

1 IN THE CIRCUIT COURT  
2 FOR THE 22ND JUDICIAL CIRCUIT  
3 McHENRY COUNTY, ILLINOIS  
4  
5 PAUL DULBERG, )  
6 Plaintiff, )  
7 vs. ) No. 12 LA 178  
8 DAVID GAGNON, )  
9 Individually, and as )  
10 Agent of CAROLINE )  
11 McGUIRE and BILL McGUIRE )  
12 and CAROLINE McGUIRE and )  
13 BILL McGUIRE, )  
14 individually, )  
15 Defendants. )  
16  
17 The deposition of CAROLYN McGUIRE, taken in the  
18 above-entitled cause, before Paula Ann Erickson,  
19 Certified Shorthand Reporter, Registered Professional  
20 Reporter and Notary Public, on March 20, 2013, at 3421  
21 West Elm Street, McHenry, Illinois, at the approximate  
22 hour of 1:00 p.m.  
23  
24 REPORTED BY: PAULA A. ERICKSON  
C.S.R. LICENSE NO. 084-003899

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2 WITNESS PAGE

3 CAROLYN McGUIRE

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9 EXHIBITS

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12

13 (NO EXHIBITS MARKED)

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**MISALIGNMENTS - 3**  
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**Dots do NOT align nor extend to the page numbers as they did in the 2013 version.**

**These numbered lines are NOT in the 2013 version.**

**Correct Year.**  
**CORRECT DATE is PROOF someone didn't completely botch this 2019 RECONSTRUCTED FORGERY. See POP 001236.**

**Page 1 is resized smaller and uses a different Font type than the rest of the pages.**

• ALL page numbers should be in the upper right corner NOT the lower right corner.

Page 2 is misaligned to top edge of page.

1 APPEARANCES:  
2  
3 MR. HANS MAST  
4 LAW OFFICES OF THOMAS J. POPOVICH  
5 3416 W. Elm Street  
6 McHenry, Illinois 60050  
7 (815) 344-3797  
8  
9 Appeared on behalf of the Plaintiff.  
10  
11 MR. RONALD A. BARCH  
12 CICERO, FRANCE, BARCH & ALEXANDER, PC  
13 6323 East Riverside Boulevard  
14 Rockford, Illinois 61114  
15 (815) 226-7700  
16  
17 Appeared on behalf of the Defendants, Carolyn  
18 and Bill McGuire.  
19  
20 MR. PERRY A. ACCARDO  
21 LAW OFFICE OF M. GERARD GREGOIRE  
22 200 North LaSalle Street  
23 Suite 2650  
24 Chicago, Illinois 60601  
(312) 558-9821  
25  
26 Appeared on behalf of the Defendant, David  
27 Gagnon.  
28  
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1 THE REPORTER: Ma'am, can you raise your right  
2 hand, please?  
3 CAROLYN McGuire,  
4 after being first duly sworn, deposeeth and saith as  
5 follows:  
6 EXAMINATION  
7 BY MR. MAST:  
8 Q. All right. Please state your name.  
9 A. Carolyn McGuire.  
10 Q. Okay. And you are Dave Gagnon's mother?  
11 A. Yes.  
12 Q. And you know why we are here today I assume?  
13 A. Yes.  
14 Q. About the chain saw accident?  
15 A. Yes.  
16 Q. Okay. And I represent Paul Dulberg.  
17 A. Okay.  
18 MR. MAST: This is the discovery deposition of  
19 Carol McGuire -- Carolyn McGuire.  
20 THE WITNESS: It's Carolyn, right.  
21 MR. MAST: It's what?  
22 THE WITNESS: It is Carolyn. I know it was  
23 written -- It's C-A-R-O-L-Y-N.  
24 MR. MAST: Okay. Very good. Taken pursuant to

<div>1 notice, in the course of the applicable rules.</div> <div>2 I am just going to ask you some</div> <div>3 questions about this incident. I am trying to find</div> <div>4 out what you know, so if you don't know things, that's</div> <div>5 fine, too, but I will just ask you some questions and,</div> <div>6 please let me finish my question before you answer so</div> <div>7 we don't talk over each other and if you don't</div> <div>8 understand the question, let me know and I will try to</div> <div>9 rephrase it for you, okay?</div> <div>10 THE WITNESS: Okay.</div> <div>11 BY MR. MAST:</div> <div>12 Q. What's your date of birth?</div> <div>13 A. November 26, 1946.</div> <div>14 Q. Okay. That makes you, what, 65?</div> <div>15 A. 66.</div> <div>16 Q. 66. Okay. And what's your address?</div> <div>17 A. 1016 West Elder, that's E-L-D-E-R, Avenue,</div> <div>18 McHenry, Illinois, 60051.</div> <div>19 Q. And who do you live there with?</div> <div>20 A. My husband, William McGuire.</div> <div>21 Q. Okay. How long have you been married?</div> <div>22 A. Let's see. We got married in 1993.</div> <div>23 Q. 20 years?</div> <div>24 A. That would be 20 years I guess, yeah.</div> <div>5</div>	<div>1 Terrace in Johnsburg. I am trying to think of their</div> <div>2 address. I can't think of it right offhand.</div> <div>3 Q. Okay. And Dave is married?</div> <div>4 A. David is married.</div> <div>5 Q. How long has he been married?</div> <div>6 A. It was four years.</div> <div>7 Q. What's his wife's name?</div> <div>8 A. Pam.</div> <div>9 Q. Okay. So they live up in where?</div> <div>10 A. They live -- Well, their mailing address is</div> <div>11 Geneva, Wisconsin.</div> <div>12 Q. Lake Geneva?</div> <div>13 A. But they don't live in Lake Geneva. Oh --</div> <div>14 No. It's Genoa. What am I saying. It's Genoa, Genoa,</div> <div>15 Wisconsin.</div> <div>16 Q. Right near Lake Geneva?</div> <div>17 A. Right. It's close.</div> <div>18 Q. Okay. And before being married to Pam four</div> <div>19 years ago, did he live with you two?</div> <div>20 A. No. They lived in that house where they live</div> <div>21 now but they weren't married.</div> <div>22 Q. How long did they live at that house?</div> <div>23 A. At least 12 years.</div> <div>24 Q. Oh, that long?</div> <div>7</div>
<div>1 Q. Okay. And I understand that William is</div> <div>2 David's stepfather, right?</div> <div>3 A. Yes.</div> <div>4 Q. And what's his father's name?</div> <div>5 A. His real father's name was Alan, A-L-A-N, A.,</div> <div>6 Gagnon, G-A-G-N-O-N.</div> <div>7 Q. Were you married?</div> <div>8 A. Yes. We were married.</div> <div>9 Q. Did he pass?</div> <div>10 A. Yes. He has passed on.</div> <div>11 Q. When did he pass on?</div> <div>12 A. He died when he was 50 so that was 16 years</div> <div>13 ago so 1990 --</div> <div>14 Q. So was there a divorce?</div> <div>15 A. Oh, we were divorced. Yeah.</div> <div>16 Q. Okay. Do you have any other children?</div> <div>17 A. I have two daughters. I have a Diane Lutz,</div> <div>18 L-U-T-Z. She is my oldest.</div> <div>19 Q. Where does she live?</div> <div>20 A. She lives at 4708 Wilmot Road, McHenry,</div> <div>21 Illinois.</div> <div>22 Q. Okay.</div> <div>23 A. And then I have another daughter. Her name</div> <div>24 is Donna Giovanni, G-I-O-V-A-N-N-I, and she lives on</div> <div>6</div>	<div>1 A. Yeah. Maybe 12 years.</div> <div>2 Q. So 12 years ago was David living with you?</div> <div>3 A. Yeah. He lived with me then.</div> <div>4 Q. For how long?</div> <div>5 A. His whole life until he left. He was there a</div> <div>6 long time.</div> <div>7 Q. How old is Dave?</div> <div>8 A. Dave is 45 right now.</div> <div>9 Q. Okay. So he lived with you over 30 years</div> <div>10 then?</div> <div>11 A. Probably. Yeah. Yeah.</div> <div>12 Q. Right?</div> <div>13 A. 30. Yes. Yep.</div> <div>14 Q. What does Dave do for a living?</div> <div>15 A. He does auto body work.</div> <div>16 Q. Does he do it for somebody or out of his</div> <div>17 house?</div> <div>18 A. He is self-employed.</div> <div>19 Q. Out of his house then?</div> <div>20 A. Yeah. Right.</div> <div>21 Q. Okay. You are aware of this chain saw</div> <div>22 accident involving my client Paul Dulberg at your</div> <div>23 house, right?</div> <div>24 A. Correct.</div> <div>8</div>

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<p>1 Q. And I think it happened in June of 2011.</p> <p>2 Does that make sense?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Do you know the day?</p> <p>5 A. I believe it was the 28th or the 29th of</p> <p>6 June. It was towards the end there.</p> <p>7 Q. Okay. And the incident occurred I think --</p> <p>8 and just generally now, we are going to go into the</p> <p>9 details, but I think Paul was helping Dave with some</p> <p>10 tree, cutting down some branches or something on your</p> <p>11 property, right?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And Dave has already been deposed and</p> <p>14 I don't have -- I am just trying to remember what he</p> <p>15 said.</p> <p>16 A. Uh-huh.</p> <p>17 Q. But so I am going to ask you a little bit</p> <p>18 about what your understanding was that he was doing</p> <p>19 but as I recall, he said that he was taking a tree</p> <p>20 down for you. Does that sound right?</p> <p>21 A. Yeah. There was two trees in the back there.</p> <p>22 They were evergreens.</p> <p>23 Q. So there were two trees that you wanted him</p> <p>24 to take down?</p> <p>9</p>	<p>1 A. Okay.</p> <p>2 Q. Let me ask it this way: Before Paul's</p> <p>3 accident, do you know how long Dave has had experience</p> <p>4 using chain saws? A year, five years, ten years,</p> <p>5 twenty years, do you have any idea?</p> <p>6 A. Well, I'd have to say probably as long as he</p> <p>7 was probably on his own property because he had cut</p> <p>8 down trees then and anything prior to that, I really</p> <p>9 don't remember.</p> <p>10 Q. Okay. So you are saying for at least the</p> <p>11 last 12 years?</p> <p>12 A. At least, yes.</p> <p>13 Q. Okay. So as soon as Dave began living up in</p> <p>14 Genoa from that time until Paul's accident you knew he</p> <p>15 was using chain saws?</p> <p>16 A. Right.</p> <p>17 Q. Before he began living up in Genoa 12 years</p> <p>18 ago, what experience he had with chain saws you are</p> <p>19 not sure; is that correct?</p> <p>20 A. No, because like you said, he lived with me</p> <p>21 for how many years and the only thing we ever cut down</p> <p>22 on our property was the apple tree in the back.</p> <p>23 Q. And did he do that?</p> <p>24 A. Yeah. He did that.</p> <p>11</p>
<p>1 A. Yes. Because we were going to put a shed up</p> <p>2 back there.</p> <p>3 Q. Okay. So at some point I am assuming neither</p> <p>4 you nor your husband are able to take a tree down with</p> <p>5 a chain saw, right?</p> <p>6 A. No.</p> <p>7 Q. Is that right?</p> <p>8 A. That's correct. We did not.</p> <p>9 Q. Well, you aren't even able to do it because</p> <p>10 you are just not -- you don't know how to do a chain</p> <p>11 saw?</p> <p>12 A. I am afraid of a chain saw.</p> <p>13 Q. Probably your husband is the same?</p> <p>14 A. Yes. He never used one either, yeah.</p> <p>15 Q. So you knew that Dave had some experience</p> <p>16 with chain saws?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. If I were to go through what level of</p> <p>19 experience he had in using chain saws before Paul's</p> <p>20 accident, would you know?</p> <p>21 A. He has used them many a times. If you go</p> <p>22 from a one to a ten, I'd have to say a ten because he</p> <p>23 has taken down trees at his house and so -- big trees.</p> <p>24 Q. This is what I am asking, though --</p> <p>10</p>	<p>1 Q. With a chain saw?</p> <p>2 A. With a chain saw, so that was before this</p> <p>3 accident happened the timeframe.</p> <p>4 Q. So I want to get a summary of what you have</p> <p>5 just said just so I understand.</p> <p>6 A. Okay.</p> <p>7 Q. So you are saying for the past 12 years while</p> <p>8 Dave was living up in Genoa, you believed he has used</p> <p>9 a chain saw regularly because that would be needed on</p> <p>10 his property?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Right?</p> <p>13 A. Right.</p> <p>14 Q. Okay. But 12 years ago, before 12 years ago</p> <p>15 when he lived with you, you knew he took down a tree</p> <p>16 but other than that, you are not aware of what</p> <p>17 experience he had with chain saws; is that right?</p> <p>18 A. No. I don't know if he had any.</p> <p>19 Q. Is that correct what I just said?</p> <p>20 A. That's correct. That's correct.</p> <p>21 Q. I am going to say it again because the no and</p> <p>22 the yeah messed it up.</p> <p>23 A. Okay.</p> <p>24 Q. Before 12 years ago --</p> <p>12</p>

