

181-2

Paul Dulberg
Plaintiff

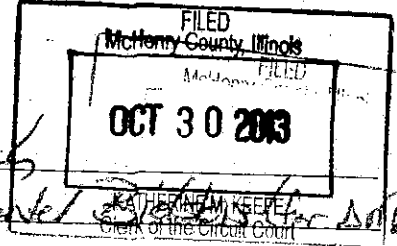
VS

DAN BAJAR et al
Defendant

Case Number 12 CA 178

Circuit Clerk Use Only	
_____	ORD
_____	ORDJ
_____	ORDDWP

ORDER



- ☒ Plaintiff(s) appear in person/by attorney B. Lumber - Perovich
- ☒ Defendant(s) appear in person/by attorney Perry Acordo, Charles [unclear]
- ☐ Summons not served; alias summons to issue; return date _____, 20____
- ☐ Summons has been properly served on Defendant(s) _____
- ☐ Defendant(s) appear and admit liability. Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ Defendant(s), having failed to appear or otherwise respond to the summons, is found in default. Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ Case set for ☐ trial ☐ arbitration on _____, 20____ at _____ m. in Courtroom _____
- ☐ Defendant(s) shall file an Appearance within _____ days of today's date, or without further Notice to Defendant(s), the trial date will be stricken and a judgment by default will be entered against Defendant(s) and in favor of Plaintiff(s).

NOTICE TO DEFENDANT(S): THIS IS THE ONLY NOTICE YOU WILL RECEIVE OF THE TRIAL, OR ARBITRATION DATE AND YOUR OBLIGATION TO FILE AN APPEARANCE.

- ☐ Defendant(s) shall file an answer or other pleading within _____ days of today's date.
- ☒ This case is continued on Motion of ☐ Plaintiff; ☐ Defendant; ☐ By Agreement; ☐ Court; to JANUARY 3, 2014 at 9:00 A m. for status Reviewed
- ☐ Case called, Plaintiff(s) fail to appear. Case dismissed for Plaintiff's failure to prosecute.
- ☐ Case dismissed with/without prejudice on Plaintiff's motion.
- ☐ After trial of this case, the Court enters a Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ After trial of this case, the Court enters a Judgment for Defendant(s) against Plaintiff(s).
- ☐ **COURT FURTHER ORDERS:** _____

Date: _____

[Signature]
Judge

245281968.1/SKO/ACCARDO/ml

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL DISTRICT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

Plaintiff(s),

CASE NO. 12LA000178

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and
BILL MCGUIRE, and CAROLINE
MCGUIRE and BILL MCGUIRE,
Individually,

Defendant(s).

NOTICE OF DISCOVERY DEPOSITION(S)

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

NAME: Dr. Apiwat Ford
DATE: November 20, 2013
TIME: 10:00 AM
PLACE: Northern IL Medical Center
4201 Medical Center Drive
Medical Building Office, B100
McHenry, IL 60050

upon oral examination, before Merrill Legal Solutions, certified shorthand reporters, or some other officer duly authorized by law to take depositions. The deposition(s) is/are being taken for the purpose of discovery, or for such other purposes as are permitted under the applicable and governing Illinois Rules of the Supreme Court.

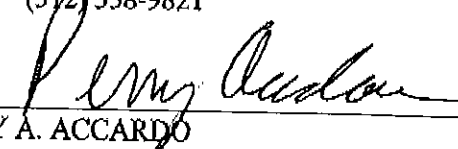
I HEREBY CERTIFY that on 11/5/13, a true and correct copy of the foregoing Notice of Deposition was faxed mailed to:

Hans A. Mast 815 344-5280
Law Offices of Thomas J. Popovich, P.C.
3416 W Elm St
McHenry IL 60050

Cicero, France, Barch & Alexander PC 815 226-7701
6323 East Riverside Blvd
Rockford, IL 61114

LAW OFFICE OF STEVEN A. LIHOSIT
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601-1014
Telephone: (312) 558-9821

By:


PERRY A. ACCARDO

Firm No.: 19859

E-MAIL ADDRESS:

ILLINOISLEGAL@ALLSTATE.COM

Attorney Bar No.: 6228720

Attorney for Defendant(s):

David Gagnon

STATE OF ILLINOIS

0245281968.1/SKO/ACCARDO/mlt

COUNTY OF MCHENRY

)
) SS
)

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL DISTRICT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

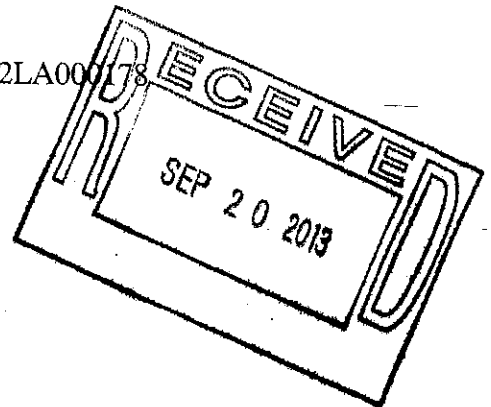
Plaintiff(s),

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and
BILL MCGUIRE, and CAROLINE
MCGUIRE and BILL MCGUIRE,
Individually,

Defendant(s).

CASE NO. 12LA000178



NOTICE OF DISCOVERY DEPOSITION(S)

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

NAME: Dr. Apiwat W Ford
DATE: October 23, 2013
TIME: 2:00 PM
PLACE: Northern IL Medical Center
4201 Medical Center Drive
McHenry, IL 60050

upon oral examination, before Merrill Legal Solutions, certified shorthand reporters, or some other officer duly authorized by law to take depositions. The deposition(s) is/are being taken for the purpose of discovery, or for such other purposes as are permitted under the applicable and governing Illinois Rules of the Supreme Court.

I HEREBY CERTIFY that on 9/18/13, a true and correct copy of the foregoing Notice of Deposition was mailed to:

Hans A. Mast
Law Offices of Thomas J. Popovich, P.C.
3416 W Elm St
McHenry IL 60050

Cicero, France, Barch & Alexander PC
6323 East Riverside Blvd
Rockford, IL 61114

LAW OFFICE OF STEVEN A. LIHOSIT
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601-1014
Telephone: (312) 558-9821

By: 

PERRY A. ACCARDO

Firm No.: 19859

E-MAIL ADDRESS:

ILLINOISLEGAL@ALLSTATE.COM

Attorney Bar No.: 6228720

Attorney for Defendant(s):

David Gagnon

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL DISTRICT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

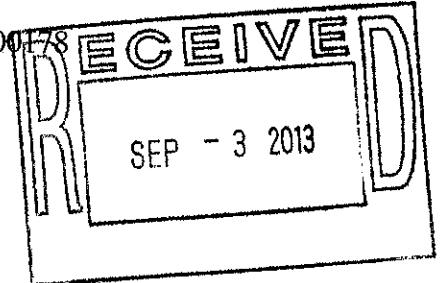
Plaintiff(s),

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and
BILL MCGUIRE, and CAROLINE
MCGUIRE and BILL MCGUIRE,
Individually,

Defendant(s).

CASE NO. 12LA000178



NOTICE OF DISCOVERY DEPOSITION(S)

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

NAME: Dr. Marcus Talerico
DATE: October 16, 2013
TIME: 1:00 PM
PLACE: Mid America Hand and Shoulder
2000 E. Algonquin Road, Suite 109
Schaumburg, IL 60067

upon oral examination, before Merrill Legal Solutions, certified shorthand reporters, or some other officer duly authorized by law to take depositions. The deposition(s) is/are being taken for the purpose of discovery, or for such other purposes as are permitted under the applicable and governing Illinois Rules of the Supreme Court.

I HEREBY CERTIFY that on 8/20/13, a true and correct copy of the foregoing Notice of Deposition was mailed to:

Hans A. Mast
Law Offices of Thomas J. Popovich, P.C.
3416 W Elm St
McHenry IL 60050

Cicero, France, Barch & Alexander PC
6323 East Riverside Blvd
Rockford, IL 61114

LAW OFFICE OF STEVEN A. LIHOSIT
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601-1014
Telephone: (312) 558-9821

By: 

PERRY A. ACCARDO

Firm No.: 19859

E-MAIL ADDRESS:

ILLINOISLEGAL@ALLSTATE.COM

Attorney Bar No.: 6228720

Attorney for Defendant(s):

David Gagnon

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL DISTRICT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

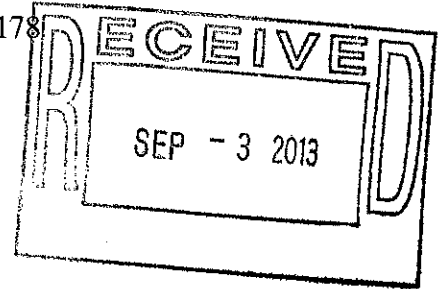
Plaintiff(s),

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and
BILL MCGUIRE, and CAROLINE
MCGUIRE and BILL MCGUIRE,
Individually,

Defendant(s).

CASE NO. 12LA000178



NOTICE OF DISCOVERY DEPOSITION(S)

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

NAME: Dr. Sagerman
DATE: October 15, 2013
TIME: 9:00 AM
PLACE: Hand Surgery Associates
515 W. Algonquin Road, Suite 120
Arlington Heights, IL 60005

upon oral examination, before Merrill Legal Solutions, certified shorthand reporters, or some other officer duly authorized by law to take depositions. The deposition(s) is/are being taken for the purpose of discovery, or for such other purposes as are permitted under the applicable and governing Illinois Rules of the Supreme Court.

I HEREBY CERTIFY that on 8-30-13, a true and correct copy of the foregoing Notice of Deposition was mailed to:

Hans A. Mast
Law Offices of Thomas J. Popovich, P.C.
3416 W Elm St
McHenry IL 60050

Cicero, France, Barch & Alexander PC
6323 East Riverside Blvd
Rockford, IL 61114

LAW OFFICE OF STEVEN A. LIHOSIT
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601-1014
Telephone: (312) 558-9821

By: 

PERRY A. ACCARDO

Firm No.: 19859

E-MAIL ADDRESS:

ILLINOISLEGAL@ALLSTATE.COM

Attorney Bar No.: 6228720

Attorney for Defendant(s):

David Gagnon

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL DISTRICT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

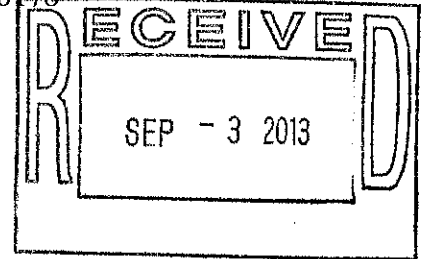
Plaintiff(s),

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and
BILL MCGUIRE, and CAROLINE
MCGUIRE and BILL MCGUIRE,
Individually,

Defendant(s).

CASE NO. 12LA000178



NOTICE OF DISCOVERY DEPOSITION(S)

PLEASE TAKE NOTICE that the undersigned attorney will take the deposition of:

NAME: Dr. Karen Levin
DATE: October 1, 2013
TIME: 9:00 AM
PLACE: Associated Neurology
1900 Hollister Drive, Suite 250
Libertyville, IL 60048

upon oral examination, before Merrill Legal Solutions, certified shorthand reporters, or some other officer duly authorized by law to take depositions. The deposition(s) is/are being taken for the purpose of discovery, or for such other purposes as are permitted under the applicable and governing Illinois Rules of the Supreme Court.

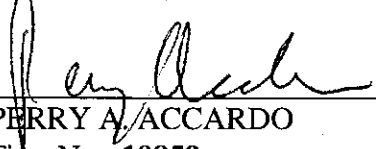
I HEREBY CERTIFY that on 8-30-13, a true and correct copy of the foregoing Notice of Deposition was mailed to:

Hans A. Mast
Law Offices of Thomas J. Popovich, P.C.
3416 W Elm St
McHenry IL 60050

Cicero, France, Barch & Alexander PC
6323 East Riverside Blvd
Rockford, IL 61114

LAW OFFICE OF STEVEN A. LIHOSIT
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601-1014
Telephone: (312) 558-9821

By:


PERRY A. ACCARDO

Firm No.: **19859**

E-MAIL ADDRESS:

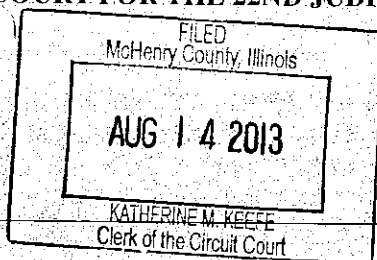
ILLINOISLEGAL@ALLSTATE.COM

Attorney Bar No.: 6228720

Attorney for Defendant(s):

David Gagnon

CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS }
COUNTY OF MCHENRY } SSGEN. NO. 12 CA 178
☐ Jury ☐ Non-Jury

DUBERIN

vs.

