

1 IN THE CIRCUIT COURT
2 FOR THE 22ND JUDICIAL CIRCUIT
3 McHENRY COUNTY, ILLINOIS
4
5 PAUL DULBERG,)
6 Plaintiff,)
7 vs.) No. 12 LA 178
8 DAVID GAGNON,)
9 Individually, and as)
10 Agent of CAROLINE)
11 and CAROLINE McGUIRE)
12 BILL McGUIRE,)
13 individually,)
14 Defendants.)
15
16 The deposition of CAROLYN McGUIRE, taken in the
17 above-entitled cause, before Paula Ann Erickson,
18 Certified Shorthand Reporter, Registered Professional
19 Reporter and Notary Public, on March 20, 2013, at 3421
20 West Elm Street, McHenry, Illinois, at the approximate
21 hour of 1:00 p.m.
22
23 REPORTED BY: PAULA A. ERICKSON
24 C.S.R. LICENSE NO. 084-003899

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1 APPEARANCES:
2
3 MR. HANS MAST
4 LAW OFFICES OF THOMAS J. POPOVICH
5 3416 W. Elm Street
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8
9 Appeared on behalf of the Plaintiff.
10
11 MR. RONALD A. BARCH
12 CICERO, FRANCE, BARCH & ALEXANDER, PC
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17 Appeared on behalf of the Defendants, Carolyn
18 and Bill McGuire.
19
20 MR. PERRY A. ACCARDO
21 LAW OFFICE OF M. GERARD GREGOIRE
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23 Suite 2650
24 Chicago, Illinois 60601
(312) 558-9821
Appeared on behalf of the Defendant, David
Gagnon.
* * * *
2

1 THE REPORTER: Ma'am, can you raise your right
2 hand, please?
3 CAROLYN McGUIRE,
4 after being first duly sworn, deposeeth and saith as
5 follows:
6 EXAMINATION
7 BY MR. MAST:
8 Q. All right. Please state your name.
9 A. Carolyn McGuire.
10 Q. Okay. And you are Dave Gagnon's mother?
11 A. Yes.
12 Q. And you know why we are here today I assume?
13 A. Yes.
14 Q. About the chain saw accident?
15 A. Yes.
16 Q. Okay. And I represent Paul Dulberg.
17 A. Okay.
18 MR. MAST: This is the discovery deposition of
19 Carol McGuire -- Carolyn McGuire.
20 THE WITNESS: It's Carolyn, right.
21 MR. MAST: It's what?
22 THE WITNESS: It is Carolyn. I know it was
23 written -- It's C-A-R-O-L-Y-N.
24 MR. MAST: Okay. Very good. Taken pursuant to
4

1 notice, in the course of the applicable rules.
 2 I am just going to ask you some
 3 questions about this incident. I am trying to find
 4 out what you know, so if you don't know things, that's
 5 fine, too, but I will just ask you some questions and,
 6 please let me finish my question before you answer so
 7 we don't talk over each other and if you don't
 8 understand the question, let me know and I will try to
 9 rephrase it for you, okay?
 10 THE WITNESS: Okay.
 11 BY MR. MAST:
 12 Q. What's your date of birth?
 13 A. November 26, 1946.
 14 Q. Okay. That makes you, what, 65?
 15 A. 66.
 16 Q. 66. Okay. And what's your address?
 17 A. 1016 West Elder, that's E-L-D-E-R, Avenue,
 18 McHenry, Illinois, 60051.
 19 Q. And who do you live there with?
 20 A. My husband, William McGuire.
 21 Q. Okay. How long have you been married?
 22 A. Let's see. We got married in 1993.
 23 Q. 20 years?
 24 A. That would be 20 years I guess, yeah.

5

1 Terrace in Johnsburg. I am trying to think of their
 2 address. I can't think of it right offhand.
 3 Q. Okay. And Dave is married?
 4 A. David is married.
 5 Q. How long has he been married?
 6 A. It was four years.
 7 Q. What's his wife's name?
 8 A. Pam.
 9 Q. Okay. So they live up in where?
 10 A. They live -- Well, their mailing address is
 11 Geneva, Wisconsin.
 12 Q. Lake Geneva?
 13 A. But they don't live in Lake Geneva. Oh --
 14 No. It's Genoa. What am I saying. It's Genoa, Genoa,
 15 Wisconsin.
 16 Q. Right near Lake Geneva?
 17 A. Right. It's close.
 18 Q. Okay. And before being married to Pam four
 19 years ago, did he live with you two?
 20 A. No. They lived in that house where they live
 21 now but they weren't married.
 22 Q. How long did they live at that house?
 23 A. At least 12 years.
 24 Q. Oh, that long?

7

1 Q. Okay. And I understand that William is
 2 David's stepfather, right?
 3 A. Yes.
 4 Q. And what's his father's name?
 5 A. His real father's name was Alan, A-L-A-N, A.,
 6 Gagnon, G-A-G-N-O-N.
 7 Q. Were you married?
 8 A. Yes. We were married.
 9 Q. Did he pass?
 10 A. Yes. He has passed on.
 11 Q. When did he pass on?
 12 A. He died when he was 50 so that was 16 years
 13 ago so 1990 --
 14 Q. So was there a divorce?
 15 A. Oh, we were divorced. Yeah.
 16 Q. Okay. Do you have any other children?
 17 A. I have two daughters. I have a Diane Lutz,
 18 L-U-T-Z. She is my oldest.
 19 Q. Where does she live?
 20 A. She lives at 4708 Wilmot Road, McHenry,
 21 Illinois.
 22 Q. Okay.
 23 A. And then I have another daughter. Her name
 24 is Donna Giovanni, G-I-O-V-A-N-N-I, and she lives on

6

1 A. Yeah. Maybe 12 years.
 2 Q. So 12 years ago was David living with you?
 3 A. Yeah. He lived with me then.
 4 Q. For how long?
 5 A. His whole life until he left. He was there a
 6 long time.
 7 Q. How old is Dave?
 8 A. Dave is 45 right now.
 9 Q. Okay. So he lived with you over 30 years
 10 then?
 11 A. Probably. Yeah. Yeah.
 12 Q. Right?
 13 A. 30. Yes. Yep.
 14 Q. What does Dave do for a living?
 15 A. He does auto body work.
 16 Q. Does he do it for somebody or out of his
 17 house?
 18 A. He is self-employed.
 19 Q. Out of his house then?
 20 A. Yeah. Right.
 21 Q. Okay. You are aware of this chain saw
 22 accident involving my client Paul Dulberg at your
 23 house, right?
 24 A. Correct.

8

1 Q. And I think it happened in June of 2011.
 2 Does that make sense?
 3 A. Yes.
 4 Q. Okay. Do you know the day?
 5 A. I believe it was the 28th or the 29th of
 6 June. It was towards the end there.
 7 Q. Okay. And the incident occurred I think --
 8 and just generally now, we are going to go into the
 9 details, but I think Paul was helping Dave with some
 10 tree, cutting down some branches or something on your
 11 property, right?
 12 A. Correct.
 13 Q. Okay. And Dave has already been deposed and
 14 I don't have -- I am just trying to remember what he
 15 said.
 16 A. Uh-huh.
 17 Q. But so I am going to ask you a little bit
 18 about what your understanding was that he was doing
 19 but as I recall, he said that he was taking a tree
 20 down for you. Does that sound right?
 21 A. Yeah. There was two trees in the back there.
 22 They were evergreens.
 23 Q. So there were two trees that you wanted him
 24 to take down?

9

1 A. Okay.
 2 Q. Let me ask it this way: Before Paul's
 3 accident, do you know how long Dave has had experience
 4 using chain saws? A year, five years, ten years,
 5 twenty years, do you have any idea?
 6 A. Well, I'd have to say probably as long as he
 7 was probably on his own property because he had cut
 8 down trees then and anything prior to that, I really
 9 don't remember.
 10 Q. Okay. So you are saying for at least the
 11 last 12 years?
 12 A. At least, yes.
 13 Q. Okay. So as soon as Dave began living up in
 14 Genoa from that time until Paul's accident you knew he
 15 was using chain saws?
 16 A. Right.
 17 Q. Before he began living up in Genoa 12 years
 18 ago, what experience he had with chain saws you are
 19 not sure; is that correct?
 20 A. No, because like you said, he lived with me
 21 for how many years and the only thing we ever cut down
 22 on our property was the apple tree in the back.
 23 Q. And did he do that?
 24 A. Yeah. He did that.

11

1 A. Yes. Because we were going to put a shed up
 2 back there.
 3 Q. Okay. So at some point I am assuming neither
 4 you nor your husband are able to take a tree down with
 5 a chain saw, right?
 6 A. No.
 7 Q. Is that right?
 8 A. That's correct. We did not.
 9 Q. Well, you aren't even able to do it because
 10 you are just not -- you don't know how to do a chain
 11 saw?
 12 A. I am afraid of a chain saw.
 13 Q. Probably your husband is the same?
 14 A. Yes. He never used one either, yeah.
 15 Q. So you knew that Dave had some experience
 16 with chain saws?
 17 A. Yes.
 18 Q. Okay. If I were to go through what level of
 19 experience he had in using chain saws before Paul's
 20 accident, would you know?
 21 A. He has used them many a times. If you go
 22 from a one to a ten, I'd have to say a ten because he
 23 has taken down trees at his house and so -- big trees.
 24 Q. This is what I am asking, though --

10

1 Q. With a chain saw?
 2 A. With a chain saw, so that was before this
 3 accident happened the timeframe.
 4 Q. So I want to get a summary of what you have
 5 just said just so I understand.
 6 A. Okay.
 7 Q. So you are saying for the past 12 years while
 8 Dave was living up in Genoa, you believed he has used
 9 a chain saw regularly because that would be needed on
 10 his property?
 11 A. Uh-huh.
 12 Q. Right?
 13 A. Right.
 14 Q. Okay. But 12 years ago, before 12 years ago
 15 when he lived with you, you knew he took down a tree
 16 but other than that, you are not aware of what
 17 experience he had with chain saws; is that right?
 18 A. No. I don't know if he had any.
 19 Q. Is that correct what I just said?
 20 A. That's correct. That's correct.
 21 Q. I am going to say it again because the no and
 22 the yeah messed it up.
 23 A. Okay.
 24 Q. Before 12 years ago --

12

1 A. All right.
 2 Q. -- prior to that, other than Dave cutting
 3 down a tree on your property while he was living with
 4 you, you are not aware of any other experience he had
 5 using a chain saw during -- before 12 years ago; is
 6 that correct?
 7 A. Correct.
 8 Q. Okay. And how long did it take him to cut
 9 that tree down more than 12 years ago on your
 10 property?
 11 A. Well, that wasn't even 12 years ago. That
 12 tree was -- Okay. I'm sorry. The tree was actually
 13 cut down before -- you know, not long before this
 14 accident happened.
 15 MR. BARCH: You got to listen to his questions
 16 because he was asking you if the apple tree was cut
 17 down more than 12 years ago so you got to listen to
 18 his question.
 19 MR. MAST: Let me say it again.
 20 THE WITNESS: I was going to break in but then --
 21 BY MR. MAST:
 22 Q. I am happy to go through this to make sure
 23 you understand it but if you don't understand it, you
 24 got to let me know so we don't get it taken down

13

1 wrong, okay?
 2 A. All right.
 3 Q. So let's go back over that. All right. Over
 4 the last 12 years while Dave was living up in Genoa
 5 with his wife, you have known Dave to regularly use a
 6 chain saw not only at his property but for you, right?
 7 Is that correct?
 8 A. Okay. Correct.
 9 Q. Okay. Prior to 12 years ago when Dave was
 10 living with you for the rest of his life pretty much,
 11 have you ever known what experience he has in use of a
 12 chain saw?
 13 A. No.
 14 Q. Okay. Do you know if he ever used a chain
 15 saw more than 12 years ago?
 16 A. I don't know.
 17 Q. Okay. So the answer is the first time you
 18 are aware that Dave has used a chain saw was after he
 19 moved from your house and moved up to Genoa and lived
 20 with his wife?
 21 A. Right.
 22 Q. His soon to be wife, right?
 23 A. Right.
 24 Q. And that was for the last 12 years, correct?