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<div>1A. All right.</div> <div>2Q. -- prior to that, other than Dave cutting</div> <div>3down a tree on your property while he was living with</div> <div>4you, you are not aware of any other experience he had</div> <div>5using a chain saw during -- before 12 years ago; is</div> <div>6that correct?</div> <div>7A. Correct.</div> <div>8Q. Okay. And how long did it take him to cut</div> <div>9that tree down more than 12 years ago on your</div> <div>10property?</div> <div>11A. Well, that wasn't even 12 years ago. That</div> <div>12tree was -- Okay. I'm sorry. The tree was actually</div> <div>13cut down before -- you know, not long before this</div> <div>14accident happened.</div> <div>15MR. BARCH: You got to listen to his questions</div> <div>16because he was asking you if the apple tree was cut</div> <div>17down more than 12 years ago so you got to listen to</div> <div>18his question.</div> <div>19MR. MAST: Let me say it again.</div> <div>20THE WITNESS: I was going to break in but then --</div> <div>21BY MR. MAST:</div> <div>22Q. I am happy to go through this to make sure</div> <div>23you understand it but if you don't understand it, you</div> <div>24got to let me know so we don't get it taken down</div> <div>13</div>	<div>1A. Correct.</div> <div>2Q. Before that you are not sure what experience</div> <div>3or use he had of a chain saw, fair enough?</div> <div>4A. Fair enough. Right.</div> <div>5Q. Okay. So I am assuming, and you can correct</div> <div>6me if I am wrong, did you ever see Dave use a chain</div> <div>7saw over at his house?</div> <div>8A. No. I would --</div> <div>9Q. You just knew he did?</div> <div>10A. Right. I seen a tree down.</div> <div>11Q. Did he have his own chain saw?</div> <div>12A. Uh-huh.</div> <div>13Q. Yes?</div> <div>14A. Yes.</div> <div>15Q. You can't block your mouth because we have to</div> <div>16make sure you say it loud for us, all right?</div> <div>17A. Yes.</div> <div>18Q. I am assuming, and you can correct me if I am</div> <div>19wrong, the only time you saw Dave use a chain saw has</div> <div>20been on your property?</div> <div>21A. Yes.</div> <div>22Q. And that would have been within the last</div> <div>2312 years?</div> <div>24A. Yes.</div> <div>15</div>
<div>1wrong, okay?</div> <div>2A. All right.</div> <div>3Q. So let's go back over that. All right. Over</div> <div>4the last 12 years while Dave was living up in Genoa</div> <div>5with his wife, you have known Dave to regularly use a</div> <div>6chain saw not only at his property but for you, right?</div> <div>7Is that correct?</div> <div>8A. Okay. Correct.</div> <div>9Q. Okay. Prior to 12 years ago when Dave was</div> <div>10living with you for the rest of his life pretty much,</div> <div>11have you ever known what experience he has in use of a</div> <div>12chain saw?</div> <div>13A. No.</div> <div>14Q. Okay. Do you know if he ever used a chain</div> <div>15saw more than 12 years ago?</div> <div>16A. I don't know.</div> <div>17Q. Okay. So the answer is the first time you</div> <div>18are aware that Dave has used a chain saw was after he</div> <div>19moved from your house and moved up to Genoa and lived</div> <div>20with his wife?</div> <div>21A. Right.</div> <div>22Q. His soon to be wife, right?</div> <div>23A. Right.</div> <div>24Q. And that was for the last 12 years, correct?</div> <div>14</div>	<div>1Q. Okay. All right. So my next question</div> <div>2obviously is then before Paul's accident, how many</div> <div>3times have you known Dave to use a chain saw on your</div> <div>4property?</div> <div>5A. Twice.</div> <div>6Q. Okay. One was for the apple tree and the</div> <div>7other was for this accident, right?</div> <div>8A. No, and the other one was the tree in the</div> <div>9front we had taken down before this, too, within, you</div> <div>10know, a span of maybe a couple months and we had</div> <div>11somebody come and take down the whole tree but this was</div> <div>12like big pieces. It was a huge tree.</div> <div>13Q. Got it.</div> <div>14A. And so David and Paul were helping. They</div> <div>15were using Paul's chain saw.</div> <div>16Q. All right. I am going to get to that. It's</div> <div>17a little bit more wordy than I was asking. My</div> <div>18question was: How many times before Paul's accident</div> <div>19had Dave cut or used the chain saw on your property</div> <div>20and your answer is three?</div> <div>21A. Well, twice. The apple tree and the big tree</div> <div>22in the front.</div> <div>23Q. And he was also working on your property</div> <div>24before --</div> <div>16</div>

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<p>1 A. Right, and --</p> <p>2 Q. We can't talk over each other, though. You</p> <p>3 got to let me come to an end, okay, and then you can</p> <p>4 answer. I will let you say whatever you want but you</p> <p>5 got to let me come to an end.</p> <p>6 Would it be fair to say that Paul has</p> <p>7 used a chain saw on your property in the last 12 years</p> <p>8 three times, three separate times?</p> <p>9 A. Did you just say Paul?</p> <p>10 Q. I'm sorry I did, didn't I?</p> <p>11 MR. ACCARDO: Yes.</p> <p>12 MS. MAST: See, she is listening to me.</p> <p>13 BY MR. MAST:</p> <p>14 Q. Is it fair to say over the last 12 years Dave</p> <p>15 has used a chain saw on your property on three</p> <p>16 separate occasions?</p> <p>17 A. Correct. Yes.</p> <p>18 Q. Okay. The one occasion was in conjunction</p> <p>19 with the work he was doing before Paul's accident?</p> <p>20 A. Yes.</p> <p>21 Q. The other was the apple tree?</p> <p>22 A. Uh-huh.</p> <p>23 Q. Yes?</p> <p>24 A. Yes.</p> <p>17</p>	<p>1 Q. Okay.</p> <p>2 A. And the apple tree, too, it was in 2011 and</p> <p>3 it was probably shortly after that. Maybe the</p> <p>4 beginning of June.</p> <p>5 Q. Okay. Very good. Is the apple tree kind of</p> <p>6 a smaller fruit tree that we are talking about then?</p> <p>7 A. Yes. It was probably like that, the trunk,</p> <p>8 yeah.</p> <p>9 Q. I get it. Maybe about 6 or 8 inches?</p> <p>10 A. Yeah. Diameter.</p> <p>11 Q. Diameter.</p> <p>12 A. Yes.</p> <p>13 Q. So the first tree that Paul had to cut or the</p> <p>14 first use of a chain saw on your property before</p> <p>15 Paul's accident would have been that same year a month</p> <p>16 before?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Yes?</p> <p>19 A. Correct. Correct.</p> <p>20 Q. All right.</p> <p>21 A. Yes.</p> <p>22 Q. And that was where the big tree in the front</p> <p>23 was taken down already, Paul didn't -- or Dave didn't</p> <p>24 have to do that, right?</p> <p>19</p>
<p>1 Q. And the other was that tree in the front that</p> <p>2 you had cut down and he had to cut it up?</p> <p>3 A. Correct.</p> <p>4 Q. Is that right?</p> <p>5 A. Yes.</p> <p>6 Q. All right. So now I want to try to get a</p> <p>7 timeframe for those three occasions. I know when the</p> <p>8 third occasion was because that's in June of 2011,</p> <p>9 right? Right?</p> <p>10 A. Right.</p> <p>11 Q. Okay. So give me the timeframe of the other</p> <p>12 two occasions if you can generally.</p> <p>13 A. Well, let's see.</p> <p>14 Q. Because you were talking about months before</p> <p>15 and stuff.</p> <p>16 A. Yeah. Probably months in between. I would</p> <p>17 have to say this was -- I'd probably have to say maybe</p> <p>18 the beginning of May was the real big tree in the front</p> <p>19 that he did help at the end cut up.</p> <p>20 Q. May of what year?</p> <p>21 A. The same year, 2011.</p> <p>22 Q. I need you to say it, though. I don't want</p> <p>23 to say it.</p> <p>24 A. Okay. May 2011.</p> <p>18</p>	<p>1 A. No.</p> <p>2 Q. Is that right?</p> <p>3 A. Correct. He did not cut it down.</p> <p>4 Q. But you asked him -- you asked Dave to cut up</p> <p>5 the trunk after the tree was already cut down; is that</p> <p>6 right?</p> <p>7 A. Can I elaborate on that and say something?</p> <p>8 Q. Well, you can elaborate any time you want but</p> <p>9 I'd first ask you to answer my question so that the</p> <p>10 answer is shown on the record.</p> <p>11 A. No. I did not ask him to cut it.</p> <p>12 Q. Okay. What did you ask him to do?</p> <p>13 A. But after the tree was removed, this big huge</p> <p>14 tree by a tree company, there was a big huge stump out</p> <p>15 there and what happens is they didn't take the wood</p> <p>16 away because that would cost extra money and we knew</p> <p>17 that Paul would probably want it for his fireplace</p> <p>18 which he did and these things were huge so they were</p> <p>19 cutting them into smaller pieces.</p> <p>20 Q. Who is "they were"?</p> <p>21 A. My son and Paul.</p> <p>22 Q. So the stumps were left by the tree company</p> <p>23 in May 2011 after they cut the tree down --</p> <p>24 A. Uh-huh.</p> <p>20</p>

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<p>1 Q. -- and Paul and Dave you didn't ask them to</p> <p>2 but they -- Paul wanted to keep some of that wood so</p> <p>3 he asked Dave and they worked together to cut up those</p> <p>4 stumps?</p> <p>5 A. Right. To cut up the big rounds. You know,</p> <p>6 they took away branches and stuff but they left big</p> <p>7 chunks and that's what they cut up.</p> <p>8 Q. You mean "they" took away, the tree company</p> <p>9 took away the branches?</p> <p>10 A. Right. The branches.</p> <p>11 Q. But left the stumps?</p> <p>12 A. Okay. The stump. Well, the stump, right.</p> <p>13 The stump. Yeah. The stump is still there.</p> <p>14 Q. Well, there is other little stumps that are</p> <p>15 cut apart, right?</p> <p>16 A. Yeah. They were trunks of the tree, you</p> <p>17 know, yeah. Uh-huh.</p> <p>18 Q. All right. So after the tree company cut the</p> <p>19 tree down in May of 2011, there were sections of the</p> <p>20 tree that were cut up by the tree company that were</p> <p>21 left behind?</p> <p>22 A. Correct.</p> <p>23 Q. And Paul and Dave cut them up so Paul could</p> <p>24 use it as firewood at his house?</p> <p>21</p>	<p>1 A. No.</p> <p>2 Q. Okay. Other than Paul and yourself, is there</p> <p>3 anyone else Paul -- I'm sorry. Other than Paul, Dave</p> <p>4 and yourself, is there anyone else that would have to</p> <p>5 your knowledge seen Dave use a chain saw before Paul's</p> <p>6 accident?</p> <p>7 A. Well, I'd have to say no because I can't</p> <p>8 remember actually.</p> <p>9 Q. That's fine.</p> <p>10 A. I seen him cut the tree.</p> <p>11 Q. I'm not asking you to put your name in there.</p> <p>12 A. Nobody else, no.</p> <p>13 Q. Okay. How long did Paul and Dave work on</p> <p>14 those tree sections cutting them up? How long did</p> <p>15 that take? One day, more than a day?</p> <p>16 A. Couple hours.</p> <p>17 Q. Okay. So just one day then?</p> <p>18 A. I believe.</p> <p>19 Q. Okay. And was anything left after they cut</p> <p>20 those stumps up?</p> <p>21 A. No. Paul took it all.</p> <p>22 Q. Okay. Did he pay you for it?</p> <p>23 A. No. I gave it as a gift. He said he wanted</p> <p>24 it.</p> <p>23</p>
<p>1 A. Yes.</p> <p>2 Q. Do you know if Paul was using a chain saw</p> <p>3 during that time?</p> <p>4 A. Well, it was his chain saw.</p> <p>5 Q. But you know what I am asking, right?</p> <p>6 A. Yeah. You know, I can't really remember if</p> <p>7 they were both doing it or --</p> <p>8 Q. All you have to say is I know or I don't</p> <p>9 know.</p> <p>10 A. I don't know. I really don't know.</p> <p>11 Q. That's all you got to say and I will move on.</p> <p>12 Had you ever seen -- Before Paul's</p> <p>13 accident, had you ever seen Paul use a chain saw?</p> <p>14 A. No.</p> <p>15 Q. Okay. So whether he used it properly or</p> <p>16 dangerously prior to Paul's accident you don't know if</p> <p>17 Paul did or didn't?</p> <p>18 A. No.</p> <p>19 Q. You seen Dave use it on occasion before</p> <p>20 Paul's accident as we already talked about, right?</p> <p>21 A. Right.</p> <p>22 Q. Did you believe he used it safely?</p> <p>23 A. Yes.</p> <p>24 Q. Ever see him use it unsafely, this chain saw?</p> <p>22</p>	<p>1 Q. Very good. Okay. But who cut it up with the</p> <p>2 chain saw you don't know, right?</p> <p>3 A. I don't remember if they both did it or if</p> <p>4 David just did.</p> <p>5 Q. Okay. Do you know -- Again, I am just asking</p> <p>6 what you know. If you don't know, you can just say I</p> <p>7 don't know.</p> <p>8 Do you know between Paul and Dave before</p> <p>9 Paul's accident who was more experienced on the chain</p> <p>10 saw?</p> <p>11 A. No.</p> <p>12 Q. Okay. Then after that big tree in the front</p> <p>13 was cut up, there was the apple tree that was cut up</p> <p>14 shortly after that, right?</p> <p>15 A. Correct.</p> <p>16 Q. Also in May or June of 2011, right?</p> <p>17 A. Correct.</p> <p>18 Q. And that is a 6 to 8-inch diameter and were</p> <p>19 there any branches off the tree had to be cut up or</p> <p>20 just the tree cut down?</p> <p>21 A. No. There was branches.</p> <p>22 Q. Okay. Do you know -- Did you see that being</p> <p>23 cut down?</p> <p>24 A. Yeah. David was out there trimming.</p> <p>24</p>

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1 Q. Who cut the apple tree down? 2 A. David did. 3 Q. Did Paul -- Was Paul involved in the apple 4 tree being cut at all? 5 A. I believe no. 6 Q. Okay. So David did all that work? 7 A. Yes. 8 Q. How tall was that apple tree? 9 A. As tall as my house, 20 feet. 10 Q. And, again, that might have taken a couple 11 hours and that was over then? 12 A. Yes. 13 Q. And who took the wood from that tree? 14 A. I believe we put it in the back. We have it 15 piled up. 16 Q. Okay. So that was -- Those are two tree 17 projects that we just talked about in May or June 18 of 2011, right? 19 A. Correct. Yes. 20 Q. The third project is the two trees that you 21 said were in the backyard that you wanted to put a 22 shed back there so you wanted those trees cut down, 23 right? 24 A. Yes.	1 Q. A foot or so around? 2 A. Yeah. Maybe more. 3 Q. Well, if you measure -- Hold on. 4 A. Okay. 5 Q. If you measure it from one side to the other 6 side, is that about a foot wide? 7 A. No. It was more. 8 Q. More than a foot wide? 9 A. More than a foot wide. 10 Q. A foot and a half wide? 11 A. Yes. At least. 12 Q. Both of the trees were the same size? 13 A. About the same. 14 Q. Okay. Okay. And when Paul's accident 15 occurred, had both of the trees already been cut down? 16 A. David had gone up the trees by, you know, and 17 cut down -- 18 Q. We are going to start there later, but I am 19 asking you right now by the time of Paul's accident, 20 were both of the evergreen trees already cut down or 21 was he going limb by limb? 22 A. David was cutting limb by limb but I believe 23 Paul came over when David needed him to help him. 24 Q. You are going too far away. I am just asking
1 Q. And that was a project where you asked Dave 2 to do again, right? 3 A. Yes. 4 Q. You didn't ask Paul to do it, did you? 5 A. No. 6 Q. Okay. Sometime in June you told Dave, hey, 7 we need those two trees cut down in back, right? 8 A. Correct. Yes. 9 Q. And you asked him to do it, right? 10 A. Right. 11 Q. And he said he would do it for you? 12 A. Right. 13 Q. Okay. And the reason they had to be cut down 14 is you wanted to put a shed back there? 15 A. Right, and we didn't want to of course put a 16 shed up first and then take the trees down. 17 Q. Right. I understand. Okay. What was the 18 diameter of that -- of the two trees that were the 19 evergreens that were going to be taken down, if you 20 know? 21 A. Well, I'd have to say that they were probably 22 both at least 60 feet tall. 23 Q. Okay. 24 A. And the base of them was -- I don't know.	1 you right now at the time of Paul's accident what the 2 condition of those two standing evergreens were. Were 3 they both still standing? 4 A. There was branches on the ground already. 5 Q. Were the trunks still standing? 6 A. Okay. Yes. 7 Q. Okay. That's what I am trying to find out. 8 A. Okay. 9 Q. Do you know the process Dave was choosing to 10 cut the trees down? Was he going first up the tree 11 and cutting the limbs down first and then he was going 12 to do the trunk or do you know? 13 A. He was going up the tree and cutting down the 14 branches. 15 Q. Okay. And then after the branches were cut 16 down, he would take the bases down and cut the trunks 17 down? 18 A. He didn't do that. We hired someone to take 19 the tree down the rest of it because they were so tall. 20 Q. I got you. 21 A. Okay. 22 Q. So you asked Dave then his job with regard to 23 these two evergreens in the backyard was just to take 24 the branches down?