GAGNON et al

Date 8/14/13 Plaintiff's
AttorneyDefendant's
Attorney

ORDER

This case coming on for status
on medical discovery, counsel for
Plaintiff + the McGinnis Defendants
appearing, and the Court being
advised,

IT IS ORDERED:

case is reset to 10/30/13 at 9:00 AM
for
further status on medical
discovery.

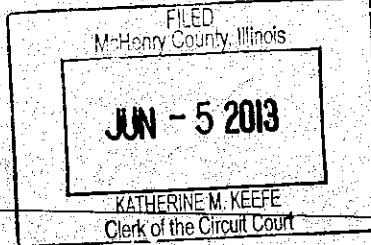
Prepared by: _____

Attorney for: _____

Attorney Registration No.: _____

Judge 

CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS
COUNTY OF MCHENRY } SSGEN. NO. 12-1178☐ Jury ☐ Non-JuryDulberg

vs.

Lugones et al.Date 1-15-13Plaintiff's
AttorneyR. L. Linder
HammDefendant's
AttorneyPerry, Orlando - Esq.
Patrick - Esq.
Ken Patch - McGuffey

ORDER

This matter coming before the Court for status on non-medical fact discovery, all parties having notice and the Court being fully advised in the premises;

IT IS HEREBY ORDERED:

- (1) Non medical fact discovery closed with the deposition of witness Mike Thomas;
- (2) The case is continued to 8-14-13 at 9 AM for status on FD discovery.

Prepared by:

C. Bickis (Ken Patch)

Attorney for:

Defendants McGuffey

Attorney Registration No.:

Judge

[Signature]

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL DISTRICT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

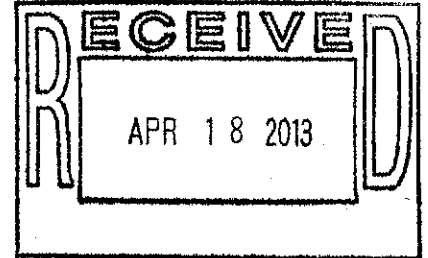
Plaintiff(s),

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and
BILL MCGUIRE, and CAROLINE
MCGUIRE and BILL MCGUIRE,
Individually,

Defendant(s).

CASE NO. 12LA000178



NOTICE OF NAME CHANGE

TO: Hans A. Mast
Law Offices of Thomas J. Popovich, P.C.
3416 W Elm St
McHenry IL 60050

Attorney for Plaintiff(s) Paul Dulberg

Cicero, France, Barch & Alexander PC
6323 East Riverside Blvd
Rockford, IL 61114

Attorney for Co-Defendants, Caroline and Bill McGuire

YOU ARE HEREBY NOTIFIED, that effective April 15, 2013, the Law Office of M.
Gerard Gregoire will change its name, address and fax number to:

LAW OFFICE OF STEVEN A. LIHOSIT
200 N. LaSalle St., Ste 2550
Chicago, IL 60601
Telephone: 312-558-9800

8.14.13

PROOF OF SERVICE BY MAIL

I, PERRY A. ACCARDO, the attorney, certify that I served this notice by mailing a copy to the above named attorney(s), at the above address(s), and depositing the same in the U.S. mail at 200 North LaSalle St, Ste 2650, Chicago, Illinois, at 4:30 p.m., on 4/17/13, with proper postage prepaid.

(Perry
Accardo)

Ext

LAW OFFICE OF STEVEN A. LIHOSIT
200 N. LaSalle St., Ste 2550
Chicago, IL 60601
Telephone: 312-858-9821
ATTORNEY Bar Number: 6228720

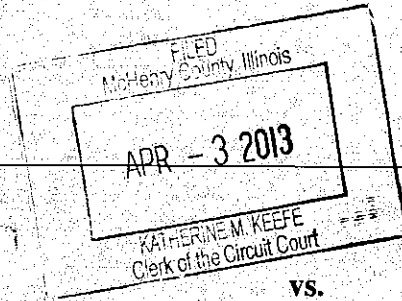
Signature

email -

Perry + Accardo @ allstate.com.

CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS }
COUNTY OF MCHENRY } SS



GEN. NO. 12LA178
☐ Jury ☐ Non-Jury

PAUL DUBOIS

DAVID GARNON et al.

vs.

Date 4/3/13 Plaintiff's Attorney MAST Defendant's Attorney McHenry - Garnon
CHAMBERLAIN - H. A. CHAMBERLAIN

ORDER

Came for all parties appearing, and the Court being advised that the McHenry Defendants Chamberlain and Chamberlain's materials provided for inspection, photographing and copying on March 11, 2013.

IT IS ORDERED:

~~AND~~ The Protective Order entered on August 17, 2012 is hereby modified and amended as follows:

The contents of said chain saw and associated parts, accessories, manual and paperwork are free to use same in the ordinary course; provided, however, that no one shall not sell or otherwise dispose of ~~any~~ ^{parts, accessories, manual or} ~~chain saw~~ without further order of the Court.

Prepared by: _____

Attorney for: _____

Attorney Registration No.: _____ Judge _____

CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS }
COUNTY OF MCHENRY } SS

GEN. NO. 12 LA 178

☐ Jury ☐ Non-Jury

PAUL DUCBERG

vs.

DAVID GAGNON

et al

Date 4/3/13

Plaintiff's Attorney MAST

Defendant's Attorney

McGowan → BA-201
GAGNON → Assoc.

ORDER

This cause coming on for status,
caused for all parties appearing,
and the Court being advised,

IT IS ORDERED:

Cause is reset for status on the
completion of fact discovery

(non-medical) for 6/15/13 at 9:00 AM

Prepared by: _____

Attorney for: _____

Attorney Registration No.: _____

Judge _____

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

Plaintiff,

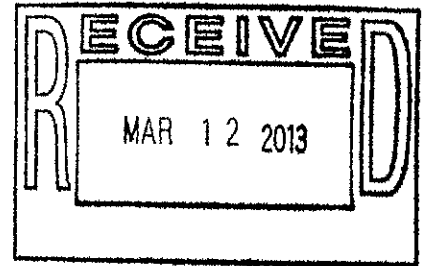
vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE McGUIRE and BILL
McGUIRE and CAROLINE McGUIRE
and BILL McGUIRE, Individually,

Defendants.

COPY

No. 12 LA 178



PROOF OF SERVICE

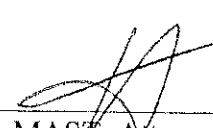
The undersigned, being first duly sworn on oath, deposes and states that on the 11th day of **March, 2013** the following described documents were served by mailing true and correct copies thereof in an envelope, addressed as is shown below, that said envelope was sealed, that sufficient U.S. postage for first-class mail was placed thereon, and the same was deposited in the U.S. Mail in McHenry, Illinois, at or about the hour of 5:00 p.m.

DOCUMENT DESCRIPTION: **PLAINTIFF'S SUBPOENA FOR DISCOVERY
DEPOSITION OF MICHAEL McARTOR**

ADDRESSED TO: Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 E. Riverside Blvd.
Rockford, IL 61114

Perry Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle Street, Suite 2650
Chicago, IL 60601-1092

2/12/12



HANS A. MAST, Attorney for Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH

3416 West Elm Street
McHenry, IL 60050
815-344-3797
Attorney No. 6203684

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22nd JUDICIAL CIRCUIT
McHENRY COUNTY

COPY

PAUL DULBERG

VS.

DAVID GAGNON, et al.

Case Number 12 LA 178

SUBPOENA FOR DEPOSITION

To: Michael McArtor, 4606 Hayden Court, McHenry, IL 60050

YOU ARE COMMANDED to appear to give your deposition before a notary public at Law Ofc of Scott
Hiera, 3421 W. Elm Street, Room number , McHenry, Illinois, on
March 20, 20 13 at 12:00 .M.

YOU ARE COMMANDED also to bring the following: YOURSELF

in your possession or control.

YOUR FAILURE TO APPEAR IN RESPONSE TO THIS SUBPOENA WILL SUBJECT YOU TO
PUNISHMENT FOR CONTEMPT OF THIS COURT.



Witness March 8, 20 13

Katherine M. Keefe

McHenry County Clerk of the Circuit Court

Name Hans A. Mast

Attorney for Plaintiff

Address 3416 W. Elm Street

City, State, Zip McHenry, IL 60050

Telephone 815.344.3797

I served this subpoena by handing a copy to via certified mail on
March 11, 20 13. I paid the witness \$ 35.00 for witness and mileage fees.

Signed and sworn to before me

Prepared By Hans A. Mast

Attorney For Plaintiff

Attorney Registration No. 6203684

Notary Public

CV-SUB1: Revised 12/01/08

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

COPY

PAUL DULBERG,

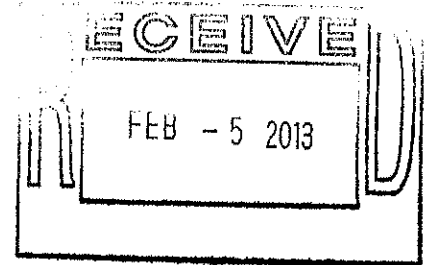
Plaintiff,

vs.

No. 12 LA 178

DAVID GAGNON, Individually, and as
Agent of CAROLINE McGUIRE and BILL
McGUIRE and CAROLINE McGUIRE
and BILL McGUIRE, Individually,

Defendants.



NOTICE OF FILING

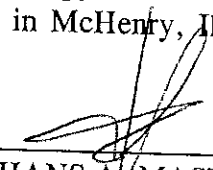
TO: Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 E. Riverside Blvd.
Rockford, IL 61114

Perry Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle Street, Suite 2650
Chicago, IL 60601-1092

YOU ARE HEREBY NOTIFIED that on February 4, 2013, or soon thereafter, there was filed with the Clerk of the Circuit Court of McHenry County, 2200 N. Seminary Avenue, Woodstock, Illinois, **PLAINTIFF'S REPLY TO DEFENDANTS, BILL AND CAROLYN MCGUIRE'S AFFIRMATIVE DEFENSE**, a copy of which is attached hereto.

CERTIFICATE OF SERVICE

I certify that I served this Notice by mailing a copy to whom it is directed at the address above indicated by depositing it in the U.S. Mail in McHenry, Illinois before 5:00 p.m. on February 4, 2013.



HANS A. MAST, Attorney For Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH

3416 West Elm Street
McHenry, Illinois 60050
(815) 344-3798
Attorney No. 6203684

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

Plaintiff,

vs.

No. 12 LA 178

DAVID GAGNON, Individually, and as
Agent of CAROLINE McGuIRE and BILL
McGUIRE and CAROLINE McGuIRE
and BILL McGuIRE, Individually,

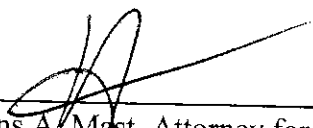
Defendants.

**PLAINTIFF'S REPLY TO DEFENDANTS, BILL AND CAROLYN
MCGUIRE'S AFFIRMATIVE DEFENSE IN THEIR AMENDED ANSWER**

NOW COMES, the Plaintiff, PAUL DULBERG, by and through his attorneys, LAW
OFFICES OF THOMAS J. POPOVICH, P.C., and for her reply to Defendants, Bill and Carolyn
McGuire's Affirmative Defense in their Amended Answer, states as follows:

1. Plaintiff denies each and every allegation contained in the affirmative defense of
Defendants, Bill and Carolyn McGuire.

WHEREFORE, the Plaintiff, PAUL DULBERG, moves for judgment in his favor and against
the Defendants, Bill and Carolyn McGuire plus costs.


Hans A. Mast, Attorney for Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH, P.C.
3416 West Elm Street
McHenry, Illinois 60050
(815) 344-3797
Attorney No. 6203684

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

FILED

FEB -1 2013

KATHERINE M. KESFE
McHENRY CTY. CIR. CLK.

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

AMENDED ANSWER AND
AFFIRMATIVE DEFENSE BY
DEFENDANTS BILL McGUIRE
AND CAROLYN McGUIRE

DEFENDANTS' ANSWER

ANSWER TO COUNT I

Defendants, BILL McGUIRE and CAROLYN McGUIRE, make no response to Count I of Plaintiff's Complaint inasmuch as said allegations are directed at a separate and distinct Defendant.

ANSWER TO COUNT II

Defendants, BILL McGUIRE AND CAROLYN McGUIRE (improperly named Caroline), by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their Answer to Count I of Plaintiff's Complaint, state as follows:

1. Defendants admit the allegations of paragraph one (1).
2. Defendants admit that on June 28, 2011, they owned and lived in a single family home located at 1016 W. Elder Avenue, City of McHenry, County of McHenry, Illinois. Defendants neither admit nor deny the remaining allegations set forth in paragraph two (2) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
3. Defendants deny the allegations of paragraph three (3).
4. Defendants deny the allegations of paragraph four (4).

