CVS)¹ which are closer to the McGuires home than Walgreens pharmacy. Dulberg would have had to pass 3 other pharmacies to get back to the Walgreens pharmacy (closest to the hospital). There is also a Walgreens pharmacy in Fox Lake (that is less than 10 minutes away from the McGuire home) that would be much closer than the Walgreens pharmacy Dulberg actually used.

1-129. Easily identifiable acts of perjury by Gagnon in his deposition are as follows:

- 1) Mast led Gagnon to state they drove from the hospital directly to the McGuire house (4 times in a row).
- 2) Mast allowed Gagnon to describe the limb being cut when the accident occurred as 4 or 5 feet long. Dulberg described it as being about 20 feet long. Mast helps Gagnon completely misrepresent the size and position of the limb being cut.
- 3) Mast allowed Gagnon to misrepresent the chainsaw accident. Mast drew a diagram of a branch that was shorter than a man and being held vertically upright by Dulberg.

1-130. Exhibit 1 of Gagnon’s deposition consists of 2 papers cut and placed together to appear as one paper.² There are many versions of Exhibit 1 throughout the bates-numbered documents.

1-131. Exhibit 2 of Gagnon’s deposition is an alleged transcript of a phone conversation.³ Mast claimed to have a recording of the phone conversation but has never produced it. It probably does not exist.

1-132. Popovich has a different version⁴ of Exhibit 3 of Gagnon’s deposition than Dulberg’s version⁵.

1-133. On February 11, 2013 Mast wrote a letter to Dulberg stating:⁶

“Obviously, this case is going to come down to your word against David’s word. With your testimony, it seems very clear that David was negligent in operating the chainsaw to cause it to strike your right forearm. Unfortunately, David’s version of the accident is much different. Given the conflict in the testimony, it is difficult to determine how a jury will ultimately decide liability in this case. If the jury decides for you, you will obviously win. However, if the jury finds for Mr. Gagnon, you will lose. One additional

1 Group Exhibit 7: 2011-06-28_Walmart.png and 2011-06-28_Meijer.png and 2011-06-28_CVS.png

2 Group Exhibit 17_Gagnon Exhibit 1 (all)

3 Group Exhibit 18_Gagnon Exhibit 2

4 Group Exhibit 19: POP 1320-1326_Gagnon Exhibit 3 with extra page.pdf

5 Group Exhibit 19_Gagnon Exhibit 3 (contains many examples)

6 Exhibit 52_2013-02-11_LTR_Mast to Dulberg_POP000260.pdf

factor is that David testified that you stated after the fall “I may never have to work the rest of my life” and that you urged him to help by offering favorable testimony. If true, this could be problematic to the case.”

1-134. On February 13, 2013 at 18:03:09 -0000 (UTC) Dulberg sent an email to Mast stating¹:

“In response to your letter about Gagnon’s deposition: In the first place, why would I hold up the very end of a branch with my damaged left arm? And if I did do it as Dave Gagnon said, I would have had my back to him. What he said makes no sense. In the second place, if you have ever been cut by a chain saw, the last thing on anyone’s mind would be making a profit. I was in so much pain that I could not have talked seriously about anything other than stopping the bleeding and getting to a hospital fast. David did not come into the hospital with me. He dropped me at the door and was parking the car. He was brought into the ER and questioned by the staff that was there. You can check with whoever was working the ER that day. It’s not really my word against David’s but David’s word against those that were working in the ER. There is one witness as to David talking about making money off of this accident. Mike Mcartor heard David say this to me in David’s garage the day I went up to David’s house to get his home owner’s insurance policy number per your request. Mike Mcartor is a friend that grew up with David and myself and is currently living at my residence.”

1-135. On February 13, 2013, at 12:51 PM, Hans Mast sent an email to Dulberg stating²:

“Every case has different versions of the same accident. Unfortunately, when there are no witnesses, it’s hard to know how the jury will decide a case. David’s description of the accident made sense to him and he described it in a way that “could have” occurred even though different from your description. I think the only way to prove him wrong is to show him to be incredible in other ways...for instance his assertion that you told him “you could be rich” in front of your room mate. If your room mate will cooperate and say that David is wrong - that you did not say this, this could be a very good way to show him to be wrong. Would your room mate agree to a deposition in the case? if so, have him call me...thanks Paul...”

1-136. On March 18, 2013 Mast sent all defendants attorneys, Barch and Accardo, copies of the cut up pharmacy receipts without the timestamps³ 2 days prior to the deposition of Caroline and William McGuire.

1-137. On March 20, 2013 CAROLYN McGUIRE was deposed⁴, WILLIAM McGUIRE was deposed⁵, and MIKE McARTOR was deposed⁶.

1 Exhibit 13_DUL001577, 1579, 1581, 1582, 2723, 2725, 2728, 2729, 7086, 7988, 7092, 7479, 7481, 7484, 7485

2 Exhibit 13_DUL001576, 1579, 1580, 2722, 2725, 2727, 7085, 7088, 7090, 7478, 7481

3 Exhibit 56_2013-03-18_LTR Mast to Barch_medical records request_POP000231-POP000238.pdf

4 Group Exhibit 20_2013-03-20_Carolyn McGuire depositions (all)

5 Group Exhibit 21_2013-03-20_William McGuire depositions (all)

6 Group Exhibit 25_2013-03-20_McArtor depositions (all)

1-138. The transcripts as they were provided by Urbanski reporting services had certification pages signed by a person named “Paula Ann Erickson”.

1-139. On March 25, 2022 Paula Erickson was subpoenaed¹ for 20 signatures.

1-140. Omni Document Examinations did an analysis of the signatures and issued a report.²

1-141. Mast led the witness Carolyn McGuire to commit perjury and intentionally did not follow up on easily impeachable testimony during the Carolyn McGuire interview. Mast helped Carolyn McGuire lie in her interview about Dulberg returning to the McGuire house directly from the hospital by hiding the pharmacy timestamps.

1-142. During the interview by Mast with Carolyn McGuire the following exchange took place:³

Q. So they both run into the house, right? Yes? Yes?

A. Yes.

Q. You wrap the arm, then they run back out. They go to the hospital. They are at the hospital approximately, and I know you didn’t time it, but approximately an hour and a half at the ER?

A. Uh-huh.

Q. And they come back to your house, correct?

A. Correct. Yes.

Q. And then Paul and Dave come into the house again?

A. Yeah.

Q. Okay. And do you sit down and talk to him or what happens?

A. Well, Paul needed medication to have refilled and he didn’t have any insurance and didn’t have any money on him so I gave him \$50 to go get the prescriptions refilled.

Q. Okay.

A. Not knowing how much they would cost but you know.

Q. So as I understand it, Paul comes back to your house from the ER and says, hey, I need to refill this prescription for pain medication and don’t have any money and you give him \$50?

A. Yes.

Q. Okay. So he asked -- Did he ask -- Hold on. Did he -- It looks like you want to talk. Did he ask you for the \$50 or did you just offer it to him?

¹ Group Exhibit 8_2022-03-26_Paula Erickson subpoena (all)

² Group Exhibit 9-Paula Erickson signatures analyzed (all)

³ Group Exhibit 20_2013-03-20_Carolyn McGuire depositions (all) pages 56 to 58

A. I offered it to him. He didn't ask.

Q. How long was Paul in the house when he returned from the ER until he left to get the prescription filled?

A. They weren't there maybe a few minutes and they went to the drug store.

Q. So Dave then took Paul in Paul's truck and went to the drug store to fill the prescription?

A. Uh-huh.

Q. And then when Dave returned, did he return alone or with Paul again?

A. I believe he took Paul home.

Q. Right.

A. And he could walk from Paul's house.

Q. Right. So it's your belief that Dave would have walked from Paul's house back to home and that's when he arrived home then?

A. Right.¹

Q. Was that within the hour?

A. I don't know how long he was at Paul's house once he --

Q. Okay. But after Dave and Paul left in Paul's truck to go fill the prescription, Dave then returned next alone to the house, right?

A. Back to my house.

Q. Yes.

A. Yes, because he --

Q. So it was your feeling that he probably dropped Paul after and left the truck at Paul's house?

A. Yeah. It was his truck. Paul's truck.

Q. I understand.

A. Okay.

Q. All right. Okay. Now, let's go back a little bit and let me ask a couple follow-up questions. When Paul ran into the house after the accident, okay --

A. Uh-huh.

Q. -- with the injury, did he say anything about how it happened?

A. There wasn't time. No.

¹ Group Exhibit 20_2013-03-20_Carolyn McGuire depositions (all) pages 56 to 58

Q. I understand there might not be time. I am just asking if. ¹

1-143. Easily identifiable acts of perjury by Carolyn McGuire in her deposition are as follows:

- 1) Perjury about how Dulberg came to her house directly from the hospital to ask for money. (the pharmacy timestamps prove this cannot be true)
- 2) Perjury about Carolyn McGuire calling the emergency room for information about Dulberg's condition (The emergency room does not give medical information on patients to the general public. Carolyn McGuire lied to the emergency room staff and claimed she was the mother of Dulberg over the phone.)
- 3) Dulberg claimed that he never entered the McGuire house immediately after being cut with the chainsaw. Carolyn McGuire claims he was in the house for about 1 minute. It is impossible to be in the house for 1 minute without leaving a lot of blood. This could have been verified.
- 4) Carolyn McGuire claimed that Dulberg lifted a 200 lb tiller off of a trailer by himself with her directly in front of him and watching him sometime after the chainsaw accident. Dulberg claims there were 3 people present and it was the third person that moved the tiller. This could have been verified simply by deposing the third person and asking them.

1-144. There are many versions² of Exhibit 2 of the William McGuire deposition. It is not possible to know which one is correct.

1-145. On April 24, 2013 Perry A. Accardo filed with the Circuit Clerk a NOTICE OF NAME CHANGE indicating Defendant David Gagnon's attorney's Law OFFICE had changed its name from Law Office of M. Gerard Gregoire to LAW OFFICE OF STEVEN A. LIHOSIT.³

1-146. On August 30, 2013 an unfiled Notice of Discovery Deposition(s) regarding Deponent Dr. Marcus Talerico was mailed to the parties' by Defendant David Gagnon's attorney.⁴

1-147. On October 15, 2013 Defendant David Gagnon's attorney sent a letter to the Plaintiff and Defendants Carolyn and William McGuire's attorneys confirming the discovery deposition of Dr. Marcus Talarico for **OCTOBER 16 AT 1:00 PM.** [EMPHASIS ADDED]⁵

1-148. On October 22, 2013 Mast made a settlement offer of \$7,500 to McGuires through their attorney Barch claiming Dulberg discussed it with him and agreed.⁶

1-149. There is no evidence of any communication between Mast and Dulberg about any \$7,500 offer leading up to October 22, 2013 or at any time following October 22, 2013.

1 Group Exhibit 20_2013-03-20_Carolyn McGuire depositions (all) pages 56 to 58

2 Group Exhibit 23_William McGuire Exhibit 2 (contains many different versions)

3 Exhibit 57_2013-04-17_NOTICE OF NAME CHANGE_POP001144-POP001145.pdf

4 Exhibit 58_2013-08-30_Notice of Deposition_POP000070-POP000071.pdf

5 Exhibit 59_2013-10-15_LTR_Accardo to Mast about Talerico_POP000067.pdf

6 Exhibit 60_2013-10-22_offer from Mast to Barch_POP000192.pdf

1-150. On October 30, 2013 Mast in an email to Dulberg first expressed doubt about Dulberg's case against Gagnon. Mast stated:¹

"Paul, here are my thoughts regarding your case. There are two issues. The first liability, or whether Mr. Gagnon is liable for your injury. If he is not proven liable, then it does not matter how badly you were hurt since he will not be found responsible for your damages. The second issue is your damages, or to what extent you were injured due to Mr. Gagnon's acts. Both of these issues are strongly contested in your case. As to liability, there were no witnesses to the accident. So, whether Mr. Gagnon will be held responsible for your damages is uncertain and a gamble. That is because it is your word against his word. Our argument is that you were simply holding a limb when he caused the chain saw to strike you. His argument is that you moved your arm in the path of the chain saw unexpectedly. If the jury determines that we did not prove your "version" of the accident, then they can find against you and in favor of Mr. Gagnon at trial.

As to damages, the issue is complicated. That is because your treating physicians do not all agree on exactly what injury you suffered or whether you had a fully recovery or not. Dr. Talerico at MidAmerica Hand and Shoulder, saw you twice. The first time was in December, six months after your injury. He was not supportive of your claim in most respects. He didn't really feel there was anything wrong with you - as to the forearm. He said that you complained mostly of pain radiating down the forearm from the laceration site with numbness and tingling. On exam he noted no tenderness and it was mostly a normal presentation. Strength was good. He did not see any nerve problem. He prescribed physical therapy due to a muscular soft of symptomology - not nerve related. Apparently you did only 2 sessions of therapy and returned January, 2012. No new complaints at the time. The EMG was normal. He did not believe you were disabled. He continued you on therapy. He saw no evidence of nerve problems. The only symptoms were subjective - not represented by any abnormal exam finding. Dr. Sagerman has also been deposed. I will summarize his testimony for you soon. His was more favorable, but still limited in what he related to the chain saw accident. Apparently he does not believe you presently have any symptoms relatable to the chain saw injury. Think about these issues. I will provide you Dr. Sagerman's summary soon."

Mast did not provide Dulberg with the summary of Dr. Sagerman's deposition until 5 months after Mast's withdrawal as Dulberg's counsel in 2015.

1-151. On November 4, 2013 Mast requested a meeting with Dulberg. Dulberg took Barbara Dulberg, his mother, to the meeting. Neither Paul Dulberg nor Barbara knew what the meeting will be about. It is at this meeting that Dulberg was first informed by Mast that Mast believed Dulberg has no case against the McGuires. Mast made a number of statements which surprised Barbara. Mast claimed that juries in this area are very conservative and Dulberg can't win against an old lady. Dulberg disagreed. It was at this meeting that Dulberg first gave Mast permission to look into a settlement.²

1 Exhibit 13_POP000195.pdf, DUL001538, 1540, 1542, 5179, 5181, 5183, 7047, 7049, 7051, 7440, 7442, 7444,

2 Exhibit 61_2013-11-04_email_POP001531 POP001533-POP1536.pdf (the witness is Barbara Dulberg, Dulberg's mother)

1-152. The \$7,500 offer was never discussed at the November 4, 2013 meeting that Mast requested to discuss the McGuire case. A witness at the meeting can confirm this.

1-153. It is not possible to explain why Mast called the November 4th meeting to discuss the McGuire case with Dulberg (if they already made an offer 4 weeks earlier to settle the case with the McGuires for \$7,500 and were waiting for Barch to reply at that time).

1-154. On November 18, 2013 McGuire's attorney Ronald Barch contacted Mast. Barch claimed he had been given authority to make an offer for \$5,000.¹ (This was not an offer but rather a counter offer to Mast's original offer made on October 22, 2013).

1-155. Dulberg was informed by Mast in an email. Mast wrote:²

"In addition, the McGuire's atty has offered us (you) \$5,000 in full settlement of the claim against the McGuires only. As we discussed, they have no liability in the case for what Dave did as property owners. So they will likely get out of the case on a motion at some point, so my suggestion is to take the \$5,000 now."

1-156. Dulberg answered:³

"Only 5, That's not much at all. Is this a take it or leave it or do we have any other options? ... I'm not happy with the offer."

1-157. To which Mast replied:⁴

"Paul whether you like it or not they don't have a legal liability for your injury because they were not directing the work. So if we do not accept their 5000 they will simply file a motion and get out of the case for free. That's the only other option is letting them file motion getting out of the case."

1-158. Dulberg replied:⁵

"I still don't get how they don't feel responsible for work done on their property by their own son that ended up cutting through 40% of my arm. Perhaps their negligence is the fact that they didn't supervise the work close enough but they did oversee much of the days activity with David. Just because Dave was doing the work doesn't mean they were not trying to tell their kid what to do. They told him plenty of times throughout the day what to do. How is that not supervising?"

1-159. To which Mast answered:⁶

1 Exhibit 62_2013-11-18_Barch counteroffer_POP001204.pdf

2 Exhibit 13_DUL001516, 1520, 1522, 1525, 5156, 5160, 5162, 5165, 7024, 7028, 7030, 7133, 7417, 7421, 7423, 7426

3 Exhibit 13_DUL001515, 1520, 1521, 1523, 1525, 5155, 5160, 5161, 5163, 5165, 7023, 7028, 7029, 7031, 7033, 7416, 7421, 7422, 7424, 7426

4 Exhibit 13_DUL001515, 1519, 1521, 5155, 5159, 5161, 7023, 7027, 7029, 7416, 7420

5 Exhibit 13_DUL001515, 1519, 1521, 5155, 5159, 5161, 7023, 7027, 7029, 7416, 7420, 7422

6 Exhibit 13_DUL001519, 5159, 7027, 7420

“Cause they had no say on how Dave did the work. That is what the evidence from all shows.”

