

ADDITIONAL QUESTIONS FOR MAST

How many years have you been practicing in the area of premises liability?

How many clients have you represented in the area of premises liability?

Do you consider yourself an expert on premises liability?

Did you not seek a premises liability experts opinion in Dulberg's case?

Why did you not seek a premises liability experts opinion in Dulberg's case?

Did you represent yourself as an expert or experienced attorney to Dulberg on the subject of premises liability? If yes, please describe and explain?

How many years have you been practicing in the area of chainsaw ownership liability?

How many years have you been practicing in the area of chainsaw operator liability?

How many clients have you represented in the area of chainsaw liability?

Do you consider yourself an expert on chainsaw liability?

Did you not seek a chainsaw liability experts opinion in Dulberg's case?

Why did you not seek a chainsaw liability experts opinion in Dulberg's case?

Did you represent yourself as an expert or experienced attorney to Dulberg on the subject of chainsaw liability? If yes, please describe and explain?

Are you aware if Dulberg hired any independent liability experts?

Have you reviewed Dulberg's independent liability experts opinions?

Are you planning to or do you wish to challenge the findings of Dulberg's independent liability expert, Dr. Lanford?

What do you believe Dulberg's independent liability experts got wrong that you think should be challenged?

Have you hired or are you planning to hire your own independent liability experts? If yes, who, when and what particular liabilities do they specialize in?

Did you ask for and receive a copy of the chainsaw manual from the McGuires during their deposition?

Did you review the chainsaw manual?

Did you take note of the warnings contained in the chainsaw manual?

Do you believe those warnings in the chainsaw manual served as notice to owners and any potential operators of the chainsaw?

Do you believe the McGuires followed the warnings in the chainsaw manual?

Do you believe Gagnon followed the warnings in the chainsaw manual?

Do you believe the warnings in the chainsaw manual are mere recommendations or do they represent something more than a recommendation?

Do you believe or know if the McGuires shared those warnings with Dulberg?

Do you believe the warnings in the chainsaw manual gave the McGuires superior knowledge than Dulberg possessed?

Do you believe the McGuires had a duty to share the warnings contained in the chainsaw owners manual with Dulberg prior to Dulberg helping with the work being done?

Do you believe if the warnings in the chainsaw manual were followed by the McGuires that Dulberg would still have suffered from the same injury?

Do you know what a hazardous activity or condition is on a premises?

Please explain your understanding of what a hazardous activity or condition is on a premises?

Do you consider the felling of a large tree a hazardous activity or condition?

Do you believe that the owner of a property is liable for hazardous conditions and activities that occur or exist on their property with their knowledge and consent?

Do you know what an ultra hazardous activity or condition is on a premises?

Please explain your understanding of what an ultra hazardous activity or condition is on a premises?

Do you consider the felling of a large tree an Ultra hazardous activity or condition on a premises?

Do you believe that the owner of a property is liable for ultra hazardous conditions and activities that occur or exist on their property with their knowledge and consent?

Do you know the difference between an independent contractor and an employee?

Please explain your understanding of the differences between an independent contractor and an employee?

Do you consider yourself an expert when it comes to differences between independent contractors and employees?

Did you explain to Dulberg the difference between an independent contractor and an employee?

Please describe how and what you explained the differences of an independent contractor and an employee is to Dulberg?

Do you or did you believe Gagnon was an independent contractor or an employee in relation to the McGuires?

Did you seek out an experts opinion on whether Gagnon was an independent contractor or an employee in relation to the McGuires and their ownership of the chainsaw and the property the work the McGuires were having done?

What, in your opinion today, might you have told Dulberg differently when it comes to the differences between an independent contractor and an employee that you didn't tell Dulberg before?

Would your current understanding and explanation of the differences between an independent contractor and an employee change how the McGuires would be liable for Gagnons mistake?

Did you seek out any experts opinion for anything in Dulberg's case? Why not?

Did Dulberg request from you the policy limits of either the McGuires and/or Gagnon?

Did you provide Dulberg with certified copies of either the McGuires or Gagnons insurance policies?

Do you maintain that you represented Dulberg in Dulberg's best interests during your period of representation in Dulberg's case?

Please describe your understanding of what due diligence is?

