


From: George Flynn gflynn@karballaw.com   
Subject: Dulberg v. Popovich  
Date: March 6, 2020 at 11:32 AM  
To: Julia Williams juliawilliams@clintonlaw.net

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GF

Julia:

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 communications 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.

Please also produce any previously withheld documents that go to the issue of **what standards of care were breached by Popovich, and when Dulberg became aware of it**. As you may recall, there were several objections on the record regarding Dulberg's communications with Tom Gooch, on and around December 16, 2016. It is our position that all such communications regarding the breach and date of discovery, including but not limited to those above, have been placed at issue.

Since we will be presenting Hans Mast for his discovery deposition on March 26, 2020, and appearing in Woodstock for a status conference on April 3, 2020, we will need to have a resolution of all privilege issues and withheld documents before April 3. Accordingly, If any document responsive to any discovery request (at this stage) is being withheld, I believe that a privilege log must be produced.

With respect to the objections to the "Gooch" communications, please confirm whether you still intend to raise the objection(s). For the record, we intend to utilize Dulberg's testimony regarding his communications with Tom Gooch, in future pleadings and discovery. If the objection is not withdrawn, then we will need to tee up the issue for Judge Meyer.

I will be happy to discuss these issue, but note that I will be on vacation next week, returning to the office on March 16.

Best regards,

George Flynn

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