14

1 A. Correct.
 2 Q. Before that you are not sure what experience
 3 or use he had of a chain saw, fair enough?
 4 A. Fair enough. Right.
 5 Q. Okay. So I am assuming, and you can correct
 6 me if I am wrong, did you ever see Dave use a chain
 7 saw over at his house?
 8 A. No. I would --
 9 Q. You just knew he did?
 10 A. Right. I seen a tree down.
 11 Q. Did he have his own chain saw?
 12 A. Uh-huh.
 13 Q. Yes?
 14 A. Yes.
 15 Q. You can't block your mouth because we have to
 16 make sure you say it loud for us, all right?
 17 A. Yes.
 18 Q. I am assuming, and you can correct me if I am
 19 wrong, the only time you saw Dave use a chain saw has
 20 been on your property?
 21 A. Yes.
 22 Q. And that would have been within the last
 23 12 years?
 24 A. Yes.

15

1 Q. Okay. All right. So my next question
 2 obviously is then before Paul's accident, how many
 3 times have you known Dave to use a chain saw on your
 4 property?
 5 A. Twice.
 6 Q. Okay. One was for the apple tree and the
 7 other was for this accident, right?
 8 A. No, and the other one was the tree in the
 9 front we had taken down before this, too, within, you
 10 know, a span of maybe a couple months and we had
 11 somebody come and take down the whole tree but this was
 12 like big pieces. It was a huge tree.
 13 Q. Got it.
 14 A. And so David and Paul were helping. They
 15 were using Paul's chain saw.
 16 Q. All right. I am going to get to that. It's
 17 a little bit more wordy than I was asking. My
 18 question was: How many times before Paul's accident
 19 had Dave cut or used the chain saw on your property
 20 and your answer is three?
 21 A. Well, twice. The apple tree and the big tree
 22 in the front.
 23 Q. And he was also working on your property
 24 before --

16

1 A. Right, and --
 2 Q. We can't talk over each other, though. You
 3 got to let me come to an end, okay, and then you can
 4 answer. I will let you say whatever you want but you
 5 got to let me come to an end.
 6 Would it be fair to say that Paul has
 7 used a chain saw on your property in the last 12 years
 8 three times, three separate times?
 9 A. Did you just say Paul?
 10 Q. I'm sorry I did, didn't I?
 11 MR. ACCARDO: Yes.
 12 MS. MAST: See, she is listening to me.
 13 BY MR. MAST:
 14 Q. Is it fair to say over the last 12 years Dave
 15 has used a chain saw on your property on three
 16 separate occasions?
 17 A. Correct. Yes.
 18 Q. Okay. The one occasion was in conjunction
 19 with the work he was doing before Paul's accident?
 20 A. Yes.
 21 Q. The other was the apple tree?
 22 A. Uh-huh.
 23 Q. Yes?
 24 A. Yes.

17

1 Q. And the other was that tree in the front that
 2 you had cut down and he had to cut it up?
 3 A. Correct.
 4 Q. Is that right?
 5 A. Yes.
 6 Q. All right. So now I want to try to get a
 7 timeframe for those three occasions. I know when the
 8 third occasion was because that's in June of 2011,
 9 right? Right?
 10 A. Right.
 11 Q. Okay. So give me the timeframe of the other
 12 two occasions if you can generally.
 13 A. Well, let's see.
 14 Q. Because you were talking about months before
 15 and stuff.
 16 A. Yeah. Probably months in between. I would
 17 have to say this was -- I'd probably have to say maybe
 18 the beginning of May was the real big tree in the front
 19 that he did help at the end cut up.
 20 Q. May of what year?
 21 A. The same year, 2011.
 22 Q. I need you to say it, though. I don't want
 23 to say it.
 24 A. Okay. May 2011.

18

1 Q. Okay.
 2 A. And the apple tree, too, it was in 2011 and
 3 it was probably shortly after that. Maybe the
 4 beginning of June.
 5 Q. Okay. Very good. Is the apple tree kind of
 6 a smaller fruit tree that we are talking about then?
 7 A. Yes. It was probably like that, the trunk,
 8 yeah.
 9 Q. I get it. Maybe about 6 or 8 inches?
 10 A. Yeah. Diameter.
 11 Q. Diameter.
 12 A. Yes.
 13 Q. So the first tree that Paul had to cut or the
 14 first use of a chain saw on your property before
 15 Paul's accident would have been that same year a month
 16 before?
 17 A. Uh-huh.
 18 Q. Yes?
 19 A. Correct. Correct.
 20 Q. All right.
 21 A. Yes.
 22 Q. And that was where the big tree in the front
 23 was taken down already, Paul didn't -- or Dave didn't
 24 have to do that, right?

19

1 A. No.
 2 Q. Is that right?
 3 A. Correct. He did not cut it down.
 4 Q. But you asked him -- you asked Dave to cut up
 5 the trunk after the tree was already cut down; is that
 6 right?
 7 A. Can I elaborate on that and say something?
 8 Q. Well, you can elaborate any time you want but
 9 I'd first ask you to answer my question so that the
 10 answer is shown on the record.
 11 A. No. I did not ask him to cut it.
 12 Q. Okay. What did you ask him to do?
 13 A. But after the tree was removed, this big huge
 14 tree by a tree company, there was a big huge stump out
 15 there and what happens is they didn't take the wood
 16 away because that would cost extra money and we knew
 17 that Paul would probably want it for his fireplace
 18 which he did and these things were huge so they were
 19 cutting them into smaller pieces.
 20 Q. Who is "they were"?
 21 A. My son and Paul.
 22 Q. So the stumps were left by the tree company
 23 in May 2011 after they cut the tree down --
 24 A. Uh-huh.

20

1 Q. -- and Paul and Dave you didn't ask them to
 2 but they -- Paul wanted to keep some of that wood so
 3 he asked Dave and they worked together to cut up those
 4 stumps?
 5 A. Right. To cut up the big rounds. You know,
 6 they took away branches and stuff but they left big
 7 chunks and that's what they cut up.
 8 Q. You mean "they" took away, the tree company
 9 took away the branches?
 10 A. Right. The branches.
 11 Q. But left the stumps?
 12 A. Okay. The stump. Well, the stump, right.
 13 The stump. Yeah. The stump is still there.
 14 Q. Well, there is other little stumps that are
 15 cut apart, right?
 16 A. Yeah. They were trunks of the tree, you
 17 know, yeah. Uh-huh.
 18 Q. All right. So after the tree company cut the
 19 tree down in May of 2011, there were sections of the
 20 tree that were cut up by the tree company that were
 21 left behind?
 22 A. Correct.
 23 Q. And Paul and Dave cut them up so Paul could
 24 use it as firewood at his house?

21

1 A. Yes.
 2 Q. Do you know if Paul was using a chain saw
 3 during that time?
 4 A. Well, it was his chain saw.
 5 Q. But you know what I am asking, right?
 6 A. Yeah. You know, I can't really remember if
 7 they were both doing it or --
 8 Q. All you have to say is I know or I don't
 9 know.
 10 A. I don't know. I really don't know.
 11 Q. That's all you got to say and I will move on.
 12 Had you ever seen -- Before Paul's
 13 accident, had you ever seen Paul use a chain saw?
 14 A. No.
 15 Q. Okay. So whether he used it properly or
 16 dangerously prior to Paul's accident you don't know if
 17 Paul did or didn't?
 18 A. No.
 19 Q. You seen Dave use it on occasion before
 20 Paul's accident as we already talked about, right?
 21 A. Right.
 22 Q. Did you believe he used it safely?
 23 A. Yes.
 24 Q. Ever see him use it unsafely, this chain saw?

22

1 A. No.
 2 Q. Okay. Other than Paul and yourself, is there
 3 anyone else Paul -- I'm sorry. Other than Paul, Dave
 4 and yourself, is there anyone else that would have to
 5 your knowledge seen Dave use a chain saw before Paul's
 6 accident?
 7 A. Well, I'd have to say no because I can't
 8 remember actually.
 9 Q. That's fine.
 10 A. I seen him cut the tree.
 11 Q. I'm not asking you to put your name in there.
 12 A. Nobody else, no.
 13 Q. Okay. How long did Paul and Dave work on
 14 those tree sections cutting them up? How long did
 15 that take? One day, more than a day?
 16 A. Couple hours.
 17 Q. Okay. So just one day then?
 18 A. I believe.
 19 Q. Okay. And was anything left after they cut
 20 those stumps up?
 21 A. No. Paul took it all.
 22 Q. Okay. Did he pay you for it?
 23 A. No. I gave it as a gift. He said he wanted
 24 it.

23

1 Q. Very good. Okay. But who cut it up with the
 2 chain saw you don't know, right?
 3 A. I don't remember if they both did it or if
 4 David just did.
 5 Q. Okay. Do you know -- Again, I am just asking
 6 what you know. If you don't know, you can just say I
 7 don't know.
 8 Do you know between Paul and Dave before
 9 Paul's accident who was more experienced on the chain
 10 saw?
 11 A. No.
 12 Q. Okay. Then after that big tree in the front
 13 was cut up, there was the apple tree that was cut up
 14 shortly after that, right?
 15 A. Correct.
 16 Q. Also in May or June of 2011, right?
 17 A. Correct.
 18 Q. And that is a 6 to 8-inch diameter and were
 19 there any branches off the tree had to be cut up or
 20 just the tree cut down?
 21 A. No. There was branches.
 22 Q. Okay. Do you know -- Did you see that being
 23 cut down?
 24 A. Yeah. David was out there trimming.

24

1 Q. Who cut the apple tree down?
 2 A. David did.
 3 Q. Did Paul -- Was Paul involved in the apple
 4 tree being cut at all?
 5 A. I believe no.
 6 Q. Okay. So David did all that work?
 7 A. Yes.
 8 Q. How tall was that apple tree?
 9 A. As tall as my house, 20 feet.
 10 Q. And, again, that might have taken a couple
 11 hours and that was over then?
 12 A. Yes.
 13 Q. And who took the wood from that tree?
 14 A. I believe we put it in the back. We have it
 15 piled up.
 16 Q. Okay. So that was -- Those are two tree
 17 projects that we just talked about in May or June
 18 of 2011, right?
 19 A. Correct. Yes.
 20 Q. The third project is the two trees that you
 21 said were in the backyard that you wanted to put a
 22 shed back there so you wanted those trees cut down,
 23 right?
 24 A. Yes.

25

1 Q. And that was a project where you asked Dave
 2 to do again, right?
 3 A. Yes.
 4 Q. You didn't ask Paul to do it, did you?
 5 A. No.
 6 Q. Okay. Sometime in June you told Dave, hey,
 7 we need those two trees cut down in back, right?
 8 A. Correct. Yes.
 9 Q. And you asked him to do it, right?
 10 A. Right.
 11 Q. And he said he would do it for you?
 12 A. Right.
 13 Q. Okay. And the reason they had to be cut down
 14 is you wanted to put a shed back there?
 15 A. Right, and we didn't want to of course put a
 16 shed up first and then take the trees down.
 17 Q. Right. I understand. Okay. What was the
 18 diameter of that -- of the two trees that were the
 19 evergreens that were going to be taken down, if you
 20 know?
 21 A. Well, I'd have to say that they were probably
 22 both at least 60 feet tall.
 23 Q. Okay.
 24 A. And the base of them was -- I don't know.