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<div>1A. Yes.</div> <div>2Q. Right?</div> <div>3A. Correct.</div> <div>4Q. And since the trunk was so big, you didn't</div> <div>5want Dave doing that because this was a big project.</div> <div>6You had a tree company come in to do that.</div> <div>7A. Right.</div> <div>8Q. Okay. And I am assuming there is countless</div> <div>9branches on both of these evergreens, right?</div> <div>10A. Right.</div> <div>11Q. Do you know the size of the bigger branches</div> <div>12that came off the tree?</div> <div>13A. Probably at least that big.</div> <div>14Q. Maybe about four inches from one side to the</div> <div>15other, yes?</div> <div>16MR. BARCH: I want to get -- I think we are</div> <div>17just -- I want to make sure that you are giving</div> <div>18estimates when you are or an accurate number. Just</div> <div>19clarify for when you are estimating or not. I don't</div> <div>20want you guessing.</div> <div>21BY MR. MAST:</div> <div>22Q. Now listen, I know you didn't go out with a</div> <div>23tape measure. What I'm asking is if you can estimate.</div> <div>24If you can't, if it's just a guess, then fine but hold</div> <div>29</div>	<div>1Q. Okay. And I think that might have been even</div> <div>2what he said so that sounds accurate.</div> <div>3A. Yeah, because he had to go someplace that</div> <div>4day.</div> <div>5Q. So Paul to your knowledge -- Strike that.</div> <div>6To your knowledge, Dave had worked out</div> <div>7at your house on these two evergreens the day before</div> <div>8Paul's injury cutting some branches down.</div> <div>9A. Right.</div> <div>10Q. And then Paul came over the next day to help?</div> <div>11A. Right.</div> <div>12Q. Is that your understanding?</div> <div>13A. Yes.</div> <div>14Q. Okay. Did Dave ask you if Paul could come</div> <div>15over and help or did he ever go through that with you</div> <div>16or did he just do that on his own?</div> <div>17A. He did it on his own.</div> <div>18Q. Were you going to pay Paul or not Paul. I</div> <div>19keep getting the names mixed up.</div> <div>20Were you going to pay Dave to do this</div> <div>21work for you?</div> <div>22A. He came over as a favor of my son to cut the</div> <div>23trees down and for his time I was going to give him</div> <div>24something for gas. He had to come up, you know, from</div> <div>31</div>
<div>1on. Let me ask the question.</div> <div>2My question is: If you put your fingers</div> <div>3on both sides of the heavier bigger branches on these</div> <div>4evergreens and you measured one finger to the other --</div> <div>5A. Right.</div> <div>6Q. -- what is the approximate distance you think</div> <div>7you'd have for the width of those branches, the bigger</div> <div>8ones?</div> <div>9A. I would say maybe three inches.</div> <div>10Q. Okay. All right. And those would have</div> <div>11been -- the bigger ones would have been at the bottom</div> <div>12or closer to the base of the tree, the thinner ones up</div> <div>13at the top, right?</div> <div>14A. Yes.</div> <div>15Q. Okay. Now, and, again, if you don't know,</div> <div>16that's fine. I keep saying that because I don't want</div> <div>17you to guess but I am trying to find out what you</div> <div>18know. So my question is: By the time of Paul's</div> <div>19accident, the day of Paul's accident, was that the</div> <div>20first day Dave was beginning work on those two trees?</div> <div>21A. It's been awhile and I really can't remember.</div> <div>22I think he did come by the one day to start it and</div> <div>23because there was all these branches piled up, then</div> <div>24Paul came over the next day and helped.</div> <div>30</div>	<div>1his house and that I was going pay him something.</div> <div>2Q. Was it predetermined what you were going to</div> <div>3pay him?</div> <div>4A. No. I didn't know. I just figured I'd give</div> <div>5him something.</div> <div>6Q. Like 20 bucks or something for gas?</div> <div>7A. Money to just --</div> <div>8Q. So you were going to pay him, how much, you</div> <div>9don't know and it wasn't going to be a large amount,</div> <div>10fair enough?</div> <div>11A. Right. Yes.</div> <div>12Q. So the first day that Dave started the work</div> <div>13the day before Paul's accident was cutting some</div> <div>14branches down from the two evergreens?</div> <div>15A. Yes.</div> <div>16Q. Was he starting on one evergreen first or was</div> <div>17he going to do both kind of in tandem together, if you</div> <div>18know?</div> <div>19A. Well, there was a big pile of branches. I</div> <div>20really can't remember if when Paul came in both were</div> <div>21already trimmed up or if he had just done one of the</div> <div>22bigger ones.</div> <div>23Q. So the answer is I don't know.</div> <div>24A. I don't know.</div> <div>32</div>

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<div>1Q. Okay.</div> <div>2A. Right. I can't remember.</div> <div>3Q. All right. So the next question is: When</div> <div>4Paul came over the next day of this tree work that</div> <div>5Dave was doing, the status of the trees and how far up</div> <div>6one or more of them were cut you don't know; is that</div> <div>7correct?</div> <div>8A. Correct.</div> <div>9Q. Okay. But by the time Paul got there the day</div> <div>10of his accident, the second day in to doing the work,</div> <div>11some branches Dave had already cut the day earlier?</div> <div>12A. I can't remember. I don't know.</div> <div>13Q. Were there some branches on the ground</div> <div>14already?</div> <div>15A. They were on the ground but as he was cutting</div> <div>16and they were just falling down, okay?</div> <div>17Q. Right.</div> <div>18A. But I don't remember if he actually had</div> <div>19started to cut up branches himself that very first day</div> <div>20he was there, that it was just one big pile.</div> <div>21Q. Okay. And maybe I didn't word it properly</div> <div>22but my question was: By the time Paul arrived at your</div> <div>23house on the day of the accident, there were already</div> <div>24branches that had been cut down from the tree that</div> <div>33</div>	<div>1A. I saw his truck in front so I knew he was</div> <div>2over.</div> <div>3Q. But how long he had been there when you first</div> <div>4saw the truck you don't know; is that correct?</div> <div>5A. I don't remember, no.</div> <div>6Q. Is that correct then what I just said?</div> <div>7A. Correct. Uh-huh.</div> <div>8Q. Okay. All right. When you saw Paul's truck</div> <div>9out in front, that would have been the 12:00 to 1:00</div> <div>10kind of timeframe?</div> <div>11A. Right.</div> <div>12MR. BARCH: Well, I need to object. It's an</div> <div>13approximation. I don't want it to be looked at we are</div> <div>14using that as if that is the time so I object to form</div> <div>15of the question.</div> <div>16BY MR. MAST:</div> <div>17Q. I said earlier we are thinking somewhere</div> <div>18around 12:00 to 1:00 generally, fair enough?</div> <div>19A. Yes.</div> <div>20Q. And that's the first time you saw Paul's</div> <div>21truck in your drive, correct?</div> <div>22A. Uh-huh.</div> <div>23Q. Yes?</div> <div>24A. Yes.</div> <div>35</div>
<div>1were on the ground?</div> <div>2A. Right.</div> <div>3Q. Were they piled up yet or were they all just</div> <div>4scattered on the ground?</div> <div>5A. I don't remember.</div> <div>6Q. Okay. And you don't know -- I think what you</div> <div>7were saying is you don't know if Dave had already</div> <div>8begun to cut up those branches that had been cut down</div> <div>9from the tree or whether they were still all together</div> <div>10in full lengths, right?</div> <div>11A. Yes.</div> <div>12Q. Okay. Do you know when Paul arrived at your</div> <div>13house the day of his accident?</div> <div>14A. I can't give you a precise time. It was</div> <div>15probably later morning, early afternoon.</div> <div>16Q. Other than late morning, early afternoon,</div> <div>17that's as specific as you can give me?</div> <div>18A. Right. I can't give you a time exactly.</div> <div>19Q. Okay. Late afternoon -- Late morning, early</div> <div>20afternoon seems to be around 12:00 or 1:00. Does that</div> <div>21sound about right?</div> <div>22A. Yeah.</div> <div>23Q. And did you greet or see Paul when he arrived</div> <div>24first at the house?</div> <div>34</div>	<div>1Q. So whether Paul was there before you saw his</div> <div>2truck or how long you saw his truck, you don't know,</div> <div>3correct?</div> <div>4A. No.</div> <div>5Q. Is that correct?</div> <div>6A. Correct.</div> <div>7Q. What Paul was doing by the time you saw his</div> <div>8truck around 12:00 to 1:00 generally out at your</div> <div>9property, you don't know, correct? Is that correct?</div> <div>10A. Correct.</div> <div>11Q. Okay. You know he was helping Dave but</div> <div>12exactly what Paul's tasks were, do you know?</div> <div>13A. No.</div> <div>14Q. Did you at any time that day before Paul's</div> <div>15accident observe their work?</div> <div>16A. I went out there to give them some water</div> <div>17because it was a hot day but that was it.</div> <div>18Q. Did you go out there to give both Paul and</div> <div>19Dave water?</div> <div>20A. Yeah. I gave them water.</div> <div>21Q. A glass of water?</div> <div>22A. Probably a bottle, like this.</div> <div>23Q. Okay. And how many times did you do that</div> <div>24before Paul's accident?</div> <div>36</div>

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<p>1 A. Maybe once. I don't exactly -- Once. Say</p> <p>2 once.</p> <p>3 Q. Okay. Okay. And when you went out there,</p> <p>4 how long were you out there?</p> <p>5 A. Probably a few minutes. I talked to him.</p> <p>6 Said hello and --</p> <p>7 Q. Were Dave and Paul working at any point while</p> <p>8 you were out there giving them water?</p> <p>9 A. No. Not that I can remember, no.</p> <p>10 Q. Okay. So what Paul's tasks were doing --</p> <p>11 Strike that.</p> <p>12 What Paul's tasks were during the work</p> <p>13 and what Dave's tasks were during the work, you did</p> <p>14 not observe; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. All right. So now I am going to summarize</p> <p>17 this, and you can correct me if I am wrong, but before</p> <p>18 Paul's accident, is it fair to say you only went out</p> <p>19 of the house and saw what they were -- saw the</p> <p>20 progress of the work once; is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. And that was to deliver water to him for a</p> <p>23 couple of minutes you were out there?</p> <p>24 A. Correct.</p> <p>37</p>	<p>1 strike that.</p> <p>2 The chain saw Dave was using to cut the</p> <p>3 branches up at your house the day of Paul's accident,</p> <p>4 was that the chain saw that was your chain saw?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know if Paul had his own -- Strike</p> <p>7 that.</p> <p>8 Do you know if Dave had his own chain</p> <p>9 saw?</p> <p>10 A. Not with him.</p> <p>11 Q. He had his own but it was at home, right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Instead of him bringing his chain saw,</p> <p>14 he used yours, right?</p> <p>15 A. Yes.</p> <p>16 Q. Is there a reason he decided to use yours as</p> <p>17 opposed to bringing his own?</p> <p>18 A. Ours was new.</p> <p>19 Q. Is yours the one that's sitting here on the</p> <p>20 table today?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. At the time of Paul's accident at your</p> <p>23 house with the chain saw, did you own more than one</p> <p>24 chain saw?</p> <p>39</p>
<p>1 Q. And during the time you were out there for a</p> <p>2 couple minutes delivering water that one time, you did</p> <p>3 not see either of them do any work that you can</p> <p>4 recall, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. So as far as who was doing what work</p> <p>7 before Paul's chain saw accident on your property that</p> <p>8 day, you don't know who was doing what, correct?</p> <p>9 A. No.</p> <p>10 Q. Is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. When you say no, that's why I have to</p> <p>13 ask to make sure you understand my question. Is that</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Do you know if Paul -- at any point</p> <p>17 that day of his accident at your house, do you know if</p> <p>18 Paul operated that chain saw that they were using to</p> <p>19 trim these branches, do you know if he did?</p> <p>20 A. No.</p> <p>21 Q. Okay. You know that Dave was using the chain</p> <p>22 saw, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Other than the chain saw -- Well,</p> <p>38</p>	<p>1 A. We have an electric one in the basement but</p> <p>2 we didn't use it.</p> <p>3 Q. Okay. So at the time of Paul's accident --</p> <p>4 A. Yes. I'm sorry.</p> <p>5 Q. Once I start I am assuming you are done.</p> <p>6 Okay. At the time of Paul's accident, you owned and</p> <p>7 had available to use an electric chain saw and a gas</p> <p>8 chain saw, correct?</p> <p>9 A. Yes.</p> <p>10 Q. The electric chain saw was in the basement</p> <p>11 and was not being used for any of the work that Dave</p> <p>12 and Paul were doing, correct?</p> <p>13 A. Yes.</p> <p>14 Q. All right. Why was that not being used?</p> <p>15 A. It wasn't big enough and the chain on it was</p> <p>16 dull.</p> <p>17 Q. Okay. So Dave chose to use the gas one at</p> <p>18 your house, correct?</p> <p>19 A. Yes.</p> <p>20 Q. That was by his choice. You didn't make him,</p> <p>21 did you?</p> <p>22 A. No. I didn't make him. Yeah. I know you</p> <p>23 don't want me to elaborate. No. He chose to use that</p> <p>24 one. It was new and it had never been used and the</p> <p>40</p>

