



From: Paul Dulberg Paul_Dulberg@comcast.net  
Subject: Bates numbers added to timeline of McGuire settlement
Date: June 24, 2020 at 1:56 AM
To: Julia Williams juliawilliams@clintonlaw.net
Cc: Ed Clinton ed@clintonlaw.net

PD

Hi Julia,

Please find the attached file named 2020-06-23_updated_timeline_of_mcguire_settlement.txt

I removed the old reference numbers used prior to the Bates numbers were assigned

Example of Popovich numbers show up as:
(POP 000181, POP 000181, POP 001204)

Example of Dulberg numbers show up as:
(Dulberg 001516, Dulberg 001520, Dulberg 001522, Dulberg 001523, Dulberg 001524, Dulberg 001525)

Also, I found that I had already sent this to you with the new bates numbers in an old email exchange dated November 19th 2019. The only difference is this time I removed the old reference numbers and updated the file name.

On a side note, driving home tonight I realized the mistake I had made when referring to "ultra hazardous" in the questions I sent tp you yesterday. Ed was correct, Ultra hazardous is usually associated with explosives such as the demolition of a skyscraper. I realize I should have used the term inherently dangerous. I believed Inherently dangerous also carved out an exemption to the employer - independent contractor strict liability issues so I went hunting for where I read that. I found this buried in a text document I saved with some of the research I had done years ago but am no longer sure where I got it or if it applies to Illinois

"The general rule is that an employer is not liable for an independent contractor's misconduct.

However, there are three exceptions. An employer may be liable for an independent contractor's misconduct if: (1) the employer was negligent in selecting or retaining an independent contractor; (2) the tasks assigned to an independent contractor are non-delegable; or (3) an independent contractor's work is ultra-hazardous or inherently dangerous."

I hope you see why I'm confused because I see large tree removal in a subdivision with tiny lots, tightly packed with wood framed homes, garages and elevated power lines as inherently dangerous

I can't believe I forgot the first exception for the third, it fits even better.

Anyway, all of this is moot because Gagnon cannot be classified as an independent contractor if McGuire supplied Gagnon with all the tools he used to do the job. Mast should have known this.

Also, on the issue of the McGuire depositions, I mentioned that they perjured themselves several times and so did Gagnon.

I would need time to go through and cite references contained in the depositions but a few whoppers I can't forget so I thought I should mention them from memory and I can go back and find the exact places later if you wish.

1. Carolyn or William admits that they had hired a tree removal company prior to the day of the accident to come remove the tree the day after the accident.

?. Please explain why any reasonable person would believe they hired their son and provided him with the chainsaw and ropes to remove a tree if they already had a professional tree removal company coming in the very next day to do the job?

2. Gagnon claims he was being paid an hourly rate to do the work, Carolyn says she was giving her son some money for tax purposes and William claims his wife Caroline was only going to buy Gagnon some pants as a thank you for the tree removal.

? If none of the parties are even relatively close as to any of the specifics for payment from the McGuires to Gagnon, does that make it more or less believable they had a valid contract for Gagnon to do the work as an independent contractor or even as an employee? Sounds more like son was doing mom and Father-in-law a favor with the parents tools and that no money changed hands, oh, and don't forget, Gagnon claimed Dulberg was being paid hourly as well from the McGuires even though Caroline and William don't claim that in their depositions.

3. Gagnon claimed to have used a chainsaw dozens of times in the past with Dulberg when they were camping to cut up firewood

? Where is there a campground within say 2,000 miles of Illinois where chainsaws are allowed? Besides that I only went camping in the same place as Gagnon once in my life and it was pure happenstance that we were both in the same campground on the same day, we did not "go camping together" ever,

4, either Caroline or William claimed they purchased a chainsaw just in case.... And it was for the all the kids to use

? Just in case what? And Have you seen the other kids, it's 2 girls who are more like barbie dolls than female lumberjacks. This was purchased for the only kid strong enough to use it and that's David Gagnon. Besides, have you ever heard of anyone buying a chainsaw for all their kids to use or ya know just in case?

I can go on and on with the unbelievable stories these people told but will wait for your request to see examples before I go digging through their depositions again. It's absolutely comical the stories they told that make no sense and don't even come close to each others.

I'm tired and off to bed

If you need help with anything please let me know

Thanks.

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Paul



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