

ARDC Complaint against Edward X. Clinton and Julia C. Williams for Legal Malpractice, Discovery Abuse, Intentional Tort, Fraud, Conspiracy to commit Fraud, Playing Elaborate Hoaxes on their (fully disabled) Client, and Mocking their (fully disabled) Client

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## CHAPTER 1: SUPPRESSION OF DOCUMENTS

Relevant facts:

1. Dulberg retained Ed Clinton and Julia Williams of the Clinton Law Firm to represent him in a legal malpractice claim against Thomas J. Popovich, Hans Mast and the Law Offices of Thomas J. Popovich around November 1, 2018.<sup>1</sup>
2. Dulberg's previous attorney was Thomas Gooch who was fired by Dulberg on October 8, 2018. Gooch received the termination letter on October 9, 2018.<sup>2</sup>
3. On October 10, 2018 at 5:25 PM Dulberg sent an email to Williams stating:<sup>3</sup>

"... Per our discussion, here are the files.

Please find the attached zip file.

Download and extract the file to see what has been pleaded, the rulings etc...

Among the files is a file named second\_amended\_complaint\_comments.txt. Pay special attention to this file as it lays out what was going into the second amended complaint and lays out the case moving forward. There are large gaps of empty lines in this file. Please keep scrolling down to read all of it.

I hope this helps prepare you for our consultation this Friday. ..."

Dulberg then wrote at 5:34 PM:

"Oops forgot to attach the file...  
Here it is"

4. On November 1, 2018 at 7:18 AM Dulberg sent an email to Williams stating:<sup>4</sup>

"... do I need to get the case file from The Gooch Firm or is that something you will work out with them?

For your information,

The Gooch Firm also has all the supporting documents including but not limited to the following;

Scanned in Case files from both the Popovich Firm and the Baudin Firm, all emails between myself and Hans Mast from the Popovich firm with my emails to the Gooch firm identifying which of hundreds are the critical emails showing the false choices Hans

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1 Exhibit 1a-Dulberg Draft Retainer 2018 Oct 31.pdf

2 Exhibit 2A-2018-11-17\_1247 PM\_SENT\_Supporting Documents\_ATTACHMENTS.pdf (Pages 10-11)

3 Exhibit 2-2018-10-10\_1734 PM\_Legal Malpractice Case\_ATTACHMENTS.pdf

4 Exhibit 4A-2018-11-01\_0718 AM\_SENT\_Legal Malpractice Case.pdf

Mast pushed along with the emails assuring me that the Popovich firm handled the matter correctly long after the McGuire's were dismissed, Disability determination, Solvent Bankruptcy Documents that prove every creditor including medical was paid in full, ADR award, all emails from myself to the Gooch firm answering all their questions, etc...

I would like to get a digital copy of everything the Gooch firm turns over because I should be able to provide anything they missed. ...”

5. On or just prior to November 27, 2018 Williams and Clinton received a thumb drive from Thomas Gooch (called “Gooch Thumbdrive”)<sup>1</sup> that contains 6 main folders:

Gooch Thumbdrive/Dulberg DISCOVERY  
Gooch Thumbdrive/Dulberg ORDERS  
Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client  
Gooch Thumbdrive/Dulberg PLEADINGS  
Gooch Thumbdrive/Dulberg SUMMONS  
Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS

Four of the main folders contain public documents from 17LA377 (Dulberg's legal malpractice case against Mast and Popovich). Only the 2 folders called “Dulberg UNDERLYING CASE DOCS” and “Dulberg Paul Dulberg Files From Client” contain documents that needed to be disclosed to opposing counsel to comply with opposing counsel's document production requests.

6. When preparing documents to turn over to opposing counsel on May 30, 2019 Williams used only the contents of one of the folders called:

Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS

Williams did not include any of the contents of the other main Gooch Thumbdrive folder:

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client

‘Visual Aid 1 - Sources of bates order’<sup>2</sup> shows (in a simple way) how only one of the two main folders of Gooch Thumbdrive was given to opposing counsel on May 30, 2019 and how the other main folder only appeared as bates stamped documents over 13 months later as Williams was resigning as counsel.

7. ‘Dulberg Master File’<sup>3</sup> is the electronic case file that Clinton and Williams gave to Dulberg after they resigned as counsel, so this is all we can see of the work product and folder systems which Clinton and Williams used to do day to day work on Dulberg's case.

8. Williams combined the contents of the folder ‘Dulberg UNDERLYING CASE DOCS’ with 18 pdf files she received directly from Dulberg (as email attachments) and placed them in a folder called:

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1 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive

2 Visual Aids/Visual Aid 1 - Sources of bates order.png

3 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File

Dulberg Master File/Dulberg Production JCW Working Folder/Dulberg JCW DRAFT To Be Produced<sup>1</sup>

9. Williams inexplicably included 15 public documents related to 17LA377 in the same folder. The names of each of the 17LA377 public documents were changed before being included among the bates-numbered documents. ‘Visual Aid 3 - 377 Document Insertion hoax’<sup>2</sup> shows from where each 17LA377 public document was taken, what name each file was changed into, and into which folder the files were placed so they would appear in alphabetical order among bates-numbered documents given to opposing counsel.

From there the 17LA377 public documents were placed in the folder ‘Dulberg JCW DRAFT To Be Produced’<sup>3</sup> to be bates-stamped as ‘Visual Aid 3’ shows in detail.

It is not possible that the renaming and movement of so many 17LA377 public documents and the insertion of them among bates numbered documents was accidental. Someone must have intentionally done this.

10. Williams merged the contents of the folder ‘Dulberg JCW DRAFT To Be Produced’ in alphabetical order into a single pdf in the same folder called:

1 Dulberg Documents to BE Produced NON TAX Complete JCW 2019 May 28.pdf<sup>4</sup>

11. Williams inexplicably removed an additional 121 pages from this pdf and duplicated one page to make another pdf in the same folder called:

1 Dulberg Documents to BE Produced NON TAX redacted Complete JCW 2019 May 28 copy.pdf<sup>5</sup>

The pdf is 2460 pages. The pages in this last pdf became the first 2460 bates-stamped documents in the pdf that Williams gave to opposing counsel on May 30, 2019 called:

“Dulberg Document Disclosure FINAL 2019 May 29.pdf”<sup>6</sup>

12. Williams did not inform Dulberg that “Dulberg Document Disclosure FINAL 2019 May 29.pdf” did not contain any of the files from the main Gooch Thumbdrive folder:

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client

13. Williams had 3 sets of Dulberg’s emails before May 30, 2019 from these 3 sources:

1) Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Paul Dulberg’s Emails<sup>7</sup>

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1 Group Exhibits (showing key folders)/Exhibit folder 3-Dulberg JCW DRAFT To Be Produced

2 Visual Aids/Visual Aid 3 - 377 document insertion hoax.png

3 Group Exhibits (showing key folders)/Group Exhibit folder 3-Dulberg JCW DRAFT To Be Produced

4 Exhibit 3-1-Dulberg Documents to BE Produced NON TAX Complete JCW 2019 May 28.pdf

5 Exhibit 4-1-Dulberg Documents to BE Produced NON TAX redacted Complete JCW 2019 May 28 copy.pdf

6 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

7 Group Exhibits (showing key folders)/Exhibit folder 6-Paul Dulberg Emails, 422 pages total

- 2) 'Paul Dulberg's Emails' sent to Williams as email attachments<sup>1</sup>
- 3) Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Emails<sup>2</sup>

The first 2 sets have 422 unique email pages and the third set has 844 pages because it consists of 2 identical sets of emails which are 422 pages each.

**14.** On May 30, 2019 Williams handed over only the contents of "Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Paul Dulberg's Emails" to opposing counsel but with many email documents inexplicably missing. The email documents Williams removed from the contents of 'Dulberg Document Disclosure FINAL 2019 May 29.pdf'<sup>3</sup> that are included in 'Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Paul Dulberg's Emails'<sup>4</sup> and the subject each document covers are as follows:

Hans Mast2-14 .... with Balke on picking up electronic file and paper file  
Hans Mast2-15 .... with Balke on picking up electronic file and paper file  
Hans Mast2-16 .... with Balke on picking up electronic file and paper file  
Hans Mast2-17 .... with Balke on picking up electronic file and paper file  
Hans Mast2-18 .... with Balke on picking up electronic file and paper file  
Hans Mast2-19 .... with Balke on picking up electronic file and paper file  
Hans Mast2-21 .... with Balke on lean buyout and picking up case file  
Hans Mast2-24 .... with Balke on lean buyout  
Hans Mast2-29 .... with Balke on lean buyout  
Hans Mast2-32 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-33 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-34 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-35 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-36 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-37 .... with Balke about anticipated Randall Baudin phone call  
Hans Mast2-38 .... with Balke about anticipated Randall Baudin phone call  
Hans Mast2-39 .... with Balke about case being not winnable and signing release for \$50,000  
Hans Mast2-40 .... with Balke about case being not winnable and signing release for \$50,000  
Hans Mast2-41 .... with Balke about case being not winnable and signing release for \$50,000  
Hans Mast2-42 .... email empty of content message  
Hans Mast2-43 .... with Balke long message about why Dulberg rejects Balke's advice  
Hans Mast2-44 .... with Balke, Balke is trying to get him to sign a release for \$50,000  
Hans Mast2-45 .... with Balke, Balke is trying to get him to sign a release for \$50,000  
Hans Mast2-46 .... with Balke, Balke is trying to get him to sign a release for \$50,000  
Hans Mast2-47 .... with Balke, Balke is trying to get him to sign a release for \$50,000  
Hans Mast2-48 .... with Balke long message about why Dulberg rejects Balke's advice  
Hans Mast2-49 .... with Balke long message about why Dulberg rejects Balke's advice

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1 Group Exhibits (showing key folders)/Exhibit folder 7-folders of emails sent to Williams as email attachments, 422 pages total

2 Group Exhibits (showing key folders)/Exhibit folder 8-Emails, 844 pages total

3 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 6-Paul Dulberg Emails, 422 pages total

Hans Mast2-50 .... with Balke on bankruptcy questions  
Hans Mast2-51 .... with Balke on bankruptcy questions  
Hans Mast2-52 .... with Balke on bankruptcy and Gagnon's insurance  
Hans Mast2-53 .... email from Dulberg to Dulberg with message for Balke on bankruptcy  
Hans Mast2-54 .... with Balke on bankruptcy and pre-trial conference  
Hans Mast2-55 .... with Balke on missing pre-trial settlement memo and Saul Ferris with a  
box of Dulberg's documents  
Hans Mast2-56 .... with Balke on missing pre-trial settlement memo and Saul Ferris with a  
box of Dulberg's documents  
Hans Mast2-57 .... with Balke on missing pre-trial settlement memo and Saul Ferris with a  
box of Dulberg's documents  
Hans Mast2-58 .... with Balke on signing settlement check and deposit  
Hans Mast2-59 .... with Balke on settlement conference canceled  
Hans Mast2-60 .... with Balke about April 9 pre-trial conference  
Hans Mast2-61 .... with Balke about April 9 pre-trial conference  
Hans Mast2-62 .... with Balke about April 9 pre-trial conference  
Hans Mast2-63 .... all communication with Balke on lean buyout and picking up the case file  
Hans Mast2-65<sup>1</sup> ... with Balke on missing pre-trial settlement memo and a box from Ferris  
Hans Mast2-69 .... with Stretch on bankruptcy  
Hans Mast2-73 .... with Ferris on declining case  
Hans Mast2-78 .... with Ferris on declining case  
Hans Mast2-149 .. with Stretch on medical lean expiring  
Hans Mast2-152 .. with Stretch on bankruptcy  
Hans Mast2-153 .. with Mast, angry  
Hans Mast2-169 .. SSDI and rosencrance  
Hans Mast2-170 .. SSDI and rosencrance  
Hans Mast2-252 .. SSDI  
Hans Mast2-254 .. SSDI  
Hans Mast2-255 .. SSDI  
Hans Mast2-257 .. SSDI  
Hans Mast2-259 .. SSDI  
Hans Mast2-260 .. SSDI  
Hans Mast2-262 .. SSDI  
Hans Mast2-282 .. Missing emails  
Missing Emails.pdf . Missing emails  
Baudin  
Baudin1  
Baudin2  
Baudin3  
Baudin4  
Baudin5  
Baudin6  
Baudin7

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<sup>1</sup> Exhibit B12-Hans Mast2-65.pdf

SSDI  
SSDI1  
SSDI2  
SSDI3  
SSDI4

The subject matters of other documents that Williams suppressed on May 30, 2019 are as follows:

BANKRUPTCY

SSDI

MENTAL HEALTH EVALUATIONS, SCHEDULING

BALKE BUSINESS CARDS, FAX AND CHECK

LETTER AND REPLY TO WALGREEN'S CUSTODIAN OF RECORDS

DULBERG NOTES ON NEEDING TIMESTAMP FROM WALGREEN'S CUSTODIAN

CENTEGRA MEDICAL RECORDS CUSTODIAN ABOUT SECURITY CAMERAS

FERRIS AND OTHER LETTERS OF DECLINATION **(3 documents suppressed from 2 different sources)**

HAND WRITTEN NOTES ON UNDERLYING CASE

DEPOSITIONS WITH HAND WRITTEN NOTES

BAUDIN FEE AGREEMENT

CRIMINAL COMPLAINT AGAINST GAGNON AND MCGUIRE'S

DEB FISCHER BILL TO POPOVICH

DEB FISCHER LETTER

CERTIFIED SLIP COPY OF TILSCHNER V SPANGLER SENT AS EMAIL  
ATTACHMENT TO WILLIAMS ON APRIL 18, 2019

**15.** Williams repeatedly misled Dulberg into believing that all relevant documents that she received from both the Gooch Thumbdrive and from Dulberg were contained in the file "Dulberg Document Disclosure FINAL 2019 May 29.pdf"<sup>1</sup> and were given to opposing counsel on May 30, 2019 with the only exception being documents protected by attorney-client privilege.

**16.** On Jul 8, 2019 at 11:06 AM Dulberg sent an email (which contained a different forwarded email) to Williams stating:<sup>2</sup>

"... You Have my permission to talk with Tom Kost (My Brother) about this. ..."

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<sup>1</sup> Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

<sup>2</sup> Exhibit 6-2019-07-08\_1106 AM\_SENT\_Fwd Forward to Julia\_ATTACHMENTS.pdf



Begin forwarded message: From: T Kost, Subject: Forward to Julia, Date: July 7, 2019 at 7:48:33 PM CDT To: Paul\_Dulberg@comcast.net

“Paul, please forward this email to Julia.

Julia, please look at the information in the attached folder.

After examining all the documents in the Dulberg disclosure file and the Popovich disclosure file very carefully, Paul and I have discovered a number of things that are very useful for us to know.

Please read the “READ\_ME” file in the folder first. That will guide you through the rest of the information.

After you feel that you are familiar with the contents of the folder, I think that you and I should talk about it by phone.

You can contact Paul through email to set up a time for a phone conversation between us when you are ready.

Thanks,

Tom Kost (Paul’s brother)”

The attached zipped folder was called ‘To\_Julia.zip’<sup>1</sup>

**17.** On July 22, 2019 at 6:58 AM Dulberg sent another email to Williams stating:<sup>2</sup>

“... I’m sending this email to confirm that you received the email below I sent on July 8th. ...”

Williams never responded to the request to meet or discuss these issues by phone.

**18.** On Jul 23, 2019 at 4:42 PM Williams wrote an email to Dulberg stating:<sup>3</sup>

“... First, we have not completed our discovery disclosure to the other side. We need to do so. Mast and the Popovich firm sent discovery requests to you (through us) some time ago. You sent responses and then we have modified them. We need to finalize these responses and send them. I received additional time, but we are well over our time and we need to get this completed.

Attached are the responses that I sent for your review on July 2, 2019 based upon your prior changes.

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1 Group Exhibits (showing key folders)/Exhibit folder 14-To\_Julia (unzipped version)

2 Exhibit 7-2019-07-22\_0658 AM\_SENT\_Forward to Julia.pdf

3 Exhibit 8-2019-07-23\_1642 PM\_RECV\_Dulberg v Mast et al Discovery.pdf



Please review and respond by the end of the week. ...”

**19.** On July 26, 2019 at 5:09 PM Dulberg sent an email to Williams with an attached zip folder containing 4 files. One of the 4 files is called:<sup>1</sup>

‘2019-07-25\_Notes on DULBERG’S RESPONSES TO DEFENDANTS REQUESTS FOR PRODUCTION TO PLAINTIFF.pdf’

Under each of the 11 requests for production of documents Williams responded:

“All relevant documents in Plaintiff’s possession will be produced.”

Under each of the 11 responses written by Williams Dulberg wrote:

“Notes to Julia: A. This should read; All relevant documents in Plaintiff’s possession have been produced and will be updated if more become available.”

**20.** On July 31, 2019 at 2:44 PM Williams sent an email to Dulberg with 4 attached files:<sup>2 3</sup>

Dulberg’s Answers to Popovich Interrogatories to Plaintiff 2019 July 29.docx  
Dulberg Answers to Thomas Popovich Expert Interrogatories Draft 2019 July 31.docx  
Dulberg’s Answers to Popovich Interrogatories to Plaintiff 2019 July 31.docx  
Dulberg RTP Resposes 2019 July 31.docx

The file called:<sup>4</sup>

‘Dulberg RTP Resposes 2019 July 31.docx’

contained all of Dulberg’s answers as:

“All relevant documents in Plaintiff’s possession were produced”

as Dulberg instructed her to do.

**21.** On October 4, 2019 at 10:50 AM Dulberg sent an email to Williams stating:<sup>5</sup>

“... Please let me know what day and time you would prefer a call from my Bother Tom and me. ...”

Williams again never responded to the July 8, 2019 request for a telephone meeting or to the

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1 Exhibit 9-2019-07-26\_1709 PM\_SENT\_Dulberg v Mast et al Discovery\_ATTACHMENTS.pdf (Pages 10-12)

2 Exhibit 10A-2019-07-31\_1444 PM\_RECV\_Discovery Responses\_ATTACHMENTS.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 4-2019-07-26\_1709 PM\_SENT\_Dulberg v Mast et al Discovery

4 Exhibit 10-Dulberg RTP Resposes 2019 July 31.docx

5 Exhibit 11-2019-10-04\_1050 AM\_SENT\_FW Dulberg v The Law Offices of Thomas J Popovich PC et al McHenry County IL No 17 LA 377.pdf

October 4, 2019 request for a phone meeting.

**22.** On October 21, 2019 at 1:40 PM Williams sent an email to Dulberg with 15 pdf attachments totaling over 4100 pages of documents.<sup>1</sup>

In a pdf called:<sup>2</sup>

‘Dulberg RTP Responses FINAL 2019 September 4.pdf’

all of Dulberg’s written answers stating:

“All relevant documents in Plaintiff’s possession **were produced**” [emphasis added]

were changed by Williams to:

“All relevant documents in Plaintiff’s possession **will be produced**” [emphasis added]

without Dulberg’s permission or knowledge.

The meta-data<sup>3</sup> in the pdf code shows that the document ‘Dulberg RTP Responses FINAL 2019 September 4.pdf’ was created and modified on September 4, 2019.

A certification page signed by Dulberg called:<sup>4</sup>

‘Dulberg Paul Signed Verification for Discovery.pdf’

was also attached to the email.

**23.** On November 4, 2019 Williams informed the Judge and opposing counsel that she produced “pretty much everything” in her possession in the following exchange:<sup>5</sup>

“MR. FLYNN: So I think they are amending the discovery answers and possibly producing more documents. I’m not sure.

THE COURT: Is that correct, counsel, not putting you on the spot, but is that an accurate representation?

MS. WILLIAMS: Right. **So I think we have produced pretty much everything we have, but I can talk to counsel about the documents.**” [emphasis added]

**24.** On November 26, 2019 at 3:33 PM Williams sent an email to opposing counsel Flynn stating:<sup>6</sup>

“... Attached is the supplement interrogatory disclosure. **As for documents, we have produced everything in our possession.** ...” [emphasis added]

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1 Exhibit 12A-2019-10-21\_1340 PM\_RECV\_Discovery and status update\_ATTACHMENTS.pdf

2 Exhibit 12-Dulberg RTP Responses FINAL 2019 September 4.pdf

3 Exhibit 13-creation date metadata of exhibit 12.png

4 Exhibit 14-Dulberg Paul Signed Verification for Discovery.pdf

5 Exhibit 15-Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-3.pdf (Page 3 Lines 10-18)

6 Exhibit 16-2019-11-26\_1533 PM\_RECV\_Re Dulberg\_ATTACHMENTS.pdf (Page 1)

**25.** On December 17, 2019 at 11:00 AM Williams sent an email to Flynn stating:<sup>1</sup>

“... In preparation for our call today, I am resending the all discovery as I don’t think you received some of them the first time. ...”

with 9 files attached.

The email had the following bates numbered documents attached and a verification statement signed by Dulberg:

Dulberg BK Files Bates 2599.pdf  
Bates 2620.pdf  
Dulberg Document Disclosure FINAL 2019 May 29.pdf

**26.** The file:<sup>2</sup>

“Dulberg BK Files Bates 2599”

is 21 pages and consists of the contents of this file in alphabetical order:<sup>3</sup>

Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Files From Baudin’s Office/Paul Dulberg - BK Docs

But Williams already turned over all contents of the folder ‘Dulberg UNDERLYING CASE DOCS’ on May 30, 2019 including the sub folder:

Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Files From Baudin’s Office/Paul Dulberg - BK Docs

so there were no files in “Dulberg BK Files Bates 2599” turned over in December 17, 2019 that were not already included in ‘Dulberg Document Disclosure FINAL 2019 May 29.pdf’<sup>4</sup> which was turned over on May 30, 2019.

Williams must have known this because she created the original pdf and the files with the same names are in her working folder of the May 30, 2019 document production:<sup>5</sup>

Dulberg Master File/Dulberg Production JCW Working Folder/Dulberg JCW DRAFT To Be Produced

**27.** The pdf “Bates 2620”<sup>6</sup> contains the following files merged together appearing in alphabetical order:

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1 Exhibit 17-Dulberg case.pdf (Pages 3-4)

2 Exhibit 18-Dulberg BK Files Bates 2599 .pdf

3 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive

4 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

5 Group Exhibits (showing key folders)/Exhibit folder 3-Dulberg JCW DRAFT To Be Produced

6 Exhibit 19-Dulberg Bates 2620.pdf

Baudin  
Baudin1  
Baudin2  
Baudin3  
Baudin4  
Baudin5  
Baudin6  
Baudin7  
Proof of Service of Documents 2018 October 8.pdf  
SSDI  
SSDI1  
SSDI2  
SSDI3  
SSDI4

These are the emails from SSDI and the Baudins that Williams suppressed earlier and one public document from the current case *Dulberg v Popovich and Mast* (17LA377) was inexplicably renamed and added to the group.

**28.** On Jan 31, 2020, at 12:45 PM, Julia Williams sent an email to Flynn stating:<sup>1</sup>

“... I am writing regarding the outstanding discovery issues. I am producing further documents bates stamped 2639- 2645.

...

“2. Brad Balke. Brad Balke’s appearance is attached as 2645. This should resolve all of the current discovery issues that you presented to us. We will continue to supplement our discovery responses if more documents are discovered. ...”

Williams was suppressing about 40 email documents between Balke and Dulberg while Williams wrote this and Flynn will later claim in a motion for summary judgment that Dulberg had the opportunity to inquire from Balke about Popovich and Mast.

**29.** The document:<sup>2</sup>

“Dulberg Bates 2639 to 2645 2020 Jan 31.pdf”

consists of 4 documents of 7 total pages including a single email document ‘HansMast 2-65’<sup>3</sup> of an exchange between Balke and Dulberg about a packet of documents which was mishandled and mailed to the Law Office of Thomas J. Popovich P.C. when in the possession of Saul Ferris and remained at the Law office of Thomas J. Popovich P.C. for two months without Dulberg’s knowledge or consent.

**30.** Dulberg was deposed by opposing counsel on February 19, 2020 and Defendant Mast was

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1 Exhibit 20-Dulberg v Popovich et al.pdf (Pages 78, 87)

2 Exhibit 21-Dulberg Bates 2639 to 2645 2020 Jan 31.pdf

3 Exhibit B12-Hans Mast2-65.pdf

deposed on June 25, 2020.

**31.** On June 19 2020 at 2:35 PM, six days before the deposition of Mast, Flynn sent an email to Williams stating:<sup>1</sup>

“Julia: I just received your notice of attorney lien. Will you still be taking the dep next week?

My experience with receiving liens at this stage of litigation(in a high percentage of cases) is that a withdrawal shortly follows. Hopefully not the case here, but just making sure we are still on for Mast’s dep. ...”

**32.** On June 25, 2020 at 12:31 PM, about 20 minutes after the deposition of Mast, Flynn sent an email to Williams stating:<sup>2</sup>

“... Just wanted to write while it is fresh in my mind, but I’d like to close the dangling issues from your client’s deposition, including the production of communications with Mr. Gooch in view of the “discovery rule” issues. Please advise ...”

**33.** On June 26, 2020 12:13 PM Williams sent an email to Flynn stating:<sup>3</sup>

“... Thank you for the follow up. I am working on the production today. Are you around on Monday—can we chat then? ...”

Williams never worked on any production of communications with Mr Gooch and she did not address the issue in court. Instead, she produced over 6000 pages of documents that were not related to Gooch in any noticeable way and then resigned as Dulberg’s attorney.

**34.** On June 26, 2020 at 9:40 AM Williams sent an email to Dulberg stating:<sup>4</sup>

“... I am working to produce more documents to the other side as we indicated in your deposition and pursuant to our duty to continually update discovery. There appear to be some documents from the Gooch file that were not produced in discovery in the legal malpractice case and I want to make sure we have produced everything required to the other side. We are going to produce those now. Many appear to be duplicates. ...”

**35.** On July 9, 2020 at 11:42 AM Williams sent an email to Flynn stating:<sup>5</sup>

“... Attached are more documents. As I stated on the phone, many are duplicative of what has already been produced but some are not. Because they came from a difference source, I could not determine what had been produced previously and what had not, thus, to be safe, I am producing everything. The documents should be searchable.” The documents

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1 Exhibit 22-Dulberg -2.pdf (Page 1)

2 Exhibit 23-Dulberg -3.pdf (Page 1)

3 Exhibit 23-Dulberg -3.pdf (Page 2)

4 Exhibit 24--2.pdf (Page 1)

5 Exhibit 25a-Dulberg v Popovich et al Documents.pdf Page 1

are in four files as follows:

1. 2646-2649
2. 2650-7892
3. 7893-8551
4. 8552-8708

I may need to send them in separate emails due to the size. ...”

Attached Files:

- ‘Dulberg Stamped 2646-2649.pdf’<sup>1</sup>
- ‘Dulberg 7893-8551.pdf’<sup>2</sup>
- ‘Dulberg 8552-8708.pdf’<sup>3</sup>

**36.** On July 9, 2020 at 11:43 AM Williams sent an email to Flynn stating:<sup>4</sup>

“Here is the final file.”

Attached file:

- ‘Dulberg 2650-7892.pdf’<sup>5</sup>

**37.** Williams claimed to Flynn that these documents “came from a different source”. Williams was in possession of all of these documents before May 30, 2019 when she produced “Dulberg Document Disclosure FINAL 2019 May 29.pdf”<sup>6</sup> to opposing counsel.

**38.** On July 9, 2020 at 11:44 AM Williams sent an email to Dulberg stating:<sup>7</sup>

“... More documents were sent to George Flynn today to ensure that Gooch’s entire file on the underlying case was sent as well as communications from your subsequent counsel in the underlying case.

There are two emails. This is the first with three files attached. ...”

Attached files:

- ‘Dulberg Stamped 2646-2649.pdf’<sup>8</sup>
- ‘Dulberg 7893-8551.pdf’<sup>9</sup>

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1 Exhibit 26-Dulberg Stamped 2646-2649.pdf

2 Exhibit 28-Dulberg 7893-8551 .pdf

3 Exhibit 29-Dulberg 8552-8708.pdf

4 Exhibit 25b-Dulberg v Popovich et al Documents-2.pdf

5 Exhibit 27-Dulberg 2650-7892.pdf

6 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

7 Exhibit C0i-2020-07-09\_1144 AM\_RECV\_Fwd Dulberg v Popovich et al Documents\_ATTACHMENTS.pdf

8 Exhibit 26-Dulberg Stamped 2646-2649.pdf

9 Exhibit 28-Dulberg 7893-8551 .pdf

‘Dulberg 8552-8708.pdf’<sup>1</sup>

**39.** On July 9, 2020 at 11:47 AM Williams sent an email to Dulberg stating:<sup>2</sup>

“... This is the second email I sent to George with the fourth and final file. ...”

Attached files:

‘Dulberg 2650-7892.pdf’<sup>3</sup>

**40.** On Jul 10, 2020, at 10:46 AM Williams sent an email to Flynn stating:<sup>4</sup>

“... I believe there may have been three, but simply because the first email took forever to send as the documents attached were so large. The first contained all four of the files. The second contained three files and the third contained one file. There are only four files total—so the emails are duplicative as originally I did not believe the first email would send. Thus, you should have these four files:

1. Dulberg Stamped 2646-2649
2. Dulberg 2650-7892
3. Dulberg 7893-8551
4. Dulberg 8552-8708.

Please let me know if you did not receive all of the documents. ...”

Williams is ‘flooding’ Dulberg with an overwhelming number of documents and sneaking all but one of the documents that were previously suppressed into the flood, behind thousands of pages of useless material. Williams continues to suppress one document: the Appellate Court slip ruling *Tilschner v Spangler*.

**41.** The document disclosure on July 9, 2020 contained more than 6000 pages of documents which is more than double the amount of all document pages Williams disclosed to the opposing counsel before that date. In the region from DUL 005246 to DUL 008708 documents were produced for the first time from the folder:<sup>5</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client

The July 9, 2020 document production consisted of the following regions as listed (and as shown in ‘Visual Aid 1 - Sources of bates order’<sup>6</sup>):

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1 Exhibit 29-Dulberg 8552-8708.pdf

2 Exhibit C0j-2020-07-09\_1147 AM\_RECV\_Fwd Dulberg v Popovich et al Documents\_ATTACHMENTS.pdf

3 Exhibit 27-Dulberg 2650-7892.pdf

4 Exhibit 25b-Dulberg v Popovich et al Documents-2.pdf (Page 7)

5 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client

6 Visual Aids/Visual Aid 1 - Sources of bates order.png



DUL 008552 to DUL 008708<sup>1</sup> are the contents of the following folder in alphabetical order:<sup>2</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Client Handwritten Misc. Notes

DUL 007853 to DUL 008551<sup>3</sup> are the contents of the following folder in alphabetical order:<sup>4</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Depositions

DUL 007561 to DUL 007852<sup>5</sup> are the contents of the following folder in alphabetical order:<sup>6</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Client's Brown Jacket File

DUL 007532 to DUL 007560<sup>7</sup> are the contents of the following folder in alphabetical order:<sup>8</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Documents Still In Envelopes

DUL 006688 to DUL 007531<sup>9</sup> are the contents of the following folder in alphabetical order:<sup>10</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Emails

DUL 006354 to DUL 006687<sup>11</sup> are the contents of the following folder in alphabetical order:<sup>12</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Misc

DUL 005246 to DUL 006354<sup>13</sup> are the contents of the following folder in alphabetical order:<sup>14</sup>

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/TJP & Attorney Documents

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1 Exhibit 30-DUL 008552-DUL 008708.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Client Handwritten Misc. Notes

3 Exhibit 31-DUL 007893-DUL 008551.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Depositions

5 Exhibit 32-DUL 007561-DUL 007892.pdf

6 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Client's Brown Jacket File

7 Exhibit 33-DUL 007532\_DUL 007560.pdf

8 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Documents Still In Envelopes

9 Exhibit 34-DUL 006688-DUL 007531.pdf

10 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Emails

11 Exhibit 35-DUL 006354-DUL 006687.pdf

12 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Misc

13 Exhibit 36-DUL 005246-DUL 006353.pdf

14 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/TJP & Attorney Documents

**42.** There are 3 large blocks of email documents in ‘Dulberg 2650-7892.pdf’<sup>1</sup> as shown in ‘Visual Aid 5 - Email hoax’<sup>2</sup>.

DUL 002682 to DUL 002942<sup>3</sup> is 261 pages of the contents of the folder:

‘Lawyer Emails by date’<sup>4</sup>

in alphabetical order. The folder contains 422 pages of unique email documents so 161 pages are missing.

‘Visual Aid 6: Lawyer Emails by date hoax’<sup>5</sup> charts how the folder:

‘Lawyer Emails by date’<sup>6</sup>

appears in the Williams-Clinton electronic case file. Williams first received the folder ‘Lawyer Emails by date’ on July 8, 2019 from Dulberg<sup>7</sup> as an attachment with 4 text files. One of the text files was named “\_READ\_ME.txt”<sup>8</sup> which has a section called “REFERENCE INFORMATION” in which Williams was informed:

“... Folder: Lawyers Emails by date

The emails in (pop) and (ddd) can be a real headache to look through. This folder helps Paul and me see the streams of email exchanges as they happen month by month. We find it useful. It is yours if you want it. If not, please ignore.

Within these files I reference emails by using this folder and using the form (email: folder\_name, file\_name).

For example, the reference (email: 2013 10, Mast2-219) should be easy to find in folder 2013 10. This folder contains emails from October, 2013 and each email stream is given a separate name. ...”

**43.** On February 20, 2020, one day after Dulberg’s deposition, Williams and Clinton ignored the ‘\_READ\_ME.txt’<sup>9</sup> file and treated the contents of ‘Lawyer Email by date’<sup>10</sup> as if they were new email files that needed to be disclosed to opposing counsel. This is shown in detail in ‘Visual Aid 6’-Lawyer Emails by Date hoax’<sup>11</sup>. During the 6th step as described in ‘Visual Aid 6’, 161 pages of the emails inexplicably disappeared. The truncated 261 page version of the contents of ‘Lawyer Emails by date’ was merged with 32 pages of documents to make a pdf of 297 pages

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1 Exhibit 27-Dulberg 2650-7892.pdf

2 Visual Aids/Visual Aid 5 - Email hoax.png

3 Exhibit 37-DUL 002682-DUL 002942.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 9-Lawyers Emails by date, 422 pages total

5 Visual Aids/Visual Aid 6 - Lawyer Emails by date hoax.png

6 Group Exhibits (showing key folders)/Exhibit folder 9-Lawyers Emails by date, 422 pages total

7 Exhibit 38A-2019-07-08\_1106 AM\_SENT\_Fwd Forward to Julia\_ATTACHMENTS.pdf

8 Exhibit 38-\_READ\_ME.txt

9 Exhibit 38-\_READ\_ME.txt

10 Group Exhibits (showing key folders)/Exhibit folder 9-Lawyers Emails by date, 422 pages total

11 Visual Aids/Visual Aid 6 - Lawyer Emails by date hoax.png

which can be found in Williams' work product at:

Dulberg Master File/Dulberg Documents to Be Produced 2020 June 25/Dulberg Files to be produced legal mal 2020 june misc. (done)/Dulberg 1 Gooch Retainer Contract.pdf<sup>1</sup>

44. 'Visual Aid 7 - Repeating document hoax'<sup>2</sup> shows how this pdf was constructed by adding repeating patterns of previously released documents with bankruptcy documents that have nothing to do with Dulberg's case and merging these with 261 pages of the contents of 'Lawyer Emails by date'.

45. DUL 004853 to DUL 005245<sup>3</sup> are 393 pages of the folder:

'Paul Dulberg Emails'<sup>4</sup>

in alphabetical order. The folder contains 422 pages of unique email documents so 29 pages are missing.

46. DUL 006688 to DUL 007531<sup>5</sup> are 844 pages of the contents of the folder:

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Emails<sup>6</sup>

This is the only bates numbered group of emails in which no emails were removed.

47. Of the 4 large blocks of email documents Williams turned over to opposing counsel in total, only one block had no documents missing. All missing email documents from each email block are listed in 'Visual Aid 7 - Email hoax'<sup>7</sup>. The pattern of missing email documents creates a type of hidden obstacle course for anyone who has to locate bates-stamped email documents. It could take a person hours or days just to locate a specific bates-stamped email document. It is impossible to know which email pages are missing from each email block section without carefully analyzing each document individually.

The collections of emails that Williams received from Dulberg and from the Gooch Thumbdrive were very organized as can be seen in:

Group Exhibits (showing key folders)/Exhibit folder 6-Paul Dulberg Emails, 422 pages total<sup>8</sup>

Group Exhibits (showing key folders)/Exhibit folder 7-folders of emails sent to Williams as email attachments, 422 pages total<sup>9</sup>

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1 Exhibit 39-Dulberg 1 Gooch Retainer Contract .pdf

2 Visual Aids/Visual Aid 7 - Repeating document hoax.png

3 Exhibit 40-DUL 004852-DUL 005245.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 6-Paul Dulberg Emails, 422 pages total

5 Exhibit 34-DUL 006688-DUL 007531.pdf

6 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Emails

7 Visual Aids/Visual Aid 7 - Repeating document hoax.png

8 Group Exhibits (showing key folders)/Exhibit folder 6-Paul Dulberg Emails, 422 pages total

9 Group Exhibits (showing key folders)/Exhibit folder 7-folders of emails sent to Williams as email attachments,

Group Exhibits (showing key folders)/Exhibit folder 8-Emails, 844 pages total<sup>1</sup>

Those same collections of emails were turned into a hacked-up, confusing mess by Williams and Clinton just before being bates stamped and sent to opposing counsel as ‘Visual Aid 5’<sup>2</sup> shows.

**48.** DUL 002943 to DUL 004852<sup>3</sup> is an exact duplicate of DUL 000001 to DUL 002460<sup>4</sup> with some files removed so it contains no new documents that were not already produced. It is not plausible that Williams did not know DUL 002943 to DUL 004852 did not contain the same files as DUL 000001 to DUL 002460 because she could easily compare the 2 folders containing the contents of each section:

Dulberg Master File/Dulberg Production JCW Working Folder/Dulberg JCW DRAFT To Be Produced<sup>5</sup>

Dulberg Master File/Dulberg Documents to Be Produced 2020 June 25/Gooch Files to Be Produced in Legal Mal 2020 June/Dulberg UNDERLYING CASE DOCS (done)<sup>6</sup>

The contents of both folders are compared side by side in ‘Visual Aid 10 - Duplicating long alphabetical list hoax’<sup>7</sup> and their source folders are shown. With the exception of the documents added to the May 30, 2019 document disclosure (the sources of which are mapped in ‘Visual Aid 10’), the contents of the two folders can be seen to be basically identical.

**49.** DUL 002650 to DUL 002681<sup>8</sup> are the same 4 files totaling 7 pages from “Dulberg Bates 2639 to 2645 2020 Jan 31.pdf”<sup>9</sup> already turned over to opposing counsel on January 31, 2020 repeated 3 times with a 10 page bankruptcy document of ‘Patricia Gallagher’ and another bankruptcy document. The repeating pattern of 4 files is shown in ‘Visual Aid 7 - Repeating document hoax’<sup>10</sup> and the source folders for the documents are shown.

**50.** This means that in the massive file ‘Dulberg 2650-7892.pdf’<sup>11</sup> (which is over 5200 pages) the first 2596 pages does not contain a single relevant document that had not already been produced. The last 2646 pages had information being produced for the first time from the folder:

Gooch Thumbdrive\Dulberg Paul Dulberg Files From Client<sup>12</sup>

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422 pages total

1 Group Exhibits (showing key folders)/Exhibit folder 8-Emails, 844 pages total

2 Visual Aids/Visual Aid 5 - Email hoax.png

3 Exhibit 41-DUL 002943-DUL 004851.pdf

4 Exhibit 42-DUL 000001-DUL 002460.pdf

5 Group Exhibits (showing key folders)/Exhibit folder 3-Dulberg JCW DRAFT To Be Produced

6 Group Exhibits (showing key folders)/Exhibit folder 10-Dulberg UNDERLYING CASE DOCS (done)

7 Visual Aids/Visual Aid 10 - Duplicating long alphabetical list hoax.png

8 Exhibit 43-DUL 002650-DUL 002681.pdf

9 Exhibit 21-Dulberg Bates 2639 to 2645 2020 Jan 31.pdf

10 Visual Aids/Visual Aid 7 - Repeating document hoax.png

11 Exhibit 27-Dulberg 2650-7892.pdf

12 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client

The documents being produced for the first time were hidden behind 2596 pages that did not contain a single document that was not already produced. The final bates numbered documents were then given to their fully disabled client **just before** Clinton and Williams resigned as counsel and **just after** opposing counsel filed a supplemental document production request for some of these documents being bates stamped and released by Williams for the first time. They are gas-lighting a handicapped person to the extreme to greatly weaken his valid claims.

**51.** On July 27, 2020 at 2:24 PM Ed Clinton sent an email to Dulberg stating:

“... Please see the attached letter. Best Regards ...”<sup>1</sup>

In the attached letter<sup>2</sup> Clinton and Williams resigned as Dulberg’s attorneys.

**52.** On July 29, 2020 at 1:56 PM Dulberg sent an email to Ed Clinton and Julia Williams with the subject “Need clarification on outstanding issues before your departure” stating:<sup>3</sup>

“... Outstanding questions on open issues for Clinton firm before departure:

...

2. What happened with the objections raised during Dulberg’s deposition when Dulberg was questioned about conversations with Dulberg’s former counsel Gooch? Did you get a ruling or does that still need to be argued before judge Meyer? ...”

Williams answered:

“... There has been no motion practice on the issue and thus, there is no ruling. Your future counsel will need to bring that before the Judge at some point. ...”<sup>4</sup>

Dulberg also asked:

“... 3. Similar to the last question, Have the objections in the Mast deposition been worked out or ruled on by judge Meyer? ...”

Williams answered:

“... There has been no motion practice on the issue and thus, there is no ruling. Your future counsel will need to bring that before the Judge at some point. ...”

**53.** The Clinton law firm filed<sup>5</sup> their Motion to Withdraw as Dulberg’s counsel on August 18, 2020 and were granted<sup>6</sup> the Motion to Withdraw on September 10, 2020.