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<p>1 blade was sharp.</p> <p>2 Q. And, again, it's not that I don't want you to</p> <p>3 elaborate. I want you to elaborate if you think it's</p> <p>4 necessary. All I am saying is if you are not</p> <p>5 answering the question, then I need to ask the</p> <p>6 question again, okay? Okay. You can say whatever you</p> <p>7 want to say, okay?</p> <p>8 A. Okay.</p> <p>9 Q. So the chain saw we have today here on the</p> <p>10 table is the gas chain saw that Dave was using to cut</p> <p>11 up the branches when Paul was injured, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And this was the only gas saw you had</p> <p>14 present and available and that you owned on your</p> <p>15 property at the time of Paul's injury, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Had Dave ever used this particular chain saw</p> <p>18 before the day of Paul's accident?</p> <p>19 A. I can't remember if he actually did use it to</p> <p>20 cut up the apple tree or not. I don't remember.</p> <p>21 Q. When you say it was new, you mean it was --</p> <p>22 Wait. I just started my question.</p> <p>23 When you say this chain saw was new as</p> <p>24 of the day of Paul's accident, are you saying it had</p> <p>41</p>	<p>1 say, oh, I am buying a new chain saw here. We bought</p> <p>2 it because we needed a chain saw.</p> <p>3 Q. This is my question: I'm sorry if you think</p> <p>4 my questions are funny but my question is this: Did</p> <p>5 you purchase it expecting that you or your husband was</p> <p>6 going to use it or that somebody else other than you</p> <p>7 and your husband were going to use it?</p> <p>8 A. Someone else.</p> <p>9 Q. Okay. Not necessarily Dave but somebody else</p> <p>10 other than you and your husband?</p> <p>11 A. Right.</p> <p>12 Q. Okay. And whether this chain saw, this gas</p> <p>13 chain saw, that you purchased new in 2011 had been</p> <p>14 used prior to cutting these two evergreens down in</p> <p>15 June, 2011 you are not sure, correct?</p> <p>16 A. I don't remember, no.</p> <p>17 Q. Okay. If it had been used prior to the two</p> <p>18 evergreens, that job in June of 2011, it had only been</p> <p>19 used once before and that might have been the apple</p> <p>20 tree job, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Where these evergreens were and where</p> <p>23 Dave and Paul were working, that would have been in</p> <p>24 the backyard of your house?</p> <p>43</p>
<p>1 never been used or you don't know if it had been used?</p> <p>2 A. I don't remember. All I know is it was new</p> <p>3 and we bought it in that year.</p> <p>4 Q. You bought it in 2011?</p> <p>5 A. Yes.</p> <p>6 Q. Where did you buy it from?</p> <p>7 A. It's on the manual inside the date where it</p> <p>8 was purchased at and everything.</p> <p>9 Q. I am asking you.</p> <p>10 A. I don't remember but it's written on the</p> <p>11 manual so if you want that information, I don't know.</p> <p>12 Q. Listen, I can get it anyway. I am asking</p> <p>13 you. If you don't know, you can just say.</p> <p>14 A. I don't remember. It was just in 2011 we</p> <p>15 purchased it.</p> <p>16 Q. All right. And why did you purchase it?</p> <p>17 A. Because we had trees that we knew needed to</p> <p>18 be cut down.</p> <p>19 Q. Okay. Did you purchase it, however, though,</p> <p>20 for you or your husband to use or for somebody else to</p> <p>21 use that might have to use on your property?</p> <p>22 A. I guess we purchased to have a chain saw that</p> <p>23 worked well and was new and had a sharp blade and I</p> <p>24 didn't particularly buy it for, you know what I mean,</p> <p>42</p>	<p>1 A. Yes.</p> <p>2 Q. If you -- What were you doing that day? I am</p> <p>3 sure you were in the house, correct?</p> <p>4 A. Right.</p> <p>5 Q. You weren't working outside, were you?</p> <p>6 A. I was outside for awhile playing with his dog</p> <p>7 in the backyard but, I mean, I didn't stay out there</p> <p>8 for any length of time and I was in the house most of</p> <p>9 the time.</p> <p>10 Q. Okay. So other than delivering water to Paul</p> <p>11 and Dave before Paul's accident and maybe being out of</p> <p>12 the house to run around with the dog for a few</p> <p>13 minutes, everything else, all of your other activities</p> <p>14 would have been inside the house that day, correct?</p> <p>15 A. Yes. Yes.</p> <p>16 Q. Okay. And if you ran the dog outside for a</p> <p>17 few minutes, do you recall doing that before Paul's</p> <p>18 injury or not?</p> <p>19 A. Yeah.</p> <p>20 Q. Do you know how long? It was just a few</p> <p>21 minutes?</p> <p>22 A. Yeah. Probably. I mean, just throw a ball</p> <p>23 around and get a bone.</p> <p>24 Q. And would that have been near where Dave and</p> <p>44</p>

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<div>1 Paul were working?</div> <div>2 A. Yeah. I mean, my yard is not that big. Yes.</div> <div>3 It's near.</div> <div>4 Q. Okay. Do you recall having any observations</div> <div>5 of what they were doing at the time you were outside</div> <div>6 playing with the dog?</div> <div>7 A. No. I don't remember. No. I would say no.</div> <div>8 Q. Okay. Was that after you saw Paul's truck in</div> <div>9 the drive that you said you first noticed Paul would</div> <div>10 have been over by that time around 12:00 or 1:00,</div> <div>11 somewhere around there?</div> <div>12 A. Yes. It was after I was out there with the</div> <div>13 dog.</div> <div>14 Q. Okay. Do you know about what time -- How did</div> <div>15 you first learn Paul was injured?</div> <div>16 A. They came running in the house. He was</div> <div>17 bleeding and I gave him a clean towel to wrap around</div> <div>18 his arm and David drove him to the hospital in Paul's</div> <div>19 truck.</div> <div>20 Q. Okay.</div> <div>21 A. It was fast. I mean, they didn't waste any</div> <div>22 time getting to the hospital.</div> <div>23 Q. Okay. We are going to go through all that</div> <div>24 step by step. About what time was that that Paul ran</div> <div>45</div>	<div>1 and Dave were working on those -- on the trees, you</div> <div>2 had been out there just a couple minutes outside</div> <div>3 running with the dog and then delivering water during</div> <div>4 that one hour time?</div> <div>5 A. Yes.</div> <div>6 Q. Okay. Were you doing anything in particular</div> <div>7 inside the house?</div> <div>8 A. What I usually do every day.</div> <div>9 Q. What's that?</div> <div>10 A. Dishes, wash clothes, clean up, whatever. I</div> <div>11 don't remember, you know, but working inside the house,</div> <div>12 yeah.</div> <div>13 Q. Okay. What was your husband doing?</div> <div>14 A. Probably watching television.</div> <div>15 Q. Okay. Do you remember what day of the week</div> <div>16 this was?</div> <div>17 A. I think it was during the week.</div> <div>18 Q. And I didn't ask you this before but are you</div> <div>19 retired?</div> <div>20 A. I am.</div> <div>21 Q. Okay. Is your husband retired as well?</div> <div>22 A. Uh-huh.</div> <div>23 Q. Yes?</div> <div>24 A. Yes.</div> <div>47</div>
<div>1 in the house?</div> <div>2 A. I don't remember. It was maybe an hour,</div> <div>3 maybe it was 2:00. I don't know, an hour later.</div> <div>4 Q. An hour later meaning -- hold on -- an hour</div> <div>5 after you first saw Paul's truck was in the drive</div> <div>6 around 12:00 or 1:00 or approximately sometime around</div> <div>7 there?</div> <div>8 A. Right. They were working.</div> <div>9 Q. So I am trying to get the chronology of this</div> <div>10 and I understand it's not exact, I get that, but you</div> <div>11 are saying again very generally 12:00 or 1:00 was when</div> <div>12 you saw Paul's truck in the drive. An hour from</div> <div>13 whenever that was later was approximately when Paul</div> <div>14 ran in the house and said he was injured?</div> <div>15 A. Right.</div> <div>16 Q. And he was bleeding from what arm, if you</div> <div>17 know?</div> <div>18 A. I don't remember. I think it was his right</div> <div>19 arm.</div> <div>20 Q. Okay. You are not positive or are you sure</div> <div>21 about that?</div> <div>22 A. I am not positive.</div> <div>23 Q. Okay. Hold on a minute. All right. So</div> <div>24 during that approximate hour time that you knew Paul</div> <div>46</div>	<div>1 Q. Okay. What kind of work did you do before</div> <div>2 you retired?</div> <div>3 A. I worked at Intermatic.</div> <div>4 Q. What is that?</div> <div>5 A. It was in Spring Grove. I worked in</div> <div>6 production.</div> <div>7 Q. What kind of company is that?</div> <div>8 A. They made lighting sets, timers.</div> <div>9 Q. Is that like factory type work?</div> <div>10 A. It was factory, yeah.</div> <div>11 Q. Okay. And what was your husband's kind of</div> <div>12 job he did before he retired?</div> <div>13 A. He was a carpenter.</div> <div>14 Q. Okay. I didn't even ask this. William, how</div> <div>15 old is William?</div> <div>16 A. He was born in 1953. He will be 60 this</div> <div>17 year.</div> <div>18 Q. Okay. Is he in good health?</div> <div>19 A. Huh?</div> <div>20 Q. Is he in good health?</div> <div>21 A. He is on Social Security disability.</div> <div>22 Q. For what kind of disability?</div> <div>23 A. For he got injured at work.</div> <div>24 Q. What?</div> <div>48</div>

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1A. His back.	1Q. Is that correct?
2Q. Okay. So he is not able to be real active?	2A. Correct. Correct.
3A. No. He can't lift up heavy things.	3Q. All right. Did your husband ever go outside
4Q. That's what I am trying to understand.	4while Dave and Paul were working?
5A. Yeah.	5A. I don't remember.
6Q. Okay. Are you healthy?	6Q. Okay.
7A. Yeah. I am all right. I am living. That's	7A. I don't remember.
8about it.	8Q. Did you ever talk to your husband about the
9Q. Do you have any disabilities?	9incident with Paul?
10A. No. I am not -- I am on Social Security	10A. You mean about this whole thing?
11but -- Okay. No. I am not.	11Q. Yes.
12Q. All right. Let me just ask the question. Do	12A. Yes.
13you have any physical disabilities whatsoever?	13Q. Well, not --
14A. I am okay.	14A. Oh.
15Q. Okay. All right. The work that you were	15Q. Hold on. Not about what happened as a result
16doing in the house, if you wanted to, would you have	16of the incident, meaning the lawsuit and things like
17been able to just look out the window and see the work	17that. I am asking about did you ever talk to your
18that Paul and Dave were doing or were they doing it at	18husband about how the incident may have occurred?
19a spot where you really couldn't see them?	19A. I probably -- Well, I wasn't there to see it
20A. I couldn't see them.	20so I couldn't really tell him how I thought it
21Q. So even in the house had you looked out a	21happened.
22certain part of the house, you wouldn't have been able	22Q. Well, did you ask him if he saw it or --
23to visualize them outside working; is that correct?	23A. He didn't see nothing, no.
24A. Correct.	24Q. Okay. All right. When Paul came in, ran in
49	51
1Q. Okay. So in order to see what they are	1the house as you described from being injured --
2doing, you'd have to go outside and take a look?	2A. Right.
3A. Yes.	3Q. -- you offered him to wrap his arm?
4Q. Right?	4A. Yes.
5A. Yes.	5Q. And then so how long was he in the house
6Q. And you didn't do that except for when you	6physically or did he just run in and run out with
7went to deliver water. That's the only time you went	7Dave?
8outside in the area where they were working, correct?	8A. I have to say it might have been a minute. I
9A. Right and played with the dog twice. That	9ran immediately, got a clean towel, put it on his arm
10was it.	10and they went to hospital.
11Q. Right but playing with the dog you weren't	11Q. Did you visualize the injury? Did you see
12even paying attention to what you were doing, correct?	12it?
13A. Yeah. I was paying attention to the dog.	13A. I could see the cut.
14No, I wasn't.	14Q. That's what I am asking.
15Q. Is that correct?	15A. Yes. I could see the cut.
16A. Yes. That's correct.	16Q. How long was the cut?
17Q. So the only time you would have been in the	17A. Probably like this I would think.
18area to observe what they were doing is when you	18Q. About six inches or so?
19delivered the water?	19A. Yeah. He -- probably like that on the
20A. Right.	20forearm.
21Q. And that's the time you remember telling me	21Q. Approximately six?
22you don't remember seeing what they were doing; is	22A. Yeah. Maybe on his forearm.
23that correct?	23Q. And did you do anything to determine how deep
24A. No. I don't remember.	24the cut was?
50	52