Do you believe you performed proper and ethical due diligence in Dulberg's case?

Please describe your understanding of what legal malpractice is?

Have you ever been accused of or charged with legal malpractice in the past? If yes, please explain?

Have you ever been convicted of legal malpractice in the past? If yes, please explain?

Do you believe you committed legal malpractice in Dulberg's case? If no, why do you believe you are not guilty of legal malpractice in Dulberg's case?

Please describe your understanding of what the ILLINOIS RULES OF PROFESSIONAL CONDUCT for attorneys is?

Have you ever been accused of or charged with violating the ILLINOIS RULES OF PROFESSIONAL CONDUCT for attorneys in the past?

Have you ever been sanctioned or reprimanded in some way for violations of the ILLINOIS RULES OF PROFESSIONAL CONDUCT for attorneys in the past?

Do you believe you violated the ILLINOIS RULES OF PROFESSIONAL CONDUCT in Dulberg's case?

Do you believe you conducted yourself in an ethical manner as is consistent within the ILLINOIS RULES OF PROFESSIONAL CONDUCT for attorneys is in Dulberg's case?

Was anyone other than yourself responsible for providing Dulberg with accurate information about the defendants policy limits as well as the defendants liabilities?

Have you seen Gagnon's certified insurance policy that was turned over during discovery?

Do you know Gagnon's policy limits?

Have you seen McGuire's certified insurance policy?

Do you know the McGuires policy limits? If yes, how?

Was the information you provided Dulberg about the liabilities and the value of the insurance policies of all the defendants accurate?

Do you believe that Dulberg used information you provided in assessing whether or not he had to file for bankruptcy? If no, from whom and where else was Dulberg supposed to get accurate information from?

Do you accept responsibility, in whole, for providing your client, Dulberg with false and misleading information in regards to both liabilities of the defendants and their respective insurance coverage limits? If no, please explain why you think you are not responsible and who else is?

POINTS ON MCGUIRES LIABILITIES

a) MCGUIRES purchased and provided GAGNON a chainsaw without following the directions and heeding the warnings clearly printed in the operator's manual's that accompanied the chainsaw. Chainsaw was purchased on 5-22-2011 and was first used on 6-28-2011, the day DULBERG was injured.

b) The operator's manual clearly states in large, bold font: "WARNING - To ensure safe and correct operation of the chainsaw, the operator's manual should always be kept with or near the machine. Do not lend or rent your chainsaw without the operator's instruction manual."

c) Just under this warning on the same page the operator's manual clearly states in large, bold font: "WARNING – Allow only persons who understand this manual to operate your chainsaw."

d) The manual has a list clearly labeled as "SAFETY RULES". The first listed rule is: "Read this manual carefully until you completely understand and can follow all safety rules, precautions, and operating instructions before attempting to use the unit."

e) The second listed safety rule is: "Restrict the use of your saw to adult users who understand and can follow safety rules, precautions, and operating instructions found in this manual."

f) The fourth listed safety rule is: "Keep children, bystanders, and animals a minimum of 35 feet (10 meters) away from the work area. Do not allow other people or animals to be near the chainsaw when starting or operating the chainsaw (Fig.2)." There is a large picture next to this rule of people standing at least 35 feet away from a person operating a chainsaw.

g) The MCGUIRES asked DULBERG to help GAGNON. DULBERG did not go to the MCGUIRES property to help cut down a tree. He went to see if he wanted the wood. Only after he was on the property for more than two hours was he asked by the MCGUIRES if he could help GAGNON.

i) Had the MCGUIRES read and followed the warnings and safety rules in the operator's manual, the injury to DULBERG could not have occurred.

j) The MCGUIRES were in possession of the owners manual and looked at it while DULBERG was present, however they asked DULBERG to help GAGNON anyway. They had the manual and DULBERG did not. They had access to knowledge about the warnings clearly stated in the manual that DULBERG did not have. "A duty to warn exists where there is unequal knowledge, actual or constructive, and the defendant, possessed of such knowledge, knows or should know that harm might or could occur if no warning is given." (many citations available)

The expert on chainsaw use later retained by DULBERG stated that the owners of the chainsaw are liable for not heeding the clear warnings written in bold font on the operator's manual.