**54.** On August 19, 2020 at 8:11 AM Paul Dulberg sent an email with Williams and Clinton

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1 Exhibit 44-Dulberg v Popovich 2017 L 377.pdf (Page 1)

2 Exhibit 45-Dulberg Client Letter 2020 July 27.pdf

3 Exhibit 46-Need clarification on outstanding issues before your departure.pdf (Page 1)

4 Exhibit 46-Need clarification on outstanding issues before your departure.pdf (Page 2)

5 Exhibit 47-Dulberg Motion to Withdraw Stamped 2020 August 18.pdf

6 Exhibit 47a-Pages from CLR\_Vol\_1\_of\_2\_230421\_1627\_D4CDE198-3.pdf

stating:<sup>1</sup>

“Hi Julia & Ed,

Now that you have filed for withdrawal I need to ask for a few things before you depart.

- 1.) The case file.
- 2.) PDF’s of all communications/correspondence with opposing counsel.
- 3.) The paper copies of the Baudin case file I provided you with at our first meeting in your office.

The first 2 items I can download from a link you provide but the 3rd Item I will need to pick up or you can ship it to me at my expense. Also, I still have your thumb drive. I can mail it back to you or drop it off when I pick up the paper Baudin file. Let me know which you prefer. Thank you both again for your professionalism and help with my case ...”

**55.** On August 19, 2020 at 1:26 PM Julia Williams sent an email to Dulberg stating:<sup>2</sup>

“... We are happy to provide whatever documents you need. Mary will be preparing an electronic copy of the file for you. Because your file is large, we will likely send you a drive with the full file. We will mail it to your home. For the paper copies of the Baudin file, please work directly with Mary on picking those up or having them shipped. ...”

**56.** On August 20, 2020 at 5:10 AM Dulberg sent an email to Clinton and Williams stating:<sup>3</sup>

“... I emailed Mary about the case files but I have one other concern. At our first meeting Ed made copies of the checks I wrote to Gooch. I would like a copy of these included in the case file. The retainer check was \$10,000 and another \$5,000 check was written to cover the initial costs for filing fee’s and an expert witness. Ed said he would get the \$5,000 back from Gooch. Was anything done with this or does Gooch still have the extra \$5,000 for the expert witness that was never hired? ...”

**57.** On August 25, 2020 at 10:37 AM Dulberg sent an email to Clinton and Williams stating:<sup>4</sup>

“... This is just a reminder. The following 3 items are to be shipped via UPS or Fedex, 2nd day delivery option, to my home at my expense.

1. The current case file - on a thumb drive
2. All communications with opposing counsel and any other party regarding my case - on a thumb drive
3. The paper Baudin case file from the underlying case - in a box

See my shipping address below:

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1 Exhibit 48-2020-08-20\_0510 AM\_SENT\_Dulberg v Mast Motion to Withdraw.pdf (Page 1)

2 Exhibit 48-2020-08-20\_0510 AM\_SENT\_Dulberg v Mast Motion to Withdraw.pdf (Page 1)

3 Exhibit 48-2020-08-20\_0510 AM\_SENT\_Dulberg v Mast Motion to Withdraw.pdf (Page 1)

4 Exhibit 49-2020-08-25\_1037 AM\_SENT\_Document Request.pdf

Paul Dulberg  
4606 Hayden Ct.  
McHenry IL. 60051

Please let me know how you need me to pay your firm for the shipping and the thumb drive. Please feel free to call me with any questions or concerns. ...”

**58.** On September 2, 2020 at 10:40 AM Ed Clinton sent an email to Dulberg stating:<sup>1</sup>

“Bauldin case file was sent to in several parts because the box was falling apart and it seemed more logical to spread it out. The tracking numbers are:

7714 1307 6317

7714 1295 8029

7714 1312 3496

7714 1242 1808

7714 1208 8509

Mary”

**59.** On September 8, 2020 at 9:24 AM Dulberg sent an email to Clinton stating:<sup>2</sup>

“... I received the packages from the tracking numbers you listed below.

They appear to be the paper Baudin case file from the underlying case.

I am still waiting on the tracking number Mary sent that should have the thumb drive with the current case file. ...”

**60.** On September 9, 2020 at 12:34 PM Dulberg sent an email to Mary Winch, Clinton and Williams stating:<sup>3</sup>

“... I received the thumb drive yesterday. ...”

**61.** On October 15, 2020, at 4:01 PM, Paul Dulberg sent an email to Williams stating:<sup>4</sup>

“... I know your off this case but I am overwhelmed and could use your help.

I need all of the final discovery documents we sent to opposing counsel through the case.

This includes all our final answers to interrogatories and document production sent as well as all supplementals requests etc....

Why?

I messed up a few weeks ago when you sent the thumb drive. It filled my hard drive and I couldn't get it all in the Mac and I had a computer crash. My machine froze up and I had to move or delete a lot of data. I tried to then to use my old 32 bit windows PC and move

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1 Exhibit 49a-2020-09-02\_1041 AM\_RECV\_Document Request.pdf (Page 1)

2 Exhibit 49c-2020-09-08\_0924 AM\_SENT\_Document Request.pdf (Page 1)

3 Exhibit 49d-2020-09-09\_1234 PM\_SENT\_Thumb Drive.pdf

4 Exhibit 50-2020-10-15\_1601 PM\_SENT\_PLEASE HELP WITH CASE FILE.pdf



the files to windows and that created more issues than I can count. I have spent weeks trying to sort things out. Bottom line, I think I'm suffering from information overload and moved so many things around to make room that I can't find anything anymore or if I do find it I'm not sure that it is the final version of what I am looking for.

I will never know your file system as well as you.

Please help me out with this

You can resend me the emails with the final discovery documents and interrogatories

Or

Send new emails with all the final discovery documents

Or

Send me the exact file names so I can do a search and find them.

I know I am asking a lot of you to help even though you withdrew and I am sorry I wasn't better prepared for that much data to come my way. ..."

62. On October 15, 2020, at 11:23 PM, Paul Dulberg sent an email to Williams stating:<sup>1</sup>

"... Have all the items in a folder named "Dulberg Documents to Be Produced 2020 June 25" been sent to opposing counsel already? ..."

63. On October 16, 2020 at 8:40 AM Williams sent an email to Dulberg stating:<sup>2</sup>

"Everything that was produced is in the file Dulberg Discovery Produced by Dulberg to OC. All the files in the 2020 June folde should have been produced over the summer. ..."

64. On Oct 16, 2020, at 10:38 AM, Paul Dulberg sent an email to Williams stating:<sup>3</sup>

"... It looks like everything in the "Dulberg Documents to Be Produced 2020 June 25" is in the "Dulberg Docs Produced by Dulberg to OC" with the exception of "Dulberg JCW Notes re Discovery 2020 June 26.docx", which is your notes, and the "Dulberg Paul's Notes on Deposition and handwritten notes 2020 July 1" which is nothing more than a color duplicate of the black and white PDFs produced in the "Dulberg 7893-8551 .pdf"

**Is it safe for me to assume that opposing counsel has been given all documents with the exception of the privileged gooch emails?** [Emphasis Added]

Also, I see in the "Dulberg JCW Notes re Discovery 2020 June 26.docx" that you were worried about the waiver issue for Gooch. I don't agree, I answered those questions in the deposition under an objection and certainly didn't waive privilege.

It appears the defense counsel is confused over when I should have known of an injury vs when I learned from an attorney that I had a case in an attempt to pry into privileged communications that cannot change the outcome for their stated goal of reopening the

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1 Exhibit 50a-2020-10-16\_0840 AM\_RECV\_PLEASE HELP WITH CASE FILE.pdf (Page 1)

2 Exhibit 50a-2020-10-16\_0840 AM\_RECV\_PLEASE HELP WITH CASE FILE.pdf (Page 1)

3 Exhibit 50b-2020-10-16\_1038 AM\_SENT\_PLEASE HELP WITH CASE FILE.pdf (Page 1)



statute of limitations and deposing Gooch and myself for a second time.

It seems to me to be simple math when calculating the statute of limitations

1. The malpractice happened between October 2013 and February 2014 in the underlying case
2. The earliest I could or should have known of the injury was December 12th, 2016 from the award in the underlying case
3. This case was filed on November 28, 2017
4. There is no conversation that could take place between myself and Gooch that could change the first two dates even in the slightest and the third date, the date we filed suit was the culmination of our work product in the current case, not the underlying case.

One more question, Where do I find all the final answers we sent to opposing counsel for the interrogatories and supplemental interrogatories? ...”

**65.** On October 16, 2020 at 10:44 AM Dulberg wrote an email with the subject “PLEASE HELP WITH CASE FILE” to Williams stating:<sup>1</sup>

“Oh, and just so you are aware, I may have to argue this on my own without counsel and I am going to do everything I can to see this case through to the end.  
Continue to help me navigate your case file, perhaps correct me when I am wrong and I will make sure your lean gets satisfied out of the award.  
Thank you all for what you have done thus far ...”

**66.** On October 16, 2020 at 12:45 PM Williams sent an email to Dulberg stating:<sup>2</sup>

“Paul:

**You are safe in assuming that everything we possessed was produced with the exception of the privilege Gooch documents/emails.** [Emphasis Added]

The file titled “Dulberg Discovery Produced to Def” contains all of the written discovery turned over to the opposing party, including, interrogatory answers, responses to request to produce, documents that were produced in response to the request to produce. ...”

One document was completely suppressed by Williams and never turned over to opposing counsel by the Clinton Firm: The Appellate Court slip ruling Tilschner v Spangler

**67.** On October 19, 2020 at 8:25 AM Paul Dulberg sent an email to Clinton and Williams stating:<sup>3</sup>

“Hi Julia and Ed,

I’m sure you noticed the amount of emails I have sent. I’m in a frantic state to find new counsel and simultaneously try to learn what I call “legalese” so I can reply to and argue

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1 Exhibit 50c-2020-10-16\_1044 AM\_SENT\_PLEASE HELP WITH CASE FILE.pdf

2 Exhibit 50d-2020-10-16\_1245 PM\_RECV\_PLEASE HELP WITH CASE FILE.pdf

3 Exhibit 51-2020-10-19\_0825 AM\_SENT\_Contingency.pdf

Flynns Motion on my own if need be and learn your file system.

Before I go give \$10,000 on yet another attorney, whom I don't know, I wanted to give you an option since your already familiar with the case, know the case file and I do trust you and don't think it fair that you did all that work and may not get paid what you should if I end up hiring the wrong attorney.

In less than 3 months I will have enough cash in hand to fund this case and finish it 3x over. It will probably take less time but that is my worst case scenario as my family and I move to liquidate some assets and free up our capital rather than borrow from loan sharks

I am hoping that you would be interested in taking back representation of this case.

Rather than hire a new attorney, I can use the \$10,000 to pay for you legal services over the next 3 months

This gives me 3 months to make the arrangements needed to have enough funding to go at this paying in full the whole way through.

If after 3 months I don't have the funds to finish this case, you can withdraw again.

I believe this would give both of us the best chances at recouping the money and time invested thus far.

Time is limited so please think about this and let me know in the next day or two."

68. On October 19, 2020 Williams sent an email to Dulberg stating:<sup>1</sup>

"... We will cannot accept your matter again.

As for the remainder of the emails that you sent, we provided you with the entire file. The documents are labeled. Anything in the folder that stated it was produced to OC—I provided the specific name in my email last week—those documents/written discovery answers were produced to OC. If it's not in that folder, it wasn't produced. There are several duplicates of documents—you should cross check it with that folder.

**We did produce everything we could to OC with the exception of confidential communication between you and Gooch. I believe all the other relevant and requested documents were produced.** [Emphasis Added]

We did not respond to the July 2020 supplemental discovery that George Flynn issued to you. I sent the requests in an email to you, but they are also on the flash drive.

Again, everything is on the flash drive, so we recommend that you look there. We wish you the best of luck. ..."

69. From the time Flynn mentioned taking care of "dangling loose ends" to Williams (about 20 minutes after the end of the Mast deposition on June 25, 2020) to the time that Williams either resigned as Dulberg's counsel on July 27, 2020 or received a court order granting the Motion to Withdraw on September 10, 2020, Williams did no noticeable work other than the production of

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<sup>1</sup> Exhibit 51a-2020-10-19\_0952 AM\_RECV\_Contingency.pdf

the more than 6000 documents she had been actively suppressing since May 30, 2019. Yet she continued to suppress one document: The Appellate Court slip ruling Tilschner v Spangler. She did no noticeable work to address either the Gooch communications nor did she object to turning them over in court.

**70.** Williams was in possession of the Gooch Thumbdrive<sup>1</sup> since around November 28, 2018 which is about 6 months before she first turned over 2598 pages of documents to opposing counsel on May 30, 2019. The excuse Williams gave Dulberg for sneaking the suppressed documents back into the documents turned over to opposing counsel was that she needed to “ensure that Gooch’s entire file on the underlying case was sent” and she needed to ensure that “communications from your subsequent counsel in the underlying case” were also sent to Flynn.

**71.** Williams does not explain why Gooch’s entire file (which she had in her possession since November, 2018) was finally being turned over on July 9, 2020 just 18 days before she resigned as Dulberg’s attorney. Williams does not explain why “communications from your subsequent counsel in the underlying case” were being turned over on July 9, 2020 just 18 days before she resigned as Dulberg’s attorney. If Williams did not intentionally suppress the email documents on May 30, 2019, Williams would not have had to disclose the same documents on July 9, 2020 (that she intentionally kept suppressed for almost 14 months).

**72.** Communication between Flynn and Williams shows that Williams performed actions on June 19, 2020 which led Flynn to believe there was a high probability Williams would resign as Dulberg’s attorney (and Williams actually did resign as Dulberg’s attorney on July 27, 2020). She released over 6000 pages of documents to Flynn on July 9, 2020, which is about 20 days after Flynn was led to believe there was a strong possibility she would be resigning shortly, and 18 days before she actually did resign. Williams released over 6000 pages of documents to the opposing party over 9 months after Williams stated in the November 4, 2019 court transcript: “So I think we have produced pretty much everything we have, but I can talk to counsel about the documents” and almost 14 months after Williams released 2598 pages of documents to the opposing counsel on May 30, 2019.

**73.** Williams and Clinton also created misleading work product in the electronic case file they gave to Dulberg and subsequent counsel in order to hide what were doing and to deceive Dulberg and any future attorney Dulberg may have concerning how and when documents were produced to Opposing Counsel. For example, the folder ‘Dulberg Master File\Gooch Files’<sup>2</sup> contains other folders that were renamed to show how Williams should have produced Dulberg’s documents to opposing counsel but did not. The proof given in this complaint and accompanying Visual Aids shows Williams did not produce Dulberg’s documents in the way that is suggested in the folder ‘Gooch Files’ (but pretended to Dulberg that she did). The folder is not true work product. It is made to create an ‘alibi’ or ‘decoy’. Another example of a ‘decoy’ folder is ‘Dulberg Master File\ Dulberg Research’<sup>3</sup> which was created on May 28, 2019 just (before the May 30, 2019 document disclosure) as a way to hide the certified Appellate Court slip copy of Tilschner v Spangler.

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1 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive

2 Group Exhibits (showing key folders)/Exhibit folder 11-Dulberg Gooch File

3 Group Exhibits (showing key folders)/Exhibit folder 12-Dulberg Research

74. Each of the Visual Aids appear to show a series of *intentional hoaxes* that Williams and Clinton knowingly played on Dulberg. Williams and Clinton also appear to mock their own fully disabled client by repeatedly mis-typing his name as “Duhlborg” as can be seen in “Visual Aid 11 - Mocking client”<sup>1</sup>. This appears to be an inside joke at the Clinton Law office where their client appears as stupid. “Duh” Dulberg seems not to know how the more intelligent Williams and Clinton are secretly sabotaging his case.

## **CHAPTER 2: COLLABORATION WITH OPPOSING ATTORNEY TO BENEFIT THE DEFENDANTS AND SABOTAGE PLAINTIFF’S CASE**

### **2A THE EXAMPLE OF BANKRUPTCY**

**2A1.** Dulberg declared bankruptcy on November 26, 2014<sup>2</sup> while he was the plaintiff in PI case 12LA178.

**2A2.** The defendants, Thomas Popovich and Hans Mast (Dulberg’s attorneys at the time Dulberg filed for bankruptcy) continued to represent Dulberg in the 22nd Judicial Circuit Court even though they knew:

(a) The case was under the automatic stay in The 7th Circuit United States Bankruptcy Court for the Northern District of Illinois, Western Division.

(b) Dulberg had no standing to pursue the case while the case was under an automatic stay in The 7th Circuit United States Bankruptcy Court for the Northern District of Illinois, Western Division.

(c) All acts in violation of the automatic stay are void.

**2A3.** As stated in **Re Enyeti**:

“It is well established in case law that acts taken in violation of the automatic stay imposed under section 362(a) of the Bankruptcy Code are deemed void ab initio and lack effect. See *Middle Tenn. News Co., Inc. v. Charnel of Cincinnati, Inc.*, 250 F.3d 1077, 1082 (7th Cir. 2001) (“Actions taken in violation of an automatic stay ordinarily are void.”); *York Ctr. Park Dist. v. Krilich*, 40 F.3d 205, 207 (7th Cir. 1994) (judgment issued against debtors without a modification of the automatic stay must be vacated); *Matthews v. Rosene*, 739 F.2d 249, 251 (7th Cir. 1984) (orders issued in violation of automatic stay provisions of Bankruptcy Code ordinarily are void); *In re Benalcazar*, 283 B.R. 514, (Bankr.N.D.Ill. 2002) (same); *Garcia v. Phoenix Bond Indem. Co. (In re Garcia)*, 109 B.R. 335, 340 (N.D.Ill. 1989) (“[T]he fundamental importance of the automatic stay to the purposes sought to be accomplished by the Bankruptcy Code requires that acts in violation of the automatic stay be void, rather than voidable. Concluding that acts in violation of the automatic stay were merely voidable would have the effect of encouraging disrespect for the stay by increasing the possibility that violators of the automatic stay may profit from their disregard of the law, provided it goes undiscovered

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1 Visual Aids/Visual Aid 11 - Mocking client.png

2 Exhibit A1-0\_Docket Report\_OCR.pdf

for a sufficient period of time.”). See also *Hood v. Hall*, 321 Ill.App.3d 452, 254 Ill. Dec. 470, 747 N.E.2d 510, 512 (2001) (“There is no question that judgments entered in violation of the automatic stay in bankruptcy are void ab initio . . . and that void judgments may be attacked at any time.”); *Concrete Prod, Inc. v. Centex Homes*, 308 Ill. App.3d 957, 242 Ill.Dec. 523, 721 N.E.2d 802, 804 (1999) (“[A]cts in violation of the section 362(a) automatic stay are void ab initio.”)”

**2A4.** Williams and Clinton, as Dulberg’s retained legal malpractice attorneys, must have known about the automatic stay and Dulberg’s lack of standing but they never informed Dulberg of this. They must have known that the acts of Popovich and Mast can be viewed as an attempt to change the value of an asset in a Federal Bankruptcy Estate.

**2A5.** Williams and Clinton must have also known that all of Dulberg’s attorneys (after Dulberg filed for bankruptcy on November 26, 2014, Popovich, Brad Balke and the Baudins) violated the automatic stay and represented Dulberg in the Illinois 22nd Judicial Circuit Court even though each must have known the court had no jurisdiction and that Dulberg had no standing as plaintiff in the PI case. Williams and Clinton must have known all 3 law firms pushed Dulberg to settle his case against Gagnon in violation of Federal Bankruptcy laws, and that these attempts can be viewed as efforts to change the value of an asset in a Federal Bankruptcy Estate.

**2A6.** Dulberg informed Williams to include information about Dulberg’s November 26, 2014 bankruptcy in the SECOND AMENDED COMPLAINT. Dulberg informed Williams that the bankruptcy trustee forced him into a binding mediation agreement against his will.

**2A7.** On December 4, 2018 at 2:20 PM Dulberg sent an email to Williams stating:<sup>1</sup>

“Please find the two file attachments named working.pdf and comment on complaint.txt. Comment on complaint.txt contains a color code explanation for what is in working.pdf. Also, I have attached the order in which the judge decided what was stricken along with the transcripts that will be needed to decipher the courts order. Please feel free to contact me with any and all questions you may have.”

**2A8.** In the document “working.pdf” Dulberg edited paragraph 43 in red font to include:<sup>2 3</sup>

“Dulberg, who was injured, disabled and unable to work with household bills stacking up, realized the medical bills and attorney fees would leave him with very little if anything and decided to file for bankruptcy protection. Mast then tried to get Dulberg to enter into a mediation with Gagnon with a \$50,000 cap. At this point Dulberg severed the relationship with Mast.”

Dulberg edited paragraph 44 to state:<sup>4 5</sup>

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1 Exhibit A2-2018-12-04\_1420 PM\_SENT\_2nd amended complaint draft\_ATTACHMENTS.pdf (Page 1)

2 Exhibit C3-Working.pdf (Page 7)

3 Exhibit A2-2018-12-04\_1420 PM\_SENT\_2nd amended complaint draft\_ATTACHMENTS.pdf (Page 10)

4 Exhibit C3-Working.pdf (Page 7)

5 Exhibit A2-2018-12-04\_1420 PM\_SENT\_2nd amended complaint draft\_ATTACHMENTS.pdf (Page 10)

“In December of 2016, Dulberg was ordered by the Bankruptcy Trustee into a binding mediation related to his claims against Gagnon.”

Dulberg edited paragraph 46 in red font to include:<sup>1 2</sup>

“Due to the Binding Mediation Agreement into which the Bankruptcy Trustee ordered Dulberg, Dulberg could not collect more from Gagnon. The bankruptcy trustee took the money and paid Dulberg’s debt in full (it was a 100% solvent bankruptcy).”

**2A9.** On Dec 5, 2018, at 10:33 AM, Julia Williams wrote:<sup>3</sup>

“... Attached please find the revised version of the second amended complaint. We will plan to file it tomorrow by morning. If you can, I request that you send further thoughts and edits by 5pm today. I have a deposition in the afternoon and cannot file it later in the day. I reviewed your comments and edits. Overall, many were accepted. There were some, particularly the language about the bankruptcy, that I thought were unnecessary and would simply muddy the waters for the judge.

In this case, we need to show that Mast/Popovich had a duty to advise you properly and protect your interest, they failed to do that by urging you to settle with the McGuires when you could have continued with the case against them and obtained a much better result, instead you settled and were not able to recover at least \$300,000. The bankruptcy proceedings are necessary to this case. They will add color to the case and the information will definitely come out in the discovery process. That being said, I don’t want to confuse the issues and the recovery by making allegations about the bankruptcy in the complaint. Further, I don’t want to increase any burden of proof we may have by making allegations that are necessary to prove our case. ...”

Williams removed any mention of Dulberg’s 2014 bankruptcy from the second amended complaint.<sup>4 5</sup>

**2A10.** On May 30, 2019 Williams turned over “Dulberg Document Disclosure FINAL 2019 May 29.pdf”<sup>6</sup> in which the contents from the folder ‘Gooch thembdrive\Dulberg UNDERLYING CASE DOCS\Files From Baudin’s Office\Paul Dulberg - BK Docs’<sup>7</sup> appear in alphabetical order in the following bates number locations:

DUL 001079 ..... Discharge of debtor letter  
DUL 001267-9 .... February 16, 2015 letter from Heeg to Mast (with no fax cover page)  
DUL 001270 ..... Fax cover page from Heeg to Mast dated January 6, 2015

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1 Exhibit C3-Working.pdf (Page 7)

2 Exhibit A2-2018-12-04\_1420 PM\_SENT\_2nd amended complaint draft\_ATTACHMENTS.pdf (Page 10)

3 Exhibit A3-2018-12-05\_1035 AM\_RECV\_Second Amended Complaint\_ATTACHMENTS.pdf (Page 1)

4 Exhibit A4-Dulberg Second Amended Complaint REDLINED 2018 Dec 5.docx

5 Exhibit A5-Dulberg Second Amended Complaint 2018 Dec 6 2pm FINAL W EXH.pdf

6 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

7 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Files From Baudin’s Office/Paul Dulberg - BK Docs



DUL 001671-2 .... 2 pages of a January 6, 2015 faxed message from Heeg to Mast  
DUL 001844 ..... Meeting of creditors notice  
DUL 001913 ..... Order dated October 31, 2016 issued by bankruptcy judge for bankruptcy trustee to enter into binding mediation

**2A11.** Dulberg informed Williams that Dulberg never agreed to enter into any Binding Mediation and he refused to sign any Binding Mediation Agreement. Williams was in possession of a proposed Binding Mediation Agreement which was unsigned by any party and failed to investigate and obtain the executed Binding Mediation Agreement.

**2A12.** Williams and Clinton, who had full access to the clerks file in 12LA178 and are professional Legal Malpractice Attorneys, could see all the activity that took place moving the PI case forward to a resolution in violation of the automatic stay. Williams and Clinton failed to investigate or obtain any of the underlying case 12LA178 Reports of Proceedings. In particular they failed to investigate the time from June 13, 2016 to August 10, 2016 in which the Baudins and Allstate attorney Reddington first proposed and then came to a full agreement and set a date for Binding Mediation in the Illinois 22nd Judicial Circuit Court. The Baudins and Reddington did this in violation of the automatic stay, while knowing that the Illinois 22nd Judicial Circuit Court had no jurisdiction over the PI case and while knowing Dulberg had no standing as plaintiff in the PI case.

Trustee Joseph Olsen was first appointed Trustee over Dulberg's bankruptcy estate on August 31, 2016 (weeks after Allstate attorney Reddington and the Baudins already came to a final agreement on binding mediation).

**2A13.** On October 31, 2016, almost 3 months after Allstate attorney Reddington and the Baudins finalized a Binding Mediation Agreement and set a hearing date, the following exchange took place in bankruptcy court:<sup>1</sup>

"MR. OLSEN: Good morning, Your Honor. Joseph Olsen, trustee. This comes before the Court on two motions. One is to authorize the engagement of special counsel to pursue a personal injury litigation, I think it's in Lake County, involving a chainsaw accident of some sort. And then, presumably, if the Court grants that, the second one is to authorize the estate to enter into -- I'm not sure what you call it, but binding mediation. But there's a floor of \$50,000, and there's a ceiling of \$300,000.

And I guess I've talked with his attorney. He seems very enthusiastic about it. There may be some issues about the debtor being a good witness or not, I guess. It had to do with a neighbor who asked him to help him out with a chainsaw, and then I guess the neighbor kind of cut off his arm, or almost cut off his arm right after that. There's some bitterness involved, understandably, I guess.

But I don't do personal injury work at all, so I'm not sure how that all flows through to a jury, but he didn't seem to want to go through a jury process. He liked this process, so...

THE COURT: Very well. Mr. Olsen, first of all, with regard to the application to employ

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<sup>1</sup> Exhibit A6-DULBERG 10-31-16-1.pdf



the Baudin law firm, it certainly appears to be in order and supported by affidavit. Their proposed fees are more consistent with at least what generally is the market than some of the fees you and I have seen in some other matters. One question for you: Have you seen the actual engagement agreement?

MR. OLSEN: I thought it was attached to my motion.

THE COURT: Okay.

MR. OLSEN: If it's not, it should have been. It's kind of an interesting -- actually, this is kind of a unique one. The debtor actually paid them money in advance, and then he's going to get a credit if they actually win, which I guess enures, now, to my benefit, but that's okay. And there's a proviso for one-third, except if we go to trial, then it's 40 percent. So these are getting more creative by the PI bar as we plod along here, I guess, but...

THE COURT: It's a bar that's generally pretty creative. And my apologies. I saw the affidavit, but you did have the agreement attached, and one was in front of the other. And the agreement is just as you describe it. It appears to be reasonable, and so I'll approve the application. Tell me about this binding mediation. It's almost an oxymoron, isn't it?

MR. OLSEN: Well, I guess the mediators don't know there's a floor and a ceiling. I'm not sure where that comes from, but that's -- yeah. And whatever number they come back at is the number we're able to settle at, except if it's a not guilty or a zero recovery, we get 50,000, but to come back at 3 million, we're capped at 300,000.

THE COURT: Interesting.

MR. OLSEN: A copy of the mediation agreement should also be attached to that motion.

THE COURT: And I do see that. That appears to be in order. It's one of those you wish them luck

MR. OLSEN: I don't want to micromanage his case.

THE COURT: But that, too, sounds reasonable. There's been no objection?

MR. OLSEN: Correct.

THE COURT: Very well. I will approve -- authorize, if you will, for you to enter into the binding mediation agreement, see where it takes you.

MR. OLSEN: Thanks, Your Honor."

**2A14.** In July, 2019 Dulberg asked Williams to subpoena bankruptcy documents and communications from bankruptcy trustees Heeg and Olsen. Williams told Dulberg that she could not subpoena Heeg's records because Heeg had retired<sup>1</sup> and the documents are no longer available to us. Dulberg was told by Williams that bankruptcy Trustee Olsen has responded to the subpoena "informally". Trustee Olsen did not include a certificate of compliance with his response to the subpoena and Williams never asked for one.

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<sup>1</sup> Exhibit A6a-2020-02-10\_1518 PM\_RECV\_Dulberg v Mast et al Discovery and Court Order.pdf

**2A15.** On September 5, 2019 the following exchange took place in court:<sup>1</sup>

“MR. FLYNN: Any date in November is fine with me, your Honor. I would like to have a resolution of the privilege issue, though. It sounds like the decision hasn’t been made, so --

MS. WILLIAMS: I think we’re waiving privilege. I’ll say it on the record, we’re going to waive privilege.

MR. FLYNN: Okay. THE COURT: Okay.

MR. FLYNN: The only other issue that was raised -- I just reviewed the written discovery yesterday and you had (indiscernible) 201(k) that there was a bankruptcy that was mentioned kind of vaguely in one of the answers. It sounds or appears that either the bankruptcy judge or the trustee had enforced or required a mediation and a high-low agreement. To the extent that those documents are responsive to any of the requests -- and I’ll have to go through them to see if they are. Otherwise I’ll just issue a supplemental, but I think the bankruptcy file and communications with the trustee are probably responsive to our discovery, so I would just request that those be included in our --

MS. WILLIAMS: I think we produced a number of the bankruptcy issues, but we can talk about it today and definitely try to work out -- there’s definitely -- there was a bankruptcy. We’re not trying to hide that bankruptcy, so. And the trustee did resolve -- there was an arbitration based on the trustee’s recommendation in the bankruptcy for the individual.”

**2A16.** On November 4, 2019 the following exchange took place in court:<sup>2</sup>

“MR. FLYNN: So I think they are amending the discovery answers and possibly producing more documents. I’m not sure.

THE COURT: Is that correct, counsel, not putting you on the spot, but is that an accurate representation?

MS. WILLIAMS: Right. **So I think we have produced pretty much everything we have, but I can talk to counsel about the documents.**” [Emphasis Added]

**2A17.** On December 17, 2019 at 11:00 AM Williams sent an email to Flynn stating:<sup>3</sup>

“... In preparation for our call today, **I am resending the all discovery as I don’t think you received some of them the first time.** ...” [Emphasis Added]

The file “Dulberg BK Files Bates 2599”<sup>4</sup> consists of the contents of this file in alphabetical order:

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1 Exhibit A7a-2019-09-05\_R 53-R 58\_ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1.pdf (Page 3 Line 21 through Page 5 Line 3)

2 Exhibit A8a-2019-11-04\_R 59-R 63\_ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1.pdf (Page 3 Lines 10-24)

3 Exhibit 17-Dulberg case.pdf (Pages 3-4)

4 Exhibit 18-Dulberg BK Files Bates 2599 .pdf

Gooch Thumbdrive\Dulberg UNDERLYING CASE DOCS\Files From Baudin's Office\Paul Dulberg BK Docs<sup>1</sup>

On May 30, 2019 Williams already turned over all contents of the folder:

Gooch Thumbdrive\Dulberg UNDERLYING CASE DOCS\Files From Baudin's Office\Paul Dulberg BK Docs<sup>2</sup>

so there were no files in "Dulberg BK Files Bates 2599"<sup>3</sup> turned over on December 17, 2019 that were not already included in 'Dulberg Document Disclosure FINAL 2019 May 29.pdf'<sup>4</sup> (which was turned over on May 30, 2019). Williams must have known this because she created the original pdf and the files are in her working folder at:

Dulberg Master File\Dulberg Production JCW Working Folder\Dulberg JCW DRAFT To Be Produced<sup>5 6</sup>

**2A18.** On January 29, 2020 at 3:50 PM Williams first notified Dulberg the documents that Williams provided to Flynn on December 17, 2019 were given to opposing counsel.<sup>7</sup>

**2A19.** On February 19, 2020 at 6:09 AM (which was the morning of Dulberg's deposition) Dulberg sent an email with the subject "Capped ADR agreement issue" to Julia C. Williams and Ed Clinton which stated:<sup>8</sup>

"Hi Julia and Ed,

Yesterday we talked about the bankruptcy court ordering the case into ADR with a cap on the amount that could be recovered.

This was an agreement between Allstate, the Baudins and the trustee that put the motion before the bankruptcy court.

I did some talking with at least 12 bankruptcy attorneys on those free legal advise forums last night

All said basically the same thing. This should not have been allowed without the owner of the case/asset, me, agreeing to it.

I was given this example which I believe best explains it.

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1 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Files From Baudin's Office/Paul Dulberg - BK Docs

2 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Files From Baudin's Office/Paul Dulberg - BK Docs

3 Exhibit 18-Dulberg BK Files Bates 2599 .pdf

4 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

5 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Production JCW Working Folder/Dulberg JCW DRAFT To Be Produced

6 Group Exhibits (showing key folders)/Exhibit folder 3-Dulberg JCW DRAFT To Be Produced

7 Exhibit A9-2020-01-29\_1550 PM\_RECV-2\_Discovery Documents \_ATTACHMENTS.pdf (Page 1)

8 Exhibit A10-Capped ADR agreement issue.pdf

In chapter 7 bankruptcy

You go into Bankruptcy and the court orders your assets (like your home) to be auctioned off to pay your creditors which is legal

But they took it one step too far when they capped the amount

Since it's already going to auction its not fair to you, the actual owner of the asset or even the creditors, to cap the amount that can be recovered at auction

They are supposed to let the auction play out to recover what the highest bidder pays, not cap it.

Capping the highest bid at an auction makes no sense

The same goes for any recovery from any asset including a personal injury suit

I'm sorry this happen to you

Now that I know this, I'm not 100% here, but I think I understand why the trustee Joe Olsen hired the Baudins to represent him Any advise on this would be helpful ...”

**2A20.** Dulberg later filed complaint 2022L010905<sup>1</sup> naming bankruptcy Trustee Olsen as a defendant for breach of duty and contract fraud. The complaint also names the Baudins for legal malpractice and contract fraud. The filing was based on the later research and initiative of Dulberg’s subsequent counsel, who obtained the October 31, 2016 bankruptcy court Report of Proceedings transcribed for the first time.

**2A21.** A reasonable person can conclude that when Williams informed Dulberg that she could not obtain any documents from bankruptcy Trustee Heeg since Heeg is retired<sup>2</sup>, the claim was factually untrue. A reasonable person can also conclude that when Williams allowed Trustee Olsen to respond to the subpoena “informally”, valuable information was hidden from Dulberg that he needed to know in his case against Mast and Popovich (and that Dulberg’s later counsel had to discover through his own efforts and which is written into civil complaint 2022L010905<sup>3</sup> naming Bankruptcy Trustee Olsen and the Baudins as defendants).

A reasonable person can conclude that Williams intentionally suppressed the large majority of bankruptcy documents on May 30, 2019 and suppressed any mention of bankruptcy in the 2nd Amended Complaint to sabotage Dulberg’s case against Popovich and Mast. By suppressing the subject of Dulberg’s 11/26/2014 bankruptcy from the 2nd Amended Complaint and from “Dulberg Document Disclosure FINAL 2019 May 29.pdf”<sup>4</sup> given to opposing counsel on May 30, 2019, opposing counsel Flynn was able to avoid all the complex issues raised in civil complaint 2022L010905<sup>5</sup> such as:

(a) That Dulberg’s signature was fraudulently placed on the Executed Binding Mediation Agreement executed on 12/8/2016.

(b) That Trustee Olsen misrepresented Dulberg’s consent to the Bankruptcy Judge on 10/31/2016.

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1 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf

2 Exhibit A6a-2020-02-10\_1518 PM\_RECV\_Dulberg v Mast et al Discovery and Court Order.pdf (Page 1)

3 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf

4 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

5 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf

(c) That Popovich, Balke, Allstate, the Baudins and Trustee Olsen all knew Dulberg had no standing to pursue the case 12LA178 while the case was under an automatic stay.

(d) That Popovich<sup>1</sup>, Allstate, Balke<sup>2</sup>, the Baudins<sup>3</sup> and Trustee Olsen<sup>4</sup> all knew the case 12LA178 proceeded in the Circuit Court in violation of the automatic stay.

(e) That the Baudins by agreement with Allstate, in violation of the automatic stay, before the Baudins were approved to be hired as special counsel under Trustee Olsen on 10/31/2016, misrepresented Dulberg as agreeing to Binding Mediation in Circuit Court on 8/10/2016 and asked Associate Judge Meyer to delay the next status hearing to 12/12/2016 after the Binding Mediation was to take place on 12/8/2016.<sup>5 6 7</sup>

(f) That the Baudins and Allstate's acts in violation of the automatic stay, started laying the groundwork as early as 6/13/2016<sup>8</sup> and finally set the Binding Mediation date for 12/8/2016 on 8/10/2016 in the Circuit Court.<sup>9 10</sup> This happened before Trustee Olsen was even appointed to the position on 8/31/2016<sup>11</sup> and before Trustee Olsen received permission from the Honorable Judge Thomas M. Lynch, to hire the Baudins as special counsel and give Trustee Olsen permission to enter into the proposed capped Binding Mediation Agreement on 10/31/2016.<sup>12</sup>

(g) That the Baudins filed their APPEARANCE as REGULAR COUNSEL in 12LA178 on 11/6/2015 in violation of the automatic stay.<sup>13</sup>

(h) That there is no APPEARANCE filed by the Baudin Defendants that is not VOID in case 12LA178.

(i) That the Baudin Defendants' failed to file an APPEARANCE to represent the bankruptcy estate in case 12LA178 after being hired as special counsel by Trustee Olsen.

(j) That Trustee Olsen received permission from the Bankruptcy court to enter into the proposed Binding Mediation Agreement and later made a choice and Trustee Olsen did not act and sign on the advice of his special counsel the Baudins.<sup>14</sup>

(k) That Trustee Olsen did not "pursue" and "exercise control" over the claim/asset and in

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1 Exhibit 18-Dulberg BK Files Bates 2599 .pdf (Pages 2-7, 15-18)

2 Exhibit 18-Dulberg BK Files Bates 2599 .pdf (Pages 8-9)

3 Exhibit A6b-Pages from Filed Bauding Motion to Dismiss April 25 2023 2022L010905.pdf

4 Exhibit A6b-Pages from Filed Bauding Motion to Dismiss April 25 2023 2022L010905.pdf

5 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf Page 14-15 ¶46, (Page 70)

6 Exhibit F3-2016-08-10\_CC-Civil - 12LA000178 - 3\_3\_2022 - - - REOP - - (4).pdf

7 Exhibit F2-2016-08-10\_12LA178\_ORDER-Continued to 12-12-2016 for Status of Binding Mediation-Motion for IME GRANTED-Other Motions Continued to 12-12-2016\_Meyer.pdf

8 Exhibit F1-2016-06-13\_CC-Civil - 12LA000178 - 2\_24\_2022 - - - REOP - -.pdf (Page 2 Lines 8-9, Page 3 Lines 12-16)

9 Exhibit F3-2016-08-10\_CC-Civil - 12LA000178 - 3\_3\_2022 - - - REOP - - (4).pdf

10 Exhibit F2-2016-08-10\_12LA178\_ORDER-Continued to 12-12-2016 for Status of Binding Mediation-Motion for IME GRANTED-Other Motions Continued to 12-12-2016\_Meyer.pdf

11 Exhibit A6c-25-0.pdf

12 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf (Page 70-71)

13 Exhibit A6d-12LA000178--2015-11-06--APE\_0083.pdf

14 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf (Pages 71, 73, 75-80)

doing so Abandoned the asset and it reverted back to the DEBTOR.<sup>1</sup>

(l) The Baudin Defendants were approved and hired as Special Counsel for the Estate and in such a capacity had no standing to execute a Binding Mediation Agreement for the DEBTOR.<sup>2</sup>

(m) The only party with standing over abandoned assets is the DEBTOR.

(n) That there can be no agreement between Allstate and the Baudin Defendants acting as counsel for the bankruptcy estate to have the case dismissed with prejudice in the Circuit Court on 12/12/2016 since the Baudins failed to file any appearance anywhere that is not VOID and had no standing since they did not represent the DEBTOR.<sup>3</sup>

(o) Trustee Olsen and the Baudins collected the monies paid out by Allstate after ABANDONING the ASSET that then reverted back to the DEBTOR.<sup>4</sup>

The avoidance of every one of these issues raised in complaint 2022L010905 clearly benefits the defendants in that it limits Dulberg's possible recovery in the underlying case (12LA178) current case (17LA377) against Popovich and Mast to a \$300,000 cap previously imposed by the bankruptcy trustee, Allstate and the Baudins. Once the issues raised in civil complaint 2022L010905 are taken into consideration, serious doubts involving genuine issues of material fact are raised concerning whether any such 'cap' can be considered binding or legal or was obtained fraudulently.<sup>5</sup>

The available evidence demonstrates that the 'cap' was created by the Baudins and by Allstate alone, in violation of the automatic stay, in a court which had no jurisdiction, while knowing that all actions under such conditions are legally void, and without Dulberg's knowledge or consent, close to 3 months before Olsen was appointed Trustee of the bankruptcy estate.

Williams and Clinton could have obtained all necessary court transcripts and common law records to know how and when the cap was actually created. Williams and Clinton failed to: Investigate, obtain certified responses to any subpoena, obtain an executed Binding Mediation Agreement, or hold any of those who violated the automatic stay accountable.