26

1 Q. A foot or so around?
 2 A. Yeah. Maybe more.
 3 Q. Well, if you measure -- Hold on.
 4 A. Okay.
 5 Q. If you measure it from one side to the other
 6 side, is that about a foot wide?
 7 A. No. It was more.
 8 Q. More than a foot wide?
 9 A. More than a foot wide.
 10 Q. A foot and a half wide?
 11 A. Yes. At least.
 12 Q. Both of the trees were the same size?
 13 A. About the same.
 14 Q. Okay. Okay. And when Paul's accident
 15 occurred, had both of the trees already been cut down?
 16 A. David had gone up the trees by, you know, and
 17 cut down --
 18 Q. We are going to start there later, but I am
 19 asking you right now by the time of Paul's accident,
 20 were both of the evergreen trees already cut down or
 21 was he going limb by limb?
 22 A. David was cutting limb by limb but I believe
 23 Paul came over when David needed him to help him.
 24 Q. You are going too far away. I am just asking

27

1 you right now at the time of Paul's accident what the
 2 condition of those two standing evergreens were. Were
 3 they both still standing?
 4 A. There was branches on the ground already.
 5 Q. Were the trunks still standing?
 6 A. Okay. Yes.
 7 Q. Okay. That's what I am trying to find out.
 8 A. Okay.
 9 Q. Do you know the process Dave was choosing to
 10 cut the trees down? Was he going first up the tree
 11 and cutting the limbs down first and then he was going
 12 to do the trunk or do you know?
 13 A. He was going up the tree and cutting down the
 14 branches.
 15 Q. Okay. And then after the branches were cut
 16 down, he would take the bases down and cut the trunks
 17 down?
 18 A. He didn't do that. We hired someone to take
 19 the tree down the rest of it because they were so tall.
 20 Q. I got you.
 21 A. Okay.
 22 Q. So you asked Dave then his job with regard to
 23 these two evergreens in the backyard was just to take
 24 the branches down?

28

1 A. Yes.
 2 Q. Right?
 3 A. Correct.
 4 Q. And since the trunk was so big, you didn't
 5 want Dave doing that because this was a big project.
 6 You had a tree company come in to do that.
 7 A. Right.
 8 Q. Okay. And I am assuming there is countless
 9 branches on both of these evergreens, right?
 10 A. Right.
 11 Q. Do you know the size of the bigger branches
 12 that came off the tree?
 13 A. Probably at least that big.
 14 Q. Maybe about four inches from one side to the
 15 other, yes?
 16 MR. BARCH: I want to get -- I think we are
 17 just -- I want to make sure that you are giving
 18 estimates when you are or an accurate number. Just
 19 clarify for when you are estimating or not. I don't
 20 want you guessing.
 21 BY MR. MAST:
 22 Q. Now listen, I know you didn't go out with a
 23 tape measure. What I'm asking is if you can estimate.
 24 If you can't, if it's just a guess, then fine but hold

1 on. Let me ask the question.
 2 My question is: If you put your fingers
 3 on both sides of the heavier bigger branches on these
 4 evergreens and you measured one finger to the other --
 5 A. Right.
 6 Q. -- what is the approximate distance you think
 7 you'd have for the width of those branches, the bigger
 8 ones?
 9 A. I would say maybe three inches.
 10 Q. Okay. All right. And those would have
 11 been -- the bigger ones would have been at the bottom
 12 or closer to the base of the tree, the thinner ones up
 13 at the top, right?
 14 A. Yes.
 15 Q. Okay. Now, and, again, if you don't know,
 16 that's fine. I keep saying that because I don't want
 17 you to guess but I am trying to find out what you
 18 know. So my question is: By the time of Paul's
 19 accident, the day of Paul's accident, was that the
 20 first day Dave was beginning work on those two trees?
 21 A. It's been awhile and I really can't remember.
 22 I think he did come by the one day to start it and
 23 because there was all these branches piled up, then
 24 Paul came over the next day and helped.

1 Q. Okay. And I think that might have been even
 2 what he said so that sounds accurate.
 3 A. Yeah, because he had to go someplace that
 4 day.
 5 Q. So Paul to your knowledge -- Strike that.
 6 To your knowledge, Dave had worked out
 7 at your house on these two evergreens the day before
 8 Paul's injury cutting some branches down.
 9 A. Right.
 10 Q. And then Paul came over the next day to help?
 11 A. Right.
 12 Q. Is that your understanding?
 13 A. Yes.
 14 Q. Okay. Did Dave ask you if Paul could come
 15 over and help or did he ever go through that with you
 16 or did he just do that on his own?
 17 A. He did it on his own.
 18 Q. Were you going to pay Paul or not Paul. I
 19 keep getting the names mixed up.
 20 Were you going to pay Dave to do this
 21 work for you?
 22 A. He came over as a favor of my son to cut the
 23 trees down and for his time I was going to give him
 24 something for gas. He had to come up, you know, from

1 his house and that I was going pay him something.
 2 Q. Was it predetermined what you were going to
 3 pay him?
 4 A. No. I didn't know. I just figured I'd give
 5 him something.
 6 Q. Like 20 bucks or something for gas?
 7 A. Money to just --
 8 Q. So you were going to pay him, how much, you
 9 don't know and it wasn't going to be a large amount,
 10 fair enough?
 11 A. Right. Yes.
 12 Q. So the first day that Dave started the work
 13 the day before Paul's accident was cutting some
 14 branches down from the two evergreens?
 15 A. Yes.
 16 Q. Was he starting on one evergreen first or was
 17 he going to do both kind of in tandem together, if you
 18 know?
 19 A. Well, there was a big pile of branches. I
 20 really can't remember if when Paul came in both were
 21 already trimmed up or if he had just done one of the
 22 bigger ones.
 23 Q. So the answer is I don't know.
 24 A. I don't know.

1 Q. Okay.
 2 A. Right. I can't remember.
 3 Q. All right. So the next question is: When
 4 Paul came over the next day of this tree work that
 5 Dave was doing, the status of the trees and how far up
 6 one or more of them were cut you don't know; is that
 7 correct?
 8 A. Correct.
 9 Q. Okay. But by the time Paul got there the day
 10 of his accident, the second day in to doing the work,
 11 some branches Dave had already cut the day earlier?
 12 A. I can't remember. I don't know.
 13 Q. Were there some branches on the ground
 14 already?
 15 A. They were on the ground but as he was cutting
 16 and they were just falling down, okay?
 17 Q. Right.
 18 A. But I don't remember if he actually had
 19 started to cut up branches himself that very first day
 20 he was there, that it was just one big pile.
 21 Q. Okay. And maybe I didn't word it properly
 22 but my question was: By the time Paul arrived at your
 23 house on the day of the accident, there were already
 24 branches that had been cut down from the tree that

33

1 were on the ground?
 2 A. Right.
 3 Q. Were they piled up yet or were they all just
 4 scattered on the ground?
 5 A. I don't remember.
 6 Q. Okay. And you don't know -- I think what you
 7 were saying is you don't know if Dave had already
 8 begun to cut up those branches that had been cut down
 9 from the tree or whether they were still all together
 10 in full lengths, right?
 11 A. Yes.
 12 Q. Okay. Do you know when Paul arrived at your
 13 house the day of his accident?
 14 A. I can't give you a precise time. It was
 15 probably later morning, early afternoon.
 16 Q. Other than late morning, early afternoon,
 17 that's as specific as you can give me?
 18 A. Right. I can't give you a time exactly.
 19 Q. Okay. Late afternoon -- Late morning, early
 20 afternoon seems to be around 12:00 or 1:00. Does that
 21 sound about right?
 22 A. Yeah.
 23 Q. And did you greet or see Paul when he arrived
 24 first at the house?

34

1 A. I saw his truck in front so I knew he was
 2 over.
 3 Q. But how long he had been there when you first
 4 saw the truck you don't know; is that correct?
 5 A. I don't remember, no.
 6 Q. Is that correct then what I just said?
 7 A. Correct. Uh-huh.
 8 Q. Okay. All right. When you saw Paul's truck
 9 out in front, that would have been the 12:00 to 1:00
 10 kind of timeframe?
 11 A. Right.
 12 MR. BARCH: Well, I need to object. It's an
 13 approximation. I don't want it to be looked at we are
 14 using that as if that is the time so I object to form
 15 of the question.
 16 BY MR. MAST:
 17 Q. I said earlier we are thinking somewhere
 18 around 12:00 to 1:00 generally, fair enough?
 19 A. Yes.
 20 Q. And that's the first time you saw Paul's
 21 truck in your drive, correct?
 22 A. Uh-huh.
 23 Q. Yes?
 24 A. Yes.

35

1 Q. So whether Paul was there before you saw his
 2 truck or how long you saw his truck, you don't know,
 3 correct?
 4 A. No.
 5 Q. Is that correct?
 6 A. Correct.
 7 Q. What Paul was doing by the time you saw his
 8 truck around 12:00 to 1:00 generally out at your
 9 property, you don't know, correct? Is that correct?
 10 A. Correct.
 11 Q. Okay. You know he was helping Dave but
 12 exactly what Paul's tasks were, do you know?
 13 A. No.
 14 Q. Did you at any time that day before Paul's
 15 accident observe their work?
 16 A. I went out there to give them some water
 17 because it was a hot day but that was it.
 18 Q. Did you go out there to give both Paul and
 19 Dave water?
 20 A. Yeah. I gave them water.
 21 Q. A glass of water?
 22 A. Probably a bottle, like this.
 23 Q. Okay. And how many times did you do that
 24 before Paul's accident?

36

1 A. Maybe once. I don't exactly -- Once. Say
 2 once.
 3 Q. Okay. Okay. And when you went out there,
 4 how long were you out there?
 5 A. Probably a few minutes. I talked to him.
 6 Said hello and --
 7 Q. Were Dave and Paul working at any point while
 8 you were out there giving them water?
 9 A. No. Not that I can remember, no.
 10 Q. Okay. So what Paul's tasks were doing --
 11 Strike that.
 12 What Paul's tasks were during the work
 13 and what Dave's tasks were during the work, you did
 14 not observe; is that correct?
 15 A. Correct.
 16 Q. All right. So now I am going to summarize
 17 this, and you can correct me if I am wrong, but before
 18 Paul's accident, is it fair to say you only went out
 19 of the house and saw what they were -- saw the
 20 progress of the work once; is that correct?
 21 A. Correct.
 22 Q. And that was to deliver water to him for a
 23 couple of minutes you were out there?
 24 A. Correct.

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1 Q. And during the time you were out there for a
 2 couple minutes delivering water that one time, you did
 3 not see either of them do any work that you can
 4 recall, correct?
 5 A. Correct.
 6 Q. Okay. So as far as who was doing what work
 7 before Paul's chain saw accident on your property that
 8 day, you don't know who was doing what, correct?
 9 A. No.
 10 Q. Is that correct?
 11 A. Correct.
 12 Q. Okay. When you say no, that's why I have to
 13 ask to make sure you understand my question. Is that
 14 correct?
 15 A. Correct.
 16 Q. Okay. Do you know if Paul -- at any point
 17 that day of his accident at your house, do you know if
 18 Paul operated that chain saw that they were using to
 19 trim these branches, do you know if he did?
 20 A. No.
 21 Q. Okay. You know that Dave was using the chain
 22 saw, correct?
 23 A. Yes.
 24 Q. Okay. Other than the chain saw -- Well,

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1 strike that.
 2 The chain saw Dave was using to cut the
 3 branches up at your house the day of Paul's accident,
 4 was that the chain saw that was your chain saw?
 5 A. Yes.
 6 Q. Do you know if Paul had his own -- Strike
 7 that.
 8 Do you know if Dave had his own chain
 9 saw?
 10 A. Not with him.
 11 Q. He had his own but it was at home, right?
 12 A. Yes.
 13 Q. Okay. Instead of him bringing his chain saw,
 14 he used yours, right?
 15 A. Yes.
 16 Q. Is there a reason he decided to use yours as
 17 opposed to bringing his own?
 18 A. Ours was new.
 19 Q. Is yours the one that's sitting here on the
 20 table today?
 21 A. Yes.
 22 Q. Okay. At the time of Paul's accident at your
 23 house with the chain saw, did you own more than one
 24 chain saw?

39

1 A. We have an electric one in the basement but
 2 we didn't use it.
 3 Q. Okay. So at the time of Paul's accident --
 4 A. Yes. I'm sorry.
 5 Q. Once I start I am assuming you are done.
 6 Okay. At the time of Paul's accident, you owned and
 7 had available to use an electric chain saw and a gas
 8 chain saw, correct?
 9 A. Yes.
 10 Q. The electric chain saw was in the basement
 11 and was not being used for any of the work that Dave
 12 and Paul were doing, correct?
 13 A. Yes.
 14 Q. All right. Why was that not being used?
 15 A. It wasn't big enough and the chain on it was
 16 dull.
 17 Q. Okay. So Dave chose to use the gas one at
 18 your house, correct?
 19 A. Yes.
 20 Q. That was by his choice. You didn't make him,
 21 did you?
 22 A. No. I didn't make him. Yeah. I know you
 23 don't want me to elaborate. No. He chose to use that
 24 one. It was new and it had never been used and the

40

1 blade was sharp.