1-160. Dulberg later replied:¹

“That’s their personal issues of control with their own son. I will testify all day long about the things they wanted him to do that he did do throughout the day. By claiming they had no control over the work dave did after all the preparation, money and time spent out in the yard yelling at him that they wanted certain things done in a particular way I don’t see how they get out of the direct over site of the project because now that there is an injury they don’t feel they had any real direct control over their own workers actions? This is ridiculous. Hans, they have to do better than claim they had no control over David that day. If that’s the case why were they there watching the work most of the day? Even Bill had hands on doing some of the work and rarely let David go to long without checking and seeing if things were being done the way Carol and Him wanted it.”

1-161. Email exchanges from November 18, 2013 onward show that Dulberg (1) was not happy with the offer of \$5,000 and (2) knew nothing of the Mast offer of \$7,500. The email exchanges also show that Dulberg felt the McGuires were partially responsible for his injury.

1-162. On November 19, 2013 Dulberg wrote an email to Mast stating:²

“A while back you told me that the jury’s here in this county are primarily conservative and that they know the only reason we are before them is for money. Not sure if that statement was meant to scare me or not but I do agree, they are, for the most part conservative and I would hope we should make it known we want money for damages, lawyers fees and the medical bills, etc... loud and clear. We should also make it known to the jury that the parties or their insurance companies have never even offered to pay 1 cent for any of the medical damage and that’s why we seek the juries help in settling this dispute. Perhaps if the insurance companies would have paid for these basic things none of us would even be here. but they didn’t and now yes after years of waiting I am seeking money to pay for the medical treatments, you as the lawyer and finally myself as I’m the one who has had to suffer the consequences of the Gagnon/McGuire choices on that day. I cannot believe that a conservative jury isn’t going to award anything less than the cost of the medical damages and lawyer fees from them unless something catastrophic changes. I do see them being conservative as to what I will end up with at the end but not the real medical and lawyers bills. Even the conservative juries in this county are not so conservative that they won’t give the base bills. The McGuires insurance is free to go after David for damages if they lose. Other than fearing a motion to dismiss the suit against the McGuire’s insurance based on some false concept that because they didn’t have their finger directly on the chainsaw trigger they hold no responsibility for damages. what are the real benefits of letting them off so easy? And I don’t want to hear its because 2 parties vs 1 is much easier. Letting off the McGuires insurance for such

1 Exhibit 13_DUL001519, 5159, 7027, 7420

2 Exhibit 13_DUL001517, 1518, 5157, 5158, 7025, 7026, 7418, 7419

a small amount is anything but reasonable and I just can't see any ethical judge in this county not keeping them in the suit all the way for a jury to decide whether they had any part to play in the days events and the level of responsibility they share with David for the consequences considering it was the McGuires project, their land, their choice of who did the labor etc. etc... When you advised me to seek a settlement with the McGuires insurance, I agreed to look at it only because they didn't have their hands directly on the trigger of the chainsaw and That you would get at the least the medical bills paid for out of it. I thought that was made clear in your office. I know you work on approximately 33%. Is 33% of 5,000 even worth the time and money you already invested? It's only \$1650 for you and I'm sure your hourly fee eats that up rather quickly, I know mine did back when I had hands and arms that worked so I could charge."

1-163. On November 20, 2013 Mast sent an email to Dulberg stating:¹

"Paul, lets meet again to discuss. The legality of it all is that a property owner does not have legal liability for a worker (whether friend, son or otherwise) who does the work on his time, using his own independent skills. Here, I deposed the McGuires, and they had nothing to do with how Dave did the work other than to request the work to be done. They had no control on how Dave wielded the chain saw and cut you. its that simple. We don't have to accept the \$5,000, but if we do not, the McGuires will get out for FREE on a motion. So that's the situation."

1-164. Dulberg replied by email:²

"Ok we can meet. I will call Sheila today and set up a time. **Please send me a link to the current Illinois statute citing that the property owner is not liable for work done on their property resulting in injury to a neighbor. I need to read it myself and any links to recent case law in this area would be helpful**" [Emphasis Added]

1-165. On November 20, 2013 a MEDICAL EXPENSE REPORT³ was sent from Mast to opposing parties. It contained a cut portion of the Walgreens RX receipts without timestamps.

1-166. On November 20, 2013 Dulberg met Mast at the law offices of Thomas J. Popovich. Dulberg's brother, Thomas Kost, also attended the meeting. In the meeting Mast used the example of Tilschner vs Spangler. He claimed that the McGuires were not responsible for Dulberg's injury because Restatement of Torts 318 is not applicable in Illinois. Mast also claimed that the accident was not foreseeable by the McGuires and they had no control over Gagnon's actions. Mast also gave Dulberg a packet of other examples of case law but **Mast did not discuss the other case laws at the meeting. The only discussed Tilschner v Spangler.** [Emphasis Added]

1-167. Mast gave Dulberg a certified slip ruling of Tilschner v Spangler⁴ to take home and read.

1 Exhibit 13-DUL001515, 5155, 7023, 7416 (The witness is Thomas Kost, Dulberg's brother)

2 Exhibit 13-DUL001515, 5155, 7023, 7416 (The witness is Thomas Kost, Dulberg's brother)

3 Exhibit 63_2013-11-20_Medical Expense Report_POP000805-865.pdf

4 Exhibit 64_2013-11-20_certified slip copy of Tilschner v Spangler_not bates stamped.pdf

He also gave other documents^{1 2} of case law to Dulberg, but Mast only discussed Tilschner v Spangler at the meeting.

1-168. Thomas Kost kept a rough set of notes³ during the meeting. The notes consist of the 7 phrases:

“forseeable”
“duty”
“negligent”
“statement of torts sect 318 not applicable in Illinois”
“agent vs contractor”
“level of control”
“Kajawa”

1-169. Mast claimed that if Dulberg doesn’t accept the \$5,000 the McGuires will simply file a motion to get out of the case for free. Mast said the McGuires do not have to offer anything and are offering \$5,000 to be nice. Dulberg asked to read the depositions of the McGuires and of Gagnon before making a decision.

1-170. It is not possible to explain why Mast called the November 20th meeting or what was discussed (if Dulberg already agreed to settle with the McGuires for \$7,500).

1-171. On November 20, 2013 Mast wrote a Memo⁴ to a person named “Jen”:

“We have a co-defendant that is not really responsible in this case and they have offered a nominal settlement of \$5,000 in the case. I would like to accept it but I want to have a settlement memo prepared first to show how the money will be disbursed for the client to sign. Therefore, we will not need to call on the balances but we will only need to provide a settlement memo containing only any liens listed on the settlement memo. Can you please prepare the settlement memo for me as soon as possible so that I can talk to the client about the offer.”

1-172. On November 20, 2013, shortly after the meeting, on the same day, Dulberg went to the house of a neighbor of the McGuires to ask if they witnessed what was happened on the property the day of the accident. Dulberg was looking for a witness that saw the McGuires actively participating in the work being done and supervising the work.

1-173. On November 20, 2013 (later in the day) Dulberg sent an email to Mast stating⁵:

“I’d like to read David’s dep before accepting the McGuire offer. Even after reading the McGuire deps and seeing how things easily get skewed in all honesty, I can’t blame Carol

1 Exhibit 65_Lajato_DUL000204-DUL000225.pdf

2 Exhibit 66_2013-11-20_Dulberg 000301-000305_Case Law CHOI.pdf

3 Exhibit 67_2013-11-20_notes of meeting_DUL001217.pdf

4 Exhibit 68_memo of November 20 2013_POP001207.pdf

5 Exhibit 13_DUL001512, 5152, 7020, 7413

or Bill for Dave's actions I just thought I was covered under their insurance. I know Carol & Bill thought I was covered as well irregardless of all the half truths in their dep."

1-174. On November 21, 2013 Mast ordered Dulberg's deposition.¹

1-175. On December 2, 2013 Mast sent Dulberg's own deposition to Dulberg.²

1-176. On December 4, 2013 Dulberg received his own deposition in the mail. Dulberg again informed Mast he wants to see Gagnon's deposition.³

1-177. Dulberg sent an email to Mast stating⁴;

"I wanted to review David Gagnons dep before letting the McGuires off the hook. And that word "foreseeable" in the McGuire suite... Well I suppose if I gave anyone a chainsaw and told them to use it, given enough time, an injury is foreseeable, very foreseeable just not hoped for. And the comment about people not liking friends who sue friends, um well we all should know other than entirely random acts such as auto accidents, train derailments, air plane accidents, etc. Etc.. That most of the time it's those we know who hurt us most often than not. and if it's serious we must be able to sue even if it is or once was a friend."

1-178. On December 9, 2013 Mast ordered Gagnon's deposition.⁵

1-179. On December 10, 2013 Mast sent Gagnon's deposition to Dulberg.⁶

1-180. On December 18, 2013 Dulberg wrote an email to Mast after reading Gagnon's deposition stating⁷:

"I read through David's dep. it's mostly lies with a few truths. Where should I begin or better yet where would you like me to begin? Almost everything he said was made up, from which end of the branch I was holding, at who's direction I was doing it under and even as to why I was even there on the McGuires property, etc..."

Not to mention the nonsense of \$10,000. ... As far as the McGuires are concerned give me a call."

1-181. On December 20, 2013 Mast wrote the following memo⁸ after speaking with Dulberg by phone:

"On December 18, 2013, I called Paul today after and email and we had a long discussion

1 Exhibit 69_2013-11-21_Deb Fischer bill for Dulberg's deposition_POP000593.pdf

2 Exhibit 70_2013-12-02_LTR_Mast to Dulberg_POP000176.pdf

3 Exhibit 13_DUL001504, 1505, 2908, 2909, 5145, 5146, 7012, 7913, 7405, 7406

4 Exhibit 13_DUL001504, 1505, 2908, 2909, 5145, 5146, 7012, 7913, 7405, 7406

5 Exhibit 71_bill for Gagnon's deposition_manipulated dates_POP000594.pdf

6 Exhibit 72_2013-12-10_LTR_Mast to Dulberg_POP000175.pdf

7 Exhibit 13_DUL001500, 5141, 7008, 7401

8 Exhibit 73_2013-12-20_Memorandum_POP000884.pdf

about the McGuire's liability and he seemed to concede and understand that probably based on the testimony there is nothing we can prove against the McGuire's and he is willing to take their \$5,000 settlement offer."

1-182. The evidence presented demonstrates that Dulberg disagreed with the \$5,000 offer from first learning about it on Nov 18 until finally agreeing on December 18th. The \$7,500 offer was not mentioned once during these Mast-Dulberg exchanges. The entire discussion between Dulberg and Mast from November 18, 2013 to December 17, 2013 was in terms of choosing between two options: (1) Accept the \$5,000 offer or (2) get nothing. It is not possible to explain why any of this happened if Dulberg already agreed to settle with the McGuires for \$7,500 on October 22, 2013.

1-183. On December 26, 2013 Mast contacted McGuire's attorney Barch to inform him that they would accept the \$5,000 offer.¹

1-184. On January 9, 2014 Defendants Carolyn McGuire and Bill (William) McGuire's attorney Ronald A. Barch sent a NOTICE OF MOTION² that on the 22nd day of January, 2014, at 9:00 o'clock A.M.

".... and then and there present: Defendant Bill McGuire and Defendant Carolyn McGuire's Motion for Good Faith Finding and Order of Dismissal with Prejudice; At which time and place you may appear, if you so desire."

The NOTICE OF MOTION was sent to the Plaintiff's attorney Defendant Hans Mast at the correct address but the NOTICE OF MOTION sent to Defendant and Cross-Defendant David Gagnon's attorney Perry A. Accardo was addressed to Accardo's previous law firm (at the law firm's previous address).

1-185. On January 22, 2014 Judge Meyer approved a motion by the McGuires for a good-faith settlement.³

1-186. On January 31, 2014 the final release papers were signed by Dulberg and mailed back to Mast.

1-187. On April 14, 2014, at 9:07 AM, Hans Mast sent an email to Dulberg stating:⁴

"Paul. We've been talking this case over a bit at the office. As Ive tried to advise you during our several meetings, I do not believe we can adequately prove our case at trial. Its your word against Mr. Gagnons. Most times, that means we lose - as plaintiff. I don't think we want to invest the time and expense to get to that result. Im happy to try to settle the case for you, but it will probably be a low amount. So, I want to advise you now should you wish to retain other counsel to try the case for you. Please advise how you

1 Exhibit 74_2013-12-26_LTR Mast to Barch_POP000670.pdf

2 Exhibit 75_2014-01-09_NOM_POP000575-POP000576.pdf

3 Exhibit 76_2014-01-22_GOOD FAITH FINDING AND ORDER OF DISMISSAL_POP000988.pdf

4 Exhibit 13_DUL001484, 2835, 5125, 6992, 7385

wish to proceed. I know this is not good news, but I have learned a long time ago, some cases just are not proveable - not because you are not credible, but because jurys demand more than we can give at trial.”

1-188. On April 14, 2014 at 9:31:50 AM CDT Dulberg sent an email to Mast stating:¹

“Thank you for the honesty. There is no doubt david cut my arm almost in half with a chainsaw. Even he admitted he was in control of it, so What part of the case seems most troubling?”

1-189. On April 14, 2014 at 9:44:11 AM CDT Dulberg sent an email to Mast stating:²

“What is a small amount? Is it enough to pay for the medical expenses?”

1-190. On April 22, 2014 13:01:02 -0000 (UTC) Dulberg sent an email to Mast stating:³

“I know I said to just get the best deal you can but what I forgot to ask was if you or your firm had anyone else in mind that would take on my case with the appropriate resources and attention it needs to get a result worth going further. I don’t mind sharing or switching firms if it came with your blessing.”

1-191. On May 16, 2014 13:23:02 -0000 (UTC) Dulberg sent an email to Mast stating:⁴

“Know anyone who does bankruptcy?”

1-192. On May 16, 2014, at 9:52 AM Mast sent an email to Dulberg stating:⁵

“Sure..

Richard T. Jones

LAW OFFICES OF RICHARD T. JONES

138 Cass Street Woodstock, IL 60098 (815) 334-8220”

1-193. On May 20, 2014 at 12:30:55 PM CDT Dulberg emailed mast stating:⁶

“... Richard has retired...”

1-194. On June 16, 2014 at 3:46:00 PM CDT Dulberg sent an email to Mast with Subject: ‘Bankruptcy ?’ stating:⁷

1 Exhibit 13_DUL001484, 2835, 5125, 6992, 7385

2 Exhibit 13_DUL001484, 2835, 5125, 6992, 7385

3 Exhibit 13_DUL001480, 2842, 5121, 6988, 7381

4 Exhibit 13_DUL001476, 1477, 2861, 2863, 5115, 5116, 6982, 6983, 7375, 7376

5-Exhibit 13_DUL001476, 2861, 5115, 6982, 7375

6 Exhibit 13_DUL001476, 2861, 5115, 6982, 7375

7 Exhibit 13_DUL001475, 5114, 6981, 7374

“I spoke with David Stretch, a bankruptcy lawyer, about possibly going the route of Bankruptcy. He said if I have a pending a suit that it is considered a possible asset and may allow the court to hold off any bankruptcy judgement pending the outcome and that I would only be able to exempt 15,000 before the creditors get their share. He also said if all I default on is credit cards but keep up on the mortgage and basic needs all that can happen is a judgement will be issued against me and it goes on my credit report and it can be cleared later by filing. I know my personal financial issues are not your problem but I am to a point for the first time ever that I am stopping all payments to my credit cards and focusing on the house, food and utilities. Or rather I should say my Mom is thanks to the chainsaw. Does filing bankruptcy make any difference on your end and would it complicate anything? In your opinion what would be the better route, file bankruptcy now or just default on the credit cards and deal with it later? I added the contact info for David Stretch below”

1-195. On September 23, 2014, at 7:39 PM, Hans Mast sent an email to Dulberg stating¹:

“My view hasn’t changed. I think each time we’ve talked I’ve always tried to be open about my reservation to take this case to trial. I just don’t think we have enough evidence to prove our case and to invest the time and cost and preparing for trial and moving to trial just in my mind does not make sense to me. I have to be very realistic about things and honest with my opinion. It doesn’t do you any good if I do not feel strongly about the case. That’s the very reason why I wanted to have this discussion. I want to give you the option of finding other counsel at this point if you really want to take the case to trial which I think ultimately will be necessary. I just do not believe strongly that defense counsel will offer much in the way of a settlement. Although I will ask him if he is going to make an offer and maybe that will allow you to make a better judgment on this.”

