

Date : 7/6/2021 2:08:39 PM

From : "Paul Dulberg"

To : "Alphonse Talarico"

BCc : "Paul Dulberg"

Subject : Emails just before original complaint was filed by Mast

Dear Mr Talarico,

Please read the emails I list below. They clearly show that I asked Mast if I had to come in and sign anything to file the complaint.

I think these are important because it shows that Mast had the opportunity to have me sign the affidavit and didn't allow me to see it before filing it.

I did this in haste and pulled most of it from the Popovich document disclosure so I may find more emails in the dulberg document disclosure but I don't think they will change the substance or the fact that I specifically asked if there was anything I needed to sign and Mast did not ask if he could sign anything on my behalf.

The limiting the case to \$50,000 got my blood boiling.

Here is the exchange:

2012-04-10 2:55pm Popovich Emails Dulberg:

"Given his response, maybe we should jsut file suit on this claim. I'd hate for him to move and we not be able to contact him for the lawsuit.

Is that ok if we file suit."
(POP 000056)

2012-04-10 21:49(UTC) Dulberg Emails Popovich:

"Hans, in your best professional opinion what's best?"
(POP 000056 - POP 000057)(POP 000370)

2012-04-10 4:53pm Popovich Emails Dulberg:

"Lets just file suit..ok?"
(POP 000056)(POP 000370)

2012-04-10 5:32pm Dulberg Emails Popovich:

"I have to consider that I may need more medical. Does it matter if I am finished with medical end of things before we do this?"
(POP 000056)(POP 000370)

2012-04-10 7:12pm Popovich Emails Dulberg:

"no. we can file now."
(POP 000056)(POP 000370)

2012-04-11 14:44(UTC) 2:44pm Dulberg Emails Popovich:

"After taking the night to sleep on it and discussing it with my family, I think your right. If you feel confident that now is the time to file and we will win, let's just do it.

Do I need to come in and sign anything?

Also, I never did receive that list you have of medical providers so I can correct the missing providers and dates.

Just so you know, I am considering heavily whether or not to let Dr. Sagerman do the exploratory surgery to try and fix my arm. It's a 50/50 chance of making it better or worse. My arm and hand is giving me problems every day and it's downright frustrating and painful at times. I am leaning towards just doing the surgery because I have to try or it's going to be rough living this way the rest of my life. If I do decide to let Dr. Sagerman do the surgery, I'm sure it's going to cost a lot of money and I'm worried that if we file suite now if it will be paid for."
(POP 000056)(POP 000370)

2012-04-11 Popovich Letter to Gagnon:

"Please be advised that I have been retained to represent Paul Dulberg for injuries he suffered in a chainsaw accident on June 28, 2011, due to your negligence. Please forward this correspondence on to your homeowner's liability insurance carrier and have them contact me to discuss this claim so that we can avoid filing suit against you. ·

If you have any questions, please feel free to call."

(POP 000371)

2012-04-12 Popovich Letter to Dulberg:

"Please find enclosed your medical expense report itemizing your medical bills related to the underlying occurrence in the amount of \$7,333.04

Please review the medical expense report and advise me if there are any bills that we are missing related to your care in this case."

(POP 000368)

*(Note: Missing - Medical Expense Report
Add Med expense report here)

2012-04-12 11:23pm Dulberg Emails Popovich:

"More drama, here it is.

I just received a call from David Gagnon. He was a bit upset because he received another letter at his house from you asking for his homeowners insurance. He was all concerned about the ultimatum and using the term negligence. I told him that's what insurance companies call it when one person hurts another. It is obvious he has a huge ego and doesn't like to admit he does anything wrong so I told him to finish reading the letter to me. When he got to the part about calling you if he had any questions, I told him to please do so. He said that he would go along with this as long as it doesn't cost him any money but if it does he said he could make this very difficult. He reminded me that he is ready to leave this area because it seems everyone is after him and he has no friends left here anyway and that this letter just drove another spike between him and his wife. I told him I really didn't want things to get difficult and that he should call you with any questions. He went on again about the word negligence so I told him it's not the same thing as the word guilty and that there wouldn't be any criminal penalties associated with admitting to this. He seemed to calm down after that. He said he was relieved that this isn't criminal charges and said I hope your right. After that he told me he intended to give you a call very soon.

Wish I had a tape recorder for you to hear these conversations."