5. Defendants admit that on June 28, 2011, Defendant David Gagnon was engaged in cutting, trimming and maintaining trees and brush on the premises at 1016 W. Elder Avenue, in the City of McHenry, County of McHenry, Illinois. Defendants admit that David Gagnon was doing so at their request, with their authority and permission and for their benefit. Defendants deny the remaining allegations of paragraph five (5).
6. Defendants admit that Defendant David Gagnon used a chain saw from time to time on June 28, 2011. Defendants admit that they owned a chain saw on June 28, 2011. Defendants deny the remaining allegations of paragraph six (6).
7. Defendants deny the allegations of paragraph seven (7).
8. Defendants deny the allegations of paragraph eight (8).
9. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations set forth in paragraph nine (9). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
10. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations of paragraph ten (10). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
11. Defendants deny the allegations of paragraph eleven (11).
12. Defendants deny the allegations of paragraph twelve (12).
13. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations of paragraph thirteen (13). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
14. The answering Defendants were not present and therefore lack sufficient

information upon which to form a belief as to the truth of the allegations of paragraph fourteen (14). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.

15. Defendants make no response to the allegations set forth in paragraph fifteen (15) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
16. Defendants admit that at all relevant times they owned and lived in the premises that are the subject of Plaintiff's Complaint. Defendants neither admit nor deny the remaining allegations set forth in paragraph sixteen (16) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
17. Defendants make no response to the allegations set forth in paragraph fifteen (15) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
18. Defendants deny the allegations of paragraph eighteen (18).
19. Defendants admit that Defendant David Gagnon used a chain saw from time to time on June 28, 2011. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to whether Defendant David Dagnon was operating a chain saw with the assistance of Plaintiff Paul Dulberg. Defendants neither admit nor deny the remaining allegations set forth in paragraph nineteen (19) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
20. Defendants make no response to the allegations set forth in paragraph twenty (20) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
21. Defendants deny the allegations of paragraph twenty-one (21).
22. Defendants deny the allegations of paragraph twenty-two (22).

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, pray the court dismiss Count I of Plaintiff's Complaint and enter judgment for the Defendants for their costs of suit.

Defendants Hereby Demand A Trial By Jury

DEFENDANTS' AFFIRMATIVE DEFENSE

The Defendants, BILL McGUIRE and CAROLYN McGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their Affirmative Defense to Count II of Plaintiff's Complaint, state as follows:

1. That on the date and at the place alleged in the Plaintiff's Complaint, the Plaintiff, PAUL DULBERG, was guilty of negligence by failing to exercise due care and caution for his own safety, in that he:

- a. Failed to use due care and caution as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches.
- b. Failed to use due care and caution as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches when he knew and appreciated the dangers associated with chainsaw usage.
- c. Was inattentive and unobservant to surrounding conditions and dangers as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches.
- d. Notwithstanding a reasonable opportunity to do so, failed to maintain a safe distance between himself and an operating chainsaw.
- e. Was otherwise careless and negligent as will be demonstrated by the evidence at trial.

2. That by reason of the aforesaid negligence of the Plaintiff, PAUL DULBERG, and as a direct and proximate result thereof, the Plaintiff sustained the damages claimed.

3. That pursuant to the Illinois Code of Civil Procedure, Section 5/2-613(d) and Section 5/2-1116, the Complaint of PAUL DULBERG should be dismissed in that the contributory

fault on the part of the Plaintiff was more than 50 percent and, therefore, PAUL DULBERG's Complaint is barred.

4. Or, in the alternative, that any verdict against the Defendants, BILL McGUIRE and CAROLYN McGUIRE, should be reduced in direct proportion to the percentage of PAUL DULBERG's contributory negligence causing his claimed injuries.

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, moves this Court for an Order dismissing Count I of Plaintiff's Complaint, costs being assessed to the Plaintiff.

Defendants Hereby Demand A Trial By Jury

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By

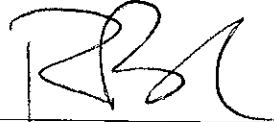


RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

RONALD A. BARCH, being first duly sworn on oath, deposes and states that he is one of the attorneys for the Defendants, BILL McGUIRE and CAROLYN McGUIRE, that he has read the foregoing Answer signed by him; that the allegations as to insufficient knowledge are true to the best of his knowledge and belief.



RONALD A. BARCH

Subscribed and sworn to before
me on 1-25-13.

Tina A. Fink
Notary Public



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/25/13.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

FILED
FEB - 1 2013
KATHERINE M. KEEFE
McHENRY CTY. CIR. CLK.

CROSS-CLAIM FOR CONTRIBUTION AGAINST
CO-DEFENDANT DAVID GAGNON

The Defendants, BILL McGUIRE and CAROLYN McGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their cross-claim for counterclaim for contribution against Defendant David Gagnon, state as follows:

1. Plaintiff PAUL DULBERG has filed a two-count complaint against Defendants David Gagnon, Bill McGuire and Carolyn McGuire seeking damages for injuries he attributes to a chainsaw incident that purportedly occurred on June 28, 2011 in the County of McHenry, State of Illinois.

2. The chainsaw incident set forth in Plaintiff's Complaint purportedly occurred on a residential parcel owned by Defendants Bill McGuire and Carolyn McGuire.

3. Defendants Bill McGuire and Carolyn McGuire were not present in the vicinity of the chainsaw incident when it occurred.

4. At the time of the alleged chainsaw incident, Plaintiff PAUL DULBERG was assisting Defendant David Gagnon as Defendant Gagnon was cutting and trimming trees and branches with a chainsaw.

5. At said time and place, Defendant David Gagnon owed a duty to exercise reasonable care at all times to avoid causing injury and property damages to others.

Illinois recognizes the right of contribution among joint tortfeasors.

9. Should the Defendants Bill McGuire and Carolyn McGuire be found liable for the injuries to Plaintiff PAUL DULBERG, Defendants Bill McGuire and Carolyn McGuire are entitled to contribution from Defendant David Gagnon for that portion of the total recoveries, if any, by Plaintiff PAUL DULBERG that the Defendants Bill McGuire and Carolyn McGuire are required to pay in excess of their pro rata share of the liability pursuant to the aforesaid Illinois Contribution Among Joint Tortfeasors Act.

WHEREFORE, the Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, demand judgment in their favor and against Defendant David Gagnon for any and all sums for which Defendants BILL MCGUIRE and CAROLYN MCGUIRE may be held liable to Plaintiff PAUL DULBERG, in excess of their pro rata share.

Defendants Hereby Demands A Trial By Jury

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/25/13.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

CICERO, FRANCE, BARCH & ALEXANDER, P.C.
6323 EAST RIVERSIDE BOULEVARD
ROCKFORD, IL 61114
ATTN: CICERO, FRANCE, BARCH & AL

CASE NAME: DULBERG v GAGNON, ET. AL.

COMPEX LEGAL SERVICES

325 Maple Avenue, Torrance, California 90503

(888) 685-4411

RECORD REQUEST FORM

Compex Order: E61147

CICERO, FRANCE, BARCH & ALEXANDER, P.C.
6323 EAST RIVERSIDE BOULEVARD
ROCKFORD, IL 61114

February 07, 2013

RE: DULBERG V. GAGNON, ET. AL.
Case No.: 12 LA 000178
Record Subject: DULBERG, PAUL
Records requested by: LAW OFFICE OF M. GERARD GREGOIRE

DEAR CICERO, FRANCE, BARCH & AL:

Compex Legal Services has been requested by the firm named above to obtain records from the locations listed below.

If you require copies of any of these records, please indicate by checking the box next to the appropriate location(s) and sign and return the form(s) to Compex Legal Services. If no boxes are checked, we will assume you are requesting records from all locations.

Please note:

By placing a check mark in the box next to a location, you have indicated your desire to receive a copy of the records received by Compex Legal Services from that location. Should you desire a copy of any original item(s) listed below the location, please indicate by checking the box before the item description. If you check "Films" and/or "Other" which may include copies of original items such as photos, blueprints, video or audio tapes, you must place your order within (2) business days of receipt of this notice to assure proper delivery.

☐ If a location provides a Certificate of No Records, you will receive a copy UNLESS this box is checked

Records Films Other
 (if requested)

☐ ☐ ☐ A. JUSKIE PRINTING INC

If your firm has an account with Compex Legal Services, normal billing will apply. If you represent an insurance carrier and prefer that we bill them directly, please provide the following information:

Carrier _____ Adjuster _____

Address _____ Phone _____

City, St _____ Zip _____

Claim _____ Insured _____

Your signature below confirms that you are ordering these records and agree to the terms and conditions(attached)

Authorized signature _____ (Required) Date _____

Print Name _____ Title _____

E-mail _____ Phone _____ Fax _____

Please return all pages of this form with your signature to FAX (800)479-3365

IN THE CIRCUIT COURT OF THE TWENTYSECOND JUDICIAL CIRCUIT, MCHENRY COUNTY, ILLINOIS

DULBERG

Plaintiff/Petitioner

v.

GAGNON, ET. AL.

Defendant/Respondent

No. 12 LA 000178

SUBPOENA IN A CIVIL MATTER
(For Testimony and/or Documents)

To: JUSKIE PRINTING INC
2820 HITCHCOCK AVENUE, UNIT E
DOWNERS GROVE, IL 60515

- ☐ 1. YOU ARE COMMANDED to appear to give your testimony before the Honorable _____ in Room _____, Illinois on _____, at _____ m.
- ☐ 2. YOU ARE COMMANDED to appear and give your deposition testimony before a Notary Public at: _____ in Room _____, Illinois on _____, at _____ m.
- ☒ 3. YOU ARE COMMANDED to mail the following documents in your possession or control to COMPEX LEGAL SERVICES, INC. at 1016 WEST JACKSON BOULEVARD, SUITE 213, CHICAGO, IL 60607, on or before FEBRUARY 25, 2013 at 10:00 a.m.
(THIS IS FOR RECORDS ONLY. THERE WILL BE NO ORAL INTERROGATORIES);

☒ Description continued on attached page(s).

YOUR FAILURE TO RESPOND TO THIS SUBPOENA WILL SUBJECT YOU TO PUNISHMENT FOR CONTEMPT OF THIS COURT.

Notice to Deponent:

- ☒ 1. The deponent is a public or private corporation, partnership, association, or governmental agency. The matter(s) on which examination is requested are as follows: TO OBTAIN FACTUAL INFORMATION RELATING TO THE NATURE AND EXTENT OF INJURIES AND/OR DAMAGES ALLEGED BY THE PARTIES IN THIS LAWSUIT AND NO OTHER MEANS OF PRODUCTION ARE AVAILABLE.

☐ Description continued on attached page(s).

(A nonparty organization has a duty to designate one or more officers, directors, or managing agents, or other persons to testify on its behalf, and may set forth, for each person designated, the matters on which that person will testify. Ill. Sup. Ct. Rule 206.)

- ☐ 2. The deponent's testimony will be recorded by use of an audio-visual recording device, operated by _____ (Name of Recording Device Operator)
3. No discovery deposition of any party or witnesses shall exceed three hours regardless of the number of parties involved in the case, except by stipulation of the parties or by order upon showing that good cause warrants a lengthier examination. Ill. Sup. Ct. Rule 206(d).

Atty. No. _____ Pro Se 99500

Name: PERRY A. ACCARDO

Issued by: [S] PERRY A. ACCARDO

Atty. for: GAGNON

Signature

Address: 200 NORTH LASALLE STREET, SUITE 2650

☒ Attorney

City/State/Zip: CHICAGO, IL 60601

☐ Clerk of Court

Telephone: 312-558-9800

Date: FEBRUARY 07, 2013

- ☐ I served this subpoena by mailing a copy, as required by Ill. Sup. Ct. Rules 11, 12 and 204(a)(2), to _____ by certified mail, return receipt requested (Receipt # _____) on _____, I paid the witness \$ _____ for witness and mileage fees.
- ☐ I served this subpoena by handing a copy to _____ on _____, I paid the witness \$ _____ for witness and mileage fees.

(Signature of Server)

(Print Name)

ATTACHMENT 3

E61147-A

SUBJECT: DULBERG, PAUL

AKA: NOT PROVIDED

DOB: 03/19/1970

SSN: 323-76-4001

ALL DOCUMENTS AND RECORDS PERTAINING TO THE EMPLOYMENT AND/OR EARNINGS OF THE PLAINTIFF, INCLUDING ALL PAYROLL, THE APPLICATION FOR EMPLOYMENT, WORK ABSENCE RECORDS, INCIDENT REPORTS, ALL WORKERS' COMPENSATION FILES, ALL EMPLOYEE HEALTH AND MEDICAL RECORDS, INSURANCE RECORDS, PRE-EMPLOYMENT EXAMS, 1099 FORMS, EMPLOYEE PERFORMANCE RECORDS, INCLUDING BUT NOT LIMITED TO, CD ROM, TAPE DRIVE, FLOPPY DRIVE, HARD DRIVE, SCANNED DOCUMENTS AND ALL OTHER DOCUMENTS STORED ELECTRONICALLY OR DIGITALLY, PERTAINING TO THE PLAINTIFF, FROM THE FIRST DATE OF EMPLOYMENT, UP TO AND INCLUDING THE PRESENT.

