

Date : 12/18/2022 5:08:54 PM
From : "Paul Dulberg"
To : "Law Office Of Alphonse Talarico"
BCc : "Paul Dulberg" , "Tom Kost"
Subject : Re: Thoughts on Flynn's point 12

We can add to this that Dulberg sent Julia Williams all 3 cases, Tilschner, LaJato and Choi in April 2019. Limited waiver on emails from April 2019 318 cases 1 of 3, 2 of 3 and 3 of 3.

> On Dec 18, 2022, at 4:51 PM, Paul Dulberg <Paul_Dulberg@comcast.net> wrote:

>

> My attempt to answer 12 without bringing up the Williams/Flynn collusion issue.

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> I put this together rather quickly and can dig up more and refine tonight.

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> 12. Of concern is a statement on page 19 of Dulberg's motion in which he argues that Mast had insisted that the decision in the Tilschner v. Spangler case was the reason Dulberg would not prevail in the underlying case against the McGuire's. The statement is inexplicably made "on information and belief." This is unacceptable. Dulberg has made no such disclosure in fact discovery (now closed) about this very specific discussion between Mast and himself regarding the Tilschner case. If Dulberg believes he has disclosed it, he should be required to identify where in his answers and amended answers to discovery or his deposition he has identified such discussion with this amount of specificity. Defendants submit that no such disclosure exists.

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> Facts:

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> - The Tilschner vs Spangler Appellate court certified slip ruling Dulberg provided as an exhibit in the Motion to exclude the deposition of Hans Mast is a case that the Popovich Firm and Hans Mast personally appeared for, argued and received a copy of from the appellate court.

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> - The Tilschner vs Spangler Appellate court certified slip ruling is file stamped May 6, 2011 and was finalized/re-certified in November 2011, 6 months after the certified slip ruling was made and became superseded by the finalized/re-certified ruling within the Appellate clerks file.

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> - The Tilschner vs Spangler appellate court slip ruling is a document that existed in the public realm on file at the clerk of the appellate court and does not need to be disclosed during discovery in any cause of action.

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> - The Tilschner certified slip ruling was superseded by the finalized/re-certified ruling before Dulberg hired Mast on 12/1/2011.

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> - 2013-11-20 7:26am Dulberg emails Popovich:

> Ok we can meet. I will call Sheila today and set up a time.

> Please send me a link to the current Illinois statute citing that the property owner is not liable for work done on their property resulting in injury to a neighbor.

> I need to read it myself and any links to recent case law in this area would be helpful as well.

> (Dulberg 001515)

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> - Mast's memorandum POP 000003

> "On November 20, 2013, I met with Paul and his friend to discuss the McGuire's \$5,000 settlement offer and other issues with regard to this case. ..."

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> - Tom Kost kept a rough set of notes of the November 20, 2013 meeting with Mast. (Dulberg 001217)

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> - Tom Kost's handwritten notes:

> statement of torts sect 318 not applicable in Illinois

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> - Tilschner v Spangler is a restatement of torts 318 case.

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> - Defense fails to state where else Dulberg could obtain the slip ruling of Tilschner vs Spangler other than from the party who attended, argued and received the certified slip ruling on the Tilschner vs Spangler case other than Mast and the Popovich Firm.

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> - Irregardless if the defense can state another remotely possible source of the certified slip ruling of Tilschner vs Spangler. The Tilschner vs Spangler certified slip ruling is a public document and does not need to be disclosed during discovery.

> (* Find and cite discovery rule on documents already in the public realm.)

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> - Dulberg was questioned under deposition about the "friend" at the November 20, 2013 meeting with Mast. Dulberg Identified the "Friend" as his Brother.

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> - Dulberg did turn over the hand written notes taken during the November 20, 2013 meeting.

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> - Dulberg cannot answer discovery questions about Tilschner vs Spangler if Dulberg was not asked about Tilschner vs Spangler.

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> - Dulberg contends that it was Masts equipment problems and Mr Flynn's saving of paper and ink that was more likely than not the breakdown during the discovery deposition of Hans Mast and why Mast only had the Lajato case when it came to exhibit 12.

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