## **2B THE EXAMPLE OF SAUL FERRIS**

**2B1.** On May 30, 2019 Williams suppressed 2 documents of email communication between Saul Ferris and Dulberg and 7 other documents of email communication mentioning Saul Ferris, packages of Dulberg's documents Saul Ferris had in his possession, and a missing pretrial settlement conference letter. The documents are:

Hans Mast2-54<sup>6</sup> – with Balke on bankruptcy and pre-trial conference

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1 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf (Pages 75-80)

2 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf (Page 70)

3 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf (Page 70)

4 Exhibit A6e-49-0.pdf

5 Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf

6 Exhibit B7-Hans Mast2-54.pdf



- Hans Mast2-55<sup>1</sup> – with Balke on missing pre-trial settlement memo and Saul Ferris with a box of Dulberg’s documents
- Hans Mast2-56<sup>2</sup> – with Balke on missing pre-trial settlement memo and Saul Ferris with a box of Dulberg’s documents
- Hans Mast2-57<sup>3</sup> – with Balke on missing pre-trial settlement memo and Saul Ferris with a box of Dulberg’s documents
- Hans Mast2-62<sup>4</sup> – with Balke about April 9 pre-trial conference
- Hans Mast2-63<sup>5</sup> – all communication with Balke on lean buyout and picking up the case file
- Hans Mast2-65<sup>6</sup> – with Balke on missing pre-trial settlement memo and a box from Ferris
- Hans Mast2-73<sup>7</sup> – with Ferris on declining case
- Hans Mast2-78<sup>8</sup> – with Ferris on declining case

**2B2.** Williams had to suppress documents from 3 different sources in her possession since she was provided with at least 3 different complete versions of Dulberg’s emails before May 29, 2019 (One on the Gooch Thumbdrive in the main folder “Dulberg UNDERLYING CASE DOCUMENTS”<sup>9</sup>, one on the Gooch Thumbdrive in the main folder called “Dulberg Paul Dulberg Files From Client”<sup>10</sup>, and one sent to Williams as email attachments<sup>11</sup>. Only one document of email communications mentioning Saul Ferris and a package of documents Ferris sent to Dulberg was included in the May 30, 2019 document disclosure: “Dulberg Document Disclosure FINAL 2019 May 29.pdf”<sup>12</sup>. It is DUL 001334 which is the file “Hans Mast2-64”<sup>13</sup>.

**2B3.** Williams also suppressed a document sent to her from Dulberg as an email attachment called “rejection letters.pdf”<sup>14</sup>. Additionally, Williams suppressed two documents of declination letters from the Gooch thumbdrive<sup>15 16</sup>. To do this Williams had to suppress declination letters from two different sources (one from the folder “Dulberg Paul Dulberg Files from Client”<sup>17</sup> on the Gooch Thumbdrive and one sent by Dulberg to Williams as an email attachment called “rejection letters.pdf”<sup>18</sup>)

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1 Exhibit B7a-Hans Mast2-55.pdf

2 Exhibit B7b-Hans Mast2-56.pdf

3 Exhibit B7c-Hans Mast2-57.pdf

4 Exhibit 7c-Hans Mast2-62.pdf (Page 2)

5 Exhibit 7b-Hans Mast2-63.pdf

6 Exhibit B12-Hans Mast2-65.pdf

7 Exhibit B6-Hans Mast2-73.pdf

8 Exhibit B7d-Hans Mast2-78.pdf

9 Group Exhibits (showing key folders)/Exhibit folder 6-Paul Dulberg Emails, 422 pages total

10 Group Exhibits (showing key folders)/Exhibit folder 8-Emails, 844 pages total

11 Group Exhibits (showing key folders)/Exhibit folder 7-folders of emails sent to Williams as email attachments, 422 pages total

12 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf (Page 1334)

13 Exhibit B7e-Hans Mast2-64.pdf

14 Exhibit B1-Rejection-Letters.pdf

15 Exhibit B2-Kupets & DeCaro Letter RE Case 3.5.15.pdf

16 Exhibit B3-Ferris, Thompson & Zweig Letter RE Case 3.4.15.pdf

17 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client

18 Exhibit B1-Rejection-Letters.pdf



**2B4.** On January 29, 2020 at 3:50 PM Williams asked Dulberg about Balke:<sup>1</sup>

“ ...

2. I see that there are some emails with Brad Balke. See Bates Stamp Dulberg 1322-1323, 1334, 1319, 1321. It appears that Brad Balke obtained your legal file from Hans Mast, reviewed it, but did not represent you, and turned the file over to you. *Is that correct? ...*”

On January 29, 2020 at 8:21 PM Dulberg responded from memory stating:<sup>2</sup>

“... I pulled this from memory but believe I have documented most or all of this within the emails but I would need a few days to dig through and cite the documentation.

You are partly correct and partly incorrect.

Balke did get the legal file and did represent Dulberg for a very short while.

Balke was outright fired by Dulberg.

Balke did make the file available to Dulberg much quicker than Mast. Balke left the file for Dulberg to pick up at an attorney office who was named Donahue in McHenry. ...”

On January 30, 2020 at 10:26 AM, after searching through the records he had on Balke, Dulberg responded further by sending a few emails to Williams noting he had found email communications about Saul Ferris with Balke that were not in the bates numbered documents, stating:<sup>3</sup>

“... This Morning I looked up when Brad Balke filed his appearance and I found the attached document I named Balke Appearance.pdf It was March 19, 2015.

This is what was filed in the public record.

This should have been in the Gooch files.

Looking back, I never received the digital Gooch files that were turned over to your office. Confirmed in email dated April 18, 2019. The Gooch files should have included the entire case file that Mast turned over to me and the addition of the Balke and Baudin files as well as all communication records, bankruptcy documents, disability records, etc...

Gooch took 6+ months to get all those records scanned in and I never was able to confirm he actually scanned in all of them.

On another note,

I found this: 05-08-15\_Hans Mast2-56.pdf which is also attached.

You may have this as, Hans Mast2-56.pdf

This was provided to you on or around 11/17/2018 when I sent you all the communications I had.

I did not find this in any of the bates numbered documents.

It shows that the file was sent back to Saul Ferris and that I picked it up and delivered it to the firm named Danahu and Walsh at the direction of Balke. ...”

Williams never addressed how Dulberg found communications which were not in the Bates

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1 Exhibit B4a-2020-01-29\_1550 PM\_RECV-1\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf

2 Exhibit B4b-2020-01-29\_2021 PM\_SENT\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf

3 Exhibit B4c-2020-01-30\_1026 AM\_SENT\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf

stamped documents (but should have been included).

On January 31, 2020 at 7:44 AM Dulberg sent another email to Williams about the documents he found (that were not bates stamped) stating:<sup>1</sup>

“... Last night I was able to read the Emails around Saul Ferris and Brad Balke in context. It appears the email I sent yesterday which contained (Hans Mast2-56.pdf) showed me piking up the documents (defendants depositions and mailed correspondence) I had been given to read from Mast earlier.  
It was not the case file.  
The case was obtained at later date.  
Thought it was important to clarify this. ...”

On January 31, 2020 at 1:30 PM Williams replied to only part of Dulberg’s earlier emails (and avoided the part about documents missing bates stamps) by stating:<sup>2</sup>

“... Thank you for the clarification.

We have a duty to produce everything that is in your possession and control, thus if there are email attachments that were not produced, we should produce them if you have them.

Also, it is likely an appropriate time to make a demand in this case.

Given that the total award Gross Award of \$660,000 with 15% comparative fault in the Gagnon matter for an award of \$561,000, I believe that it would be hard to prove that if Gagnon and the McGuires were tried or arbitrated together, you would somehow get a larger award. I think there is a good argument to say that Gagnon and the McGuires would have been jointly liable for the award of \$561,000. You recovered \$300,000 from Gagnon, the remainder would have been paid by the McGuire’s through their insurance. Thus, your damages for dismissing the McGuires is about \$261,000 less the \$5,000 you obtain from them for total damages of \$256,000.

Do you want me to make a demand of \$256,000 from Defendants in this case? ...”

**2B5.** On Jan 31, 2020, at 12:45 PM, Julia Williams sent an email to opposing counsel Flynn stating:<sup>3</sup>

“... I am writing regarding the outstanding discovery issues. I am producing further documents bates stamped 2639-2645.

...

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1 Exhibit B4d-2020-01-31\_0744 AM\_SENT\_Dulberg v Popovich et al Deposition dates .pdf

2 Exhibit B4e-2020-01-31\_1330 PM\_RECV\_Dulberg v Popovich et al Deposition dates .pdf

3 Exhibit 20-Dulberg v Popovich et al.pdf (Page 78)

## 2. Brad Balke.

Brad Balke's appearance is attached as 2645. **This should resolve all of the current discovery issues that you presented to us. We will continue to supplement our discovery responses if more documents are discovered. ...** [Emphasis Added]

The document "Dulberg Bates 2639 to 2645 2020 Jan 31.pdf"<sup>1</sup> consists of 6 pages and was attached to the email. "Dulberg Bates 2639 to 2645 2020 Jan 31.pdf"<sup>2</sup> contains one email document which is 'Hans Mast 2-56'<sup>3</sup>.

**2B6.** On February 11, 2020 at 12:10 PM Dulberg sent an email to Williams and Clinton stating:<sup>4 5</sup>

"...

Saul Ferris did not perform any legal services other than the free initial consultation to talk, read through the documents and review the case Dulberg had and decide if he would represent Dulberg.

Saul Ferris advised that Dulberg "attending the pretrial to at least see what kind of settlement offer is made." 03-06\_12- 15\_Hans Mast2-73.pdf

I know this would be a fishing expedition. Dulberg would like to see if Popovich and Mast asked Saul Ferris to send them Dulberg's only copies of the depositions and written letters Mast had sent to Dulberg through the Mail back to Popovich/Mast's office then Mail them back to Saul Ferris to give to Dulberg.

During the Saul Ferris-Popovich/Mast mailing debacle Dulberg was limited in the amount of time to he had to hire a new attorney by the court.

The delay in getting the Depositions and written correspondence delayed Dulberg 2 months from having anything to show any possible new attorney anything from the case.

Thus, Dulberg hired Brad Balke, the only Attorney willing to represent Dulberg without seeing any documentation from the case beforehand and meeting the courts order to find new counsel.

The following emails show the 2 month period that Dulberg did not have access to his own copies.

Attached as:

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1 Exhibit 21-Dulberg Bates 2639 to 2645 2020 Jan 31.pdf

2 Exhibit 21-Dulberg Bates 2639 to 2645 2020 Jan 31.pdf

3 Exhibit B7b-Hans Mast2-56.pdf

4 Exhibit B4-Dulberg v Mast et al Discovery and Court Order.pdf (Pages 23-34)

5 Exhibit B4f\_2020-02-11\_1210 PM\_SENT\_Dulberg v Mast et al Discovery and Court Order\_ATTACHMENTS.pdf

03-06\_12-15\_Hans Mast2-73.pdf  
03-06-15\_Hans Mast2-78.pdf  
03-06-15\_Hans Mast2-79.pdf  
03-20\_24-15\_Hans Mast2-64.pdf  
03-20\_25-15\_Hans Mast2-63.pdf  
03-20\_30-15\_Hans Mast2-62.pdf  
03-20-15\_Hans Mast2-65.pdf<sup>1</sup>  
05-08\_09-15\_Hans Mast2-55.pdf  
05-08\_12-15\_Hans Mast2-54.pdf  
05-08-15\_Hans Mast2-56.pdf  
05-08-15\_Hans Mast2-56.pdf  
05-08-15\_Hans Mast2-57.pdf  
One of these emails is listed as: Dulberg 001334  
...”

Dulberg gave Williams a list of 12 PDF documents and pointed out that only 1 is Bates stamped. Dulberg again produced the documents by attaching the 12 documents to the email even though these same documents were previously given to Williams long before the first document disclosure on May 30, 2019.

Williams avoids the obvious issue Dulberg pointed out: The fact that 11 PDF documents are not Bates stamped.

**2B7.** On March 6, 2020 Flynn sent an email to Williams stating:<sup>2</sup>

“... I write pursuant to 201(k).

At Mr. Dulberg’s deposition, he testified at p. 38 that he met with attorney Saul Ferris, who would not take his case over from Popovich because “your decision to settle with the McGuire’s was a mistake and we don’t [sic] take it because of that.” From lines 15-19 on the same page, Dulberg testified that Ferris said it in a letter, on the phone, and sent him an email. Dulberg’s testimony at p. 95 also establishes that the communications with Ferris were prior to Popovich’s withdrawal in March 2015.

These ommunications go directly to the issue of the discovery date of the alleged malpractice. I do not recall seeing an email or letter similar to what has been described. Please produce these communications, and perhaps we can avoid the necessity of combing through Mr. Dulberg’s or Mr. Ferris’ records to pinpoint the date of the phone call between the two.  
...”

**2B8.** Williams acted as if she was not in possession of Saul Ferris emails, letters or other documents mentioning Saul Ferris when she communicated with Dulberg in late January and

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<sup>1</sup> Exhibit B12-Hans Mast2-65.pdf

<sup>2</sup> Exhibit B5-Dulberg v Popovich-2.pdf

early February of 2020.<sup>1 2 3 4 5</sup>

**2B9.** On February 10, 2020 Williams acted as if she had never seen any documents concerning Saul Ferris and questioned Dulberg’s purpose in subpoenaing documents from Saul Ferris.<sup>6</sup>

“... What would be the purpose of the subpoena? What do you mean by “he sent copies of depositions and correspondence with Mast back to Mast?” Did he perform legal services? Did he provide advise to you? ...”

**2B10.** On February 11, 2020 Dulberg replied again referencing one of the suppressed documents:<sup>7</sup>

“... Saul Ferris did not perform any legal services other than the free initial consultation to talk, read through the documents and review the case Dulberg had and decide if he would represent Dulberg.

Saul Ferris advised that Dulberg “attending the pretrial to at least see what kind of settlement offer is made.” 03- 06\_12-15\_Hans Mast2-73.pdf ...”

The suppressed emails describe how the package of documents and the missing letters were moved from the office of Saul Ferris and when and how Dulberg first received the package of documents back from the office of Saul Ferris 2 months later. It is simply not credible for Williams to claim she was not aware of who Saul Ferris was and to claim she was not aware of the fact that Ferris was in possession of a box with documents and at least one letter which opposing counsel Flynn was actively seeking and Williams was actively suppressing.

**2B11.** When the contents of the suppressed email documents are examined it becomes clear that the suppressed emails already contained the information that Flynn later pressured Dulberg to contradict. For example HansMast2-73<sup>8</sup> contains an email document sent on Mar 6, 2015 from Saul Ferris to Dulberg in which Ferris stated:

“Hi Paul 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”

And Dulberg answered on March 12, 2015 stating:<sup>9</sup>

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1 Exhibit B4a-2020-01-29\_1550 PM\_RECV-1\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf  
2 Exhibit B4b-2020-01-29\_2021 PM\_SENT\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf  
3 Exhibit B4c-2020-01-30\_1026 AM\_SENT\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf  
4 Exhibit B4d-2020-01-31\_0744 AM\_SENT\_Dulberg v Popovich et al Deposition dates .pdf  
5 Exhibit B4e-2020-01-31\_1330 PM\_RECV\_Dulberg v Popovich et al Deposition dates .pdf  
6 Exhibit B4-Dulberg v Mast et al Discovery and Court Order.pdf (Page 18)  
7 Exhibit B4-Dulberg v Mast et al Discovery and Court Order.pdf (Page 24)  
8 Exhibit B6-Hans Mast2-73.pdf  
9 Exhibit B6-Hans Mast2-73.pdf

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

In another suppressed email document HansMast2-54 Dulberg emails Balke on May 8, 2015 stating:<sup>1</sup>

“Hi Brad,

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.”

In suppressed email documents HansMast2-65<sup>2</sup>, HansMast2-63<sup>3</sup>, HansMast2-62<sup>4</sup> on March 20, 2015 Dulberg informed Balke:

“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.”

From these emails one can learn that Ferris and Dulberg probably met in or just before the first week of March, 2015 since Ferris declined to take the case on March 6, 2015<sup>5</sup> (they actually met on February 26, 2015<sup>6</sup>). One can learn that someone in the office of Saul Ferris sent Dulberg’s box of documents to the law offices of Thomas J. Popovich where on March 7, 2015<sup>7</sup> someone at the law offices of Thomas J. Popovich signed for the box. The person that sent the box claimed that sending the box to the law offices of Thomas J. Popovich was an accident. We can learn that the office of Saul Ferris got the box back from the Law offices of Thomas J. Popovich on or around May 8, 2015<sup>8</sup> so Dulberg’s box of documents inexplicably remained in the law offices of

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1 Exhibit B7-Hans Mast2-54.pdf

2 Exhibit B12-Hans Mast2-65.pdf

3 Exhibit 7b-Hans Mast2-63.pdf

4 Exhibit 7c-Hans Mast2-62.pdf

5 Exhibit B6-Hans Mast2-73.pdf

6 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 11 Lines 3-5)

7 Exhibit B12-Hans Mast2-65.pdf

8 Exhibit B7c-Hans Mast2-57.pdf

Thomas J. Popovich for 2 months. We can learn that a pretrial settlement memo was with the box of documents.

If the email documents mentioning or involving Ferris were not suppressed by Williams, opposing counsel Flynn couldn't have made the following arguments in court. Flynn was pushing a partially forged letter which his own client Popovich was holding for 2 months as an authentic document which was sent directly from Ferris to Dulberg by mail.

**2B12.** Williams sent 2 emails containing the suppressed documents concerning Saul Ferris to opposing counsel and to Dulberg for the first time on July 9, 2020. The 2 emails contained over 6000 pages of documents<sup>1 2</sup>. This was also 2 days after the Clinton firm drafted "Dulberg Draft Letter re case 2020 July 7 .docx"<sup>3</sup>. This document is a draft of an intent to withdraw letter that was finished and emailed to Dulberg on July 27, 2020 at 2:24 PM. that states:<sup>4</sup>

"... Due to the coronavirus crisis and its impact on our firm, we are reevaluating al of our contingent fee cases. Your case is not moving toward resolution. Rather, there is significant litigation that will need to occur prior to any resolution of the case. We cannot continue to be involved in the prolonged litigation and thus believe you should seek out alternative counsel. ..."

An interesting fact about the draft "Dulberg Draft Letter re case 2020 July 7 .docx"<sup>5</sup> and the final letter emailed to Dulberg "Dulberg Client Letter 2020 July 27.pdf"<sup>6</sup> is where they are located within the Clinton Firms case file:

Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Cicero France Barch Production Complete/Dulberg Draft Letter re case 2020 July 7 .docx<sup>7</sup>

Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Cicero France Barch Production Complete/Dulberg Client Letter 2020 July 27.pdf<sup>8</sup>

The location of the Clinton Firm's intent to withdraw draft and final letter are found amongst documents that came from the McGuire's Attorney Ronald Barch's responsive documents to a subpoena. This suggests that these files were intentionally placed there to make them difficult to find and perhaps, with luck, hide them.

**2B13.** On September 7, 2022 Flynn claimed that Dulberg met with Ferris on December 31, 2014

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1 Exhibit 7f-2020-07-09\_1144 AM\_RECV\_Fwd Dulberg v Popovich et al Documents\_ATTACHMENTS.pdf

2 Exhibit 7g-2020-07-09\_1147 AM\_RECV\_Fwd Dulberg v Popovich et al Documents\_ATTACHMENTS.pdf

3 Exhibit 7d-Dulberg Draft Letter re case 2020 July 7 .docx

4 Exhibit 7e-2020-07-27\_1424 PM\_RECV\_Dulberg v Popovich 2017 L 377\_ATTACHMENTS.pdf

5 Exhibit 7d-Dulberg Draft Letter re case 2020 July 7 .docx

6 Exhibit 7e-2020-07-27\_1424 PM\_RECV\_Dulberg v Popovich 2017 L 377\_ATTACHMENTS.pdf

7 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Cicero France Barch Production Complete/Dulberg Draft Letter re case 2020 July 7 .docx

8 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Cicero France Barch Production Complete/Dulberg Client Letter 2020 July 27.pdf



and the Ferris declination letter proves it.<sup>1 2</sup>

Flynn essentially claimed that Dulberg was withholding documents and that Dulberg is dishonest when saying statements such as:

“MR. FLYNN: That’s correct. This is produced -- again, late produced in discovery after the plaintiff’s deposition. He should have produced this document years ago when he’s placed the discovery of his malpractice at issue. So then he produces this letter. I don’t want to have to take Saul Ferris’s deposition, so I’m just asking, this is the letter that Mr. Dulberg produced and that it’s a genuine copy of what he received in the mail?”<sup>3</sup>

MR. FLYNN: And he’s denying -- he denied the date. He then says it’s a later time period between February 23rd and March 6th of 2015, which also coincided with the drafting of that letter, by the way. So he’s changed the premise of No. 4, but sort of provided an answer --<sup>4</sup>

“MR. FLYNN: No, Judge. I -- as you said, I think he’s going to make the same denials and in my opinion play the same games he’s been playing. So I’ll take Mr. Ferris’s deposition. I’ll seek -- I’m requesting fees and costs in connection with the deposition because it shouldn’t be necessary.”<sup>5</sup>

Dulberg refused to admit that he met with Ferris on December 31, 2014<sup>6</sup>. Yet the suppressed emails such as Hans Mast2-73<sup>7</sup> HansMast2-65<sup>8</sup>, HansMast2-63<sup>9</sup>, HansMast2-62<sup>10</sup> contain information that strongly suggests the meeting between Ferris and Dulberg took place in the first week of March or the last week of February 2015. This is just as Dulberg had stated, and the meeting was confirmed to be on February 26, 2015<sup>11</sup> in the deposition of Saul Ferris.

**2B14.** Flynn claimed in the REQUEST FOR ADMISSIONS OF FACT AND GENUINENESS OF DOCUMENT<sup>12</sup> and a MOTION TO DEEM FACTS ADMITTED<sup>13</sup> that Dulberg received the Ferris declination letter by U.S. mail at his home within 7 or 30 days and that the letter was sent directly from Ferris to Dulberg’s home<sup>14</sup>. Flynn essentially claimed that Dulberg was being dishonest when he refused to admit receiving the letter at his home. Flynn then used the confusion created by Williams suppression of these documents to force a deposition of Saul

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1 Exhibit 7i-ferris letter forgery.png

2 Exhibit 35-DUL 006354-DUL 006687.pdf (Page 149)

3 Exhibit 7j-2021-09-07\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-4.pdf (Page 7 Lines 7-15)

4 Exhibit 7j-2021-09-07\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-4.pdf (Page 10 Lines 3-8)

5 Exhibit 7j-2021-09-07\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-4.pdf (Page 11 Lines 12-17)

6 Exhibit 7i-ferris letter forgery.png

7 Exhibit B6-Hans Mast2-73.pdf

8 Exhibit B12-Hans Mast2-65.pdf

9 Exhibit 7b-Hans Mast2-63.pdf

10 Exhibit 7c-Hans Mast2-62.pdf

11 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 11 Lines 3-5)

12 Exhibit B9-2021-07-20\_Pages from CLR\_Vol\_1\_of\_2\_230421\_1627\_D4CDE198.pdf

13 Exhibit B9a-Pages from CLR\_Vol\_1\_of\_2\_230421\_1627\_D4CDE198.pdf

14 Exhibit B9a-Pages from CLR\_Vol\_1\_of\_2\_230421\_1627\_D4CDE198.pdf (Page 2)

Ferris.<sup>1</sup> Flynn accuses Dulberg essentially of hiding the document and abusing the discovery process Flynn did this while knowing all along that the letter was actually addressed to his own client's place of business<sup>2</sup>. Below are a few quotes from Flynn's erroneous arguments:<sup>3</sup>

"... Dulberg's pattern and practice of abusing the discovery process with improper and incomplete responses is repeated in his latest filing ..."

"... Defendants' Requests for Admissions simply intended to authenticate a March 4, 2015 letter purportedly drafted by attorney Saul Ferris, and establish when it was received by Dulberg. Dulberg finally produced said letter in discovery on June 7, 2021 with no explanation why it was not previously produced in this litigation ..."

"... The attached Request for Admissions was an attempt at simply authenticating the copy of Ferris's letter, which again should have been produced years ago in this litigation but was not. Instead of acknowledging the authenticity of the copy of the letter, Dulberg's response is a muddled and evasive attempt at muddying the water, and should not be countenanced by this court. Dulberg's specious objections and attempt at explaining away the content of Ferris's letter is deserving of a sanction. ..."

"... Perhaps the most egregious of Dulberg's violations, aside from his attempt at redefining common legal terms and their variations such as "genuine" and "authentic", is his denial of the genuineness of Exhibit A because he does not agree with the accuracy of the content, and because he is not in control of the author (see Response #1). A close second, is his failure to admit in No. 2 and No. 3 that he received the document from Ferris within 7 or within 30 days respectively, of the date affixed to the face of the letter. ..."

"... Not only should those facts contained in the Request to Admit be admitted, but Defendants should not have to engage in "teeth pulling" discovery in order to simply authenticate a copy of a document which was inexplicably withheld in the first place. ..."

**2B15.** Flynn made a significant issue of Ferris in the July 19, 2021 and the September 7, 2021 court proceedings.

**2B16.** On July 19, 2021 the following exchange took place in court:<sup>4</sup>

"MR. FLYNN: I suppose with respect to the summary judgment motion that I anticipate, Judge, there was one document that was produced in order to avoid a second deposition of Mr. Dulberg to authenticate this document, which is a letter from Attorney Thompson -- I'm sorry -- Attorney Ferris -- that goes to the issue of the statute of limitations. If Mr. Talarico would stipulate to the authenticity of this March 4, 2015 letter on the record, I don't need to send a request to admit for --"

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf

2 Exhibit 7i-ferris letter forgery.png

3 Exhibit B9a-Pages from CLR\_Vol\_1\_of\_2\_230421\_1627\_D4CDE198.pdf

4 Exhibit B8-2021-07-19\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-5.pdf (Page 10 Lines 1-15)

THE COURT: Can you hear all that?

MR. TALARICO: I heard it, Judge, but I'm not familiar with that document. A request to admit would be welcome."

**2B17.** On July 20, 2021 Flynn filed a REQUEST FOR ADMISSIONS OF FACT AND GENUINENESS OF DOCUMENT<sup>1</sup> with the following 4 requests:

1. Admit that Exhibit A attached hereto is a true, accurate, and genuine copy of a March 4, 2015 letter drafted by attorney Saul Ferris.
2. Admit that you received Exhibit A on or within 7 days of March 4, 2015.
3. Admit that you received Exhibit A on or within 30 days of March 4, 2015.
4. Admit that you met with Saul Ferris on or about December 31, 2014 with regard to your personal injury case.

**2B18.** The Saul Ferris declination letter<sup>2</sup> contains at least 2 factually incorrect statements. The letter describes the date of the Dulberg-Ferris meeting as December 31, 2014 when the meeting actually took place on February 26, 2015<sup>3</sup>. The letter also describes the date of Dulberg's "accident" as being January 24, 2013 when the chainsaw accident actually took place on June 28, 2011. (Dulberg's deposition in the underlying case against the McGuires and Gagnon took place on January 24, 2013.) Flynn tried to pressure Dulberg to admit to the authenticity of the Ferris declination letter that contained inaccurate information (and was either in the possession of the Law Offices of Thomas J. Popovich for two months or it was created/altered or forged by the Law Offices of Thomas J. Popovich). Flynn also tried to pressure Dulberg to admit Dulberg received the letter by U.S. mail (even though the address at the top of the letter is not Dulberg's residence). The address is that of Flynn's own client, the law office of Thomas J. Popovich. Dulberg refused to admit the assertions as true and pointed out the inaccurate information.<sup>4</sup>

**2B19.** On September 7, 2021 the following exchange took place in Court:<sup>5</sup>

"MR. FLYNN: Good morning, your Honor. George Flynn on behalf of defendant/ movant. The basis is it's a motion to deem facts admitted. We were trying to authentic a document that was the subject of some discussion the last couple of times we appeared before your Honor. I filed the request to admit. We received objections that we believe are inappropriate and just moving for ruling on those objections and some other relief. The -- the response that they filed, essentially is a motion to strike based on the failure to conduct a 201(k) conference, which I don't think is required with respect to objections and a request to admit, which is a hybrid discovery and evidentiary tool. So with respect to the motion itself, I really have nothing to say more than what's in the motion. I'd be happy if the Court wanted to take it under advisement after it has an opportunity to

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1 Exhibit B9-2021-07-20\_Pages from CLR\_Vol\_1\_of\_2\_230421\_1627\_D4CDE198.pdf

2 Exhibit 7i-ferris letter forgery.png

3 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 11 Lines 3-5)

4 Exhibit 7i-ferris letter forgery.png

5 Exhibit B10-2021-09-07\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-2.pdf

review the attachments and the motion.

THE COURT: No, I won't take it under advisement. We'll go back to that in a minute. Mr. Talarico, do you have any case law that says a 201(k) conference is required before 216 -- or in a 216 situation?

MR. TALARICO: Yes, your Honor. Supreme Court Rule 201(a) typically says the request to admit --

THE COURT: Do you have any case law?

MR. TALARICO: No, I have no case law, your Honor.

THE COURT: Okay. Because I don't think it does. I think by its own -- by the language of the rule, it's 28 days. And in fact, I believe the rule requires that the request to admit facts explicitly disclosed if you're not -- if you don't respond in 28 days, the answers are deemed admitted. So there is no requirement to engage in a 201(k) conference to resolve differences because by its own language, it resolves itself. So let's get into the answers. Okay. Anything you want -- I see No. 1, they seem to be asking you to admit or deny the genuineness of the document that was attached?

MR. TALARICO: Correct, your Honor

THE COURT: And do you have any -- anything to say beyond what you've written in response?

MR. TALARICO: Your Honor, use of the words defendant put into his motion, request to admit, are subject to various interpretations. And he did not include the definition of the specific words that he was using, so I relied upon the Black's Law Dictionary for definition. And within that, we were -- we reviewed the fact of the document.

THE COURT: Okay.

MR. TALARICO: The document -- the document is not accurate. It's not true. It's none of the above. It has a wrong date of accident, the wrong date of meeting. It has a lot of inaccuracies on it, Judge.

THE COURT: Okay. I'm going to strike the implicit objection regarding what is genuine. That being said, I do have what appears to be an admission. Mr. Flynn?

MR. FLYNN: Yeah, Judge. I mean, it's -- I guess if it was an admission buried in these objections. But the entire document is muddled up with these various objections. I'm just asking if this is a true copy of the letter that his client received. I'm not asking if it's -- if information contained is true and accurate. If you read it, it's admit Exhibit A attached hereto is a true, accurate, and genuine copy of a March 4, 2015, letter drafted by Attorney Saul Ferris. He concluded with the content of the letter. That's not what I'm asking about.

MR. TALARICO: Your Honor, that is not in true -- truth is not within that document. That's what we're saying. Those are false statements.

THE COURT: And that's fine. But it is -- he doesn't need to lay a foundation for the document am I correct?

MR. TALARICO: No. But the question -- I'm sorry.

THE COURT: Are you -- are you admitting -- I'm assuming, Mr. Flynn, this is for purposes of a foundation? You're not asking him to admit the contents?

MR. FLYNN: That's correct. This is produced -- again, late produced in discovery after the plaintiff's deposition. He should have produced this document years ago when he's placed the discovery of his malpractice at issue. So then he produces this letter. I don't want to have to take Saul Ferris's deposition, so I'm just asking, this is the letter that Mr. Dulberg produced and that it's a genuine copy of what he received in the mail?

THE COURT: Okay. Mr. Talarico, yes or no?

MR. TALARICO: Judge, that is a genuine copy. We don't know -- when examined, Mr. Dulberg does not recall. And in the deposition, he said he did not recall when he received it or how he received it. That is left open.

THE COURT: Mr. Talarico, I asked you a yes or no question, not asking for an explanation, which is consistent with what request to admit facts require. So are you admitting to the foundation of this document or denying --

MR. TALARICO: Yes, your Honor.

THE COURT: Okay. Then we will proceed. That's deemed admitted for purposes of foundation. Next one -- Mr. Flynn, the next one at issue?

MR. FLYNN: Judge, there was 2 and 3, and I attempted to pin them down on when he received it. So I asked No. 2, if Mr. Dulberg received a copy of this letter within 7 days of the date dated. And then, the next one, I asked if he received it within 30 days of the date it was dated. He doesn't answer either of those.

THE COURT: Okay. Mr. Talarico?

MR. TALARICO: Judge, with all due respect, Mr. Dulberg answered as best he could. This was alleged to be sent by U.S. Mail. He has no idea. It was many years ago. So he answered as truthfully, as cooperatively as possible, that he has no independent recollection of when this letter was received. He did a search of his own records, as presumed, at my request. He has no envelope.

THE COURT: If -- what it boils down to from my perspective is I'm reading it as a denial. And actually, that subjects you to 219(c) fees if they have -- for those fees associated with the cost of proving it up. But I'm reading it as a denial. Can I -- do you have any problem with my reading it as a denial? Am I incorrect?

MR. TALARICO: No, your Honor, you're not.

THE COURT: Okay. Mr. Flynn, anything you want to add? My interpretation of all of that is a denial.

MR. FLYNN: If that's what the answer is, then he's denied that he received this letter within 30 days of the date that the lawyer put the -- stamped it. So yeah, if I need to prove it up by taking Mr. Dulberg's -- retaking Dulberg's deposition and then taking Saul

Ferris's deposition, and as I've indicated in the motion, I'm seeking fees and costs.

THE COURT: Yeah. I'm going to interpret 30 -- or I'm sorry -- 3 the same way. I interpret that as a denial and you just have to prove it up. Next one?

MR. FLYNN: The next one is just regarding the meeting that is referenced in the letter. Admit that you met with Saul Ferris upon or about December 31, 2014, with regard to your personal injury case.

THE COURT: Okay. I --

MR. FLYNN: And he's denying -- he denied the date. He then says it's a later time period between February 23rd and March 6th of 2015, which also coincided with the drafting of that letter, by the way. So he's changed the premise of No. 4, but sort of provided an answer --

THE COURT: I think that's a denial because of the way you phrase your question. Anything after denies that he met Saul Ferris on or about December 31, 2014, with regard to -- with regard to the personal injury case, everything after that is surplusage. So you have a denial. All right. Is there anything else?

MR. FLYNN: No. The relief will be requested now that these denials and improper objections were raised. I'm going to have to retake Mr. Dulberg's deposition at least on the subject matter of this letter and I'll probably have to take Mr. Ferris's deposition to prove-up the foundation for the letter as well.

THE COURT: Certainly --

MR. FLYNN: So I would ask for fees and costs

THE COURT: You have leave to depose Mr. Ferris. I'm not sure you need Mr. Dulberg's deposition -- I'm willing to listen -- because your deposition of Mr. Dulberg would merely result in him repeating --

MR. FLYNN: Raising the same denial, so --

THE COURT: I mean, he's on the record denied any recollection. So I don't think you need the deposition to get him to say that in the transcript because you've got it in the request to admit. And I'll hold him to that unless there's something else you think you need from the deposition.

MR. FLYNN: No, Judge. I -- as you said, I think he's going to make the same denials and in my opinion play the same games he's been playing. So I'll take Mr. Ferris's deposition. I'll seek -- I'm requesting fees and costs in connection with the deposition because it shouldn't be necessary.

THE COURT: Well, I think -- and unless there's a different issue with respect to the cost associated with that deposition, I think that's an issue that I would have to address after trial because my reference to 219(c) is when you have to expend money to prove-up a fact that they deny, then you are entitled to those fees, but -- so I couldn't award them yet because you haven't --



MR. FLYNN: Fair enough.

THE COURT: -- you haven't done it. And I can only do that after the fact because if you fail to prove it up, you're not entitled to those fees, obviously.

MR. FLYNN: Understood.

THE COURT: So is there anything else we need to do today?

MR. FLYNN: I don't think so, Judge. If I could just clarify the order that will read that No. 1 is admitted, 2, 3, and 4 are denied

THE COURT: Yes.

MR. FLYNN: That I have leave to depose Mr. Ferris."

**2B20.** On October 14, 2021 Saul Ferris was deposed by Flynn and the following exchanges took place:<sup>1</sup>

page 6:<sup>2</sup>

Flynn: "Okay. Have you reviewed some documents today to -- in preparation for the deposition today to refresh your recollection of the matter?"

Ferris: "You provided me with a letter, which I will authenticate as being my letter dated March 4, 2015, and then you asked me to -- if there was any documentation, such as my file, which I do not have. I purged a file after four years, and it has been six years. But I keep my calendar -- I've kept my calendar since I started vexing as a civilian, meaning I was in the military, initially, and got out in 1989, and I have a calendar for every client I've seen since."

page 8:<sup>3</sup>

Flynn: "And do you know when you met with Mr. Dulberg?"

Ferris: "Yes. It was on March 26th at 2:00 o'clock."

Flynn: Okay. And we'll talk about the entry in your diary in a few moments. The letter indicates that he consulted with your firm on December 31, 2014, in regards to his personal injury case. Do you know why the letter references a December 31, 2014, date?

Ferris: "I- I can't explain the discrepancy between my calendar and the date indicated. I -- I -- it was too long ago. I don't know why.

Flynn: Okay. Is it possible that Mr. Dulberg initially contacted your office on December 31, 2014, but you didn't actually meet with him until February or March?

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<sup>1</sup> Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf

<sup>2</sup> Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 6)

<sup>3</sup> Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 8)



Ferris: "No. I -- I didn't know this was an issue. Can you -- if you want, my -- my 2014 calendar is in my drawer. I can pull it out and look at December 31st.

Flynn: "If you have it handy."

Ferris: "This March date was another meeting. I do, if you give me about one minute."

Flynn: "Absolutely. Thank you."

Ferris: "So I have my 2014 calendar, and I'm looking at December -- well, all right. December 31st. Even though I'm -- well, that's -- that's New Year's Eve. Let me see. I normally would not meet with clients New Year's Eve, but let me see. And, in fact, there is no entry on December 31st, 2014. Oh, that's -- it's a typo."

page 9:<sup>1</sup>

Flynn: "Is Exhibit 2 a photocopy of the cover page of your 2015 calendar, along with a date from February of 2015?"

Ferris: Correct.

Flynn: "Okay. There is some handwriting on the second page, and I don't want to get into the clients and confidential information. But is there an entry on Thursday, February 26th, relative to Paul Dulberg?"

Ferris: "Yes."

Flynn: "And is this your handwriting?"

Ferris: "It indicates a meeting, yes."

Flynn: "Okay. It indicates a meeting, and I see a few numbers, 2:00 o'clock and 4:00 o'clock. Can you tell me what those mean?"

Ferris: That signifies that the meeting was originally scheduled for 4:00 o'clock. And either myself or the potential client asked that it be moved up to 2:00 o'clock, so I drew in there it's 2:00 o'clock."

page 10:<sup>2</sup>

Flynn: "Okay. And next to the 4:00 o'clock entry, it says, Paul Dulberg. There's a dash, and then it says chain saw PI 6-28-11, dash. What does that mean?"

Ferris: "I oftentimes to distinguish cases try and summarize them by the nature of the case. And chainsaw -- I put chain saw because the client had called me and said that he was injured by a chain saw, which is horrifying and very memorable. And the other reason why I remember it so well is because I -- I own a chain saw; and I have a two-and-a-half acre wooded lot, and I use my chain saw probably three, four times a month. So I'm intimately familiar with chain saws, and I was very interested in -- when this client

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 9)

2 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 10)

described my worst nightmare, which was getting injured by a chain saw. So I put chain saw to remind me what kind of case it was. And the 6-28-11 would be the date that the client indicated the incident happened. And, normally, I wouldn't put down the date of the incident in the client appointment number, but in 2015, that was past the -- the statute of limitations, which would be two years minimum in Illinois, generally speaking. And so that -- I -- I knew that the statute had run. The first question I asked the client was, Was suit filed? He said suit had been filed, and so -- but wanted to discharge his attorney. So I agreed to meet with him and discuss his case."

page 11:<sup>1</sup>

Flynn: "Okay. And you actually did meet with him on Thursday, February 26, 2015, correct?"

Ferris: "Yes."

page 14:<sup>2</sup>

Flynn: "Okay. Do you know when you drafted the letter and how you drafted it?"

page 15:<sup>3</sup>

Ferris: "So the -- because this is more or less a form letter, in -- in my opinion, the December 31st date was -- was a date relating to another client, and I just didn't change the date. But the reason why the date of letter March 4th makes sense in terms of when the potential client came in was on -- on February 26th, so March 4th would have been about five days later. And when you have a potential statute of limitations issue, it's advisable to get your declination letter -- see, I stole your word already -- get your declination letter out sooner than later."

Flynn: "Okay. And there was a weekend in between the date of your meeting and the date that the letter was finalized, correct?"

Ferris: "Correct."

Flynn: "Okay. And did this letter get mailed to Mr. Dulberg at the address listed on the top of the letter?"

Ferris: "To the best of my knowledge, yes."

Flynn: "Okay. And would that have just been sent by regular U.S. postal mail?"

Ferris: "Correct. If it was certified mail, the letter would so indicate."

Flynn: "Okay. So this would -- this letter was sent, to the best of your knowledge, by U.S. Mail, First Class?"

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 11)

2 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 14)

3 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 15)

page 16:<sup>1</sup>

Ferris: "Yes."

Flynn: "Okay. Do you have any reason to believe that Mr. Dulberg wouldn't have received this letter from you within seven days of March 4, 2015?"

Ferris: "That's a better question for the United States Postal Service than it is for me."

Flynn: "I don't have --"

Ferris: "I put it in the mail. And it was out of my hands."

Flynn: "Okay. And you're -- do you believe he would have received this, barring any mistakes with the post office, he would have received it, at least, within 30 days of March 4, 2015?"

Ferris: "I -- I can't speak to the processing time of the postal service. It's really not for me to say."

page 17:<sup>2</sup>

Flynn: "Have you ever had any issues with the U.S. Postal Service not delivering letters, as far as you know?"

Ferris: "Other than a letter being returned for the incorrect address, no."

Flynn: "And this letter was not returned for any reason, correct?"

Ferris: "To the best of my knowledge, no."

Flynn: "Okay."

Ferris: "I -- I would have put that in the file and had been concerned that my declination was not communicated with the potential client. I would have acted on that. So I -- I don't recall any of that happening."

page 18:<sup>3</sup>

Flynn: "What is your expectation as far as delivery time when you send any letter by U.S. Mail?"

Ferris: "Locally, two days. Could be as fast as one day."

Flynn: "Okay. What about within the State of Illinois?"

Ferris: "Two days, you know, statewide. ..."

page 19:<sup>4</sup>

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 16)

2 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 17)

3 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 18)

4 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 19)

Talarico: "My name is Alphonse Talarico, and I represent the Plaintiff. And I want to go over some of the statements you've made in this deposition -- discovery deposition, just for clarifying. I'm looking at what has been submitted and marked as Exhibit 2, which appears to be your 2015 DayMinder. And I think you testified as to that; is that correct?"

Ferris: "Yes."

