

1 STATE OF ILLINOIS)
2 COUNTY OF McHENRY) SS:

3 IN THE TWENTY-SECOND JUDICIAL CIRCUIT
4 McHENRY COUNTY, ILLINOIS

5 PAUL DULBERG,)
6 Plaintiff,)
7 vs.) No. 12 LA 178
8 DAVID GAGNON,)
9 Individually, and as Agent)
10 of CAROLINE MCGUIRE and)
11 BILL MCGUIRE and CAROLINE)
12 MCGUIRE and BILL MCGUIRE,)
13 Individually,)
14 Defendants.)

14 ELECTRONICALLY RECORDED Report of
15 Proceedings in the above-entitled cause before the
16 Honorable THOMAS A. MEYER, Judge of said Court of
17 McHenry County, Illinois, on the 12th day of June,
18 2015, in the McHenry County Government Center,
19 Woodstock, Illinois.

20 APPEARANCES:
21 NO APPEARANCES GIVEN

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1 THE COURT: Yes.

2 A VOICE: Hey, Judge, stepping up on
3 Number 9.

4 THE COURT: I already gave a -- no, I don't.
5 Okay. Dulberg vs. Gagnon.

6 A VOICE: That's Number 8, yeah, we are going
7 to get resolved, Judge.

8 THE COURT: Okay.

9 A VOICE: That's the Tony Rogers' case. This
10 is Paul Dulberg. That's Mr. Dulberg.

11 THE COURT: Morning.

12 A VOICE: As you might recall, we had a
13 pretrial conference in front of you about a month
14 ago, exactly a month ago, and Paul and I have a
15 difference on how we see the settlement offer. My
16 perspective, it's a max --

17 THE COURT: We are on the record.

18 A VOICE: Yeah, I know.

19 THE COURT: What -- so what are you asking me
20 for and then we'll work backwards?

21 A VOICE: Well, we've had an irretrievable
22 breakdown of the attorney-client relationship.

23 THE COURT: Okay.

24 A VOICE: I'd like to withdraw. I'd like to

1 get an order that says that I can withdraw.

2 THE COURT: Do you understand what he's
3 saying?

4 A VOICE: I understand what he's asking. I'm
5 asking you not to give it to him.

6 THE COURT: Okay. I can't make someone be
7 your attorney if --

8 A VOICE: I know, but he did take it on
9 knowing that it could go further than this.

10 THE COURT: And, I mean, there are certain
11 circumstances under which I can deny the motion and
12 that involves situations, for instance, when it's
13 on the eve of trial, but we don't have a trial
14 date. I recognize it's a hardship.

15 A VOICE: We are at the precipice, though.

16 THE COURT: I'm sorry?

17 A VOICE: We are at the precipice if the
18 agreement breaks down.

19 THE COURT: Well, we haven't -- I haven't set
20 it for trial, so I don't have any critical matters
21 coming up on this case that I think would justify
22 denying his motion. I recognize it's not something
23 you want, but I wouldn't -- I wouldn't force you to
24 stay his client. I wouldn't force him to stay your

1 attorney. That's a harm on all of you.

2 A VOICE: I don't know how it all works, but
3 I do understand he has a lien. He's only been on
4 this for a little bit. And I am asking -- maybe
5 you have the power. I have asked him and he
6 refuses to give up his part of the lien so I can go
7 get somebody else. That would be -- it's a better
8 incentive for the --

9 THE COURT: Certainly. But I don't know, and
10 I'm not asking you tell me, I don't know the extent
11 of his lien. I don't know to what extent you feel
12 that his services are justified by that lien. And
13 that's a different kind of a hearing. And I
14 wouldn't ask you to say anything, again, on the
15 record because that's --

16 A VOICE: Do we need to have that hearing?

17 THE COURT: If there were a motion filed,
18 yes, we would -- I would entertain that argument,
19 but to be honest, the only time I would really
20 entertain that argument is if you had achieved
21 settlement with the other side because you can't
22 determine -- it's all speculative for me to
23 determine the value of his work if I don't know
24 what the value of the settlement is.

1 I mean, if you settle for ten -- and
2 I don't -- I'm picking numbers out of thin air --
3 if you settle for \$10,000, that's one thing. But
4 if you end up settling for a hundred thousand
5 dollars, then there is something else altogether
6 involved, so --

7 A VOICE: Well, I think obviously at this
8 point any improvement isn't going to be his doing.

9 THE COURT: And I would generally agree, but
10 I don't know the basis under which -- I mean, you
11 could present a valid argument that the improvement
12 is based on work he's already performed. I don't
13 know. Everything I'm saying right now is entirely
14 speculative.

15 The end result is that even though
16 you are objecting, I'm going to allow him to
17 withdraw. I will give you time to file your own
18 appearance and/or get an attorney, but I can't in
19 good conscience force him to stay in the case given
20 the status of this matter, and so I would let him
21 withdraw.

22 Do you have any questions about that
23 procedure? I'm assuming you have no other
24 objections other than you don't want him

1 to withdraw.