(POP 000367)(POP 000369 - Partial, rest is missing)

2012-04-13 Gagnon - Mast Recorded Phone Statement also known as Exhibit gagnon 2:

SUBJECT: PAUL DULBERG - RECORDED PHONE, STATEMENT FROM DEFENDANT DAVID GAGNON

Recorded statement saved under "Dulberg file- starts 9:16 to 6:03.

"I was turning __ so that the back was going to cut and an easier go at it. Therefore. the branches that came down, I guess I can say "we" without saying "me" opted to stand the branches up and proceeded to cut. We done this many times, basically scalding off the small branches to make in size of 2 or 3 inch diameter pine needles left, nothing of real value to something to clean up. So. in-doing so we had cut probably, I don't know, have a cord of little tiny pieces and had some left and we got to one where I didn't change position, and just so you it was the way that I was operating the saw and it checked, in other words, I wasn't free wheeling it out in front of me, always in position and we got to a branch that maybe we shouldn't have tried to cut, it was a little flimsy. so when I hit the crotch it flexed. At that time, yes I was handling the saw, but Paul at the same time and just because we know each other so well, I assumed it would be ok to support it. In doing so, I was already into the cut and the crotch just and I just nicked his arm. So I am wondering at this point, I was there in the operating room I looked into his flesh I was there weeping with him not accepting negligence or responsibility in full but certainly feeling my friend's pain, calling my mother of course she is concerned, she provided for all of the information and such for his medical bills and whatever to be paid and paid for his medication that day for pain and actually gave him some money for, you know. doing the work. I think and he worked and he probably had intentions of getting something and actually I am wondering what is the premise that he is suing on and to what extent if you can answer those questions for me because I have known Paul for a long time, ok, I am going to tell you something else. he helped me roof my roof this summer, he did renovation work for a guy over here in Twins Lakes and ironically we talked and you know and I'm like yeah I know that guy. his name is Mike Thomas and. I mean. what is the premise that is he suing on?

Hans- I would be happy to tell ya, I mean, I don't know if you know this, our lines are recorded, but I don't have to keep it if you don't want me to.

No, I don't care, everything I am saying is the truth and that's the way that I operate and I'm glad that it is recorded and that we are both verified and so continue.

Hans- I don't expect you to tell me anything but the truth anyway, so as long as that is a good deal then fine.

What he said, you know, is that, we can make a lot of money in this, and I said we? I said Paul. I'm still thinking about your arm and getting home and getting your meds and he say ah, we'll talk about it later. So. once again, per law I understand that he is entitled to something but there should be no need why it should be hyped, pumped. exaggerated it and and what I just told you was the truth, ok, as far as his injury my face was right in there, I mean he was all... and got pain medication and their__ filing away at his flesh, but when it came down to it, I'm not a doctor, but I can tell ya the fascia is a white membrane underneath your, separates your muscle from your fatty tissue of your epidermis, that is how deep it went. Now, we are not to judge or to say how bad it is, but as far as I'm concerned and anyone there, he had 7 stitches I think, 2 inside and then 6 outside, it was a deep superficial gouge and cutting the nerves, tendons, muscle."

(POP 000400 - POP 000401)(POP 000402 - POP 000403)(POP 000404 - POP 000405)

(Dulberg 000760 - Dulberg 000761)

2012-04-13 11:44am Popovich Emails Dulberg:

"My fear is that If he moves away, we will have a hard time finding him for purposes of the lawsuit. So I think we should just file the suit anyway. You can cool him down by saying we need to do it for insurance purposes."

(POP 000369)

2012-04-16 10:48pm Dulberg Emails Popovich:

"One more thing to add. He said he would give us a copy of his policy if we need it."
(POP 000369)

2012-05-09 Check Request

McHenry County Circuit Clerk - Filing Fee - \$241.00
(POP 000651)

2012-05-14 9:14pm Dulberg Emails Popovich:

"Dr. Sagerman said he would call Dr. Levin the neurologist to get a prescription from her for me. She wants a new appointment with me. It is set up for Wednesday.
Also Dr Sagerman said to keep at physical therapy.
Will let you know what happens after Thursday's appointment."
(POP 000364)

2012-05-14 2:41pm Popovich Emails Dulberg:

"Thanks for the update. We're gonna go ahead and file suit. You may want to let him know that so he isn't angry. He can call me if he wants to talk about it."
(POP 000362)

2012-05-14 19:40(UTC) 7:40pm Dulberg Emails Popovich:

"I saw Dr. Sagerman today, he scheduled another appointment for this Thursday to meet his partner. They are going to evaluate whether doing surgery is going to be beneficial."
(POP 000362)(POP 000366)

2012-05-15 2:19am

"This evening I let David Gagnon know. After a long dialog he volunteered his homeowners policy number. Said he has been busy working and forgot to turn your letter over to his homeowners insurance company. He said his wife was going over there this Thursday to pay the premium and she is going to drop it off.