1-196. On September 23, 2014 at 8:25:03 PM CDT Dulberg sent an email to Mast stating:²

“First, I’m sorry that I’m not a better witness to help prove David cut me with a chainsaw. I was but a lowly printer/graphic designer my whole life and never asked for anyone’s sympathy till now. Secondly, I’m sorry I must live among a bunch of potential jurors that you don’t trust to just do the right thing. Thirdly, I’m most sorry for agreeing to lend David Gagnon a hand when he needed some help, I had no idea he was going to try and lop it off. Fourth, I’m sorry you don’t feel good about pushing for a trial. I wish whatever mysterious evidence you seek would be shared with me because without a video camera I can only say what I’ve seen from direct experience. And I guess in this case “me11 the victim isn’t credible enough but the one wielding a chainsaw that hurt me is. A few questions from a layman, How much could a trial actually cost? What, \$50,000 \$150,000 Does it even cost as much as a car? What number? How much would you hope to get for us in a settlement? How much could be expected if the trial does proceed and we have a favorable outcome? Hans, if your heart is not in this I’m sorry”

1 Exhibit 13_DUL001467, 1468, 5106, 5107, 6972, 6974, 7366, 7367

2 Exhibit 13_DUL001466, 1468, 5105, 5107, 6972, 6974, 7365, 7367,

1-197. On September 24 2014 13:32:15 -0000 (UTC) Dulberg sent an email to Mast with subject: "Call me" stating:¹

"Hans, My stomach is in knots again over this please call me"

1-198. On September 26, 2014 at 6:32:40 PM CDT Dulberg sent an email to Mast with Subject: "Bad night" stating:²

"Last evening I was in the hospital with the most severe migraine I've ever had. This morning I filed for bankruptcy with David Stretch. This afternoon I spent with my regular physician Dr Zaide doing a follow up from yesterday. And right now, I have to email you. All when I still have a slight residual headache and should be in bed. At first I thought the migraine was brought on by the medications I'm taking but it wasn't, it was brought on after our discussions. Now I can't prove that but it seems pretty obvious to me. Joke no pun intended there! That migraine made me realize I need the stress of this situation over with. All the stress on top of losing everything is too much and I'd rather live than die from it all before my body does something worse. My body is not reacting well and the migraines are getting more frequent and worse. Have you ever vomited at the same time as defecating while being in some of the most excruciating pain in your life? If not, neither did I till the chainsaw went through my arm. That's when the migraines became more frequent, stronger and faster coming on. And now for the first time during the day. Ever since I awoke this morning, all I can I think is the stress of it all is killing me more and more as the reality sets in and I just can't afford to care about it anymore. My health means more than some lawsuits and the lure of money. All because some idiot named David Gagnon forgot to tell me to move out of the way and he can't seem to admit it. Yes, after reading his deposition and hearing it was my fault I was pissed. In my anger I suspected all sorts of things. Including it being intentional especially after my discussions at his home only trying to get his homeowners policy number and him wanting money and threatening me for it. Yes, my arm and elbow were hurt from his stupidity irregardless if some dr can link the two together or not. Yes, there will be ongoing medical as a result of all this because it still hurts and doesn't work right. Yes, I am now disabled irregardless of what SSDI appeal goes because of this. Yes, I understand I'm screwed because of a system that allows one person to hurt another and even after a trial and judgement entered all they have to do is go file for bankruptcy in the same courthouse on the same day. Yes, it just took me almost an hour just to type this. Yes, yes, yes... but none of it matters anymore! Bottom line Hans... Do the best you can with what you got, I've got nothing more to lose or give. I need it all to just go away."

1-199. On September 27, 2014 at 2:20:27 PM CDT Dulberg sent an email to Mast stating:³

"I want the monies I owe back to SSDI for being found disabled because of David's crap. I owe SSDI another 30 grand so far because of this crap"

1 Exhibit 13_DUL001456, 1464, 5092, 5103, 6959, 6970, 7352, 7363,

2 Exhibit 13_DUL001462, 5101, 6968, 7361

3 Exhibit 13_DUL001460, 5099, 6966, 7359

1-200. On October 2, 2014, at 9:19 AM, Paul Dulberg sent an email to Mast stating:¹

“Apparently Dynamic Hand Therapy has a lean that expired. It’s for \$23,900.00 and they said they will give me a 30% discount if I pay within the next few days or they could take me to trial over it. Colleen with their corporate office said she contacted you on Aug. 6th about this.”

1-201. On October 2, 2014, at 9:43 AM, Hans Mast sent an email to Dulberg stating:²

“Paul I’m going to try to Settle your case. No guarantees. But until the case could settle there’s nothing I can do about the balances. Can you give me a copy of that bill.”

1-202. On November 26, 2014 Dulberg filed for chapter 7 bankruptcy protection.³

1-203. Mast did not notify the court of the bankruptcy filing.

1-204. On December 08, 2014 15:31:29 -0000 (UTC) Dulberg sent an email to Mast stating:⁴

“Just got a call from associated neurology because of the bankruptcy notice they received. Tried to explain that the leans on the lawsuit expired after 3 years and I really don’t have any choice. They said they never heard of such a thing and are looking into the lean issue and will get back to me. On another note, Baudin’s firm must not be interested because they never called me. Do I need to find a new firm or what?”

1-205. On December 8, 2014, at 9:42 AM, Hans Mast sent an email to Dulberg stating:⁵

“Paul, thanks for the update. Im not sure what you mean by liens expiring. As long as your case is pending, the liens will apply to any recovery. As for an atty, my thoughts are the same. I can try to see if they want to give us a settlement offer, but I don’t think we will want to take the case to trial given the extreme risk versus the time and expense in trying the case.”

1-206. On December 8, 2014 at 1:06:53 PM CST Dulberg sent an email to Mast stating:⁶

“Your risk...I just had to file bankruptcy because of that incident 3-1/2 years ago. I could no longer make all the payments to my creditors. I also have a disability suit because of it. I don’t care about a settlement unless it’s enough to drag David Gagnon through bankruptcy for his idiotic use of a chainsaw and made up story under oath. Gagnon sure

1 Exhibit 13_DUL001458, 1459, 5094, 5095, 5096, 6961, 6962, 6963, 7354, 7355, 7356

2 Exhibit 13_DUL001458, 5094, 6961, 6962

3 Exhibit 77_Bankruptcy doc 1-0_OCR.pdf

4 Exhibit 13_DUL001420, 1423, 1425, 1427, 1429, 1430, 1431, 2916, 2919, 2921, 2923, 2925, 2926, 2927, 5056, 5059, 5061, 5063, 5065, 5066, 5067, 6923, 6926, 6928, 6930, 6932, 6933, 6934, 7319, 7321, 7323, 7325, 7326, 7327,

5 Exhibit 13_DUL001422, 1425, 1427, 1429, 1430, 2915, 2918, 2921, 2923, 2925, 2926, 2927, 5055, 5058, 5061, 5063, 5065, 5066, 6922, 6925, 6928, 6930, 6932, 6933, 7315, 7318, 7321, 7323, 7325, 7326,

6 Exhibit 13_DUL001419, 1422, 1425, 1426, 1428, 2915, 2918, 2921, 2922, 2924, 5055, 5058, 5061, 5062, 5062, 6922, 6925, 6928, 6929, 6931, 7315, 7318, 7321, 7322, 7324,

showed his true colors when he was deposed, he just isn't a standup guy at all. Either way it goes, (settlement or trial) I'm not going to make anything near what I've already lost or what my future losses are going to be so it just doesn't matter. The only thing that would be remotely satisfying is knowing that David Gagnon had to go through a settlement or trial and lose, then find himself actually having to face bankruptcy. I can only hope he has enough assets that it actually hurts."

1-207. On December 8, 2014, at 3:37 PM, Hans Mast sent an email to Dulberg stating:¹

"I don't see us having the same goals in this case. I think you should search for a different atty. Let me know if you want another referral. Thanks Hans"

1-208. On December 8, 2014 at 6:00:50 PM CST Dulberg sent an email to Mast stating:²

"At first my goal was to get my medical paid for... That's changed because it's turned out worse than I thought... Now it's simply to get as much as we can and move on with my life... What are your goals in this case?"

1-209. On December 19, 2014 at 12:43:45 PM CST Dulberg sent an email to Mast stating:³

"I have to wonder... Is it the fact that David Gagnon doesn't have a bigger insurance policy? Or perhaps that I didn't lose my arm? What is it that isn't good enough for your firm that they would actually drop a client they chose to represent? I'm betting in the end it's all about the amount of money your firm can make off of my injuries because I've done nothing to exaggerate or hide anything. Have a merry Xmas, now I'm late to see a dr and my arm muscles are in spasm from trying to type this waisted email as fast as I can"

1-210. On December 19, 2014, at 10:11 AM, Hans Mast sent an email to Dulberg stating:⁴

"Here's the deal...they are going to be reviewing the case with a doctor. The doctor will probably say you weren't hurt that bad. So, even if they concede that Mr. Gagnon was at fault, they will likely not offer much on the case. How much, I don't know. But Im not interested in trying the case. I think it would be very difficult to win. So unless you want to work out a settlement, I think you should consider other counsel. Its tough to make these decisions. I know it makes it tough on you. But these decisions are the reality in working on such cases sometimes. The good news is that you have a chance to recover in a jury trial. It would be tough, but there is a chance that the jury will believe you. But it will take some time and expense to take the case to trial. If the jury believes your specialist, the damages could be good for you. But there are a lot of "ifs" and Im not prepared to undertake the risks at this point."

1 Exhibit 13_DUL001421, 2914, 2917, 5054, 5057, 6921, 6924, 7314, 7317

2 Exhibit 13_DUL001418, 2914, 5054, 6921, 7314

3 Exhibit 13_DUL001412, 2934, 5048, 6915, 7308,

4 Exhibit 13_DUL001413, 1416, 2935, 2938, 5049, 5052, 6916, 6919, 7309, 7312

1-211. On January 6, 2015 bankruptcy trustee Heeg sent a letter¹ to Mast asking about the value of the personal injury case.

1-212. On January 8, 2015 Mast faxed a letter to bankruptcy trustee Heeg stating:²

“At this point, the defense is taking a “no liability” position and therefore, the chance of recovery is uncertain. I believe liability will be extremely difficult. We have calculated Paul’s medical expense related to the occurrence as exceeding \$60,000. To my knowledge, most of the medical expense is outstanding. However, my belief is that any eventual recovery will be much less.”

1-213. On January 8, 2015 “SCHEDULE B - PERSONAL PROPERTY - AMENDED” was filed with the bankruptcy court (bk doc 13-0)³ which lists the estimated value of Illinois case No. 12LA178 as \$55,000.

1-214. On January 9, 2015 Dulberg sent an email to Mast and received the following response:⁴

From: Mail Delivery System <mailer-daemon@comcast.net>
Date: January 9, 2015 at 12:45:29 PM CST
To: pdulberg@comcast.net
Subject: Delivery status notification
This is an automatically generated Delivery Status Notification.
Delivery to the following recipients was aborted after 0 second(s):
* hansmast@comcast.net
Reporting-MTA: dns; reszmta-ch2-04v.sys.comcast.net [69.252.207.68]
Received-From-MTA: dns; resomta-ch2-10v.sys.comcast.net [69.252.207.106]
Arrival-Date: Fri, 09 Jan 2015 18:45:29 +0000
Final-recipient: rfc822; hansmast@comcast.net
Action: failed
Status: 5.1.1
Diagnostic-Code: smtp; 550 5.1.1 No such user here
Last-attempt-Date: Fri, 09 Jan 2015 18:45:29 +0000

1-215. On January 30, 2015 Dulberg sent an email to Mast and received the following response:⁵

From: Mail Delivery System <mailer-daemon@comcast.net>
Date: January 30, 2015 at 3:20:39 PM CST
To: pdulberg@comcast.net
Subject: Delivery status notification
This is an automatically generated Delivery Status Notification.
Delivery to the following recipients was aborted after 0 second(s):

1 Exhibit 78_2015-01-06_bkcy Fax Heeg to Mast_DUL 001671-DUL 001672.pdf

2 Exhibit 79_2015-01-07_LTR_Mast to Heeg_DUL002600.pdf

3 Exhibit 80_bk doc 13-0_OCR.pdf

4 Exhibit 13_DUL001613, 2689, 5235, 7131, 7524

5 Exhibit 13_DUL001612, 2708, 5234, 7130, 7523

* hansmast@comcast.net

Reporting-MT A: dns; reszmta-ch2-01 v.sys.comcast.net [69.252.207.65]

Received-From-MT A: dns; resomta-ch2-13v.sys.comcast.net [69.252.207.109]

Arrival-Date: Fri, 30 Jan 2015 21 :20:39 +0000

Final-recipient: rfc822; hansmast@comcast.net

Action: failed

Status: 5.1.1

Diagnostic-Code: smtp; 550 5.1.1 No such user here

Last-attempt-Date: Fri, 30 Jan 2015 21 :20:39 +0000

1-216. In February, 2015 (in violation of the automatic stay) Mast and Popovich hurriedly tried to settle the Gagnon case for \$50,000 in a pre-trial settlement conference. Dulberg refused to support the offer Mast was making to Gagnon on Dulberg's behalf.

1-217. On February 16, 2015, at 11:20 AM, HANS MAST sent an email to Dulberg stating:¹

"Paul, Sheila is sending out a letter today with a copy of the Memo for you. Let me know when you get it."

1-218. On February 19, 2015 at 2:33:44 PM CST Dulberg sent an email to Mast with the Subject: Re: Pre-trial settlement stating:²

"I got it... Why does your mail always arrive opened? Also, many statements in the memo appear inaccurate. Not sure if it really matters. I'd ask for more \$ in the demand... There is no way what is written is enough"

1-219. On February 22, 2015, at 5:58 PM, Hans Mast sent an email to Dulberg stating:³

"I'm not sure what you're saying. I tried to tell you over and over again the nature in which the memo is written isn't important. This is just a memo to introduce the judge to the case. If there are different ways you want to say things I'm happy to do that. It's going to serve it's purpose perfectly"

1-220. On February 22, 2015 at 6:20:52 PM CST Dulberg sent an email to Mast stating:⁴

"My case is "gross negligence" causing "untreatable, irreversible and debilitating harm" Never had a lawyer who needed me to help write or correct anything before. The SSDI lawyer pulled everything from the record and it was perfect. Yes, I would like to reword much of it because I wouldn't want anything used in it twisted later if we do go to trial. Yes, I understand that your firm won't back me but it doesn't mean I'm not going to take it to trial anyway. I need the wording to match exactly what I need should I go

1 Exhibit 13_DUL001398, 1400, 1402, 2711, 2712, 2714, 5034, 5036, 5038, 6901, 6903, 6905, 7294, 7296, 7298

2 Exhibit 13_DUL001398, 1400, 1402, 2711, 2712, 2714, 5034, 5036, 5038, 6901, 6903, 6905, 7294, 7296, 7298

3 Exhibit 13_DUL001254, 1302, 1393, 1396, 1482, 2730, 2736, 2739, 2742, 4878, 5029, 5032, 5123, 6714, 6899, 7292, 7383

4 Exhibit 13_DUL001254, 1302, 1390, 1393, 1395, 1482, 2730, 2733, 2736, 2739, 2742, 4878, 5026, 5029, 5032, 5023, 6714, 6899,

the distance. I can honestly say the dollar amount you listed I would never agree to. It wouldn't even cover my wages for the years in physical therapy yet the rest of my life. If I end up with a structured settlement where I have to chase this guy I believe we can always sell the settlement and cash out. Is that possible?"

1-221. On February 22, 2015, at 6:24 PM, Hans Mast sent an email to Dulberg stating:¹

"Okay Paul I won't file the memo. Some would say that giving a client an opportunity to review a settlement memo is a good idea. In the past I have found clients appreciate reviewing these documents. I don't think you understand your case at all. To be honest. Just find an attorney who you like and we'll go that way. I was just trying to help. You obviously do not understand what I'm trying to do and that's fine. Let me know when you find one. Thanks"

1-222. On February 22, 2015 at 7:14:43 PM CST Dulberg sent an email to Mast stating:²

"Let's not be harsh, We have a couple of weeks till dr Kujawa's billing arrives. I agree showing me the memo is a good idea it's just not the accuracy I expected. I know I'm being confrontative about all of this but let's face it, my working days are over let alone a career I have been building since I was in high school. My dreams of family are over unless I have enough to provide and pay for the care of children and a roof. What's left for me? Facebook, scrap booking, crafts, etc... A life of crap... With ongoing pain and grip issues in my dominate arm/hand that are degenerative. This is as total as it gets for us in the working class short of being paralyzed or dead. I need someone who is on my side, top of their game and will see to it that I'm comfortable after all this is over. What I feel is an attempt to settle for far less than this is remotely worth just to get me off the books. I know you don't believe I'm hurt... I'm not interested in belief, I think the facts speak volumes above belief I question who's side your on? Your comments about believing David's deposition, etc... Hans, I have no degrees but I was better at my career in printing and graphic design than anyone I ever worked with who did. If I need character references from past clients, employers, coworkers, teachers, etc... I have an army of people who know I'm one of the most genuine, honest, dedicated hard working persons who takes responsibility for my actions. David on the other hand isn't a stand up guy at all. He couldn't even take responsibility for his actions not to mention his attempts at collecting from this, which I believe constitutes insurance fraud. Oh and I'm contacting the McHenry county states atty... I know too much time has passed since the threats but those threats were for a future time once all this was settled. If he attempts to collect or make good on his threats and if I end up back in the hospital I want everyone to know who to go get. I'm done playing nice with this guy and I can only hope I have an attorney who feels the same. I have to ask since you think I don't understand, what is it your trying to do?"