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<div>1A. No. I got a towel and no, I didn't.</div> <div>2Q. Okay. All right. So although you know it's</div> <div>3about six inches long, you don't know how deep it was;</div> <div>4is that correct?</div> <div>5A. No. I don't know.</div> <div>6Q. Is that correct?</div> <div>7A. Correct.</div> <div>8Q. After wrapping it, and this is all within a</div> <div>9minute, Paul runs out with Dave and Dave takes him to</div> <div>10the hospital?</div> <div>11A. Correct.</div> <div>12Q. What hospital?</div> <div>13A. McHenry.</div> <div>14Q. NIMC?</div> <div>15A. Yes. NIMC.</div> <div>16Q. Do you know how long they were at the</div> <div>17hospital?</div> <div>18A. Well, I called -- I don't know. I don't</div> <div>19know. I called the hospital to see.</div> <div>20Q. What?</div> <div>21A. I called probably after they got there. What</div> <div>22does it take, 15 minutes to get there. Maybe a half</div> <div>23hour or something I called after.</div> <div>24Q. Just to find out the status?</div> <div>53</div>	<div>1that.</div> <div>2After Dave and Paul went to the hospital</div> <div>3right after the accident occurred, did you hear from</div> <div>4either of them while they were at the hospital?</div> <div>5A. No. When they came back, no.</div> <div>6Q. Okay. It wasn't until they came back from</div> <div>7the hospital?</div> <div>8A. To my house.</div> <div>9Q. Was that Dave or both Dave and Paul?</div> <div>10A. Both Dave and Paul were at my house</div> <div>11afterwards.</div> <div>12Q. Do you know how long that was after the time</div> <div>13they left to go to the hospital that they arrived back</div> <div>14at your house?</div> <div>15A. The length of time he was gone I am not quite</div> <div>16sure.</div> <div>17Q. What did you say?</div> <div>18A. I am not quite sure. Maybe an hour and a</div> <div>19half or something I mean by the time they did their job</div> <div>20and --</div> <div>21Q. Okay. All right. So it's your understanding</div> <div>22that Paul was injured, he runs into the house. Does</div> <div>23Dave run into the house, too?</div> <div>24A. He is right behind him.</div> <div>55</div>
<div>1A. Yeah. See how he was doing.</div> <div>2Q. Did you learn anything?</div> <div>3A. Yes.</div> <div>4Q. What did they tell you?</div> <div>5A. In the emergency room they told me that as</div> <div>6far as they could -- their knowledge, he didn't have</div> <div>7any damage done other than a superficial wound that</div> <div>8they would clean up and stitch up and give him</div> <div>9medication, you know, for pain and antibiotics for</div> <div>10infection.</div> <div>11Q. That's what the nurse people told you, the</div> <div>12people attending in the ER?</div> <div>13A. Uh-huh.</div> <div>14Q. Yes?</div> <div>15A. Yes.</div> <div>16Q. Okay. And then did you -- Did Dave or Paul</div> <div>17have a cell phone with them when they went to the</div> <div>18hospital?</div> <div>19A. I can't recollect for sure.</div> <div>20Q. Does Dave have a cell phone?</div> <div>21A. Yes, he does.</div> <div>22Q. Did he have it at the time?</div> <div>23A. I don't remember.</div> <div>24Q. Okay. Did either of them -- Well, strike</div> <div>54</div>	<div>1Q. So they both run into the house, right? Yes?</div> <div>2Yes?</div> <div>3A. Yes.</div> <div>4Q. You wrap the arm, then they run back out.</div> <div>5They go to the hospital. They are at the hospital</div> <div>6approximately, and I know you didn't time it, but</div> <div>7approximately an hour and a half at the ER?</div> <div>8A. Uh-huh.</div> <div>9Q. And they come back to your house, correct?</div> <div>10A. Correct. Yes.</div> <div>11Q. And then Paul and Dave come into the house</div> <div>12again?</div> <div>13A. Yeah.</div> <div>14Q. Okay. And do you sit down and talk to him or</div> <div>15what happens?</div> <div>16A. Well, Paul needed medication to have refilled</div> <div>17and he didn't have any insurance and didn't have any</div> <div>18money on him so I gave him \$50 to go get the</div> <div>19prescriptions refilled.</div> <div>20Q. Okay.</div> <div>21A. Not knowing how much they would cost but you</div> <div>22know.</div> <div>23Q. So as I understand it, Paul comes back to</div> <div>24your house from the ER and says, hey, I need to refill</div> <div>56</div>

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<div>1 this prescription for pain medication and don't have</div> <div>2 any money and you give him \$50?</div> <div>3 A. Yes.</div> <div>4 Q. Okay. So he asked -- Did he ask -- Hold on.</div> <div>5 Did he -- It looks like you want to talk. Did he ask</div> <div>6 you for the \$50 or did you just offer it to him?</div> <div>7 A. I offered it to him. He didn't ask.</div> <div>8 Q. How long was Paul in the house when he</div> <div>9 returned from the ER until he left to get the</div> <div>10 prescription filled?</div> <div>11 A. They weren't there maybe a few minutes and</div> <div>12 they went to the drug store.</div> <div>13 Q. So Dave then took Paul in Paul's truck and</div> <div>14 went to the drug store to fill the prescription?</div> <div>15 A. Uh-huh.</div> <div>16 Q. And then when Dave returned, did he return</div> <div>17 alone or with Paul again?</div> <div>18 A. I believe he took Paul home.</div> <div>19 Q. Right.</div> <div>20 A. And he could walk from Paul's house.</div> <div>21 Q. Right. So it's your belief that Dave would</div> <div>22 have walked from Paul's house back to home and that's</div> <div>23 when he arrived home then?</div> <div>24 A. Right.</div> <div>57</div>	<div>1 didn't.</div> <div>2 A. No.</div> <div>3 Q. Let me ask the question again because you</div> <div>4 didn't answer it directly. When Paul arrived into the</div> <div>5 house --</div> <div>6 MR. BARCH: I know you are frustrated with the</div> <div>7 way she answers questions but I think she is trying</div> <div>8 her best.</div> <div>9 MR. MAST: There is no question she is trying her</div> <div>10 best.</div> <div>11 BY MR. MAST:</div> <div>12 Q. I'm not saying you are not trying your best.</div> <div>13 A. I'm sorry. I know.</div> <div>14 Q. You are doing fine actually. It's just</div> <div>15 actually when you do answer it kind of indirectly, I</div> <div>16 need to go back and I'm telling you why I need to go</div> <div>17 back. You are doing fine. There is no problem with</div> <div>18 what you are doing. I just need you to understand why</div> <div>19 I am asking the question again.</div> <div>20 So when Paul runs in the house after</div> <div>21 being injured for the first time, I think you said</div> <div>22 Dave followed, right?</div> <div>23 A. Uh-huh.</div> <div>24 Q. Yes?</div> <div>59</div>
<div>1 Q. Was that within the hour?</div> <div>2 A. I don't know how long he was at Paul's house</div> <div>3 once he --</div> <div>4 Q. Okay. But after Dave and Paul left in Paul's</div> <div>5 truck to go fill the prescription, Dave then returned</div> <div>6 next alone to the house, right?</div> <div>7 A. Back to my house.</div> <div>8 Q. Yes.</div> <div>9 A. Yes, because he --</div> <div>10 Q. So it was your feeling that he probably</div> <div>11 dropped Paul after and left the truck at Paul's house?</div> <div>12 A. Yeah. It was his truck. Paul's truck.</div> <div>13 Q. I understand.</div> <div>14 A. Okay.</div> <div>15 Q. All right. Okay. Now, let's go back a</div> <div>16 little bit and let me ask a couple follow-up</div> <div>17 questions. When Paul ran into the house after the</div> <div>18 accident, okay --</div> <div>19 A. Uh-huh.</div> <div>20 Q. -- with the injury, did he say anything about</div> <div>21 how it happened?</div> <div>22 A. There wasn't time. No.</div> <div>23 Q. I understand there might not be time. I am</div> <div>24 just asking if. If they didn't you can just say they</div> <div>58</div>	<div>1 A. Yes.</div> <div>2 Q. You saw the injury, you wrapped it and then</div> <div>3 they left immediately to go to the hospital, right?</div> <div>4 A. Yes.</div> <div>5 Q. During the time after the accident before</div> <div>6 they left to go to the hospital, did Paul say anything</div> <div>7 about how the accident occurred?</div> <div>8 A. No.</div> <div>9 Q. Did Dave say anything how the accident</div> <div>10 occurred?</div> <div>11 A. No.</div> <div>12 Q. So by the time Paul and Dave left to the</div> <div>13 hospital to the emergency room to treat Paul's injury,</div> <div>14 you did not know how it happened other than you</div> <div>15 assumed I am assuming you felt it was probably due to</div> <div>16 the chain saw, right?</div> <div>17 A. Yes.</div> <div>18 Q. But you didn't know that?</div> <div>19 A. No.</div> <div>20 Q. And they never -- either of them never told</div> <div>21 you how it happened, correct? Is that correct?</div> <div>22 A. Correct.</div> <div>23 Q. Okay. So they are at the hospital. You</div> <div>24 don't talk to them now until they arrive back at your</div> <div>60</div>

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<p>1 house after the ER, right?</p> <p>2 A. Correct.</p> <p>3 Q. And they are only there for a couple of</p> <p>4 minutes until they go fill the prescription for pain</p> <p>5 medication, right?</p> <p>6 A. Right.</p> <p>7 Q. And while they are there for a couple of</p> <p>8 minutes at your house before filling the pain</p> <p>9 prescription, does Dave or Paul tell you anything more</p> <p>10 about how the accident occurred?</p> <p>11 A. No.</p> <p>12 Q. Okay. I am assuming you put the dots</p> <p>13 together and you felt it was because of the chain saw</p> <p>14 but nobody told you that, fair enough?</p> <p>15 A. Correct. Right.</p> <p>16 Q. Is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So by the time Dave now returns home</p> <p>19 alone after dropping Paul off, you have not yet heard</p> <p>20 from Dave or Paul at that point how the accident</p> <p>21 occurred; is that correct?</p> <p>22 A. Well, Dave would have had to come back to my</p> <p>23 house.</p> <p>24 Q. That's where I am starting this question. By</p> <p>61</p>	<p>1 concerned, when they came back to the house, they were</p> <p>2 only there a few minutes also. I gave them the money.</p> <p>3 When David came back obviously he drove Paul home</p> <p>4 because it was his truck, he came back to my house</p> <p>5 because that's where his car was, he was all upset and</p> <p>6 everything. I don't remember that anything really was</p> <p>7 said, you know, that Paul -- you know, little bit about</p> <p>8 Paul, you know, as far as not how the accident</p> <p>9 happened, how he was doing, you know, and that they got</p> <p>10 the prescriptions and then he went home but he didn't</p> <p>11 ever at that point at that time on that day, so.</p> <p>12 Q. All you are saying then in summary is Dave</p> <p>13 never mentioned how the accident happened?</p> <p>14 A. Not on that day.</p> <p>15 Q. Hold on. You got to let me finish my</p> <p>16 question -- my statement. All you are saying is on</p> <p>17 the day of Paul's accident at no time did you hear</p> <p>18 from Dave or Paul for that matter how the accident</p> <p>19 occurred?</p> <p>20 A. No.</p> <p>21 Q. Is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. So even when Dave arrived back from</p> <p>24 dropping Paul off, he stayed, what, for a few minutes?</p> <p>63</p>
<p>1 the time he returns to your house, by that time you</p> <p>2 still have not talked to either of them about how it</p> <p>3 happened, correct?</p> <p>4 A. No.</p> <p>5 Q. Is that correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. So Dave returns to your house alone</p> <p>8 and we are probably talking now, what, in the evening</p> <p>9 hours?</p> <p>10 A. Yeah. Early evening.</p> <p>11 Q. Maybe 4:00 to 5:00, somewhere in that general</p> <p>12 area?</p> <p>13 A. Right. Yes.</p> <p>14 Q. Okay. 4:00 to 5:00 p.m., Dave arrives home</p> <p>15 approximately and is there a conversation about what</p> <p>16 happened?</p> <p>17 A. I can't remember.</p> <p>18 Q. Okay. Any time the rest of that day does</p> <p>19 Dave make any statement about what happened?</p> <p>20 A. Can I say something?</p> <p>21 Q. Sure. If you want to.</p> <p>22 A. In the aspect of all this thing happening so</p> <p>23 fast, coming into the house, literally wrapping his arm</p> <p>24 and rushing him to the hospital because he was really</p> <p>62</p>	<p>1 A. Yeah. He didn't stay long. I can't really</p> <p>2 remember, you know, but he probably did stay, you know.</p> <p>3 Q. Stayed for awhile?</p> <p>4 A. For a bit, yeah.</p> <p>5 Q. Did he ever go back and finish the work up?</p> <p>6 A. No. He went home.</p> <p>7 Q. So by the time Dave left for now home the day</p> <p>8 of Paul's accident, he still never told you what his</p> <p>9 version of the accident was; is that correct?</p> <p>10 A. No.</p> <p>11 Q. Is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. Did you see Dave the following day?</p> <p>14 A. I can't remember but he must have come back</p> <p>15 because the branches. You know, this is a year and a</p> <p>16 half ago, no.</p> <p>17 Q. Listen, Carolyn, you don't have to tell me</p> <p>18 why. I have been doing this long enough. I know that</p> <p>19 memories aren't the best sometimes so you don't need</p> <p>20 to tell me why. My job, though, is to find out what</p> <p>21 you know.</p> <p>22 A. No, I don't.</p> <p>23 Q. So I have to go through this with you, okay?</p> <p>24 So let's just get through this. You are doing the</p> <p>64</p>