ATTORNEY OR PARTY WITHOUT ATTORNEY: PERRY A. ACCARDO LAW OFFICE OF M. GERARD GREGOIRE 200 NORTH LASALLE STREET, SUITE 2650, CHICAGO, IL 60601		TELEPHONE NO (312) 558-9800	FOR COURT USE ONLY
ATTORNEY FOR: GAGNON			
NAME OF COURT: CIRCUIT COURT FOR THE STATE OF ILLINOIS POST OFFICE & FOR THE COUNTY OF MCHENRY STREET ADDRESS 2200 NORTH SEMINARY AVENUE, WOODSTOCK, IL 60098			
PLAINTIFF/PETITIONER: DULBERG DEFENDANT/RESPONDENT: GAGNON, ET. AL. CASE NUMBER: 12 LA 000178			
NOTICE OF DEPOSITION			

NOTICE TO ALL PARTIES AND THEIR ATTORNEY(S):

1. The production of documents by the Custodian of Records of the following business will be required as follows:

	DATE	TIME
JUSKIE PRINTING INC 2820 HITCHCOCK AVENUE, UNIT E, DOWNERS GROVE, IL 60515	02/25/2013	10:00 AM

Date: February 07, 2013

PERRY A. ACCARDO

(Type or Print Name)

|S| PERRY A. ACCARDO

(Signature)

ATTORNEY AT LAW

(Title)

NOTICE OF DEPOSITION

I am employed in LOS ANGELES County, California. I am over the age of 18 and not a party to the within action; my business address is: 1016 WEST JACKSON BOULEVARD, SUITE 213,
CHICAGO, IL 60607

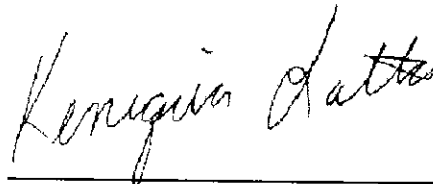
On 02/08/13, I gave notice to: SEE SERVICE LIST BELOW

On the above date, I served true copies of the following documents;
Subpoena

To each party appearing in this action, at the address below, by placing true copies thereof enclosed in a sealed envelope with postage fully pre-paid, in the United States mail at 325 MAPLE AVENUE,
TORRANCE, CA 90503

I declare under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct, and that this declaration was executed on 02/08/13.

SIGNED: _____



Keniqua Latta

THOMAS J. POPOVICH, P.C.
HANS A. MAST
3416 W. ELM ST
MCHENRY, IL 60050

CICERO, FRANCE, BARCH & ALEXANDER, P.C.
CICERO, FRANCE, BARCH & AL
6323 EAST RIVERSIDE BOULEVARD
ROCKFORD, IL 61114

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

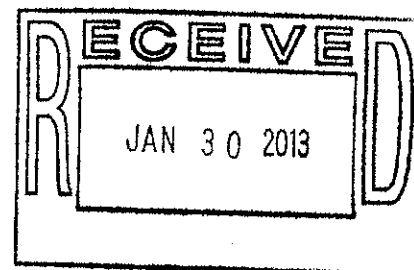
Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE McGUIRE and BILL
McGUIRE and CAROLINE McGUIRE
and BILL McGUIRE, Individually,

Defendants.

No. 12 LA 178



COPY

THIRD AMENDED NOTICE OF DISCOVERY DEPOSITIONS

TO: Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 E. Riverside Blvd.
Rockford, IL 61114
Fax: 815/226-7701

Perry Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle Street, Suite 2650
Chicago, IL 60601-1092
Fax: 312/558-9357

YOU ARE HEREBY NOTIFIED that on **March 20, 2013**, we shall for the purpose of discovery, take the depositions of

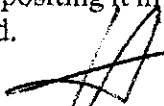
**BILL MCGUIRE at 1:00 P.M.; and
CAROLINE MCGUIRE at 2:00 P.M.**

at the **LAW OFFICES OF SCOTT A. HIERA, 3421 W. ELM STREET, MCHENRY, IL**, upon oral interrogatories, as though under cross examination, pursuant to the provisions of the Civil Practice Act and Rules of the Supreme Court.

This Notice is served upon you in conformity with the above-named Act and Rules and is intended to require the presence of the party, identified herein, at said time and place. It is requested that each party or counsel advise the undersigned attorney in writing 72 hours prior to the deposition should the witness require an interpreter for the English language.

CERTIFICATE OF SERVICE

I certify that I served this Notice via facsimile and by mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail at McHenry, IL 60050, on January 29, 2013 with proper postage prepaid.



HANS A. MAST, Attorney for Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH, P.C.
3416 West Elm Street
McHenry, IL 60050
815-344-3797
Attorney No. 6203684

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

Plaintiff,

vs.

No. 12 LA 178

DAVID GAGNON, Individually, and as
Agent of CAROLINE McGUIRE and BILL
McGUIRE and CAROLINE McGUIRE
and BILL McGUIRE, Individually,

Defendants.

THIRD AMENDED NOTICE OF DISCOVERY DEPOSITIONS

TO: Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 E. Riverside Blvd.
Rockford, IL 61114
Fax: 815/226-7701

Perry Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle Street, Suite 2650
Chicago, IL 60601-1092
Fax: 312/558-9357

YOU ARE HEREBY NOTIFIED that on **March 20, 2013**, we shall for the purpose of discovery, take the depositions of


**BILL MCGUIRE at 1:00 P.M.; and
CAROLINE MCGUIRE at 2:00 P.M.**

at the **LAW OFFICES OF SCOTT A. HIERA, 3421 W. ELM STREET, MCHENRY, IL**, upon oral interrogatories, as though under cross examination, pursuant to the provisions of the Civil Practice Act and Rules of the Supreme Court.

This Notice is served upon you in conformity with the above-named Act and Rules and is intended to require the presence of the party, identified herein, at said time and place. It is requested that each party or counsel advise the undersigned attorney in writing 72 hours prior to the deposition should the witness require an interpreter for the English language.

CERTIFICATE OF SERVICE

I certify that I served this Notice via facsimile and by mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail at McHenry, IL 60050, on January 29, 2013 with proper postage prepaid.


HANS A. MAST, Attorney for Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH, P.C.
3416 West Elm Street
McHenry, IL 60050
815-344-3797
Attorney No. 6203684

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

Plaintiff,

vs.

No. 12 LA 178

DAVID GAGNON, Individually, and as
Agent of CAROLINE McGUIRE and BILL
McGUIRE and CAROLINE McGUIRE
and BILL McGUIRE, Individually,

Defendants.

FOURTH AMENDED NOTICE OF DISCOVERY DEPOSITION

TO: Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 E. Riverside Blvd.
Rockford, IL 61114
Fax: 815/226-7701

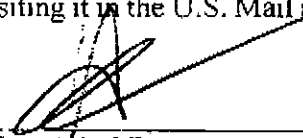
Perry Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle Street, Suite 2650
Chicago, IL 60601-1092
Fax: 312/558-9357

YOU ARE HEREBY NOTIFIED that on **FEBRUARY 4, 2013**, at **1:00 p.m.** we shall for the purpose of discovery, take the deposition of **DAVID GAGNON** at the **LAW OFFICES OF SCOTT A. HIERA, 3421 W. ELM STREET, MCHENRY, IL**, upon oral interrogatories, as though under cross examination, pursuant to the provisions of the Civil Practice Act and Rules of the Supreme Court.

This Notice is served upon you in conformity with the above-named Act and Rules and is intended to require the presence of the party, identified herein, at said time and place. It is requested that each party or counsel advise the undersigned attorney in writing 72 hours prior to the deposition should the witness require an interpreter for the English language.

CERTIFICATE OF SERVICE

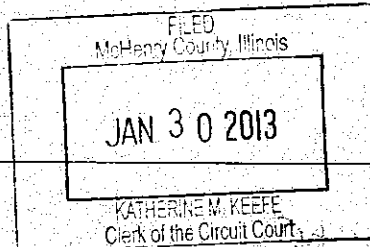
I certify that I served this Notice via facsimile and by mailing a copy to each person to whom it is directed at the address above indicated by depositing it in the U.S. Mail at McHenry, IL 60050, on January 25, 2013 with proper postage prepaid.


HANS A. MAST, Attorney for Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH, P.C.
3416 West Elm Street
McHenry, IL 60050
815-344-3797
Attorney No. 6203684

CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS }
COUNTY OF MCHENRY } SS



GEN. NO. 12 LA 178
☐ Jury ☐ Non-Jury

PAUL DUBOIS

VS.

GAGNON

et al.

Date 1/30/13 Plaintiff's Attorney WAST Defendant's Attorney BARRETT & GAGNON
ACCORDO & GAGNON

ORDER

THIS CAUSE COMING ON FOR STATUS ~~AND ON~~
MOTION DEFENDANT'S MOTION FOR LEAVE TO
AMEND ANSWER TO INCLUDE AFFIRMATIVE DEFENSE,
MOTION FOR LEAVE TO FILE CROSS CLAIM FOR
CONTRIBUTION AND MOTION TO DISMISS AS TO
DEFENDANT GAGNON, COME FOR THE PARTIES
APPEARING.

IT IS ORDERED:

- (1) DEFENDANT'S MOTION FOR LEAVE TO
ADD AFFIRMATIVE DEFENSE IS GRANTED;
- (2) DEFENDANT'S MOTION TO FILE CROSS CLAIM
FOR CONTRIBUTION IS GRANTED;
- (3) DEFENDANT'S MOTION TO DISMISS AS TO
DEFENDANT GAGNON IS GRANTED, DEFENDANT GAGNON
TO ANSWER WITHIN ~~10~~ DISCOVERY BY 2/4/13;
- (4) CASE RESET FOR A STATUS IN COMPLIANCE
OF PARTY NEUTRALITY FOR 4/3/13 at 9:00 AM.

Prepared by: _____

Attorney for: _____

Attorney Registration No.: _____

Judge _____

[Signature]

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

)
)
) Case No. 12 LA 178
)

) **AMENDED ANSWER AND**
) **AFFIRMATIVE DEFENSE BY**
) **DEFENDANTS BILL McGUIRE**
) **AND CAROLYN McGUIRE**
)
)
)

DEFENDANTS' ANSWER

ANSWER TO COUNT I

Defendants, BILL McGUIRE and CAROLYN McGUIRE, make no response to Count I of Plaintiff's Complaint inasmuch as said allegations are directed at a separate and distinct Defendant.

ANSWER TO COUNT II

Defendants, BILL McGUIRE AND CAROLYN McGUIRE (improperly named Caroline), by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their Answer to Count I of Plaintiff's Complaint, state as follows:

1. Defendants admit the allegations of paragraph one (1).
2. Defendants admit that on June 28, 2011, they owned and lived in a single family home located at 1016 W. Elder Avenue, City of McHenry, County of McHenry, Illinois. Defendants neither admit nor deny the remaining allegations set forth in paragraph two (2) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
3. Defendants deny the allegations of paragraph three (3).
4. Defendants deny the allegations of paragraph four (4).

5. Defendants admit that on June 28, 2011, Defendant David Gagnon was engaged in cutting, trimming and maintaining trees and brush on the premises at 1016 W. Elder Avenue, in the City of McHenry, County of McHenry, Illinois. Defendants admit that David Gagnon was doing so at their request, with their authority and permission and for their benefit. Defendants deny the remaining allegations of paragraph five (5).
6. Defendants admit that Defendant David Gagnon used a chain saw from time to time on June 28, 2011. Defendants admit that they owned a chain saw on June 28, 2011. Defendants deny the remaining allegations of paragraph six (6).
7. Defendants deny the allegations of paragraph seven (7).
8. Defendants deny the allegations of paragraph eight (8).
9. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations set forth in paragraph nine (9). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
10. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations of paragraph ten (10). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
11. Defendants deny the allegations of paragraph eleven (11).
12. Defendants deny the allegations of paragraph twelve (12).
13. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations of paragraph thirteen (13). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
14. The answering Defendants were not present and therefore lack sufficient

information upon which to form a belief as to the truth of the allegations of paragraph fourteen (14). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.

15. Defendants make no response to the allegations set forth in paragraph fifteen (15) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
16. Defendants admit that at all relevant times they owned and lived in the premises that are the subject of Plaintiff's Complaint. Defendants neither admit nor deny the remaining allegations set forth in paragraph sixteen (16) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
17. Defendants make no response to the allegations set forth in paragraph fifteen (15) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
18. Defendants deny the allegations of paragraph eighteen (18).
19. Defendants admit that Defendant David Gagnon used a chain saw from time to time on June 28, 2011. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to whether Defendant David Dagnon was operating a chain saw with the assistance of Plaintiff Paul Dulberg. Defendants neither admit nor deny the remaining allegations set forth in paragraph nineteen (19) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
20. Defendants make no response to the allegations set forth in paragraph twenty (20) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
21. Defendants deny the allegations of paragraph twenty-one (21).
22. Defendants deny the allegations of paragraph twenty-two (22).