2 Q. And, again, it's not that I don't want you to

3 elaborate. I want you to elaborate if you think it's

4 necessary. All I am saying is if you are not

5 answering the question, then I need to ask the

6 question again, okay? Okay. You can say whatever you

7 want to say, okay?

8 A. Okay.

9 Q. So the chain saw we have today here on the

10 table is the gas chain saw that Dave was using to cut

11 up the branches when Paul was injured, correct?

12 A. Yes.

13 Q. Okay. And this was the only gas saw you had

14 present and available and that you owned on your

15 property at the time of Paul's injury, correct?

16 A. Yes.

17 Q. Had Dave ever used this particular chain saw

18 before the day of Paul's accident?

19 A. I can't remember if he actually did use it to

20 cut up the apple tree or not. I don't remember.

21 Q. When you say it was new, you mean it was --

22 Wait. I just started my question.

23 When you say this chain saw was new as

24 of the day of Paul's accident, are you saying it had

41

1 never been used or you don't know if it had been used?

2 A. I don't remember. All I know is it was new

3 and we bought it in that year.

4 Q. You bought it in 2011?

5 A. Yes.

6 Q. Where did you buy it from?

7 A. It's on the manual inside the date where it

8 was purchased at and everything.

9 Q. I am asking you.

10 A. I don't remember but it's written on the

11 manual so if you want that information, I don't know.

12 Q. Listen, I can get it anyway. I am asking

13 you. If you don't know, you can just say.

14 A. I don't remember. It was just in 2011 we

15 purchased it.

16 Q. All right. And why did you purchase it?

17 A. Because we had trees that we knew needed to

18 be cut down.

19 Q. Okay. Did you purchase it, however, though,

20 for you or your husband to use or for somebody else to

21 use that might have to use on your property?

22 A. I guess we purchased to have a chain saw that

23 worked well and was new and had a sharp blade and I

24 didn't particularly buy it for, you know what I mean,

42

1 say, oh, I am buying a new chain saw here. We bought

2 it because we needed a chain saw.

3 Q. This is my question: I'm sorry if you think

4 my questions are funny but my question is this: Did

5 you purchase it expecting that you or your husband was

6 going to use it or that somebody else other than you

7 and your husband were going to use it?

8 A. Someone else.

9 Q. Okay. Not necessarily Dave but somebody else

10 other than you and your husband?

11 A. Right.

12 Q. Okay. And whether this chain saw, this gas

13 chain saw, that you purchased new in 2011 had been

14 used prior to cutting these two evergreens down in

15 June, 2011 you are not sure, correct?

16 A. I don't remember, no.

17 Q. Okay. If it had been used prior to the two

18 evergreens, that job in June of 2011, it had only been

19 used once before and that might have been the apple

20 tree job, correct?

21 A. Yes.

22 Q. Okay. Where these evergreens were and where

23 Dave and Paul were working, that would have been in

24 the backyard of your house?

43

1 A. Yes.

2 Q. If you -- What were you doing that day? I am

3 sure you were in the house, correct?

4 A. Right.

5 Q. You weren't working outside, were you?

6 A. I was outside for awhile playing with his dog

7 in the backyard but, I mean, I didn't stay out there

8 for any length of time and I was in the house most of

9 the time.

10 Q. Okay. So other than delivering water to Paul

11 and Dave before Paul's accident and maybe being out of

12 the house to run around with the dog for a few

13 minutes, everything else, all of your other activities

14 would have been inside the house that day, correct?

15 A. Yes. Yes.

16 Q. Okay. And if you ran the dog outside for a

17 few minutes, do you recall doing that before Paul's

18 injury or not?

19 A. Yeah.

20 Q. Do you know how long? It was just a few

21 minutes?

22 A. Yeah. Probably. I mean, just throw a ball

23 around and get a bone.

24 Q. And would that have been near where Dave and

44

1 Paul were working?
 2 A. Yeah. I mean, my yard is not that big. Yes.
 3 It's near.
 4 Q. Okay. Do you recall having any observations
 5 of what they were doing at the time you were outside
 6 playing with the dog?
 7 A. No. I don't remember. No. I would say no.
 8 Q. Okay. Was that after you saw Paul's truck in
 9 the drive that you said you first noticed Paul would
 10 have been over by that time around 12:00 or 1:00,
 11 somewhere around there?
 12 A. Yes. It was after I was out there with the
 13 dog.
 14 Q. Okay. Do you know about what time -- How did
 15 you first learn Paul was injured?
 16 A. They came running in the house. He was
 17 bleeding and I gave him a clean towel to wrap around
 18 his arm and David drove him to the hospital in Paul's
 19 truck.
 20 Q. Okay.
 21 A. It was fast. I mean, they didn't waste any
 22 time getting to the hospital.
 23 Q. Okay. We are going to go through all that
 24 step by step. About what time was that that Paul ran

45

1 and Dave were working on those -- on the trees, you
 2 had been out there just a couple minutes outside
 3 running with the dog and then delivering water during
 4 that one hour time?
 5 A. Yes.
 6 Q. Okay. Were you doing anything in particular
 7 inside the house?
 8 A. What I usually do every day.
 9 Q. What's that?
 10 A. Dishes, wash clothes, clean up, whatever. I
 11 don't remember, you know, but working inside the house,
 12 yeah.
 13 Q. Okay. What was your husband doing?
 14 A. Probably watching television.
 15 Q. Okay. Do you remember what day of the week
 16 this was?
 17 A. I think it was during the week.
 18 Q. And I didn't ask you this before but are you
 19 retired?
 20 A. I am.
 21 Q. Okay. Is your husband retired as well?
 22 A. Uh-huh.
 23 Q. Yes?
 24 A. Yes.

47

1 in the house?
 2 A. I don't remember. It was maybe an hour,
 3 maybe it was 2:00. I don't know, an hour later.
 4 Q. An hour later meaning -- hold on -- an hour
 5 after you first saw Paul's truck was in the drive
 6 around 12:00 or 1:00 or approximately sometime around
 7 there?
 8 A. Right. They were working.
 9 Q. So I am trying to get the chronology of this
 10 and I understand it's not exact, I get that, but you
 11 are saying again very generally 12:00 or 1:00 was when
 12 you saw Paul's truck in the drive. An hour from
 13 whenever that was later was approximately when Paul
 14 ran in the house and said he was injured?
 15 A. Right.
 16 Q. And he was bleeding from what arm, if you
 17 know?
 18 A. I don't remember. I think it was his right
 19 arm.
 20 Q. Okay. You are not positive or are you sure
 21 about that?
 22 A. I am not positive.
 23 Q. Okay. Hold on a minute. All right. So
 24 during that approximate hour time that you knew Paul

46

1 Q. Okay. What kind of work did you do before
 2 you retired?
 3 A. I worked at Intermatic.
 4 Q. What is that?
 5 A. It was in Spring Grove. I worked in
 6 production.
 7 Q. What kind of company is that?
 8 A. They made lighting sets, timers.
 9 Q. Is that like factory type work?
 10 A. It was factory, yeah.
 11 Q. Okay. And what was your husband's kind of
 12 job he did before he retired?
 13 A. He was a carpenter.
 14 Q. Okay. I didn't even ask this. William, how
 15 old is William?
 16 A. He was born in 1953. He will be 60 this
 17 year.
 18 Q. Okay. Is he in good health?
 19 A. Huh?
 20 Q. Is he in good health?
 21 A. He is on Social Security disability.
 22 Q. For what kind of disability?
 23 A. For he got injured at work.
 24 Q. What?

48

1 A. His back.
 2 Q. Okay. So he is not able to be real active?
 3 A. No. He can't lift up heavy things.
 4 Q. That's what I am trying to understand.
 5 A. Yeah.
 6 Q. Okay. Are you healthy?
 7 A. Yeah. I am all right. I am living. That's
 8 about it.
 9 Q. Do you have any disabilities?
 10 A. No. I am not -- I am on Social Security
 11 but -- Okay. No. I am not.
 12 Q. All right. Let me just ask the question. Do
 13 you have any physical disabilities whatsoever?
 14 A. I am okay.
 15 Q. Okay. All right. The work that you were
 16 doing in the house, if you wanted to, would you have
 17 been able to just look out the window and see the work
 18 that Paul and Dave were doing or were they doing it at
 19 a spot where you really couldn't see them?
 20 A. I couldn't see them.
 21 Q. So even in the house had you looked out a
 22 certain part of the house, you wouldn't have been able
 23 to visualize them outside working; is that correct?
 24 A. Correct.

49

1 Q. Okay. So in order to see what they are
 2 doing, you'd have to go outside and take a look?
 3 A. Yes.
 4 Q. Right?
 5 A. Yes.
 6 Q. And you didn't do that except for when you
 7 went to deliver water. That's the only time you went
 8 outside in the area where they were working, correct?
 9 A. Right and played with the dog twice. That
 10 was it.
 11 Q. Right but playing with the dog you weren't
 12 even paying attention to what you were doing, correct?
 13 A. Yeah. I was paying attention to the dog.
 14 No, I wasn't.
 15 Q. Is that correct?
 16 A. Yes. That's correct.
 17 Q. So the only time you would have been in the
 18 area to observe what they were doing is when you
 19 delivered the water?
 20 A. Right.
 21 Q. And that's the time you remember telling me
 22 you don't remember seeing what they were doing; is
 23 that correct?
 24 A. No. I don't remember.

50

1 Q. Is that correct?
 2 A. Correct. Correct.
 3 Q. All right. Did your husband ever go outside
 4 while Dave and Paul were working?
 5 A. I don't remember.
 6 Q. Okay.
 7 A. I don't remember.
 8 Q. Did you ever talk to your husband about the
 9 incident with Paul?
 10 A. You mean about this whole thing?
 11 Q. Yes.
 12 A. Yes.
 13 Q. Well, not --
 14 A. Oh.
 15 Q. Hold on. Not about what happened as a result
 16 of the incident, meaning the lawsuit and things like
 17 that. I am asking about did you ever talk to your
 18 husband about how the incident may have occurred?
 19 A. I probably -- Well, I wasn't there to see it
 20 so I couldn't really tell him how I thought it
 21 happened.
 22 Q. Well, did you ask him if he saw it or --
 23 A. He didn't see nothing, no.
 24 Q. Okay. All right. When Paul came in, ran in

51

1 the house as you described from being injured --
 2 A. Right.
 3 Q. -- you offered him to wrap his arm?
 4 A. Yes.
 5 Q. And then so how long was he in the house
 6 physically or did he just run in and run out with
 7 Dave?
 8 A. I have to say it might have been a minute. I
 9 ran immediately, got a clean towel, put it on his arm
 10 and they went to hospital.
 11 Q. Did you visualize the injury? Did you see
 12 it?
 13 A. I could see the cut.
 14 Q. That's what I am asking.
 15 A. Yes. I could see the cut.
 16 Q. How long was the cut?
 17 A. Probably like this I would think.
 18 Q. About six inches or so?
 19 A. Yeah. He -- probably like that on the
 20 forearm.
 21 Q. Approximately six?
 22 A. Yeah. Maybe on his forearm.
 23 Q. And did you do anything to determine how deep
 24 the cut was?

52

1 A. No. I got a towel and no, I didn't.
 2 Q. Okay. All right. So although you know it's
 3 about six inches long, you don't know how deep it was;
 4 is that correct?
 5 A. No. I don't know.
 6 Q. Is that correct?
 7 A. Correct.
 8 Q. After wrapping it, and this is all within a
 9 minute, Paul runs out with Dave and Dave takes him to
 10 the hospital?
 11 A. Correct.
 12 Q. What hospital?
 13 A. McHenry.
 14 Q. NIMC?
 15 A. Yes. NIMC.
 16 Q. Do you know how long they were at the
 17 hospital?
 18 A. Well, I called -- I don't know. I don't
 19 know. I called the hospital to see.
 20 Q. What?
 21 A. I called probably after they got there. What
 22 does it take, 15 minutes to get there. Maybe a half
 23 hour or something I called after.
 24 Q. Just to find out the status?

