

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 22<sup>ND</sup> 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.	)	

**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.

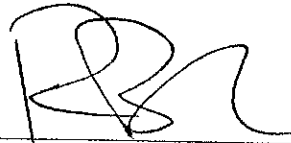
11. No prejudice will result to Plaintiff or Defendant Gagnon should this Court vacate the Amended Protective Order.

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)

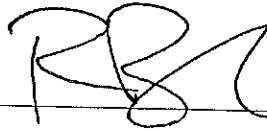
**CERTIFICATE OF SERVICE**

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.



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