1 Exhibit 13_DUL001390, 1393, 1395, 2733, 2736, 2738, 5026, 5029, 5031, 6896, 6898, 7286, 7289

2 Exhibit 13_DUL001390, 1392, 1395, 2733, 2735, 2738, 5026, 5028, 5031, 6895, 6898, 7286, 7288, 7291

1-223. On February 22, 2015, at 7:20 PM, Hans Mast sent an email to Dulberg stating:¹

“Paul I no longer can represent you in the case. We obviously have differences of opinion as to the value of the case. I’ve been telling you over a year now the problems with the case and you just don’t see them. **You keep telling me how injured you are and completely ignore that it doesn’t matter if you passed away from the accident because we still have to prove that the defendant was at fault. While you think it is very clear - it is not. My guess is that seven out of 10 times you will lose the case outright. That means zero. That’s why I have been trying to convince you to agree to a settlement. You clearly do not want to. There’s only \$100,000 in coverage. Allstate will never offer anything near the policy limits therefore there’s no chance to settle the case.** The only alternative is to take the case to trial and I am not interested in doing that. I will wait for you to find a new attorney. I can’t assist you any further in this case. Just let me know.” [Emphasis added]

1-224. On February 22, 2015, at 7:42 PM, Paul Dulberg sent an email to Mast stating:²

“To believe David’s version of events you must believe I was committing suicide. Who in their right mind puts his arm into a chainsaw? I figured you would cop out again... Now I’m left wondering... How hard is it to sue an atty? And yes I am and have been looking for someone who will take this case... The issue of my word vs David Gagnons... Did he cut me or did I cut myself? Of coarse he cut me. Next issue please?”

1-225. On February 22, 2015, at 8:23 PM, Hans Mast sent an email to Dulberg stating:³

“Paul, honesty hurts. I am honest to a fault sometimes. **You told me at the start that David would admit his fault. That proved not to be true.** Still your threats and putdowns don’t change anything. Just find another attorney and we can part ways” [Emphasis added]

1-226. On February 23, 2015, at 4:01 PM, Paul Dulberg sent an email to Mast stating:⁴

“Once I find new council, Are you willing to release all leans and fees you and your firm have for this case?”

1-227. On February 23, 2015, at 4:27 PM, Hans Mast sent an email to Dulberg stating:⁵

“Paul I’m definitely willing to be reasonable and consider several different options. Typically how it’s done is I will work with your new attorney on the details. But to have me release everything given the time and expense I’ve invested in the case without

1 Exhibit 13_DUL001389, 1392, 2732, 2735, 5025, 5028, 6892, 6895, 7285, 7288

2 Exhibit 13_DUL001382, 1384, 1386, 1387, 1388, 1389, 1392, 2732, 2735, 2744, 2746, 2748, 2750, 2751, 5017, 5019, 5021, 5023, 5024, 5025, 5028, 6892, 7288

3 Exhibit 13_DUL001382, 1384, 1386, 1387, 1388, 2744, 2746, 2748, 2750, 2751, 5017, 5019, 5021, 5023, 5024, 6884, 6886, 6888, 6890, 6891, 7279, 7281, 7283, 7284

4 Exhibit 13_DUL001379, 1380, 1381, 2752, 2753, 2754, 5014, 5015, 5016, 6881, 6882, 6883, 7274

5 Exhibit 13_DUL001380, 2753, 5015, 6882

knowing what the final result is unfair. We have completed substantially 100% of the fact discovery. All that needs to be done is deposing experts and going to trial. But don't get me wrong I think we can work out something very reasonable. Typically any type of lien arrangement is done when the case is concluded."

1-228. On February 26, 2015, at 7:42 AM, Paul Dulberg sent an email to Mast stating:¹

"Please arrange for a copy of both the McGuire and Gagnon homeowner insurance policies be available for me to pick up by noon today. I will pay for copy fees when I pick them up."

1-229. On February 26, 2015, at 7:43 AM, Mast sent an email to Dulberg stating:²

"I don't think I have any insurance policies in the file"

1-230. On February 26, 2015, at 8:02 AM, Paul Dulberg wrote:³

"Then please have a complete accounting of all fees you feel entitled to re guarding these cases ready for pickup by noon."

1-231. On February 26, 2015, at 8:03 AM, Hans Mast wrote:⁴

"I'm not in the office today Paul. If the attorney needs information regarding this he can definitely call me tomorrow"

1-232. On February 26, 2015, at 8:23 AM, Paul Dulberg sent an email to Mast stating:⁵

"I'm not asking to see you. I'm asking for a copy of the policy numbers and an accounting of all the fees your firm feels it's entitled to. Please have someone at the office print them out and have them available for pickup. Thanks in advance again"

1-233. On February 26, 2015, at 8:25 AM, Mast sent an email to Dulberg stating:⁶

"We don't have the polls your numbers. I am in charge of the file and therefore no one else knows what is in the file. If you need a list of our costs you can call Sheila and ask her to have a printout of it."

1-234. On the afternoon of February 26, 2015 Dulberg met with attorney Saul Ferris.

1 Exhibit 13_DUL001374, 1375, 1376, 1377, 1378, 2756, 2757, 2758, 2759, 2760, 5009, 5010, 5011, 5012, 5013, 6076, 6877, 6878, 6879, 6880, 7269, 7270, 7271, 7272, 7273

2 Exhibit 13_DUL001373, 1375, 1376, 1377, 2755, 2757, 2758, 2759, 5008, 5010, 5011, 5012, 6875, 6877, 6878, 6879, 7268, 7270, 7271, 7272

3 Exhibit 13_DUL001373, 1375, 1376, 1377, 2755, 2757, 2758, 2759, 5008, 5010, 5011, 5012, 6875, 6877, 6878, 6879, 7268, 7270, 7271, 7272

4 Exhibit 13_DUL001373, 1375, 2755, 2757, 5008, 5010, 6875, 6877, 7268, 7270

5 Exhibit 13_DUL001373, 1375, 2755, 2757, 5008, 5010, 6875, 6877, 7268, 7270

6 Exhibit 13_DUL001373, 2755, 5008, 6875, 7268

1-235. On March 4, 2015 at 4:23:11 PM CST Dulberg sent an email to Mast stating:¹

“Are you willing to sign a lean release?”

1-236. On March 4, 2015, at 6:23 PM Dulberg sent an email to Mast stating:²

“And how much money is the lean for?”

1-237. On March 4, 2015, at 6:26 PM, Hans Mast sent an email to Dulberg stating:³

“It depends on what the recovery is. I can work it out with your new attorney. Technically it’s one third of the recovery but obviously that’s not going to work because your attorney needs to be paid for something too. The whole calculation is done at the end of the case. There’s simply no way to do it until the case is settled and we know what the amount is”

1-238. On March 4, 2015, at 6:42 PM, Paul Dulberg sent an email to Mast stating:⁴

“If I have to get a new attorney in the 11th hour of this, The damage done to my case far outweighs your lean. If you sign off the lean I’ll see to it your paid for your real costs.”

1-239. On March 6, 2015, at 2:40 PM, Saul Ferris sent an email to Dulberg stating:⁵

“I decided not to accept your case primarily based upon you settling with the homeowners for 5 thousand. I have mailed your file back to you. I would suggest attending the pretrial to at least see what kind of settlement offer is made. Thanks for letting me review your case. Sorry I can’t help you. Best, Saul”

1-240. On or about March 7th, 2015 the Saul Ferris Declination letter was inexplicably sent via the US Post Office as part of a package from attorney Saul Ferris to The Law Office of Thomas J. Popovich P.C.. This package contained the Attorney Saul Ferris Declination letter, the pretrial settlement memo, 4 depositions and all correspondence Mast/Popovich mailed to Dulberg via the US Post Office dated before February 26, 2015.⁶

1-241. On Mar 12, 2015, at 10:06 AM, Hans Mast sent an email to Dulberg stating:⁷

1 Exhibit 13_DUL001353, 1356, 1359, 1362, 1364, 1365, 1367, 1369, 2764, 2767, 2770, 2773, 2776, 2777, 2779, 2781, 4987, 4990, 4993, 4996, 4999, 5000, 5002, 5004, 6854, 6857, 6860, 6863, 6866, 6867, 6869, 6871, 7247, 7253, 7256, 7259, 7260, 7262, 7264

2 Exhibit 13_DUL001353, 1355, 1358, 1361, 1363, 2764, 2766, 2769, 2772, 2775, 4987, 4989, 4992, 4995, 4998, 6854, 6856, 6859, 6862, 6865, 7247, 7249, 7252, 7255, 7258

3 Exhibit 13_DUL001352, 1353, 1355, 1358, 1361, 2763, 2766, 2769, 2772, 4986, 4989, 4992, 4995, 6853, 6856, 6859, 6862, 7246, 7249, 7252, 7255,

4 Exhibit 13_DUL001352, 1355, 1358, 1361, 2763, 2766, 2769, 2772, 4986, 4989, 4992, 4995, 6853, 6856, 6859, 6862, 7246, 7249, 7252, 7255,

5 Exhibit 13_DUL002785, 2786, 4976, 4984, 6843, 6851, 7236, 7244

6 Exhibit 81_SAUL FERRIS 101421 FULL indx PDFa.pdf

7 Exhibit 13_DUL001246, 1252, 1297, 1301, 1344, 1346, 1348, 2796, 2800, 2804, 2806, 2808, 4873, 4877, 4975, 4978, 4980, 6690, 6691, 6722, 6723, 6842, 6845, 6847, 7235, 7238, 7240

“Paul I will be happy to deal with any attorney considering your case directly regarding my lien. But not until they call me to talk. As is clear with your email and many others you do not respect my thoughts and/or knowledge about these cases and there is no point in continuing any further in dealing with an unsatisfied client. Find an attorney and I will talk to them about the lien.”

1-242. On March 12, 2015, at 10:19 AM, Paul Dulberg sent an email to Mast stating:¹

“I have found several attorneys and none are willing to represent me as long as you hold the lean on this case and apparently it is not legal for me to finance their representation by other means. Respect for your thoughts does not constitute a breakdown in communications. Respect is earned through truth, hard work and results. I am asking for an honest brief to go before the judge. That is all. Earn my respect and you will receive the best recommendation I have ever given anyone.”

1-243. On March 12, 2015 at 10:36:25 AM CDT Mast sent an email to Dulberg stating:²

“I have done nothing to lose your respect. I have gone far above what you would get from any other attorney you just don’t realize it or appreciate it. Instead you continue to focus on issues that have nothing to do with your case. You don’t listen to my advice. Which is fine. You don’t have to listen to my advice. But 9 out of 10 times you will lose this case for trial. As I told you before that is why the defense is never going to offer the policy limits. To settle the case you will need to take far less than the limits. But you don’t have to you definitely can go to trial. That is your personal choice. In my view your case is not worth the limits given the issues we’ve already discussed. So I have done what I can do for you. We have I think \$3000 in costs that we will be paid no matter who is handling Case. We have worked on the case for years without pay....but if it will allow you to find another attorney we will consider waiving Our fee unless your eventual recovery exceeds \$100,000.”

1-244. On Mar 12, 2015, at 12:14 PM, Paul Dulberg sent an email to Mast stating:³

“Your cornering of me and my brother in your office, bullying me into signing off on The McGuires policy citing cases that have nothing to do with the agency clause in the homeowners policy, which clearly makes her policy accountable. You sir are the one whom told me that I would never see a dime from either case if I didn’t sign that piece of paper before leaving your office that day. You wouldn’t even let me sleep on it as I had asked. You said you needed the \$5,000 settlement with the McGuire’s insurance to help fund your costs for the case with David Gagnon. Then when the physical therapists tried to demand payment in full you told me and my mother that medical leans against lawsuits often expire before the case is resolved saying yes the medical providers can proceed in

1 Exhibit 13_DUL001246, 1251, 1297, 1300, 1343, 1346, 1348, 2796, 2799, 2803, 2806, 2808, 4873, 4876, 4974, 4978, 4980, 6689, 6691, 6721, 6723, 6841, 6845, 6847, 7234, 7238, 7240

2 Exhibit 13_DUL001246, 1250, 1297, 1300, 1343, 1346, 2796, 2799, 2803, 2806, 4873, 4876, 4974, 4978, 6689, 6691, 6721, 6723, 6841, 6845, 7234, 7238

3 Exhibit 13_DUL001248, 1299, 1342, 1345, 2798, 2802, 2805, 4875, 4973, 4977, 6688, 6720, 6840, 7233, 7237

collecting funds from my assets. Meaning my home. Forcing me into bankruptcy. Then, after filing for bankruptcy, denying you ever said that to both me and mother and going on to say to us that filing for bankruptcy protection had ruined the case. All that followed up by getting a brief to review from you on the David Gagnon case that was of such a poor understanding of the facts are what lost any hope of respect I had. I am and have been trying to get you to be professional and earn that respect back at every step. If you had not taken advantage of my ignorance you would not be receiving this letter nor trying to squirm your way out of representing me today. As far as your costs and in light of your poor performance to date, it throws into question all of the work you have done on this case. Even the depositions you sat in on are in question. Do you actually think anyone in their right mind wouldn't see it that way. You may argue strategy as a defense for incompetence but since you sat in on the medical depositions and don't even know what medications I was and wasn't prescribed after almost 3-1/2 years on this case I highly doubt anyone will see your defense as viable. Exactly, What part of being harmed by both the McGuires and Gagnon through no fault of my own is 9 out of 10 times a losing case? Exactly what part of you manipulating me into a settlement for only \$5000 was seeing to my best interests? Exactly how is lying in a briefing you were prepared to put before a judge is in my best interests? Exactly how is giving you chance after chance to correct yourself not giving you the respect you think you deserve from me? I can keep going... I have witnesses to all of this. It's not just your word vs mine. Bottom line is if you want out simply because you feel I have no respect for you then all of your fees are subject and any lean you have is subject. I'm giving you the opportunity to remedy this course of action you have chosen. Do you chose to be professional and do the job your capable of or do you chose to remove yourself for some made up reason. Our emails alone show there is no breakdown in communication. We are still communicating. This email proves that. So, unless you can explain your action to remove yourself from this case for some excusable reason I see no reason why you feel your entitled to being able to get excused from it at all. I put you to task to do as you agreed to and represent me to whatever ends this case comes to. Will you be professional and finish what you started? Damn these emails hurt to type... Wish you had it in you to go after the bad guy who did this and not your innocent client."

1-245. On March 12, 2015 at 1:13:59 PM CDT Dulberg sent an email to Saul Ferris stating:¹

"Hi Saul, Have you already mailed the documents or can they be picked up?"

1-246. On March 13, 2015, at 10:51 AM, Paul Dulberg sent an email to Mast stating:²

"Your motion was granted. Please put together all the materials you have concerning this case and notify me when they can be picked up. Please include everything, emails, notes, depositions, motions, recordings, etc.."

¹ Exhibit 13_DUL002785, 4976, 6843, 7236

² Exhibit 13_DUL001336, 1338, 1339, 1340, 2791, 2793, 2794, 2795, 4966, 4968, 4969, 4971, 6835, 6838, 7226, 7229, 7231, _

1-247. On March 13, 2015, at 11:01 AM, Hans Mast sent an email to Dulberg stating:¹

“Paul. I am seriously willing to work with you to get new counsel. But you have to understand that until our costs are paid we can’t let the file out of our office because we invested all the time and money into the file. Your new attorney will surely know this....”

1-248. On March 13, 2015, at 11:21 AM, Paul Dulberg sent an email to Mast stating:²

“Hans/Sir, I don’t want my new attorney to even speak with you. And yes I have that right. You have your lean against this case and you removed yourself against my wishes. That lean is as good as it gets. Your guaranteed your share. Please Have those files ready and notify me when I may pick them up as I am limited on the time to hire a new attorney.”

1-249. On March 13, 2015, at 11:25 AM, Hans Mast sent an email to Dulberg stating:³

“Paul, I’m happy to deal with your new attorney on our fee but we can’t release the file until we get our costs paid back.”

1-250. On March 13, 2015 at 11:49:16 AM CDT Dulberg sent an email to Mast stating:⁴

“Sir, Your fees are guaranteed. You have your lean. Please don’t make me go before the judge and have the records subpoenaed.”

1-251. On March 19, 2015 Dulberg retained attorney Brad Balke, who claimed he was willing to take the case against Gagnon to trial. (Barbara Dulberg was in attendance at the meeting between Balke and Dulberg at the law offices of Donahue and Walsh.)

1-252. On March 20, 2015 3:49 PM Dulberg sent an email to Balke with the Subject “Missing Depositions and pre-trial settlement brief” stating⁵,

“Hi Brad, As we discussed, I was to receive via certified US Mail depositions and communications between Hans Mast and myself from Saul Ferris an attorney in Gurnee, IL. Saul Ferris number is (847) 263-7770 I called Saul Ferris office last week and was assured they were sent. I was told to give it another week. **I called Saul Ferris office again today to find out they were mailed to and signed for at 3416 W. Elm St. McHenry, IL. by someone named Anne Oupl on March 7th. This is Hans Mast office. I called Hans office and apparently no one by that name works there and no one knows anything about receiving the certified mail.** I’m at a loss as to how these documents were sent to the wrong place and am a bit furious because it has the memo about the pre-trial settlement you wanted to see.”[Emphasis Added]

1 Exhibit 13_DUL001336, 1337, 1139, 2791, 2792, 2794, 4966, 4967, 4969, 6834, 6836, 7226, 7227, 7229

2 Exhibit 13_DUL001335, 1337, 1339, 2790, 2792, 2794, 4965, 4967, 4969, 6832, 6834, 6836, 7225, 7227, 7229

3 Exhibit 13_DUL001335, 1337, 2790, 2792, 4965, 4967, 6832, 6834, 7225, 7227

4 Exhibit 13_DUL001335, 1337, 2790, 2792, 4965, 4967, 6832, 6834, 7227

5 Exhibit 13_DUL001334, 2820, 2821, 2824, 2826, 4959, 4961, 4963, 4964, 6826, 6828, 6830, 6831, 7219, 7221, 7223, 7224,

1-253. On March 20, 2015, at 5:39 PM, Brad J Balke sent an email to Dulberg stating:¹

“I’m picking up the file from Hans on Monday. I’m sure everything will be there.”