Talarico: "Okay. I only see the excerpts from one page, that's the February 26th, which was a Thursday. I believe it's marked as a Thursday. My independent calendar says it was a Thursday. So I'm not asking you if it was or not. I'm just going to assume based on your daily reminder and the -- and my bar association daily reminder. You noted that he -- you were contacted for a chain saw personal injury matter. And I believe you testified that the date he told you the accident took place was June 28th, 2011; is that correct?"

page 20:<sup>1</sup>

Ferris: "Yes."

page 21:<sup>2</sup>

Talarico: "Now, do you still retain the entire 2015 daily minder, if you would?"

Ferris: "Yes. I have it. I have it right here."

Talarico: "Do you -- are there other occasions in that 2015 daily minder where you had contact, where you wrote down a contact with Mr. Dulberg?"

Ferris: "I -- I did search the file to -- excuse me -- the calendar. And I see no other entries for Mr. Dulberg other than the entry which was provided. And I wasn't trying to -- I was trying to be somewhat cautious with regard to client confidentiality, which is why I cut off the page. And I did put another client's name on the same page, but that's public record. He was charged criminally, so I'm not worried about any ARDC on that. But, you know, I can -- I can just -- I can hold up, if you could see the -- the page behind it, and there's no entries for Mr. Dulberg."

page 22:<sup>3</sup>

Q. "... Let's move on to Exhibit 1. ... There is a date on that that says March 4, 2015. You believe -- you testified you believe that's the day that you drafted this letter? Did you actually -- I'm sorry. Let me -- what I'm trying to get to is, did you type the letter up? Or did you give it to -- maybe just do some type of dictation and have someone type it up for you?"

page 23:<sup>4</sup>

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 20)

2 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 21)

3 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 22)

4 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 23)

Ferris: "I do have a secretary that types letters for me. I either dictated it or took the form, disengagement letter, and made hand changes to it, which the secretary would have changed, and then I signed it. But March 4th would have been the date that it went out in the mail."

Talarico: "Okay. Thank you. And you testified that you sent it by regular mail to Mr. Dulberg?"

Ferris: "Yes."

Talarico: "Okay. So if it was regular mail, which we can eliminate who signed for it -- and it was -- again, I just want to make sure I have the facts right, because I believe you testified that it never was returned to you. So your assumption was that it was properly delivered?"

Ferris: "I can only assume that."

Talarico: "Right. I understand that. Sure. But I guess the one question you can answer is it never was returned to you?"

Ferris: "Which it was not; that's correct."

Talarico: "Thank you. On Exhibit 1, sir, the accident referred to, it does not correspond with your daily reminder and with your recollection of the date he told you the accident took place. And you have no explanation as to what January 24th, 2013, had to do with Paul Dulberg?"

page 24:<sup>1</sup>

Ferris: "Oh, I don't think I was asked about that -- that date but --"

Talarico: "I get to now ask you."

Ferris: "Yeah."

Talarico: "It says -- Exhibit 1 says, your accident of January 24, 2013. Is that correct? Is that what it says?"

Ferris: "That's what my letter says, yes."

Talarico: "And isn't it correct, sir, that Exhibit 1, your daily reminder, it has the date of accident -- well, refer -- refers to 6-28 of 2011?"

Ferris: "Correct. So in my opinion, what happened was -- this is a form letter. The disengagement or declination letter is a form letter to which I use over and over. And apparently, I made a mistake by indicating -- well, I don't know what the accident date is. You gentlemen know when it was. So if the date's wrong, it's wrong, because it wasn't change on the form letter."

Talarico: "Isn't it true that the date of accident reported to you by Dulberg on your daily reminder, 6 -- June 24 28th, 2011, that's what he told you?"

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 24)

Ferris: "To the best of my recollection, correct."

page 25:<sup>1</sup>

Talarico: "And you testified that you believe the December 31st, 2014, date, as far as consulting, is a typo, and you have no entry in your 2014 daily reminder for December 13th -- 31st, I'm sorry -- New Year's Eve, which by the way, I checked it, the late bar association was even closed on that day, that you did not have a meeting with him on that day, on New Year's Eve?"

Ferris: "Correct."

Talarico: "Okay. In your letter, sir, which is Exhibit 1, I draw your attention to that. I believe the first sentence you speak to -- you speak to Mr. Dulberg capsulizing what his conversation was with you -- was about -- was about, it -- and that stated -- it states, your personal injury case. Is that correct?"

Ferris: "Yes."

Talarico: "But in your conversation with Mr. Flynn responding to his questions, you were talking about a statute of limitations. What statute of limitations were you talking about?"

Ferris: "My understanding of the statute of limitations is for personal injury, it's two years in the State of Illinois. I -- I don't even remember where this happened, if it was in McHenry or -- then it would have been Illinois, and a two-year statute would have applied."

page 26:<sup>2</sup>

Talarico: "Okay. So what I'm getting at is Mr. Dulberg talked to you about a personal injury matter; is that correct?"

Ferris: "Yes."

Talarico: "And the statute you're referring to is a personal injury statute in the State of Illinois, correct?"

Ferris: "Yes."

Talarico: "Your letter of Exhibit 1, the letter of March 4th, it says in the second to last sentence, I believe you should not have settled with the property owners for \$5,000; is that correct?"

Ferris: "Yes."

"..."

Ferris: "..."

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 25)

2 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 26)

page 27:<sup>1</sup>

... you know what, most disengagement letters are very generic. This is very unusual for me to comment on any specifics of the case. But I -- I was very sympathetic to this injury for reasons stated. And the gentleman was referred by a guy who did great work for me. And so I was trying to be as helpful as I possibly could by saying that.”

Talarico: “Okay. That brings us back to Exhibit 2. With all due respect, sir, the name David -- let me get back to Exhibit 2. On the sticky note you had -- you testified earlier today that you believe that it was someone who referred Mr. Dulberg to you. Do you recall the name of the defendant in the case that Mr. Dulberg brought to you and asked you to take over? Do you recall the name of the defendant?”

Ferris: “No.”

Talarico: “Would you be surprised to know that his name was David?”

Ferris: “That -- that could be the reason I wrote down David. You could be absolutely correct on that.”

page 28:<sup>2</sup>

Talarico: “Okay.”

Ferris: “Versus the referral source. I was -- I was guessing, basically.”

“ ... ”

Talarico: “Exhibit 1, your letter of March 4th, the last paragraph, the last sentence you state, We recommend that you attempt to settle the case at the upcoming pretrial conference with your current attorney; is that correct?”

Ferris: “Yes.”

page 29:<sup>3</sup>

Talarico: “Okay. Could you -- could you enlighten us what -- what did you know about the pretrial conference, and then what did you know about his current attorney?”

Ferris: “So the only way that I would have known that is by Mr. Dulberg telling me he had an upcoming pretrial conference. And so I do remember him telling me a pretrial conference was scheduled. But for whatever reason, he did not have confidence or faith in the job his current attorney was doing. But I -- I was encouraging him to get the case settled because there was questionable liability in my opinion.”

Talarico: “And at the time you wrote this letter, did you know what the pretrial offer from Mr. Gagoan was?”

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 27)

2 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 28)

3 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 29)



Ferris: “No.”

page 30:<sup>1</sup>

Talarico: “Okay. You testified today that you, personally-- no. Wait. I’ll ask, did you testify today that you, personally, mailed this letter to Mr. Dulberg?”

Ferris: “Yes.”

Talarico: “Okay. Calling your attention to Exhibit 1, you have Mr. Dulberg’s address listed as 3416 West Elm Street in McHenry, Illinois 60050; is that correct?”

Ferris: “Yes.”

Talarico: “Do you know who lives at -- who -- who owns the property at 3416 West Elm Street in McHenry, Illinois 60050?”

Ferris: “I have no idea.”

Talarico: “Would it surprise you if this was the address of the law firm that was currently representing Mr. Dulberg in the matter that he brought to you?”

Ferris: “It would surprise me.”

Talarico: “Would it surprised you if this is the address of Tom Popovich’s law firm at the time?”

Ferris: “It would, yeah.”

Talarico: “So according to your testimony, you sent this letter to Mr. Popovich and not to Mr. Dulberg?”

Ferris: “I sent the letter to the address the potential client provided me. I don’t make up addresses. So he provided me the address. I had no correspondence or anything from his attorney. I had no idea who his attorney was.”

**2B21.** According to Saul Ferris deposition testimony<sup>2</sup>, Ferris’ personal notes on the Dulberg case listed the date of Dulberg’s injury as June 28, 2011 (which is the correct date Dulberg was injured by Gagnon) but the declination letter<sup>3</sup> listed the date of the “accident” as January 24, 2013 (which is the date Dulberg was deposed in the underlying case against Gagnon and the McGuires<sup>4</sup>).

**2B22.** According to Saul Ferris deposition testimony<sup>5</sup>, the date of the meeting between Dulberg and Ferris was February 26, 2015 but the declination letter<sup>6</sup> listed the date of the meeting as

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1 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf (Page 30)

2 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf

3 Exhibit 7i-ferris letter forgery.png

4 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg UNDERLYING CASE DOCS/Files From Baudin’s Office/Dep of Plaintiff/Dep of Paul Dulberg.pdf

5 Exhibit B11-SAUL FERRIS 101421 FULL indx PDFa.pdf

6 Exhibit 7i-ferris letter forgery.png

December 31, 2014. Ferris stated that “So the -- because this is more or less a form letter, in -- in my opinion, the December 31st date was -- was a date relating to another client, and I just didn’t change the date.” When Ferris showed his notebook during the deposition, the notes indicated that Ferris had no clients on December 31, 2014. Ferris also stated that he would not schedule a perspective client meeting on New Years Eve.

**2B23.** When Ferris was asked “So according to your testimony, you sent this letter to Mr. Popovich and not to Mr. Dulberg?”, Ferris answered, “I sent the letter to the address the potential client provided me. I don’t make up addresses. So he provided me the address. I had no correspondence or anything from his attorney. I had no idea who his attorney was.”

**2B24.** It is not credible that Dulberg provided his own home address to Ferris incorrectly, accidentally mistaking his own home address (a place he has lived his whole life) with the address of the Law offices of his previous attorney. It is not credible for Flynn to have persisted in claiming that Dulberg received the letter from Saul Ferris by U.S. mail at Dulberg’s home considering how the letter in question was with a package of documents which was inexplicably sent from the law office of Saul Ferris to the law offices of Thomas J. Popovich (and remained there for two months without Dulberg’s knowledge or permission). It is not credible for Popovich or Mast to act as if they were not aware that a package of documents belonging to Dulberg was in their offices for 2 months and that the package of documents was apparently sent back to the Ferris law office without their knowledge. The email document HansMast2-65<sup>1</sup> (which was suppressed by Williams) was sent from Dulberg to Balke on March 20, 2015 and states:<sup>2</sup>

“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.”

**2B25.** The example of Saul Ferris shows how Flynn could not have accused Dulberg of being deceitful or evasive about his communication with Ferris unless the email documents involving or mentioning Ferris were suppressed by Williams.

**2B26.** It strains credulity to be asked to accept that the coordination between Flynn’s accusations against Dulberg and the suppression of the email documents by Williams related to the same issues and proving Dulberg’s claims to be true is just a coincidence. A reasonable person can conclude that Williams intentionally suppressed emails between Ferris and Dulberg and emails mentioning Saul Ferris, the movement of the box of Dulberg’s documents in the possession of Ferris, and emails mentioning a missing settlement memo. A reasonable person can also conclude Williams did this to benefit the defendants. A reasonable person can conclude that if the documents mentioning Ferris were not suppressed by Williams, then the issues that Flynn later raised would have made no logical sense as they would have already been answered.

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<sup>1</sup> Exhibit B12-Hans Mast2-65.pdf

<sup>2</sup> Exhibit B12-Hans Mast2-65.pdf

**2B27.** The intentional suppression of documents mentioning Saul Ferris by Williams created an unnecessary mystery around when Ferris met with Dulberg, what they discussed, the packet of Dulberg’s documents that was inexplicably sent to the law offices of Thomas J. Popovich by Ferris, and the Ferris declination letter. Flynn then used this unnecessary mystery to attempt to coerce Dulberg to admit (as verified fact) receiving a letter in the U.S. mail at his home that contained factually incorrect information and that was actually addressed to the Law Offices of Thomas J. Popovich (and in the possession of Popovich for about 2 months without Dulberg knowing where the package was).

## **2C THE EXAMPLE OF TILSCHNER V SPANGLER**

**2C1.** Detailed written instructions were given by Dulberg to Williams on at least six different occasions concerning Tilschner v Spangler and a meeting which took place on November 20, 2013 between Dulberg and Mast. Dulberg sent Williams a certified slip copy of Tilschner v Spangler as part 1 of a set of 3 emails with attachments that were named “IndependantContractor-CaseLaw1\_Mast.pdf” and “IndependantContractor-CaseLaw2\_Mast.pdf” and “IndependantContractor-CaseLaw3\_Mast.pdf” which Mast gave Dulberg at a meeting on November 20, 2013. Williams separated the certified slip copy of Tilschner v Spangler from the other two attachments, stored them in 2 separate places, and renamed all three downloaded files. **Williams never turned over the slip certified copy of Tilschner v Spangler to opposing counsel and never informed Dulberg of that fact.** The process is shown in detail in ‘Visual Aid 4 – Tilschner v Spangler hoax’<sup>1</sup>.

**2C2.** On October 10, 2018 at 5:34 PM, two days before their first meeting, the file “second\_amended\_complaint\_comments.txt”<sup>2</sup> was emailed<sup>3</sup> by Dulberg to Williams in a folder called “Duberg\_complaint”<sup>4</sup>. The document “second\_amended\_complaint\_comments.txt” states:

“MAST told DULBERG at a meeting in which DULBERG was trying to decide whether to accept the MCGUIRE’s offer of \$5,000 that because the restatement of torts 318 is not applicable in Illinois, DULBERG had no case against the MCGUIRES and that the MCGUIRES did not have to offer any settlement at all. DULBERG asked MAST to cite case law that shows why the MCGUIRES were not at least partially liable for DULBERG’S injury, and MAST cited Tilscher v Spangler, a case which confirms that restatement of torts 318 is not applicable in Illinois. But note the claim of MCGUIRE’S liability given above relies on restatement of torts 343 or a general negligence claim. It is completely independent of restatement of torts 318. At the same meeting MAST also informed DULBERG that the MCGUIRES made an offer of \$5,000 to be nice (they did not have to offer anything) and if DULBERG did not accept the offer it would be withdrawn and the MCGUIRES will ask for summary judgement. MAST informed DULBERG that the presiding judge would grant the MCGUIRES a summary judgement dismissing the case against them, leaving DULBERG with no settlement at all from the

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1 Visual Aids/Visual Aid 4 - Tilschner hoax.png

2 Exhibit C1-second\_amended\_complaint\_comments.txt

3 Exhibit C1a\_2018-10-10\_1734 PM\_SENT\_Legal Malpractice Case\_ATTACHMENTS.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 13-Duberg\_complaint/second\_amended\_complaint\_comments.txt

MCGUIRES.”

**2C3.** On October 19, 2018 a PDF file was created by Clinton or Williams in “Dulberg Master File” concerning the Tilschner case.<sup>1</sup>

**2C4.** On December 4, 2018 at 2:20 PM, two days before the Second Amended Complaint at Law was filed, a file called “working.pdf”<sup>2</sup> was sent attached to an email<sup>3</sup> to Williams. Dulberg’s comments are in colored font. In the document “working.pdf”<sup>4</sup> Dulberg states in item 50-k on page 9 in red font:

“The necessary facts are: MAST told DULBERG and another family member at a meeting in which DULBERG was trying to decide whether to accept the MCGUIRE’s offer of \$5,000 that because the restatement of torts 318 is not applicable in Illinois, DULBERG had no case against the MCGUIRES and that the MCGUIRES did not have to offer any settlement at all. DULBERG asked MAST to cite case law that shows why the MCGUIRES were not at least partially liable for DULBERG’S injury, and MAST cited Tilscher v Spangler, a case which confirms that restatement of torts 318 is not applicable in Illinois. At the same meeting MAST also informed DULBERG that the MCGUIRES made an offer of \$5,000 to be nice (they did not have to offer anything) and if DULBERG did not accept the offer it would be withdrawn and the MCGUIRES will ask for summary judgement. MAST informed DULBERG that the presiding judge would grant the MCGUIRES a summary judgement dismissing the case against them, leaving DULBERG with no settlement at all from the MCGUIRES. Mast, “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.”

**2C5.** On April 18, 2019 at 10:38 AM, Dulberg sent 3 emails in series with attachments to Williams, subject: “318 Cases from December meeting 1 of 3”<sup>5</sup>, “318 Cases from December meeting 2 of 3”<sup>6</sup> and “318 Cases from December meeting 3 of 3”<sup>7</sup>. The first email attachment was named “IndependantContractor-CaseLaw1\_Mast.pdf”<sup>8</sup> and contained the certified slip copy of the case Tilschner v Spangler. The second attachment was named “IndependantContractor-CaseLaw2\_Mast.pdf”<sup>9</sup> and contained the case Choi. The third attachment was named “IndependantContractor-CaseLaw3\_Mast.pdf”<sup>10</sup> and contained the case Lajato.

**2C6.** Williams received the 3 emails, downloaded the attachments, renamed them, and stored the first attachment in one folder, and stored the second and third attachments in a different folder. What Williams did with the files after she received them is shown in ‘Visual Aid 4 -

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1 Exhibit C2-Tilschner download by Clinton on 10-19-2018.png

2 Exhibit C3-Working.pdf

3 Exhibit C3a-2018-12-04\_1420 PM\_SENT\_2nd amended complaint draft\_ATTACHMENTS.pdf

4 Exhibit C3-Working.pdf

5 Exhibit C0d-2019-04-18\_1038 AM\_SENT-3\_318 Cases from December meeting 1 of 3\_ATTACHMENTS.pdf

6 Exhibit C0e-2019-04-18\_1038 AM\_SENT-4\_318 Cases from December meeting 2 of 3\_ATTACHMENTS.pdf

7 Exhibit C0f-2019-04-18\_1038 AM\_SENT-5\_318 Cases from December meeting 3 of 3\_ATTACHMENTS.pdf

8 Exhibit C0a-IndependantContractor-CaseLaw1\_Mast.pdf

9 Exhibit C0b-IndependantContractor-CaseLaw2\_Mast.pdf

10 Exhibit C0c-IndependantContractor-CaseLaw3\_Mast.pdf

Tilschner v Spangler hoax<sup>1</sup>. The certified slip copy of Tilschner v Spangler was never turned over to opposing counsel and was never given a bates stamp. Williams never informed Dulberg of this.

**2C7.** On July 8, 2019 at 11:06 AM, one week after Dulberg received the Popovich Document Disclosure from Williams, Dulberg sent an email<sup>2</sup> to Williams with an attached folder called “To\_Julia”<sup>3</sup>. The folder contained a document called “timeline\_of\_mcguire\_settlement.txt”<sup>4</sup>. The document ‘timeline\_of\_mcguire\_settlement.txt’ under the November 20, 2013 timeline entry states:

“Dulberg agrees to have another meeting with Mast in his office. (memo of meeting: pop 3)

Dulberg brings his brother Thomas Kost with him. Before the meeting Dulberg asks Mast to show examples of case laws which demonstrate that McGuires are not partially responsible for the chainsaw accident. (email: folder 2013 11, file Mast2-201)

In the meeting Mast uses the example of Tilschner vs Spangler. He claims that the McGuires are not responsible because Restatement of Torts 318 is not applicable in Illinois.

He also claims 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. (ddd 204) (ddd 301)?

Thomas Kost kept a rough set of notes during the meeting. (ddd 1217)

Mast claims 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.”

**2C8.** On June 18, 2020 at 9:24 AM, one week before the Mast deposition, Dulberg sent an email<sup>5</sup> to Williams a file called “questions\_for\_mast.txt”<sup>6</sup>. The June 18, 2020 version of ‘questions\_for\_mast.txt’ contain questions presented by Dulberg and his brother, Thomas Kost, in 9 different categories which are clearly listed at the beginning of the document. These sets of questions were a more developed version of a file by the same name sent to Williams on July 8, 2019. Questions in each category are carefully written in the order that Dulberg wanted Williams to ask Mast during the deposition.

One of the 9 categories is named “ABOUT THE NOVEMBER 20th, 2013 MEETING IN MAST’S OFFICE”. It contained 23 carefully chosen questions that Dulberg wanted Williams to

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1 Visual Aids/Visual Aid 4 - Tilschner hoax.png

2 Exhibit C7a-2019-07-08\_1106 AM\_SENT\_Fwd Forward to Julia\_ATTACHMENTS.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 14-To\_Julia

4 Exhibit C7-timeline\_of\_mcguire\_settlement.txt

5 Exhibit C8a-2020-06-18\_0924 AM\_SENT\_Mast deposition\_ATTACHMENTS.pdf

6 Exhibit C8-questions\_for\_mast.txt

ask Mast concerning the November 20, 2013 meeting during Mast's deposition.

The document 'questions\_for\_mast.txt' states:

“ABOUT THE NOVEMBER 20th, 2013 MEETING IN MAST'S OFFICE

who was at the November 20th meeting? (Answer: Paul Dulberg, Hans Mast, Thomas Kost)

who called for the meeting?

what was the purpose of the November 4 meeting?

What were the main topics discussed?

Was the \$7,500 offer made on october 22 discussed at the November 20th meeting?

Were any decisions made at this meeting?

Did Dulberg agree to accept the \$5,000 counter-offer made by Barch on November 18 at the meeting?

What were his grounds for disagreeing with the \$5,000 counter-offer if it was Dulberg himself that initiated an offer of \$7,500 on October 22nd?

Did you point out to him that there is only a \$2,500 difference in between the offer and the counter-offer?

Did you suggest that he reply by offering to accept less than \$7,500 but more than \$5,000, like, for example, \$6000?

Was there any attempt to make another counter-offer for any amount higher than \$5,000 but lower than \$7,500? Why not?

Did you hand Dulberg documents of case laws at the meeting of November 20, 2013?

What was the purpose of providing him with documents of case laws?

What case laws were in those documents?

Did you discuss cases at the meeting?

Which cases were discussed?

What were you trying to explain to Dulberg by discussing those cases?

Why did you choose those cases to use as examples?

In what way were those cases applicable to the situation with the McGuires?

At the meeting did you say something about how the restatement of torts 318 doesn't apply in illinois and that fact affects the case against the McGuires?

Can you explain how the restatement of torts 318 affected Dulberg's case against the McGuires?



Did you cite the case of Tilschner vs Spangler to Dulberg during the November 20th meeting?

Why? How was the Tilschner vs Spangler case similar to what happened to Dulberg at the McGuires?”

**2C9.** On June 18, 2020 at 9:32 AM opposing counsel Flynn sent an email to Williams stating:<sup>1</sup>

“... Please let me know when you can about your plan for exhibits. I will assume that I do not need to print or bring anything with me unless you advise otherwise.”

**2C10.** On June 19 2020 at 2:35 PM, six days before the deposition of Mast, Flynn sent an email to Williams stating:<sup>2</sup>

“Julia: I just received your notice of attorney lien. Will you still be taking the dep next week?

My experience with receiving liens at this stage of litigation(in a high percentage of cases) is that a withdrawal shortly follows. Hopefully not the case here, but just making sure we are still on for Mast’s dep. ...”

Williams never replied to the attorney lien portion of this email and there is no such communication of Williams sending the attorney lien to Flynn in “Dulberg Master File”<sup>3</sup>. However, a draft letter of resignation was created on July 7, 2020 and Ed Clinton sent the letter to Dulberg on July 27, 2020.

**2C11.** On June 23, 2020 at 10:22 AM Brittney Brown [bbrown@uslegalsupport.com](mailto:bbrown@uslegalsupport.com) sent an email to Williams, Subject U.S. Legal Support - Confirmation of Scheduling - Job No. 923267 with this file attached:

CFM923267.PDF<sup>4</sup>

The attached file CFM923267.PDF is not in the Clinton case file.

**2C12.** On June 23, 2020 at 11:32 AM ([juliawilliams@clintonlaw.net](mailto:juliawilliams@clintonlaw.net)) sent an email to Brittney Brown ([bbrown@uslegalsupport.com](mailto:bbrown@uslegalsupport.com)) and provided a personal email address for contact that is not associated with the Clinton Law Firm stating:<sup>5</sup>

“This deposition is moving forward as scheduled. My cell is 312-508-3376. If you have issues, you can also reach me on my personal email address at [Julia.c.floyd@gmail.com](mailto:Julia.c.floyd@gmail.com)”

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1 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Emails 2020 August 19/US Legal Support Confirmation of Scheduling Job No 923267.pdf

2 Exhibit 22-Dulberg -2.pdf (Page 1)

3 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File

4 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Emails 2020 August 19/US Legal Support Confirmation of Scheduling Job No 923267-2.pdf (Page 1)

5 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Emails 2020 August 19/US Legal Support Confirmation of Scheduling Job No 923267-2.pdf (Page 2)



**2C13.** On June 24, 2020 at 12:50 PM Flynn emailed Williams stating:<sup>1</sup>

“Thanks Julia. I also received the additional exhibit you may use. See you tomorrow.”

**2C14.** On June 24, 2020 at 1:56 AM, one day before the Mast deposition, Dulberg emailed<sup>2</sup> Williams a file called “2020-06-23\_updated\_timeline\_of\_mcguire\_settlement.txt”<sup>3</sup> since Williams explicitly asked Dulberg to prepare it for her using a different way to refer to documents using Bates numbers.

**2C15.** On June 25, 2020 Hans Mast was deposed. For the deposition of Hans Mast, Williams inexplicably placed 2 exact copies of the Lajato case and a copy of Choi in PDF file named:

“Dulberg Mast Dep Exh 12 Legal Research .pdf”<sup>4</sup>.

Dulberg Mast Dep Exh 12 Legal Research .pdf is corrupt and only found in the following 2 locations in the Clinton case file:

Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Mast Dep Exhibits FINAL 2020 June 25/Dulberg Mast Exh/Dulberg Mast Dep Exh 12 Legal Research .pdf

Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Mast Dep Exhibits/Dulberg Mast Dep Exh 12 Legal Research .pdf

**2C16.** At the deposition, Williams did not ask Mast any of the questions that Dulberg had instructed her to ask.

**2C17.** During the Mast deposition Williams uploaded “exhibit 12” and neither Mast nor Flynn could see “exhibit 12” as the following exchange demonstrates:<sup>5</sup>

Williams: “Okay, I’m uploading Dulberg Mast Dep Exhibit 12. This is titled, “Legal Research.” And this is hard because there’s -- it’s 27 pages. Some of them have Bates numbers, but some of them are black on the bottom, so I think the Bates numbers didn’t -- didn’t take, but it’s roughly -- looks like roughly 204, maybe 205, Dulberg204, 205 through roughly Dulberg00304 -- Actually, I’m sorry, these aren’t going to be continuous. But do you have that packet of legal research in front of you? It appears to be copies out of a -- copies of case law out of the Northeastern Digest.

Mast: “I just have the one case here.”

Williams; “Just one case? Which -- What’s the case title?”

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1 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Emails 2020 August 19/ Scheduled Paul Dulberg v Law Offices of Thomas Popovich et al Job 923268 Hans Mast 20200625 1000 AM CDT.pdf (Page 13)

2 Exhibit C9a-2020-06-24\_0156 AM\_SENT\_Bates numbers added to timeline of McGuire settlement\_ATTACHMENTS.pdf

3 Exhibit C9-2020-06-23\_updated\_timeline\_of\_mcguire\_settlement.txt

4 Exhibit C10-Dulberg Mast Dep Exh 12 Legal Research .pdf

5 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 49 Lines 20-24 and Page 50 Lines 1-13)

Mast: “The first one, it’s L A J A T O.”

Williams: “Okay. Do you -- Did you copy this case law?”

Mast: “I don’t know.”

**2C18.** Williams never provided the court reporter Barbara G. Smith with a usable, viewable, uncorrupted, error free “Exhibit 12” during the deposition or at any time afterward that matches what Mast described it as in his deposition. Nor did Flynn make available to the court reporter the partial printouts of the exhibits he had in his possession and gave to Mast to use during the deposition.

**2C19.** Later the court reporter Barbara G Smith was subpoenaed for her records of the Mast deposition. In her response she provided the audio file of the deposition.<sup>1</sup>

**2C20.** The Court Reporter, Barbara G Smith’s handwritten notes on Exhibit 12 state:

“#12<sup>2</sup> 1-22 blank 23-27 only”<sup>3 4</sup>

“Choi -is- Commonwealth Edison is only case I have in #12 download  
Witness said he only has Lajato case in his #12”<sup>5</sup>

**2C21.** Dulberg and his subsequent counsel, Alphonse Talarico, grew suspicious of how Williams could have forgotten all about Tilschner v Spangler when preparing exhibit 12 for Mast’s deposition considering the number of times she was told about it in writing.

**2C22.** On August 2, 2022 Dulberg subpoenaed Clinton<sup>6</sup> and Williams<sup>7</sup> for documents and communication connected to the preparation and treatment of exhibit 12 before, during and after Mast’s deposition.

**2C23.** On September 29, 2022 Williams responded for both Clinton and herself.<sup>8</sup>

**2C24.** On October 28, Clinton responded for himself.<sup>9</sup>

**2C25.** On October 28, Julia Williams responded for herself.<sup>10</sup>

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1 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive/mast.wav

2 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive/Mast 6-25-20/Dulberg Mast Dep Exh 12 Legal Research .pdf

3 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive/HPSCANS/job papers 0002.pdf (Page 1)

4 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive/Mast 6-25-20/Dulberg Mast Dep Exh 12 Legal Research .pdf

5 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive/HPSCANS/job papers0001.pdf (Page 6)

6 Exhibit K22-July 17 2023 Requested Subpoena served on Clinton .pdf

7 Exhibit K21-July 17 2023 Requested Subpoena served on Julia C. Williams.pdf

8 Exhibit K23-9-29-22\_July 17 2023 Response for both by Williams only.pdf

9 Exhibit K24-10-28-2022\_July 17 2023 Response to Subpoena served on Clinton .pdf

10 Exhibit K25-10-28-2022\_July 17 2023 Amended Response by Williams only.pdf

**2C26.** On November 04, 2022 Williams was asked about “exhibit 12” in court. After 4 different subpoena responses related to exhibit 12 over the previous 3 months, and after being informed by Dulberg at least 6 different times in writing about the importance of Tilschner v Spangler, Williams claimed to not know the contents of exhibit 12. The following exchange took place in court:<sup>1</sup>

“MS. WILLIAMS: ... So sometime after the deposition, we -- we did provide the exhibit that was utilized in the deposition to the court reporter, and at that time they marked it and sent it back to everyone.

THE COURT: Okay. What was Exhibit 12 again?

MS. WILLIAMS: It was a series of cases. I don't know that -- I just can't recall what all was asked about it, but I know there were -- it was -- it was --

THE COURT: All right. These would have --

MS. WILLIAMS: -- copies of case law.

THE COURT: All right.

MR. FLYNN: They were photocopies of the old books, Judge, cases that were contained in Mast's file.

THE COURT: Okay.

MR. FLYNN: And he was -- you know, they have -- they're, obviously, not complete because they -- placed on a printer, appeared like we used to do in the old days.

MR. TALARICO: Yes. Was the Tilsner case included in -- in the blank Exhibit 12 you sent to U.S. Legal, Barbara Schmidt? And was -- when you discussed with Mr. Flynn the failure of his -- or Mr. Mast's internet, didn't he say, I can't see these, I can only see their first one (indiscernible), which was the Lagano (phonetic) case? And wasn't there continued discussion by Mr. Flynn that he didn't -- he didn't produce all of the documents you sent on -- in hardcopy because he wanted to save paper?

MS. WILLIAMS: So that's -- I guess that's a lot of questions. So what --

MR. TALARICO: It is.

MS. WILLIAMS: What -- what -- I cannot recall what cases were included and weren't included at this point. There -- there was an e-mail to Mr. Flynn with the exhibit that is attached that I believe was produced in the subpoena. So whatever that exhibit was is -- is what I would have used. So I know there was, like, a Laravo case or -- I remember the first case was like Laravo or Lavajo, L-A-V-A-J-O, or something like that. But right now, off the top of my head, I don't remember what other cases were included.

MR. TALARICO: I'm talking about -- Judge, if I might, please? Excuse me. I'm sorry, Ms. Williams. There was -- what the reporter had was blank. What Mr. Flynn's client said was, I see the Lagano (phonetic) one. So the Exhibit 12 that was sent, like, a week

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1 Exhibit C11-2022-11-04 17LA377 Report of Proceedings.pdf (Page 17 Line 4 through Page 20 Line 1)

or two after the deposition had Lagano, Troy, and the same exact Lagano case, and it did not have the Tilsner case involved, and the Tilsner case was very important. So it was an exact duplication of one case and a second case. But this is -- Judge, it's not just the Exhibit 12. The entire deposition --

THE COURT: Well, are you asking a question about Exhibit 12? Because if we're done asking questions, I'm gonna let her go.

MR. TALARICO: Okay. Yep. I'm done."

**2C27.** It is not credible that Williams made the claim to the court that she cannot recall the contents of "exhibit 12" when she stated, "It was a series of cases. I don't know that -- I just can't recall what all was asked about it, but I know there were -- it was -- it was --" " -- copies of case law." and when asked by Dulberg's current attorney she claimed, "What -- what -- I cannot recall what cases were included and weren't included at this point." When Williams states "... at this point" she was implying that her dealings with exhibit 12 were so long ago that "at this point" she can no longer recall what they were. But Williams prepared 4 different responses to a subpoena which centered on exhibit 12 within the previous 3 months and Williams was then appearing in court to address outstanding issues with the subpoena and around exhibit 12, including a motion to compel.

**2C28.** Of interest is that more than 2 years after the Hans Mast Deposition, opposing counsel Flynn was the only person in the November 4, 2022 court record attempting to give a detailed description to the contents of "exhibit 12" while Williams, the only person who prepared "exhibit 12", and fresh from producing 4 responses to a subpoena centering on the subject of "exhibit 12", could not recall the contents of "exhibit 12" when asked "at this point" because her dealings with exhibit 12 were assumably 'so long ago'.

The example of the hiding of the certified slip copy of Tilschner v Spangler shows the **extreme degree** to which Williams and Clinton will go to suppress key evidence which was in the possession of their permanently disabled client.

**2C29.** On November 30, 2022 Flynn filed DEFENDANTS THE LAW OFFICES OF THOMAS J. POPOVICH, P.C. AND HANS MAST'S RESPONSE TO PLAINTIFF'S 2nd AMENDED MOTION TO EXCLUDE THE DEPOSITION OF HANS MAST which contains the following point ¶12:<sup>1</sup>

"12) Of concern is a statement on page 19 of Dulberg's motion in which he argues that Mast had insisted that the decision in the Tilschner v. Spangler case was the reason Dulberg would not prevail in the underlying case against the McGuire's. The statement is inexplicably made "on information and belief." This is unacceptable. Dulberg has made no such disclosure in fact discovery (now closed) about this very specific discussion between Mast and himself regarding the Tilschner case. If Dulberg believes he has disclosed it, he should be required to identify where in his answers and amended answers to discovery or his deposition he has identified such discussion with this amount of

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1 Exhibit C16-2022-11-30\_Flynn Answer to Motion to Strike Mast Deposition.pdf (¶12 on Page 4)

specificity. Defendants submit that no such disclosure exists.”

**2C30.** A reasonable person can conclude that Williams intentionally suppressed Tilschner v Spangler. A reasonable person can also conclude that Williams suppressed Tilschner v Spangler to benefit to the defendants over Dulberg and to sabotage Dulberg’s case against Popovich and Mast. The suppression of Tilschner v Spangler helps the defense deny that Mast ever discussed the Tilschner case with Dulberg and helps Mast deny that Tilschner v Spangler and the Restatement of Torts 318 was the legal theory Mast gave Dulberg as to why the McGuires were not responsible in any way for his injury on their property.

## **2D THE EXAMPLE OF BRAD BALKE**

**2D1.** On March 19, 2015 Dulberg retained Brad Balke as attorney. Balke, in violation of the automatic stay, represented Dulberg in the 22nd Judicial Circuit Court which had no jurisdiction even though Balke must have known Dulberg had no standing as plaintiff in PI case 12LA178.

**2D2.** On May 13, 2015 Balke attempted to get Dulberg to accept a \$50,000 offer from Allstate in the 22nd Judicial Circuit Court in violation of the automatic stay.<sup>1</sup> Dulberg refused and fired Balke on June 12, 2015.<sup>2</sup>

**2D3.** Williams suppressed about 40 documents of email communication which were in her possession from 3 different sources between Balke and Dulberg from the May 30, 2019 document disclosure. The suppressed email documents and the subjects of the documents are:

Hans Mast2-14 .... with Balke on picking up electronic file and paper file  
Hans Mast2-15 .... with Balke on picking up electronic file and paper file  
Hans Mast2-16 .... with Balke on picking up electronic file and paper file  
Hans Mast2-17 .... with Balke on picking up electronic file and paper file  
Hans Mast2-18 .... with Balke on picking up electronic file and paper file  
Hans Mast2-19 .... with Balke on picking up electronic file and paper file  
Hans Mast2-21 .... with Balke on lean buyout and picking up case file  
Hans Mast2-24 .... with Balke on lean buyout  
Hans Mast2-29 .... with Balke on lean buyout  
Hans Mast2-32 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-33 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-34 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-35 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-36 .... with Balke about Balke and Mast leans buyout in exchange for case file  
Hans Mast2-37 .... with Balke about anticipated Randall Baudin phone call  
Hans Mast2-38 .... with Balke about anticipated Randall Baudin phone call  
Hans Mast2-39 .... with Balke about case being not winnable and signing release for \$50,000

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1 Exhibit D0a-2015-04-10\_12LA178\_CASE MANAGEMENT ORDER-Settlement Conference is set for 5-13-2015\_Meyer.pdf

2 Exhibit 20b-2015-06-12\_12LA178\_ORDER-Balke Withdrawl Granted for Breakdown in Attorney Client Relationship - Balke shall disburse settlement to Dulberg who will hold funds - Dulberg has till 7-10-2015 to File Appearance - Continued to 7-10-2015\_Meyer.pdf

Hans Mast2-40 .... with Balke about case being not winnable and signing release for \$50,000  
 Hans Mast2-41 .... with Balke about case being not winnable and signing release for \$50,000  
 Hans Mast2-42 .... email empty of content message  
 Hans Mast2-43 .... with Balke long message about why Dulberg rejects Balke's advice  
 Hans Mast2-44 .... With Balke, Balke is trying to get him to sign a release for \$50,000  
 Hans Mast2-45 .... With Balke, Balke is trying to get him to sign a release for \$50,000  
 Hans Mast2-46 .... With Balke, Balke is trying to get him to sign a release for \$50,000  
 Hans Mast2-47 .... With Balke, Balke is trying to get him to sign a release for \$50,000  
 Hans Mast2-48 .... with Balke long message about why Dulberg rejects Balke's advice  
 Hans Mast2-49 .... with Balke long message about why Dulberg rejects Balke's advice  
 Hans Mast2-50 .... with Balke on bankruptcy questions  
 Hans Mast2-51 .... with Balke on bankruptcy questions  
 Hans Mast2-52 .... with Balke on bankruptcy and Gagnon's insurance  
 Hans Mast2-53 .... email from DULberg to Dulberg with message for Balke on bankruptcy  
 Hans Mast2-54 .... with Balke on bankruptcy and pre-trial conference  
 Hans Mast2-55 .... with Balke on missing pre-trial settlement memo and Saul Ferris with a  
 box of Dulberg's documents  
 Hans Mast2-56 .... with Balke on missing pre-trial settlement memo and Saul Ferris with a  
 box of Dulberg's documents  
 Hans Mast2-57 .... with Balke on missing pre-trial settlement memo and Saul Ferris with a  
 box of Dulberg's documents  
 Hans Mast2-58 .... with Balke on signing settlement check and deposit  
 Hans Mast2-59 .... with Balke on settlement conference canceled  
 Hans Mast2-60 .... with Balke about April 9 pre-trial conference  
 Hans Mast2-61 .... with Balke about April 9 pre-trial conference  
 Hans Mast2-62 .... with Balke about April 9 pre-trial conference  
 Hans Mast2-63 .... with Balke on lean buyout and picking up the case file  
 Hans Mast2-65<sup>1</sup> .... with Balke on missing pre-trial settlement memo and a box from Ferris

Only one document of email communications between Balke and Dulberg appears in "Dulberg Document Disclosure FINAL 2019 May 29.pdf". It is DUL 001334 which is the file "Hans Mast2-64".

Williams also suppressed about 6 other documents mentioning Balke from the May 30, 2019 document disclosure.

**2D4.** On December 17, 2019 at 11:00 AM Williams sent an email to Flynn stating:

"In preparation for our call today, I am resending the all discovery as I don't think you received some of them the first time."

The email had 9 files attached.

The email had the following bates numbered documents attached and a verification statement

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<sup>1</sup> Exhibit B12-Hans Mast2-65.pdf



signed by Dulberg:<sup>1</sup>

“Dulberg BK Files Bates 2599”<sup>2</sup>

“Bates 2620”<sup>3</sup>

“Dulberg Document Disclosure FINAL 2019 May 29.pdf”<sup>4</sup>

**2D5.** On December 17, 2019 at 6:30 PM Williams sent an email to Flynn stating:

“... Brad Balky. His name appears in some of the documents. You requested that we identify when he represented Mr. Dulberg and in what capacity. If he did represent Mr. Dulberg for any period, we will produce any records related to that that are in Mr. Dulberg’s possession and control.”<sup>5</sup>

**2D6.** On Jan 29, 2020, at 2:16 PM, Julia Williams wrote an email to Flynn stating:

“...Brad Blake is an attorney and there are some emails from him in the discovery. I do not see that he represented Dulberg but I will verify with my client.”<sup>6</sup>

**2D7.** On January 29, 2020 at 3:50 PM Williams asked Dulberg about Balke stating:

“... I see that there are some emails with Brad Balke. See Bates Stamp Dulberg 1322-1323, 1334, 1319, 1321. It appears that Brad Balke obtained your legal file from Hans Mast, reviewed it, but did not represent you, and turned the file over to you. *Is that correct?* ...”<sup>7</sup>

**2D8.** On January 30, 2020 at 10:26 AM Dulberg responded by sending an email to Williams stating:

“Morning Julia, This Morning I looked up when Brad Balke filed his appearance and I found the attached document I named Balke Appearance.pdf It was March 19, 2015. This is what was filed in the public record. This should have been in the Gooch files. Looking back, I never received the digital Gooch files that were turned over to your office. Confirmed in email dated April 18, 2019. The Gooch files should have included the entire case file that Mast turned over to me and the addition of the Balke and Baudin files as well as all communication records, bankruptcy documents, disability records, etc... Gooch took 6+ months to get all those records scanned in and I never was able to confirm he actually scanned in all of them.

