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February 11, 2013

Paul Dulberg
4606 Hayden Court
McHenry, IL 60051

RE: *Paul Dulberg vs. David Gagnon, Caroline McGuire and Bill McGuire*
McHenry County Case: 12 LA 178

Dear Paul:

Please be advised that I just completed the deposition of David Gagnon. David Gagnon is a very interesting character. He testified pretty much as expected. He testified that during the branch cutting you had chosen to hold the branch out in front of you with your left arm and with your right arm down by your side. He said that when he went to cut a limb off the branch you unexpectedly reached over with your right arm and grabbed onto the branch below the cutting point. He did not expect you to do this and therefore, as he cut the branch he also "nipped" your arm. He doesn't believe that he did anything wrong in attempting to cut the branch.

Obviously, this case is going to come down to your word against David's word. With your testimony, it seemed very clear that David was negligent in operating the chainsaw to cause it to strike your right forearm. Unfortunately, David's version of the accident is much different. Given the conflict in the testimony, it is difficult to determine how a jury will ultimately decide liability in this case. If the jury decides for you, you will obviously win. However, if the jury finds for Mr. Gagnon, you will lose. One additional factor is that David testified that you stated after the fall "I may never have to work the rest of my life" and that you urged him to help by offering favorable testimony. If true, this could be problematic to the case.

We have the depositions of Mr. and Mrs. McGuire in a few weeks. I will keep you advised.

Very truly yours,

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HANS A. MAST

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