1-254. On March 23 or 24, 2015 Mast gave a disorganized case file without any medical expense reports, without pharmacy receipts, without the October 22, 2013 settlement offer of \$7,500, and without the unedited photo of Gagnon in front of his garage to Dulberg’s new attorney Balke. Walgreens RX Pharmacy receipts with or without timestamps could not be found within this version of the case file. See April 2, 2015.

1-255. On March 24, 2015 10:48 AM Dulberg sent an email to Balke with the Subject “Re: Missing Depositions and pre-trial settlement brief” stating:²

“Were you able to get everything yesterday?”

1-256. On March 24, 2015, at 11:09 AM, Brad J Balke answered³ by email:

“Yes. I have the file. It is large. I’m going to start going through it.”

1-257. On April 2, 2015 Balke sent an email to Mast stating:⁴

“I didn’t find your specials list (totaling \$58k.) Do you have it?”

1-258. Shelia Quinlan sent an email to Balke stating:⁵

“Please find attached the medical expense report of Paul Dulberg with attached billing. If you’d like it faxed as well, please advise. The originals will be put in the mail today to you.” “Attachments • MER 4-2-15.pdf(15.56MB)”

The document “MER 4-2-15.pdf” cannot be found anywhere and has never been turned over in the instant case.

1-259. On May 7, 2015 Saul Ferris’ office contacted Dulberg and informed Dulberg they have received back in the mail the package mistakenly sent to The Law Office of Thomas J. Popovich P.C.. The packet of documents appears to have been in the office of Thomas Popovich and Mans Mast for about 2 months without Popovich or Mast ever admitting they were in possession of the documents.

1-260. On May 08, 2015 12:34 PM Paul Dulberg sent an email to Balke with the Subject “Missing memo for pretrial settlement” stating:⁶

1 Exhibit 13_DUL006826, 6826, 6830, 7219, 7221, 7223

2 Exhibit 13_DUL001334, 2820, 2821, 2824, 4959, 4961, 4963, 6826, 6828, 6830, 7219, 7221, 7223

3 Exhibit 13_DUL006825, 6828, 7218, 7221

4 Exhibit 13_POP000051-POP000052

5 Exhibit 13_POP000051-POP000052

6 Exhibit 13_DUL002639, 2651, 2675, 2847, 2849, 2850, 2851, 4950, 4951, 4952, 4953, 6817, 6818, 6819, 6820, 7210, 7211, 7212, 7213

“Yesterday Saul Ferris office called and said they just received back the packet they mistakenly sent to Hans Mast at Popovich law firm. In it is the pretrial settlement memo you wanted to see. There is also the printed depositions of both the homeowners, the defendant and myself. I picked these up this morning. Let me know how to get these to you.”

1-261. On May 9, 2015 at 4:32:54 PM CDT Paul Dulberg sent an email to Balke stating:¹

“Hope you received 2 packages today”

1-262. Dulberg’s memory is that the demand in the pre-trial settlement memo was \$50,000 when it was mailed to him on February 16, 2015. Email exchanges between Mast and Dulberg seem to suggest a similar amount. Also Trustee Heeg’s valuation confirms this. Balke’s later demand was also \$50,000. When the document finally arrived in Dulberg’s possession in July 2015 the demand was inexplicably changed to “\$135,000”.

1-263. The Saul Ferris declination letter has an address at the top of the letter listed as

“3416 W. Elm Street
McHenry, IL 60050”

This is the address of the Law Offices of Thomas J. Popovich, P.C.²

1-264. The Saul Ferris declination letter stayed in possession of The Law Office of Thomas J. Popovich, P.C. until on or about May 8, 2015. Attorney Brad Balke received the package which came from Mast/Popovich and contained the now altered (forged) attorney Saul Ferris Declination letter. In the Saul Ferris declination letter the date Dulberg’s injury had inexplicably been written as “January 24, 2013” even though Dulberg was injured on June 28, 2011. The date of the letter was inexplicably written as “December 31, 2014” even though the meeting between Ferris and Dulberg took place on February 26, 2015.³

1-265. Sometime around June 9, 2015 Dulberg refused a pretrial mediation offer of \$50,000.00 and fired Balke over forcing the offer on Dulberg.⁴ Dulberg’s experience with Balke is described in ‘ARDC Complaint against Balke’.

1-266. On July 7, 2015, at 9:39 AM, Paul Dulberg sent an email to Mast stating:⁵

“Hi Hans, I need to know if your willing to take a cash payout to release your lean on my case? If so, how much do you want?”

1 Exhibit 13_DUL002847, 2849, 4950, 4951, 6817, 6818, 7210, 7211

2 Exhibit 82_Ferris declination letter_DUL006502.pdf

3 Exhibit 13_DUL002821-DUL002822

4 Exhibit 13_DUL002878

5 Exhibit 13_DUL001323, 1325, 1328, 1329, 1330, 1331, 1332, 1333, 4906, 4909, 4013, 4914, 4915, 4916, 4919, 4920, 6773, 6776, 6780, 6781, 6782, 6783, 6786, 6787, 7166, 7169, 7174, 7175, 7176, 7179, 7180

1-267. On July 7, 2015, at 3:57 PM, Hans Mast answered¹ by email:

“Whatever you need Paul. What is your thinking.”

1-268. On July 7, 2015, at 2:30 PM, Paul Dulberg sent an email to Mast stating:²

“I need to know how much it’s going to cost to get the lean released”

1-269. On July 8, 2015, at 6:59 AM, Hans Mast answered:³

“Just make me a reasonable offer. We’re happy to work with u”

1-270. On July 8, 2015, at 7:44 AM, Paul Dulberg sent an email to Mast stating:⁴

“Morning Hans, As I’m not sure how much you invested, I’m not sure what’s reasonable. What would you consider reasonable?”

1-271. On July 8, 2015, at 11:25 AM, Hans Mast answered:⁵

“If your calculating our time it’d be a lot. But just give me what you can do.”

1-272. On July 8, 2015, at 10:09 AM, Paul Dulberg sent an email to Mast stating:⁶

“I can’t guess... I want to make sure your paid for your out of pocket expenses plus something for putting up with me. I’m sure I wasn’t the easiest to deal with. Just give me a number”

1-273. On July 8, 2015, at 12:31 PM, Hans Mast answered:⁷

“\$5,000”

1-274. On July 9, 2015, at 11:27 AM, Paul Dulberg sent an email to Mast stating:⁸

“I was informed all your entitled to is \$1539.32 from Brad because you signed off completely on the lean and he already paid you for the rest. Is this true?”

1 Exhibit 13_DUL001323, 1325, 1326, 1328, 1329, 1330, 1331, 4906, 4909, 4910, 4913, 4914, 4915, 4916, 6773, 6776, 6777, 6780, 6781, 6782, 6783, 7166, 7169, 7170, 7173, 7174, 7175, 7176

2 Exhibit 13_DUL001323, 1325, 1326, 1328, 1329, 1330, 1331, 4906, 4909, 4910, 4913, 4914, 4915, 4916, 6773, 6776, 6777, 6780, 6782, 6783, 7166, 7169, 7170, 7173, 7174, 7175, 7176

3 Exhibit 13_DUL001323, 1325, 1326, 1328, 1329, 4906, 4909, 4910, 4913, 4914, 6773, 6776, 6777, 6780, 6781, 7166, 7169, 7170, 7173, 7174

4 Exhibit 13_DUL001323, 1324, 1326, 1328, 1329, 4906, 4908, 4910, 4913, 4914

5 Exhibit 13_DUL001323, 1324, 1326, 1328, 4906, 4908, 4910, 4913, 6773, 6775, 6777, 6780, 7166, 7168, 7170, 7173,

6 Exhibit 13_DUL001322, 1324, 1326, 1328, 4905, 4908, 4910, 4913, 6772, 6775, 6777, 6780, 7165, 7168, 7170, 7173

7 Exhibit 13_DUL001322, 1324, 1326, 1328, 4905, 4908, 4910, 4913, 6772, 6775, 6777, 6780, 7165, 7168, 7170, 7173

8 Exhibit 13_DUL001322, 1324, 1326, 4905, 4908, 4910, 6772, 6775, 6777, 7165, 7168, 7170

1-275. On July 9, 2015, at 1:34 PM, Hans Mast answered:¹

“Yes. We agreed with brad to waive our lien...What is \$1,500 I think he paid our expenses.”

1-276. On July 9, 2015, at 1:51 PM, Paul Dulberg sent an email to Mast stating:²

“How much did he pay you for the expenses?”

1-277. On July 9, 2015 at 4:43:22 PM CDT Dulberg sent an email to Mast with the Subject: Re: Lean buyout stating³:

“Hans, No need to get back together next Thursday. Didn’t know that brad balky holds the entire lean and paid your expenses. Sorry for the bother. Hope the rest of the vacation is wonderful”

1-278. On July 16, 2015 Dulberg picked up the “Mixed Brown Box File” from Attorney Balke after firing attorney Balke. This is the first time the forged Attorney Saul Ferris’ declination letter arrived at Dulberg’s house.

1-279. From the time Dulberg received the “Mixed Brown Box File” on July 16, 2015 family members of Dulberg took notes on what they were able to understand.⁴

1-280. On July 20, 2015 at 8:07:04 AM CDT Dulberg wrote an email to Mast stating:⁵

“I need your electronic case file for Paul Dulberg along with all paper files you have. I did get the paper files from Brad Balke however of the plaintiffs/defendants depositions I received sections are missing in each and there are no dr’s depositions at all. Brad promises he turned over everything he received from you. Please collect all relevant information you have for this and notify me when it will be available to be picked up. Thank you in advance for your help with this matter,”

1-281. Sometime between July 16, 2015 and August 17, 2015 Dulberg sorted the ‘Mixed Brown Box File’ and separated the attorney Saul Ferris forged Declination letter from other case documents found in the “Mixed Brown Box File” and put it in a separate pile.

1-282. After Dulberg fired Popovich and Mast and received the “Mixed Brown Box” of documents Mast gave to Balke, Dulberg noticed there were notices of doctors depositions but no depositions.

1-283. According to the notices the doctors depositions were to take place on these dates:

1 Exhibit 13_DUL001322, 1324, 4905, 4908, 6772, 6775, 7165, 7168

2 Exhibit 13_DUL001322, 1324, 4905, 4908, 6772, 6775, 7165, 7168

3 Exhibit 13_DUL001322, 4905, 6772, 7165_

4 Exhibit 83_Dulberg family notes_DUL007893-DUL008708.pdf

5 Exhibit 13_DUL001321, 2885, 4897, 6764, 7157

Dr Karen Levin on October 1, 2013 (Merrill Legal Solutions, Notice has date 10/1/2013)¹

Dr Scott Sagerman on October 15, 2013 (Merrill Legal Solutions, Notice has date 10/15/2013)²

Dr Talerico (Merrill Legal Solutions, Notice has date 10/16/2013)³

Dr Apiwat Ford on November 20, 2013 (Merrill Legal Solutions, Notice has date 10/23/2013⁴, Notice has date 11/20/2013⁵)

Dr Kathy Kujawa July 23, 2014 (Merrill Legal Solutions, Notice has date 7/23/2014)⁶

1-284. The notices state that the court reporting agency handling the depositions is Merrill Legal Solutions. Dulberg contacted Merrill Legal Solutions and was told they did not know anything about the depositions.

1-285. Dulberg was told by the Law Offices of Thomas J. Popovich, P.C. to contact Vahl reporting to get certified copies of the 5 doctors depositions.

1-286. Dulberg paid Vahl reporting \$723.50 for the 5 doctors depositions.⁷

1-287. On August 17, 2015 Scott Dulberg signed at The Law Office of Thomas J. Popovich for the 2nd Dulberg case file provided to Dulberg by Mast. This became known as the “Brown Jacket File”, which is neat and orderly without pharmacy timestamps and without the October 22, 2013 document offer to settle with the McGuires for \$7,500, and was turned over to Attorneys Randy and Kelly Baudin to be used in the case against Gagnon.⁸

1-288. On August 17, 2015 at 1:51:16 PM CDT Dulberg sent an email to Hans Mast stating:⁹

“Hi Hans, Thank you for another paper copy of my case file. Does this exist in digital form? Also, I will need the original audio recordings of the telephone conversations between yourself and David Gagnon you listed as Gagnon exhibit 2.”

1-289. On August 17, 2015, at 2:19 PM, Hans Mast sent an email to Dulberg stating:¹⁰

“We have obviously letters saved on our computer. Somethings are saved others are not. We gave you a copy of what we have. I will have Sheila send you a copy of the Recording of the telephone conversation.”

1 Exhibit 84_DUL001753, 4284, 5995

2 Exhibit 85_DUL001761, 4292.pdf

3 Exhibit 86_DUL005999

4 Exhibit 87_DUL001755, 4286, 5987

5 Exhibit 88_DUL001759, 4288, 4290

6 Exhibit 89_DUL001750, 4281, 5991, 5993

7 Exhibit 90_Scan of Bank statement page with check cashed by Vahl.pdf

8 Exhibit 91_2015-08-17_Scott picked up brown jacket folder_POP000804.pdf

9 Exhibit 13_DUL001316, 1317, 1318, 2893, 2894, 2895, 4892, 4893, 4894, 6759, 6760, 6761, 7152, 7153, 7154

10 Exhibit 13_DUL001316, 1317, 2893, 2894, 4892, 4893, 6759, 6760, 7152, 7153

1-290. On September 11, 2015 at 1:35:46 PM CDT Dulberg sent an email to Hans Mast with Subject “Voice tape” stating:¹

“Hi Hans, Still Haven’t received the actual voice tape/recording listed as gagnon exhibit
2. I can pick it up, please let me know when.”

1-291. Dulberg’s repeated requests for the audio recording of a phone conversation between Mast and Gagnon were ignored.

1-292. On September 22, 2015 hired the Baudin Law firm. Dulberg’s experience with the Baudins will be described in ‘ARDC Complaint against the Baudins’.

ACTIVITY INVOLVING POPOVICH AND MAST SINCE 2016

1-293. On December 16, 2016 Dulberg retained legal malpractice attorney Thomas Gooch to initiate a claim against Mast and Popovich for legal malpractice.

1-294. When Dulberg moved to collect his emails with Mast from Dulberg’s Comcast account to give to Gooch, Dulberg found that 3 years of emails had been deleted from his Comcast email account.^{2 3}

1-295. Dulberg called Comcast to get his emails restored. Dulberg was told by phone that an incident report was created and an internal investigation happened concluding that the missing emails were deleted at by a senior level administrator with Comcast and unfortunately the emails were not retrievable. No other information was provided to Dulberg.

1-296. In a state of panic, Dulberg realized that his apple device was set up to utilize a different protocol for sending out emails than the protocol used to receive emails. His outgoing emails were stored on a separate Apple server, different from the incoming emails that are saved on the Comcast servers. On December 27, 2016 Dulberg forwarded all the sent emails from his Apple device to a second Comcast email account and immediately printed out 2 hard copies of all email exchanges on paper so they could not be deleted again.

1-297. In late December of 2016 Dulberg gave the “Mixed Brown Box File”, the recovered sent emails printed to paper, and a separate pile of documents which contained Attorney Saul Ferris’ forged Declination letter to Attorney Gooch who scanned it as part of Dulberg’s documents in the instant case against Mast and Popovich. Gooch also received a case file from the Baudins and scanned it in as part of Dulberg’s documents in the instant case against Mast and Popovich.

1-298. From Dulberg’s first meeting with Gooch on December 16, 2016 Gooch secretly worked to weaken or sabotage Dulberg’s case against Popovich and Mast. How this was done is explained in detail in the “ARDC Complaint against Thomas Gooch”.

¹ Exhibit 13_DUL001310, 4886, 6753, 7146

² Exhibit 92_Missingemails.jpg

³ Exhibit 93_Missing emails-Marked up.pdf

1-299. After Dulberg fired Gooch, Dulberg retained the Clinton Law Firm. From Dulberg's first meeting with Clinton and Williams on October 12, 2018 Clinton and Williams secretly worked to weaken or sabotage Dulberg's case against Popovich and Mast. How this was done is explained in detail in the "ARDC Complaint against Clinton and Williams".

1-300. On May 30, 2019 Williams suppressed a massive quantity of Dulberg's documents to weaken or sabotage Dulberg's case against Popovich and Mast. How this was done is explained in detail in "ARDC Complaint against Clinton and Williams", Chapter 1. Two of the many documents Clinton and Williams suppressed was Dulberg's evidence^{1 2} that 3 years of his emails with Mast and Popovich were deleted from Dulberg's Comcast account.