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<div>1 best you can. Let's just keep going.</div> <div>2 Did you ever at any time after Paul's</div> <div>3 accident at your house ever talk to Dave about how it</div> <div>4 happened?</div> <div>5 A. Yes. He did tell me.</div> <div>6 Q. Okay. How many times have you talked to Dave</div> <div>7 where you heard Dave's version of it? Just once or</div> <div>8 more than once?</div> <div>9 A. Maybe more than once.</div> <div>10 Q. How many times?</div> <div>11 A. I don't know. Twice.</div> <div>12 Q. Okay. When was the first time after the</div> <div>13 accident that you spoke to Dave about how it happened?</div> <div>14 The next day, days later, how soon after the accident?</div> <div>15 A. I don't remember.</div> <div>16 Q. Do you know if it was within days of the</div> <div>17 accident?</div> <div>18 A. No. I don't remember.</div> <div>19 Q. Okay. Was it within at least a month after</div> <div>20 the accident?</div> <div>21 A. Yeah. Probably.</div> <div>22 Q. Okay. And was it at your house?</div> <div>23 A. Or was it on the phone. I don't remember if</div> <div>24 it was.</div> <div>65</div>	<div>1 A. If he didn't move his hand -- They had been</div> <div>2 cutting for an hour and everything was going fine until</div> <div>3 this one incident happened, yeah.</div> <div>4 Q. So the reason for the accident then according</div> <div>5 to Dave was because Paul was moving his hand and he</div> <div>6 didn't know he was moving his hand and he cut the hand</div> <div>7 or the arm with the chain saw, correct?</div> <div>8 A. Right. Right.</div> <div>9 Q. And, again, and if you don't know, that's</div> <div>10 fine but you don't know how long after the incident</div> <div>11 occurred that Dave first told you this, do you?</div> <div>12 A. Well, it wasn't that day because he was all</div> <div>13 upset.</div> <div>14 Q. I am just asking how long, if you know.</div> <div>15 A. I don't know. Maybe a couple weeks. I don't</div> <div>16 know or next week, the week after.</div> <div>17 Q. Okay. And you said maybe a couple times Dave</div> <div>18 had told you this, correct?</div> <div>19 A. Uh-huh.</div> <div>20 Q. Yes?</div> <div>21 A. Yes.</div> <div>22 Q. When was the next time?</div> <div>23 A. Well, I don't know. He probably told -- I</div> <div>24 don't know. Maybe before -- Well, I think it was</div> <div>67</div>
<div>1 Q. So it was either in person or on the phone?</div> <div>2 A. Right.</div> <div>3 Q. Okay. Do you know if anybody else was a</div> <div>4 party to that conversation meaning overheard that</div> <div>5 conversation?</div> <div>6 A. No. Just me.</div> <div>7 Q. So Dave would have either called you or he</div> <div>8 would have been at your house and he would have told</div> <div>9 you this, right?</div> <div>10 A. Right. Correct.</div> <div>11 Q. Okay. What did he tell you?</div> <div>12 A. What happened. That he was out there with</div> <div>13 Paul, that Paul was helping him. David was using the</div> <div>14 chain saw and Paul was holding the branches and they</div> <div>15 had been cutting out there for awhile branches and</div> <div>16 everything seemed to be okay and then the one branch</div> <div>17 that when the accident happened that Paul was holding,</div> <div>18 Paul had repositioned his hand at the split second and</div> <div>19 moved his hand up on the branch because I guess it was</div> <div>20 flexing and he just instantly and then David was in the</div> <div>21 position, it only takes a second and that's how he</div> <div>22 ended up injuring his arm because Paul had moved his</div> <div>23 hand out of the position.</div> <div>24 Q. So Dave blamed Paul for the accident then?</div> <div>66</div>	<div>1 probably before he got the letter from you in December,</div> <div>2 you know. Up to that point, you know, he just thought</div> <div>3 that things would not end up this way not knowing, you</div> <div>4 know, and then when he found out the way he knew it</div> <div>5 happened and he told me and he knew what Paul had said</div> <div>6 the way it happened, he was kind of upset.</div> <div>7 Q. Okay. But my question was: When is the next</div> <div>8 time you spoke to him? Hold on. You got to let me --</div> <div>9 A. I am thinking.</div> <div>10 Q. My question is: When is the next time after</div> <div>11 this first time of one or two weeks after the accident</div> <div>12 when is the next time you heard Dave express his</div> <div>13 version of the accident?</div> <div>14 A. Probably a couple months went by.</div> <div>15 Q. Okay. And that was after he heard Paul's</div> <div>16 version of the incident or not?</div> <div>17 A. I think so. Yeah.</div> <div>18 Q. And Dave got mad after he heard Paul's</div> <div>19 version of the incident?</div> <div>20 A. He was kind of upset.</div> <div>21 Q. Did he tell you why he was upset?</div> <div>22 A. For what's written -- because he figured if</div> <div>23 Paul hadn't moved his arm forward to reposition on the</div> <div>24 branch David would have never cut him.</div> <div>68</div>

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<p>1 Q. Is that what Dave said to you?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Yes?</p> <p>4 A. Yes.</p> <p>5 Q. See, this is what I am trying to find out. I</p> <p>6 am trying to find out everything that Dave said</p> <p>7 describing the incident and his feelings versus Paul's</p> <p>8 version of the incident. That's what I am trying to</p> <p>9 find out.</p> <p>10 A. Right.</p> <p>11 Q. I don't want to know your version. I want to</p> <p>12 know what Dave said.</p> <p>13 A. No.</p> <p>14 Q. So Dave told you he is upset because he heard</p> <p>15 of Paul's version which is different from his version</p> <p>16 of the incident, correct?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Anything else that Dave discussed with you</p> <p>21 regarding how the incident occurred or his feelings</p> <p>22 regarding how Paul described the incident?</p> <p>23 A. No. I mean, no. He just -- What he had said</p> <p>24 what his version was and knowing what Paul had said.</p> <p>69</p>	<p>1 Q. In what? When did he tell you?</p> <p>2 A. No. To your -- you, to the lawyer or in some</p> <p>3 kind of --</p> <p>4 Q. How do you know that?</p> <p>5 A. Because my lawyer told me.</p> <p>6 Q. Okay. All right. Sorry.</p> <p>7 MR. BARCH: Here's the thing, let me just say</p> <p>8 this, Carolyn, if he is asking you questions which</p> <p>9 require you to relate what I have told you --</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. BARCH: -- don't give that information. He</p> <p>12 is asking you about other people. Not about what you</p> <p>13 and I have talked about.</p> <p>14 BY MR. MAST:</p> <p>15 Q. All right. So let's go back. Okay. What I</p> <p>16 want to try to find out is this: I want to know</p> <p>17 everything Dave told you and everything Paul told you</p> <p>18 and everything anybody else might have told you other</p> <p>19 than your attorneys, okay? That's what I am trying to</p> <p>20 find out, three things. We have gone pretty far with</p> <p>21 regard to Dave so I am going to follow that up by</p> <p>22 saying: Have you told me everything that Dave has</p> <p>23 told you concerning the accident or Paul's injuries?</p> <p>24 A. Yes.</p> <p>71</p>
<p>1 Q. Do you know what Paul's version is? Do you?</p> <p>2 A. Well, I don't know if I put my foot in my</p> <p>3 mouth now because --</p> <p>4 MR. BARCH: I think he is asking you what you</p> <p>5 have heard about Paul's version.</p> <p>6 THE WITNESS: The version that I know is that</p> <p>7 Paul is saying that he was holding the branch and</p> <p>8 threw it down on the ground, that David had revved up</p> <p>9 the chain saw and came towards him to cut the branch</p> <p>10 that he didn't even have. He had already thrown the</p> <p>11 branch down on the ground. What would that make it</p> <p>12 seem like, David didn't even see his arm was there and</p> <p>13 that the branch --</p> <p>14 BY MR. MAST:</p> <p>15 Q. Carolyn, I don't want to get into an argument</p> <p>16 about what happened, okay. That's not my purpose</p> <p>17 here. What I am trying to find out is who told you</p> <p>18 what, when and how. Okay. That's what I am trying to</p> <p>19 find out. What you think makes sense or what I think</p> <p>20 makes sense is not the topic today, okay.</p> <p>21 The version that you just described,</p> <p>22 whose version is that?</p> <p>23 A. That's what Paul had said in his -- one of</p> <p>24 his -- Paul had said.</p> <p>70</p>	<p>1 Q. Is there anything else you want to add to</p> <p>2 that other than what you have already told me?</p> <p>3 A. No.</p> <p>4 Q. Regarding Dave now. Is that it?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So Dave has never told you more about</p> <p>7 what he thinks as far as Paul's injuries, nothing</p> <p>8 more? You have never told me anything about that.</p> <p>9 A. You mean if David knew the extent of Paul's</p> <p>10 injuries?</p> <p>11 Q. Yes. Has he discussed that with you at all?</p> <p>12 A. He only knew, too, the day of when it</p> <p>13 happened what I had told him what I learned from the --</p> <p>14 Q. ER?</p> <p>15 A. -- from the hospital, from the ER.</p> <p>16 Q. That's all Dave knows?</p> <p>17 A. That's all he knew until all this started to</p> <p>18 unroll, right.</p> <p>19 Q. Right. So you have told me now everything</p> <p>20 that Dave has ever told you regarding the incident and</p> <p>21 how it occurred and medically how Paul was injured</p> <p>22 from it, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And there are only two times that Dave</p> <p>72</p>

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<p>1 really discussed the specifics of how it happened and</p> <p>2 both times he told you that Paul was shifting his</p> <p>3 hands when he was lifting this chain saw up and caught</p> <p>4 Paul on the arm, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. Dave never accepted responsibility for</p> <p>7 this accident then in your view, correct? He did not</p> <p>8 believe he was responsible for it; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And he never accepted responsibility</p> <p>11 for it to you as far as you knew, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. How many times now have you talked to</p> <p>14 Paul about the incident after his accident?</p> <p>15 A. I have never talked to Paul. The only time I</p> <p>16 talked to Paul was after it happened a few days and I</p> <p>17 went by to see how he was feeling and when he was going</p> <p>18 to get his stitches out and I maybe talked to him on</p> <p>19 the phone maybe once.</p> <p>20 Q. All right. Well, see, this is my confusion.</p> <p>21 I asked you how many times you talked to Paul since</p> <p>22 the accident about this and you said I never had and</p> <p>23 you mentioned two times.</p> <p>24 A. Well --</p> <p>73</p>	<p>1 BY MR. MAST:</p> <p>2 Q. From the day of Paul's accident during the</p> <p>3 time that you talked to him these two occasions about</p> <p>4 the accident, how much time elapsed? Just --</p> <p>5 A. A couple weeks only.</p> <p>6 Q. Okay. So the two times -- the two times you</p> <p>7 talked to Paul about his accident with the chain saw</p> <p>8 was within a couple of weeks of his accident, yes?</p> <p>9 A. Right. Correct.</p> <p>10 Q. And that would have been sometime still in</p> <p>11 July of 2011, right?</p> <p>12 A. Uh-huh.</p> <p>13 Q. Yes?</p> <p>14 A. Yes.</p> <p>15 Q. And you have not talked to Paul since July,</p> <p>16 2011 until today, correct?</p> <p>17 A. I did in September.</p> <p>18 Q. So there is another time?</p> <p>19 A. He came by my house.</p> <p>20 Q. September of what?</p> <p>21 A. 2011, that year.</p> <p>22 Q. So there is three times you talked to Paul?</p> <p>23 A. Uh-huh.</p> <p>24 Q. Yes?</p> <p>75</p>
<p>1 Q. Stop. Stop. So we got to go through those,</p> <p>2 okay? So it's your testimony that you only spoke to</p> <p>3 Paul twice after this accident?</p> <p>4 A. Yes. Twice.</p> <p>5 Q. Right?</p> <p>6 A. Right.</p> <p>7 Q. Not any other times than two times, right?</p> <p>8 A. Just twice.</p> <p>9 Q. Okay. Before the accident, let's say a year</p> <p>10 before the accident, how many times did you talk to</p> <p>11 Paul?</p> <p>12 A. I don't know. A few times.</p> <p>13 Q. Okay. So talking to him twice after the</p> <p>14 accident, is that within a year of the accident, after</p> <p>15 the accident?</p> <p>16 A. The time span which I did talk to him was</p> <p>17 probably when it happened into the late part of the</p> <p>18 year. Well, no. It was probably when I first talked</p> <p>19 to him --</p> <p>20 Q. You are not listening to the question.</p> <p>21 A. I know. I am going off the edge again.</p> <p>22 MR. BARCH: He is talking about a different</p> <p>23 timeframe than you are.</p> <p>24</p> <p>74</p>	<p>1 A. Yes.</p> <p>2 Q. So since September of 2011, have you talked</p> <p>3 to Paul until today?</p> <p>4 A. No.</p> <p>5 Q. From the time of Paul's accident until today</p> <p>6 you have talked to him only three times?</p> <p>7 A. Correct. Yes.</p> <p>8 Q. Have they all been in person?</p> <p>9 A. Two are in person.</p> <p>10 Q. One was on the phone?</p> <p>11 A. One was on the phone that I remember.</p> <p>12 Q. Okay. All right. So let's start with the</p> <p>13 first time you talked to Paul after his accident about</p> <p>14 the incident, okay?</p> <p>15 A. Uh-huh.</p> <p>16 Q. You say that was a couple weeks later?</p> <p>17 A. It was probably -- It's before he had</p> <p>18 stitches out even so it was within a week.</p> <p>19 Q. Okay.</p> <p>20 A. When I had seen him in person.</p> <p>21 Q. And was it at your house or where?</p> <p>22 A. At his house.</p> <p>23 Q. You visited him?</p> <p>24 A. Uh-huh.</p> <p>76</p>

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<div>1Q. Yes?</div> <div>2A. Yes.</div> <div>3Q. And how long were you at his house?</div> <div>4A. I don't know.</div> <div>5Q. Couple minutes?</div> <div>6A. Maybe. I don't know. I was visiting maybe</div> <div>7an hour.</div> <div>8Q. Okay. And how much time did you spend of</div> <div>9that hour talking about the incident?</div> <div>10A. I only asked him how he was doing.</div> <div>11Q. Okay. And what did he say?</div> <div>12A. He says that he seems he is doing okay but of</div> <div>13course it hurts and I says, well, I can understand</div> <div>14that, you know, and that was about it. He didn't go on</div> <div>15and elaborate anything.</div> <div>16Q. Okay. At any time during that first visit</div> <div>17with him, within a week of the incident, was it ever</div> <div>18discussed how the accident occurred?</div> <div>19A. No.</div> <div>20Q. Okay. And other than him saying, okay, it</div> <div>21still hurts, did you ever talk more about his injury?</div> <div>22A. No. Other than that one time I called him on</div> <div>23the phone.</div> <div>24Q. No. No. I am just talking about --</div> <div>77</div>	<div>1say something in order so that he can get a lot of</div> <div>2money in the case? Did he ever say anything like that</div> <div>3to you?</div> <div>4A. To me, no.</div> <div>5Q. Did he say it to somebody else?</div> <div>6A. You mean so he could -- Well, you can say</div> <div>7it's hearsay again. How can I prove it? Paul had said</div> <div>8something to David.</div> <div>9Q. And Dave told you that?</div> <div>10A. David told me that.</div> <div>11Q. So I understand that. I know that already</div> <div>12but you didn't hear Paul say that. You heard Dave</div> <div>13tell you that he said that?</div> <div>14A. Right.</div> <div>15Q. You knew they were -- Hold on. You are</div> <div>16not -- you did not -- Let me say the question again.</div> <div>17You have not heard Paul at any time say anything like</div> <div>18that, correct?</div> <div>19A. Correct.</div> <div>20Q. You have not heard Paul ever say since his</div> <div>21accident that he wanted to try and make money, he</div> <div>22wanted to try to stay off of work, he wanted to try to</div> <div>23get people to help him get the money or anything like</div> <div>24that? You never heard any of those conversations from</div> <div>79</div>
<div>1A. No. No.</div> <div>2Q. You met with him --</div> <div>3A. No.</div> <div>4Q. When you met with him a week after the</div> <div>5accident and visited for about an hour at his house,</div> <div>6the only thing you talked about regarding his injury</div> <div>7was, okay, it still hurts. That's all he said?</div> <div>8A. Right. Correct.</div> <div>9Q. So the rest of that visit was unrelated to</div> <div>10this incident or his injury, correct?</div> <div>11A. Correct.</div> <div>12Q. It was just being friendly talk?</div> <div>13A. Uh-huh.</div> <div>14Q. Yes?</div> <div>15A. Yes.</div> <div>16Q. Okay. Who was present during that visit?</div> <div>17A. His mother.</div> <div>18Q. Was she -- Was she able to hear the words</div> <div>19that were exchanged between you two?</div> <div>20A. She was sitting right next to me.</div> <div>21Q. Okay. Anybody else present?</div> <div>22A. I don't remember. I think she was just home.</div> <div>23Q. Did Paul ever suggest at any time since his</div> <div>24accident that he was wanting you or Dave or anybody to</div> <div>78</div>	<div>1Paul, have you?</div> <div>2A. No.</div> <div>3Q. Okay. You heard them indirectly from Dave to</div> <div>4you, correct?</div> <div>5A. Right.</div> <div>6Q. Okay. So you are not a witness to what</div> <div>7anything Paul said regarding those issues of trying to</div> <div>8make money or trying to not have to work the rest of</div> <div>9his life or any of those kind of things, you never</div> <div>10heard any of those things from Paul, did you?</div> <div>11A. No.</div> <div>12Q. Okay. And the only person you have heard</div> <div>13that from is from Dave, correct?</div> <div>14A. Right.</div> <div>15Q. All right. Wherein Dave said, hey, Paul told</div> <div>16me he wants me to say this to try to get him more</div> <div>17money, something like that?</div> <div>18A. Uh-huh.</div> <div>19Q. Right?</div> <div>20A. Right.</div> <div>21Q. Did you ever report that to anybody that Paul</div> <div>22said that?</div> <div>23A. I don't know if I mentioned it to Ron or not.</div> <div>24Q. Your attorney?</div> <div>80</div>