53

1 A. Yeah. See how he was doing.
 2 Q. Did you learn anything?
 3 A. Yes.
 4 Q. What did they tell you?
 5 A. In the emergency room they told me that as
 6 far as they could -- their knowledge, he didn't have
 7 any damage done other than a superficial wound that
 8 they would clean up and stitch up and give him
 9 medication, you know, for pain and antibiotics for
 10 infection.
 11 Q. That's what the nurse people told you, the
 12 people attending in the ER?
 13 A. Uh-huh.
 14 Q. Yes?
 15 A. Yes.
 16 Q. Okay. And then did you -- Did Dave or Paul
 17 have a cell phone with them when they went to the
 18 hospital?
 19 A. I can't recollect for sure.
 20 Q. Does Dave have a cell phone?
 21 A. Yes, he does.
 22 Q. Did he have it at the time?
 23 A. I don't remember.
 24 Q. Okay. Did either of them -- Well, strike

54

1 that.
 2 After Dave and Paul went to the hospital
 3 right after the accident occurred, did you hear from
 4 either of them while they were at the hospital?
 5 A. No. When they came back, no.
 6 Q. Okay. It wasn't until they came back from
 7 the hospital?
 8 A. To my house.
 9 Q. Was that Dave or both Dave and Paul?
 10 A. Both Dave and Paul were at my house
 11 afterwards.
 12 Q. Do you know how long that was after the time
 13 they left to go to the hospital that they arrived back
 14 at your house?
 15 A. The length of time he was gone I am not quite
 16 sure.
 17 Q. What did you say?
 18 A. I am not quite sure. Maybe an hour and a
 19 half or something I mean by the time they did their job
 20 and --
 21 Q. Okay. All right. So it's your understanding
 22 that Paul was injured, he runs into the house. Does
 23 Dave run into the house, too?
 24 A. He is right behind him.

55

1 Q. So they both run into the house, right? Yes?
 2 Yes?
 3 A. Yes.
 4 Q. You wrap the arm, then they run back out.
 5 They go to the hospital. They are at the hospital
 6 approximately, and I know you didn't time it, but
 7 approximately an hour and a half at the ER?
 8 A. Uh-huh.
 9 Q. And they come back to your house, correct?
 10 A. Correct. Yes.
 11 Q. And then Paul and Dave come into the house
 12 again?
 13 A. Yeah.
 14 Q. Okay. And do you sit down and talk to him or
 15 what happens?
 16 A. Well, Paul needed medication to have refilled
 17 and he didn't have any insurance and didn't have any
 18 money on him so I gave him \$50 to go get the
 19 prescriptions refilled.
 20 Q. Okay.
 21 A. Not knowing how much they would cost but you
 22 know.
 23 Q. So as I understand it, Paul comes back to
 24 your house from the ER and says, hey, I need to refill

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1 this prescription for pain medication and don't have
2 any money and you give him \$50?
3 A. Yes.
4 Q. Okay. So he asked -- Did he ask -- Hold on.
5 Did he -- It looks like you want to talk. Did he ask
6 you for the \$50 or did you just offer it to him?
7 A. I offered it to him. He didn't ask.
8 Q. How long was Paul in the house when he
9 returned from the ER until he left to get the
10 prescription filled?
11 A. They weren't there maybe a few minutes and
12 they went to the drug store.
13 Q. So Dave then took Paul in Paul's truck and
14 went to the drug store to fill the prescription?
15 A. Uh-huh.
16 Q. And then when Dave returned, did he return
17 alone or with Paul again?
18 A. I believe he took Paul home.
19 Q. Right.
20 A. And he could walk from Paul's house.
21 Q. Right. So it's your belief that Dave would
22 have walked from Paul's house back to home and that's
23 when he arrived home then?
24 A. Right.

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1 Q. Was that within the hour?
2 A. I don't know how long he was at Paul's house
3 once he --
4 Q. Okay. But after Dave and Paul left in Paul's
5 truck to go fill the prescription, Dave then returned
6 next alone to the house, right?
7 A. Back to my house.
8 Q. Yes.
9 A. Yes, because he --
10 Q. So it was your feeling that he probably
11 dropped Paul after and left the truck at Paul's house?
12 A. Yeah. It was his truck. Paul's truck.
13 Q. I understand.
14 A. Okay.
15 Q. All right. Okay. Now, let's go back a
16 little bit and let me ask a couple follow-up
17 questions. When Paul ran into the house after the
18 accident, okay --
19 A. Uh-huh.
20 Q. -- with the injury, did he say anything about
21 how it happened?
22 A. There wasn't time. No.
23 Q. I understand there might not be time. I am
24 just asking if. If they didn't you can just say they

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1 didn't.
2 A. No.
3 Q. Let me ask the question again because you
4 didn't answer it directly. When Paul arrived into the
5 house --
6 MR. BARCH: I know you are frustrated with the
7 way she answers questions but I think she is trying
8 her best.
9 MR. MAST: There is no question she is trying her
10 best.
11 BY MR. MAST:
12 Q. I'm not saying you are not trying your best.
13 A. I'm sorry. I know.
14 Q. You are doing fine actually. It's just
15 actually when you do answer it kind of indirectly, I
16 need to go back and I'm telling you why I need to go
17 back. You are doing fine. There is no problem with
18 what you are doing. I just need you to understand why
19 I am asking the question again.
20 So when Paul runs in the house after
21 being injured for the first time, I think you said
22 Dave followed, right?
23 A. Uh-huh.
24 Q. Yes?

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1 A. Yes.
2 Q. You saw the injury, you wrapped it and then
3 they left immediately to go to the hospital, right?
4 A. Yes.
5 Q. During the time after the accident before
6 they left to go to the hospital, did Paul say anything
7 about how the accident occurred?
8 A. No.
9 Q. Did Dave say anything how the accident
10 occurred?
11 A. No.
12 Q. So by the time Paul and Dave left to the
13 hospital to the emergency room to treat Paul's injury,
14 you did not know how it happened other than you
15 assumed I am assuming you felt it was probably due to
16 the chain saw, right?
17 A. Yes.
18 Q. But you didn't know that?
19 A. No.
20 Q. And they never -- either of them never told
21 you how it happened, correct? Is that correct?
22 A. Correct.
23 Q. Okay. So they are at the hospital. You
24 don't talk to them now until they arrive back at your

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1 house after the ER, right?
 2 A. Correct.
 3 Q. And they are only there for a couple of
 4 minutes until they go fill the prescription for pain
 5 medication, right?
 6 A. Right.
 7 Q. And while they are there for a couple of
 8 minutes at your house before filling the pain
 9 prescription, does Dave or Paul tell you anything more
 10 about how the accident occurred?
 11 A. No.
 12 Q. Okay. I am assuming you put the dots
 13 together and you felt it was because of the chain saw
 14 but nobody told you that, fair enough?
 15 A. Correct. Right.
 16 Q. Is that correct?
 17 A. Yes.
 18 Q. Okay. So by the time Dave now returns home
 19 alone after dropping Paul off, you have not yet heard
 20 from Dave or Paul at that point how the accident
 21 occurred; is that correct?
 22 A. Well, Dave would have had to come back to my
 23 house.
 24 Q. That's where I am starting this question. By

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1 the time he returns to your house, by that time you
 2 still have not talked to either of them about how it
 3 happened, correct?
 4 A. No.
 5 Q. Is that correct?
 6 A. Correct.
 7 Q. Okay. So Dave returns to your house alone
 8 and we are probably talking now, what, in the evening
 9 hours?
 10 A. Yeah. Early evening.
 11 Q. Maybe 4:00 to 5:00, somewhere in that general
 12 area?
 13 A. Right. Yes.
 14 Q. Okay. 4:00 to 5:00 p.m., Dave arrives home
 15 approximately and is there a conversation about what
 16 happened?
 17 A. I can't remember.
 18 Q. Okay. Any time the rest of that day does
 19 Dave make any statement about what happened?
 20 A. Can I say something?
 21 Q. Sure. If you want to.
 22 A. In the aspect of all this thing happening so
 23 fast, coming into the house, literally wrapping his arm
 24 and rushing him to the hospital because he was really

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1 concerned, when they came back to the house, they were
 2 only there a few minutes also. I gave them the money.
 3 When David came back obviously he drove Paul home
 4 because it was his truck, he came back to my house
 5 because that's where his car was, he was all upset and
 6 everything. I don't remember that anything really was
 7 said, you know, that Paul -- you know, little bit about
 8 Paul, you know, as far as not how the accident
 9 happened, how he was doing, you know, and that they got
 10 the prescriptions and then he went home but he didn't
 11 ever at that point at that time on that day, so.
 12 Q. All you are saying then in summary is Dave
 13 never mentioned how the accident happened?
 14 A. Not on that day.
 15 Q. Hold on. You got to let me finish my
 16 question -- my statement. All you are saying is on
 17 the day of Paul's accident at no time did you hear
 18 from Dave or Paul for that matter how the accident
 19 occurred?
 20 A. No.
 21 Q. Is that correct?
 22 A. Correct.
 23 Q. Okay. So even when Dave arrived back from
 24 dropping Paul off, he stayed, what, for a few minutes?

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1 A. Yeah. He didn't stay long. I can't really
 2 remember, you know, but he probably did stay, you know.
 3 Q. Stayed for awhile?
 4 A. For a bit, yeah.
 5 Q. Did he ever go back and finish the work up?
 6 A. No. He went home.
 7 Q. So by the time Dave left for now home the day
 8 of Paul's accident, he still never told you what his
 9 version of the accident was; is that correct?
 10 A. No.
 11 Q. Is that correct?
 12 A. Correct.
 13 Q. Did you see Dave the following day?
 14 A. I can't remember but he must have come back
 15 because the branches. You know, this is a year and a
 16 half ago, no.
 17 Q. Listen, Carolyn, you don't have to tell me
 18 why. I have been doing this long enough. I know that
 19 memories aren't the best sometimes so you don't need
 20 to tell me why. My job, though, is to find out what
 21 you know.
 22 A. No, I don't.
 23 Q. So I have to go through this with you, okay?
 24 So let's just get through this. You are doing the

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1 best you can. Let's just keep going.
 2 Did you ever at any time after Paul's
 3 accident at your house ever talk to Dave about how it
 4 happened?
 5 A. Yes. He did tell me.
 6 Q. Okay. How many times have you talked to Dave
 7 where you heard Dave's version of it? Just once or
 8 more than once?
 9 A. Maybe more than once.
 10 Q. How many times?
 11 A. I don't know. Twice.
 12 Q. Okay. When was the first time after the
 13 accident that you spoke to Dave about how it happened?
 14 The next day, days later, how soon after the accident?
 15 A. I don't remember.
 16 Q. Do you know if it was within days of the
 17 accident?
 18 A. No. I don't remember.
 19 Q. Okay. Was it within at least a month after
 20 the accident?
 21 A. Yeah. Probably.
 22 Q. Okay. And was it at your house?
 23 A. Or was it on the phone. I don't remember if
 24 it was.

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1 Q. So it was either in person or on the phone?
 2 A. Right.
 3 Q. Okay. Do you know if anybody else was a
 4 party to that conversation meaning overheard that
 5 conversation?
 6 A. No. Just me.
 7 Q. So Dave would have either called you or he
 8 would have been at your house and he would have told
 9 you this, right?
 10 A. Right. Correct.
 11 Q. Okay. What did he tell you?
 12 A. What happened. That he was out there with
 13 Paul, that Paul was helping him. David was using the
 14 chain saw and Paul was holding the branches and they
 15 had been cutting out there for awhile branches and
 16 everything seemed to be okay and then the one branch
 17 that when the accident happened that Paul was holding,
 18 Paul had repositioned his hand at the split second and
 19 moved his hand up on the branch because I guess it was
 20 flexing and he just instantly and then David was in the
 21 position, it only takes a second and that's how he
 22 ended up injuring his arm because Paul had moved his
 23 hand out of the position.
 24 Q. So Dave blamed Paul for the accident then?