1-301. On May 30, 2019 the Popovich document disclosure consisted of 1450 pages. The documents released by Popovich have a number of issues that are marked up in 'Group Folder 31'.³ Among the issues are:

a) Most depositions that do exist are dated 2019.

b) There are no Doctor's depositions or any exhibit from any Doctor's deposition among Popovich bates numbered documents. Note that there is not a single Popovich bates-numbered document in any of the following folders:

Group Exhibit 26_2013-10-01_Dr Levin depositions

Group Exhibit 27_2013-10-15_Dr Sagerman depositions

Group Exhibit 28_2013-10-16_Dr Talerico depositions

Group Exhibit 29_2013-11-20_Dr Ford depositions

Group Exhibit 30_2014-07-23_Dr Kujawa depositions

1-302. Dulberg showed the depositions purportedly created by VAHL REPORTING SERVICE, LTD. to his current attorney Alphonse Talarico and was told they are not usable in court because they are not signed.

1-303. Dulberg tried several times over a 4 week period to contact the court reporting agency VAHL REPORTING SERVICE, LTD. to obtain legally sufficient certification pages of the 5 doctors depositions that have signatures of the court reporters but nobody called back.

1-304. On March 25 and 26, 2022 Dulberg's counsel sent subpoenas for signatures to Margaret Orton and Paula Erickson.

1-305. Around March 26, 2022 Dulberg talked with Michael Urbanski. Urbanski told Dulberg that he would contact Vahl Reporting.

1-306. On March 26, 2022 Michael Urbanski emailed Dulberg with the subject: "Vahl Reporting" stating:⁴

1 Exhibit 92_Missingemails.jpg

2-Exhibit 93_Missing emails-Marked up.pdf

3 Group Exhibit 31, (entire contents)

4 Group Exhibit 10: 2022-03-26_1010 AM_RECV_Vahl Reporting.pdf

“Mr. Dulberg:

I did forward all the information to Carrie Vahl. She now has your email address and I would hope would respond to your requests.

Sincerely,
Michael Urbanski”

1-307. On March 28, 2022 at 7:44 AM a person going by the name of Carrie Vahl emailed Dulberg with the subject “Transcripts” stating:¹

“Hi,

I spoke with Michael Urbanaki, and he gave me your email.

Michael gave me a list of transcripts that you need certifications for. Can you give me a call on my cell today or tomorrow, (847) 727-5828. Most of today I’ll be in a hearing but I’ll call you back.

Thanks,

Carrie

--

Carrie Vahl

Vahl Reporting Service, LLC

(847) 727-5828

1-308. On March 28, 2022 at 10:01 AM Dulberg replied stating:²

“Dear Carrie Vahl,

Thank you for reaching out to me.

I am not sure what is on the list Mr. Urbanski sent to you so below is a list of Dr’s depositions I purchased around 9/15//2015 from Vahl Reporting.

I paid \$723.50 for the depositions with Check #2486 from Account #2600005536.

The issue I have with the depositions I received back in 2015 is that none of them were certified or signed by the CSR and they do not have the exhibits attached which means after all this time they are unusable in court.

I would really appreciate a PDF of the signed, certified depositions with the exhibits listed below:

22nd Judicial Circuit, McHenry County case number 12LA178

Dr. KAREN LEVIN, 10/1/2013, ANGELA M. INGHA, CSR , Certificate No. 084-

1 Group Exhibit 10: 2022-03-28_0744 AM_RECV_Transcripts.pdf

2 Group Exhibit 10: 2022-03-28_1001 AM_SENT_Re Transcripts.pdf

002984

DR. SCOTT SAGERMAN, 10/15/2013, JILL S TIFFANY, CSR, Certificate No. 084-002807

Dr. MARCUS G. TALERICO, 10/28/2013, TERRI A. CLARK, CSR, Certificate No. 084-001957

Dr. APIWAT FORD, 11/20/2013, MARGRET MAGGIE ORTON, CSR, Certificate No. 84-004046

Dr. KATHY KUJAWA, 7/23/2014, JILL S TIFFANY, CSR, Certificate No. 084-002807

Please advise the best way I may obtain the certified, signed Dr's depositions listed above with the exhibit attached.

Thank you in advance for your help with this matter,

Paul"

1-309. On March 28, 2022 at 11:29 AM a person going by the name of Carrie Vahl responded stating:¹

"Hi Paul,

Thanks for the list and the info. I never bothered to look up under your name. I was just searching for Popovich's people.

Tomorrow I can scan and email the signature pages to you for each transcript. I'm just out of the office today.

Regarding the exhibits, the defense counsel we were hired by those days never give us the exhibits. So that I can't help you with.

They might be in the original trial file with the clerk's office.

I have one more question. Maggie Orton received a records subpoena. She took a screenshot and it's attached. We don't know what you are looking for with the Twenty signatures. Is it just the cert page signature and then she's in compliance?

Let me know.

Thanks,
Carrie"

There was no attachment to the email and Dulberg did not respond.

1-310. On March 28, 2022 at 13:39 PM a person going by the name of Carrie Vahl sent Dulberg another email stating:²

1 Group Exhibit 10: 2022-03-28_1129 AM_RECV_Re Transcripts.pdf

2 Group Exhibit 10: 2022-03-28_1339 PM_RECV_Re Transcripts.pdf

“Hi Paul,

Please find attached the 5 certificate pages with the reporters’ signatures.

Does this satisfy what you need from Maggie Orton? All she has, like the rest of us, is the transcript that you already have.

Thanks,
Carrie”

This email implied the individual signed certification pages from 5 different depositions all grouped into one document on their own and detached from the rest of the depositions they purportedly belong with were legally sufficient. Dulberg did not respond.

1-311. On March 31, 2022 at 9:20 AM a person going by the name of Carrie Vahl sent Dulberg a final email stating:¹

“Hi Paul,

Did you received this email with the cert pages?

Can you please let me know about the subpoena for Maggie Orton? Does her cert page satisfy what you need?

We want to be in compliance with a subpoena.

I did leave a voicemail for your attorney also but have not heard back. I don’t have his email. Could you send that to me, please?

Thanks,
Carrie”

Dulberg did not respond.

1-312. Dulberg felt these could be forgeries or something else could be wrong. Dulberg forwarded the attached documents to his attorney.

1-313. The 22nd Judicial Circuit Clerk website <https://caseinfo.mchenrycountyil.gov/pca/Home/Search> or “Public Case Access” does not return results for any past legal malpractice cases filed with the court using the name “Popovich”, “Law Offices of Thomas J. Popovich, P.C.” nor any other iteration of the name we could think of. The only way we found to find past legal malpractice cases involving the Law Offices of Thomas J. Popovich, P.C. in the 22nd Judicial Circuit Clerks files was to know the exact case number prior to conducting a search.

1-314. On March 1, 2023 Dulberg sent for a records request for case 12LA326.²

1-315. On March 2, 2023 Dulberg received the case file 12LA326 from the clerk.³

1 Group Exhibit 10: 2022-03-31_0920 AM_RECV_Re Transcripts.pdf

2 Exhibit 94_2023-03-01_1035_Records request for case 12LA326_SENT.pdf

3 Exhibit 95_2023-03-02_1402_Records request for case 12LA326_RECV.pdf

1-316. In the file Associate Judge Thomas A. Meyer recused himself from 12LA326 because Mr Meyer is a personal friend of Thomas J. Popovich.¹

CHAPTER 2: CLAIMS AGAINST POPOVICH AND MAST

COUNT 1: DISCOVERY ABUSE

SECTION A: Redirected medical lien liability from the Defendants to Plaintiff

2-1-A1. Health Care Services Lien Act. (770 ILCS 23/10)

Sec. 10. Lien created; limitation.

(a) Every health care professional and health care provider that renders any service in the treatment, care, or maintenance of an injured person, except services rendered under the provisions of the Workers' Compensation Act or the Workers' Occupational Diseases Act, shall have a lien upon all claims and causes of action of the injured person for the amount of the health care professional's or health care provider's reasonable charges up to the date of payment of damages to the injured person. The total amount of all liens under this Act, however, **shall not exceed 40%** of the verdict, judgment, award, settlement, or compromise secured by or on behalf of the injured person on his or her claim or right of action.

(b) **The lien shall include a written notice containing the name and address of the injured person, the date of the injury, the name and address of the health care professional or health care provider, and the name of the party alleged to be liable to make compensation to the injured person for the injuries received. The lien notice shall be served on both the injured person and the party against whom the claim or right of action exists.** Notwithstanding any other provision of this Act, payment in good faith to any person other than the healthcare professional or healthcare provider claiming or asserting such lien prior to the service of such notice of lien shall, to the extent of the payment so made, bar or prevent the creation of an enforceable lien. **Service shall be made by registered or certified mail or in person.**

2-1-A2. As demonstrated in this section, none of the medical liens placed due to Dulberg's 2011-06-28 injury listed **"the name of the party alleged to be liable to make compensation to the injured person for the injuries received"**. There is no evidence either the McGuires or Gagnon were ever served with a lien **"made by registered or certified mail or in person"**. Neither Mast nor Popovich **ever** inform Dulberg that payments on medical liens **"shall not exceed 40%** of the verdict, judgment, award, settlement, or compromise secured by or on behalf of the injured person on his or her claim or right of action".

"(c) ...If the total amount of all liens under this Act meets or exceeds 40% of the

¹ Exhibit 96_2012LA000326--2012-10-19--ORDREA_0004.pdf

verdict, judgment, award, settlement, or compromise, then:

(1) all the liens of health care professionals shall not exceed 20% of the verdict, judgment, award, settlement, or compromise; and

(2) all the liens of health care providers shall not exceed 20% of the verdict, judgment, award, settlement, or compromise;

provided, however, that health care services liens shall be satisfied to the extent possible for all health care professionals and health care providers by reallocating the amount unused within the aggregate total limitation of 40% for all health care services liens under this Act; and provided further that the amounts of liens under paragraphs (1) and (2) are subject to the one-third limitation under this subsection.”

“...If the total amount of all liens under this Act meets or exceeds 40% of the verdict, judgment, award, settlement, or compromise, the total amount of all the liens of attorneys under the Attorneys Lien Act shall not exceed 30% of the verdict, judgment, award, settlement, or compromise.”

2-1-A3. Before Dulberg retained Popovich and Mast he received the following billing and lien notice in the mail from NIMC Centegra. Dulberg gave these documents to Mast at their first meeting on December 1, 2011:

Centegra lien notice¹

Centegra universal billing UB-04 form created on July 5, 2011²

Centegra bills³

Note that NIMC Centegra provided Dulberg with universal billing form UB-04 and that the NIMC Centegra letter and lien notice is consistent with Illinois law.

It is not known whether Popovich or Mast ever responded to the NIMC letter.

2-1-A4. Popovich and Mast were retained on December 1, 2011 and Popovich placed an attorneys lien on the injury claim with Tom Malatia on December 5, 2011.

2-1-A5. Around December 6, 2011 Popovich and Mast subpoenaed the records of NIMC Centegra.

2-1-A6. On or around January 24, 2012 Mast told Dulberg to go to NIMC and obtain medical records from them (even though they already had NIMC medical records). Dulberg obtained a second set of records⁴ with a CD containing xray images. Dulberg gave this second set of

1 Group Exhibit 1: 2011-07-06_Powers and Moon Centegra Lien Notice_POP000600-POP000601.pdf

2 Group Exhibit 1: 2011-07-05_Centegra UB-04 bill_POP000722.pdf

3 Group Exhibit 1: 2011-07-02_Centegra bill_POP000737.pdf and 2011-08-05_Centegra bill_POP000735-POP000736.pdf

4 Exhibit 11_2012-01-24_Centegra-Medical Records and authorization for release.pdf

records to Mast. Mast said he did not want the CD. The second set of Centegra records that Dulberg obtained on January 24, 2012 do not exist in any version of the case file that Mast provided to subsequent counsel.

2-1-A7. On June 25, 2012 Northwest Community Healthcare sent a fax¹ to Defendant Hans Mast requesting the following information:

The name and address of the homeowners insurance
Claim number
Name of responsible party
Date of Incident.

2-1-A8. On June 27, 2012 Defendant Hans Mast responded to the June 25, 2012 request by failing to give any the requested information.² Mast wrote:

“Unfortunately, we just filed suit and it is still relatively early on and I have not yet obtained the adverse parties insurance information. I would be happy to provide that to you shortly.

In the meantime, please feel free to forward a lien to my attention and I would be happy to honor it for purposes of settlement and/or recovery obtained in this case.”

2-1-A9. Mast was in possession of the address where the accident occurred, the claim number and the name and phone number of the insurance adjuster since December 1, 2011. Popovich and Mast placed an attorneys lien using this same information on Dec 05, 2011. In the case of this exchange with NCH, Popovich and Mast placed their own attorneys lien on the homeowners insurance claim yet appear to be preventing NCH from doing the same.

2-1-A10. Note that Mast’s request is contrary to Illinois law. Mast is informing the NCH representative to:

- a) Serve the lien notice by sending it to the attorney of the injured party
- b) Serve the lien notice without having the required information on the party responsible for the injury

2-1-A11. A Northwest Community Hospital universal billing form UB-04³ dated July 17, 2012 (in Box 38) has the responsible party listed as: AUTO OWNERS INS 6000 TALLGATE SUITE D ELGIN IL and (in Box 50) has the payer listed as: AUTO OWNERS INS and (in Box 60) has the INSURED’S UNIQUE ID listed as CLM#13-2779-11.

2-1-A12. On July 23, 2012 Northwest Community Hospital representative Catie Harrison appeared to have sent a NOTICE OF LIEN to Mast. There are many issues with how the lien notice was constructed:

1 Exhibit 31_2012-06-25_fax_NCH Catie Harrison to Mast_POP000620-POP000621.pdf

2 Exhibit 33_2012-06-27_fax_Mast answer to NCH_POP000345-POP000346.pdf

3 Exhibit 33a_2012-07-17_NCH UB-04_DUL002358.pdf

- a) It is not clear who she is addressing in the notice of lien.
- b) It is not clear who she sent the notice of lien to.
- c) In the certificate of mailing it is also unclear where it was sent .
- d) the affidavit statement of the party who sent the document is missing. It is not clear what the certifier is claiming to certify doing.

2-1-A13. On August 8, 2023 Dulberg requested the financial records of Northwest Community Hospital.¹

2-1-A14. On August 9, 2023 Dulberg was informed that no financial records exist because: “The records you are requesting exceed the record retention policy of 10 years.”²

2-1-A15. On September 04, 2012 McGuire attorney Barch subpoenaed the records of NIMC

2-1-A16. The only existing representation of the Barch subpoenaed documents are in:

Gooch Thumbdrive/Dulberg Paul Dulberg Files from Client/ TJP & Attorney Documents/
Letter to Centegra NMCI Medical Records Custodian From Barch 9.4.12.pdf

2-1-A17. Pages 2, 3, 4,³ and page 5⁴ of the alleged 35 page reply were documents with billing information and a certification page. The documents appear to a construction of information taken from a Centegra form UB-04⁵ but the UB-04 is not included. It appears someone was trying to craft documents with UB-04 billing information for some reason.

2-1-A18. The 3 documents are not included among the documents subpoenaed from Barch’s office. When Barch was subpoenaed for all documents related to case 12LA178 Barch produced a list of file names of his medical records only called:

List of Medical Records and Bills.2.19.20.pdf⁶

The pdf lists the Centegra medical records but does not mention how many pages of documents Barch received from Centegra.

2-1-A19. The documents that appear to be reconstructed from the Centegra UB-04 are located in Popovich construction of NIMC documents produced responding to the Barch subpoena. Either:

- (a) Barch is the source of the altered documents or
- (b) Popovich arranged his case file to make it look as if Barch sent him a 35 page fax with the documents subpoenaed from Centegra.

¹ Exhibit 97_2023-08-09_NCH response to records request.pdf

³ Folder B8 Centegra UB-04 billing statement re-creations

⁴ Folder B9 Centegra subpoena certification page

⁵ Group Exhibit 1: 2011-07-05_Centegra UB-04 bill_POP000722.pdf

⁶ Exhibit 44_Barch List of Medical Records and Bills.2.19.20.pdf

2-1-A20. Both NIMC Centegra and NCH are hospitals that use the universal billing statement UB-04.

In the case of NIMC: The UB-04 disappeared from the Popovich and Mast case file and was replaced by 3 crafted documents that appear to be forgeries. It later appeared in 2019 in a Popovich document disclosure in 17LA377.

In the case of NCH: The UB-04 billing statement contradicts the lien notice allegedly sent by NCH to Popovich and Mast. In this case the NCH notice of lien appears to be intentionally altered.

2-1-A21. The lien notices of Dr Sagerman (DUL 006344) and Dr Levin (DUL 006340) show the same pattern as the NCH lien notice:

- a) No mention of either the McGuires or Gagnon as “**the name of the party alleged to be liable to make compensation to the injured person for the injuries received**”
- b) No evidence either the McGuires or Gagnon were ever served with a lien “**made by registered or certified mail or in person**”
- c) Signs of intentional manipulation (forgery) of the lien notice

The Dr Sagerman Lien is examined in paragraph 2B12. The Dr Levin Lien is examined in paragraph 2B13.