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<div>1A. Yeah. My attorney.</div> <div>2Q. Okay. Did you ever mention it to anybody</div> <div>3else?</div> <div>4A. Well, if I mentioned it to my husband, he</div> <div>5probably won't remember anything.</div> <div>6Q. Okay. Anybody else?</div> <div>7A. No.</div> <div>8Q. Okay. All right. So far we talked about</div> <div>9that one visit, the first visit, with Paul after the</div> <div>10accident about a week later, you had an hour over at</div> <div>11his house and there wasn't a lot discussed about the</div> <div>12accident, correct?</div> <div>13A. No.</div> <div>14Q. Correct?</div> <div>15A. Correct.</div> <div>16Q. Okay. The second time you met with him it</div> <div>17was again in person?</div> <div>18A. Yes. It was in the end of September of 2011.</div> <div>19Q. No. I thought you met with him two times,</div> <div>20though.</div> <div>21A. Yes. When he -- you wrote down three times</div> <div>22in that year. It was three times.</div> <div>23Q. We are on the second time. September was the</div> <div>24third time.</div> <div>81</div>	<div>1A. No. I can't -- No. No.</div> <div>2Q. Did you know if he still had problems with</div> <div>3the injury or not or you don't know?</div> <div>4A. I don't know.</div> <div>5Q. Okay. How long was that conversation on the</div> <div>6phone?</div> <div>7A. Probably a few minutes only.</div> <div>8Q. Did Paul ever discuss the specifics of how</div> <div>9his chain saw accident occurred?</div> <div>10A. No. Not to me, no.</div> <div>11Q. Did he tell you what he thinks Dave did wrong</div> <div>12in that accident or causing his injury or anything</div> <div>13like that?</div> <div>14A. No.</div> <div>15Q. Did he ever suggest that he wants to try to</div> <div>16make money out of this case in that conversation?</div> <div>17A. No.</div> <div>18Q. Or any other conversation did he ever suggest</div> <div>19that?</div> <div>20A. No.</div> <div>21Q. Okay. Did he ever ask you for your insurance</div> <div>22information?</div> <div>23A. I offered it to him.</div> <div>24Q. When?</div> <div>83</div>
<div>1A. Okay. It was on the phone.</div> <div>2Q. Let's go back because now we are all unclear</div> <div>3again because of that.</div> <div>4The first time you spoke to Paul after</div> <div>5the accident was when you visited in his home about a</div> <div>6week later for that hour for that visit, right?</div> <div>7A. Correct.</div> <div>8Q. The second time was on the phone call?</div> <div>9A. Yes.</div> <div>10Q. How long after that first visit with him was</div> <div>11that phone call?</div> <div>12A. Not long. I can't say.</div> <div>13Q. A day, a week, a month, a year?</div> <div>14A. I don't know. Maybe two weeks.</div> <div>15Q. Okay. And that was a telephone call did you</div> <div>16make to him or he made to you?</div> <div>17A. I called him.</div> <div>18Q. Why did you call him?</div> <div>19A. Just to see how he was doing. How -- He had</div> <div>20his stitches out, you know.</div> <div>21Q. So what was said?</div> <div>22A. Well, he says the stitches are out and he</div> <div>23seems he is doing okay and left it at that.</div> <div>24Q. Did he say he is recovered?</div> <div>82</div>	<div>1A. Right after the accident happened.</div> <div>2Q. You mean while he was still on the way to the</div> <div>3ER or that week later?</div> <div>4A. No. After the fact. Yeah. Maybe after a</div> <div>5week. After a week later.</div> <div>6Q. I am trying to find out when.</div> <div>7A. A week later.</div> <div>8Q. When you went to his house?</div> <div>9A. Possibly. I gave him -- yes.</div> <div>10Q. Wait.</div> <div>11A. I can't remember.</div> <div>12Q. Hold on. We are talking about the times you</div> <div>13spoke to Paul and there was only three times. It's</div> <div>14got to be the first time, the second time or the third</div> <div>15time that you offered your insurance information to</div> <div>16him.</div> <div>17A. It must have been when I went over to the</div> <div>18house then because I remember writing stuff down.</div> <div>19Q. The first time?</div> <div>20A. The first time.</div> <div>21Q. Okay. So during that hour conversation with</div> <div>22Paul at his house, you said, here, I will give you my</div> <div>23insurance information, right?</div> <div>24A. Right.</div> <div>84</div>

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1 Q. Did he thank you for it?	1 don't know what you would call it. It's like a
2 A. I guess. Yeah.	2 suburban and he had a flatbed on the back of it
3 Q. Was he polite?	3 attached.
4 A. He was polite, yes.	4 Q. He had a trailer on it?
5 Q. Was he trying to make more out of the case	5 A. Yes. A flatbed.
6 than you thought?	6 Q. And the tiller was it one of those garden
7 A. No.	7 tillers?
8 Q. Did Paul ever make you feel uncomfortable in	8 A. No. It was a big tiller.
9 the way he described his accident or what his injuries	9 Q. Well --
10 were?	10 A. It's not a Mantis. A Mantis is a little tiny
11 MR. BARCH: I object. She said he didn't	11 thing. This is a full size tiller, probably about this
12 describe it to her.	12 wide.
13 BY MR. MAST:	13 Q. Three feet wide?
14 Q. Well, in any way that he described his	14 A. Yes.
15 injuries or the accident did he ever make you feel	15 Q. Does it have wheels?
16 uncomfortable like he was trying to make more out of	16 A. Wheels? You mean --
17 it than he should?	17 Q. Does it have wheels to roll it on?
18 A. No.	18 A. Yeah. When you have to till, you got to have
19 Q. Okay. So we talked about your first visit	19 wheels. Okay. It got wheels on it. It's a tiller,
20 with him at his house for an hour. We talked two	20 yeah.
21 weeks later the telephone call for a few minutes and	21 Q. All right. Do you know how much it weighs?
22 all he said was he is doing okay and that was about	22 A. I asked him if he needed help.
23 all that was discussed, right?	23 Q. That's not what my question was.
24 A. Right.	24 A. No. I don't know. It probably weighed,
85	87
1 Q. No specifics regarding the accident?	1 what, 200 pounds at least.
2 A. Okay.	2 Q. Okay. Had you ever lifted it or moved it
3 Q. Then the third and final conversation you had	3 around yourself?
4 with Paul was in person, correct?	4 A. No.
5 A. Yes.	5 Q. Who was going to use it?
6 Q. September, 2011?	6 A. Paul used it at his house to till his garden.
7 A. Uh-huh.	7 Q. Who was going to use it at your house?
8 Q. Yes?	8 A. He brought it back to my house so David could
9 A. Yes.	9 pick it up and bring it back to his house.
10 Q. And where was that?	10 Q. So Dave was going to use it?
11 A. At my house.	11 A. It was his.
12 Q. So he came over to your house?	12 Q. It was Dave's tiller?
13 A. Yes.	13 A. It's Dave's tiller.
14 Q. Was he alone?	14 Q. So apparently Dave had let Paul use it before
15 A. Yes.	15 the accident, right?
16 Q. Was anyone else other than you and him	16 A. No. It was after the accident. He had a big
17 present?	17 garden. It was time to till the garden --
18 A. Just me and him.	18 Q. You are not letting me take you through this
19 Q. Okay. And how long was that conversation?	19 because I got to ask the question before you are
20 A. Well, he wasn't there too long. He was	20 answering me otherwise your answer doesn't mean
21 taking a tiller off the back of his truck by himself	21 anything.
22 that's two and a half feet off the ground.	22 A. I know. Okay.
23 Q. Off the back like a pickup truck?	23 Q. Do you know when Dave first lent this tiller
24 A. Yeah. The vehicle that Mike came in here. I	24 to Paul?
86	88

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1A. Probably the beginning of September I'd say.	1Q. Okay. When Paul began to use it, you don't
2Q. Do you know that for sure?	2know, right?
3A. I am only basing it on the fact that the	3A. No.
4garden was done and he wanted to till up his garden.	4Q. You don't know who was using it over at
5Q. Who is "he"?	5Paul's house?
6A. Paul wanted to till up his garden and he	6A. No.
7asked David if he could use his big tiller.	7Q. You never saw Paul use it, did you?
8Q. Do you know when Dave asked or when Paul	8A. No. No.
9asked Dave to use the big tiller?	9Q. So who used the tiller over at Paul's house
10A. Beginning of September maybe.	10you don't know?
11Q. Why? Were you there when Paul asked Dave	11A. No, I don't.
12that? How do you know that?	12Q. Okay. But Paul brought it back to your house
13A. He brought the tiller back from his house the	13to return to Dave, correct?
14day --	14A. Yes.
15Q. Paul did?	15Q. And that was in September, 2011?
16A. -- that David had borrowed him.	16A. Correct.
17Q. I need names so I know who you are talking	17Q. Okay. And how long was Paul at your house
18about.	18that day?
19A. David's tiller he borrowed to Paul to till up	19A. I don't know. Not long. A few minutes
20his garden.	20maybe.
21Q. This is my question: Do you know when Paul	21Q. What's that mean, a few minutes?
22borrowed the tiller?	22A. Okay. 15 minutes he was there.
23A. In the beginning of September.	23Q. Was he inside your house or just outside?
24Q. How do you know that?	24A. He was outside.
89	91
1A. Because David said that Paul had the tiller.	1Q. During the 15 minutes he was at your house,
2Q. Okay. That's what I am trying to find out.	2were you with him that entire time?
3A. Okay. All right.	3A. Yes.
4Q. So your -- the basis for what -- your	4Q. Was anybody with him at that time?
5thinking that Paul used the tiller beginning in	5A. No.
6September of 2011 was what Dave told you, right? You	6Q. So just you and him again?
7didn't have direct knowledge of that. You just knew	7A. Right.
8it from Dave, right?	8Q. Okay. And that visit was meant only for Paul
9A. Right. I just knew that Paul had it. Right.	9to drop off the tiller?
10Q. Okay.	10A. Correct.
11A. Yes.	11Q. Okay. Did you and Paul engage in any
12MR. BARCH: Just, Carolyn, you don't have to feel	12conversation about the chain saw accident, how it
13bad if you don't know when he got it or how he got it.	13occurred or his injuries as a result of that?
14It's okay.	14A. No.
15MR. MAST: It's not a big deal. I am just trying	15Q. Okay. So the only conversation that you had
16to find out.	16with him pertained to returning the tiller?
17THE WITNESS: Okay. So probably. Yeah.	17A. Yes.
18MR. MAST: I am just trying to find information	18Q. Okay. And what was said then regarding that
19out.	19issue?
20BY MR. MAST:	20A. I just said that tiller looks awfully big and
21Q. Okay. All right. So what you are saying is	21it's pretty heavy. I says would you like me to help
22sometime in September Dave said Paul is borrowing my	22you take it down and my husband I believe was not home
23tiller, is that what you are saying?	23at the time so I was there and he says no. It's okay.
24A. Right.	24I can do it.
90	92