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1 Exhibit 17-Dulberg case.pdf (Pages 3-4)

2 Exhibit 18-Dulberg BK Files Bates 2599 .pdf

3 Exhibit 19-Dulberg Bates 2620.pdf

4 Exhibit 5-Dulberg Document Disclosure FINAL 2019 May 29.pdf

5 Exhibit 20-Dulberg v Popovich et al.pdf (Page 1)

6 Exhibit 20-Dulberg v Popovich et al.pdf (Page 26)

7 Exhibit D0b-2020-01-29\_1550 PM\_RECV-1\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf



On another note, I found this: 05-08-15\_Hans Mast2-56.pdf which is also attached.  
You may have this as, Hans Mast2-56.pdf  
This was provided to you on or around 11/17/2018 when I sent you all the communications I had.  
I did not find this in any of the bates numbered documents.  
It shows that the file was sent back to Saul Ferris and that I picked it up and delivered it to the firm named Danahu and Walsh at the direction of Balke.”<sup>1</sup>

**2D9.** On Jan 31, 2020, at 12:45 PM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

“I am writing regarding the outstanding discovery issues. I am producing further documents bates stamped 2639-2645.

...

2. Brad Balke.

Brad Balke’s appearance is attached as 2645. This should resolve all of the current discovery issues that you presented to us. We will continue to supplement our discovery responses if more documents are discovered.”

The document “Dulberg Bates 2639 to 2645 2020 Jan 31.pdf” consists of 6 pages and was attached to the email.<sup>2</sup>

While Williams is hiding around 40 email documents with Balke, she acts as if turning over Balke’s appearance (a document which was available to both Williams and Flynn as part of the Common Law Record of the underlying case) “resolves all issues” with Balke. This is classic gas-lighting in action.

**2D10.** Williams was in possession of complete and well-ordered copies of Dulberg’s emails from three different sources before May 29, 2019 (One on the Gooch thumbdrive in the main folder “Dulberg UNDERLYING CASE DOCUMENTS”, one on the Gooch thumb drive in the main folder “Dulberg Paul Dulberg Files From Client” and one sent to Williams as an email attachment). Williams received a fourth complete copy of emails in a format which was different from the first three sources in a folder called “Lawyers Emails by Date”, sent to Williams as an email attachment in a folder called “To\_Julia” on July 8, 2019.

**2D11.** Williams acted as if she was not in possession of the Balke emails and was not aware of who Brad Balke was when she communicated with Opposing Counsel and with Dulberg. Considering the large number of documents involving Balke that were intentionally suppressed by Williams from the May 30, 2019 document disclosure, it is simply not credible for Williams to claim that she was not aware of who Brad Balke was.

**2D12.** Inexplicably, Flynn and Popovich also claimed to not know who Balke was on December 17, 2019, even though the suppressed email communication demonstrates that Mast and Balke have done business together in the past on friendly terms. Considering that the suppressed

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<sup>1</sup> Exhibit D0c-2020-01-30\_1026 AM\_SENT\_Dulberg v Popovich et al Deposition dates \_ATTACHMENTS.pdf

<sup>2</sup> Exhibit 20-Dulberg v Popovich et al.pdf (Page 68)

documents involving Balke contained clear evidence that Mast knew who Balke was and had dealt with Balke in the past, it is simply not credible for Flynn, Mast or Popovich to claim they do not know who Brad Balke is.

**2D13.** By suppressing about 40 documents of email communication between Balke and Dulberg and at least 6 other documents mentioning Balke, Williams created an artificial mystery around Balke that was entirely unnecessary.

**2D14.** On July 2, 2020 DEFENDANTS, THE LAW OFFICES OF THOMAS J. POPOVICH, P.C.'S SUPPLEMENTAL REQUESTS FOR PRODUCTION TO PLAINTIFF

“2. Any and all documents relating to any consultation or advice you received from any attorney or “legal expert” or legal malpractice expert which formed the basis for your alleged discovery of Mast’s and Popovich’s breach or breaches of the standard of care while they represented you in your claim or lawsuit against William and Caroline McGuire and David Gagnon.

3. Any and all documents regarding or reflecting advice from any attorney or legal expert, including but not limited to Tom Gooch, including but not limited to your communications with Tom Gooch in December 2016 (up to and including the date of the filing of your original complaint against Popovich and Mast), which relate to your discovery of any breach of the standard of care by Popovich or Mast and proximately caused damages or injury resulting therefrom.”<sup>1</sup>

**2D15.** On July 9, 2020 Williams turned over more than 6000 pages of documents to opposing counsel. This included around 40 email communications between Balke and Dulberg which were being turned over for the first time.

**2D16.** On February 10, 2021 Flynn states in court:

MR. FLYNN: I’m a little confused, Judge. There is no pending 619 motion. That was ruled upon years ago. This is simply a motion to compel and, you know, again, looking back, I didn’t attach every discovery answer that Mr. Dulberg provided because there were many and there were issues with signature pages throughout written discovery. But here, the overarching supplemental request, Exhibit E, I believe it is, that was served on July 2 has not been answered. It’s not been objected to. It’s untimely at this point, and, again, it’s clear that the discovery of the malpractice and damages has been placed at issue. So we’re entitled to explore that discovery.”<sup>2</sup>

In summary judgment motion Popovich and Mast stated:

“Brad Balke substituted for Dulberg on March 19, 2015 when Popovich withdrew. (Exhibit E, p.35). Dulberg asked hundreds of lawyers to take over his case when Popovich withdrew, but none accepted. (Exhibit, E, P.36). Dulberg fired Bulke prior to

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1 Exhibit DI-2020-07-02\_1211 PM\_RECV\_Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377\_ATTACHMENTS.pdf (Page 6-7)

2 Exhibit D0d-Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-3.pdf (Page 5 Lines 13-24, Page 6 Line 1)

the binding arbitration, and he was then represented by the Baudin Law Firm. While Brad Bulke handled the case, Balke never gave him an opinion as to the liability of the McGuires and whether the prior settlement was appropriate. (Exhibit E, p.42).”<sup>1</sup>

“Here defendants painstakingly attempted to seek discovery as to how Popovich allegedly breached the standard of care, and when and how Dulberg became aware of any damages. Dulberg’s discovery responses and deposition testimony were repeatedly evasive. See Dulberg testimony, Exhibit D, pages 106 to 141. This behavior continued and caused the need for a motion to compel (See Group Exhibit J, Motion to Compel, Motion to Supplement Motion to Compel, and July 19, 2021 transcript from hearing). Moreover, Dulberg’s dissatisfaction with Popovich’s representation surfaced much earlier and he even threatened in writing to sue Mast as early as February 22, 2015. Dulberg, no “babe in the woods” when it comes to experience with litigation retention, met with “hundreds” of attorneys and had opportunity after opportunity to investigate and inquire as to whether Popovich breached the standard of care and caused him any damage in connection with the case (including prosecution of the case against Gagnon and McGuires). The many cases cited above establish the Plaintiff’s duty to inquire, and here Dulberg had the tools, the information, and opportunity to inquire. His contrived late discovery of his claims and damages should not be countenanced by this court. He was clearly questioning whether he should agree to accept the McGuires’ offer, and he deliberated on it extensively. Nothing prevented him from seeking a second opinion. Likewise, nothing prevented him from inquiring from Mr Bulke or the Baudin firm whether his injury was wrongfully caused. Summary Judgement must be entered as his claims are barred by the two-year statute of limitations.”<sup>2</sup>

**2D17.** A reasonable person can conclude that Williams suppressed the documents and emails mentioning Balke to benefit the defendants. Williams intentionally created a mystery around Dulberg’s relationship to Balke that was entirely unnecessary. Both Flynn and Williams pretended to not know who Balke was. The suppression of documents on the communications between Balke and Dulberg and other documents mentioning Balke (from 4 different sources presented in different formats) creates the appearance that Dulberg was hiding documents from the defense about Balke, and therefore creates the appearance that Dulberg has something to hide about his relationship to Balke and what they discussed together.

**2D18.** A reasonable person can also conclude that Clinton and Williams, while retained as Dulberg’s legal malpractice attorneys, intentionally avoided informing Dulberg that Balke was acting in violation of federal bankruptcy laws by appearing in the 22nd Judicial Circuit Court (which has no jurisdiction over the PI case), representing Dulberg (who has no standing as plaintiff), and in attempting to get Dulberg to accept \$50,000 to settle the PI case with Gagnon without the knowledge or consent of the bankruptcy trustee or the bankruptcy judge.

## **2E THE EXAMPLE OF SUPPLEMENTAL DISCOVERY REQUEST FOR DOCUMENT PRODUCTION FILED ON JULY 2, 2020**

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1 Exhibit D0e-Pages from CLR\_Vol\_2\_of\_2\_230421\_1627\_22D90D40.pdf (Page 5)

2 Exhibit D0e-Pages from CLR\_Vol\_2\_of\_2\_230421\_1627\_22D90D40.pdf (Page 14)

**2E1.** On July 2, 2020 Flynn filed a Supplemental Request for Production of Documents.<sup>1</sup>

**2E2.** On July 2, 2020, at 12:10 PM Williams sent a forwarded email to Dulberg stating:

“Opposing Counsel has tendered a supplemental request for production. Please review. A response is due by July 30, 2020. You can begin gathering responsive documents. Some of the document may be subject to attorney-client privilege. Best Regards,”<sup>2</sup>

**2E3.** Most of the documents Dulberg would need to gather to answer the supplemental production request were still being suppressed by Williams and were released by Williams for the first time one week later on July 9, 2020 hidden behind thousands of pages of previously released documents. The more than 6000 pages of documents contained all the previously suppressed emails of Balke, Saul Ferris, the letter from Saul Ferris to Dulberg among other suppressed documents.

Williams is ‘flooding’ Dulberg with an overwhelming number of documents and sneaking all but one of the documents that were previously suppressed into the flood, behind thousands of pages of useless material. Williams intentionally kept suppressing the certified slip ruling on Tilschner v Spangler.

**2E4.** On July 27, 2020 at 2:24 PM Ed Clinton sent an email to Dulberg stating:<sup>3</sup>

“Dear Paul, Please see the attached letter. Best Regards”

In the attached letter Clinton and Williams resigned as Dulberg’s counsel.<sup>4</sup>

**2E5.** On July 30, 2020 at 10:21 AM Williams sent an email to Dulberg stating:

“These document requests are due today. We have obtained a 28 day extension so the responses are now due August 27, 2020. We anticipate filing our motion to withdraw. Thus, you will need your new counsel to respond or prepare your own response. Best Regards”<sup>5</sup>

**2E6.** On July 30, 2020 at 1:50 PM Dulberg sent an email to Williams stating:

“Thank you for getting this extended. I’m pulling from memory here because I had a Dr’s appointment today and am away from my desk I just took your July 2 email and reviewed it. I didn’t collect the documents because I thought I had already turned over all the gooch files and emails to you and I thought we waived privilege for Boudin and

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1 Exhibit E1-2020-07-02\_1211 PM\_RECV\_Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377\_ATTACHMENTS.pdf (Page 6-8)

2 Exhibit E1-2020-07-02\_1211 PM\_RECV\_Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377\_ATTACHMENTS.pdf (Page 1)

3 Exhibit 44-Dulberg v Popovich 2017 L 377.pdf (Page 1)

4 Exhibit 7h-Dulberg Client Letter 2020 July 27.pdf

5 Exhibit E2-Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377.pdf (Page 11)

you have all of that as well. I suppose other than the last request asking for “documents” relating to a conversation between Baudin and myself when we were leaving the ADR the rest of this would be contingent on Judge Meyers decision of the objections over Gooch questioning that were raised during my deposition. I’m still not sure how I’m supposed to have documents from a verbal conversation with Baudin. I will look at all this again when I get home.”<sup>1</sup>

**2E7.** On August 18, 2020 at 2:13 PM Flynn sent an email to Williams stating:

“This correspondence is being forwarded pursuant to Illinois Supreme Court Rule 201(k). I just received your firm’s motion to withdraw. If you could please pass along to Mr. Dulberg or his new counsel, that we must insist on the outstanding written discovery being answered by August 27, 2020 per our agreement below, it would be appreciated. I think we have been very patient with Mr. Dulberg in responding to discovery which has been directed at his assertion of the discovery rule in this case, where he is attempting to overcome a statute of limitations defense (issues which are evident from the face of the pleadings and the applicable statutes involved). The supplemental discovery we served merely clarified and more specifically identified communications and documents which were the subject of prior discovery requests, and some of which were identified at Mr. Dulberg’s discovery deposition taken on February 19, 2020. Please feel free to contact me if you would like to discuss this matter.”<sup>2</sup>

**2E8.** On August 18, 2020 at 2:42 PM Williams sent an email to Dulberg stating:

“We previously obtained an extension info time to respond to document discovery in your case—see below—to August 27. Opposing counsel is insisting on the August 27 response date. As we are withdrawing, it is likely more appropriate for your new counsel to respond to the discovery. Alternatively, you could seek more time when the matter is before the Judge on Sept 10. Best Regards,”<sup>3</sup>

**2E9.** On August 18, 2020 at 2:49 PM Dulberg sent an email to Williams stating:

“Please remind me,  
Was this the emails and communications with Gooch that they are after or something else?”<sup>4</sup>

**2E10.** On August 18, 2020 at 2:56 PM Williams sent an email to Dulberg stating:

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1 Exhibit E2-Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377.pdf (Page 13)  
2 Exhibit E2-Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377.pdf (Page 31)  
3 Exhibit E2-Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377.pdf (Page 34)  
4 Exhibit E2-Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377.pdf (Page 37)

“The requests are attached again here so you can see what they are seeking. Again, they were issued on July 2, 2020. We sent them to you that same day. They were originally due on July 30, 2020. We obtained an extension to August 27, 2020. Best regards,”<sup>1</sup>

**2E11.** On August 18, 2020 at 3:11 PM Dulberg sent an email to Williams stating:

“Thanks again for resending those requests from George Flynn. At this point I will not be meeting their deadline of August 27th until I have new council and/or the Judge rules that I must divulge communications with my attorney Gooch from the current case. I’m not an attorney but I believe its common knowledge that what George Flynn is asking for is wrong and strikes at the heart of attorney/client privilege. Kindly let Mr Flynn know he will not be receiving those answers or files until I have new counsel or the Judge rules on our objection at my deposition and orders me to turn over privileged communications.”<sup>2</sup>

**2E12.** On October 16, 2020 Dulberg sent an email to Williams with the subject “PLEASE HELP WITH CASE FILE” stating:

“Oh, and just so you are aware, I may have to argue this on my own without counsel and I am going to do everything I can to see this case through to the end. Continue to help me navigate your case file, perhaps correct me when I am wrong and I will make sure your lean gets satisfied out of the award. Thank you all for what you have done thus far”<sup>3</sup>

**2E13.** On Oct 19, 2020 Dulberg sent an email to Williams stating:

Hi Julia and Ed, I’m sure you noticed the amount of emails I have sent. I’m in a frantic state to find new counsel and simultaneously try to learn what I call “legalese” so I can reply to and argue Flynn’s Motion on my own if need be and learn your file system. Before I go give \$10,000 on yet another attorney, whom I don’t know, I wanted to give you an option since your already familiar with the case, know the case file and I do trust you and don’t think it fair that you did all that work and may not get paid what you should if I end up hiring the wrong attorney. In less than 3 months I will have enough cash in hand to fund this case and finish it 3x over. It will probably take less time but that is my worst case scenario as my family and I move to liquidate some assets and free up our capital rather than borrow from loan sharks I am hoping that you would be interested in taking back representation of this case. Rather than hire a new attorney, I can use the \$10,000 to pay for your legal services over the next 3 months This gives me 3 months to make the arrangements needed to have enough funding to go at this paying in full the whole way through. If after 3 months I don’t have the funds to finish this case, you can withdraw again. I believe this would give both of us the best chances at recouping the money and time invested thus far. Time is limited so please think about this and let me

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1 Exhibit E2-Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377.pdf (Page 41)

2 Exhibit E2-Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377.pdf (Page 45)

3 Exhibit 50-2020-10-16\_1044 AM\_SENT\_PLEASE HELP WITH CASE FILE.pdf (Page 1)



know in the next day or two.”<sup>1</sup>

**2E14.** On October 19, 2020 at 9:52 AM Williams sent an email to Dulberg stating:

“We will cannot accept your matter again. As for the remainder of the emails that you sent, we provided you with the entire file. The documents are labeled. Anything in the folder that stated it was produced to OC—I provided the specific name in my email last week—those documents/written discovery answers were produced to OC. If it’s not in that folder, it wasn’t produced. There are several duplicates of documents—you should cross check it with that folder. We did produce everything we could to OC with the exception of confidential communication between you and Gooch. I believe all the other relevant and requested documents were produced. We did not respond to the July 2020 supplemental discovery that George Flynn issued to you. I sent the requests in an email to you, but they are also on the flash drive.

Again, everything is on the flash drive, so we recommend that you look there. We wish you the best of luck.”<sup>2</sup>

**2E15.** The following exchanges took place on April 1, 2021 in court:<sup>3</sup>

THE COURT: All right. For the record, this is Dulberg versus Mast. And, plaintiff’s counsel, if you could identify yourself.

MR. TALARICO: Your Honor, good morning. Mr. Flynn. My name is Alphonse Talarico. I represent the plaintiff, Paul Dulberg.

THE COURT: Okay. And for the defense?

MR. FLYNN: Attorney George Flynn, F-l-y-n-n. And, Judge, and, counsel, I would like to extend my apologies for the calendaring issue last week.

THE COURT: It happens. But let’s -- where are we? Because I -- yeah, bring me up to date with where you are.

MR. FLYNN: Generally, Judge, the -- Okay. So the court ordered the plaintiff to produce certain documents that were withheld. That has been done. We have I think a continued issue with respect to interrogatory answers from the -- Hans Mast interrogatories served in July of 2019, and then the improper and vague answer, responses, to the production request where the plaintiff has just simply identified Bate’s documents 1 through 8,708 relative to the discovery of the alleged malpractice.

THE COURT: Yeah, I looked at the answers, those answers, and I believe those are nonresponsive. Merely identifying all the records is not a direct response to your request, so I’m going to direct plaintiff to provide a supplemental response to those requests. Mr. Talarico, you have something to say?

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1 Exhibit 52-2020-10-19\_0952 AM\_RECV\_Contingency.pdf

2 Exhibit 52-2020-10-19\_0952 AM\_RECV\_Contingency.pdf

3 Exhibits/Exhibit E15\_2021-04-01\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1.pdf Page 2 Line 1 through Page 12 Line 20



MR. TALARICO: Yes, Judge, actually, I do. Those 8,707 prior documents that had been submitted, according to the information I have, between Mr. Flynn and the Clinton Law Firm, the previous law firm, were under the initial request to produce. The answers that I have from the Clinton Law Firm indicate the wording that the documents will be produced and then there is no objection between Flynn -- Mr. Flynn and the Clinton Law Firm. There's no -- and I have no way of researching how the relationship between the first set of answers that covered document 1 through 8707 have been done. I -- that's why I said that that will be unreasonable and an expense and I have to go back to each document and see how it responded.

Mr. Flynn, as far as I've seen, had not objected to those answers, so to do that would force me to review close to 9,000 documents to see which were responsive -- 9,000 -- 8,707 that have already been turned over and, in addition to that, on February 10th,

Judge, the last hearing date on this matter, you focused and ordered us to focus our response to the time Mr. Dulberg knew or should have known, and the only documents that at that time hadn't been turned over to Mr. Flynn would be six hundred something odd documents, communications between the second -- the Gooch law firm and Mr. Dulberg. Those I reviewed and submitted the one that responded to what -- to what the court indicated the communications in December of --

THE COURT: Before we get into that -- because I think that issue's resolved. Before we get into that, why are you -- I guess I'm not following. You're saying that it's -- giving him specific responses to his discovery requests is overly burdensome on you at this point?

MR. TALARICO: Right, to go back and review 8,700 documents that had been turned over in the past --

THE COURT: Well, who should?

MR. TALARICO: Excuse me?

THE COURT: Well, who's burden is that to provide the accurate answer?

MR. TALARICO: Judge, those were responded to. They were supplied to Mr. Flynn in the past in response to requests to produce.

THE COURT: He may have -- I accept he has every single relevant document, but you can't just say in response to a discovery request find it yourself, it's in these thousands of pages of documents. You got to tell him where it is. So --

MR. TALARICO: I understand -- I'm sorry, Judge.

THE COURT: The bottom line, your answer has to be one that you can be pinned down on for purposes of impeachment, and your answers are -- don't permit that. So if you're going to respond, you've got to give him a direct response to a direct question, and you didn't do that. You've given him -- you said here's everything we have, find it yourself. And that is nonresponsive.

MR. TALARICO: Judge, with all due respect, again, the -- this was -- what I'm reflecting

on is these are the documents that were submitted to Mr. Flynn by the Clinton Law Firm with no objection.

THE COURT: But I have a motion to compel that -- I mean -- so I think --

MR. FLYNN: And that's not accurate, Judge. There have been multiple 201(k) conferences and it was a long, unusual production in response to the interrogatories in the case as it was.

THE COURT: Regardless, I am ordering compliance and you must give specific responses to each of the requests, and you can't just say it's somewhere in these 8,000 plus pages. How long is it going to take you to do that?

MR. TALARICO: Judge, if I could have 60 days to cover 9,000 -- close to 9,000 documents.

THE COURT: Sure, I'll give you 60 days, because, yeah, that is a lot of -- those are a lot of documents, so I'll put this out 60 days. Mr. Flynn, is there anything else we need to address at this time?

MR. FLYNN: Well, the supplemental production response, again, is a nonresponsive production response. The question is, is there a document in that 8,000 pages. We don't think there is, but Dulberg testified both ways essentially, whether there was a December 16, 2016, written communication with Tom Gooch that provided him with the basis for the tolling of the statute of limitations. If there is none, then the response should say there is none, not see 8,000 documents and maybe it's in them.

THE COURT: I agree. Mr. Talarico, --

MR. FLYNN: And with respect to the --

THE COURT: Well, hang on. Mr. Talarico, I'm not going to tell you how to respond, but if there is no such document, -- I did take note of the fact that I saw none in the documents I reviewed -- if there is no such document, then just say there is no such document.

MR. TALARICO: With all due respect, I think I did answer that question. There was one document and I turned it over to Mr. Flynn. The only document between Gooch and the plaintiff in December of 2016, one document turned over, without objection, without a privilege log.

THE COURT: Mr. Flynn? You're being told that all documents responsive to that request have been turned over. And I agree that at least in the documents I was asked to review, there was nothing that corresponded with the December 2016 date that we initially were discussing, but --

MR. FLYNN: It should be a pretty simple process then and it should be in writing. Then I can attach it to my summary judgment motion, which I know is not a surprise to anyone. The same goes with respect to the interrogatory answers. Dulberg admitted in his deposition that he didn't respond completely to interrogatory number one, in particular, from Hans Mast.

So that is also part of this motion to compel. Again, that one is a little different. It says identify and describe each and every way that Popovich or Mast breached any duty of care to you, the date of the breach and when and how you became aware of the breach. He didn't answer it.

THE COURT: Okay. Mr. Talarico? And I'm going to move on to everybody else and then come back to you -- in fact, I'll come back to you guys. I'll let -- let me get rid of everyone else and we'll resume this in a moment.

(Whereupon, the above-entitled cause was passed and subsequently recalled.)

THE COURT: That brings us back to Dulberg. What I'm doing right now is looking up -- I want to go to the interrogatory. Mr. Flynn, while I'm looking for -- it's interrogatory number one; am I correct?

MR. FLYNN: Correct.

THE COURT: All right. I'm looking in your motion to compel and since nothing is marked, I've got to page through these one at a time, so while I'm doing that, rather than just staring at me, why don't you tell me what the interrogatory says.

MR. FLYNN: Sure. It says identify and describe each and every way that Popovich or Mast breached a duty of care to you, the date of the breach, and when and how you became aware of the breach.

THE COURT: Okay. And what was the response?

MR. FLYNN: Between October of 2013 and January 2014, Mast told Dulberg that Illinois law does not permit a recovery against the McGuires in the circumstances of Dulberg's case and that he would not receive any recovery from the McGuires.

THE COURT: Okay.

MR. FLYNN: Mast advised Dulberg that the judge would rule in favor of the McGuires on a motion for summary judgment. Mast further told Dulberg that Dulberg would retain his claim against Gagnon and be able to seek and receive a full recovery from Gagnon. So that says nothing specifically about a breach, the date of the breach or when and how he became aware of it.

THE COURT: Well, it doesn't -- no, it doesn't tell you the date. Mr. Talarico, do you have a response on that?

MR. TALARICO: No, Your Honor, it doesn't say specifically the date of the breach.

THE COURT: All right. And --

MR. FLYNN: And we were forwarded the discovery. Again, this goes back to the Gooch -- whether it be a verbal or written communication on December 16, 2016.

MR. TALARICO: Mr. Flynn, verbal -- I don't know where I could get verbal responses. I've gone over everything and I -- Judge, I have in total 90 emails between the two, between Mr. Gooch and Mister -- and the plaintiff, and I would be willing to turn over

every one of them. That's the written -- that's what I have.

MR. FLYNN: I just want to know what the basis is for the discovery of the malpractice, and if there isn't anything other than a verbal discussion with Tom Gooch in his office, that's fine; but it just needs to specify that. And I think that's been the ruling with this.

THE COURT: And I think --

MR. FLYNN: And that's what the testimony seems to reflect.

THE COURT: I -- I think the answer -- and I certainly don't know, but based upon what I understand already, I think the answer points to that December 2016 date addressed in the production response, but I don't know and I -- my concern is making sure it is clear from the answer to interrogatory that is in fact what we're talking about. If there's another date, fine, but it has to be disclosed. I don't know about -- I'm not sure how he responds to the date of the breaches because I -- I do think that that's an incredibly broad question because it --

MR. FLYNN: I understand that.

THE COURT: -- in essence, it's every day after the resolution of the initial claim, and you do have a date for that, at least by way of a settlement or order. So, Mr. Talarico, can you supplement that answer with the date of discovery?

MR. TALARICO: I will do my best, Judge. I will.

THE COURT: Okay. Mr. Flynn, the next one?

MR. FLYNN: You know, generally I think that's it, Judge. It's the supplemental production response and then these interrogatories, so what I would ask that the order reflect, that the specific answers need to be made and that the objections in the supplemental production response be overruled. I think the objection is undue burden on each of them --

THE COURT: Yeah, and to the extent that there are objections to the burdensome nature, those are overruled. I recognize that it is a burden, but you got to -- somebody's got to do it, and it is your claim, it is your burden. But I will give you 60 days in which to complete that.

Mr. Talarico, anything you want to add?

MR. TALARICO: No, Judge.

THE COURT: So why don't we -- 60 days is June 1st. Let's assume -- and I'm going to -- I won't assume compliance prior to June 1st, but if we come back on June 14th, that's a Monday, Mr. Flynn, do you think you would be able to give me your comments on compliance by then?

MR. FLYNN: If I have a response and, say, amended interrogatory answers and amended supplemental responses by June 1?

THE COURT: Yeah.

MR. FLYNN: Yes, sure.

THE COURT: Okay. So I will direct a supplemental answer to interrogatory number one. I'll direct amended answers to the production request, and all due by June 1st.

**2E16.** On June 14, 2021 the following exchange took place in court:<sup>1</sup>

What's going on with the case? What -- we are here for discovery compliance.

MR. TALARICO: Yes, your Honor. Well, I believe we have complied to your order completely.

THE COURT: Okay.

MR. TALARICO: We have filed and served all the proper documents, searched all -- whatever, close to 9,500 documents and responded appropriately.

A reasonable person can conclude that Williams intentionally suppressed documents mentioning the subjects of Brad Balke, Bankruptcy, Saul Ferris, the Saul Ferris declination letter and the Baudins that the opposing counsel was actively seeking from May 30, 2019 until July 9, 2020 and then, just before Williams resigned, Williams "flooded" Dulberg with over 6000 documents, leaving Dulberg to answer the supplemental document discovery request on his own or with a new attorney being presented with a massive trove of documents to look through and perhaps only 28 days to do it. A reasonable person can conclude that this was done to intentionally confuse and overwhelm Dulberg and any new attorney he may retain to benefit the defendants and sabotage Dulberg's case against Popovich and Mast.

## **2F THE EXAMPLE OF THE BAUDINS**

**2F1.** The Baudins were retained<sup>2</sup> on September 22, 2015 by Dulberg to represent Dulberg in his PI lawsuit against David Gagnon, after Dulberg fired Brad Balke.

**2F2.** Just like Balke, the Baudins, in violation of the automatic stay, represented Dulberg in the 22nd Judicial Circuit Court (which had no jurisdiction over the PI case) even though the Baudins must have known Dulberg had no standing as plaintiff in PI case 12LA178.

**2F3.** Williams suppressed all emails between the Baudins and Dulberg from the document disclosure to opposing counsel on May 30, 2019 except bates number "Dulberg 001308" (which is a notice of the binding mediation award). Williams also suppressed documents on the relationship of the Baudins to the bankruptcy estate.

**2F4.** Dulberg later discovered that Clinton and Williams failed to inform him of the ways which the defendants Popovich and Mast, Balke and later the Baudins (and Allstate and bankruptcy Trustee Olsen) acted in violation of Federal Bankruptcy Laws.

**2F5.** On June 13, 2016, in violation of the automatic stay, in the Circuit Court Allstate attorney

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1 2021-06-14\_17LA377\_Report of Proceeding\_TALARICO\_Judy A Carlson.pdf

2 Exhibit 53-2015-Baudin\_FeeAgreement.pdf

Reddington stated that she and the Baudins are considering this case as a possible ADR candidate without Dulberg's knowledge or permission. The Baudins were representing Dulberg in the 22nd Judicial Circuit Court without Dulberg having standing as plaintiff, the case under automatic stay and without being hired as special counsel or receiving leave from the 7th Circuit United States Bankruptcy Court for the Northern District of Illinois, Western Division. Allstate attorney Reddington stated in the 22nd Judicial Circuit Court, "I have four motions up this morning. Plaintiff's attorney and I are working on the case to see if it's a possible ADR candidate. He asked that we get our motions entered and continued. They're for an IME." Allstate attorney Reddington also said, "And honestly, if I get a decision sooner, that -- well, I don't know if this is a case we -- we probably wouldn't be able to enter a dismissal order if we went to ADR until after the ADR was done."

On June 13, 2016 the following exchange took place in the 22nd Judicial Circuit Court:<sup>1</sup>

THE COURT: Dulberg versus Gagnon?

(Whereupon the afore-captioned cause was recalled.)

SPEAKER: Judge, I'm here on Dulberg versus Gagnon.

THE COURT: Yeah.

SPEAKER: I have four motions up this morning. Plaintiff's attorney and I are working on the case to see if it's a possible ADR candidate. He asked that we get our motions entered and continued. They're for an IME.

THE COURT: Okay.

SPEAKER: They're to continue the trial, they're to bar one of his witnesses, and they're to compel his expert.

THE COURT: Okay.

SPEAKER: For a dep. Randy Baudin and I have been talking all last week. And I said, What do you want to do about today? He's working with a client who's on his third attorney, so.

THE COURT: I had an extensive pretrial, so.

SPEAKER: Yes. And I'm new to it, but I'm like, Okay, we're going to, you know, get it ready for trial if that's what we're going to do.

THE COURT: When did Mr. Baudin want to come back?

SPEAKER: He didn't say. But I know, like myself, he's going to a volleyball tournament with his daughters in Florida.

THE COURT: Okay.

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<sup>1</sup> Exhibit 58-2016-06-13\_CC-Civil - 12LA000178 - 2\_24\_2022 - -- REOP - -.pdf

SPEAKER: At the end of the month.

THE COURT: So --

SPEAKER: I don't want to --

THE COURT: We'll get into July. Why don't we go 30 days. What's a day that works for you?

SPEAKER: And honestly, if I get a decision sooner, that -- well, I don't know if this is a case we -- we probably wouldn't be able to enter a dismissal order if we went to ADR until after the ADR was done.

THE COURT: Yeah.

SPEAKER: Based on the history. I am gone the first week of July. So after that, I am here July 11th.

THE COURT: Let's come back July 11th.

SPEAKER: Are you comfortable with leaving the trial date until that time?

THE COURT: Yeah.

SPEAKER: Because the trial date's out in September.

THE COURT: Yeah.

SPEAKER: Okay. All right.

THE COURT: It's not like it's extra work for me.

SPEAKER: Well, I just -- you know, for purposes of your calendar.

THE COURT: You're -- you're the number one case, so everybody else will be happy if you go away.

SPEAKER: I'm sure they will. Okay. Thank you, Judge.

THE COURT: All right. Thank you.

**2F6.** On July 11, 2016 the following exchange took place in the 22nd Judicial Circuit Court:<sup>1</sup>

THE COURT: Dulberg. Do we have -- When do you want to come back?

UNIDENTIFIED SPEAKER: We're entering continuing the motions, is that what we're doing?

THE COURT: Yes.

UNIDENTIFIED SPEAKER: Okay. When's your next available date, Judge?

THE COURT: For a hearing?

UNIDENTIFIED SPEAKER: Yes.

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<sup>1</sup> Exhibit 54-CC-Civil - 12LA000178 - 3\_2\_2022 - -- REOP - - (1).pdf



UNIDENTIFIED SPEAKER: Or a brief.

THE COURT: Are we briefed? Has it been briefed?

UNIDENTIFIED SPEAKER: No. They're just motions that I presented as emergencies and then we continued them pending discussions.

THE COURT: Well, when -- if it goes into mediation, the motions become moot. Or do we have to address them regardless? I don't know what they are.

UNIDENTIFIED SPEAKER: I think the type of mediation we would do, it would be moot because --

UNIDENTIFIED SPEAKER: Yeah, other than, possibly, an IME. But, you know, we can certainly work -- we've worked well together so far, so we could certainly see if we can work things out.

THE COURT: Speaking generally, I'd probably grant an IME. I haven't seen your motion, though, so I don't know. I mean, I could put this over to July 21st, and that should give you enough time to decide what you want to do with mediation.

UNIDENTIFIED SPEAKER: I can be here.

THE COURT: Okay. All right. And that will be just at 9:00 o'clock for presentation of the motion, and then we'll figure out what we're going to do.

UNIDENTIFIED SPEAKER: Thank you for your time.

UNIDENTIFIED SPEAKER: Thank you. Appreciate it.

**2F7.** On July 21, 2016 the following exchange took place in 22nd Judicial Circuit Court:<sup>1</sup>

APPEARANCES:

THE BAUDIN LAW GROUP LTD., by: MS. KELLY N. BAUDIN, on behalf of the Plaintiff;

LAW OFFICE OF STEVEN A. LIHOSIT, by: MS. SHOSHAN E. REDDINGTON, on behalf of the Defendant David Gagnon.

MS. BAUDIN: Kelly Baudin on behalf of the plaintiff. Mr. Dulberg is present and approaching.

MS. REDDINGTON: Good morning, Judge. Shoshan Reddington for the defendant.

THE COURT: Good morning.

MS. REDDINGTON: We talked last night. We've got some things agreed to, so I would like to just give us a moment to discuss that and step back up.

THE COURT: Okay. I will pass.

MS. BAUDIN: Thank you.

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<sup>1</sup> Exhibit 55-CC-Civil - 12LA000178 - 3\_2\_2022 - - - REOP - - (2).pdf

MS. REDDINGTON: Thank you.

THE COURT: All right. Thank you.

(Whereupon, the above-entitled cause was passed and subsequently recalled.)

MS. BAUDIN: Okay, Judge. As you know, we had previously been discussing binding mediation. We came to a semi-agreement, --

THE COURT: Okay.

MS. BAUDIN: -- but we would like probably two weeks to just see if we can figure out the details and see if we can reach an agreement on how that is going to proceed. So I think we're looking at an August 4th date for that.

THE COURT: Can't do August 4th --

MS. BAUDIN: Oh, okay. I just was looking at two weeks, Your Honor.

THE COURT: -- because that's when I'm not here.

MS. BAUDIN: Oh, I see on the calendar. I apologize.

THE COURT: Any day after that.

MS. REDDINGTON: The following week, anything?

MS. BAUDIN: Grab my -- Let's say either the 8th or the 10th are probably the best.

THE COURT: Either's fine?

MS. REDDINGTON: My calendar's currently crashed on my -- so I can't answer that, but --

MS. BAUDIN: Why don't we do the 10th, just so it's --

THE COURT: Is there a date you know you're going to be here?

MS. REDDINGTON: No.

THE COURT: Okay.

MS. REDDINGTON: Judge, and I have several motions, and what I'd like to do is get the trial stricken which is on 9/- --

MS. BAUDIN: 27th I believe or 22nd?

MS. REDDINGTON: -- the 26th, and then to set it for the status instead on the 8/10, and then I also had a motion on an IME. I'm a little stymied right now because my claim rep is out this week and there's a couple of issues that I can't answer for counsel, but if we do get the agreement in place, what we'd like to do is do the mediation and then come back for a status to dismiss it once the mediation is done, if that's agreeable.

THE COURT: First off, with respect to the motion to strike the trial date, any objection?

MS. BAUDIN: No.

THE COURT: All right. I will -- I will strike the trial date for September 26, as well as the pretrial date of the 23rd.

MS. REDDINGTON: Okay.

THE COURT: I will enter and continue your other motions until we're certain what's going to happen.

MS. REDDINGTON: Okay.

THE COURT: The removal of the trial date pretty much means we can do anything.

MS. REDDINGTON: Takes care of that. Okay. And hopefully we'll come back with everything in place and then we'll just even set a date and then get a status for after that date to be able to come back and say it's done; we're willing to dismiss with prejudice because mediation's binding and it's done.

THE COURT: All right. However you want to do it, it is fine.

MS. REDDINGTON: Thank you.

THE COURT: All right. Take care.

MS. BAUDIN: Thank you

**2F8.** On August 10, 2016, in violation of the automatic stay, the Baudins and Reddington moved to enter into binding mediation on August 10, 2016, The date of the Binding Mediation hearing was already set for December 8, 2016 by the time the following exchange took place on August 10, 2016 in the Circuit Court:<sup>1</sup>

MS. REDDINGTON: Number one, Dulberg vs. Gagnon. Shoshan Reddington for the defendant. We have (indiscernible) scheduled for 12-8.

THE COURT: Okay.

MS. REDDINGTON: We'd like to have a status date after that date.

THE COURT: What date works for you? You said December 8?

MS. REDDINGTON: December 8.

THE COURT: Okay. How about the following Monday, the 12th? Or do you want to go out further? The 16th, Friday?

On August 10, 2016, in violation of the automatic stay, Judge Meyer of the 22nd Circuit Court entered an 'Agreed Order'<sup>2</sup> that stated "This case is continued on Motion of 'by agreement' to 12/12, 2016 at 9:00am for Status on binding Mediation.". The order also stated "Defendants appear by attorney Reddington". Reddington represented Allstate. The Baudins were not present.

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1 Exhibit 56-CC-Civil - 12LA000178 - 3\_3\_2022 - - - REOP - - (4).pdf, (Page 2 Lines 2-10)

2 Exhibit 57-12LA000178--2016-08-10--ORD\_0097.pdf

**2F9.** Allstate and the Baudins misrepresented Dulberg's wishes to the 22nd Judicial Circuit Court (which has no jurisdiction over the PI case) and claimed they had an agreement to enter into binding mediation on August 10, 2016. Judge Meyer entered the order and pushed the next status date to December 12, 2016, which is 4 days after the scheduled binding mediation date of December 8, 2016. All this was done while the case was under automatic stay and Baudins client Dulberg had no standing in the case.

**2F10.** On December 8, 2022 Dulberg filed a complaint 2022L010905<sup>1</sup> against the Baudins for legal malpractice and contract fraud based on the later research and initiative of Dulberg's subsequent counsel. A reasonable person can conclude that Williams intentionally suppressed documents which clarified Baudins relationship to the bankruptcy estate for the same reason that she suppressed other documents on the bankruptcy: to avoid all the complex issues which arise in civil complaint 2022L010905.

- (a) That Dulberg's signature was fraudulently placed on the Executed Binding Mediation Agreement executed 4 days earlier on December 8, 2016.
- (b) That Trustee Olsen misrepresented Dulberg's consent to the Bankruptcy Judge on October 31, 2016.
- (c) That Allstate, the Baudins and Trustee Olsen knew Dulberg had no standing to pursue the case 12LA178 while the case was under an automatic stay.
- (d) That Allstate, the Baudins and Trustee Olsen all knew the case 12LA178 proceeded in the Circuit Court in violation of the automatic stay.
- (e) That the Baudins by agreement with Allstate, in violation of the automatic stay, before the Baudins were approved to be hired as special counsel under Trustee Olsen, misrepresented Dulberg as agreeing to Binding Mediation in Circuit Court on August 10, 2016 and asked Associate Judge Meyer to delay the next status hearing to December 12, 2016 after the binding mediation was to take place on December 8, 2016.
- (f) That the Baudins' and Allstate's acts in violation of the automatic stay, started laying the groundwork as early as June 16, 2016 and finally set the binding mediation date for December 8, 2016 on August 10, 2016 in the Circuit Court. This happened before Trustee Olsen was even appointed to the position on August 31, 2016 and before Trustee Olsen received permission from the Honorable Judge Thomas M. Lynch, to hire the Baudins as special counsel and permission to enter into the proposed capped Binding Mediation Agreement on October 31, 2016.
- (g) That the Baudins filed their APPEARANCE as REGULAR COUNSEL in 12LA178 on 11/6/2015 in violation of the automatic stay.
- (h) That there is no APPEARANCE filed by the Baudin Defendants that is not VOID in case 12LA178.

