

Date : 2/22/2023 9:30:05 AM
From : "Paul Dulberg"
To : "Alphonse Talarico"
BCc : "Paul Dulberg" , "Tom Kost"
Subject : 2/11/2021

Dear Mr Talarico here are my initial thoughts on the 2/10/2021 Court Order dated 2/11/2021.

Timeline:

12/12/2016

- Dulberg receives an award from the underlying case that he cannot collect due to Popovich's early dismissal of one of the defendants.

12/12-12/15/2016 Baudin refers Dulberg to Gooch about possible legal malpractice.

12/16/2016

- Dulberg meets with Gooch and asks if the noncollectable award is cause for a legal malpractice case against Mast and Popovich.
- Gooch verbally confirms that the noncollectable award is an injury and that Dulberg has a valid case for a cause of action for legal malpractice against Mast and Popovich.
- Dulberg then hires Gooch to represent Dulberg in a cause of action for legal malpractice against Mast and Popovich.

Summary:

Based on the timeline provided, it appears that Dulberg has a strong argument for why the communications between him and Gooch after Gooch was hired should not have been Ordered disclosed in the instant case. Specifically, it seems that Dulberg only contacted Gooch for an opinion on legal malpractice after he received an award from the underlying case that he could not collect due to Popovich's early dismissal of one of the defendants.

Dulberg's decision to contact Gooch was therefore based on his desire to understand whether he had a valid cause of action for legal malpractice and whether it was worth pursuing. When Dulberg met with Gooch on December 16, 2016, he specifically asked whether the noncollectable award was an injury and Gooch verbally confirmed that it was and that Dulberg had a valid case for a cause of action.

It was only after this conversation that Dulberg hired Gooch to represent him in the legal malpractice cause of action. This suggests that the communications between Dulberg and Gooch after Gooch was hired is not relevant to Dulberg's decision to pursue the legal malpractice claim or to Gooch's representation of Dulberg in that claim.

Therefore, Dulberg can argue that these communications are protected by the attorney-client privilege and should not be considered in the instant case. Furthermore, Dulberg can assert that these communications do not provide any relevant information that would affect the outcome of the instant case.

In summary, based on the timeline provided, Dulberg has a strong argument for why the communications between him and Gooch after Gooch was hired should not be Ordered disclosed in the instant case. Dulberg's decision to contact Gooch was based on his desire to understand whether he had a valid cause of action for legal malpractice, and it was only after Gooch confirmed this that Dulberg hired him to represent him in the legal malpractice cause of action. The defendants should have asked for leave to depose Mr Gooch about the conversation before Gooch was hired and not for the communications after Gooch was hired. It is obvious that seeking the information after the hiring date was an attempt to gain an improper advantage and knowledge about strategy and mental impressions.