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<div>1Q. Okay. Were you there when he took it down?</div> <div>2A. Yes.</div> <div>3Q. Okay. How high was the trailer off the</div> <div>4ground? About a foot and a half, foot maybe?</div> <div>5A. About two feet maybe.</div> <div>6Q. About two feet?</div> <div>7A. Yeah.</div> <div>8Q. Okay. And is there a ramp off of the trailer</div> <div>9or does he have to roll it off or how does he get it</div> <div>10off?</div> <div>11A. There was no ramp.</div> <div>12Q. Okay.</div> <div>13A. It was just the flatbed, you know.</div> <div>14Q. So how did he get it off then?</div> <div>15A. He picked it up.</div> <div>16Q. Okay. He picked the whole tiller up with</div> <div>17both arms?</div> <div>18A. He picked it up, yeah. How else do you pick</div> <div>19up 200 some --</div> <div>20Q. Listen, Carolyn, I am just trying to find</div> <div>21out. I am not going to assume anything so don't get</div> <div>22upset with this but I have to go through the steps of</div> <div>23what happened, okay?</div> <div>24A. Uh-huh.</div> <div>93</div>	<div>1ended trailer, right?</div> <div>2A. Correct.</div> <div>3Q. Paul takes his arms and wraps it around from</div> <div>4standing on the ground?</div> <div>5A. Right.</div> <div>6Q. Which is a foot or two feet lower than that?</div> <div>7A. Right.</div> <div>8Q. Correct?</div> <div>9A. Right.</div> <div>10Q. Wraps his arms around the engine and the</div> <div>11wheels, that whole compartment, picks it --</div> <div>12MR. BARCH: I think she said he grabbed the</div> <div>13handle and then the engine at the same time.</div> <div>14MR. MAST: Did he?</div> <div>15MR. BARCH: She reached like that.</div> <div>16THE WITNESS: He put his hand here and here so</div> <div>17he'd have leverage to put the thing down on the</div> <div>18ground.</div> <div>19BY MR. MAST:</div> <div>20Q. Here and here, I don't know what that means.</div> <div>21Hold on. I need to follow this up with a question,</div> <div>22okay?</div> <div>23Where was Paul's left hand or arm with</div> <div>24regard to the tiller when he picked it up? Was it on</div> <div>95</div>
<div>1Q. You watched him pick up the tiller?</div> <div>2A. Uh-huh.</div> <div>3Q. Yes?</div> <div>4A. Yes.</div> <div>5Q. I need a yes or no, okay?</div> <div>6A. Yes.</div> <div>7Q. Did you watch him pick it up with both arms?</div> <div>8A. Yes.</div> <div>9Q. Okay. Did he wrap his arms around the engine</div> <div>10and the wheels or just around the top handlebars?</div> <div>11A. Like that. Around the engine and the top so</div> <div>12he could get it down.</div> <div>13Q. Okay. Was the engine of the tiller up by the</div> <div>14edge, the rear edge of the trailer when he picked it</div> <div>15up or was it in the middle of the trailer? Where was</div> <div>16it?</div> <div>17A. It was towards the back.</div> <div>18Q. Did he pick it up from standing on the ground</div> <div>19or from standing on the trailer?</div> <div>20A. I think he was on the ground and because it</div> <div>21was towards the edge so he was on the ground where he</div> <div>22could, you know, grab on to it.</div> <div>23Q. So as I understand from you, the tiller is at</div> <div>24the end of or the back of the trailer which is an open</div> <div>94</div>	<div>1the engine part of it or was it on the handle or</div> <div>2where?</div> <div>3A. I'd have to -- I don't know.</div> <div>4Q. Or don't you know?</div> <div>5A. I don't know. I know he had to use both</div> <div>6hands to take it down.</div> <div>7Q. Okay. Where was his right arm when he picked</div> <div>8up the tiller, on what part of the tiller?</div> <div>9A. Towards the heavier part.</div> <div>10Q. His right arm.</div> <div>11A. Where the engine is at, you know.</div> <div>12Q. Okay. You don't know where his left arm was</div> <div>13but his right arm was by the heavier part of the</div> <div>14engine?</div> <div>15A. Yes because, let's see, if I was standing in</div> <div>16my driveway, yeah, and his back was that way, his right</div> <div>17arm was here and the other arm would have been up.</div> <div>18Q. Up where, on what?</div> <div>19A. Well, towards the handle part of the tiller.</div> <div>20It was like a bar.</div> <div>21Q. When you were looking at this, were you</div> <div>22watching him do it?</div> <div>23A. Yes.</div> <div>24Q. What part of his body was facing you when he</div> <div>96</div>

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1 was doing this?	1 A. I think he pushed it into the garage for me.
2 A. His face was facing me. He was facing -- I	2 Q. On its wheels?
3 was looking like I am looking at you.	3 A. Yeah. On the wheels.
4 Q. Right.	4 Q. Did it have rubber wheels, plastic wheels?
5 A. Okay. And --	5 What kind of wheels did it have?
6 Q. So let me stop you. So he had his pickup	6 A. It has rubber wheels on it I believe.
7 truck with him, right?	7 Q. And who has that tiller today?
8 A. Uh-huh.	8 A. David.
9 Q. Yes? I need a yes or a no.	9 Q. Okay. Again, that visit in September, 2011
10 A. Yes.	10 where Paul was dropping off the tiller never included
11 Q. The trailer was on the back of the pickup	11 any conversation about the chain saw accident or his
12 truck and he pulled into your driveway, right?	12 injuries, correct?
13 A. Right.	13 A. No. No.
14 Q. And you are in the front of the house looking	14 Q. Is that correct?
15 toward him, right?	15 A. Yes. Uh-huh.
16 A. Yes.	16 Q. So you have now told me everything, every
17 Q. So if he is at the back of the trailer, you	17 communication and every visit that you have had with
18 are saying he'd be facing you, right?	18 Paul since his accident, correct?
19 A. Right.	19 A. Right. Correct.
20 Q. Okay. And then he'd have his left arm up	20 Q. At no time then did Paul ever describe for
21 somewhere maybe by the handles and his right arm	21 you how the specifics of the accident occurred; is
22 surrounded the engine of the tiller, right?	22 that correct?
23 A. Right.	23 A. Correct.
24 Q. And then did he just pick it up?	24 Q. Okay. Okay. And how long have you known
97	99
1 A. Yeah. He picked it up and put it on the	1 Paul?
2 ground.	2 A. Ever since he was in high school.
3 Q. Okay. How high off of the bottom of the open	3 Q. So for over ten years?
4 trailer did he pick the tiller up?	4 A. Ten years. Paul is 45 and I have known him
5 A. I am not quite sure.	5 ever since he was probably 18 or 17.
6 Q. Okay. Then did he just shift himself around	6 Q. So over 20 years then. Have you always known
7 and let it straight down after he moved over from	7 him to be a trustworthy, credible person?
8 above the trailer?	8 A. Yeah. As far as I know, yes.
9 A. No. He didn't -- He lifted it off and put it	9 Q. Do you today -- And I know the lawsuit is
10 on the ground.	10 here so I understand. That's fine. And you are kind
11 Q. That's what I am saying.	11 of a defendant in the lawsuit so I get that but if you
12 A. Yeah.	12 put the lawsuit aside, do you still consider him a
13 Q. When he lifted it up, did he back up ten	13 friend or are you thinking of him in more negative
14 feet? Did he just turn around and twist himself and	14 terms now because of all of this?
15 drop it next to him? How did he drop it to the	15 A. Negative.
16 ground?	16 Q. Why do you think of him in negative terms
17 A. I don't remember the exact procedure.	17 other than the fact that you are named in a lawsuit?
18 Q. Okay. Okay. But after he picked it up and	18 What's the reason?
19 moved away from the trailer, he put it back on the	19 A. Because, I mean, it happened as a bad
20 ground then, right?	20 accident of course and you know --
21 A. Right.	21 Q. Wait. It happened -- What?
22 Q. Okay. And then what did he do with it?	22 A. It happened as a bad accident but when I
23 A. And then we put it in the garage.	23 heard from the ER on how the injuries went and then as
24 Q. "We put it," who put it?	24 time went on, many months went by, it wasn't until
98	100

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<div>1 December we knew that Paul had gotten your services</div> <div>2 that there was anything that would come to this</div> <div>3 recourse and he never said anything to me about the</div> <div>4 accident either thinking that his arm, you know, might</div> <div>5 just -- you know, thank God it was okay and then all of</div> <div>6 this came out, so.</div> <div>7 Q. I mean, you are not a doctor and I am not a</div> <div>8 doctor --</div> <div>9 A. No.</div> <div>10 Q. -- and I guess we have to defer to what they</div> <div>11 think.</div> <div>12 A. Uh-huh.</div> <div>13 Q. What you are basically saying is you thought</div> <div>14 it was just a relatively small injury, right?</div> <div>15 A. What about EKGs?</div> <div>16 Q. Again, I am not going to get into the --</div> <div>17 A. Medical. Forget that.</div> <div>18 Q. -- into the medical. All I am asking you</div> <div>19 is -- My question is: Why are you now kind of feeling</div> <div>20 negative toward Paul today? What is the issue? Is it</div> <div>21 because you thought this wasn't much of an injury or</div> <div>22 you just don't think Dave did anything wrong or what?</div> <div>23 What is the reason?</div> <div>24 A. Well, usually I have had those tests done.</div> <div>101</div>	<div>1 BY MR. MAST:</div> <div>2 Q. The injuries?</div> <div>3 A. Yes.</div> <div>4 Q. The injuries issue, right?</div> <div>5 A. Right.</div> <div>6 MR. MAST: Okay. I don't have any more.</div> <div>7 MR. ACCARDO: I got nothing.</div> <div>8 THE WITNESS: He probably had enough of me</div> <div>9 already probably. Good thing I ran out of water.</div> <div>10 MR. BARCH: Hold on one second.</div> <div>11 MR. MAST: How do you feel about me, negatively?</div> <div>12 THE WITNESS: I don't feel negatively about any</div> <div>13 of you guys. I am just glad I am not a lawyer, I am</div> <div>14 not a doctor, I am not a police officer.</div> <div>15 MR. BARCH: Let's not talk about things that are</div> <div>16 not associated with the deposition on the record at</div> <div>17 least.</div> <div>18 THE WITNESS: Okay.</div> <div>19 EXAMINATION</div> <div>20 BY MR. BARCH:</div> <div>21 Q. With respect to the tree branches, the size</div> <div>22 of the trees, the size of the branches that were being</div> <div>23 cut, those were all estimates that you gave, correct?</div> <div>24 A. They were, yes.</div> <div>103</div>
<div>1 Q. Listen, I don't want to get into all that.</div> <div>2 A. It's because of the testing that he had done</div> <div>3 it proved that he didn't have any nerve damage done at</div> <div>4 one point and then along the way it all happened and</div> <div>5 then he --</div> <div>6 Q. So your negative feelings toward Paul today</div> <div>7 is because you think that the medical treatment that</div> <div>8 he is getting isn't related to this accident but he</div> <div>9 thinks it is. Is that what you are saying?</div> <div>10 A. I am saying that his EKG that he had done to</div> <div>11 prove nerve damage didn't show positive, so.</div> <div>12 Q. That's up to his doctors to talk about.</div> <div>13 A. Oh, I see. Okay.</div> <div>14 Q. That's not him. He is not a doctor. He is</div> <div>15 not going to testify to his EKG. You know --</div> <div>16 A. Okay. Fine.</div> <div>17 Q. He doesn't know --</div> <div>18 MR. BARCH: Carolyn, slow down. Answer the</div> <div>19 question. He wants to know why you view him</div> <div>20 negatively. Is it just because of the lawsuit and his</div> <div>21 claimed injuries or is there something more?</div> <div>22 THE WITNESS: It's just the claim from the</div> <div>23 lawsuit.</div> <div>24</div> <div>102</div>	<div>1 Q. You didn't go out there and measure any of</div> <div>2 this stuff?</div> <div>3 A. No.</div> <div>4 Q. Okay. And with respect to David using the</div> <div>5 chain saw that day that Paul was injured or the day he</div> <div>6 cut the apple tree up or the day he cut up the</div> <div>7 branches from that larger tree, did you feel that you</div> <div>8 had any skill that you could give to him? Did you</div> <div>9 feel you could teach him anything about the use of</div> <div>10 chain saws because you had never used one?</div> <div>11 A. No.</div> <div>12 Q. Did you at any point see anything in</div> <div>13 connection with David's use of a chain saw that was a</div> <div>14 concern for you based upon what you did know, if</div> <div>15 anything, about using chain saws?</div> <div>16 A. No.</div> <div>17 Q. Was there anything about the way David was</div> <div>18 using a chain saw that you suspected was dangerous?</div> <div>19 A. No.</div> <div>20 Q. Did you feel like -- Knowing that Paul was</div> <div>21 out there that day, knowing that David was out there</div> <div>22 the day he, Paul, was hurt, did you believe there was</div> <div>23 any -- did you feel compelled to tell them that they</div> <div>24 could be hurt by a moving chain blade?</div> <div>104</div>

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1	A. No.	1	C E R T I F I C A T E
2	Q. Did you think that -- did you believe that	2	
3	was something obvious?	3	
4	A. Right.	4	I, Paula Ann Erickson, Certified Professional
5	MR. BARCH: That's all I have.	5	Reporter, Registered Professional Reporter and Notary
6	MR. MAST: Okay.	6	Public, do hereby certify:
7	MR. BARCH: We are going to probably reserve	7	
8	signature on this one.	8	That the witness in the foregoing deposition
9	(FURTHER DEPONENT SAITH NOT.)	9	named was present at the time and place therein
10		10	specified;
11		11	
12		12	That the said proceeding was taken before me
13		13	as a Notary Public at the same time and place and was
14		14	taken down in shorthand writing by me;
15		15	
16		16	That this transcript is a true and accurate
17		17	transcript of my shorthand notes so taken, to the best
18		18	of my ability.
19		19	
20		20	
21		21	
22		22	
23		23	
24		24	
105		107	
1	IN THE CIRCUIT COURT	1	I further certify that I am neither counsel for
2	FOR THE 22ND JUDICIAL CIRCUIT	2	nor related to or employed by any of the parties to
3	McHENRY COUNTY, ILLINOIS	3	this action and that I am not a relative or employee
4	PAUL DULBERG, )	4	of any counsel employed by the parties hereto or
5	Plaintiff, )	5	financially interested in the action.
6	vs. ) No. 12 LA 178	6	
7	DAVID GAGNON, )	7	
8	Individually, and as )	8	Paula Ann Erickson
9	Agent of CAROLINE )	9	Certified Shorthand Reporter
10	McGUIRE and BILL McGUIRE )	10	Registered Professional Reporter
11	and CAROLINE McGUIRE and )	11	License No. 084-003899
12	BILL McGUIRE, )	12	Notary Public
13	individually, )	13	
14	Defendants. )	14	Dated this ____ day
15	I, CAROLYN McGUIRE, being first duly sworn, on	15	
16	oath say that I am the deponent in the aforesaid	16	of _____, 2019.
17	deposition taken on March 20, 2013; that I have read	17	
18	the foregoing transcript of my deposition, and affix	18	
19	my signature to same.	19	
20	CAROLYN McGUIRE	20	
21		21	
22	Subscribed and sworn to	22	
23	before me this ____ day	23	
24	of _____, 2019	24	
106		108	
1		1	
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3		3	
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2019 RECONSTRUCTED FORGERY.

Page 106 is misaligned to top edge of page.

ALL page numbers should be in the upper right corner NOT the lower right corner.

UNSIGNED = ROUGH DRAFT  
NOT SUITABLE AS EVIDENCE

Correct Year.  
CORRECT DATE is PROOF someone didn't completely botch this 2019 RECONSTRUCTED FORGERY. See POP 001449 - POP 001450.

Incorrect year.  
INCORRECT DATE is PROOF of 2019 RECONSTRUCTED FORGERY.

\*\*\*Any reference to URBANSKI REPORTING COMPANY is MISSING\*\*\*

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