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, pray the court dismiss Count I of Plaintiff's Complaint and enter judgment for the Defendants for their costs of suit.

Defendants Hereby Demand A Trial By Jury

DEFENDANTS' AFFIRMATIVE DEFENSE

The Defendants, BILL McGUIRE and CAROLYN McGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their Affirmative Defense to Count II of Plaintiff's Complaint, state as follows:

1. That on the date and at the place alleged in the Plaintiff's Complaint, the Plaintiff, PAUL DULBERG, was guilty of negligence by failing to exercise due care and caution for his own safety, in that he:

- a. Failed to use due care and caution as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches.
- b. Failed to use due care and caution as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches when he knew and appreciated the dangers associated with chainsaw usage.
- c. Was inattentive and unobservant to surrounding conditions and dangers as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches.
- d. Notwithstanding a reasonable opportunity to do so, failed to maintain a safe distance between himself and an operating chainsaw.
- e. Was otherwise careless and negligent as will be demonstrated by the evidence at trial.

2. That by reason of the aforesaid negligence of the Plaintiff, PAUL DULBERG, and as a direct and proximate result thereof, the Plaintiff sustained the damages claimed.

3. That pursuant to the Illinois Code of Civil Procedure, Section 5/2-613(d) and Section 5/2-1116, the Complaint of PAUL DULBERG should be dismissed in that the contributory

fault on the part of the Plaintiff was more than 50 percent and, therefore, PAUL DULBERG's Complaint is barred.

4. Or, in the alternative, that any verdict against the Defendants, BILL McGUIRE and CAROLYN McGUIRE, should be reduced in direct proportion to the percentage of PAUL DULBERG's contributory negligence causing his claimed injuries.

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, moves this Court for an Order dismissing Count I of Plaintiff's Complaint, costs being assessed to the Plaintiff.

Defendants Hereby Demand A Trial By Jury

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By

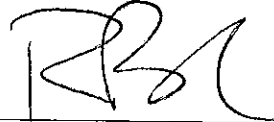


RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

RONALD A. BARCH, being first duly sworn on oath, deposes and states that he is one of the attorneys for the Defendants, BILL McGUIRE and CAROLYN McGUIRE, that he has read the foregoing Answer signed by him; that the allegations as to insufficient knowledge are true to the best of his knowledge and belief.



RONALD A. BARCH

Subscribed and sworn to before
me on 1-25-13.

Tina A. Fink
Notary Public



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/25/13.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

6. On the date and in the location set forth in Plaintiff's Complaint, the chainsaw being then and there operated by Defendant David Gagnon made contact with the right arm of Plaintiff PAUL DULBERG.

7. At the time and place alleged, notwithstanding his aforementioned duty, Defendant David Gagnon was then and there guilty of one or more of the following negligent acts and/or omissions:

- a. Caused or permitted a chainsaw to make contact with Plaintiff's right arm;
- b. Failed to operate said chainsaw in a safe and reasonable manner so as to avoid injuring Plaintiff's right arm;
- c. Failed to maintain a reasonable and safe distance between the chainsaw he was operating and Plaintiff's right arm;
- d. Failed to properly instruct Plaintiff prior to approaching him with an operating chainsaw;
- e. Failed to properly warn Plaintiff prior to approaching him with an operating chainsaw;
- f. Failed to maintain the chainsaw in the idle or off position when he knew or should have known that Plaintiff was close enough to sustain injury from direct contact with the subject chainsaw;
- g. Failed to maintain a proper lookout for Plaintiff while operating the subject chainsaw;
- h. Failed to maintain proper control over an operating chainsaw;
- i. Was otherwise negligent in the operation and control of the subject chainsaw.

8. That the injuries alleged by Plaintiff PAUL DULBER, if any, were the direct and proximate result of negligence on the part of Defendant David Gagnon.

9. By virtue of those aforesaid actions, Defendant David Gagnon is a joint tortfeasor within the meaning of the Illinois Contribution Among Joint Tortfeasors Act (740 ILCS 100/0.01, et seq.) which was in full force and effect on the date of the occurrence and, as such, the State of

Illinois recognizes the right of contribution among joint tortfeasors.

9. Should the Defendants Bill McGuire and Carolyn McGuire be found liable for the injuries to Plaintiff PAUL DULBERG, Defendants Bill McGuire and Carolyn McGuire are entitled to contribution from Defendant David Gagnon for that portion of the total recoveries, if any, by Plaintiff PAUL DULBERG that the Defendants Bill McGuire and Carolyn McGuire are required to pay in excess of their pro rata share of the liability pursuant to the aforesaid Illinois Contribution Among Joint Tortfeasors Act.

WHEREFORE, the Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, demand judgment in their favor and against Defendant David Gagnon for any and all sums for which Defendants BILL MCGUIRE and CAROLYN MCGUIRE may be held liable to Plaintiff PAUL DULBERG, in excess of their pro rata share.

Defendants Hereby Demands A Trial By Jury

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

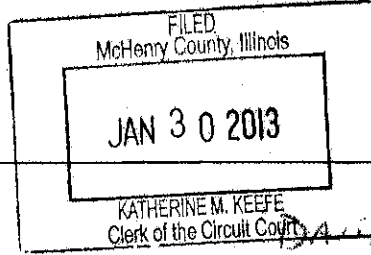
by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/25/13.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

CIRCUIT COURT FOR THE 22ND JUDICIAL CIRCUIT

STATE OF ILLINOIS }
COUNTY OF MCHENRY } SS



GEN. NO. 12 LA 178
☐ Jury ☐ Non-Jury

PAUL DUBERG

VS.

GAGNON

et al.

Date 1/30/13 Plaintiff's Attorney MAST Defendant's Attorney BARRY - & LEGAL RECORDS - GAGNON

ORDER

THIS CASE COMING ON FOR STATUS ~~AND ON~~
McGUIRE DEFENDANTS' MOTIONS FOR LEAVE TO
AMEND ANSWER TO INCLUDE AFFIRMATIVE DEFENSES,
MOTION FOR LEAVE TO FILE CROSS-CLAIM FOR
CONTRIBUTIONS AND MOTION TO COMPEL AS TO
DEFENDANT GAGNON, COUNSEL FOR ALL PARTIES
APPEARING.

IT IS ORDERED:

- (1) ~~DEF~~ McGUIRE DEFENDANTS' MOTION FOR LEAVE TO
ADD AFFIRMATIVE DEFENSE IS GRANTED;
- (2) McGUIRE DEFENDANTS' MOTION TO FILE CROSS-CLAIM
FOR CONTRIBUTIONS IS GRANTED;
- (3) McGUIRE DEFENDANTS' MOTION TO COMPEL AS TO
DEFENDANT GAGNON IS GRANTED; DEFENDANT GAGNON
TO ANSWER WRITTEN ~~DISCOVERY~~ DISCOVERY BY 2/4/13;
- (4) CASE SET FOR STATUS ON COMPLETION
OF PARTY DEPOSITIONS FOR 4/3/13 at 9:00 AM.

Prepared by: _____

Attorney for: _____

Attorney Registration No.: _____

Judge _____

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

NOTICE OF MOTION

TO: ATTACHED SERVICE LIST

YOU ARE HEREBY notified that on the **30th day of January, 2013, at 9:00 o'clock A.M.**, or soon thereafter as Counsel may be heard, I shall appear before his Honor, Judge Thomas A. Meyer, in the room usually occupied by him as a Court Room, or in his absence, before any other Judge that may be presiding in said Court Room, in the Courthouse in McHenry County at Rockford, Illinois, and then and there present: Defendants' Motion to Compel; At which time and place you may appear, if you so desire.

Dated: January 25, 2013

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

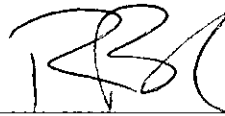
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/25/13.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,)	
)	
Plaintiff,)	Case No. 12 LA 178
)	
vs.)	
)	
DAVID GAGNON, Individually, and as)	
Agent of CAROLINE MCGUIRE and BILL)	
MCGUIRE, and CAROLINE MCGUIRE)	
and BILL MCGUIRE, Individually,)	
)	
Defendants.)	

MOTION TO COMPEL

Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, hereby moves the Court for an Order compelling Defendant David Gagnon to answer Interrogatories and a Request for Production previously propounded upon him. In support of their Motion, the movants further state as follows:

1. On September 27, 2012, the Defendants Bill McGuire and Carolyn McGuire served upon the Defendant David Gagnon written interrogatories and a production request to be answered within 28 days.
2. On October 29, 2012, during efforts to schedule party depositions, counsel for the movants orally requested Defendant Gagnon's discovery responses. The subject was revisited during Plaintiff Dulberg's deposition on January 24, 2013.
3. As of the date of writing, Defendant Gagnon has failed to cooperate in discovery by failing to answer the movant's written interrogatories and production request.

WHEREFORE, the Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, pray that the Court enter an Order compelling Defendant GAGNON to provide responses to Defendants' written discovery within seven (7) days.

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By 
RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

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Attorney Hans A. Mast
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McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
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Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

NOTICE OF MOTION

TO: ATTACHED SERVICE LIST

YOU ARE HEREBY notified that on the 30th day of January, 2013, at 9:00 o'clock A.M., or soon thereafter as Counsel may be heard, I shall appear before his Honor, Judge Thomas A. Meyer, in the room usually occupied by him as a Court Room, or in his absence, before any other Judge that may be presiding in said Court Room, in the Courthouse in McHenry County at Rockford, Illinois, and then and there present: Defendants' Motion for Leave to File Amended Answer and Affirmative Defense; At which time and place you may appear, if you so desire.

Dated: January 25, 2013

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

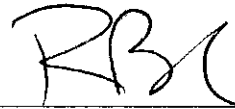
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Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 11/25/13.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

re Dulberg

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PS Form 3800, August 2006

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A. Signature ☒ Agent ☐ Addressee
B. Received by (Printed Name) Date of Delivery
Todd Tedrow 11/04/13
C. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

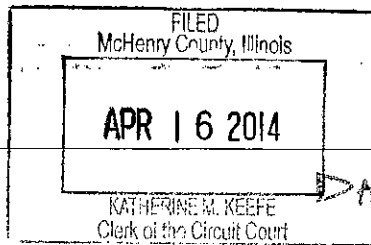
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460 Walbeck Drive
Twin Lakes, WI 53181

2. Article Number
(Transfer from service label)

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102595-02-M-1540

STATE OF ILLINOIS }
COUNTY OF MCHENRY } SS

GEN. NO. 124178

☒ Jury ☐ Non-JuryPAUL
DULBERG

vs.

David GAGNON,
et al

Date 4/16/14 Plaintiff's KANS Defendant's RON BARCK - McGuire's
 Attorney MART Attorney PERY ACORDS - GAGNON

ORDER

This cause coming on before the Court on the McGuire Defendants' Motion to Vacate Protective Order, counsel for Plaintiff & the movant present, and there being no objection,

IT IS ORDERED:

- (1) The McGuire Defendants' Motion to Vacate the Protective Order (entered on 8/8/12 and amended on 4/3/13) is heard and granted.
- (2) Case shall remain set for 8/13/14 at 9:00 a.m.

Prepared by: Ron BarckAttorney for: McGuire DefendantsAttorney Registration No.: 6209572Judge 

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

NOTICE OF MOTION

TO: Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle Street, Suite 2650
Chicago, IL 60601-1092

YOU ARE HEREBY notified that on the 16th day of April, 2014, at 9:00 o'clock A.M., or soon thereafter as Counsel may be heard, I shall appear before his Honor, Judge Thomas A. Meyer, in the room usually occupied by him as a Court Room (#201), or in his absence, before any other Judge that may be presiding in said Court Room, in the Courthouse in McHenry County at Rockford, Illinois, and then and there present: **McGuire Defendants' Motion to Vacate Protective Order**; At which time and place you may appear, if you so desire.

Dated: January 9, 2014

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, PC
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700

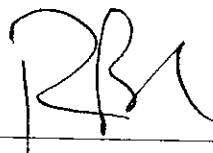
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon:

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Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid, at Rockford, Illinois, at 5:00 o'clock p.m. on April 4, 2014.

A handwritten signature consisting of the letters 'R' and 'B' in a stylized, cursive-like font, positioned above a horizontal line.

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

McGUIRE DEFENDANTS' MOTION TO VACATE PROTECTIVE ORDER

Defendants, CAROLYN McGUIRE and BILL McGUIRE, by their attorneys, Cicero, France, Barch & Alexander, PC, hereby move this Court to vacate the Protective Order entered on August 8, 2012 and modified on April 3, 2013. In further support of the Motion, Defendants Carolyn and Bill McGuire state as follows:

1. On or about May 5, 2012, the Plaintiff, Paul Dulberg, filed a multiple count complaint alleging he suffered injuries as a result of negligence on the parts of David Gagnon, Carolyn McGuire and Bill McGuire. In general, Plaintiff alleges he sustained severe and permanent injuries when a chain saw being operated by David Gagnon made contact with his arm.