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<sup>1</sup> Exhibit F5-Filed Complaint December 8 2022 DisplayFromAWS.pdf

- (i) That the Baudin Defendants' failed to file an APPEARANCE to represent the bankruptcy estate in case 12LA178 after being hired as special counsel by Trustee Olsen.
- (j) That Trustee Olsen received permission from the Bankruptcy court to enter into the proposed Binding Mediation Agreement and later made a choice and Trustee Olsen did not act and sign on the advice of his special counsel the Baudins.
- (k) That Trustee Olsen did not "pursue" and "exercise control "over the claim/asset and in doing so Abandoned the asset and it reverted back to the DEBTOR.
- (l) The Baudin Defendants were approved and hired as Special Counsel for the Estate and in such a capacity had no standing to execute a Binding Mediation Agreement for the DEBTOR.
- (m) The only party with standing over abandoned assets is now the DEBTOR.
- (n) That there can be no agreement between Allstate and the Baudin Defendants acting as counsel for the bankruptcy estate to have the case dismissed with prejudice in the circuit court on December 12, 2016 since the Baudins failed to file any appearance anywhere that is not VOID and had no standing since they did not represent the DEBTOR.
- (o) Trustee Olsen and the Baudins collected the monies paid out by Allstate after ABANDONING the ASSET that then reverted back to the DEBTOR.

Dulberg clearly did not know any of this fraud took place when he was awarded \$660,000 in the capped Binding Mediation but Allstate, Trustee Olsen and the Baudins must have known. At that time Dulberg believed that the Bankruptcy Judge forced the case into a capped Binding Mediation without Dulberg's consent because that is what the Baudins told Dulberg. Dulberg stating "Yeah, you two did good, real good, and I thank both of you sincerely. I just can't help it, what I see here is a gift of \$261,000 given to those responsible for my injuries." just after learning of the capped Binding Mediation Award and that cannot be interpreted as Dulberg knowing about the fraudulent concealment listed as (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) at that time. He was not happy about not being able to collect all that he was awarded, but that does not mean he knew or could have known about the fraudulent concealment listed as (a) through (o) (from paragraph 24).

A reasonable person can conclude that this benefits the defendants in that it caps Dulberg's possible recovery from Popovich and Mast to \$300,000 without questioning the legal validity of how any 'cap' came to be part of any binding mediation agreement or without questioning the legal validity of the binding mediation agreement as a whole.

**2F11.** As Dulberg's retained legal malpractice attorney at the time, Williams knew or should have known that the Baudins committed legal malpractice against Dulberg for how they handled the binding mediation agreement and how they handled the Bankruptcy Estate. It is noteworthy that Williams never at any time advised Dulberg that either the Baudins or Bankruptcy Trustee Olsen did anything wrong or breached any duty of care they owed to Dulberg or to the

Bankruptcy estate in which Dulberg was a beneficiary. As Dulberg's retained legal malpractice attorney at the time, Williams effectively shielded the Baudins and Trustee Olsen and both the bankruptcy and binding mediation processes from any scrutiny for their actions described in the legal malpractice and contract fraud complaint 2022L010905.

What the example of bankruptcy and the example of the Baudins show clearly is that Clinton and Williams repeatedly gas-lighted their fully disabled client in order to protect fellow attorneys who were previously gas-lighting the same fully disabled client.

## **2G THE DEFENDANT GAGNON, EFFECTIVELY ADMITTING NEGLIGENCE FOR DULBERG'S INJURY**

**2G1.** On February 1, 2013 Ron Barch filed CROSS-CLAIM FOR CONTRIBUTION AGAINST CO-DEFENDANT DAVID GAGNON<sup>1</sup>. 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;
- 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.

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<sup>1</sup> Exhibit G1-2013-02-01\_12LA178\_CROSS CLAIM FOR CONTRIBUTION AGAINST CODEFENDANT DAVID GAGNON\_CERTIFICATE OF SERVICE\_Barch-McGuires copy-OCR.pdf

**2G2. Gagnon's attorney Accardo has never filed an answer on behalf of Gagnon.**

**2G3.** On February 1, 2013 the McGuires filed DEFENDANTS' AFFIRMATIVE DEFENSE<sup>1</sup> in which they stated:

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."

**2G4.** Of February 6, 2013 Mast filed an ANSWER TO AFFIRMATIVE DEFENSE<sup>2</sup> on behalf of Dulberg which denied each of these allegations.

**2G5.** 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 a cross-claim for contribution Gagnon effectively admitted to each of charges (a), (b), (c), (d), (e), (f), (g), (h) and (i).

**2G6.** In addition, Gagnon never answered the interrogatory questions Popovich and Mast sent to the Allstate attorney Accardo in October, 2012.

**2G7.** As Dulberg's attorneys at that time Popovich and Mast knew Gagnon never filed an answer to the cross-claim. As Dulberg's subsequent attorneys in his personal injury case, both Brad Balke and the Baudins also knew Gagnon never filed an answer to the cross-claim. Dulberg's first legal malpractice attorney, Gooch, also knew Gagnon never filed an answer to the cross-claim. Clinton and Williams also knew Gagnon never filed an answer to the cross-claim.

**2G8.** Clinton and Williams knew or should have known that Mast and Popovich must have known about the cross-claim filed by the McGuires against Gagnon and unanswered by Gagnon

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<sup>1</sup> Exhibit G2-2013-02-01\_12LA178\_DEFENDANTS ANSWER\_DEFENDANTS AFFIRMATIVE DEFENSE\_CERTIFICATE OF SERVICE\_Barch-McGuire copy-OCR.pdf

<sup>2</sup> Exhibit G3-2013-02-06\_12LA178\_PLAINTIFFS REPLY TO DEFENDANTS BILL AND CAROLYN MCGUIRES AFFIRMATIVE DEFENSE\_Mast-Dulberg copy-OCR.pdf



since early March, 2013. This was not mentioned in the complaint.

**2G9.** Clinton and Williams knew or should have known that the Baudins also knew or should have known about the cross-claim filed by the McGuires against Gagnon and unanswered by Gagnon since they first began to represent Dulberg in October, 2015. This was not mentioned in the complaint.

## **2H BARCH DOCUMENT AVAILABILITY BEFORE DULBERG'S DEPOSITION**

In this section the way Clinton and Williams can delay their client's request for a subpoena of documents for over 8 months and they way the documents finally appear the day after Dulberg's deposition shows some classic gas-lighting techniques of a permanently disabled client.

**2H1.** On July 8, 2019 at 11:06 AM, about one week after Dulberg received the Popovich Document Disclosure from Williams, Dulberg sent an email<sup>1</sup> to Williams with an attached folder called "To\_Julia"<sup>2</sup>. In the folder there was a file called "\_READ\_ME.txt"<sup>3</sup>. The text stated:

"timeline\_of\_mcguire\_settlement.txt

This gives you a rough timeline of events leading to Paul accepting a \$5,000 settlement from the McGuires. Since we were never able to see (pop 192) until now, we never understood the details of how Mast tricked Paul into such a small settlement. The fact that Mast initiated the settlement process through (pop 192) without Paul's knowledge or permission is proof that this case is about more than Mast's negligence. It is about willful intent or malicious intent to deceive his client.

Of course you will need convincing proof that (pop 192) was initiated without Paul's knowledge. We have that proof. As I fill in the timeline more and more, the evidence will be stronger and stronger."

**2H2.** This is when Dulberg first became aware of a document of a \$7,500 offer made by Mast to opposing counsel Ron Barch on Dulberg's behalf to settle the claim against the McGuires.

**2H3.** Shortly after sending the folder Dulberg asked Williams by phone to subpoena the records of Ron Barch. Dulberg wanted to know if the October 22, 2013 document in which Mast offers to settle the claim against the McGuires for \$7,500 was authentic. But he needed the Barch communications to verify the authenticity of the document.

**2H4.** On October 10, 2019 at 2:01 PM Dulberg sent an email to Williams stating:

"3. Did we supoenad the Attorney Barch with Auto-owners insurance for his communications with the Popovich Firm concerning the Dulberg case? If yes, have we recieved any of these documents? If no, when will we be asking for these documents?

4. Have we supoenad Attorneys Mr Accardo & Ms Reddington with Allstate Insurance

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1 Exhibit C7a-2019-07-08\_1106 AM\_SENT\_Fwd Forward to Julia\_ATTACHMENTS.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 14-To\_Julia

3 Exhibit H1-\_READ\_ME.txt

for their communications with the Popovich Firm concerning the Dulberg case? If yes, have we received any of these documents? If no, when will we be asking for these documents?

5. Have we subpoenaed the Bankruptcy Trustees Heeg and (I need to look up the names in the Bankruptcy docs) for their communications with the Popovich Firm concerning the value of the Dulberg case/asset?

If yes, have we received any of these documents? If no, when will we be asking for these documents?"<sup>1</sup>

**2H5.** On October 21, 2019 at 1:40 PM (Subject: Discovery and status update) Williams sent an email to Dulberg stating:

"Subpoenas: Mary is working on the issuing various subpoenas. She will send copies to you. There is nothing further for you to do on this at this time."<sup>2</sup>

**2H6.** On October 24, 2019 at 10:53 AM Clinton sent an email to Dulberg stating:

"Provided are copies of the Subpoenas which were mailed out today. Ed"

"Good morning.

Attached are copies of the following subpoenas regarding the above referenced case:

1. Perry Accardo, Law Office of Gerard Gregoire
2. Law Office of Steven A. Lihosit
3. Joseph Olsen at Yalden, Olsen & WilleRe
4. Cicero France Barch & Alexander PC

Ed"<sup>3</sup>

**2H7.** On November 22, 2019 4:21 PM Ed Clinton sent an email to Chantel Bielskis stating:

"Chantal, The 14 day extension you requested is fine"<sup>4</sup>

**2H8.** On December 10, 2019 at 4:48:56 PM CST Chantel Bielskis wrote to Ed Clinton stating:

"Hello Ed – I am working on your subpoena for records. Is it safe to assume you have the entire court file or are you asking me to produce all of the pleadings I have as well?"<sup>5</sup>

**2H9.** On December 11, 2019 Chantel Bielskis sent an email to Williams stating:

"As I mentioned to Ed, I propose providing a list of all the treatment facilities from which we received records/bills per subpoena (either ours or Attorney Accardo's) instead."

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1 Exhibit H2-2019-10-10\_1401 PM\_SENT\_Dulberg Case.pdf

2 Exhibit H3-2019-10-21\_1340 PM\_RECV\_Discovery and status update\_ATTACHMENTS.pdf

3 Exhibit H4-2019-10-24\_1053 AM\_RECV\_FW Dulberg v Popovich et al Kane County Case No 17 LA 377\_ATTACHMENTS.pdf

4 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 3)

5 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 2)

Beilskis also stated, “Lastly, I propose sending a list of the deposition transcripts along with the corresponding reporter’s info.”<sup>1</sup>

**2H10.** On December 23, 2019 at 3:51 PM Chantal Bielskis sent an email to Williams stating:

“Dear Julia: In follow-up to my email below and in response to your firm’s subpoena for records, please see, attached, copies of the non-privileged correspondence from my file.”<sup>2</sup>

**2H11.** On December 23, 2019 at 3:55 PM Williams sent an email to opposing counsel Flynn stating;

“Dear George, Please the below response form Cicero’s office re our subpoena. Best Regards, Julia Williams”<sup>3</sup>

**2H12.** On Dec 23, 2019, at 3:59 PM, Chantel Bielskis sent an email to Williams stating;

“You are welcome. Attached, please find one of the Exhibits from the Gagnon dep as well as photos of the injury. Unfortunately, I will not be able to get the remaining documents scanned in and over to you until after the 1st of the year. I apologize for the delay. Sincerely, Chantel R. Bielskis”<sup>4</sup>

**2H13.** On December 23, 2019 4:32 PM Williams sent an email to Chantal Beilskis stating;

“Thanks Chantel. No need to apologize for the delay. Enjoy your holidays! Best Regards, Julia Williams”<sup>5</sup>

**2H14.** On Feb 12, 2020, at 12:26 PM, Dulberg emailed Williams stating:

“Due to the significant of the October 22, 2013 letter between Mast/Popovich and Ronald Barch/Auto-Owners I feel that the documents and communications between Mast and Barch are essential to have prior to any depositions. When can we get them?”<sup>6</sup>

**2H15.** On Feb 12, 2020, at 1:29 PM, Williams emailed Dulberg stating:

“We can move Hans Mast and Tom Popovich to the end of March. Defense counsel will not agree to move your deposition and would file a motion to compel. At this stage, I think it makes sense for you to go ahead and sit for your deposition on Feb. 19 at 1pm; we will prepare on Feb. 18 at our office at 1pm. For Feb. 19, I propose we meet here, at our office at 12:30 and walk to Karbal together.”<sup>7</sup>

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1 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 1)

2 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 4)

3 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 14)

4 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 20)

5 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 26)

6 Exhibit H5a-2020-02-12\_1226 PM\_SENT\_Barch Documents.pdf

7 Exhibit H5b-2020-02-12\_1329 PM\_RECV\_Barch Documents\_ATTACHMENTS.pdf

**2H16.** On Feb 12, 2020, at 5:28 PM, Dulberg emailed Williams stating:

“How did we get fixed, forced or locked in on a date to give my deposition before we have finished document discovery of the Barch communications? Determining relevance of documents not yet gathered or analyzed on a central issue to our case isn’t solely up to the defense to decide. It is not fair to us to have to walk into a discovery deposition without seeing the all the documents first whether or not the defense thinks those documents are relevant to my deposition. We will determine if the Barch documents are relevant to my deposition or not after seeing what is in them. It is also not fair to push Mast and Popovich depositions a month further out on the calendar if the defense is going to try and compel me to testify now. This serves no purpose other than buying the defense more time to formulate responses to what is discovered in my deposition. The dates of the depositions should stay as close together as logistically possible if we want the truth and not some formulated fiction of it.

Let them file the motion to compel. I believe the Judge would agree that we should be able to analyze the Barch records and keep the depositions as close together as possible to get to the truth. I believe it is within our rights to see all documents before any depositions begin When can we expect to see the Barch communications and documents and how long will we have to analyze them before depositions begin?”<sup>1</sup>

**2H17.** On Feb 12, 2020, at 6:42 PM, Dulberg emailed Williams stating:

“Perhaps we should file a motion to compel Ronald Barch and Auto-Owners Insurance to turn over all communications and document records with Hans Mast and the Popovich law firm as soon as possible. My thought is if we get those documents now and have a few days to digest them maybe we can keep the deposition dates as they are scheduled.”<sup>2</sup>

**2H18.** On Feb 12, 2020, at 8:12 PM, Ed Clinton sent an email to Dulberg stating:

“Is there a reason you are reluctant to be deposed? Ed”<sup>3</sup>

**2H19.** On Feb 13, 2020 at 7:18 AM, Dulberg emailed Clinton stating:

“Is the October 22, 2013 letter an actual communication between Mast and Barch or is it a strategy or trick? It is essential to verify this from the Barch documents to determine if the letter is a fact or not. It is also important to limit the time between depositions. This is my only reluctance.”<sup>4</sup>

**2H20.** On February 13, 2020 at 11:52 AM Ed Clinton sent an email to Dulberg stating:

“Just remember that you cannot win a case during your deposition.  
Testify from your own personal knowledge.

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1 Exhibit H5c-2020-02-12\_1728 PM\_SENT\_Barch Documents.pdf

2 Exhibit H5d-2020-02-12\_1842 PM\_SENT\_Barch Documents.pdf

3 Exhibit H5e-2020-02-12\_2012 PM\_RECV\_Barch Documents.pdf

4 Exhibit H5f-2020-02-13\_0718 AM\_SENT\_Barch Documents.pdf

I highly doubt that you can testify (or that you should testify) about a letter somebody else wrote, which may or may not be genuine. Stick to what you know - what you saw and what you observed.

Please focus on getting the deposition done and making a demand.”<sup>1</sup>

**2H21.** On Feb 13, 2020 at 1:29 PM, Dulberg sent an email to Williams and Clinton stating:

“As of July 2019, I now know about the October 22, 2013, \$7500 offer Mast made to Barch without my knowledge. We need to confirm this letter is real by acquiring the Barch firms documents and communications with Mast by compelling them if necessary. I have been asking for the Barch communications and documents since last July Why hasn’t Barch turned over those communications and documents? Do we need to be concerned that Barch feels those documents may implicate himself somehow or has he made a backroom deal of some sort with Mast/Popovich? The only reluctance that I have is the amount of time Mast and Popovich will have to both read and formulate a strategy before being deposed themselves. I have learned the hard way not to trust these two gentlemen (Mast & Popovich) and have cause for concern or we wouldn’t be here. In the underlying case, after reading Caroline McGuire’s deposition it became obvious to both myself and Mast that she had read my deposition prior to her being deposed. Caroline McGuire described my description of the chainsaw incident. After I realized that Caroline McGuire had information that she would not otherwise have had or possibly known before being deposed I learned to never let that happen again. It is not fair that the defense witnesses get to read my testimony/deposition before giving their own testimony/deposition. Even if the defense witnesses don’t read my deposition directly I’m positive they will be briefed by their counsel on the key points they need to address. Given enough time they (Mast & Popovich) will develop an alternative fictional half truth as a strategy. Fictional half truths is exactly what Mast and Popovich did to me when they lied and bullied me into settling with the McGuires.

These two gentlemen (Mast and Popovich) have a proven track record of deceiving and lying to me so why would I believe documents they turn over without confirming them by getting those records from Barch? If we need to postpone Mast and Popovich’s depositions by a month because we haven’t received the Barch communications then it seems only fair that my deposition is also postponed.

I don’t know if Mast turned over all the communications and documents with Barch or not, the only way to find out is to see what Barch has, who knows what else those documents will show?

Believe me, I wish to get this over with as soon as possible but limiting the time both Mast and Popovich have to prepare after reading my deposition is more important and having the Barch communications before deposing Mast and Popovich is essential. If I could wave a magic wand and get the Barch documents and everyone deposed today I would do it in a heart beat. There is more than just the Barch documents that would be ideal to show the 2-1/2 years of deception, lies and abuse perpetuated by Mast and

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<sup>1</sup> Exhibit H5g-2020-02-13\_1152 AM\_RECV\_Barch Documents.pdf

Popovich on me, their client, but those other documents and communications are not at the core of our case. The Barch firms communications and documents are at the core of our case and must be obtained. I'm sorry if I hurt anyone feelings because I don't want to give Mast and Popovich over a month to pour through my deposition before answering questions but this is too important to care about their feelings."<sup>1</sup>

**2H22.** On February 13, 2020 at 5:04 PM Clinton sent an email to Dulberg stating:<sup>2</sup>

"We need to know if you are going to do your deposition on Wednesday next week. Second, I admit I don't understand your reluctance to be deposed. It does not make sense to me. We need to resolve this quickly. We need to get this case moving. I'm concerned we are not on the same page. We believe Mast was negligent but we don't think those communications (that you were not a party to) are relevant to your testimony. I'm much more concerned that this case is not moving along appropriately - there is no demand and no one will pay you until you are deposed"

**2H23.** On February 19, 2020, the day of Dulberg's deposition, at 1:18 PM Chantal Bielskis sent an email to Williams stating;

"Hello Julia – Attached, please see the letter going out to your firm today regarding my subpoena response. Please let me know if you need anything further regarding the subpoena. Also, if possible, I would appreciate you letting me know when this case is resolved. Have a good day. Sincerely, Chantel R. Bielskis"<sup>3</sup>

Attached letter states:

"Dear Mr. Clinton and Ms. Williams:

In follow-up to our prior communications regarding the above-referenced case, please find, enclosed, one DVD containing my firm's response to your records subpoena. Please note that, for the sake of completeness and convenience, the DVD contains all of the documents previously sent via email as well as the remaining documents I am producing.

Regarding the medical records and bills in my possession, due to the volume, I have included a list of the facilities from which we have records/bills and identified the source of the records (for example, Complex Legal Services).

I have included a similar list of the deposition transcripts in my possession along with the relevant court reporters so that you may order same if you wish.

Finally, I do have in my possession a copy of the MT 3500 Operator's Instruction Manual. However, due to the physical nature of the document, producing a copy would require sending it to an outside copying service. If you would like me to do so at your

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1 Exhibit H5h-2020-02-13\_1330 PM\_SENT\_Barch Documents.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-13\_1704 PM\_RECV\_Barch Documents.pdf

3 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 31)



firm's expense, please let me know.

If you have any questions concerning this, do not hesitate to contact me.”<sup>1</sup>

**2H24.** On March 4, 2020 at 11:34 AM Williams sent an email to Dulberg stating:

“Attached are the documents we received in response to our subpoena to Cicero, France, and Alexander P.C., the successor to Mr. Ronald Barch’s former firm, Cicero, France, Barch & Alexander PC.”<sup>2</sup>

**2H25.** It is noteworthy that:

- a) When Williams received subpoena documents from Bielski on December 23, 2019, she sent a copy to opposing counsel Flynn **within 4 minutes**. Dulberg was asking his own attorneys for the same documents and he did not receive them until March, 4, 2020, **more than 104 days** after Williams gave them to opposing counsel and more than 2 weeks after Dulberg’s deposition was already over.
- b) In the exchange between Williams and Bielskis, on December 23, 2019, Bielskis stated, “I will not be able to get the remaining documents scanned in and over to you until after the 1st of the year.” Williams answered, “No need to apologize for the delay. Enjoy your holidays”. **Around 59 days later** (and hours after Dulberg’s deposition), Bielskis apparently sent the final documents to Williams. And **more than 2 weeks** after receiving the subpoenaed documents, Williams sent them to Dulberg. Dulberg was asking Williams and Clinton for the documents the since July, 2019 (when Dulberg first discovered the \$7,500.00 offer Mast made to Barch on October 22, 2013 without Dulberg’s consent).

**2H26.** Dulberg has never received any DVD from Clinton or Williams that was mentioned in the letter<sup>3</sup> attached to the February 19, 2020 email.<sup>4</sup>

## **2I THE EXAMPLE OF WEAKENED VERIFICATION PAGES OF DISCOVERY PRODUCTION**

**2I1.** On January 30, 2020 3:34 PM Williams sent an email to Opposing Counsel Flynn stating:

“Please find attached the updated 214 affidavit. We will continue to supplement records as required under the rule.”<sup>5</sup>

**2I2.** On January 30, 2020 at 3:50 PM Opposing Counsel Flynn sent an email to Williams stating:

“I appreciate you forwarding the affidavit. The issue with it is that it is general, is not dated, and does not identify the instrument it is referencing (nor is it attached to the

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1 Exhibit H7a-01ltr.Clinton.Law.Firm.2.19.20.pdf

2 Exhibit H8-2020-03-04\_1134 AM\_RECV\_Dulberg v Mast Cicero France Barch Production\_ATTACHMENTS.pdf

3 Exhibit H7a-01ltr.Clinton.Law.Firm.2.19.20.pdf

4 Exhibit H7-RE Dulberg AOIC Claim No 13277911.pdf (Page 31)

5 Exhibit 20-Dulberg v Popovich et al.pdf (Page 29)



referenced instrument). I would prefer that it be attached to whatever document is referencing, should it need to be marked as an exhibit at a deposition, for example. My apologies, I am not trying to create additional work here, but it could become a bit unwieldy if I had to attach a discovery response, a general undated 214 affidavit, and an email from you explaining the document that it is intended to support, all as an exhibit. Please also let me know where we stand on the email attachments that were not previously produced. The “PDF” icon which shows in the subject lines of the emails, suggests that they would have still been in Mr. Dulberg’s possession when he produced the emails. Could you also please call me regarding our tentative February 3 inspection? I have a conflict that I may not be able to clear.”<sup>1</sup>

**2I3.** On January 30, 2020 at 3:59 PM Williams sent an email to Opposing Counsel Flynn stating:

“Attached is the RTP answer with the verification in the document. I hope this will work.”<sup>2</sup>

**2I4.** On January 31, 2020 at 11:21 AM Williams sent an email to Opposing Counsel Flynn stating:

“I will give you buzz later today (we are getting new phones right now).”<sup>3</sup>

**2I5.** On January 31, 2020 at 11:23 AM Opposing Counsel Flynn sent an email to Williams stating:

“Fair enough. Thanks Julia. I will be in the office until I leave for court around 2:30 p.m.”<sup>4</sup>

**2I6.** Williams replied that she would call Flynn later in the day on January 31, 2020, and this is the last evidence of any communication between Williams and Flynn about any verification of document production. Even after Williams produced over 6000 documents almost 6 months later on July 9, 2020 neither Flynn or Williams mention of any need for any verification statement.

**2I7.** On February 10, 2021 Flynn claimed in court that:

“there were issues with signature pages throughout written discovery.”<sup>5</sup>

## **2J Clinton and Williams efforts to place an upper cap on the value of Dulberg’s legal malpractice case 17LA377**

**2J1.** On July 8, 2019 at 11:06 AM, about one week after Dulberg received the Popovich Document Disclosure from Williams, Dulberg sent an email<sup>6</sup> to Williams with an attached folder

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1 Exhibit 20-Dulberg v Popovich et al.pdf (Page 33)

2 Exhibit 20-Dulberg v Popovich et al.pdf (Page 38)

3 Exhibit 20-Dulberg v Popovich et al.pdf (Page 51)

4 Exhibit 20-Dulberg v Popovich et al.pdf (Page 59)

5 Exhibit D0d-Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-3.pdf (Page 5)

6 Exhibit C7a-2019-07-08\_1106 AM\_SENT\_Fwd Forward to Julia\_ATTACHMENTS.pdf

called “To\_Julia”<sup>1</sup>. In the folder there was a file called “\_READ\_ME.txt”<sup>2</sup>. The text stated:

“timeline\_of\_mcguire\_settlement.txt

This gives you a rough timeline of events leading to Paul accepting a \$5,000 settlement from the McGuires. Since we were never able to see (pop 192) until now, we never understood the details of how Mast tricked Paul into such a small settlement. The fact that Mast initiated the settlement process through (pop 192) without Paul’s knowledge or permission is proof that this case is about more than Mast’s negligence. It is about willful intent or malicious intent to deceive his client.

Of course you will need convincing proof that (pop 192) was initiated without Paul’s knowledge. We have that proof. As I fill in the timeline more and more, the evidence will be stronger and stronger.”

**2J2.** On January 31, 2020 at 1:30 PM Julia C. Williams (using jwilliams@williamslawchicago.com) sent an email to Dulberg stating:<sup>3</sup>

“Also, it is likely an appropriate time to make a demand in this case.

Given that the total award Gross Award of \$660,000 with 15% comparative fault in the Gagnon matter for an award of \$561,000, I believe that it would be hard to prove that if Gagnon and the McGuires were tried or arbitrated together, you would somehow get a larger award. I think there is a good argument to say that Gagnon and the McGuires would have been jointly liable for the award of \$561,000. You recovered \$300,000 from Gagnon, the remainder would have been paid by the McGuire’s through their insurance. Thus, your damages for dismissing the McGuires is about \$261,000 less the \$5,000 you obtain from them for total damages of \$256,000. Do you want me to make a demand of \$256,000 from Defendants in this case?”

**2J3.** On February 1, 2020 at 2:16 PM Dulberg sent an email to To: Julia C. Williams (at jwilliams@williamslawchicago.com) stating:<sup>4</sup>

“I have a few concerns on the demand. If we use the ADR award as you outlined: I had to pay new attorneys to take the case and they wouldn’t do it for the regular 1/3 contingency fee.

1. I had to pay the Baudin’s 40% plus I paid all costs up front and out of pocket.

On this I have to go back and find exactly how much I paid for things like Dr Lanford’s expert opinion before giving you the total costs I paid. I will need a few days to dig all that up and we may get a more accurate number from Baudin. I believe that we are all responsible for the likely and probable consequences of our actions.

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1 Group Exhibits (showing key folders)/Exhibit folder 14-To\_Julia

2 Exhibit H1-\_READ\_ME.txt

3 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-01-31\_1330 PM\_RECV\_Dulberg v Popovich et al Deposition dates .pdf

4 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-01\_1416 PM\_SENT\_Dulberg v Popovich et al Deposition dates .pdf

On that note:

But not for Popovich/Masts actions:

1. I would not have filed for Bankruptcy and had to pay the costs associated with it nor suffered the credit consequences.
2. The Bankruptcy Judge and trustee wouldn't have had the authority to order the suit be settled by ADR
3. This case most likely would have gone before a jury.
4. I know from the only comprehensive study done in the nation by a university in California that jury's typically give judgements 10x that of an ADR award. This study compared nearly identical cases across a large spectrum of suits that went the two different routes over many years. Now assuming the university findings are correct,  $660,000 \times 10 = 6,600,000$
5. Gagnon's and McGuire's assets could not have paid for a Jury award anywhere close to 6,600,000 but collectively their insurance and assets together at the time would be worth somewhere between 900,000 and 1,200,000. We can get their exact worth at that time from an asset check that I am willing to pay for.
6. I would have received between 900,000 and 1,200,000 which is a considerable step up from the ADR award of 660,000 even if the jury award was 8x less than that study done in California found to be the norm.
7. I understand that going this route may take longer and require risking a jury to decide the issues and amount, if any, the McGuire's and Gagnons would have been liable for. Is this risk worth adding a possible 240,000 to 540,000? This we need to talk about before we limit ourselves by sending the demand letter. Please feel free to weigh in and let me know what I am missing or got dead wrong"

**2J4.** On February 13, 2020 at 2:38 PM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

"I did not address the demand portion of your email. We should have the entire Popovich policy before moving forward on this. Popovich only supplied the declaration pages in the document disclosure. Are we not entitled to see the entire policy?"

**2J5.** On February 13, 2020 at 3:25 PM Dulberg sent an email to Clinton and Williams stating:<sup>2</sup>

"Hi Ed, On the demand portion it would also be helpful to get the McGuire's insurance policy from Barch. William McGuire said his limits were 300,000 in his Interrogatory but that is just his word. The actual policy from the McGuire's would be helpful before writing a demand letter Can we get that with the rest of the Mast/Barch Communications

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1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-13\_1438 PM\_SENT\_Barch Documents.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-13\_1525 PM\_SENT\_Barch Documents.pdf

and documents?

While we are at it, it would also be helpful to have the Gagnon asset check that the Baudins did as well as getting a McGuire asset check done. I don't see it in the documents, did the Baudins include the Gagnon asset check they performed with the Case file?

FYI - Baudins asked for 1.2 million at the ADR and I believe that was based on the Gagnon asset check and his insurance limits of 300,000 as well as my injuries and lost wages. We could not ask for monies based on permanent disability because that was determined the following year by social security."

**2J6.** On February 13, 2020 at 5:04 PM Clinton sent an email to Dulberg stating:<sup>1</sup>

"We need to know if you are going to do your deposition on Wednesday next week. Second, I admit I don't understand your reluctance to be deposed. It does not make sense to me. We need to resolve this quickly. We need to get this case moving. I'm concerned we are not on the same page.

We believe Mast was negligent but we don't think those communications (that you were not a party to) are relevant to your testimony.

I'm much more concerned that this case is not moving along appropriately - there is no demand and no one will pay you until you are deposed"

**2J7.** On February 14, 2020 at 4:13 PM Dulberg sent an email to Clinton and Williams stating:<sup>2</sup>

"You said work on the demand so today I spent all day trying to draft a demand letter. I have no idea what I'm doing

I have attached it as Demand Draft - in process.txt

It's not even close to being finished and I'm not sure if I'm even on the right track

Please review it and let me know where I need to fix it."

**2J8.** On Feb 13, 2020, at 5:26 PM, Dulberg sent an email to Clinton and Williams stating:<sup>3</sup>

"I think we are talking past each other here because this is complex and we discussing different topics. You are correct, there is nothing wrong with me giving my deposition on Wednesday. Yes, I will give my deposition next week on Wednesday.

On the Mast Deposition topic: I definitely want to see Barch documents before Mast is deposed. If this is possible, we are in agreement and on the same page."

**2J9.** On February 14, 2020 at 5:32 PM Clinton sent an email to Dulberg stating:<sup>4</sup>

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1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-13\_1704 PM\_RECV\_Barch Documents.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-14\_1613 PM\_SENT\_Barch Documents\_ATTACHMENTS.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-14\_1613 PM\_SENT\_Barch Documents\_ATTACHMENTS.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-14\_1732 PM\_RECV\_Barch Documents.pdf

“We will rewrite it. We need a number so can start negotiating.”

**2J10.** On February 14, 2020 at 5:40 PM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

“A number is tough.

In that Demand draft I was already at 3.2 in todays dollars but considering future inflated dollars, off the top of my head I would say 10x what the ADR awarded but I think what you’re asking is what number would they give not to have to go through a trial. Let me ask you, in your experience what kind of number will make them really think about it? This will give me a starting point.”

**2J11.** On February 14, 2020 at 6:11 PM Dulberg sent an email to Clinton and Williams stating:<sup>2</sup>

“Should I hire an expert to come up with the number?”

**2J12.** On February 14, 2020 at 6:32 PM Dulberg sent an email to Clinton and Williams stating:<sup>3</sup>

“Sorry for all the emails in a row but I have too many questions

How does this demand then negotiation work?

Is it true that even if they agree to some arbitrary number don’t we still need to prove the McGuires and Gagnons could pay for it or is that the case only if it goes to trial?”

**2J13.** “On February 14, 2020 at 7:39 PM Dulberg sent an email to Clinton and Williams stating:<sup>4</sup>

“I haven’t heard back so I’m assuming you just want a number.

If you need a number to start negotiating from start at 6,600,000 - 300,000 that was already paid from the ADR award. Thats 6,300,000.

Let’s see where they come in at.

Thats the number from everything I’ve researched over the past 9 years that a jury today would award in the underlying case.

I hope that these are for settlement purposes only because I have no intention of limiting any possible recovery”

**2J14.** On February 15, 2020 at 9:45 AM Clinton sent an email to Dulberg stating:<sup>5</sup>

“I was thinking more like \$350,000.”

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1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-14\_1740 PM\_SENT\_Barch Documents.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-14\_1811 PM\_SENT\_Barch Documents.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-14\_1832 PM\_SENT\_Barch Documents.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-14\_1939 PM\_SENT\_Barch Documents.pdf

5 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-15\_0945 AM\_RECV\_Barch Documents.pdf

**2J15.** On February 15, 2020 at 12:36 PM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

“Sorry but No.

That’s less than the balance left from ADR award of 660,000

The balance left from ADR is 360,000 if we choose to enforce the ADR award and not retry the underlying case.

November 26, 2018, \$5.5 million settlement on behalf of a man who was severely injured on his motorcycle in McHenry County, Illinois

Please follow my logic here...I believe a jury would have awarded between 5.5 and 6.6 million in the underlying case and still will be very close to that today.

I believe the most I could have actually collected from a jury award from the defendants insurance policies and their assets is 1.2 million.

Since Mast Never did an asset check or pulled the insurance policy limits on the Gagnons or McGuires, they have no idea what the defendants could actually pay.

For all the defense knows, the McGuires and Gagnons could have been carrying 1 million in additional insurance coverage each plus their assets.

My thought is offer them 2.25 million to settle now or our demand amount goes up 500,000 each time I’m asked to try and settle.

Put on a good poker face and let them know we will retry both the underlying case and the malpractice case in front of a jury and see where the chips fall.

2.25 million and rising is my number”

**2J16.** On February 19, 2020 at 7:34 AM Dulberg sent an email to Clinton and Williams stating:<sup>2</sup>

“Yesterday we talked about lost wages being high, last night I remembered part of a conversation with Randy Baudin talking to me a bit about wages

He talked about averaging wages over many years to get an average

He also wanted to know what the benefits that went with those wages were worth.

I had a nice benefit package at Intermatic

I told Randy when applying for home loans Intermatic had reported my wages with benefits at 80k per year

They also reported that same number to an attorney I had in the motor vehicle accident back I think somewhere around 2003 (I have to go back and find the exact year that happened)

I think this may be part of the equation he used but I cannot be sure”

**2J17.** On February 19, 2020 at 8:17 AM Dulberg sent an email to Clinton and Williams stating:<sup>3</sup>

“On this same subject I’m trying to remember some of the benefits I had with Intermatic  
The main things I remember are

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1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-15\_1236 PM\_SENT\_Barch Documents.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-19\_0734 AM\_SENT\_Lost wages issue .pdf

3 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-19\_0817 AM\_SENT\_Lost wages issue .pdf



Five million in life insurance policy  
One million in health insurance  
And a ton of other stuff that I'd need to go back and dig up if I still have it  
Don't know if any of this matters but I wanted to get this to you as I remember it"

**2J18.** On February 21, 2020 at 9:43 AM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

"I have been doing my homework.  
I believe that my case does not fill all five prerequisites required before a court can invoke judicial estoppel  
I did not take two positions that are factually inconsistent because I initially disclosed the suit as an asset to the bankruptcy court and maintained that position throughout all judicial proceedings five prerequisites required before a court can invoke judicial estoppel:  
the party must  
(1) take two positions;  
(2) that are factually inconsistent;  
(3) in separate judicial or quasi-judicial administrative proceedings;  
(4) intending for the trier of fact to accept the truth of the facts alleged; and  
(5) have succeeded in the first proceeding and received some benefit from it.  
A statement under oath was not, however, a requirement for applying judicial estoppel.  
The only prerequisites I believe can be perceived as being met here is (3,4,5) and that was with the Gagnon at the ADR not the McGuires since they had been removed previously.  
I do not believe that Flynn can win a judicial estoppel motion limiting the amount we can recover since only three of the five prerequisites may have been met and that those three prerequisites is questionable at best.  
Please advise and let me know if I am in error."

**2J19.** On February 21, 2020 at 9:54 AM Dulberg sent an email to Clinton and Williams stating:<sup>2</sup>

"I should include that the Bankruptcy trustee (Olsen) was also made aware of the impending malpractice suit as soon as Gooch determined I had a valid case and I remember Olsen stated something very close to this, the bankruptcy was already solvent and that I would be receiving 100% of anything acquired by the malpractice suit so he had no interest in it"

**2J20.** On February 21, 2020 at 10:54 AM Clinton sent an email to Dulberg stating:<sup>3</sup>

"At most your demand could be \$261,000 based on the arbitration award.  
You cannot get around that award in this case.

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1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_0943 AM\_SENT\_judicial estoppel.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_0954 AM\_SENT\_judicial estoppel.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_1054 AM\_RECV\_Barch Documents.pdf



You are stuck with it  
Ed Clinton, Jr.”

**2J21.** On February 21, 2020 at 11:06 AM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

“Please don’t take this as confrontative, perhaps I just don’t understand.  
If judicial estoppel doesn’t apply because I have never taken two different positions that are that are factually inconsistent in separate judicial or quasi-judicial administrative proceedings what’s left that binds us to the adr award for the demand.  
Please see the emails sent today  
Subject: judicial estoppel and Re: judicial estoppel”

**2J22.** On February 21, 2020 at 5:30 PM Dulberg sent an email to Clinton and Williams stating:<sup>2</sup>

“2 quick points  
What is the probability the defense will take the \$261,000 right now if we demand it?  
I need to understand exactly how judicial estoppel applies to my case considering the 5 requirements needed to invoke judicial estoppel don’t come close to aligning to our case.”

**2J23.** On February 21, 2020 at 5:41 PM Willimas sent an email to Dulberg stating:<sup>3</sup>

“Ed is not talking about judicial estoppel. The doctrine is collateral estoppel, when an issue has been litigated and cannot be relitigated. Here is a link to a Minnesota article that explains it well. Minnesota law and Illinois law are similar on this issue. But feel free to do your own research on Illinois law.

<https://mitchellhamline.edu/minnesota-administrative-procedure/12-1-res-judicata-and-collateral-estoppel/>

Julia Williams”

**2J24.** On February 21, 2020 at 5:44 PM Dulberg sent an email to Clinton and Williams stating:<sup>4</sup>

Thank you for the correct terminology  
I will do some reading on it  
When is Masts deposition and when will we get together before it?

**2J25.** On February 21, 2020 at 6:49 PM Dulberg sent an email to Clinton and Williams stating:<sup>5</sup>

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1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_1106 AM\_SENT\_Barch Documents.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_1730 PM\_SENT\_Barch Documents.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_1741 PM\_RECV\_Barch Documents.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_1744 PM\_SENT\_Barch Documents.pdf

5 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-21\_1849 PM\_

Here is my first draft as a counter argument to Collateral Estoppel  
Collateral Estoppel

The countervailing and generally successful argument, is that the defendant attorneys Mast and Popovich had their hands in the McGuire settlement, which would not have taken place except for mistakes made by the attorneys Mast and Popovich. The McGuire settlement removed the McGuires from the chance to litigate with Dulberg at the ADR and could have changed the outcome. Particularly the amount of the award.

The countervailing and generally successful argument is that the attorneys Mast-Popovich had their hand in the dismissal of the McGuires, which would not have taken place except for mistakes made by the attorneys Mast-Popovich in the October 22, 2013 letter to Barch without Dulberg's knowledge or consent followed by the next 3 months of false and misleading information given to Dulberg by Mast-Popovich as documented in the emailed communications.

The attorneys Mast-Popovich also had their hands in the false and misleading amounts of insurance available from the remaining defendant Gagnon which was told to Dulberg after the dismissal of the McGuires and played the only hand in the plaintiff Dulberg deciding to file for bankruptcy after Mast-Popovich first telling Dulberg that he would be able to recover everything from Gagnon prior to the dismissal of the McGuires, it is documented in emails that Mast-Popovich was recommending different bankruptcy attorneys to Dulberg as a course of action, the Dulberg bankruptcy would not have happened but for the attorneys Mast-Popovich false and misleading statements about what if any possible recovery was available to Dulberg.

The underlying litigation at the ADR Binding Mediation which was brought about by the bankruptcy court would not have happened but for Mast-Popovich hands in the false and misleading information they gave to Dulberg which sealed Dulberg's decision to file for bankruptcy.

Bottom Line: Dulberg hired and trusted Mast-Popovich as 20 year veterans in personal injury liability and as 20 year veterans as officers of the court to be honest with him and Mast-Popovich violated and abused that trust as document in the email correspondence which shows Mast-Popovich hands in every part of the underlying case except for the litigation at the ADR. Because Mast-Popovich have their well documented dirty hands in all decisions in the underlying cases up until they withdrew as council, they breached their duty of care for Dulberg and caused the most likely course of events in the underlying case to be litigated in a manner that was not in the best interests for their client Dulberg well before Mast-Popovich withdrew from it.

**2J26.** On February 22, 2020 at 7:37 AM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

“Assuming for a moment that if we have to litigate this in front of a judge or jury and eventually we do become limited by collateral estoppel what changed from the email below asking \$350,000 in the demand to \$261,000 now?”