2 A VOICE: How long do I've got to find a
3 lawyer?

4 THE COURT: You'll have 21 days, and I'm --
5 if you file your own appearance, he's already paid
6 the fee or you've already paid the fee technically.
7 All you've got to do is file an additional
8 appearance, but you have to file an appearance. If
9 you file your own appearance, then the case will
10 remain pending.

11 In fact, Counsel, I'm going to --
12 I'll let you withdraw. I'm going to explain this,
13 but I'll let you start on the order.

14 I'm going to continue this until
15 July 10th, and I will grant you leave until
16 July 10th in which to file an appearance or have an
17 attorney file an appearance. If you file an
18 appearance, that's all you've got to do, and it
19 shouldn't cost you any money because the fee has
20 already been paid by somebody else.

21 If you do nothing, though, I have no
22 alternative but to dismiss the case for want of
23 prosecution.

24 A VOICE: Right.

1 THE COURT: If -- if you are still talking to
2 another attorney, you can file your appearance and
3 that will kind of serve as a placeholder and
4 nothing bad will happen. And a new attorney can
5 appear at any point later on in the litigation so
6 that you don't prejudice yourself by filing your
7 own appearance, but you've got to file an
8 appearance and you've got to send a copy to the
9 other side so they know you did.

10 Do you have any questions?

11 A VOICE: Actually I do, Judge, there is
12 another issue. Mr. Dulberg settled out the claim
13 with a prior defendant, and I'm holding a small
14 amount of funds for him from that defendant. And
15 what I'd like to do is disburse those funds to him
16 subject to all the liens, and that way -- and put
17 that in the order so that we have a very clear
18 understanding of what I'm going to do.

19 THE COURT: Okay. Do you have any questions
20 about his proposal because I don't know the details
21 and I'm not asking?

22 A VOICE: The way that it happened last time
23 is the new, whoever I get, would take that from him
24 and put it towards whatever because this is -- this

1 is all tied up to be settled somewhere else.

2 THE COURT: But he's already settled, as I
3 understand, with one of the parties so that you
4 have a finite amount of money.

5 A VOICE: He didn't actually settle.
6 Somebody else did. He's just holding the funds.

7 THE COURT: All right. So do you have any
8 problem with him disbursing the funds under those
9 circumstances?

10 Do you know the exact numbers?

11 A VOICE: Yes.

12 A VOICE: I believe that they have to be
13 turned over to a bankruptcy court. That's about
14 it.

15 THE COURT: Okay.

16 A VOICE: I don't --

17 THE COURT: All right.

18 A VOICE: Well, he has an exemption up to
19 \$15,000 at least, so this is well below that.

20 THE COURT: All right. So what's the
21 language you are proposing for that order?

22 A VOICE: Just that I disburse the funds to
23 him and that's it, subject to whatever liens might
24 exist.

1 THE COURT: Okay.

2 A VOICE: I mean, I could hold them -- I
3 could hold them for him if he wants me to, but I'd
4 rather not.

5 A VOICE: I don't want to (indiscernible) the
6 money, so --

7 THE COURT: I'm sorry?

8 A VOICE: I don't want to lose the money, so
9 wherever it's got to go, it's got to go.

10 THE COURT: All right. Well, and he's got to
11 pay the liens anyway, so I have no problem with the
12 entry of that order unless there is something I'm
13 not anticipating that you can advise me of.

14 A VOICE: I don't know of anything else.

15 THE COURT: So I will grant that request.
16 He'll put it in the order. I'm putting the case
17 over to July 10. By July 10th, you've got to file
18 an appearance.

19 A VOICE: Yes.

20 THE COURT: If you file an appearance and
21 don't show up, I have to dismiss the case.

22 A VOICE: Yes, sir.

23 THE COURT: So once you file the appearance,
24 you're acting as the attorney and you've got to be

1 here, so -- and if you intend to litigate the case
2 on your own, I can give you a little bit of leeway
3 because you are not an attorney, but I can't ignore
4 the rules. So it is very difficult for somebody
5 who doesn't know the rules to practice law, so
6 I --

7 A VOICE: I will be seeking an attorney.

8 THE COURT: I don't want you to box yourself
9 into a position by --

10 A VOICE: I think that's exactly what we are
11 doing here is I'm trying to unbox that position.

12 THE COURT: And you are entitled to your
13 opinion. I don't remember the details. I remember
14 the pretrial, but I will put it over to July 10th.
15 He'll draft the order.

16 If there is -- take a look at the
17 order. If there is a problem, step back up and
18 I'll address it.

19 Okay. Do you have any other
20 questions?

21 A VOICE: No.

22 THE COURT: All right. We'll see you
23 shortly.

24 A VOICE: Thanks, Judge.

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THE COURT: Thank you.

(Which were all the proceedings
had in the above-entitled cause
this date.)

1 STATE OF ILLINOIS)
)
2 COUNTY OF McHENRY) ss:
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4 I, KRISTINE L. FERRU, an official Court
5 Reporter for the Circuit Court of McHenry County,
6 Twenty-Second Judicial Circuit of Illinois,
7 transcribed the electronic recording of the
8 proceeding in the above-entitled cause to the best
9 of my ability and based on the quality of the
10 recording, and I hereby certify the foregoing to be
11 a true and accurate transcript of said electronic
12 recording.

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-----*Kristine Ferru*-----

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