2. On July 31, 2012, Plaintiff filed a Motion for Protective Order wherein he alleged that Plaintiff's counsel (Attorney Hans Mast) wanted an opportunity to photograph and inspect the subject "chain saw" and any parts, accessories and manual/paperwork pertaining to the saw. In his prayer for relief, Plaintiff requested a protective order declaring the "saw and its parts and

accessories and paperwork/manual be preserved and protected without destruction or loss until further order of this court.” A copy of Plaintiff’s Motion for Protective Order is attached as “Exhibit A.”

3. On August 8, 2012, the Court granted Plaintiff’s Motion for Protective Order. A copy of the Court’s order of August 8, 2012 is attached as “Exhibit B.”

4. On March 20, 2013, the depositions of Carolyn McGuire and Bill McGuire proceeded with counsel for Plaintiff (Attorney Hans Mast) and counsel for Co-Defendant (Attorney Perry Accardo) present. Prior to the start of the depositions the “chain saw” allegedly involved in the injury to Plaintiff was presented for inspection and photographing. Plaintiff’s counsel photographed the chain saw and also photographed the Owner’s Manual.

5. On April 3, 2013, the Court’s protective order was modified to allow the owners to utilize the chain saw and Owner’s Manual in the ordinary course. The protective order further directed that the owners shall not sell or discard the chain saw, parts, accessories and associated paperwork without further order of the court. A copy of the Amended Protective Order dated April 3, 2013 is attached as “Exhibit C.”

6. Subsequent to the entry of the amended protective order the Plaintiff reached a settlement agreement with Carolyn McGuire and Bill McGuire as to all matters in controversy, whereupon the negligence claims and contribution claims against them were dismissed with prejudice. A copy of the Good Faith Finding and Order of Dismissal entered on January 22, 2014 is attached as “Exhibit D.”

7. With the claims against Carolyn McGuire and Bill McGuire fully resolved, counsel for the McGuires issued a letter to Attorney Mast and Attorney Accardo seeking an agreement to

have the pending protective order vacated. A copy of the February 12, 2014, letter to counsel is attached as "Exhibit E."

8. During a chance meeting in the Winnebago County Courthouse shortly after the February 12 letter issued, Attorney Accardo advised informally that he had no objection to vacating the protective order. Counsel for the McGuires has not heard from Attorney Mast.

9. Counsel for Plaintiff and Counsel for Defendant Gagnon have both had an opportunity to photograph and inspect the subject chain saw. In addition, both attorneys have copies of the Owner's Manual associated with the subject chain saw.

10. The subject chain saw was brand new on the date of Plaintiff's claimed injury and Plaintiff does not allege or claim that he was injured due to a manufacturing defect associated with the subject chain saw.

11. No prejudice will result to Plaintiff or Defendant Gagnon should this Court vacate the Amended Protective Order.

12. No just reason exists to delay the McGuires' request to vacate the Amended Protective Order.

WHEREFORE, the Defendants, Carolyn McGuire and Bill McGuire, respectfully pray this court to vacate the Amended Protective Order dated April 3, 2013.

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

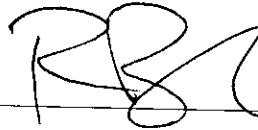
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 4/4/14.



A handwritten signature, likely of Perry A. Accardo, is written over a horizontal line.

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

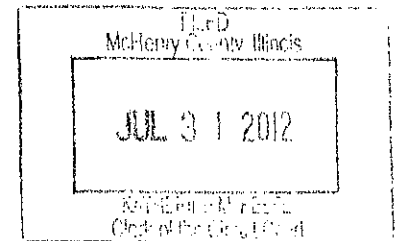
Plaintiff,

vs.

No. 12 LA 178

DAVID GAGNON, Individually, and as
Agent of CAROLINE McGUIRE and BILL
McGUIRE and CAROLINE McGUIRE
and BILL McGUIRE, Individually,

Defendants.

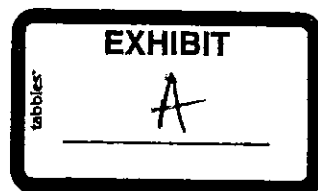


PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

NOW COME the Plaintiff, PAUL DULBERG, by and through his attorneys, LAW OFFICES OF THOMAS J. POPOVICH, P.C. and for his Motion for Protective Order to preserve and protect the "chain saw" involved in the underlying occurrence along with all parts and accessories and manual/paperwork, and states as follows:

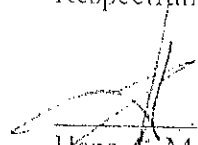
1. This suit arises from injuries suffered by the Plaintiff, PAUL DULBERG, on June 28, 2011, when he was negligently struck by a "chain saw" operated by DAVID GAGNON while working on behalf and/or at the request of the Defendants, CAROLINE McGUIRE and BILL McGUIRE at their premises at 1016 W. Elder Avenue, in the City of McHenry, County of McHenry, Illinois.

2. Plaintiff's counsel would like an opportunity to photograph and inspect the subject "chain saw" and any parts, accessories and manual/paperwork pertaining to the saw and moves that this court order the "saw and its parts and accessories and paperwork/manual be preserved and protected without destruction or loss until further order of this court."



WHEREFORE, the Plaintiff, PAUL DULBERG, respectfully moves this Court to enter a protective order against the Defendants, their agents, employees, staff and/or representatives and any others under it's control, and it's attorneys, to preserve and protect the chain saw and its parts and accessories and paperwork/manual, from any destruction, alterations, modifications, or other changes from its condition as presently exists, until further order of the court and to present the saw and its parts etc within 30 days hereof to the Plaintiff's counsel for inspection and photographing.

Respectfully Submitted:



Hans A. Mast, Attorney for Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH, P.C.

3416 W. Elm Street

McHenry, IL 60050

815/344-3797

ARDC. #06203684

McHENRY COUNTY, ILLINOIS

AUG - 8 2012

KATHERINE M. KEEFE
Clerk of the Circuit Court

Circuit Clerk Use Only

ORD

ORDJ

ORDDWP

Plaintiff

vs

Case Number

12 LA 178

Defendant

ORDER

- ☒ Plaintiff(s) appear in person/by attorney T. Freeman / Papovich
- ☐ Defendant(s) appear in person/by attorney Ken Borch
- ☐ Summons not served; alias summons to issue; return date _____, 20____
- ☐ Summons has been properly served on Defendant(s) _____
- ☐ Defendant(s) appear and admit liability. Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ Defendant(s), having failed to appear or otherwise respond to the summons, is found in default. Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ Case set for ☐ trial ☐ arbitration on _____, 20____ at _____ m. in Courtroom _____
- ☐ Defendant(s) shall file an Appearance within _____ days of today's date, or without further Notice to Defendant(s), the trial date will be stricken and a judgment by default will be entered against Defendant(s) and in favor of Plaintiff(s).

NOTICE TO DEFENDANT(S): THIS IS THE ONLY NOTICE YOU WILL RECEIVE OF THE TRIAL, OR ARBITRATION DATE AND YOUR OBLIGATION TO FILE AN APPEARANCE.

- ☐ Defendant(s) shall file an answer or other pleading within _____ days of today's date.
- ☒ This case is continued on Motion of ☐ Plaintiff; ☐ Defendant; ☐ By Agreement; ☒ Court; to 9-18, 2012 at 9:00 a m. for Status
- ☐ Case called, Plaintiff(s) fail to appear. Case dismissed for Plaintiff's failure to prosecute.
- ☐ Case dismissed with/without prejudice on Plaintiff's motion.
- ☐ After trial of this case, the Court enters a Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ After trial of this case, the Court enters a Judgment for Defendant(s) against Plaintiff(s).
- ☒ COURT FURTHER ORDERS: Plaintiff Motion for Protective Order is granted as set forth in Plaintiff Motion.

Date: _____

EXHIBIT

B

Judge

STATE OF ILLINOIS }
COUNTY OF MCHENRY } SS

GEN. NO.

12A178
☐ Jury ☐ Non-Jury

Paul D. B. B. B.

Demio (Linn.) A. R.

vs.

Date.

4312

Plaintiff's
Attorney_

**Defendant's
Attorney** _____

[illegible]

ORDER

covered for all parties appearing, and
 the two young women took the African
 Department and the other women went
 forward for the same photographing and
 copying on March 2, 1913.

1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Arar and Collins (1971).

The following balance sheet on Aug. 17, 1912 in Albany Washington and elsewhere is follows:

[illegible]

Prepared by: _____

Attorney for: _____ **EXHIBIT**

Attorney Registration No.: _____

Judge _____

EXHIBIT

C

ORD 1

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

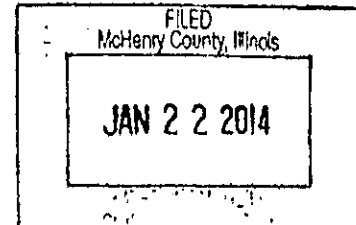
Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

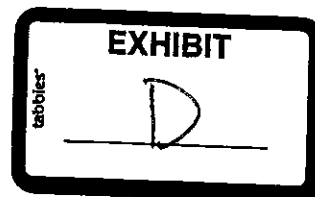


GOOD FAITH FINDING AND ORDER OF DISMISSAL

THIS CAUSE coming on to be heard on the Motion for Good Faith Finding and for Order of Dismissal with Prejudice filed by Defendants Bill McGuire and Carolyn McGuire, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

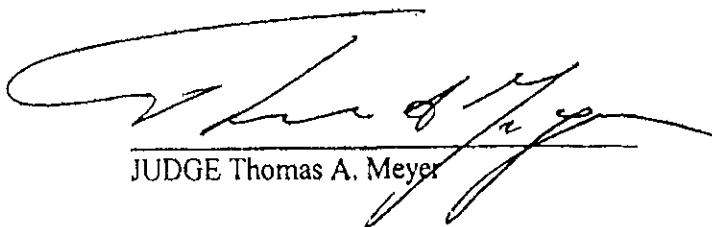
1. That settlement between Plaintiff Paul Dulberg and Defendants Bill McGuire and Carolyn McGuire (improperly named Caroline) constitutes a fair and reasonable and good faith settlement within the meaning of the Illinois Joint Tortfeasor Contribution Act, 740 ILCS 0.01 et seq.
2. That the good faith settlement shall henceforth constitute a bar to any and all claims that Plaintiff Paul Dulberg and Defendant David Gagnon and other known or unknown tortfeasors may have against Defendants Bill McGuire and Carolyn McGuire on account of or arising out of the injuries, if any, sustained by Plaintiff Paul Dulberg as a result of the alleged chain saw accident that occurred on June 28, 2011, whether by way of original action, third party claim, cross-claim, counterclaim, claim for contribution or otherwise.



3. That Defendants Bill McGuire and Carolyn McGuire be and are hereby dismissed from the above-captioned lawsuit as party defendants and cross-claimants, with prejudice, and in bar of further suit.

4. That that there is no just reason to delay the enforcement or appeal of this good faith finding and order of dismissal.

DATED: _____



JUDGE Thomas A. Meyer

Prepared by:
Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700

CICERO, FRANCE, BARCH & ALEXANDER, P.C.

A Professional Corporation
Attorneys at Law
6323 EAST RIVERSIDE BOULEVARD
ROCKFORD, ILLINOIS 61114

PAUL R. CICERO
JOHN W. FRANCE
RONALD A. BARCH
CHARLES P. ALEXANDER

CHANTEL R. BIELSKIS
ANDREW T. SMITH

February 12, 2014

TEL: (815) 226-7700
FAX: (815) 226-7701

COPY

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich, PC
3416 West Elm Street
McHenry, IL 60050

Attorney Perry A. Accardo
Law Office of Steven A. Lihosit
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601

Case: *Paul Dulberg v. David Gagnon, Caroline McGuire and Bill McGuire*
(McHenry County Case No. 12 LA 178)

Dear Counsel:

With my departure from the case I feel compelled to address the subject of the chain saw that was involved in Mr. Dulberg's injury. Early on in the case a protective order was entered which prohibited Mr. and Mrs. McGuire from destroying or otherwise disposing of the chain saw and any associated documentation. The primary purpose behind the order of protection was to preserve the chainsaw and associated documentation until such time that Plaintiff's counsel could inspect and photograph same.

On March 20, 2013, the chain saw and owner's manual were made available for inspection and photographing. Plaintiff's counsel inspected and photographed the chainsaw. Plaintiff's counsel also secured a photocopy of the owner's manual.

On April 3, 2013, the protective order was modified to allow the Plaintiffs to use the subject chainsaw, owner's manual and associated paperwork in the ordinary course. The order further provides, however, that the owners may not destroy, dispose of, or sell the items without further order of the court.