Count 1, Section B: Evidence destruction and fabrication, forgery

2-1-B1. Walgreens RX receipts. The actual receipts¹ were intentionally cut into pieces². The pieces with the time stamps were removed when showing the pieces to Dulberg and when disclosing documents to opposing counsel.

The pieces with the timestamps³ were never given to any of Dulberg’s subsequent attorneys in the PI case 12LA178. The first time Dulberg saw them was during the document production of opposing counsel in legal malpractice case 17LA377 at the end of June, 2019. The first time Dulberg saw the original receipts again was after Dulberg had his ipad repaired around September 17, 2022.

2-1-B2. Gagnon deposition Exhibit 1 This is a pretty clear example of 2 pieces of paper spliced together to appear as if it is a single sheet of paper.⁴ Gagnon Exhibit 1 appears in many different forms.

2-1-B3. Gagnon deposition Exhibit 2 This is an alleged transcript⁵ of a recorded phone

1 Folder B1: 2011-06-28_Walgreens Prescriptions.pdf

2 Folder B1, (all files except the above show cut-up prescriptions)

3 Folder B1: cut up Walgreens RX receipts_POP000724-000727.pdf

4 Folder B2 Gagnon deposition exhibit 1 (all)

5 Folder B3 Gagnon deposition exhibit 2 (all)

message between Mast and defendant Gagnon. Mast has claimed he had an audio recording of the telephone conversation. Dulberg asked for the recorded message many times but Mast never provided it. It most probably never existed.

2-1-B4. The certification page of the Gagnon deposition. The certification page of the deposition of Gagnon names Margaret Maggie Orton as the court reporter.¹ On March 25, 2022 Margaret Maggie Orton was subpoenaed for 20 signatures.² Omni Document Examination did an analysis of the Orton signatures.³

2-1-B5. The certification pages of the McGuire and McArtor depositions. The certification pages of the William McGuire, Carolyn McGuire and Mike McArtor depositions names Paula Ann Erickson as the court reporter.⁴ On March 26, 2022 Paula Ann Erickson was subpoenaed⁵ for 20 signatures. Omni Document Examination did an analysis of the Erickson signatures.⁶

2-1-B6. The certification pages of all 5 depositions of doctors.⁷

2-1-B7. Cropped pictures of Gagnon's address on his garage. Around April 9, 2012 Mast sent Dulberg to Gagnon's house. Mast claimed he needed Dulberg to verify Gagnon's address. Dulberg took a picture of Gagnon's house with the address marked and gave the picture to Mast.⁸ Minuteman Press made 6 copies of this image, but the numbers of the address in the picture were inexplicably cropped out.⁹ The cropped image later inexplicably became 'Exhibit 2i'¹⁰ in Dulberg's deposition.

2-1-B8. A Centegra UB-04 billing¹¹ statement was inexplicably turned into **3 billing documents¹² that are represented as if they came from Centegra.**

2-1-B9. A certification page¹³ that appears to belong to the documents subpoenaed by Barch was certified on January 13, 2010 (about 30 months before the subpoena was issued). The problem is marked in the file 'Folder B10: Barch certification page marked up.pdf'.

2-1-B10. Northwest Community Hospital NOTICE OF LIEN. On July 23, 2012 Northwest Community Hospital representative Catie Harrison sent a NOTICE OF LIEN with no address.¹⁴

a) Note that the Northwest Community Hospital notice of lien is constructed in a way

1 Folder B4 Gagnon deposition certification page

2 Group Exhibit 5_2022-03-25_Margaret Orton subpoena

3 Group Exhibit 6-Margaret Orton signatures analyzed

4 Folder B5 McGuires and McArtor deposition certification pages

5 Group Exhibit 8_2022-03-26_Paula Erickson subpoena

6 Group Exhibit 9-Paula Erickson signatures analyzed

7 Folder B6 certification pages of all 5 Doctor's depositions (all)

8 Folder B7: original photo.JPG

9 Folder B7: all photos with names "cropped image"

10 Group Exhibit 13_Dulberg Exhibit 2 series (all)

11 Folder B8: 2011-07-05_Centegra UB-04 Bill.pdf

12 Folder B8: pages 2 3 4 of Letter to Centegra NMCI Medical Records Custodian From Barch 9.4.12.pdf

13 Folder B9: Barch certificate of compliance.pdf

14 Folder B10: NCH lien_DUL006331.pdf

that it is impossible to know who the word “you” addresses. The word “you” cannot be ‘pegged down’ in the document.

b) In the certificate of mailing it is also unclear where it was sent and the affidavit statement of the party who sent the document is missing. It is not clear who or what the certifier is claiming to certify doing.

Other issues are marked in the file ‘Folder B10: NCH Lien comparison mark-up.pdf’.

2-1-B11. Dr Sagerman lien¹ appears to be a manipulated document in a few ways that are shown in file ‘Folder B11: Sagerman lien markup.pdf’.

2-1-B12. Dr Levin lien² appears to follow the same pattern as the Dr Sagerman lien. Problems with the Dr Levin lien are shown in the file ‘Folder B11: Levin Lien Markup.pdf’.

2-1-B13. Saul Ferris declination letter.³ This letter and the effects of this letter have been described in detail in “ARDC Complaint against Clinton and Williams”, Chapter 2, Section B. In summary:

- a) The letter was in possession of Thomas Popovich and Mast for about 2 months
- b) Popovich and Mast have never admitted that they were in possession of the letter. (They attempted to claim it was sent to Dulberg directly.)
- c) There are 4 inaccurate statements in the letter
- d) The letter was later used by Popovich and Mast (through their attorney Flynn) to try to force Dulberg to admit to the inaccurate statements in the letter and admit to receiving the letter at his home directly through the mail.
- e) The letter was addressed to the Popovich law firm (written in the header).

The 4 inaccurate statements in the letter are:

- a) The letter states Ferris met with Dulberg on December 31, 2014. (Ferris actually met with Dulberg on February 26, 2015.)
- b) The letter states the date of Dulberg’s “accident” was January, 24, 2013. (The date of Dulberg’s chainsaw injury was June 28, 2011.)
- c) The address at the top of the letter is the Law Office of Thomas **J. Popovich, P.C.** (Popovich and Mast claimed it was sent to Dulberg directly from the office of Saul Ferris.)
- d) A strange comment about recommending to Dulberg that he attend an upcoming pre-

¹ Folder B11 Dr Sagerman Lien

² Folder B12 Dr Levin Lien

³ Folder B13 Ferris declination letter

trial settlement conference.

The inaccuracies are shown in the file 'Folder B13: Ferris declination letter marked up.pdf'.

The methods opposing counsel Flynn used to make absurd claims concerning Dulberg's meeting with Ferris and the Ferris declination letter is described in detail in 'ARDC Complaint against Gooch, Chapter 2, "TEAM-WORK" examples 5 and 6 and in 'ARDC Complaint against Clinton and Williams, Chapter 2, Section B.

2-1-B14. Pre-trial settlement memo.¹ A pre-trial settlement memo that Mast had written around February 14, 2015 was together with the Ferris declination letter at the Law Office of Thomas Popovich for about 2 months. The memo had been altered² in the time since Dulberg was shown the memo around February 14, 2015.

2-1-B15. Meijer receipt The original Meijer receipt³ was inexplicably cut up⁴ by Mast and Popovich. A comparison is made in the file 'Folder B15: Meijer receipt issues.pdf'.

Count 1, Section C: Corrupted the interrogatory and document production processes to sabotage client's case and to benefit defendants (in collaboration with opposing attorneys)

2-1-C1. Gagnon was never required to answer any interrogatory questions. Popovich and Mast never moved to compel Gagnon to answer any interrogatories.

2-1-C2. The timestamp on the Walgreens RX receipt is described in Chapter 1, paragraphs 94 to 107. Descriptions of the Walgreens RX receipt destruction of evidence was given in Chapter 2, Count 1, Section 2-B, paragraph 2B1.

2-1-C3. The Walgreens RX receipts was a key piece of evidence in case 12LA178 that Popovich and Mast hid. The Walgreens timestamps were successfully suppressed for more than 10 years by Popovich and Mast.

2-1-C4. Likewise, Tilschner v Spangler was a key piece of evidence in case 17LA377 against Popovich and Mast. Tilschner v Spangler was successfully suppressed for more than 6 years by Dulberg's attorneys Gooch, Clinton and Williams to benefit Popovich and Mast. (A detailed description of how Tilschner v Spangler was suppressed is in "ARDC Complaint against Clinton and Williams, in both Chapter 2, Section C, and in Appendix 1, and in ARDC Complaint against Thomas Gooch, Chapter 2, "TEAM-WORK" Example 1.)

2-1-C5. In both cases 12LA178 and 17LA377 a key piece of evidence was targeted and suppressed (by Dulberg's own attorneys). Popovich and Mast targeted the key evidence in the Walgreens RX receipts in 12LA178. Clinton and Williams targeted the key evidence of the certified slip copy of Tilschner v Spangler in 17LA377 (to benefit Popovich and Mast).

¹ Folder B14: Pre-trial settlement memo_DUL005390-005397.pdf

² Folder B14: Pre-trial settlement memo marked up.pdf

³ Folder B15: 2011-07-01_original Meijer receipt for Medical Supplies.pdf

⁴ Folder B15, (every file but the above shows a cut-up receipt)

2-1-C6. By suppressing the timestamps of the Walgreens RX receipts Popovich and Mast were able to lead Gagnon to commit perjury during Gagnon’s deposition. Popovich and Mast were also able to lead Carolyn McGuire to commit perjury during Carolyn McGuire’s deposition.

Count 1, Section D: Suppressed all information on mental health issues resulting from Dulberg’s injury

2-1-D1. Another document that was suppressed in both cases 12LA178 and 17LA377 is “Rosecrance Treatment Plan”¹.

2-1-D2. Dulberg sent an email with the subject “Re: Medical Expense Report” to Mast stating:²

“Should I be adding treatment and meds for depression?”

2-1-D3. On Mar 26, 2013, at 11:27 AM Mast sent an email to Dulberg stating:³

“Honestly, that might be difficult for several reasons. Not only will it be impossible to prove that it is due to the trauma, but it may open up the issue before the jury of whether you are a credible witness..so Id be against that frankly....”

2-1-D4. Mast told Dulberg to blacken out all medications which were prescribed by psychiatrist Dr. Elizabeth McMasters on Dulberg’s pharmaceutical medication lists⁴.

2-1-D5. Note that while Mast was doing this, Dulberg’s SSDI attorney Meredith Marcus was *successfully winning* Dulberg’s appeal for permanent disability by using the mental health medical information overturning the decision of Administrative Law Judge Lovert F. Bassett of the SSA Office of Disability Adjudication and Review in Evanston, Illinois.

2-1-D6. Mast, in comparison, was *successfully suppressing* the same mental health medical information from PI case 12LA178 to help sabotage or limit Dulberg’s claims against the McGuires and Gagnon and protect Mast (himself) and the Law Offices of Thomas J. Popovich, P.C. from the tolling provisions for those with a legal disability found in the statute of limitations for Legal Malpractice should Dulberg ever file suit. 735 ILCS 5/13-214.3(e)(f).

2-1-D7. The way SSDI attorney Meredith Marcus strategized to *win* Dulberg’s claim for permanent disability (described in detail in APPENDIX B) contrasts sharply with how Mast and Popovich strategized to *lose* their PI case and cap the value of Dulberg’s recovery.

2-1-D8. In one case the mental health information helped win an appeal. In the other case the mental health information was completely suppressed to help downplay the effect of the loss of the use of Dulberg’s dominant right arm had on his mental health

¹ Exhibit 99_Rosecrance-TreatmentPlan.pdf

² Exhibit 13_DUL001570 to 1574

³ Exhibit 13_DUL001570 to 1574

⁴ Exhibit 98_POP000862-863.pdf

2-1-D9. Popovich and Mast also protected themselves in suppressing the same mental health medical information by removing the tolling provisions for those with a legal disability found in the statute of limitations for Legal Malpractice should Dulberg ever file suit. 735 ILCS 5/13-214.3(e)(f).

2-1-D10. About 6 years later (on April 18, 2019, the same day that Dulberg sent the certified slip ruling of Tilschner v Spangler to Williams) Dulberg sent “Rosecrance Treatment Plan” to Williams. Like with Tilschner v Spangler, “Rosecrance Treatment Plan” was never bates stamped by Clinton and Williams and was never given to opposing counsel.

2-1-D11. In case 12LA178 the evidence demonstrates that Popovich and Mast suppressed “Rosecrance Treatment Plan” to downplay the severity of the impact that Dulberg’s injury had on his life. In case 17LA377 there is evidence that Clinton and Williams (once again) suppressed (the same document) “Rosecrance Treatment Plan” for the benefit of Defendants Popovich and Mast effectively removing the statutory tolling provisions for persons under a legal disability found in 735 ILCS 5/13-214.3(e)(f).

Count 1, Section E: Corrupted the deposition process to sabotage client’s case and to benefit defendants (in collaboration with opposing attorneys)

2-1-E1. 10 depositions were scheduled to take place during PI case 12LA178.

2-1-E2. On February 4, 2013 David Gagnon was deposed.¹

2-1-E3. The transcript as it was provided by Urbanski Reporting Services had a certification page² signed by a person named “Maggie Margaret Orton”.

2-1-E4. On March 25, 2022 Margaret Orton was subpoenaed³ for 20 signatures and she provided 20 signatures on April 19, 2022.

2-1-E5. Omni Document Examination did an analysis of the Orton signatures.⁴

2-1-E6. Exhibit 1 of Gagnon’s deposition consists of 2 papers cut and placed together to appear as one paper.⁵ There are many versions of Exhibit 1 throughout the bates-numbered documents.

2-1-E7. Exhibit 2 of Gagnon’s deposition is an alleged transcript of a phone conversation.⁶ Mast claimed to have a recording of the phone conversation but has never produced it. It probably does not exist.

¹ Group Exhibit 16_2013-02-06_Gagnon depositions (all)

² Folder B4: Gagnon depo certification page.pdf

³ Group Exhibit 5_2022-03-25_Margaret Orton subpoena (all)

⁴ Group Exhibit 6-Margaret Orton signatures analyzed (all)

⁵ Group Exhibit 17_Gagnon Exhibit 1 (all)

⁶ Group Exhibit 18_Gagnon Exhibit 2

2-1-E8. Popovich has a different version¹ of Exhibit 3 of Gagnon’s deposition than Dulberg’s version².

2-1-E9. On March 20, 2013 CAROLYN McGUIRE was deposed³, WILLIAM McGUIRE was deposed⁴, and MIKE McARTOR was deposed⁵.

2-1-E10. The transcripts as they were provided by Urbanski reporting services had certification pages signed by a person named “Paula Ann Erickson”.⁶

2-1-E11. On March 26, 2022 Paula Erickson was subpoenaed⁷ for 20 signatures.

2-1-E12. Omni Document Examination did an analysis of the signatures.⁸

2-1-E13. After Dulberg fired Popovich and Mast and received the “Mixed Brown Box” of documents Mast gave to Balke, Dulberg noticed there were notices of doctors depositions but no depositions.

2-1-E14. According to the notices the doctors depositions were to take place on these dates:

Dr Karen Levin on October 1, 2013 (Merrill Legal Solutions, Notice has date 10/1/2013)⁹

Dr Scott Sagerman on October 15, 2013 (Merrill Legal Solutions, Notice has date 10/15/2013)¹⁰

Dr Talerico (Merrill Legal Solutions, Notice has date 10/16/2013)¹¹

Dr Apiwat Ford on November 20, 2013 (Merrill Legal Solutions, Notice has date 10/23/2013¹², Notice has date 11/20/2013¹³)

Dr Kathy Kujawa July 23, 2014 (Merrill Legal Solutions, Notice has date 7/23/2014)¹⁴

2-1-E15. The notices state that the court reporting agency handling the depositions is Merrill Legal Solutions. Dulberg contacted Merrill Legal Solutions and was told they did not know anything about the depositions.

1 Group Exhibit 19: POP 1320-1326_Gagnon Exhibit 3 with extra page.pdf

2 Group Exhibit 19_Gagnon Exhibit 3 (contains many examples)

3 Group Exhibit 20_2013-03-20_Carolyn McGuire depositions (all)

4 Group Exhibit 21_2013-03-20_William McGuire depositions (all)

5 Group Exhibit 25_2013-03-20_McArtor depositions (all)

6 Folder B5: a_Carolyn McGuire depo certification page.pdf and b_William McGuire depo certification page.pdf and c_McArtor depo certification page.pdf

7 Group Exhibit 8_2022-03-26_Paula Erickson subpoena (all)

8 Group Exhibit 9-Paula Erickson signatures analyzed (all)

9 Exhibit 88_DUL001753, 4284, 5995.pdf

10 Exhibit 89_DUL001761, 4292.pdf

11 Exhibit 90_DUL005999.pdf

12 Exhibit 91_DUL001755, 4286, 5987.pdf

13 Exhibit 92_DUL001759, 4288, 4290.pdf

14 Exhibit 93_DUL001750, 4281, 5991, 5993.pdf

2-1-E16. Dulberg was told by the Law Offices of Thomas J. Popovich, P.C. to contact Vahl reporting to get certified copies of the 5 doctors depositions.