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SENT\_Barch Documents.pdf

1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-22\_0737 AM\_SENT\_Barch Documents.pdf

**2J27.** On February 22, 2020 at 9:37 AM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

The findings of fact would change from the original litigation to include Dulberg's permanent disability as a result of the accident rather than the narrower determination that Dulberg was only severely impaired used in the previous adjudication.

Notwithstanding my first draft to the counter arguments made in the previous email please take a look at the requirements to invoke collateral estoppel in Illinois and How they don't align to our current attempt to relitigate the underlying case

collateral estoppel

Illinois requirements for the application of the collateral estoppel doctrine are:

(1) the issue decided in the prior adjudication is identical with the one presented in the suit in question;

(2) there was a final judgment on the merits in the prior adjudication;

(3) the party against whom estoppel is asserted was a party or in privy with a party to the prior adjudication.

"In other words, collateral estoppel or issue preclusion prevents relitigation of an issue between the same parties or their privies in any future lawsuit based on a different claim."

Collateral estoppel applies to questions of law and findings of fact.

1. the issue decided in the prior adjudication is identical with the one presented in the suit in question; The determination of Dulberg's injuries resulting in permanent disability vs sever impairment makes the issues decided in the prior adjudication vastly different from the issues that would be adjudicated in the present suit.

2. there was a final judgment on the merits in the prior adjudication

The merits used in the prior adjudication could not be the same as the current adjudication. Dulberg was not determined to be permanently disabled from his injuries in the prior adjudication but rather, more narrowly only severely impaired, which makes the merits used in final judgement in the prior adjudication different from the current adjudication.

3. the party against whom estoppel is asserted was a party or in privy with a party to the prior adjudication I'll accept that this requirement is met

"In other words, collateral estoppel or issue preclusion prevents relitigation of an issue between the same parties or their privies in any future lawsuit based on a different claim."

The claim of negligence is not different but rather the same. The relitigation of the same claim would bring back Parties that were wrongly removed in the prior litigation and bring to light the merits that were not part of the original litigation or Judgement which are the real damages of the permanent disability Dulberg suffered

Collateral estoppel applies to questions of law and findings of fact.

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<sup>1</sup> Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-22\_0937 AM\_SENT\_Barch Documents.pdf

The findings of fact would change from the original litigation to include Dulberg's permanent disability as a result of the accident rather than the narrower determination that Dulberg was only severely impaired used in the previous adjudication.

Only 1 of the 3 requirements are met for collateral estoppel to be invoked upon Dulberg

**2J28.** On February 22, 2020 at 11:03 AM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

Also on the topic of the Bankruptcy court ordering the binding mediation.

I have just found out that Dulberg owned the asset and Dulberg alone had final say on whether the asset would be subject to binding mediation. In other words "the client owns the case".

The bankruptcy court was in error and assumed absolute control over an asset that was beyond the courts power to do by ordering it into Binding mediation with high and low limits.

Second this with Dulberg's refusal to sign the ADR agreement and we can have that whole process undone. It does not matter that Dulberg was present at the ADR. What Matters is, did the client sign the agreement?

The Bankruptcy Court should have waited for the case to be resolved then collected the proceeds from the recovery and distributed them to the creditors accordingly.

If need be, I think I can file an appeal on the Bankruptcy's courts decision to prematurely dissolve the asset by court ordered Binding Mediation based on powers not granted to the bankruptcy court and interfering with the clients control over the direction of the suit.

**2J29.** On February 23, 2020 at 9:27 AM Dulberg sent an email to Clinton and Williams stating:<sup>2</sup>

To: Ed Clinton ed@clintonlaw.net

"On this demand letter, I'd rather the larger number you suggested of 350,000 over 261,000 but trust you to decide which number we have to put in it."

**2J30.** On March 3, 2020 at 3:50 PM Clinton sent an email to Dulberg stating:<sup>3</sup>

I'd like to make a demand to at least gain information - are they going to offer anything or not?

\$350,000 is obviously better.

Do I have your approval to make that demand?

Ed

**2J31.** On March 3, 2020 at 3:53 PM Dulberg sent an email to CLinton and Williams stating:<sup>4</sup>

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1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-22\_1103 AM\_SENT\_Barch Documents.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-02-23\_0927 AM\_SENT\_Barch Documents.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-03-03\_1550 PM\_RECV\_Barch Documents.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-03-03\_1553 PM\_

“Yes you have my permission as long as it is for settlement purposes only and does not bind us later down the road.”

**2J32.** On July 29, 2020 at 1:56 PM Dulberg sent an email to Clinton and Williams stating:<sup>1</sup>

“I would like to ask a few questions before your departure from the case so I can better address some of the issues with possible new counsel.

The list below is not complete but it’s a good start to issues I believe are still outstanding. Outstanding questions on open issues for Clinton firm before departure:

1. Did you send a demand letter? If so, did we receive a response and may I get copies the demand letter and the response?
2. What happened with the objections raised during Dulberg’s deposition when Dulberg was questioned about conversations with Dulberg’s former counsel Gooch? Did you get a ruling or does that still need to be argued before judge Meyer?
3. Similar to the last question, Have the objections in the Mast deposition been worked out or ruled on by judge Meyer?
4. Did you find out who Gooch was using for an expert witness and did you contact any possible expert witnesses? If so, may I get a copy of their reports and contact information?
5. After you withdraw from this case would you be interested in some sort of limited scope representation or unbundled legal services type of role until I find new counsel and get them up to speed?

Again, Thank you so very much for your help with this case”

**2J33.** On July 30, 2020 at 9:06 AM Williams sent an email to Dulberg stating:<sup>2</sup>

“Per your email request, here is the demand sent to Mr. Flynn. We did not receive a formal response, other than it was passed along to the client as you see below. I did discuss the demand with Mr. Flynn. He indicated that his client would not accept such a large demand. He indicated that his client would be more inclined to accept a smaller demand, more in the \$10,000-\$20,000 range, but did not give a specific number and did not make any formal counter-offer.”

## **2K UNEXPLAINABLE TECHNICAL DIFFICULTIES DURING THE DEPOSITION OF HANS MAST AND AFTER**

**2K-1.** On April 30, 2020 at 11:13 AM Flynn emailed Williams stating:<sup>3</sup>

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SENT\_Barch Documents.pdf

1 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-07-29\_1356 PM\_SENT\_Need clarification on outstanding issues before your departure.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 24-Emails\_Clinton Firm-Dulberg/2020-07-30\_0906 AM\_RECV\_Fwd Settlement DemandDulberg v Mast\_ATTACHMENTS.pdf

3 Exhibit K2-Dulberg v Popovich-3.pdf (Page 1)

“... The recent temporary amendment to Rule 206 (facilitating depositions during the Covid crisis), prompted me to touch base and inquire whether you may want to consider attempting to depose Hans Mast remotely in the 2nd half of May.

Otherwise, perhaps we can get a live deposition on the books for some time in June. If so, I would suggest the 2nd half of June. ...”

**2K-2.** On May 4, 2020 at 11:37 AM Williams replied to Flynn stating:<sup>1</sup>

“... I would prefer to do an in-person deposition given that the client will likely want to be present and that may present some issues with a video deposition. That being said, I don’t want to hold this up indefinitely.

Let’s plan for the end of June. If the “stay at home” orders get extended again, we will reconsider the “in person” v “remote” deposition. ...”

**2K-3.** On May 4, 2020 at 11:37 AM Williams emailed Flynn stating:<sup>2</sup>

“... Made an executive decision on this one. I thought that if Paul wants to be present, and I am sure he will, it will be easier to communicate with him in person as opposed to a video dep. ...”

**2K-4.** On May 4, 2020 at 11:43 AM Flynn emailed Williams stating:<sup>3</sup>

“... Sounds like a plan. ...”

**2K-5.** On May 29, 2020 at 4:37 PM Williams emailed Flynn stating:<sup>4</sup>

“... I anticipate this will be a video deposition, despite things opening back up, I think it is the safest route for everyone and given the Supreme Court rules, it makes sense to take advantage of the remote deposition option. Details to come on that. ...”

It appears that Williams does an ‘about face’ on her earlier “executive decision” to wait for an in person deposition, has read and understands the supreme court rules on remote depositions and will “take advantage” of those rules.

**2K-6.** On June 18, 2020 at 9:32 AM opposing counsel Flynn sent an email to Williams stating:<sup>5</sup>

“... Please let me know when you can about your plan for exhibits. I will assume that I do not need to print or bring anything with me unless you advise otherwise.”

**2K-7.** On June 19 2020 at 2:35 PM, six days before the deposition of Mast, Flynn sent an

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1 Exhibit K2-Dulberg v Popovich-3.pdf (Page 2)

2 Exhibit K2-Dulberg v Popovich-3.pdf (Page 4)

3 Exhibit K2-Dulberg v Popovich-3.pdf (Page 6)

4 Exhibit K2-Dulberg v Popovich-3.pdf (Page 8)

5 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Emails 2020 August 19/US Legal Support Confirmation of Scheduling Job No 923267.pdf

email to Williams stating:<sup>1</sup>

“Julia: I just received your notice of attorney lien. Will you still be taking the dep next week?

My experience with receiving liens at this stage of litigation(in a high percentage of cases) is that a withdrawal shortly follows. Hopefully not the case here, but just making sure we are still on for Mast’s dep. ...”

Flynn is correct, Williams and Clinton are preparing to withdraw and have no intention of representing Dulberg in litigating this case any further.

**2K-8.** On June 19, 2020 at 2:54 PM Williams emails Flynn and states:<sup>2</sup>

“... We are still on. This will be the first remote deposition that I have taken so I am still working on figuring out the exhibits. I believe that I can upload them to the US Legal system and then share them during the deposition. But, if not, I will be sure to have them to you no later than Tuesday by 5pm. ...”

**2K-9.** June 23, 2020 at 4:25 PM Williams Emails Flynn stating:<sup>3</sup>

“... I am attaching the deposition exhibits that I may use on Thursday. I don’t believe there will be any additions between now and then, but if there are they will minor and I will do my best to send them ahead of time. Obviously, I may not use all of these.

I have not used US Legal or done any remote depositions so you will have to forgive any errors. My understanding is that in the video conferencing system I will be able to upload the document in Pdf or other format (I am only using PDFs), then you and the court reporter will be able to download it. The court reporter will label the exhibits and include them in the transcript after the deposition is complete. You are not required to print any of the documents—unless of course you would like to do that.

I did my best to label the exhibits in the number order that I believe I will use them. That being said, things change in depositions and they may have to be renumbered. In an effort to not make it super confusing, I used descriptive names as well. ...”

It appears from the email that Williams sent Flynn 23 proposed exhibits in this email. There is no evidence that she did the same for the court reporter. Williams has already set herself up for violating the Supreme Court rule and the deposition is still days away.

**2K-10.** On June 24, 2020 at 12:50 PM Flynn emailed Williams stating:<sup>4</sup>

“Thanks Julia. I also received the additional exhibit you may use. See you tomorrow.”

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1 Exhibit K3-Dulberg -2.pdf (Page 1)

2 Exhibit 22-Dulberg -2.pdf (Page 2)

3 Exhibit K4-Dulberg v Popovich Firm et al Mast Deposition Exhibits.pdf (Page 1)

4 Exhibit K11-US Legal Support Confirmation of Scheduling Job No 923267-2.pdf (Page 13)



(After several exhaustive searches, Dulberg cannot locate any file containing the email where Williams sends Flynn this “additional exhibit” in the Clinton case file.

Possibly sent to Flynn using “Julia.c.floyd@gmail.com”?<sup>1)</sup>

Could this possible backchannel email address be why Mr Flynn announced himself as “George Floyd” in open court on February 25, 2019 and later harrassed the court reporter to change the transcript to read “George Flynn”?<sup>2)</sup>

The court reporter did not sign the certification page of the transcript that now reads “George Flynn”<sup>3)</sup> even after being reminded and asked to do so twice.<sup>4)</sup>

**2K-11.** Flynn preprinted some of the proposed exhibits and only portions of the larger exhibits to save paper, Most having the wrong exhibit number from what will be used in the deposition.

**2K-12.** The court reporter was recording from a remote location and was not in the room with Williams or the deponent Mast and manages to capture a bizarre episode of alleged wifi connection problems (mostly off the record) without any actual break in the audio like we would expect from someone who lost their connection to the Internet during a zoom meeting.

**2K-13.** From the beginning of the deposition Williams was uploading the exhibits she was referencing but Mast was in his email attachments viewing the proposed exhibits Flynn forwarded to him (and was ignoring the exhibits uploaded by Williams).

**2K-14.** Early into the deposition Mast and Flynn claimed a wifi outage occurred and Mast couldn’t view the proposed exhibits in Masts email anymore. Both claimed that they got booted from the office wifi. They also claimed they had audio but no video on zoom.

**2K-15.** Flynn then claimed he figured out how to log back in to the zoom meeting using Flynn’s cellular hot spot to reconnect.

**2K-16.** Once logged back into the zoom meeting using Flynn’s cellular hot spot, Mast then claimed he couldn’t see his emails or proposed exhibits on those same computers and devices that were now conncted over the cellular hot spot.

**2K-17.** Rather than use the files uploaded by Williams on zoom, Mast then turned to Flynn’s incomplete printed portions of the proposed exhibits (which are mostly marked with old exhibit numbers that do not match the exhibit numbers being assigned as Williams uploaded them, causing constant confusion over what is actually being viewed by the deponent).

**2K-18.** Williams then attempted to email an exhibit and sets up “screen sharing” with the exhibit. This was done because Mast and Flynn claimed they couldn’t find the exhibit in the

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1 Exhibit K11-US Legal Support Confirmation of Scheduling Job No 923267-2.pdf

2 Exhibit K6-2019-02-25\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-4.pdf (Page 2 Line 3 and Page 7 Line 3)

3 Exhibit K6-2019-02-25\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-4.pdf (Page 10)

4 Exhibit K7-In Re Dulberg v Popovich et al.pdf (Page 1 and 3)

partially printed proposed exhibits (and apparently Mast and Flynn refused to use the uploaded Exhibits feature that are readily available through zoom.

(After several exhaustive searches Dulberg can find no emails sent by Williams during the deposition in the Clinton case file. Possibly sent to Mast using “Julia.c.floyd@gmail.com”?<sup>1</sup>)

**2K-19.** Mast later claimed he had the proposed exhibits on his computer and told Williams she doesn’t need to keep uploading them (but makes no reference to his email or wifi working).

**2K-20.** Williams seemed to go along with all this, rather than simply instruct Mast to use the exhibits she was uploading (to comply with the Supreme Court rules for remote depositions) or cancel the deposition and reschedule it (due to Mast and Flynn’s equipment failures).

**2K-21.** The following excerpts from the deposition transcript<sup>2</sup> and mast.wav<sup>3</sup> file and are just a few examples of the confusion these alleged technical difficulties/equipment failures created:

Page 17 Lines 8-10<sup>4</sup>

MAST: Yeah. What I’m going off are an email I got with all the exhibits attached, so I’m not -- that’s what I’m looking at.

Page 22 Lines 2-20:<sup>5</sup>

MAST: Oh, uh, I think -- It just kicked me off.

MR. FLYNN: I got disconnected, too. It’s the Wi-Fi.

BY MS. WILLIAMS:

WILLIAMS: Okay, we’ll just wait a minute here.

MAST: I can hear you. I just can’t see you.

WILLIAMS: We’ll wait a minute until you can get your video back on.

MR. FLYNN: Julia, we think the Wi-Fi may have dropped here in the office.

WILLIAMS: Okay. Well, let’s just give it a minute and see.

MR. FLYNN: Okay.

(Whereupon, a break was taken.)

[A bizarre off the record audio is recorded by the court reporter about the alleged wifi Internet outage/equipment failure at: mast.wav 22:50 - 36:40<sup>6</sup>]

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1 Exhibit K11-US Legal Support Confirmation of Scheduling Job No 923267-2.pdf

2 Exhibit C15-Hans Mast 062520 FULL.pdf

3 Exhibit K5-mast.wav

4 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 17 Lines 8-10)

5 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 22 Lines 2-20)

6 Exhibit K5-mast.wav (22:50 - 36:40)

WILLIAMS: Okay. I think we're back on the record. Barb, are you doing all right?

THE REPORTER: Yes....

Page 26 Lines 5-17<sup>1</sup>

WILLIAMS: Okay. I just uploaded Dulberg Mast Exhibit 4 and it says letter -- it's "Letter Re Settlement," and that should be -- still be Exhibit 4 that was emailed around to Counsel so that you would have it. And it is labeled POP192 and POP193. Do you recognize those documents?

MAST: Wait. I think the Internet, maybe because we were having problems, is the Internet went down, so now my exhibits aren't pulling up. Can you try it again? Do you have that, George?

MR. FLYNN: Yeah, here's the hard copy.

MAST: I'll look at the hard copy, so what are you asking?

Page 28 Lines 20-24 and Page 29 Lines 1-18:<sup>2</sup>

WILLIAMS: Okay, and here in this email it looks like you started this email chain to Paul on October 25, 2013. Do you see that?

MAST: It looks like there's a couple emails here. There's several pages. You just mean the first page?

WILLIAMS: I think -- It should only be, I believe it's only one page and it looks like --

MAST: Oh, these aren't part of it? Just one page?

WILLIAMS: The document that I have is just one page. Are we looking at the same thing?

MAST: Okay.

WILLIAMS: It's POP00195 on the bottom.

MAST: Yeah, he had a couple other pages on it, but okay.

WILLIAMS: Okay. I just want to make sure that I didn't -- Okay. And on the bottom there of the first sheet, if you have several, I've only published one sheet for the purposes of this deposition, it states, "Friday, October 25, 2013," do you see that?

MAST: Where does it say that?

WILLIAMS: So about halfway down the page it looks like it says, "Original message from Paul"?

MAST: Yeah.

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1 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 26 Lines 5-17)

2 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 28 Lines 20-24 and Page 29 Lines 1-18)

Page 31 Lines 10-24:<sup>1</sup>

WILLIAMS: Okay. So I'm going to upload another file here.

MAST: Yeah, our Internet is down. That's why I can't bring these up.

WILLIAMS: Okay.

FLYNN: Julia, just so you know, I've got hard copies of the majority of the exhibits you sent with the exception of the larger files, like the insurance policy and the dep transcripts.

WILLIAMS: Okay. Okay, great.

FLYNN: I've got some of the deposition transcripts, but I didn't want to waste a lot of paper and ink at home.

[Audio mast.wav 50:07-50:17: "I've got portions of some ..."2]

WILLIAMS: Okay. I think we'll be -- For the most part, I think we'll be fine and we'll

Page 32 Lines 1-24:<sup>3</sup>

deal with it if and when we get to that point.

WILLIAMS: Okay. So the document that I'm looking at now is another email on the -- it's now titled Exhibit 6. I don't think it was entitled Exhibit 6 in what I sent to George, but it's an email that the first date on the email is November 4, 2013, and the last date on the email is November 5, 2013 email chain and it's -- at the bottom it's stamped Dulberg001531.

MAST: What exhibit is it?

WILLIAMS: I think it might have been 5-A to George. It's now Exhibit 6 for the purposes of this deposition.

MAST: Yeah, that wasn't part of the download then. Do you have --

FLYNN: Yeah, I don't think that was included.

MAST: What's the Bates stamp or what's the stamp?

WILLIAMS: The Bates stamp is Dulberg001531.

MAST: Yeah, I don't recall --

FLYNN: I don't recall seeing a 5-A on the download. I think it just went straight from

Page 33 Lines 1-24:<sup>4</sup>

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1 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 31 Lines 10-24)

2 Exhibit K5-mast.wav (50:07-50:17)

3 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 32 Lines 1-24)

4 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 33 Lines 1-24)

5 to 6.

WILLIAMS: Okay, let me see if I can do something else. I'm going to try to share my screen. I don't know if I'm going to be able to do it. So bear with me. Okay. I can't -- I can't share the screen. Can I email -- George, can you pull up an email if I email it to you?

FLYNN: I should be able to eventually.

WILLIAMS: Okay, let me see if that will --

MAST: Let me run to the washroom real quick while you guys do --

WILLIAMS: We'll take a quick break, that's fine, we'll try to work this out. If anybody else needs a break, obviously take a break now.

(Whereupon, a break was taken)

[Audio mast.wav 52:25-55:54<sup>1</sup>]

BY MS. WILLIAMS:

WILLIAMS: Okay, back on the record. This is the Exhibit 6 for the deposition and it's marked at the bottom Dulberg001531 and it's an email chain between Paul Dulberg and Hans Mast dated November 4th through about November 5th, is that accurate, Hans?

Page 34 Lines 16-18:<sup>2</sup>

MR. FLYNN: Julia, now I recall, this is a separate exhibit you sent a little bit later than the original download, so I did have this.

Page 35 Lines 5-19:<sup>3</sup>

WILLIAMS: Okay. Okay, I'm going to stop screen sharing. Okay. I'm going to upload another file. This is Deposition Exhibit 7. George, you probably had it as Exhibit 6, but for the purposes of this deposition right now it's going to be 7 and it's an email chain dated --

MAST: I have these on the computer. You don't need to, unless you want to, but I'm just saying I have these on the computer.

WILLIAMS: Okay, but Barb needs them, so that's why I keep uploading them, otherwise she doesn't have them. Okay. So Exhibit 7, and it's POP00181 and POP00182, and it's two pages of an email chain, November 15th, looks like on the second page it starts November 15th and ends November 19th, is that accurate?

**2K-22.** The issue of what Mast is looking at for an exhibit (compared to what Williams is

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1 Exhibit K5-mast.wav (52:25-55:54)

2 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 34 Lines 16-18)

3 Exhibit C15-Hans Mast 062520 FULL.pdf (Page 35 Lines 5-19)

uploading as an exhibit just for the court reporter) is a problem throughout the entire deposition.

**2K-23.** Mast and Flynn claimed they became disconnected from wifi causing them to not be able to see the proposed deposition exhibits and had to reconnect to the Internet and zoom over a cell phone hot spot, yet they were still being recorded by the court reporter the whole time. The audio caught by the court reporter (when they were off the record trying to reconnect to the wifi and zoom) is not possible as it was described by Flynn. The court reporter was recording from a remote location via zoom. Flynn and Mast allegedly were completely disconnected and had to log back in to the zoom meeting (all while claiming the sound was working but not the video).

**2K-24.** Williams failed to ask obvious question like, “How is it that I can hear you if you’re disconnected and logging back in?”

**2K-25.** Williams failed to instruct Flynn and Mast to use the exhibits she was uploading (in accordance with the Supreme Court rules for remote depositions).

**2K-26.** Williams failed to cancel the deposition and reschedule due to alleged wifi equipment failures and moving forward, as she did, is a clear violation of the Supreme Court rule.

**2K-27.** Williams then uploaded “exhibit 12” and neither Mast nor Flynn could see “exhibit 12” as the following exchange demonstrates:<sup>1</sup>

Williams: “Okay, I’m uploading Dulberg Mast Dep Exhibit 12. This is titled, “Legal Research.” And this is hard because there’s -- it’s 27 pages. Some of them have Bates numbers, but some of them are black on the bottom, so I think the Bates numbers didn’t -- didn’t take, but it’s roughly -- looks like roughly 204, maybe 205, Dulberg204, 205 through roughly Dulberg00304 -- Actually, I’m sorry, these aren’t going to be continuous. But do you have that packet of legal research in front of you? It appears to be copies out of a -- copies of case law out of the Northeastern Digest.

Mast: “I just have the one case here.”

Williams: “Just one case? Which -- What’s the case title?”

Mast: “The first one, it’s L A J A T O.”

Williams: “Okay. Do you -- Did you copy this case law?”

Mast: “I don’t know.”

**2K-28.** Williams never provided the court reporter Barbara G. Smith with a usable, viewable, uncorrupted, error free “Exhibit 12” during the deposition or at any time afterward that matches what Mast described it as in his deposition.

**2K-29.** Flynn did not make available to the court reporter the partial printouts of portions of the proposed exhibits he had in his possession and gave to Mast to use during the deposition.

**2K-30.** Flynn also did not make available to the court reporter Mast’s emails or computer

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<sup>1</sup> Exhibit C15-Hans Mast 062520 FULL.pdf (Page 49 Lines 20-24 and Page 50 Lines 1-13)

files where Mast was looking at the proposed exhibits some of the time.

**2K-31.** Later, after Clinton and Williams withdrew, the court reporter Barbara G Smith was subpoenaed for her records of the Mast deposition and responded providing everything she had.<sup>1</sup>

**2K-32.** The document “Dulberg Mast Dep Exh 12 Legal Research .pdf” has a fundamental flaw and is corrupt<sup>2</sup> when opened with Adobe Acrobat DC. (Anyone who has Adobe Acrobat DC can confirm the issue exists by simply opening the file, see the error code, and browse through the blank pages.) This file does appear to open normally in some 3rd party PDF readers but it is obvious from the record and Barbara G Smiths notes that none of the parties looking at exhibit 12 were looking at the same parts of exhibit 12 and were not on any 3rd party PDF readers that could display the whole exhibit 12.

**2K-33.** Dulberg intended the sources of the corrupted file, “Dulberg Mast Dep Exh 12 Legal Research .pdf” to be from 3 emails sent in series to Williams On April 18, 2019 at 10:38 AM.<sup>3</sup> The source emails subject lines were “318 Cases from December meeting 1 of 3”<sup>4</sup>, “318 Cases from December meeting 2 of 3”<sup>5</sup> and “318 Cases from December meeting 3 of 3”<sup>6</sup>. The attached files to these emails were “IndependantContractor-CaseLaw1\_Mast.pdf”<sup>7</sup>, “IndependantContractor-CaseLaw2\_Mast.pdf”<sup>8</sup> and “IndependantContractor-CaseLaw3\_Mast.pdf”<sup>9</sup> and are not corrupt. (Anyone who has Adobe Acrobat DC can confirm this by simply opening the files.) None of these source files are stored in the Clinton Case file with the original names. None of the emails Dulberg sent Williams with the attachments are in the Clinton case file. Dulberg did mistakenly call the November 20 meeting “December meeting” or “December 2013 meeting” in the emails.

**2K-34.** Williams successfully incorporated both the Choy “IndependantContractor-CaseLaw2\_Mast.pdf” and Lajato “IndependantContractor-CaseLaw3\_Mast.pdf” cases into the Bates stamped documents and turned them over to opposing counsel without any issues of errors or file corruption. But Williams never bates stamped nor turned over to opposing counsel the certified slip ruling of Tilschner v Spangler “IndependantContractor-CaseLaw1\_Mast.pdf”, it was downloaded, renamed (Tilschner v. Spangler et al 2-10-0111 Opinion 2011 May 6.pdf<sup>10</sup>) and stored in the Clinton case file at:

Dulberg Master File/Dulberg Research/Tilschner v. Spangler et al 2-10-0111 Opinion 2011 May 6.pdf<sup>11</sup>

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1 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive

2 Exhibit C10a-Screenshot of error code in Adobe Acrobat DC-Exhibit 12.png

3 Group Exhibits (showing key folders)/Exhibit Folder 21-Source of 318 Cases

4 Exhibit K13-2019-04-18\_1038 AM\_SENT-3\_318 Cases from December meeting 1 of 3\_ATTACHMENTS.pdf

5 Exhibit K14-2019-04-18\_1038 AM\_SENT-4\_318 Cases from December meeting 2 of 3\_ATTACHMENTS.pdf

6 Exhibit K15-2019-04-18\_1038 AM\_SENT-5\_318 Cases from December meeting 3 of 3\_ATTACHMENTS.pdf

7 Exhibit C0a-IndependantContractor-CaseLaw1\_Mast.pdf

8 Exhibit C0b-IndependantContractor-CaseLaw2\_Mast.pdf

9 Exhibit C0c-IndependantContractor-CaseLaw3\_Mast.pdf

10 Exhibit K16-Tilschner v. Spangler et al 2-10-0111 Opinion 2011 May 6.pdf

11 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Research/Tilschner v. Spangler et al 2-10-0111 Opinion 2011 May 6.pdf



It is worthy to note that Williams named exhibit 12 using the terms “Legal Research” in the file name (“Dulberg Mast Dep Exh 12 Legal Research .pdf”) and placed the certified slip ruling of Tilschner in a file named “Dulberg Research”.

It is also worthy to note that the Clinton firm did their own research on Tilschner and saved a PDF from Find Law in Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Research TILSCHNER v. SPANGLER | FindLaw.pdf<sup>1</sup> on 10/19/2020.

**2K-35.** It is more likely than not that the corrupt file “Dulberg Mast Dep Exh 12 Legal Research .pdf” was intended to create confusion or a distraction to make it seem like there was a “technical issue” with the wifi or the file was corrupted as to why Tilschner was not part of exhibit 12 for the deposition. Dulberg has the Preview app that Williams used to create exhibit 12 and the bates stamped documents it was pulled from and has never been able to recreate the same error in the file.

It is more likely than not that the “file corruption” in exhibit 12 was done intentionally to hide the fact that Tilschner was intentionally suppressed by Clinton and Williams to benefit the defense (in order to hide the one case of the three case laws Mast gave Dulberg for changing their legal opinion as to the McGuire liability in the underlying case. Why, because Tilschner is a case that both Mast and Popovich took to the Appellate Court, possessed a certified slip ruling and could not get away with the generic answers Mast gave Williams about exhibit 12 in his deposition). After all, the certified slip ruling for Tilschner v Spangler remained the only (known) document separated, suppressed and never Bates stamped or released by Williams and Clinton. On top of that the Clinton firm did not keep copies of the emails Dulberg sent them with all 3 318 cases, Tilschner, Lajato, Choi.

**2K-36.** Williams knowingly violated the Supreme Court rules for remote depositions and this deposition should have been void and redone (but Williams was already planning on leaving the case prior to the deposition and wasn’t about to let Dulberg and his new counsel have a fair stab at Mast in a deposition.).

**2K-37.** On June 25, 2020 at 12:31 PM, about 20 minutes after the deposition of Mast, Flynn sent an email to Williams stating:<sup>2</sup>

“... Just wanted to write while it is fresh in my mind, but I’d like to close the dangling issues from your client’s deposition, including the production of communications with Mr. Gooch in view of the “discovery rule” issues. Please advise ...”

**2K-38.** On June 26, 2020 12:13 PM Williams sent an email to Flynn stating:<sup>3</sup>

“... Thank you for the follow up. I am working on the production today. Are you around on Monday—can we chat then? ...”

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1 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Research TILSCHNER v. SPANGLER | FindLaw.pdf

2 Exhibit 23-Dulberg -3.pdf (Page 1)

3 Exhibit 23-Dulberg -3.pdf (Page 2)

**2K-39.** Williams never worked on any production of communications with Mr Gooch and she did not address the Dulberg deposition objection issue in court. Instead, she sent Dulberg Flynn’s “DEFENDANTS, THE LAW OFFICES OF THOMAS J. POPOVICH, P.C.’S SUPPLEMENTAL REQUESTS FOR PRODUCTION TO PLAINTIFF” telling Dulberg to start collecting the privileged Gooch Communications she already had in her possession since November 17, 2018<sup>1</sup>. Instead Williams produced over 6000 pages of intentionally suppressed documents that were not related to Gooch in any noticeable way and then resigned as Dulberg’s attorney.

**2K-40.** On July 2, 2020 Barbara G Smith emailed Williams stating:<sup>2</sup>

“Hi Ms. Williams - This is Barb Smith, the court reporter from US Legal that was present at the dep of Hans Mast on 6-25-20. I am currently working on the transcript and while preparing the exhibits I noticed that Exhibit No. 12, which is the 27 pages of legal research, did not download completely. The Exhibit 12 that I have has blank pages 1-22 and only pages 23-27 have print on them. I just wanted to let you know and check if you wanted to resend or if that’s how No. 12 is supposed to be.”

In handwritten notes it states:

“7-2-20 Called 7-6-20 left message”

“7-7 submitted job and emailed Noelle about it”

“Williams responded 7-2-20 but the text space was blank.”

(After several exhaustive searches Dulberg cannot locate a single email in the Clinton case file between Barbara G Smith and Williams.)

(Possibly sent to “Julia.c.floyd@gmail.com”<sup>3</sup>?)

As noted “Williams responded 7-2-20 but the text space was blank.” was this ‘blank’ email intended to be funny because of the ‘blank’ exhibit 12?

**2K-41.** On July 2, 2020 at 12:11 PM Williams emails Dulberg Flynn’s filing: of “DEFENDANTS, THE LAW OFFICES OF THOMAS J. POPOVICH, P.C.’S SUPPLEMENTAL REQUESTS FOR PRODUCTION TO PLAINTIFF” stating in the email:<sup>4</sup>

“... Opposing Counsel has tendered a supplemental request for production. Please review. A response is due by July 30, 2020.

You can begin gathering responsive documents.

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1 Group Exhibits (showing key folders)/Exhibit Folder 20-Gooch communications sent to Williams

2 Exhibit K9-job papers0001.pdf (Page 3)

3 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Emails 2020 August 19/US Legal Support Confirmation of Scheduling Job No 923267-2.pdf (Page 2)

4 Exhibit E1-2020-07-02\_1211 PM\_RECV\_Fwd PAUL DULBERG v THE LAW OFFICES OF THOMAS J POPOVICH PC et al Circuit Court of McHenry County IL No No 17 LA 377\_ATTACHMENTS.pdf (Page 1)

Some of the document may be subject to attorney-client privilege. ...”

**2K-42.** On July 7, 2020 at 10:58 AM Williams and the Clinton Firm drafted a resignation letter named:<sup>1</sup>

“Dulberg Draft Letter re case 2020 July 7 .docx”

and place it in a folder in their case file for Ed Clintons copy of the documents Barch produced in response to a subpoena named:<sup>2</sup>

“Dulberg Cicero France Barch Production Complete”

**2K-43.** On July 7, 2020, 09:32 PM Barbara G Smith emailed Noelle stating:<sup>3 4</sup>

“... One of the exhibits, #12, was downloaded during the Zoom session. It’s 27 pages and when I first looked at it I noticed that pages 1-22 were blank. I emailed Julia Williams, our client, on 7-2 about this. She responded and the message section of her email was blank. I waited for another email but received none. On 7-6 I called and left her a message and have not received a response. I did note all of this information in the email that I sent the job with. ...”

Barbara G Smith certified and submitted the transcript and it’s exhibits to Noelle Kappes with US Legal Support for distribution to the parties noting issues with Exhibit 12. Exhibit 12 is missing from the final output.<sup>5 6</sup>

**2K-44.** On July 9, 2020 at 11:44 AM Williams sent an email to Dulberg stating:<sup>7</sup>

“... More documents were sent to George Flynn today to ensure that Gooch’s entire file on the underlying case was sent as well as communications from your subsequent counsel in the underlying case.

There are two emails. This is the first with three files attached. ...”

Attached files:

‘Dulberg 2650-7892.pdf’<sup>8</sup>

‘Dulberg 7893-8551.pdf’<sup>9</sup>

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1 Exhibit 7d-Dulberg Draft Letter re case 2020 July 7 .docx

2 Group Exhibits (showing key folders)/Exhibit folder 2-Dulberg Master File/Dulberg Matter Ed Clinton/Dulberg Cicero France Barch Production Complete/Dulberg Draft Letter re case 2020 July 7 .docx

3 Exhibit K9-job papers0001.pdf (Page 4)

4 Exhibit K9-job papers0001.pdf (Page 4)

5 Exhibit K30-job papers 0002.pdf

6 Exhibit K9-job papers0001.pdf (Page 4)

7 Exhibit C0i-2020-07-09\_1144 AM\_RECV\_Fwd Dulberg v Popovich et al Documents\_ATTACHMENTS.pdf

8 Exhibit 27-Dulberg 2650-7892.pdf

9 Exhibit 28-Dulberg 7893-8551 .pdf

‘Dulberg 8552-8708.pdf’<sup>1</sup>

**2K-45.** On July 9, 2020 at 11:47 AM Williams sent an email to Dulberg stating:<sup>2</sup>

“... This is the second email I sent to George with the fourth and final file. ...”

Attached files:

‘Dulberg 2650-7892.pdf’<sup>3</sup>

Any reasonable person receiving these emails with over 6,000 documents would need weeks to digest what is happening here and would assume somewhere in here Williams is replying to Flynn’s “DEFENDANTS, THE LAW OFFICES OF THOMAS J. POPOVICH, P.C.’S SUPPLEMENTAL REQUESTS FOR PRODUCTION TO PLAINTIFF” since Williams has been in possession of the Gooch emails since November 17, 2018<sup>4</sup>, However that’s not what is happening here, Williams is releasing Documents she intentionally suppressed since May 30, 2019 without Dulberg’s knowledge.

**2K-46.** On Jul 10, 2020, at 10:46 AM Williams sent an email to Flynn stating:<sup>5</sup>

“... I believe there may have been three, but simply because the first email took forever to send as the documents attached were so large. The first contained all four of the files. The second contained three files and the third contained one file. There are only four files total—so the emails are duplicative as originally I did not believe the first email would send. Thus, you should have these four files:

1. Dulberg Stamped 2646-2649
2. Dulberg 2650-7892
3. Dulberg 7893-8551
4. Dulberg 8552-8708.

Please let me know if you did not receive all of the documents. ...”

Williams is ‘flooding’ Dulberg with an overwhelming number of documents and sneaking all but one of the documents that were previously suppressed into the flood, behind thousands of pages of useless material. Williams continues to suppress one document: the Appellate Court slip ruling *Tilschner v Spangler*.

None of the 6000+ pages of documents have anything to do with the Gooch Communications. Williams doesn’t provide and Flynn doesn’t ask for a certification/verification page signed by Dulberg.

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1 Exhibit 29-Dulberg 8552-8708.pdf

2 Exhibit C0j-2020-07-09\_1147 AM\_RECV\_Fwd Dulberg v Popovich et al Documents\_ATTACHMENTS.pdf

3 Exhibit 27-Dulberg 2650-7892.pdf

4 Group Exhibits (showing key folders)/Exhibit Folder 20-Gooch communications sent to Williams

5 Exhibit 25b-Dulberg v Popovich et al Documents-2.pdf (page 7)

**2K-47.** On July 10, 2020 at 2:03 PM witranscripts@uslegalsupport.com emailed Williams links to download the Mast deposition and exhibits. Exhibit 12 is missing.<sup>1</sup>

**2K-48.** On July 10, 2020 at 2:57 PM Williams emails Dulberg the Mast deposition stating:<sup>2</sup>

Attachment:

Dulberg Hans Mast deposition transcript Legal Mal 2020 June 25.zip<sup>3</sup>

Rather than forward Dulberg the links to download the files directly from US Legal Support, Williams takes time to Download each file and compress the deposition and all the exhibits into a single zip file. This was probably done so Dulberg wouldn't have to go in and download each file one by one with the visual cue from the list sent by witranscripts@uslegalsupport.com (where it would have become immediately apparent to anyone downloading the files one by one that Exhibit 12 is missing.)

**2K-49.** On July 13, 2020 at 8:37 PM Noelle Kappes nkappes@uslegalsupport.com emailed Williams stating:<sup>4</sup>

“... The court reporter indicated you would be sending us exhibit 12 from this deposition so we can include it with the transcript. I don't believe we have received it. Can you send it on tomorrow? ...”

**2K-50.** On July 14, 2020 at 9:40 AM Williams emails Kappes stating:<sup>5</sup>

“I am sorry. I thought I had responded to Barbara's email with the exhibit. It is attached here.”

Perhaps Williams is showing her sense of humor since she replied to Barbara's email about blank pages as exhibit 12 with a blank email.<sup>6</sup> Is this an inside joke? (Because Barbara and Noelle don't seem to be in on it.)

**2K-51.** Williams provided the deposition Scheduling Manager Noelle Kappes with the corrupted copy of exhibit 12 no earlier than July 14, 2020 (more than 2 weeks after the Mast deposition). The corrupted copy of “exhibit 12” provided to Noelle Kappes on July 14, 2020 contained 2 exact copies of Lajato and a copy of Choi. It did not contain Tilschner v Spangler even though Williams had been instructed by Dulberg in writing to include it on at least six different occasions.

Attached is the same corrupted file Williams uploaded during the Mast Deposition:

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1 Exhibit K17-Paul Dulberg v Law Offices of Thomas Popovich et al.pdf

2 Exhibit C0k-2020-07-10\_1457 PM\_RECV\_Dulberg v Popovich et al Mast Deposition\_ATTACHMENTS.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 18-2020-07-10\_1457 PM\_RECV\_Dulberg v Popovich et al Mast Deposition/Dulberg Hans Mast deposition transcript Legal Mal 2020 June 25.zip

4 Exhibit K8-US Legal Support Confirmation of Scheduling Job No 923267-3.pdf (Page 1)

5 Exhibit K8-US Legal Support Confirmation of Scheduling Job No 923267-3.pdf (Page 1)

6 Exhibit K9-job papers0001.pdf (Page 3)

Dulberg Mast Dep Exh 12 Legal Research .pdf<sup>1</sup>

**2K-52.** On July 14, 2020 at 10:30 AM Barbara G Smith has handwritten notes on a copy of Williams July 14, 2020 email to Kappes with handwritten notes stating:<sup>2</sup>

“put this x in folder on desktop & renamed bad file 12-A-this is the new 12”<sup>3</sup>

“Still couldn’t read 1-22”

“There was a problem reading this document”

“Called Noelle - 10:30-7-14- She will have William look at it or email Williams”

**2K-53.** On July 14, 2020 at 11:13 AM wtolliver@uslegalsupport.com emailed<sup>4</sup> Williams and Flynn a link to download “Exhibit 12” now named “EX 0012 Hans Mast 062520.pdf”<sup>5</sup>

EX 0012 Hans Mast 062520.pdf has an exhibit sticker that misspelled the defendants name “Hans Mast” as “Hans Mist” and did not match the exhibit tags placed on by the court reporter Barbara G. Smith.<sup>6 7 8 9 10 11 12</sup>

Of Special note is the differences found within the meta-data in the two different files:

“EX 0012 Hans Mast 062520.pdf”

Size: 27.4 MB

Date: July 14, 2020

Title: Dulberg Mast Dep Exh 12 Legal Research (1).pdf

Authors: wtolliver

Version: 1.4

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1 Exhibit C10-Dulberg Mast Dep Exh 12 Legal Research .pdf

2 Exhibit K9-job papers0001.pdf (Page 1)

3 Exhibit K18-Dulberg Mast Dep Exh 12-A Legal Research.pdf

4 Exhibit K19-Exhibit 12 Paul Dulberg v Law Offices of Thomas Popovich et al Deposition of Hans Mast 6252020.pdf

5 Exhibit C10-EX 0012 Hans Mast 062520.pdf

6 Group Exhibits (showing key folders)/Exhibit folder 19-From OMNI Document Experts/2022-07-07\_Hans Mist Exhibit 12/Hans Mast Exhibit 12 Deposition June 25 2020 by Omni CHARTS Stickers . TALARICO. .pdf

7 Group Exhibits (showing key folders)/Exhibit folder 19-From OMNI Document Experts/2022-07-10\_Written report on Exhibit 12 Tag/1. REPORT page 1 Talarico.pdf

8 Group Exhibits (showing key folders)/Exhibit folder 19-From OMNI Document Experts/2022-07-10\_Written report on Exhibit 12 Tag/2. REPORT page 2-3 Talarico.pdf

9 Group Exhibits (showing key folders)/Exhibit folder 19-From OMNI Document Experts/2022-07-10\_Written report on Exhibit 12 Tag/3. CHARTS labels . pdf

10 Group Exhibits (showing key folders)/Exhibit folder 19-From OMNI Document Experts/2022-07-10\_Written report on Exhibit 12 Tag/4. K1 to K11 and K13 to K15. K12 is identified as Q1.pdf

11 Group Exhibits (showing key folders)/Exhibit folder 19-From OMNI Document Experts/2022-07-10\_Written report on Exhibit 12 Tag/5. Q1 in its entirety . pages 1 to 13.pdf

12 Group Exhibits (showing key folders)/Exhibit folder 19-From OMNI Document Experts/2022-07-10\_Written report on Exhibit 12 Tag/5. Q1 in its entirety . 27 pages.pdf

Content Creator: PScript5.dll Version 5.2.2

Encoding software: Acrobat Distiller 10.1.16 (Windows)

vs the original file:

“Dulberg Mast Dep Exh 12 Legal Research .pdf”

Size 35.1 MB

Date: June 19, 2020

Title: -

Authors: -

Version: 1.3

Content Creator: Preview

Encoding software: macOS Version 10.15.4 (Build 19E287) Quartz PDFContext,  
AppendMode 1.1

The meta-data clearly shows wtolliver as the author using a Microsoft Windows Operating system and Adobe Acrobat Distiller to create the 27.4 MB file on July 14, 2020 Verses the original meta-data that clearly shows there is no author recorded, using a Macintosh Operating System and a program called Preview to create the 35.1 MB file on June 19, 2020.