Allstate

Policy # 912697167 10/24

Agent: Ken Shields

262-248-0861

David also said he felt threatened and is hesitant to admit to Negligence and that he could make this easy or hard for me. He wanted to know if he was going to get anything if he played ball. He told me that if he admits to negligence and it costs him anything that I don't want to see his bad side. He went on and on about how much things cost and that he doesn't have the money to pay for any of it.

When finally I told him to imagine himself in my shoes and that I haven't had an income for almost a year because of this and that I am down to living off my mother like a useless idiot and I am about to let 2 surgeons go in to see if they can do anything to help make my arm and use of my hand better just so i can do every day things. He cut in abruptly and said he's sorry but he doesn't give a damn and that I had better not try and go after more than its worth.

He kept driving after getting something in return for making this easy. Said that he has been screwed his entire life and that he wants something in return. I didn't play into his hand and just said all I'm after Is getting the bills paid

and that's what the insurance is for.

He did threaten to lie and tell the insurance that I was there to help cut down the tree or that I was intoxicated. I said you know that's not true, I was only there because you asked me to stop by and see if I wanted the wood for my fireplace and the only reason you asked me was because it was cheaper than disposing of it yourself. Besides, I don't drink and everyone in my life knows it. He actually snarled at me.

I said I only helped you because you were having trouble culling the branches and you asked if I could hold it steady for you.

He said don't you think it's both of our faults that I'm not 100% negligent? I said Dave, you were operating the chainsaw, asked me to hold a branch, were cutting then came at me with it and cut half way through my arm before I could get out of the way. You knew where I was, you told me where to stand and how you wanted it held. You had the brainfart and used the chainsaw in a manner which hurt me pretty bad. How is that my fault in any way?

He said you know that after we got out of the hospital I felt bad and I hope You get what ever Your entitled to and wanted to know what I thought that number was.

I said I have no idea, I'm sure the lawyer and insurance companies can figure that out.

He said he could make this difficult or easy for me and that I would regret it if he has to make it difficult. He told me a long story about a guy who tried to sue for too much and ended up having to pay all the bills himself because he got greedy.

My answer to that was that I just want my arm to work without hurting and need the bills paid for and that I never thought that I would make money off it.

He said well your getting something, I knew it when that fat nurse at the hospital said uh ohh, looks like someone's going to get boo boo money from my mistake and he looked right at me. From that point on every time I think about you getting money for my mistake and that I've been screwed by everyone in my life when it was their fault I get pissed.

I said Dave, I don't think this is going to cost you anything and all the lawyer wants is your homeowners policy number. And I highly doubt I'm even going to get back what I would have made if I was able to work after the medical bills are paid. This isn't some big time lawsuit against something like McDonalds or anything like that.

He said if he sees that I'm paid a huge sum of money he's going to be pissed and that I don't want to see him pissed. Told me the chainsaw incident would be the least of my worries. He then very nervously showed me his policy number and said to tell you that he was working, time passed and he had just forgot all about it. And that he was going to have his wife deliver it to his insurance agent on Thursday. He said it would look better if he turned over the insurance policy number willingly.

After that I said thanks and that I had to get home for dinner.

Hans, I don't wish to have to go back over and talk with him anymore. Sometimes I think he is actually nuts and will do something stupid if he feels like it at the moment. He was very offensive at times and is a very selfish person." (POP 000361 - POP 000362)

***** (Note: 2nd time Popovich put Dulberg in harms way. Why?) ***** —THIS IS A PERSONAL NOTE, NOT PART OF THE EMAIL EXCHANGE.—

2012-05-2012 Clerk of the Circuit Court:
RECEIPT FOR PAYMENT
\$241.00

(POP 000624)

2012-05-16 Popovich Letter to Dulberg:

"Please be advised that we have filed suit on your behalf for injuries you suffered in the underlying accident of June 28, 2011.

As soon as defense counsel appears in the matter, I will contact you to meet and assist me with responding to certain discovery requests of the defense."

(POP 000365)