2-1-E17. Dulberg paid Vahl reporting \$723.50 for the 5 doctors depositions.¹

2-1-E18. Dulberg showed the depositions purportedly created by VAHL REPORTING SERVICE, LTD. to his current attorney Alphonse Talarico and was told they are not usable in court because they are not signed.

2-1-E19. Dulberg tried several times over a 4 week period to contact the court reporting agency VAHL REPORTING SERVICE, LTD. to obtain legally sufficient certification pages of the 5 doctors depositions that have signatures of the court reporters but nobody called back.

2-1-E20. On March 25 and 26, 2022 Dulberg's counsel sent subpoenas for signatures to Margaret Orton² and Paula Erickson³.

2-1-E21. Dulberg talked with Michael Urbanski. Urbanski told Dulberg that he would contact Vahl Reporting.

2-1-E22. On March 26, 2022 Michael Urbanski emailed Dulberg with the subject: "Vahl Reporting" stating:⁴

"Mr. Dulberg:

I did forward all the information to Carrie Vahl. She now has your email address and I would hope would respond to your requests.

Sincerely,
Michael Urbanski"

2-1-E23. On March 28, 2022 at 7:44 AM a person going by the name of Carrie Vahl emailed Dulberg with the subject "Transcripts" stating:⁵

"Hi,

I spoke with Michael Urbanaki, and he gave me your email.

Michael gave me a list of transcripts that you need certifications for. Can you give me a call on my cell today or tomorrow, (847) 727-5828. Most of today I'll be in a hearing but I'll call you back.

Thanks,

Carrie

1 Exhibit 94_Scan of Bank statement page with check cashed by Vahl.pdf

2 Group Exhibit 5_2022-03-25_Margaret Orton subpoena (all)

3 Group Exhibit 8_2022-03-26_Paula Erickson subpoena (all)

4 Group Exhibit 10: 2022-03-26_1010 AM_RECV_Vahl Reporting.pdf

5 Group Exhibit 10: 2022-03-28_0744 AM_RECV_Transcripts.pdf

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Carrie Vahl
Vahl Reporting Service, LLC
(847) 727-5828

2-1-E24. On March 28, 2022 at 10:01 AM Dulberg replied stating:¹

“Dear Carrie Vahl,

Thank you for reaching out to me.

I am not sure what is on the list Mr. Urbanski sent to you so below is a list of Dr’s depositions I purchased around 9/15//2015 from Vahl Reporting.

I paid \$723.50 for the depositions with Check #2486 from Account #2600005536.

The issue I have with the depositions I received back in 2015 is that none of them were certified or signed by the CSR and they do not have the exhibits attached which means after all this time they are unusable in court.

I would really appreciate a PDF of the signed, certified depositions with the exhibits listed below:

22nd Judicial Circuit, McHenry County case number 12LA178

Dr. KAREN LEVIN, 10/1/2013, ANGELA M. INGHA, CSR , Certificate No. 084-002984

DR. SCOTT SAGERMAN, 10/15/2013, JILL S TIFFANY, CSR, Certificate No. 084-002807

Dr. MARCUS G. TALERICO, 10/28/2013, TERRI A. CLARK, CSR, Certificate No. 084-001957

Dr. APIWAT FORD, 11/20/2013, MARGRET MAGGIE ORTON, CSR, Certificate No. 84-004046

Dr. KATHY KUJAWA, 7/23/2014, JILL S TIFFANY, CSR, Certificate No. 084-002807

Please advise the best way I may obtain the certified, signed Dr’s depositions listed above with the exhibit attached.

Thank you in advance for your help with this matter,

Paul”

2-1-E25. On March 28, 2022 at 11:29 AM a person going by the name of Carrie Vahl responded stating:²

1 Group Exhibit 10: 2022-03-28_1001 AM_SENT_Re Transcripts.pdf

2 Group Exhibit 10: 2022-03-28_1129 AM_RECV_Re Transcripts.pdf

“Hi Paul,

Thanks for the list and the info. I never bothered to look up under your name. I was just searching for Popovich’s people.

Tomorrow I can scan and email the signature pages to you for each transcript. I’m just out of the office today.

Regarding the exhibits, the defense counsel we were hired by those days never give us the exhibits. So that I can’t help you with.

They might be in the original trial file with the clerk’s office.

I have one more question. Maggie Orton received a records subpoena. She took a screenshot and it’s attached. We don’t know what you are looking for with the Twenty signatures. Is it just the cert page signature and then she’s in compliance?

Let me know.

Thanks,
Carrie”

There was no attachment to the email and Dulberg did not respond.

2-1-E26. On March 28, 2022 at 13:39 PM a person going by the name of Carrie Vahl sent Dulberg another email stating:¹

“Hi Paul,

Please find attached the 5 certificate pages with the reporters’ signatures.

Does this satisfy what you need from Maggie Orton? All she has, like the rest of us, is the transcript that you already have.

Thanks,
Carrie”

This email implied the individual signed certification pages from 5 different depositions all grouped into one document on their own and detached from the rest of the depositions they purportedly belong with were legally sufficient. Dulberg did not respond.

2-1-E27. On March 31, 2022 at 9:20 AM a person going by the name of Carrie Vahl sent Dulberg a final email stating:²

“Hi Paul,

Did you received this email with the cert pages?

Can you please let me know about the subpoena for Maggie Orton? Does her cert page

1 Group Exhibit 10: 2022-03-28_1339 PM_RECV_Re Transcripts.pdf

2 Group Exhibit 10: 2022-03-28_1339 PM_RECV_Re Transcripts_Attachments.pdf

satisfy what you need?

We want to be in compliance with a subpoena.

I did leave a voicemail for your attorney also but have not heard back. I don't have his email. Could you send that to me, please?

Thanks,
Carrie"

Dulberg did not respond.

2-1-E28. Dulberg received an email from a person named "Carrie Vahl" with an attachment containing 5 signed certification pages.¹

2-1-E29. Dulberg felt these could be forgeries or something else could be wrong. Dulberg forwarded the attached documents to his attorney.

2-1-E30. After Dulberg filed a lawsuit (case 17LA377) against Popovich and Mast for legal malpractice, Popovich once again corrupted the deposition process during the deposition of Mast. This is described in 'ARDC complaint against Clinton and Williams' in Chapter 2, Section C and Section K.

Count 1, Section F: Knew Defendant Gagnon effectively admitted to negligence for Dulberg's injury

2-1-F1. On February 1, 2013 Ron Barch filed CROSS-CLAIM FOR CONTRIBUTION AGAINST CO-DEFENDANT DAVID GAGNON². In the cross-claim the McGuires state as follows:

7. At the time and place alleged, notwithstanding his aforementioned duty, Defendant David Gagnon was then and there guilty of one or more of the following negligent acts and/or omissions:

- a. Caused or permitted a chainsaw to make contact with Plaintiffs right arm;
- b. Failed to operate said chainsaw in a safe and reasonable manner so as to avoid injuring Plaintiff's right arm;
- c. Failed to maintain a reasonable and safe distance between the chainsaw he was operating and Plaintiff's right arm;
- d. Failed to properly instruct Plaintiff prior to approaching him with an operating chainsaw;

¹ Group Exhibit 10: 2022-03-31_0920 AM_RECV_Re Transcripts.pdf

² Exhibit 48_2013-02-01_CROSS CLAIM FOR CONTRIBUTION AGAINST CODEFENDANT DAVID GAGNON_CERTIFICATE OF SERVICE_Barch-McGuires copy-OCR.pdf

- e. Failed to properly warn Plaintiff prior to approaching him with an operating chainsaw;
 - f. Failed to maintain the chainsaw in the idle or off position when he knew or should have known that Plaintiff was close enough to sustain injury from direct contact with the subject chainsaw;
 - g. Failed to maintain a proper lookout for Plaintiff while operating the subject chainsaw;
 - h. Failed to maintain proper control over an operating chainsaw;
 - i. Was otherwise negligent in the operation and control of the subject chainsaw.
8. That the injuries alleged by Plaintiff PAUL DULBERG, if any, were the direct and proximate result of negligence on the part of Defendant David Gagnon.

David Gagnon or his attorney has never filed an answer to these allegations in the CROSS-CLAIM for contribution. By not filing an answer to CROSS-CLAIM for contribution Gagnon effectively admitted to each of the charges (a), (b), (c), (d), (e), (f), (g), (h) and (i) as of early March, 2013.

Count 1, Section G: Knew Defendant Gagnon committed perjury

2-1-G1. Mast and Popovich were in possession of the actual timestamps so they knew that David Gagnon committed perjury. In fact, Mast intentionally led Gagnon to commit perjury during the deposition.

Count 1, Section H: Knew Defendant Carolyn McGuire committed perjury

2-1-H1. Mast and Popovich were in possession of the actual timestamps so they knew that Carolyn McGuire committed perjury as early as March 19, 2013 (more than 9 months before Mast and Popovich manipulated Dulberg into settling his claim against the McGuires for only \$5,000).

COUNT 2: SETTLEMENT FRAUD to sabotage client's recovery and benefit defendants

Dulberg's \$5,000 settlement with the McGuires was coerced.

2-2-1. The coerced settlement process is described in detail in Chapter 1. What follows is a condensed summary:

- a) Mast and Popovich knew that Carolyn McGuire committed perjury on March 20, 2013. Popovich and Mast concealed the timestamp on the Walgreens RX receipt to help Carolyn McGuire commit perjury.
- b) Beginning in October 2013 Mast tried to convince Dulberg that the McGuires are in no way responsible for Dulberg's injury.
- c) On October 22, 2013 Popovich and Mast made an offer to McGuire attorney Barch for Dulberg to settle his claim against the McGuires for \$7,500. The offer was never discussed with Dulberg and Dulberg was never informed the offer was made.
- d) On November 18, 2013 Barch claimed that he had been authorized to make an offer of \$5,000 to Dulberg. Mast presented the offer of \$5,000 to Dulberg as an offer initiated by the McGuires (and not as a counter-offer initiated by Mast himself). Dulberg did not know about all the nefarious activity that had been taking place (which is described in this complaint).
- e) On November 20, 2013 Mast relied on the Appellate Court's slip ruling of in *Tilschner v Spangler* as the basis for the change in Mast's legal opinion on the McGuire's liability to try to convince Dulberg that the McGuires were not legally liable for his injury. He explained that *Tilschner v Spangler* confirms that Restatement of Torts 318 is not applicable in Illinois. It is for this reason (because the Restatement of Torts 318 is not applicable in Illinois) that the McGuires were not responsible for Dulberg's injury.
- f) By around December 26, 2013 Mast eventually convinced his fully disabled client to settle his claim with the McGuires for \$5000.
- g) When Dulberg later filed legal malpractice complaint 17LA377 against Mast and Popovich his own legal malpractice attorneys Gooch, Clinton and Williams successfully suppressed the certified slip copy of *Tilschner v Spangler* and any mention of *Tilschner v Spangler* from court records for over 6 years. (A detailed description of how the document was suppressed is in ARDC Complaint against Clinton and Williams, in both Chapter 2, Section C, and Section K, and in ARDC Complaint against Thomas Gooch¹, Chapter 2, "TEAM-WORK" Example 1.)

2-2-2. Popovich and Mast also attempted to coerce Dulberg to settle with Gagnon. A concise summary follows:

- a) Mast and Popovich knew that Gagnon committed perjury on February 4, 2013. They concealed the timestamp on the Walgreens RX receipt and led Gagnon through a series of questions in which they knew Gagnon committed perjury.
- b) Mast and Popovich also knew that Gagnon effectively admitted negligence for Dulberg's injury as of early March, 2013. It was with this knowledge that Popovich and Mast, beginning in late September, 2014 acted to settle Dulberg's claim against Gagnon for \$50,000 or less.

¹ ARDC Complaint Against Thomas Gooch will be filed in September, 2023.

- c) On around September 25, 2014 Dulberg suffered from a severe migraine headache. Mast offered to settle case.
- d) About 1 week after Dulberg's migraine he received a call about the expiration of medical liens by "Colleen" and she threatened to take Dulberg's home.
- e) On November 26, 2014 Dulberg reacted to the pressure not by settling with Gagnon but by declaring Bankruptcy. Federal bankruptcy laws like automatic stay, PI case standing transferred to trustee, and change in jurisdiction changed Dulberg's status immediately but Dulberg was unaware of this.
- f) Mast valued the PI case with bankruptcy Trustee Heeg at \$50,000 (from Gagnon) + \$5,000 (from the previous McGuire settlement) totalling \$55,000
- g) Popovich and Mast avoided contracting with bankruptcy Trustee Heeg while they continued attempting to settle case in the 22nd Judicial Circuit Court (which had no jurisdiction) for Dulberg (who had no standing as plaintiff) in violation of the automatic stay.
- h) pre-trial settlement memo which asked \$50,000 to settle
- i) Dulberg refused
- j) Mast resigned
- k) The pre-trial settlement memo was in the possession of Popovich and Mast without Dulberg knowing for about 2 months just after Mast resigned. The plaintiff offer in the memo inexplicably changed from \$50,000 to \$135,000 while in the possession of Popovich and Mast. Popovich and Mast have never acknowledged they were in possession of the memo during this time.

COUNT 3: VIOLATION OF FEDERAL BANKRUPTCY LAWS to sabotage client's recovery and benefit defendants

2-3-1. Popovich and Mast:

- a) Acted in violation of the automatic stay
- b) Acted to place an upper limit on the value of the PI case in a court that had no jurisdiction

APPENDIX A: An analysis of Tilschner v Spangler. Was Tilschner sabotaged, too?

AP-1. It was not difficult to research case law and verify that the Restatement of Torts 318 is not applicable in Illinois. This was pointed out by the appellate court judges. Case law is quite clear on this. What is not clear is why Popovich and Mast thought otherwise.

AP-2. As the Appellate Court judges also point out, Popovich and Mast don't make any

convincing arguments to the contrary. They do not cite any case law supporting their argument.

AP-3. The strategy makes no sense. The question of whether Restatement of Torts 318 is applicable in Illinois would be resolved by analyzing past cases. Illinois case law is clear on this subject. Popovich and Mast cited no case law while appearing to attempt to overturn established practice. They also argued poorly. They were obviously going to lose their appeal. So why did they appeal on losing arguments just after voluntarily dropping the valid part of their claim in the circuit court?

AP-4. It is highly likely that Popovich and Mast never expected to win Tilschner's appeal. It is quite possible that Popovich and Mast knew they would lose the argument, and argued in a way that would assure Tilschner loses her appeal after they voluntarily dropped the valid part of the claim in circuit court.

AP-5. LEGAL ANALYSIS OF WHY POPOVICH AND MAST DROPPED TILSCHNER'S COUNT 2 CLAIM

As stated in *Tilschner v Spangler*:

Patricia was injured during a party at the home of defendant Lowell Spangler when defendant Ralph Ruppel ignited fireworks. Patricia's third amended complaint contained three counts. **Count I alleged common-law negligence against Spangler. Count II alleged negligence against Spangler pursuant to section 318 of the Restatement (Second) of Torts.** Count III alleged common-law negligence against Ruppel. Spangler moved to dismiss count II, pursuant to section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2008)). The trial court granted the motion to dismiss with prejudice and denied Patricia's subsequent motion to reconsider. Patricia filed an application for leave to appeal to this court pursuant to Illinois Supreme Court Rule 308 (eff.Feb.26, 2010), which was denied. Patricia was also denied leave to file a fourth amended complaint. **She then voluntarily dismissed count I of the third amended complaint,** and the trial court found no just reason to delay enforcement or appeal, pursuant to Illinois Supreme Court Rule 304(a) (eff.Feb.26, 2010). This appeal followed.

Patricia now contends that the trial court erred in dismissing count II of her third amended complaint.

AP-6. The rest of the appellate court argument analyzed the applicability of Restatement of Torts 318 in Illinois based on case law history. This makes sense because this is what the appellate court was asked to reconsider by Popovich and Mast

AP-7. Using the information described in this ARDC Complaint one must wonder:

Why did Tilschner voluntarily drop Count I alleging common law negligence against the homeowner?

AP-8. It is a strange decision to voluntarily drop Count I while pursuing and appealing on Count II. Tilschner was assumably given legal advice by Popovich and Mast to drop Count I while

Tilschner was assumably told by Popovich and Mast to pursue Count II on appeal.

Why drop the claim of common law negligence against the homeowner while pursuing negligence based on Restatement of Torts 318?

Was the focus on how Restatement of Torts 318 was not applicable in Illinois just a decoy to distract from how Count I was “voluntarily” dropped?

AP-9. As described in Chapter 1 Dulberg was told by Mast that Dulberg had no claim against the homeowners because the Restatement of Torts 318 is not applicable in Illinois. Was Tilschner told the same thing by Popovich and Mast? If so, this would explain why Tilschner “voluntarily” dismissed Count I. She was most probably told by Popovich and Mast that Count I depends on Count II and that Count II is the stronger legal argument. If so, this would explain Tilschner’s “voluntary” action.