All the other exhibits certified by the court reporter Barbara G. Smith and made available through downloadable links via email by US Legal Solutions on July 10, 2020 may have the names of the files changed, a very minor file size increase due to the tag being added but the meta-data is the same as the original files Williams uploaded on June 25, 2020 during the deposition.

wtolliver changes the file considerably (35.1 MB to 27.2 MB), adds a misspelled exhibit stamp that is a poor forgery of the tags provided by the court reporter, becomes it's author and releases it 14 minutes before Noelle Kappes acknowledges it's received to Williams.

**2K-54.** On July 14, 2020 at 11:17 AM Williams emailed/passed this forgery as authentic to Dulberg stating:<sup>1</sup>

“Attached is exhibit 12 that was missing in the original transcript copy because the copy that the court reporter received was blank.”

A reasonable person can conclude that if the Court Reporter received a blank “Exhibit 12”, then defendant Mast also received the same blank “Exhibit 12” uploaded by Williams during the deposition.

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<sup>1</sup> Exhibit K20-2020-07-14\_1117 AM\_RECV\_Fwd Exhibit 12 Paul Dulberg v Law Offices of Thomas Popovich et al Deposition of Hans Mast 6252020\_ATTACHMENTS.pdf



Is Williams sending the court reporter a blank email in response to a blank exhibit? Is this Williams inside joke (that Barbara & Noelle were not in on)? This “hoax” caused the exhibit to never be certified or possessed by the court reporter.<sup>1</sup>

It should also be noted that Williams gave “Exhibit 12” to (and received from) persons other than the Court Reporter. She then passed it on as if it was certified and authentic knowing full well that the Exhibit 12 she was passing on to Dulberg did not Match what Mast had to review in the deposition.

**2K-55.** On July 14, 2020 at 11:27 AM Noelle Kappes nkappes@uslegalsupport.com replies to Williams emailing Exhibit 12 stating:<sup>2</sup>

“Received, thank you.”

**2K-56.** Neither wtolliver, Noelle Kappes, Williams or Flynn ever sent Barbara G Smith a copy of the file wtolliver created.<sup>3</sup>

**2K-57.** Neither Noelle Kappes nor wtolliver are the Officer administering the oath nor the licensed short hand reporter hired for tagging, certifying, storing and releasing the exhibits in this case, Barbara G Smith is and Barbara G Smith never received a viewable copy of exhibit 12 that does not have an error.<sup>4</sup>

**2K-58.** The file wtolliver created and Flynn & Williams are passing on as an exhibit does not match what the deponent Mast had at the deposition and is a forgery. Mast claimed he could only see one Lajato case on the exhibit he was looking at, Barbara G Smith could only see the Choi case in what she was given and wtolliver created an exhibit with two Lajato cases and a Choi case.

**2K-59.** On July 27, 2020 at 2:24 PM Ed Clinton sent an email to Dulberg stating:<sup>5</sup>

“Dear Paul, Please see the attached letter. Best Regards”

In the attached letter<sup>6</sup> Clinton and Williams resigned as Dulberg’s counsel while still suppressing the certified slip ruling on Tilschner v Spangler and never informing Dulberg the document hasn’t been bates numbered or used in Exhibit 12. This resignation acts as another deterrent to Dulberg’s eventual discovery that Williams forever suppressed the certified Tilschner slip ruling by diverting Dulberg’s attention to a more pressing matter, the hunt to find new counsel fast during the height of the COVID 19 pandemic when most attorneys are not personally meeting with new clients.

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1 Exhibit K9-job papers0001.pdf (Page 3)

2 Exhibit K8-US Legal Support Confirmation of Scheduling Job No 923267-3.pdf (Page 3)

3 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive/ Mast 6-25-20

4 Group Exhibits (showing key folders)/Exhibit folder 17-Barbara G Smith Subpoena Responsive Thumbdrive/ Mast 6-25-20

5 Exhibit 44-Dulberg v Popovich 2017 L 377.pdf (Page 1)

6 Exhibit 7h-Dulberg Client Letter 2020 July 27.pdf

**2K-60.** Dulberg and his subsequent counsel, Alphonse Talarico, grew suspicious of how Williams could have forgotten all about Tilschner v Spangler when preparing exhibit 12 for Mast’s deposition considering the number of times she was told about it in writing.

**2K-61.** Dulberg and his subsequent counsel, Alphonse Talarico, grew suspicious of how Williams could have forgotten all about Tilschner v Spangler when preparing exhibit 12 for Mast’s deposition considering the number of times she was told about it in writing.

**2K-62.** On August 2, 2022 Dulberg subpoenaed Clinton<sup>1</sup> and Williams<sup>2</sup> for documents and communication connected to the preparation and treatment of exhibit 12 before, during and after Mast’s deposition.

**2K-63.** On September 29, 2022 Williams responded for both Clinton and herself.<sup>3</sup>

**2K-64.** On October 28, Clinton responded for himself.<sup>4</sup>

**2K-65.** On October 28, Julia Williams responded for herself.<sup>5</sup>

**2K-66.** On November 04, 2022 Williams was asked about “exhibit 12” in court. After 4 different subpoena responses related to exhibit 12 over the previous 3 months, and after being informed by Dulberg at least 6 different times in writing about the importance of Tilschner v Spangler, Williams claimed to not know the contents of exhibit 12. The following exchange took place in court:<sup>6</sup>

“MS. WILLIAMS: ... So sometime after the deposition, we -- we did provide the exhibit that was utilized in the deposition to the court reporter, and at that time they marked it and sent it back to everyone.

THE COURT: Okay. What was Exhibit 12 again?

MS. WILLIAMS: It was a series of cases. I don’t know that -- I just can’t recall what all was asked about it, but I know there were -- it was -- it was --

THE COURT: All right. These would have --

MS. WILLIAMS: -- copies of case law.

THE COURT: All right.

MR. FLYNN: They were photocopies of the old books, Judge, cases that were contained in Mast’s file.

THE COURT: Okay.

MR. FLYNN: And he was -- you know, they have -- they’re, obviously, not complete

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1 Exhibit K22-July 17 2023 Requested Subpoena served on Clinton .pdf

2 Exhibit K21-July 17 2023 Requested Subpoena served on Julia C. Williams.pdf

3 Exhibit K23-9-29-22\_July 17 2023 Response for both by Williams only.pdf

4 Exhibit K24-10-28-2022\_July 17 2023 Response to Subpoena served on Clinton .pdf

5 Exhibit K25-10-28-2022\_July 17 2023 Amended Response by Williams only.pdf

6 Exhibit C11-2022-11-04 17LA377 Report of Proceedings.pdf (Page 17 Line 4 through Page 20 Line 1)

because they -- placed on a printer, appeared like we used to do in the old days.

MR. TALARICO: Yes. Was the Tilsner case included in -- in the blank Exhibit 12 you sent to U.S. Legal, Barbara Schmidt? And was -- when you discussed with Mr. Flynn the failure of his -- or Mr. Mast's internet, didn't he say, I can't see these, I can only see their first one (indiscernible), which was the Lagano (phonetic) case? And wasn't there continued discussion by Mr. Flynn that he didn't -- he didn't produce all of the documents you sent on -- in hardcopy because he wanted to save paper?

MS. WILLIAMS: So that's -- I guess that's a lot of questions. So what --

MR. TALARICO: It is.

MS. WILLIAMS: What -- what -- I cannot recall what cases were included and weren't included at this point. There -- there was an e-mail to Mr. Flynn with the exhibit that is attached that I believe was produced in the subpoena. So whatever that exhibit was is -- is what I would have used. So I know there was, like, a Laravo case or -- I remember the first case was like Laravo or Lavajo, L-A-V-A-J-O, or something like that. But right now, off the top of my head, I don't remember what other cases were included.

MR. TALARICO: I'm talking about -- Judge, if I might, please? Excuse me. I'm sorry, Ms. Williams. There was -- what the reporter had was blank. What Mr. Flynn's client said was, I see the Lagano (phonetic) one. So the Exhibit 12 that was sent, like, a week or two after the deposition had Lagano, Troy, and the same exact Lagano case, and it did not have the Tilsner case involved, and the Tilsner case was very important. So it was an exact duplication of one case and a second case. But this is -- Judge, it's not just the Exhibit 12. The entire deposition --

THE COURT: Well, are you asking a question about Exhibit 12? Because if we're done asking questions, I'm gonna let her go.

MR. TALARICO: Okay. Yep. I'm done."

**2K-67.** It is not credible that Williams made the claim to the court that she cannot recall the contents of "exhibit 12" when she stated, "It was a series of cases. I don't know that -- I just can't recall what all was asked about it, but I know there were -- it was -- it was --" " -- copies of case law." and when asked by Dulberg's current attorney she claimed, "What -- what -- I cannot recall what cases were included and weren't included at this point." When Williams states "... at this point" she was implying that her dealings with exhibit 12 were so long ago that "at this point" she can no longer recall what they were. But Williams prepared 4 different responses to a subpoena which centered on exhibit 12 within the previous 3 months and Williams was then appearing in court to address outstanding issues with the subpoena and around exhibit 12, including a motion to compel.

**2K-68.** Of interest is that more than 2 years after the Hans Mast Deposition, opposing counsel Flynn was the only person in the November 4, 2022 court record attempting to give a detailed description to the contents of "exhibit 12" while Williams, the only person who prepared "exhibit 12", and fresh from producing 4 responses to a subpoena centering on the subject of "exhibit 12", could not recall the contents of "exhibit 12" when asked "at this point" because her dealings

with exhibit 12 were assumably ‘so long ago’.

The example of the hiding of the certified slip copy of Tilschner v Spangler shows the **extreme degree** to which Williams and Clinton will go to suppress key evidence which was in the possession of their permanently disabled client.

**2K-69.** On November 30, 2022 Flynn filed DEFENDANTS THE LAW OFFICES OF THOMAS J. POPOVICH, P.C. AND HANS MAST’S RESPONSE TO PLAINTIFF’S 2nd AMENDED MOTION TO EXCLUDE THE DEPOSITION OF HANS MAST which contains the following point ¶12:<sup>1</sup>

“12) Of concern is a statement on page 19 of Dulberg’s motion in which he argues that Mast had insisted that the decision in the Tilschner v. Spangler case was the reason Dulberg would not prevail in the underlying case against the McGuire’s. The statement is inexplicably made “on information and belief.” This is unacceptable. Dulberg has made no such disclosure in fact discovery (now closed) about this very specific discussion between Mast and himself regarding the Tilschner case. If Dulberg believes he has disclosed it, he should be required to identify where in his answers and amended answers to discovery or his deposition he has identified such discussion with this amount of specificity. Defendants submit that no such disclosure exists.”

**2K-70.** A reasonable person can conclude that Williams intentionally suppressed Tilschner v Spangler. A reasonable person can also conclude that Williams suppressed Tilschner v Spangler to benefit to the defendants over Dulberg and to sabotage Dulberg’s case against Popovich and Mast. The suppression of Tilschner v Spangler helps the defense deny that Mast ever discussed the Tilschner case with Dulberg and helps Mast deny that Tilschner v Spangler and the Restatement of Torts 318 was the legal theory Mast gave Dulberg as to why the McGuires were not responsible in any way for his injury on their property.

**2K-71.** On December 5, 2022, the following dialogue transpired in the Circuit Court:<sup>2</sup>

THE COURT: What’s the date of your summary judgment?

MR. FLYNN: It’s -- the plaintiff’s response is due on December 28. The motion was originally filed way back on September 15. So it’s -- we have had an extensive amount of time.

THE COURT: I won’t be hearing the summary judgment. So --

MR. FLYNN: Yeah. I understood there was some comments being made before I left about your Honor’s handling the case or --

THE COURT: Well, after 13 years, they have decided this is the worst place for me. So I’m being moved to traffic, and then, Judge Berg is taking over January 1. So it’s -- I don’t know what’s going to happen with the scheduling of your summary judgment

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1 Exhibit C16-2022-11-30\_Flynn Answer to Motion to Strike Mast Deposition.pdf (¶12 on Page 4)

2 Exhibit K31-2022-12-05\_ROP\_Pages from ROP\_Vol\_1\_of\_1\_230421\_1628\_8FF9DDF1-10.pdf (Page 13 Lines 8-24 and Page 14 Line 1)

because he's going to be combining his small claims call with a law division jury, and I -- I question the practicality of that but that's not my -- that's not my call.

**2K-72.** On February 1, 2023 Dulberg lost at Summary Judgement in front of Judge Berg, formerly a small claims Judge.

**2K-73.** On March 1, 2023 Dulberg sent for a records request for case 12LA326.<sup>1</sup>

**2K-74.** On March 2, 2023 Dulberg received the case file 12LA326 from the clerk.<sup>2</sup>

**2K-75.** In the file Associate Judge Thomas A. Meyer recused himself from 12LA326 because Mr Meyer is a personal friend of Thomas J. Popovich.<sup>3 4</sup>

## **2L OTHER WAYS CLINTON AND WILLIAMS ATTEMPTED TO SABOTAGE PLAINTIFF'S CASE**

**2L34.** In addition to the examples listed in which a reasonable person could claim there is evidence that documents suppressed by Williams have benefited or could benefit the defendants in the future, Clinton and Williams are Legal Malpractice Attorneys' and knew or should have known the following:

**2L35.** Clinton and Williams knew or should have known that THOMAS J. POPOVICH individually should have been named as a defendant.

**2L36.** Clinton and Williams knew or should have known that the suppressed Tilschner v Spangler document was the slip copy of the original certified appeals court decision on Tilschner v Spangler and therefore a very unique document.

**2L37.** There was a witness at the key November 20, 2013 meeting between Mast and Dulberg in which Mast changed his legal opinion and explained his legal theory as to why the McGuires were not liable for Dulberg's injury where the witness took notes of main subjects of the meeting. Williams misidentified the witness of the November 20, 2013 meeting as "a friend" during the deposition even though she had a teleconference with Dulberg and his brother Thomas Kost (the witness) just 5 days earlier and the same person was present at the first meeting Dulberg had with Clinton and Williams. The notes of the witness consist of the 6 phrases:

"forseeable duty"

"negligent"

"statement of torts sect 318 not applicable in Illinois"

"agent vs contractor"

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1 Group Exhibits (showing key folders)/Exhibit folder 23-Records request 12LA326/2023-03-01\_1035\_Records request for case 12LA326\_SENT/2023-03-01\_1035\_Records request for case 12LA326\_SENT.pdf

2 Group Exhibits (showing key folders)/Exhibit folder 23-Records request 12LA326/2023-03-02\_1402\_Records request for case 12LA326\_RECV/2023-03-02\_1402\_Records request for case 12LA326\_RECV.pdf

3 Exhibits/2012LA000326--2012-10-19--ORDREA\_0004.pdf

4 Group Exhibits (showing key folders)/Exhibit folder 23-Records request 12LA326/2023-03-02\_1402\_Records request for case 12LA326\_RECV/Attachments/2012LA000326/2012LA000326--2012-10-19--ORDREA\_0004.pdf

“level of control”

“Kajawa”

**2L38.** Williams and Clinton made no use of a witness of the November 20, 2013 meeting or their notes. Williams never inquired into what the witnesses of the November 4 and November 20, 2013 meetings saw and heard.

**2L39.** Williams never inquired as to why Mast called the November 20, 2013 meeting.

**2L40.** Williams never inquired as to why Mast called the November 4, 2013 meeting.

**2L41.** Williams was in possession of evidence which shows the \$7,500 October 22 offer made on Dulberg’s behalf was not in Baudins’ or Gooch’s possession, it wasn’t in their case files, and they most probably didn’t know the secrete offer was ever made. Williams was instructed in writing by Dulberg exactly where to look to find this evidence and the significance of this evidence. Williams never made use of this evidence.

**2L42.** Williams knew or should have known the \$7,500 offer was not discussed at the November 20th meeting and that a witness at the meeting can confirm this but she never made use of this.

**2L43.** Williams knew or should have known that it is not possible for Mast to explain why he called the November 20th meeting or what was discussed if Dulberg already agreed to \$7,500 nearly one month before on October 22nd but she did not make use of this.

**2L44.** Williams knew or should have known that Mast’s story was absurd on its face in that he was claiming that Dulberg made a \$7,500 offer to the McGuires to settle the case on October 22, yet Mast repeatedly informed Dulberg from November 20 onward that Dulberg has only 2 options: To accept a \$5,000 offer or receive nothing. The story is logically incoherent and not credible on a very simple level.

### **Chapter 3: COMPARISON BETWEEN LEGAL MALPRACTICE ATTORNEY GOOCH AND LEGAL MALPRACTICE ATTORNEYS CLINTON AND WILLIAMS**

**3-1.** Dulberg’s experiences with his second legal malpractice attorneys, the Clinton Law Firm, are described in detail in ‘ARDC Complaint against Edward X. Clinton and Julia Williams’. Chapter 1 of the complaint against Clinton and Williams describes and maps a massive system of document and information suppression which Clinton and Williams used against Dulberg. Chapter 2 of the same document shows at least 10 different ways the system of document and information suppression was used to sabotage Dulberg’s case. 5 of the ways are:

2-A Bankruptcy and origin of the \$300,000 cap and the “high-low” agreement.

2-B Saul Ferris documents

2-C Tilschner v Spangler

2-D Balke

2-F Baudins

**3-2.** Dulberg did not meet with Clinton and Williams before October 12, 2018, yet Dulberg’s



previous legal malpractice attorney, Thomas Gooch, was suppressing information on each of these 5 subject matters long before the Clinton Law Firm was retained by Dulberg. In addition, Gooch misspelled Dulberg's name "Duhlberg", just like Clinton and Williams did later, and Defendant Popovich and Mast did earlier.

## **ON BANKRUPTCY**

**3-3.** Previous to Clinton and Williams, legal malpractice attorney Thomas Gooch ignored anything related to Dulberg's bankruptcy, including: (1) how Balke acted in violation of the automatic stay, (2) how the Baudins acted in violation of the automatic stay, (3) how Popovich and Mast acted in violation of the automatic stay, (4) how Dulberg entered the binding mediation process, and (5) how the \$300,000 cap was placed on any binding mediation award. By avoiding the subject of Dulberg's November 2014 bankruptcy, or by mentioning bankruptcy as little as possible, both Gooch and later Clinton and Williams ignored:

- (a) That Dulberg's signature was fraudulently placed on the Executed Binding Mediation Agreement executed on December 8, 2016.
- (b) That Trustee Olsen misrepresented Dulberg's consent to the Bankruptcy Judge on October 31, 2016.
- (c) That Allstate, the Baudins and Trustee Olsen knew Dulberg had no standing to pursue the case 12LA178 while the case was under an automatic stay.
- (d) That Allstate, the Baudins and Trustee Olsen all knew the case 12LA178 proceeded in the Circuit Court in violation of the automatic stay.
- (e) That the Baudins by agreement with Allstate, in violation of the automatic stay, before the Baudins were approved to be hired as special counsel under Trustee Olsen, misrepresented Dulberg as agreeing to Binding Mediation in Circuit Court on August 10, 2016 and asked Associate Judge Meyer to delay the next status hearing to December 12, 2016 after the binding mediation was to take place on December 8, 2016.
- (f) That the Baudins' and Allstate's acts in violation of the automatic stay, started laying the groundwork as early as June 16, 2016 and finally set the binding mediation date for December 8, 2016 on August 10, 2016 in the Circuit Court. This happened before Trustee Olsen was even appointed to the position on August 31, 2016 and before Trustee Olsen received permission from the Honorable Judge Thomas M. Lynch, to hire the Baudins as special counsel and permission to enter into the proposed capped Binding Mediation Agreement on October 31, 2016.
- (g) That the Baudins filed their APPEARANCE as REGULAR COUNSEL in 12LA178 on 11/6/2015 in violation of the automatic stay.
- (h) That there is no APPEARANCE filed by the Baudin Defendants that is not VOID in case 12LA178.
- (i) That the Baudin Defendants' failed to file an APPEARANCE to represent the



bankruptcy estate in case 12LA178 after being hired as special counsel by Trustee Olsen.

- (j) That Trustee Olsen received permission from the Bankruptcy court to enter into the proposed Binding Mediation Agreement and later made a choice and Trustee Olsen did not act and sign on the advice of his special counsel the Baudins.
- (k) That Trustee Olsen did not “pursue” and “exercise control “over the claim/asset and in doing so Abandoned the asset and it reverted back to the DEBTOR.
- (l) The Baudin Defendants were approved and hired as Special Counsel for the Estate and in such a capacity had no standing to execute a Binding Mediation Agreement for the DEBTOR.
- (m) The only party with standing over abandoned assets is now the DEBTOR.
- (n) That there can be no agreement between Allstate and the Baudin Defendants acting as counsel for the bankruptcy estate to have the case dismissed with prejudice in the circuit court on December 12, 2016 since the Baudins failed to file any appearance anywhere that is not VOID and had no standing since they did not represent the DEBTOR.
- (o) Trustee Olsen and the Baudins collected the monies paid out by Allstate after ABANDONING the ASSET that then reverted back to the DEBTOR.

These are a lot of messy, complicated issues that could all be avoided by avoiding any mention of ‘bankruptcy’, which is exactly what Gooch, and later Clinton and Williams did.

### **GOOCH ON THE BAUDINS AND BALKE**

**3-4.** In “ARDC Complaint against Clinton and Williams”, in both Chapter 1 and Chapter 2, Sections D and E it has been shown that Clinton and Williams suppressed about 40 email documents involving Brad Balke and all email documents of the Baudins. This is consistent with the suppression of the subject of bankruptcy, since both the Baudins and Balke acted in violation of the automatic stay.

**3-5.** Before Clinton and Williams acted, Gooch also suppressed all mention of violations of the automatic stay by Mast and Popovich, Balke, and the Baudins, as well as all mention of bankruptcy, from the COMPLAINT<sup>1</sup> and the AMENDED COMPLAINT<sup>2</sup>.

### **GOOCH ON TILSCHNER V SPANGLER**

**3-6.** How Clinton and Williams suppressed documents and information of Tilschner v Spangler has already been described in detail in ‘ARDC Complaint of Clinton and Williams’, Chapter 2, Section C and is shown in ‘Visual Aid 5- ...’. As Explained, Williams was given explicit written instructions on at least 6 different occasions about the importance of Tilschner v Spangler. The

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1 Exhibit 3-5-17LA000377--2017-11-28--COA\_0002.pdf

2 Exhibit 3-5a-17LA000377--2018-06-07--COAA\_0021.pdf

Example of Tilschner v Spangler, Chapter 2, section C demonstrates the extreme degree to which Williams has gone to suppress Tilschner v Spangler and then to deny any knowledge or memory of Tilschner v Spangler.

**3-7.** Like Clinton and Williams, Gooch was also told about the importance of Tilschner v Spangler at his first meeting with Dulberg. Dulberg brought a certified slip copy of Tilschner v Spangler<sup>1</sup> (that Mast had given to Dulberg in his office) to Dulberg's first meeting with Gooch and Dulberg handed the document to Gooch. Gooch looked at it, gave it back to Dulberg and told Dulberg he didn't need the document because he just pulled up the Tilschner v Spangler decision on in his computer.

**3-8.** Gooch never mentioned Tilschner v Spangler when crafting both the COMPLAINT<sup>2</sup> and AMENDED COMPLAINT<sup>3</sup>. In fact, about 5 years later (on November 30, 2022) when Dulberg did mention Tilschner v Spangler in DEFENDANTS THE LAW OFFICES OF THOMAS J. POPOVICH, P.C. AND HANS MAST'S RESPONSE TO PLAINTIFF'S 2nd AMENDED MOTION TO EXCLUDE THE DEPOSITION OF HANS MAST, the defendants answered this way:

12) Of concern is a statement on page 19 of Dulberg's motion in which he argues that Mast had insisted that the decision in the Tilschner v. Spangler case was the reason Dulberg would not prevail in the underlying case against the McGuire's. The statement is inexplicably made "on information and belief." This is unacceptable. Dulberg has made no such disclosure in fact discovery (now closed) about this very specific discussion between Mast and himself regarding the Tilschner case. If Dulberg believes he has disclosed it, he should be required to identify where in his answers and amended answers to discovery or his deposition he has identified such discussion with this amount of specificity. Defendants submit that no such disclosure exists.<sup>4</sup>

**3-9.** Dulberg first met Gooch on December 16, 2016<sup>5</sup> and informed Gooch of the importance of Tilschner v Spangler. Dulberg also informed Gooch about the importance of Tilschner v Spangler in the letter<sup>6</sup> which offended Gooch and led to Gooch's firing on October 8, 2018<sup>7</sup>. Dulberg sent the same letter to Clinton and Williams as an email<sup>8</sup> attachment and discussed the letter and the importance of Tilschner v Spangler with Clinton and Williams at their first meeting. As has been explained in detail in Chapter 3, Section C Williams was given explicit instructions about the importance of Tilschner v Spangler at least 6 different times.

**3-10.** Yet on November 30, 2022, the defendants made the claims in ¶ 12<sup>9</sup> of DEFENDANTS

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1 Exhibit C0d-2019-04-18\_1038 AM\_SENT-3\_318 Cases from December meeting 1 of 3\_ATTACHMENTS.pdf

2 Exhibit 3-5-17LA000377--2017-11-28--COA\_0002.pdf

3 Exhibit 3-5a-17LA000377--2018-06-07--COAA\_0021.pdf

4 Exhibit C16-2022-11-30\_Flynn Answer to Motion to Strike Mast Deposition.pdf (Page 4)

5 Exhibit 2A-2018-11-17\_1247 PM\_SENT\_Supporting Documents\_ATTACHMENTS.pdf (Page 6-9)

6 Exhibit C1-second\_amended\_complaint\_comments.txt

7 Exhibit 2A-2018-11-17\_1247 PM\_SENT\_Supporting Documents\_ATTACHMENTS.pdf (Page 10-11)

8 Exhibit C1a\_2018-10-10\_1734 PM\_SENT\_Legal Malpractice Case\_ATTACHMENTS.pdf (Page 234-242)

9 Exhibit C16-2022-11-30\_Flynn Answer to Motion to Strike Mast Deposition.pdf Page 4

THE LAW OFFICES OF THOMAS J. POPOVICH, P.C. AND HANS MAST’S RESPONSE TO PLAINTIFF’S 2nd AMENDED MOTION TO EXCLUDE THE DEPOSITION OF HANS MAST and a few weeks earlier, on November 4, 2022, Julia Williams inexplicably stated in court “I cannot recall what cases were included and weren’t included at this point.”<sup>1</sup> as if its been years, when in fact Williams responded to the subpoena about “Exhibit 12” four times since August 2, 2022. Williams responded to the subpoena on September 1, 2022, September 9, 2022, October 2, 2022, and October 5, 2022. Williams was then Ordered to appear before the Judge over the exhibit. It is just not credible that Williams would not know the contents of an exhibit she created, used in a deposition, recently was issued a subpoena over and gave four responses to, the last of which was less than a month before her statement in court, then had to go through the process and preparation for her appearance in court over the same exhibit and still doesn’t know what was in the exhibit.

**3-11.** For these reasons the example of Tilschner v Spangler shows the extreme degree to which both Gooch, Clinton and Williams went to not allow any mention of Tilschner v Spangler to appear in the 17LA377 common law record or 17LA377 records of proceedings for over 6 years.

**3-12.** This is a pretty straight-forward and very well documented case of the suppression of key evidence of ones own permanently disabled client by 2 successive legal malpractice attorneys.

#### **ON SAUL FERRIS DOCUMENTS**

**3-13.** The Saul Ferris Declination letter is located in Gooch’s case file at:

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Misc/Kupets & DeCaro Letter RE Case 3.5.15.pdf<sup>2</sup>

**3-14.** A different letter by the law firm Kupits and DeCaro is located in Gooch’s case file at:

Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Misc/Ferris, Thompson & Zweig Letter RE Case 3.4.15.pdf<sup>3</sup>

**3-15.** The names of the two files were inexplicably switched in Gooch’s case file on the Gooch Thumbdrive. We could not find any other files on the entire Gooch Thumbdrive which had their file names switched.

**3-16.** In ARDC Complaint against Clinton and Williams, Chapter 2, Section B explains how:

- a) Williams suppressed emails between Ferris and Dulberg and emails mentioning Ferris
- b) Williams acted to Dulberg as if she did not know who Ferris was and who Balke was
- c) Suppressed information that showed the actual Ferris declination letter was in the

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1 Exhibit C11-2022-11-04 17LA377 Report of Proceedings.pdf (Page 18 Lines 21-23)

2 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Misc/Kupets & DeCaro Letter RE Case 3.5.15.pdf

3 Group Exhibits (showing key folders)/Exhibit folder 1-Gooch Thumbdrive/Dulberg Paul Dulberg Files From Client/Misc/Ferris, Thompson & Zweig Letter RE Case 3.4.15.pdf

possession of Popovich and Mast for almost 2 months while Popovich and Mast actively denied it was in their office

- d) Opposing counsel Flynn filed an RFA to get Dulberg to admit that the letter was sent to his home directly from the office of Ferris
- e) Opposing counsel Flynn then deposed Ferris and had Ferris claim his law office sent the letter directly to Dulberg through first class mail.
- f) The address at the top of the letter was that of the law office of Thomas Popovich, and Flynn must have known this the entire time.

**3-17.** Just one of the suppressed email documents would have contradicted a number of claims Flynn was trying to make. For example, on March 20, 2015 3:49 PM Dulberg sent an email to Balke with the Subject “Missing Depositions and pre-trial settlement brief” stating:

“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.”<sup>1</sup>

**3-18.** The packages with the Ferris declination letter and the pretrial settlement memo remained in the law office of Popovich for almost 2 months, yet opposing counsel Flynn was pressuring Dulberg to admit he received the letter directly from Ferris at his home by first class mail.

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<sup>1</sup> Exhibit 7a-Hans Mast2-65.pdf

**3-19.** TABLE 1 compares the actions of Gooch and Clinton/Williams toward each of these 5 subject matters.

**TABLE 1**

|                             | <b>GOOCH</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>CLINTON &amp; WILLIAMS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>BANKRUPTCY</b>           | Never mentioned Dulberg's bankruptcy in Complaint or Amended Complaint                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Removed all mention of Dulberg's bankruptcy from Second Amended Complaint. (described in 'ARDC Complaint against Clinton and Williams', section 2-A)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>SAUL FERRIS</b>          | In 'Gooch Thumbdrive' the Ferris declination letter was misnamed and switched with 'Kupets and DeCaro' declination letter                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Suppressed all but 1 email document mentioning Ferris.<br>Pretended to not know who Ferris was.<br>Suppressed Ferris declination letter<br>(described in 'ARDC Complaint against Clinton and Williams', section 2-B)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>TILSCHNER v SPANGLER</b> | Was in possession of certified slip copy of Tilschner v Spangler at first meeting. Gave it back to Dulberg saying he does not need it because he already downloaded it.<br>Never mentioned Tilschner v Spangler in Complaint or Amended Complaint.<br>Nothing on Tilschner v Spangler in 'Gooch Thumbdrive'.                                                                                                                                                                                                                                                                                                                                                            | Hid certified slip copy of Tilschner v Spangler and went to extreme lengths to deny they knew anything about the Tilschner v Spangler case.<br>(described in 'ARDC Complaint against Clinton and Williams', section 2-C)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>BALKE</b>                | Never mentioned Balke:<br>a) Contracted with Dulberg even though he knew Dulberg had no standing as plaintiff in the case.<br>b) Agreed to take case to trial.<br>c) Represented Dulberg in 22nd Judicial Circuit Court even though the automatic stay was in place.<br>d) Did not enter into any agreement with Bankruptcy trustee who he knew has standing as plaintiff in the case.<br>e) Knew or should have known that Gagnon already effectively admitted to negligence.<br>f) Only discernible work done in 22nd Judicial Circuit Court was to try to get Dulberg to agree to Allstate settlement for \$50,000 or less.                                          | Hid around 40 documents of email communication between Balke and Dulberg.<br>Claimed to not know who Balke was<br>Never mentioned Balke:<br>a) Contracted with Dulberg even though he knew Dulberg had no standing as plaintiff in the case.<br>b) Agreed to take case to trial.<br>c) Represented Dulberg in 22nd Judicial Circuit Court even though the automatic stay was in place.<br>d) Did not enter into any agreement with Bankruptcy trustee who he knew had standing as plaintiff in the case.<br>e) Knew or should have known that Gagnon already effectively admitted to negligence.<br>f) Only discernible work done in 22nd Judicial Circuit Court was to try to get Dulberg to agree to Allstate settlement for \$50,000 or less.<br>(described in 'ARDC Complaint against Clinton and Williams', section 2-D). |
| <b>BAUDINS</b>              | Never mentioned the Baudins:<br>a) Contracted with Dulberg even though they knew Dulberg had no standing as plaintiff in the case.<br>b) Agreed to take case to trial.<br>c) Represented Dulberg in 22nd Judicial Circuit Court even though the automatic stay was in place.<br>d) Did not enter into any agreement with Bankruptcy trustee who they knew had standing as plaintiff in the case until 10/31/2016.<br>e) Knew or should have known that Gagnon already effectively admitted to negligence.<br>f) Only discernible work done in 22nd Judicial Circuit Court was to try to get Dulberg to enter into Binding Mediation with Allstate with a \$300,000 cap. | Never mentioned the Baudins:<br>a) Contracted with Dulberg even though they knew Dulberg had no standing as plaintiff in the case.<br>b) Agreed to take case to trial when contracting.<br>c) Represented Dulberg in 22nd Judicial Circuit Court even though the automatic stay was in place.<br>d) Did not enter into any agreement with Bankruptcy trustee who they knew has standing as plaintiff in the case until 10/31/2016.<br>e) Knew or should have known that Gagnon already effectively admitted to negligence.<br>f) Only discernible work done in 22nd Judicial Circuit Court was to try to get Dulberg to enter into Binding Mediation with Allstate settlement with a \$300,000 cap.<br>(described in 'ARDC Complaint against Clinton and Williams', section 2-E)                                               |

**3-20.** The actions of Clinton, Williams and Gooch (all legal malpractice attorneys) can be better understood as a part of a larger pattern of successive attorneys committing fraud on the same

(fully disabled) client. Table 2 below compares strategies and methods used by 5 consecutive law firms retained by Dulberg.

**TABLE 2**

| ATTORNEY                                                | STRATEGY                                                                 | METHODS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Popovich &amp; Mast</b><br>Personal Injury Case      | Plaintiff's attorney intentionally weakens or sabotages plaintiff's case | Destruction and concealment of evidence<br>Forged signatures<br>Staged depositions (depositions with no actual court reporter present)<br>Knew defendant Gagnon already admitted negligence for Dulberg's injury<br>Worked in violation of federal bankruptcy court automatic stay to force a settlement against client's wishes<br>Represented a client when they knew client had no standing as plaintiff in court<br>Tried to put a cap of \$50,000 on the remaining case<br>(ARDC Complaint against them will be submitted) |
| <b>Balke</b><br>Personal Injury Case                    | Plaintiff's attorney intentionally weakens or sabotages plaintiff's case | Knew defendant Gagnon already admitted negligence for Dulberg's injury<br>Worked in violation of federal bankruptcy court automatic stay to force a settlement against client's wishes<br>Represented client when they knew client had no standing as plaintiff in court<br>Tried to put a cap of \$50,000 on the remaining case<br>(ARDC Complaint against him will be submitted)                                                                                                                                              |
| <b>The Baudins</b><br>Personal Injury Case              | Plaintiff's attorney intentionally weakens or sabotages plaintiff's case | Forgery<br>Knew defendant Gagnon already admitted negligence for Dulberg's injury<br>Worked in violation of federal bankruptcy court automatic stay to force a settlement against client's wishes<br>Represented client when they knew client had no standing as plaintiff in court<br>Placed a cap of \$300,000 on the remaining case<br>(ARDC Complaint against them will be submitted)                                                                                                                                       |
| <b>Gooch</b><br>Legal Malpractice Case                  | Plaintiff's attorney intentionally weakens or sabotages plaintiff's case | Said he would file lawsuit in 7 days but actually filed more than 11 months later<br>Gooch law office did not even scan client's files into digital form for 6 months<br>Knew defendant Gagnon already admitted negligence for Dulberg's injury<br>Suppression of information on bankruptcy, Baudin and Popovich negligence<br>Filed 2 complaints which intentionally included a 'trap door' to allow defendants to get out of the case on 2-619 and 2-615 summary judgment<br>(ARDC Complaint against him will be submitted)   |
| <b>Clinton &amp; Williams</b><br>Legal Malpractice Case | Plaintiff's attorney intentionally weakens or sabotages plaintiff's case | Massive and sophisticated suppression of key evidence and information during pleadings and discovery document disclosure process<br>Knew defendant Gagnon already admitted negligence for Dulberg's injury<br>[Described in detail in this Complaint]                                                                                                                                                                                                                                                                           |

**3-21.** What immediately stands out (in red font) is that all successive attorneys to the same (fully disabled) client used the same overall strategy: **To intentionally weaken or sabotage their own client's case.** All three personal injury attorneys retained by Dulberg **acted in violation of the automatic stay.** They continued to appear in the 22nd Judicial Circuit Court (which had no jurisdiction) claiming to represent Dulberg (who had no standing as plaintiff). All 3 PI attorneys made efforts (in orange font) to **place a cap on the remaining case without having any authority from the Bankruptcy Court to do so.** Both legal malpractice attorneys suppressed all information of how all 3 PI law firms violated federal bankruptcy laws (in blue font) from Dulberg and from the complaints.



**3-22.** Another feature that stands out (in green font) is that all five law firms (3 personal injury law firms and 2 legal malpractice law firms) knew or could easily discover that the personal injury defendant (who was operating the chainsaw that injured Dulberg) **Gagnon effectively admitted negligence for Dulberg's injury** as of early March, 2013. None of the 5 law firms ever informed Dulberg of this. The original defendant and operator of the chainsaw, Gagnon, admitted to being negligent:

about 10 months before Dulberg was coerced into settling with the owners of the property (the McGuires) on which the accident occurred and for whom Gagnon was working.

about 21 months before Dulberg declared bankruptcy.

about 39 months before any binding mediation agreement with Gagnon was mentioned.

about 40 months before any cap was placed on any binding mediation award from Gagnon.

**3-23.** There was no reason for any of these activities to take place if the defendant who operated the chainsaw already admitted to being negligent.

**3-24.** Gooch targeted the same subject matters of information that were later targeted by Clinton and Williams. In short, the Gooch methods of document and information suppression were seamlessly aligned with the more sophisticated system of document and information suppression of Clinton and Williams and targeted the same key subject matters to weaken and sabotage the valid claims of their own (permanently disabled) client.

#### **EVIDENCE OF SECRET COMMUNICATION BETWEEN NETWORKS OF ATTORNEYS TO SYSTEMATICALLY DEFRAUD A (PERMANENTLY DISABLED) CLIENT**

**3-25.** What reveals Gooch as working as part of a network of attorneys is that:

- a) He acted in a way that protected all 3 personal injury law firms from facing any consequences for their fraudulent actions at the expense of his own client.
- b) His subject matters of information suppression formed a seamless match with those of Clinton and Williams.

**3-26.** What reveals the 3 personal injury attorneys as working as part of a network of colluding attorneys is that:

- a) All 3 PI law firms violated the federal bankruptcy automatic stay with a casualness and sense of impunity that is quite shocking. They each acted in a larger Court environment in which each attorney who violated the automatic stay seemed to have no fear of being detected or called out by any other attorney.
- b) All 3 PI attorneys were in possession of an effective admission of negligence against the person (Gagnon) who was operating the chainsaw that injured Dulberg, yet none of them acted on the admission for their own client's benefit.



- c) All 3 PI attorneys knew Gagnon never answered any interrogatory questions yet none of them objected.
- d) All 3 PI attorneys acted to place an upper limit on the PI case 12LA178 (in violation of the automatic stay) and to coerce Dulberg to accept the upper limit crafted by opposing counsel.

**3-27.** On the contrary, it strains credulity to claim these alignments of similar actions by different law firms, one after another, are all mere coincidences, and that these different law firms were acting independently of one another. Such a claim, though expected from those caught in the act of collective fraud against a permanently disabled person, is simply not plausible.