

MEMORANDUM

TO: File

FROM: Hans

DATE: March 21, 2013

SUBJECT: **DISCOVERY DEPOSITION OF CAROLINE MCGUIRE**

CASE: PAUL DULBERG

On March 20, 2013, I took the discovery deposition of Caroline McGuire before court reporter, Paula Erickson at Urbanski Reporting 312/977-1777. The transcript was ordered by defense counsel, we ordered a copy.

Caroline McGuire is a real talkative person and has difficulty waiting for the questions to finish before she gives an answer. However, she is very pleasant and would probably come across credible. The following favorable and unfavorable testimony was given.

FAVORABLE TESTIMONY:

1. She has always known Paul to be credible, honest and has never heard anything from Paul's mouth that he was trying to get people to lie or to say things to allow him to make a recovery so that he will never have to work again.
2. Neither she nor her husband, William are able to use a chainsaw and therefore, they purchased the chainsaw that Dave was using at the time of Paul's accident earlier in the year for Dave to use to cut trees on their property.

UNFAVORABLE TESTIMONY:

1. Dave is experienced for many years using a chainsaw and she has always seen Dave use a chainsaw in a careful and proper manner.
2. She was never outside while Dave and Paul were on the day of the accident and therefore, she doesn't know who was doing what with regard to the cutting up of the branches behind their house. She delivered water to them once, but does not recall who was doing what or what type of work they were performing other than cutting up the branches. She thinks Dave was using the chainsaw.

Caroline McGuire is married to husband, William and they have been married for 20 years. She was previously married to Alan Gagnon, but he died 16 years ago, they were divorced before he died. William is now her son and two daughter's step-father. William is disabled but he use to work as

a carpenter before he retired. Caroline is retired too, but she use to work in a factor job before she retired. She is 66 years old.

About 4 years or so, Dave married his wife Pam and they moved up to Genoa City, WI to live. They have lived up there for the past 12 years. Dave is involved in autobody work at their house.

On the day of the accident, June 28, 2011, they had 2 evergreens in their backyard that they wanted cut down. Dave had some experience using a chainsaw, so they asked Dave to cut the limbs from the tree from the bottom up from about 15 to 20 feet. They were then going to hire a tree contractor to cut the tree trunks down later because they were so tall and large.

Before Paul's accident, Dave had been to their property to cut trees down on 3 separate occasions. One was in early May 2011, when they had a big tree in front of their property that was cut down by a tree service and then Dave and Paul used a chainsaw to cut up the sections that were left for Paul to use as firewood in his house. She was very complimentary of Paul, thought him to be a nice boy and they had known him for years and years and always thought him to be a credible, honest person.

Later, around June 2011, Dave was asked to cut an apple tree down in their backyard and he did that alone. The apple tree was about 20 feet tall, maybe 6-8 inches wide.

The third time Dave did tree work at their property was just prior to Paul's chainsaw accident on June 28, 2011. Dave started the work one day earlier by himself. He was cutting the bottom section of branches on two evergreens in their backyard. Paul came the next day to help Dave cut up the branches. She doesn't know what Paul was doing or who was doing what type of work, but she heard later that Paul was holding the branch and Dave cut him with the chainsaw. Dave had a different recollection. Dave told her that Paul was holding the branch and Paul moved his arm up from a different position and Dave did not know that and Dave cut him with the chainsaw.

At the time of Paul's accident on their property in June 2011, she was inside cleaning up and doing household chores while her husband, William was watching tv. She had only gone out twice that day. One to give water to Paul and Dave and the other time to play with Paul's dog in the backyard for a few minutes. She never saw the course of their work or what they were doing that day.

All of the sudden Paul rushed into the house with Dave and said that he was cut by the chainsaw. She wrapped his right arm with a towel and then Dave took Paul in Paul's truck to the hospital - NIMC. A couple hours later Paul and Dave returned and Paul said that he needed to get a prescription filled for pain medication. She offered Paul \$50 to get the pain medication filled because he had no money.

The day of Paul's accident, she never spoke to Paul or Dave about the specifics of the accident. She thinks the next time she spoke to Dave a couple days later Dave spoke a little bit more specifically about what had happened and told her that Paul was holding a branch and was moving his arm up to reposition it and he did not know that and cut Paul's arm.

She saw Paul a few times after the accident maybe 3 times. The first time was within a week when she visited Paul's house to see how he was doing. He said that he was ok but it hurts. Two weeks later she called Paul on the phone and Paul said that he was doing ok. The last time she spoke to Paul after the accident was in September 2011 when Paul went to her house to drop off a tiller that

was owned by Dave. The tiller weighs about 200 lbs and she explained that Paul picked it up with his two arms from a trailer and put it on the ground and wheeled it into the garage all by himself. Without help.

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