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1 A. If he didn't move his hand -- They had been
 2 cutting for an hour and everything was going fine until
 3 this one incident happened, yeah.
 4 Q. So the reason for the accident then according
 5 to Dave was because Paul was moving his hand and he
 6 didn't know he was moving his hand and he cut the hand
 7 or the arm with the chain saw, correct?
 8 A. Right. Right.
 9 Q. And, again, and if you don't know, that's
 10 fine but you don't know how long after the incident
 11 occurred that Dave first told you this, do you?
 12 A. Well, it wasn't that day because he was all
 13 upset.
 14 Q. I am just asking how long, if you know.
 15 A. I don't know. Maybe a couple weeks. I don't
 16 know or next week, the week after.
 17 Q. Okay. And you said maybe a couple times Dave
 18 had told you this, correct?
 19 A. Uh-huh.
 20 Q. Yes?
 21 A. Yes.
 22 Q. When was the next time?
 23 A. Well, I don't know. He probably told -- I
 24 don't know. Maybe before -- Well, I think it was

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1 probably before he got the letter from you in December,
 2 you know. Up to that point, you know, he just thought
 3 that things would not end up this way not knowing, you
 4 know, and then when he found out the way he knew it
 5 happened and he told me and he knew what Paul had said
 6 the way it happened, he was kind of upset.
 7 Q. Okay. But my question was: When is the next
 8 time you spoke to him? Hold on. You got to let me --
 9 A. I am thinking.
 10 Q. My question is: When is the next time after
 11 this first time of one or two weeks after the accident
 12 when is the next time you heard Dave express his
 13 version of the accident?
 14 A. Probably a couple months went by.
 15 Q. Okay. And that was after he heard Paul's
 16 version of the incident or not?
 17 A. I think so. Yeah.
 18 Q. And Dave got mad after he heard Paul's
 19 version of the incident?
 20 A. He was kind of upset.
 21 Q. Did he tell you why he was upset?
 22 A. For what's written -- because he figured if
 23 Paul hadn't moved his arm forward to reposition on the
 24 branch David would have never cut him.

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1 Q. Is that what Dave said to you?
2 A. Uh-huh.
3 Q. Yes?
4 A. Yes.
5 Q. See, this is what I am trying to find out. I
6 am trying to find out everything that Dave said
7 describing the incident and his feelings versus Paul's
8 version of the incident. That's what I am trying to
9 find out.
10 A. Right.
11 Q. I don't want to know your version. I want to
12 know what Dave said.
13 A. No.
14 Q. So Dave told you he is upset because he heard
15 of Paul's version which is different from his version
16 of the incident, correct?
17 A. Uh-huh.
18 Q. Is that correct?
19 A. Yes.
20 Q. Anything else that Dave discussed with you
21 regarding how the incident occurred or his feelings
22 regarding how Paul described the incident?
23 A. No. I mean, no. He just -- What he had said
24 what his version was and knowing what Paul had said.

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1 Q. Do you know what Paul's version is? Do you?
2 A. Well, I don't know if I put my foot in my
3 mouth now because --
4 MR. BARCH: I think he is asking you what you
5 have heard about Paul's version.
6 THE WITNESS: The version that I know is that
7 Paul is saying that he was holding the branch and
8 threw it down on the ground, that David had revved up
9 the chain saw and came towards him to cut the branch
10 that he didn't even have. He had already thrown the
11 branch down on the ground. What would that make it
12 seem like, David didn't even see his arm was there and
13 that the branch --
14 BY MR. MAST:
15 Q. Carolyn, I don't want to get into an argument
16 about what happened, okay. That's not my purpose
17 here. What I am trying to find out is who told you
18 what, when and how. Okay. That's what I am trying to
19 find out. What you think makes sense or what I think
20 makes sense is not the topic today, okay.
21 The version that you just described,
22 whose version is that?
23 A. That's what Paul had said in his -- one of
24 his -- Paul had said.

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1 Q. In what? When did he tell you?
2 A. No. To your -- you, to the lawyer or in some
3 kind of --
4 Q. How do you know that?
5 A. Because my lawyer told me.
6 Q. Okay. All right. Sorry.
7 MR. BARCH: Here's the thing, let me just say
8 this, Carolyn, if he is asking you questions which
9 require you to relate what I have told you --
10 THE WITNESS: Yes.
11 MR. BARCH: -- don't give that information. He
12 is asking you about other people. Not about what you
13 and I have talked about.
14 BY MR. MAST:
15 Q. All right. So let's go back. Okay. What I
16 want to try to find out is this: I want to know
17 everything Dave told you and everything Paul told you
18 and everything anybody else might have told you other
19 than your attorneys, okay? That's what I am trying to
20 find out, three things. We have gone pretty far with
21 regard to Dave so I am going to follow that up by
22 saying: Have you told me everything that Dave has
23 told you concerning the accident or Paul's injuries?
24 A. Yes.

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1 Q. Is there anything else you want to add to
2 that other than what you have already told me?
3 A. No.
4 Q. Regarding Dave now. Is that it?
5 A. Yes.
6 Q. Okay. So Dave has never told you more about
7 what he thinks as far as Paul's injuries, nothing
8 more? You have never told me anything about that.
9 A. You mean if David knew the extent of Paul's
10 injuries?
11 Q. Yes. Has he discussed that with you at all?
12 A. He only knew, too, the day of when it
13 happened what I had told him what I learned from the --
14 Q. ER?
15 A. -- from the hospital, from the ER.
16 Q. That's all Dave knows?
17 A. That's all he knew until all this started to
18 unroll, right.
19 Q. Right. So you have told me now everything
20 that Dave has ever told you regarding the incident and
21 how it occurred and medically how Paul was injured
22 from it, correct?
23 A. Yes.
24 Q. Okay. And there are only two times that Dave

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1 really discussed the specifics of how it happened and
 2 both times he told you that Paul was shifting his
 3 hands when he was lifting this chain saw up and caught
 4 Paul on the arm, correct?
 5 A. Correct.
 6 Q. Okay. Dave never accepted responsibility for
 7 this accident then in your view, correct? He did not
 8 believe he was responsible for it; is that correct?
 9 A. Correct.
 10 Q. Okay. And he never accepted responsibility
 11 for it to you as far as you knew, correct?
 12 A. Correct.
 13 Q. Okay. How many times now have you talked to
 14 Paul about the incident after his accident?
 15 A. I have never talked to Paul. The only time I
 16 talked to Paul was after it happened a few days and I
 17 went by to see how he was feeling and when he was going
 18 to get his stitches out and I maybe talked to him on
 19 the phone maybe once.
 20 Q. All right. Well, see, this is my confusion.
 21 I asked you how many times you talked to Paul since
 22 the accident about this and you said I never had and
 23 you mentioned two times.
 24 A. Well --

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1 BY MR. MAST:
 2 Q. From the day of Paul's accident during the
 3 time that you talked to him these two occasions about
 4 the accident, how much time elapsed? Just --
 5 A. A couple weeks only.
 6 Q. Okay. So the two times -- the two times you
 7 talked to Paul about his accident with the chain saw
 8 was within a couple of weeks of his accident, yes?
 9 A. Right. Correct.
 10 Q. And that would have been sometime still in
 11 July of 2011, right?
 12 A. Uh-huh.
 13 Q. Yes?
 14 A. Yes.
 15 Q. And you have not talked to Paul since July,
 16 2011 until today, correct?
 17 A. I did in September.
 18 Q. So there is another time?
 19 A. He came by my house.
 20 Q. September of what?
 21 A. 2011, that year.
 22 Q. So there is three times you talked to Paul?
 23 A. Uh-huh.
 24 Q. Yes?

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1 Q. Stop. Stop. So we got to go through those,
 2 okay? So it's your testimony that you only spoke to
 3 Paul twice after this accident?
 4 A. Yes. Twice.
 5 Q. Right?
 6 A. Right.
 7 Q. Not any other times than two times, right?
 8 A. Just twice.
 9 Q. Okay. Before the accident, let's say a year
 10 before the accident, how many times did you talk to
 11 Paul?
 12 A. I don't know. A few times.
 13 Q. Okay. So talking to him twice after the
 14 accident, is that within a year of the accident, after
 15 the accident?
 16 A. The time span which I did talk to him was
 17 probably when it happened into the late part of the
 18 year. Well, no. It was probably when I first talked
 19 to him --
 20 Q. You are not listening to the question.
 21 A. I know. I am going off the edge again.
 22 MR. BARCH: He is talking about a different
 23 timeframe than you are.
 24

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1 A. Yes.
 2 Q. So since September of 2011, have you talked
 3 to Paul until today?
 4 A. No.
 5 Q. From the time of Paul's accident until today
 6 you have talked to him only three times?
 7 A. Correct. Yes.
 8 Q. Have they all been in person?
 9 A. Two are in person.
 10 Q. One was on the phone?
 11 A. One was on the phone that I remember.
 12 Q. Okay. All right. So let's start with the
 13 first time you talked to Paul after his accident about
 14 the incident, okay?
 15 A. Uh-huh.
 16 Q. You say that was a couple weeks later?
 17 A. It was probably -- It's before he had
 18 stitches out even so it was within a week.
 19 Q. Okay.
 20 A. When I had seen him in person.
 21 Q. And was it at your house or where?
 22 A. At his house.
 23 Q. You visited him?
 24 A. Uh-huh.

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1 Q. Yes?
 2 A. Yes.
 3 Q. And how long were you at his house?
 4 A. I don't know.
 5 Q. Couple minutes?
 6 A. Maybe. I don't know. I was visiting maybe
 7 an hour.
 8 Q. Okay. And how much time did you spend of
 9 that hour talking about the incident?
 10 A. I only asked him how he was doing.
 11 Q. Okay. And what did he say?
 12 A. He says that he seems he is doing okay but of
 13 course it hurts and I says, well, I can understand
 14 that, you know, and that was about it. He didn't go on
 15 and elaborate anything.
 16 Q. Okay. At any time during that first visit
 17 with him, within a week of the incident, was it ever
 18 discussed how the accident occurred?
 19 A. No.
 20 Q. Okay. And other than him saying, okay, it
 21 still hurts, did you ever talk more about his injury?
 22 A. No. Other than that one time I called him on
 23 the phone.
 24 Q. No. No. I am just talking about --

1 say something in order so that he can get a lot of
 2 money in the case? Did he ever say anything like that
 3 to you?
 4 A. To me, no.
 5 Q. Did he say it to somebody else?
 6 A. You mean so he could -- Well, you can say
 7 it's hearsay again. How can I prove it? Paul had said
 8 something to David.
 9 Q. And Dave told you that?
 10 A. David told me that.
 11 Q. So I understand that. I know that already
 12 but you didn't hear Paul say that. You heard Dave
 13 tell you that he said that?
 14 A. Right.
 15 Q. You knew they were -- Hold on. You are
 16 not -- you did not -- Let me say the question again.
 17 You have not heard Paul at any time say anything like
 18 that, correct?
 19 A. Correct.
 20 Q. You have not heard Paul ever say since his
 21 accident that he wanted to try and make money, he
 22 wanted to try to stay off of work, he wanted to try to
 23 get people to help him get the money or anything like
 24 that? You never heard any of those conversations from

1 A. No. No.
 2 Q. You met with him --
 3 A. No.
 4 Q. When you met with him a week after the
 5 accident and visited for about an hour at his house,
 6 the only thing you talked about regarding his injury
 7 was, okay, it still hurts. That's all he said?
 8 A. Right. Correct.
 9 Q. So the rest of that visit was unrelated to
 10 this incident or his injury, correct?
 11 A. Correct.
 12 Q. It was just being friendly talk?
 13 A. Uh-huh.
 14 Q. Yes?
 15 A. Yes.
 16 Q. Okay. Who was present during that visit?
 17 A. His mother.
 18 Q. Was she -- Was she able to hear the words
 19 that were exchanged between you two?
 20 A. She was sitting right next to me.
 21 Q. Okay. Anybody else present?
 22 A. I don't remember. I think she was just home.
 23 Q. Did Paul ever suggest at any time since his
 24 accident that he was wanting you or Dave or anybody to

1 Paul, have you?
 2 A. No.
 3 Q. Okay. You heard them indirectly from Dave to
 4 you, correct?
 5 A. Right.
 6 Q. Okay. So you are not a witness to what
 7 anything Paul said regarding those issues of trying to
 8 make money or trying to not have to work the rest of
 9 his life or any of those kind of things, you never
 10 heard any of those things from Paul, did you?
 11 A. No.
 12 Q. Okay. And the only person you have heard
 13 that from is from Dave, correct?
 14 A. Right.
 15 Q. All right. Wherein Dave said, hey, Paul told
 16 me he wants me to say this to try to get him more
 17 money, something like that?
 18 A. Uh-huh.
 19 Q. Right?
 20 A. Right.
 21 Q. Did you ever report that to anybody that Paul
 22 said that?
 23 A. I don't know if I mentioned it to Ron or not.
 24 Q. Your attorney?