Given the above, I am concerned about the possibility of a spoliation claim in the event the McGuires destroy, dispose of, or otherwise sell the chainsaw following my departure from the case. Please advise in writing whether you believe there is any reason to maintain the protective order as it currently exists. If not, I believe it makes sense to have the April 3, 2013 version of the protective order vacated.

I look forward to hearing from both of you at your earliest convenience.



Very truly yours,

A handwritten signature in black ink, appearing to be 'RAB' with a stylized flourish at the end.

RONALD A. BARCH

RB:mj\44ltr.OC

Encl.

CC Tom Malatia (13-2779-11)

ORD

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

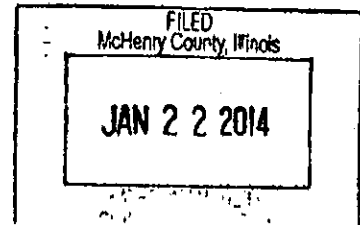
Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178



GOOD FAITH FINDING AND ORDER OF DISMISSAL

THIS CAUSE coming on to be heard on the Motion for Good Faith Finding and for Order of Dismissal with Prejudice filed by Defendants Bill McGuire and Carolyn McGuire, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

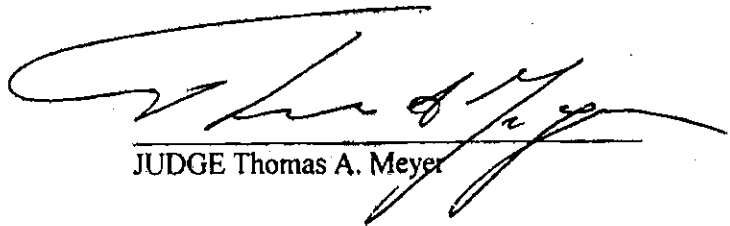
1. That settlement between Plaintiff Paul Dulberg and Defendants Bill McGuire and Carolyn McGuire (improperly named Caroline) constitutes a fair and reasonable and good faith settlement within the meaning of the Illinois Joint Tortfeasor Contribution Act, 740 ILCS 0.01 et seq.

2. That the good faith settlement shall henceforth constitute a bar to any and all claims that Plaintiff Paul Dulberg and Defendant David Gagnon and other known or unknown tortfeasors may have against Defendants Bill McGuire and Carolyn McGuire on account of or arising out of the injuries, if any, sustained by Plaintiff Paul Dulberg as a result of the alleged chain saw accident that occurred on June 28, 2011, whether by way of original action, third party claim, cross-claim, counterclaim, claim for contribution or otherwise.

3. That Defendants Bill McGuire and Carolyn McGuire be and are hereby dismissed from the above-captioned lawsuit as party defendants and cross-claimants, with prejudice, and in bar of further suit.

4. That that there is no just reason to delay the enforcement or appeal of this good faith finding and order of dismissal.

DATED: _____

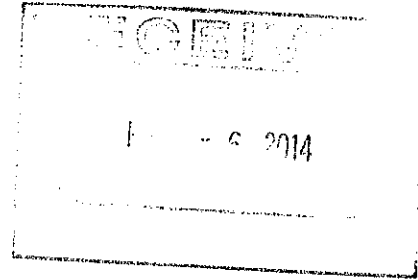


JUDGE Thomas A. Meyer

Prepared by:
Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700



Katherine M. Keefe
Clerk of the Circuit Court
22nd Judicial Circuit - McHenry County, Illinois
2200 N. Seminary Avenue
Woodstock, IL 60098
www.mchenrycircuitclerk.org



RECEIPT FOR PAYMENT

Receipt: 4500049

Date: Feb 05, 2014

Time: 10:37 AM

Received From: CICERO FRANCE BARCH & ALEXANDER PC

Paid By: CHECK OR MONEY ORDER(2457)

\$2.50

Total Paid:

\$2.50

Case Number: 12LA000178

DULBERG, PAUL VS GAGNON, DAVID, ET AL

COPIES COST

\$2.50

Total Paid on this case:

\$2.50

Balance Due:

\$0.00

** The Balance Due can increase if a warrant or other court-ordered paper is served by an arresting agency.

GENERAL RELEASE AND SETTLEMENT AGREEMENT

NOW COMES PAUL DULBERG, and in consideration of the payment of Five-Thousand (\$5,000.00) Dollars to him, by or on behalf of the WILLIAM MCGUIRE and CAROLYN MCGUIRE (aka Bill McGuire; improperly named as Caroline McGuire) and AUTO-OWNERS INSURANCE COMPANY, the payment and receipt of which is hereby acknowledged, PAUL DULBERG does hereby release and discharge the WILLIAM MCGUIRE and CAROLYN MCGUIRE and AUTO-OWNERS INSURANCE COMPANY, and any agents or employees of the WILLIAM MCGUIRE and CAROLYN MCGUIRE and AUTO-OWNERS INSURANCE COMPANY, of and from any and all causes of action, claims and demands of whatsoever kind or nature including, but not limited to, any claim for personal injuries and property damage arising out of a certain chain saw incident that allegedly occurred on or about June 28, 2011, within and upon the premises known commonly as 1016 West Elder Avenue, City of McHenry, County of McHenry, State of Illinois.

IT IS FURTHER AGREED AND UNDERSTOOD that there is presently pending a cause of action in the Circuit Court of the 22nd Judicial Circuit, McHenry County, Illinois entitled "Paul Dulberg, Plaintiff, vs. David Gagnon, Individually, and as agent of Caroline McGuire and Bill McGuire, and Caroline McGuire and Bill McGuire, Individually, Defendants", Cause No. 2012 LA 178, and that this settlement is contingent upon WILLIAM MCGUIRE and CAROLYN MCGUIRE being dismissed with prejudice as parties to said lawsuit pursuant to a finding by the Circuit Court that the settlement between the parties constitutes a good faith settlement for purposes of the Illinois Joint Tortfeasor Contribution Act, 740 ILCS 100/0.01, *et seq.*

IT IS FURTHER AGREED AND UNDERSTOOD that as part of the consideration for this agreement the undersigned represents and warrants as follows (check applicable boxes):

- ☒ I was not 65 or older on the date of the occurrence.
- ☒ I was not receiving SSI or SSDI on the date of the occurrence.
- ☐ I am not eligible to receive SSI or SSDI.
- ☒ I am not currently receiving SSI or SSDI.

IT IS FURTHER AGREED AND UNDERSTOOD:

- a. That any subrogated claims or liens for medical expenses paid by or on behalf of PAUL DULBERG shall be the responsibility PAUL DULBERG, including, but not limited to, any Medicare liens. Any and all reimbursements of medical expenses to subrogated parties, including Medicare's rights of reimbursement, if any, shall be PAUL DULBERG's responsibility, and not the responsibility of the parties released herein.
- b. That any outstanding medical expenses are PAUL DULBERG's responsibility and all payment of medical expenses hereafter shall be PAUL DULBERG's responsibility, and not the responsibility of the parties released

- c. That PAUL DULBERG agrees to save and hold harmless and indemnify the parties released herein against any claims made by any medical providers, including, but not limited to Medicare or parties subrogated to the rights to recover medical or Medicare payments.

IT IS FURTHER AGREED AND UNDERSTOOD by the parties hereto that this agreement contains the entire agreement between the parties with regard to materials set forth herein, and shall be binding upon and inure to the benefit of the parties hereto, jointly and severally, and the executors, conservators, administrators, guardians, personal representatives, heirs and successors of each.

IT IS FURTHER AGREED AND UNDERSTOOD that this settlement is a compromise of a doubtful and disputed claim and no liability is admitted as a consequence hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the dates set forth below.

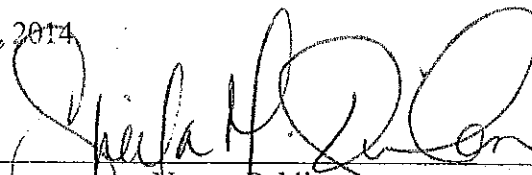
Dated: 1-29-2014

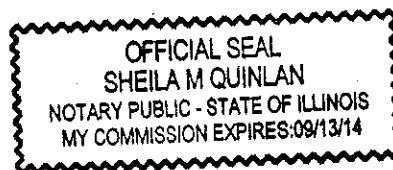

PAUL DULBERG

STATE OF ILLINOIS)
) SS.
COUNTY OF MCHENRY)

PAUL DULBERG personally appeared before me this date and acknowledged that she executed the foregoing Release and Settlement Agreement as his own free act and deed for the uses and purposes set forth therein.

Dated this 29th day of January, 2014


Notary Public



STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

STATUS ALSO
SET FOR

4/4/14

@ 9:00

NOTICE OF MOTION

TO: ATTACHED SERVICE LIST

YOU ARE HEREBY notified that on the 22nd day of January, 2014, at 9:00 o'clock A.M., or soon thereafter as Counsel may be heard, I shall appear before his Honor, Judge Thomas A. Meyer, in the room usually occupied by him as a Court Room (#201), or in his absence, before any other Judge that may be presiding in said Court Room, in the Courthouse in McHenry County at Rockford, Illinois, and then and there present: **Defendant Bill McGuire and Defendant Carolyn McGuire's Motion for Good Faith Finding and for Order of Dismissal with Prejudice;** At which time and place you may appear, if you so desire.

Dated: January 9, 2014

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Attorney Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/9/14.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,)	
)	
Plaintiff,)	Case No. 12 LA 178
)	
vs.)	
)	
DAVID GAGNON, Individually, and as)	
Agent of CAROLINE MCGUIRE and BILL)	
MCGUIRE, and CAROLINE MCGUIRE)	
and BILL MCGUIRE, Individually,)	
)	
Defendants.)	

**MOTION FOR GOOD FAITH FINDING AND FOR ORDER OF
DISMISSAL WITH PREJUDICE BY DEFENDANTS BILL MCGUIRE
AND CAROLYN MCGUIRE**

Defendants, BILL MCGUIRE (aka William McGuire) and CAROLYN MCGUIRE (improperly named Caroline), by and through their attorneys, Cicero, France, Barch & Alexander, P.C., hereby move this Court to dismiss all claims against them with prejudice and further request this Court to find that the settlement set forth in this motion was made in good faith and within the meaning and contemplation of the Illinois Contribution Among Joint Tortfeasors Act, 740 ILCS 100/1, et seq. In support of their Motion, Defendants Bill McGuire and Carolyn McGuire state as follows:

1. On or about March 15, 2012, Plaintiff Paul Dulberg filed a multiple count complaint seeking damages for personal injuries he generally attributes to a chain saw incident that occurred on or about June 28, 2011, at and upon the premises owned by Defendants Bill McGuire and Carolyn McGuire, known commonly as 1016 West Elder Avenue, City of McHenry, County of McHenry, State of Illinois.
2. Plaintiff generally alleges that Defendant David Gagnon injured him with a chain

saw while working under the supervision and control of Defendants Bill McGuire and Carolyn McGuire. Defendant David Gagnon denies any and all liability for Plaintiff Paul Dulberg's injuries. Defendants Bill McGuire and Carolyn McGuire also deny any and all liability for Plaintiff Paul Dulberg's injuries and further deny that Defendant David Gagnon was under their control and supervision and working or acting as their employee or agent at the time of the alleged chain saw incident.

3. On February 1, 2013, Defendants Bill McGuire and Carolyn McGuire filed a cross-claim for contribution against Defendant David Gagnon. The cross-claim for contribution seeks contribution from Defendant David Gagnon for injuries claimed by Plaintiff Paul Dulberg and is based upon the terms and provisions of the Illinois Contribution Among Joint Tortfeasors Act, 740 ILCS 100/1, et seq.

4. Plaintiff Paul Dulberg and Defendants Bill McGuire and Carolyn McGuire have negotiated a settlement of all claims which Plaintiff brought or could have brought against Defendants Bill McGuire and Carolyn McGuire. The settlement was negotiated at arm's length over a substantial period of time, and with the advice of counsel on the part of both parties. There is no collusion or fraud on the part of any of the parties to the negotiation.

5. Pursuant to Section 100/2(c) of the Contribution Act, an alleged tortfeasor that settles with a claimant in good faith shall be discharged from liability for contribution to any other tortfeasors.

6. Defendants Bill McGuire and Carolyn McGuire deny and continue to deny liability to Plaintiff Paul Dulberg and further contest the nature and scope of the injuries Plaintiff Paul Dulberg attributes to the subject chain saw incident.

7. The lump-sum payment of \$5,000.00 to Plaintiff Paul Dulberg by or on behalf of

Defendants Bill McGuire and Carolyn McGuire constitutes adequate consideration for purposes of a good faith settlement under Section 100/2(c) of the Contribution Act.

8. Defendants Bill McGuire and Carolyn McGuire respectfully suggest that the settlement with Plaintiff Paul Dulberg is and was made in good faith within the meaning of the Illinois Contribution Among Joint Tortfeasors Act, 740 ILCS 100/2(c).