1 A. Yeah. My attorney.
2 Q. Okay. Did you ever mention it to anybody
3 else?
4 A. Well, if I mentioned it to my husband, he
5 probably won't remember anything.
6 Q. Okay. Anybody else?
7 A. No.
8 Q. Okay. All right. So far we talked about
9 that one visit, the first visit, with Paul after the
10 accident about a week later, you had an hour over at
11 his house and there wasn't a lot discussed about the
12 accident, correct?
13 A. No.
14 Q. Correct?
15 A. Correct.
16 Q. Okay. The second time you met with him it
17 was again in person?
18 A. Yes. It was in the end of September of 2011.
19 Q. No. I thought you met with him two times,
20 though.
21 A. Yes. When he -- you wrote down three times
22 in that year. It was three times.
23 Q. We are on the second time. September was the
24 third time.

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1 A. Okay. It was on the phone.
2 Q. Let's go back because now we are all unclear
3 again because of that.
4 The first time you spoke to Paul after
5 the accident was when you visited in his home about a
6 week later for that hour for that visit, right?
7 A. Correct.
8 Q. The second time was on the phone call?
9 A. Yes.
10 Q. How long after that first visit with him was
11 that phone call?
12 A. Not long. I can't say.
13 Q. A day, a week, a month, a year?
14 A. I don't know. Maybe two weeks.
15 Q. Okay. And that was a telephone call did you
16 make to him or he made to you?
17 A. I called him.
18 Q. Why did you call him?
19 A. Just to see how he was doing. How -- He had
20 his stitches out, you know.
21 Q. So what was said?
22 A. Well, he says the stitches are out and he
23 seems he is doing okay and left it at that.
24 Q. Did he say he is recovered?

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1 A. No. I can't -- No. No.
2 Q. Did you know if he still had problems with
3 the injury or not or you don't know?
4 A. I don't know.
5 Q. Okay. How long was that conversation on the
6 phone?
7 A. Probably a few minutes only.
8 Q. Did Paul ever discuss the specifics of how
9 his chain saw accident occurred?
10 A. No. Not to me, no.
11 Q. Did he tell you what he thinks Dave did wrong
12 in that accident or causing his injury or anything
13 like that?
14 A. No.
15 Q. Did he ever suggest that he wants to try to
16 make money out of this case in that conversation?
17 A. No.
18 Q. Or any other conversation did he ever suggest
19 that?
20 A. No.
21 Q. Okay. Did he ever ask you for your insurance
22 information?
23 A. I offered it to him.
24 Q. When?

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1 A. Right after the accident happened.
2 Q. You mean while he was still on the way to the
3 ER or that week later?
4 A. No. After the fact. Yeah. Maybe after a
5 week. After a week later.
6 Q. I am trying to find out when.
7 A. A week later.
8 Q. When you went to his house?
9 A. Possibly. I gave him -- yes.
10 Q. Wait.
11 A. I can't remember.
12 Q. Hold on. We are talking about the times you
13 spoke to Paul and there was only three times. It's
14 got to be the first time, the second time or the third
15 time that you offered your insurance information to
16 him.
17 A. It must have been when I went over to the
18 house then because I remember writing stuff down.
19 Q. The first time?
20 A. The first time.
21 Q. Okay. So during that hour conversation with
22 Paul at his house, you said, here, I will give you my
23 insurance information, right?
24 A. Right.

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1 Q. Did he thank you for it?
 2 A. I guess. Yeah.
 3 Q. Was he polite?
 4 A. He was polite, yes.
 5 Q. Was he trying to make more out of the case
 6 than you thought?
 7 A. No.
 8 Q. Did Paul ever make you feel uncomfortable in
 9 the way he described his accident or what his injuries
 10 were?
 11 MR. BARCH: I object. She said he didn't
 12 describe it to her.
 13 BY MR. MAST:
 14 Q. Well, in any way that he described his
 15 injuries or the accident did he ever make you feel
 16 uncomfortable like he was trying to make more out of
 17 it than he should?
 18 A. No.
 19 Q. Okay. So we talked about your first visit
 20 with him at his house for an hour. We talked two
 21 weeks later the telephone call for a few minutes and
 22 all he said was he is doing okay and that was about
 23 all that was discussed, right?
 24 A. Right.

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1 don't know what you would call it. It's like a
 2 suburban and he had a flatbed on the back of it
 3 attached.
 4 Q. He had a trailer on it?
 5 A. Yes. A flatbed.
 6 Q. And the tiller was it one of those garden
 7 tillers?
 8 A. No. It was a big tiller.
 9 Q. Well --
 10 A. It's not a Mantis. A Mantis is a little tiny
 11 thing. This is a full size tiller, probably about this
 12 wide.
 13 Q. Three feet wide?
 14 A. Yes.
 15 Q. Does it have wheels?
 16 A. Wheels? You mean --
 17 Q. Does it have wheels to roll it on?
 18 A. Yeah. When you have to till, you got to have
 19 wheels. Okay. It got wheels on it. It's a tiller,
 20 yeah.
 21 Q. All right. Do you know how much it weighs?
 22 A. I asked him if he needed help.
 23 Q. That's not what my question was.
 24 A. No. I don't know. It probably weighed,

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1 Q. No specifics regarding the accident?
 2 A. Okay.
 3 Q. Then the third and final conversation you had
 4 with Paul was in person, correct?
 5 A. Yes.
 6 Q. September, 2011?
 7 A. Uh-huh.
 8 Q. Yes?
 9 A. Yes.
 10 Q. And where was that?
 11 A. At my house.
 12 Q. So he came over to your house?
 13 A. Yes.
 14 Q. Was he alone?
 15 A. Yes.
 16 Q. Was anyone else other than you and him
 17 present?
 18 A. Just me and him.
 19 Q. Okay. And how long was that conversation?
 20 A. Well, he wasn't there too long. He was
 21 taking a tiller off the back of his truck by himself
 22 that's two and a half feet off the ground.
 23 Q. Off the back like a pickup truck?
 24 A. Yeah. The vehicle that Mike came in here. I

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1 what, 200 pounds at least.
 2 Q. Okay. Had you ever lifted it or moved it
 3 around yourself?
 4 A. No.
 5 Q. Who was going to use it?
 6 A. Paul used it at his house to till his garden.
 7 Q. Who was going to use it at your house?
 8 A. He brought it back to my house so David could
 9 pick it up and bring it back to his house.
 10 Q. So Dave was going to use it?
 11 A. It was his.
 12 Q. It was Dave's tiller?
 13 A. It's Dave's tiller.
 14 Q. So apparently Dave had let Paul use it before
 15 the accident, right?
 16 A. No. It was after the accident. He had a big
 17 garden. It was time to till the garden --
 18 Q. You are not letting me take you through this
 19 because I got to ask the question before you are
 20 answering me otherwise your answer doesn't mean
 21 anything.
 22 A. I know. Okay.
 23 Q. Do you know when Dave first lent this tiller
 24 to Paul?

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1 A. Probably the beginning of September I'd say.
 2 Q. Do you know that for sure?
 3 A. I am only basing it on the fact that the
 4 garden was done and he wanted to till up his garden.
 5 Q. Who is "he"?
 6 A. Paul wanted to till up his garden and he
 7 asked David if he could use his big tiller.
 8 Q. Do you know when Dave asked or when Paul
 9 asked Dave to use the big tiller?
 10 A. Beginning of September maybe.
 11 Q. Why? Were you there when Paul asked Dave
 12 that? How do you know that?
 13 A. He brought the tiller back from his house the
 14 day --
 15 Q. Paul did?
 16 A. -- that David had borrowed him.
 17 Q. I need names so I know who you are talking
 18 about.
 19 A. David's tiller he borrowed to Paul to till up
 20 his garden.
 21 Q. This is my question: Do you know when Paul
 22 borrowed the tiller?
 23 A. In the beginning of September.
 24 Q. How do you know that?

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1 A. Because David said that Paul had the tiller.
 2 Q. Okay. That's what I am trying to find out.
 3 A. Okay. All right.
 4 Q. So your -- the basis for what -- your
 5 thinking that Paul used the tiller beginning in
 6 September of 2011 was what Dave told you, right? You
 7 didn't have direct knowledge of that. You just knew
 8 it from Dave, right?
 9 A. Right. I just knew that Paul had it. Right.
 10 Q. Okay.
 11 A. Yes.
 12 MR. BARCH: Just, Carolyn, you don't have to feel
 13 bad if you don't know when he got it or how he got it.
 14 It's okay.
 15 MR. MAST: It's not a big deal. I am just trying
 16 to find out.
 17 THE WITNESS: Okay. So probably. Yeah.
 18 MR. MAST: I am just trying to find information
 19 out.
 20 BY MR. MAST:
 21 Q. Okay. All right. So what you are saying is
 22 sometime in September Dave said Paul is borrowing my
 23 tiller, is that what you are saying?
 24 A. Right.

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1 Q. Okay. When Paul began to use it, you don't
 2 know, right?
 3 A. No.
 4 Q. You don't know who was using it over at
 5 Paul's house?
 6 A. No.
 7 Q. You never saw Paul use it, did you?
 8 A. No. No.
 9 Q. So who used the tiller over at Paul's house
 10 you don't know?
 11 A. No, I don't.
 12 Q. Okay. But Paul brought it back to your house
 13 to return to Dave, correct?
 14 A. Yes.
 15 Q. And that was in September, 2011?
 16 A. Correct.
 17 Q. Okay. And how long was Paul at your house
 18 that day?
 19 A. I don't know. Not long. A few minutes
 20 maybe.
 21 Q. What's that mean, a few minutes?
 22 A. Okay. 15 minutes he was there.
 23 Q. Was he inside your house or just outside?
 24 A. He was outside.

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1 Q. During the 15 minutes he was at your house,
 2 were you with him that entire time?
 3 A. Yes.
 4 Q. Was anybody with him at that time?
 5 A. No.
 6 Q. So just you and him again?
 7 A. Right.
 8 Q. Okay. And that visit was meant only for Paul
 9 to drop off the tiller?
 10 A. Correct.
 11 Q. Okay. Did you and Paul engage in any
 12 conversation about the chain saw accident, how it
 13 occurred or his injuries as a result of that?
 14 A. No.
 15 Q. Okay. So the only conversation that you had
 16 with him pertained to returning the tiller?
 17 A. Yes.
 18 Q. Okay. And what was said then regarding that
 19 issue?
 20 A. I just said that tiller looks awfully big and
 21 it's pretty heavy. I says would you like me to help
 22 you take it down and my husband I believe was not home
 23 at the time so I was there and he says no. It's okay.
 24 I can do it.

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1 Q. Okay. Were you there when he took it down?
 2 A. Yes.
 3 Q. Okay. How high was the trailer off the
 4 ground? About a foot and a half, foot maybe?
 5 A. About two feet maybe.
 6 Q. About two feet?
 7 A. Yeah.
 8 Q. Okay. And is there a ramp off of the trailer
 9 or does he have to roll it off or how does he get it
 10 off?
 11 A. There was no ramp.
 12 Q. Okay.
 13 A. It was just the flatbed, you know.
 14 Q. So how did he get it off then?
 15 A. He picked it up.
 16 Q. Okay. He picked the whole tiller up with
 17 both arms?
 18 A. He picked it up, yeah. How else do you pick
 19 up 200 some --
 20 Q. Listen, Carolyn, I am just trying to find
 21 out. I am not going to assume anything so don't get
 22 upset with this but I have to go through the steps of
 23 what happened, okay?
 24 A. Uh-huh.

1 ended trailer, right?
 2 A. Correct.
 3 Q. Paul takes his arms and wraps it around from
 4 standing on the ground?
 5 A. Right.
 6 Q. Which is a foot or two feet lower than that?
 7 A. Right.
 8 Q. Correct?
 9 A. Right.
 10 Q. Wraps his arms around the engine and the
 11 wheels, that whole compartment, picks it --
 12 MR. BARCH: I think she said he grabbed the
 13 handle and then the engine at the same time.
 14 MR. MAST: Did he?
 15 MR. BARCH: She reached like that.
 16 THE WITNESS: He put his hand here and here so
 17 he'd have leverage to put the thing down on the
 18 ground.
 19 BY MR. MAST:
 20 Q. Here and here, I don't know what that means.
 21 Hold on. I need to follow this up with a question,
 22 okay?
 23 Where was Paul's left hand or arm with
 24 regard to the tiller when he picked it up? Was it on

1 Q. You watched him pick up the tiller?
 2 A. Uh-huh.
 3 Q. Yes?
 4 A. Yes.
 5 Q. I need a yes or no, okay?
 6 A. Yes.
 7 Q. Did you watch him pick it up with both arms?
 8 A. Yes.
 9 Q. Okay. Did he wrap his arms around the engine
 10 and the wheels or just around the top handlebars?
 11 A. Like that. Around the engine and the top so
 12 he could get it down.
 13 Q. Okay. Was the engine of the tiller up by the
 14 edge, the rear edge of the trailer when he picked it
 15 up or was it in the middle of the trailer? Where was
 16 it?
 17 A. It was towards the back.
 18 Q. Did he pick it up from standing on the ground
 19 or from standing on the trailer?
 20 A. I think he was on the ground and because it
 21 was towards the edge so he was on the ground where he
 22 could, you know, grab on to it.
 23 Q. So as I understand from you, the tiller is at
 24 the end of or the back of the trailer which is an open

1 the engine part of it or was it on the handle or
 2 where?
 3 A. I'd have to -- I don't know.
 4 Q. Or don't you know?
 5 A. I don't know. I know he had to use both
 6 hands to take it down.
 7 Q. Okay. Where was his right arm when he picked
 8 up the tiller, on what part of the tiller?
 9 A. Towards the heavier part.
 10 Q. His right arm.
 11 A. Where the engine is at, you know.
 12 Q. Okay. You don't know where his left arm was
 13 but his right arm was by the heavier part of the
 14 engine?
 15 A. Yes because, let's see, if I was standing in
 16 my driveway, yeah, and his back was that way, his right
 17 arm was here and the other arm would have been up.
 18 Q. Up where, on what?
 19 A. Well, towards the handle part of the tiller.
 20 It was like a bar.
 21 Q. When you were looking at this, were you
 22 watching him do it?
 23 A. Yes.
 24 Q. What part of his body was facing you when he

1 was doing this?
 2 A. His face was facing me. He was facing -- I
 3 was looking like I am looking at you.
 4 Q. Right.
 5 A. Okay. And --
 6 Q. So let me stop you. So he had his pickup
 7 truck with him, right?
 8 A. Uh-huh.
 9 Q. Yes? I need a yes or a no.
 10 A. Yes.
 11 Q. The trailer was on the back of the pickup
 12 truck and he pulled into your driveway, right?
 13 A. Right.
 14 Q. And you are in the front of the house looking
 15 toward him, right?
 16 A. Yes.
 17 Q. So if he is at the back of the trailer, you
 18 are saying he'd be facing you, right?
 19 A. Right.
 20 Q. Okay. And then he'd have his left arm up
 21 somewhere maybe by the handles and his right arm
 22 surrounded the engine of the tiller, right?
 23 A. Right.
 24 Q. And then did he just pick it up?

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1 A. I think he pushed it into the garage for me.
 2 Q. On its wheels?
 3 A. Yeah. On the wheels.
 4 Q. Did it have rubber wheels, plastic wheels?
 5 What kind of wheels did it have?
 6 A. It has rubber wheels on it I believe.
 7 Q. And who has that tiller today?
 8 A. David.
 9 Q. Okay. Again, that visit in September, 2011
 10 where Paul was dropping off the tiller never included
 11 any conversation about the chain saw accident or his
 12 injuries, correct?
 13 A. No. No.
 14 Q. Is that correct?
 15 A. Yes. Uh-huh.
 16 Q. So you have now told me everything, every
 17 communication and every visit that you have had with
 18 Paul since his accident, correct?
 19 A. Right. Correct.
 20 Q. At no time then did Paul ever describe for
 21 you how the specifics of the accident occurred; is
 22 that correct?
 23 A. Correct.
 24 Q. Okay. Okay. And how long have you known

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1 A. Yeah. He picked it up and put it on the
 2 ground.
 3 Q. Okay. How high off of the bottom of the open
 4 trailer did he pick the tiller up?
 5 A. I am not quite sure.
 6 Q. Okay. Then did he just shift himself around
 7 and let it straight down after he moved over from
 8 above the trailer?
 9 A. No. He didn't -- He lifted it off and put it
 10 on the ground.
 11 Q. That's what I am saying.
 12 A. Yeah.
 13 Q. When he lifted it up, did he back up ten
 14 feet? Did he just turn around and twist himself and
 15 drop it next to him? How did he drop it to the
 16 ground?
 17 A. I don't remember the exact procedure.
 18 Q. Okay. Okay. But after he picked it up and
 19 moved away from the trailer, he put it back on the
 20 ground then, right?
 21 A. Right.
 22 Q. Okay. And then what did he do with it?
 23 A. And then we put it in the garage.
 24 Q. "We put it," who put it?

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1 Paul?
 2 A. Ever since he was in high school.
 3 Q. So for over ten years?
 4 A. Ten years. Paul is 45 and I have known him
 5 ever since he was probably 18 or 17.
 6 Q. So over 20 years then. Have you always known
 7 him to be a trustworthy, credible person?
 8 A. Yeah. As far as I know, yes.
 9 Q. Do you today -- And I know the lawsuit is
 10 here so I understand. That's fine. And you are kind
 11 of a defendant in the lawsuit so I get that but if you
 12 put the lawsuit aside, do you still consider him a
 13 friend or are you thinking of him in more negative
 14 terms now because of all of this?
 15 A. Negative.
 16 Q. Why do you think of him in negative terms
 17 other than the fact that you are named in a lawsuit?
 18 What's the reason?
 19 A. Because, I mean, it happened as a bad
 20 accident of course and you know --
 21 Q. Wait. It happened -- What?
 22 A. It happened as a bad accident but when I
 23 heard from the ER on how the injuries went and then as
 24 time went on, many months went by, it wasn't until

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1 December we knew that Paul had gotten your services
2 that there was anything that would come to this
3 recourse and he never said anything to me about the
4 accident either thinking that his arm, you know, might
5 just -- you know, thank God it was okay and then all of
6 this came out, so.
7 Q. I mean, you are not a doctor and I am not a
8 doctor --
9 A. No.
10 Q. -- and I guess we have to defer to what they
11 think.
12 A. Uh-huh.
13 Q. What you are basically saying is you thought
14 it was just a relatively small injury, right?
15 A. What about EKGs?
16 Q. Again, I am not going to get into the --
17 A. Medical. Forget that.
18 Q. -- into the medical. All I am asking you
19 is -- My question is: Why are you now kind of feeling
20 negative toward Paul today? What is the issue? Is it
21 because you thought this wasn't much of an injury or
22 you just don't think Dave did anything wrong or what?
23 What is the reason?
24 A. Well, usually I have had those tests done.

1 BY MR. MAST:
2 Q. The injuries?
3 A. Yes.
4 Q. The injuries issue, right?
5 A. Right.
6 MR. MAST: Okay. I don't have any more.
7 MR. ACCARDO: I got nothing.
8 THE WITNESS: He probably had enough of me
9 already probably. Good thing I ran out of water.
10 MR. BARCH: Hold on one second.
11 MR. MAST: How do you feel about me, negatively?
12 THE WITNESS: I don't feel negatively about any
13 of you guys. I am just glad I am not a lawyer, I am
14 not a doctor, I am not a police officer.
15 MR. BARCH: Let's not talk about things that are
16 not associated with the deposition on the record at
17 least.
18 THE WITNESS: Okay.
19 EXAMINATION
20 BY MR. BARCH:
21 Q. With respect to the tree branches, the size
22 of the trees, the size of the branches that were being
23 cut, those were all estimates that you gave, correct?
24 A. They were, yes.

1 Q. Listen, I don't want to get into all that.
2 A. It's because of the testing that he had done
3 it proved that he didn't have any nerve damage done at
4 one point and then along the way it all happened and
5 then he --
6 Q. So your negative feelings toward Paul today
7 is because you think that the medical treatment that
8 he is getting isn't related to this accident but he
9 thinks it is. Is that what you are saying?
10 A. I am saying that his EKG that he had done to
11 prove nerve damage didn't show positive, so.
12 Q. That's up to his doctors to talk about.
13 A. Oh, I see. Okay.
14 Q. That's not him. He is not a doctor. He is
15 not going to testify to his EKG. You know --
16 A. Okay. Fine.
17 Q. He doesn't know --
18 MR. BARCH: Carolyn, slow down. Answer the
19 question. He wants to know why you view him
20 negatively. Is it just because of the lawsuit and his
21 claimed injuries or is there something more?
22 THE WITNESS: It's just the claim from the
23 lawsuit.
24

1 Q. You didn't go out there and measure any of
2 this stuff?
3 A. No.
4 Q. Okay. And with respect to David using the
5 chain saw that day that Paul was injured or the day he
6 cut the apple tree up or the day he cut up the
7 branches from that larger tree, did you feel that you
8 had any skill that you could give to him? Did you
9 feel you could teach him anything about the use of
10 chain saws because you had never used one?
11 A. No.
12 Q. Did you at any point see anything in
13 connection with David's use of a chain saw that was a
14 concern for you based upon what you did know, if
15 anything, about using chain saws?
16 A. No.
17 Q. Was there anything about the way David was
18 using a chain saw that you suspected was dangerous?
19 A. No.
20 Q. Did you feel like -- Knowing that Paul was
21 out there that day, knowing that David was out there
22 the day he, Paul, was hurt, did you believe there was
23 any -- did you feel compelled to tell them that they
24 could be hurt by a moving chain blade?

1 A. No.
2 Q. Did you think that -- did you believe that
3 was something obvious?
4 A. Right.
5 MR. BARCH: That's all I have.
6 MR. MAST: Okay.
7 MR. BARCH: We are going to probably reserve
8 signature on this one.
9 (FURTHER DEPONENT SAITH NOT.)
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1 CERTIFICATE
2
3
4 I, Paula Ann Erickson, Certified Professional
5 Reporter, Registered Professional Reporter and Notary
6 Public, do hereby certify:
7
8 That the witness in the foregoing deposition
9 named was present at the time and place therein
10 specified;
11
12 That the said proceeding was taken before me
13 as a Notary Public at the same time and place and was
14 taken down in shorthand writing by me;
15
16 That this transcript is a true and accurate
17 transcript of my shorthand notes so taken, to the best
18 of my ability.
19
20
21
22
23
24

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1 IN THE CIRCUIT COURT
2 FOR THE 22ND JUDICIAL CIRCUIT
3 McHENRY COUNTY, ILLINOIS
4 PAUL DULBERG,)
5 Plaintiff,)
6 vs.) No. 12 LA 178
7 DAVID GAGNON,)
8 Individually, and as)
9 Agent of CAROLINE)
10 and CAROLINE McGUIRE and)
11 BILL McGUIRE,)
12 individually,)
13 Defendants.)
14
15 I, CAROLYN McGUIRE, being first duly sworn, on
16 oath say that I am the deponent in the aforesaid
17 deposition taken on March 20, 2013; that I have read
18 the foregoing transcript of my deposition, and affix
19 my signature to same.
20 _____
21 CAROLYN McGUIRE
22
23 Subscribed and sworn to
24 before me this _____ day
of _____, 2019

Notary Public

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1 I further certify that I am neither counsel for
2 nor related to or employed by any of the parties to
3 this action and that I am not a relative or employee
4 of any counsel employed by the parties hereto or
5 financially interested in the action.
6
7 _____
8 Paula Ann Erickson
9 Certified Shorthand Reporter
10 Registered Professional Reporter
11 License No. 084-003899
12 Notary Public
13
14 Dated this _____ day
15
16 of _____, 2019.
17
18
19
20
21
22
23
24

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