WHEREFORE, the Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, respectfully pray for the Court as follows:

- (1) For an Order declaring that the settlement between Plaintiff Paul Dulberg and Defendants Bill McGuire and Carolyn McGuire was made and entered into in good faith within the meaning of the Illinois Contribution Among Joint Tortfeasors Act, 740 ILCS 100/1, et seq.;
- (2) For an Order dismissing all civil complaints, cross-claims, counterclaims and contribution claims currently pending against Defendants Bill McGuire and Carolyn McGuire, and arising out of or otherwise connected to the injuries claimed by Plaintiff Paul Dulberg, with prejudice;
- (3) For an Order declaring that any potential future claims against Defendants Bill McGuire and Carolyn McGuire, including, without limitation, claims for contribution arising out of or otherwise connected to the chain saw incident and injuries claimed by Plaintiff Paul Dulberg, are barred;
- (4) For an Order declaring for purposes of Illinois Supreme Court Rule 304(a) that there is no just reason to delay enforcement or appeal of the Dismissal Order; and
- (5) That this Court enter an order granting such further relief as this Court deems just.

CAROLYN MCGUIRE and BILL MCGUIRE, Defendants,
by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

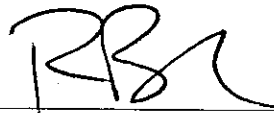
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

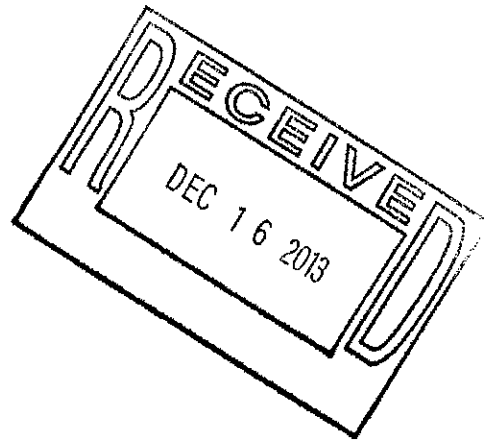
Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/9/14.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

CICERO, FRANCE, BARCH & ALEXANDER, P.C.
6323 EAST RIVERSIDE BOULEVARD
ROCKFORD, IL 61114
ATTN: CICERO, FRANCE, BARCH & AL



CASE NAME: **DULBERG v GAGNON, ET AL.**

COMPEX LEGAL SERVICES

325 Maple Avenue, Torrance, California 90503

(888) 685-4411

RECORD REQUEST FORM

Compex Order: F13657

CICERO, FRANCE, BARCH & ALEXANDER, P.C.
6323 EAST RIVERSIDE BOULEVARD
ROCKFORD, IL 61114

December 06, 2013

RE: DULBERG V. GAGNON, ET AL.
Case No.: 12 LA 000178
Record Subject: DULBERG, PAUL
Records requested by: LAW OFFICES OF STEVEN LIHOSIT

DEAR CICERO, FRANCE, BARCH & AL:

Compex Legal Services has been requested by the firm named above to obtain records from the locations listed below.

If you require copies of any of these records, please indicate by checking the box next to the appropriate location(s) and sign and return the form(s) to Compex Legal Services. If no boxes are checked, we will assume you are requesting records from all locations.

Please note:

By placing a check mark in the box next to a location, you have indicated your desire to receive a copy of the records received by Compex Legal Services from that location. Should you desire a copy of any original item(s) listed below the location, please indicate by checking the box before the item description. If you check "Films" and/or "Other" which may include copies of original items such as photos, blueprints, video or audio tapes, you must place your order within (2) business days of receipt of this notice to assure proper delivery.

☐ If a location provides a Certificate of No Records, you will receive a copy UNLESS this box is checked

Records Films Other
(If requested)

☐ ☐ ☐ A . ALEXIAN BROTHERS NEUROSCIENCES INSTITUTE

If your firm has an account with Compex Legal Services, normal billing will apply. If you represent an insurance carrier and prefer that we bill them directly, please provide the following information:

Carrier _____ Adjuster _____

Address _____ Phone _____

City, St _____ Zip _____

Claim _____ Insured _____

Your signature below confirms that you are ordering these records and agree to the terms and conditions(attached)

Authorized signature _____
(Required)

Date _____

Please return all pages of this form with your signature to FAX (800)479-3365

IN THE CIRCUIT COURT OF THE TWENTYSECOND JUDICIAL CIRCUIT, MCHENRY COUNTY, ILLINOIS

DULBERG

Plaintiff/Petitioner

v.

GAGNON, ET AL.

Defendant/Respondent

No. 12 LA 000178

SUBPOENA IN A CIVIL MATTER
(For Testimony and/or Documents)

To: ALEXIAN BROTHERS NEUROSCIENCES INSTITUTE
800 BIESTERFIELD ROAD, EBERLE BLDG., SUITE 610
ELK GROVE VILLAGE, IL 60007

- ☐ 1. YOU ARE COMMANDED to appear to give your testimony before the Honorable _____
in Room _____, Illinois on _____,
at _____ m.
- ☐ 2. YOU ARE COMMANDED to appear and give your deposition testimony before a Notary Public at: _____
in Room _____, Illinois on _____,
at _____ m.
- ☒ 3. YOU ARE COMMANDED to mail the following documents in your possession or control to COMPLEX LEGAL SERVICES, INC.
at 1016 WEST JACKSON BOULEVARD, SUITE 213, CHICAGO, IL 60607, on or before DECEMBER 24, 2013,
at 10:00 a.m.
(THIS IS FOR RECORDS ONLY. THERE WILL BE NO ORAL INTERROGATORIES.);

☒ Description continued on attached page(s).

YOUR FAILURE TO RESPOND TO THIS SUBPOENA WILL SUBJECT YOU TO PUNISHMENT FOR CONTEMPT OF THIS COURT.

Notice to Deponent:

- ☒ 1. The deponent is a public or private corporation, partnership, association, or governmental agency. The matter(s) on which examination is requested are as follows: TO OBTAIN FACTUAL INFORMATION RELATING TO THE NATURE AND EXTENT OF INJURIES AND/OR DAMAGES ALLEGED BY THE PARTIES IN THIS LAWSUIT AND NO OTHER MEANS OF PRODUCTION ARE AVAILABLE.

☐ Description continued on attached page(s).

(A nonparty organization has a duty to designate one or more officers, directors, or managing agents, or other persons to testify on its behalf, and may set forth, for each person designated, the matters on which that person will testify. Ill. Sup. Ct. Rule 206.)

- ☐ 2. The deponent's testimony will be recorded by use of an audio-visual recording device, operated by _____
(Name of Recording Device Operator)
3. No discovery deposition of any party or witnesses shall exceed three hours regardless of the number of parties involved in the case, except by stipulation of the parties or by order upon showing that good cause warrants a lengthier examination. Ill. Sup. Ct. Rule 206(d).

Atty. No. _____ Pro Se 99500

Name: PERRY A. ACCARDO

Issued by: [S] PERRY A. ACCARDO

Atty. for: GAGNON

Signature

Address: 200 NORTH LASALLE STREET, SUITE 2550

☒ Attorney

City/State/Zip: CHICAGO, IL 60601

☐ Clerk of Court

Telephone: 312-558-9800

Date: DECEMBER 06, 2013

- ☐ I served this subpoena by mailing a copy, as required by Ill. Sup. Ct. Rules 11, 12 and 204(a)(2), to _____
by certified mail, return receipt requested (Receipt # _____) on _____,
I paid the witness \$ _____ for witness and mileage fees.
- ☐ I served this subpoena by handing a copy to _____ on _____,
I paid the witness \$ _____ for witness and mileage fees.

(Signature of Server)

(Print Name)

ATTACHMENT 3

F13657-A

SUBJECT: DULBERG, PAUL

AKA: NOT PROVIDED

DOB: 03/19/1970

SSN: 323-76-4001

ALL DOCUMENTS AND RECORDS, INCLUDING, BUT NOT LIMITED TO, CD ROM, TAPE DRIVE, FLOPPY DRIVE, HARD DRIVE, SCANNED DOCUMENTS, EMAIL CORRESPONDENCE AND ALL OTHER DOCUMENTS STORED ELECTRONICALLY OR DIGITALLY, INCLUDING ALL OFFICE, EMERGENCY ROOM, INPATIENT AND OUTPATIENT CHARTS AND RECORDS, SOAP NOTES, PHYSICAL THERAPY RECORDS, INCLUDING SIGN-IN SHEETS, COPIES OF ALL PRINTED MATERIAL DESCRIBING EXERCISES PRESCRIBED AND DOCUMENTATION WHICH INDICATES DATES AND TIMES OF PATIENT'S APPOINTMENTS, PHOTOGRAPHS, INSURANCE DOCUMENTS, ALL BILLING RECORDS, INCLUDING, BUT NOT LIMITED TO, ANY INSURANCE BILLING OR PAYMENT INFORMATION, PROCEDURE CODES/CPT CODES, ITEMIZED STATEMENTS OF CHARGES, PAYMENT AND WRITE-OFF RECORDS AND PAYMENT TRANSACTIONS, FROM ALL SOURCES, AND ALL PAYMENT HISTORY, TO INCLUDE ANY COMPUTER GENERATED BILLING AND PAYMENT SOFTWARE THAT CONTAINS SAID INFORMATION, PERTAINING TO THE CARE, TREATMENT AND EXAMINATION OF THE PATIENT, REGARDLESS OF TREATMENT DATE.

ATTORNEY OR PARTY WITHOUT ATTORNEY: PERRY A. ACCARDO LAW OFFICES OF STEVEN LIHOSIT 200 NORTH LASALLE STREET, SUITE 2550, CHICAGO, IL 60601		TELEPHONE NO (312) 558-9800	FOR COURT USE ONLY
ATTORNEY FOR: GAGNON			
NAME OF COURT: CIRCUIT COURT FOR THE STATE OF ILLINOIS POST OFFICE & FOR THE COUNTY OF MCHENRY STREET ADDRESS 2200 NORTH SEMINARY AVENUE, WOODSTOCK, IL 60098			
PLAINTIFF/PETITIONER: DULBERG DEFENDANT/RESPONDENT: GAGNON, ET AL. CASE NUMBER: 12 LA 000178			
NOTICE OF DEPOSITION			

NOTICE TO ALL PARTIES AND THEIR ATTORNEY(S):

1. The production of documents by the Custodian of Records of the following business will be required as follows:

	DATE	TIME
ALEXIAN BROTHERS NEUROSCIENCES INSTITUTE 800 BIESTERFIELD ROAD, EBERLE BLDG., SUITE 610, ELK GROVE VILLAGE, IL 60007	12/24/2013	10:00 AM

Date: December 06, 2013

PERRY A. ACCARDO

(Type or Print Name)

|S| PERRY A. ACCARDO

(Signature)

ATTORNEY AT LAW

(Title)

NOTICE OF DEPOSITION

I am employed in LOS ANGELES County, California. I am over the age of 18 and not a party to the within action; my business address is: 1016 WEST JACKSON BOULEVARD, SUITE 213,
CHICAGO, IL 60607

On 12/10/13, I gave notice to: SEE SERVICE LIST BELOW

On the above date, I served true copies of the following documents;
Subpoena

To each party appearing in this action, at the address below, by placing true copies thereof enclosed in a sealed envelope with postage fully pre-paid, in the United States mail at
325 MAPLE AVENUE,
TORRANCE, CA 90503

I declare under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct, and that this declaration was executed on 12/10/13.



SIGNED: _____

Sharon Prytz

THOMAS J. POPOVICH, P.C.
HANS A. MAST
3416 WEST ELM STREET
MCHENRY, IL 60050

CICERO, FRANCE, BARCH & ALEXANDER, P.C.
CICERO, FRANCE, BARCH & AL
6323 EAST RIVERSIDE BOULEVARD
ROCKFORD, IL 61114

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article addressed to:

*Rita Thomas
460 Wabash Drive
Twins Lake, WI 53181*

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

☐ Agent
☐ Addressee

B. Received by (Printed Name)

Todd Thomas

C. Date of Delivery

1/25/04

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) **7011 0110 0002 2845 4617**

PS, Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

(Notary Public)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

**NOTICE OF SUBPOENAED
DISCOVERY DEPOSITION**

TO: Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

Attorney Perry A. Accardo
Law Office of Steven A. Lihosit
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601-1092

On **January 17, 2014, at 1:00 p.m.**, at the Law Offices of Thomas J. Popovich, 3416 West Elm Street, McHenry, Illinois, the subpoenaed discovery deposition of **MIKE THOMAS** will be taken before a certified court reporter on oral interrogatories for discovery in this case.



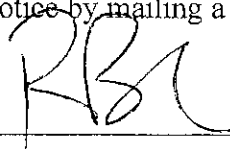
RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700 fax: 226-7701

CERTIFICATE OF SERVICE

I certify that on November 4, 2013, I served this notice by mailing a copy to each person to whom it is directed.

cc: Deb Fisher Reporting



depnot.thomas.mike (mj)