

Date : 4/20/2022 3:17:07 PM
From : "Paul Dulberg"
To : "Law Office Of Alphonse Talarico"
BCc : "Paul Dulberg" , "Tom Kost"
Subject : Re: [ServeManager] Job #6975323 Update

Dear Mr Talarico,

The green color Mr Beebe described has opened another can of worms.

I cannot find William McGuire Exhibit 1 (Photo of red chainsaw) within the Dulberg Bates numbered documents nor within the Gooch or Baudin files.

In the Popovich files, William McGuire Exhibit 1 (Photo of red chainsaw) is found detached from the deposition and off on its own (POP 000406) amongst the documents.

There are 47 photos of the red chainsaw not marked as an exhibit within the Popovich Documents (POP 001057 - POP 001104) and none in the Dulberg documents.

I don't believe I saw the color of the chainsaw until I received the Popovich document disclosure in June or July of 2019, 8 years after the accident, and my first reaction to seeing it was, "I thought it was green".

I did a little digging to find out if the color was ever described by any party, below is the closest I have found:

July 2012 - McGuire's Interrogatories to Plaintiff (Dulberg 006128) or Dulberg Exhibit 1 asks and answered:

Dulberg Exhibit 1 - PLAINTIFF'S ANSWERS TO INTERROGATORIES

#13 State with particularity the nature of the alleged defect, object substance or condition which caused the alleged occurrence giving the exact dimensions and physical. description of such including the size, shape, color, height, length and depth of such defect or object.

ANSWER: Objection, irrelevant - improperly worded. Defect is Gagnon's conduct. See Complaint.

*Notes:

- The color was asked of Mr Dulberg and Mr Mast opted to raise an objection in the answer and did not state Mr Dulberg's answer over said objection.
- McGuire's sent these interrogatories on 7/10/2012 and Mast responded on 7/26/2012.

September 2012 - February 2013 - McGuire's Interrogatories to Co-Defendant (Dulberg 00179) or Gagnon Exhibit 3 asks and answers:

Gagnon Exhibit 3 - ANSWERS TO CO-DEFENDANT INTERROGATORIES

#11 State with particularity the nature of the alleged defect, object substance or condition which caused the alleged occurrence giving the exact dimensions and physical. description of such including the size, shape, color, height, length and depth of such defect or object.

ANSWER; Chainsaw, EFCO, Model# MT3500, 2.38 Cubic Inch, 16" blade.

*Notes:

- The color was asked of Mr Gagnon and he didn't respond but Gagnon gave a very detailed answer about the chainsaw right down to the Cubic inch of the motor.
- I doubt Gagnon could remember those details over a year and a half after operating the chainsaw and had to get that information from the manual since he couldn't or wouldn't say the color.
- Also, McGuire's sent these interrogatories on 9/27/12 and these answers were answered and turned over on 2/4/2013 only after McGuires did a motion to compel and after Dulberg was deposed.

I have the feeling that my memory of the color and Mr Beebe's memory of the color is correct and that the chainsaw was actually Green.

I have a feeling that the 2012 protective order on the chainsaw was delayed so that the McGuires had time to cover up the fact that they did not have the chainsaw that caused the injury. (I need to look up dates to show how many months it was delayed) Also, is it possible that the McGuires needed to find/purchase a chainsaw with a receipt dated prior to the accident in order to cover up the issue of not actually keeping the chainsaw that caused the injury?

I have a feeling this may be why no one compelled Gagnon to answer any Interrogatories before the depositions began and only after Dulberg was deposed.

I have a feeling this is why no one asked the color of the chainsaw in any deposition or directly in any interrogatory.

I have a feeling that William McGuire exhibit 1 was intentionally omitted from both case files turned over in 2015 and did not surface till 2019 to hide the fact that the color in the photo was red and not green. (I would love to find Exhibit 1 anywhere in the dulberg documents to prove this one incorrect)

These are just feelings because I have nothing in writing describing the color of the chainsaw.

These were my thoughts immediately after hearing Mr Beebe's recorded interview and Mr Beebe describing a green chainsaw which rang home with my first thoughts when seeing the photo of a red chainsaw for the first time and saying, "I thought it was green".

Its funny how Mr Beebe's description of the green color triggered that memory in my head this many years later.

Paul

On Apr 20, 2022, at 7:50 AM, Alphonse Talarico
<contact@lawofficeofalphonsetalarico.com> wrote:

From: Paul Gizel <notifications@mail.servemanager.com>
Sent: Tuesday, April 19, 2022 8:35 PM
To: Alphonse Talarico <contact@lawofficeofalphonsetalarico.com>
Subject: [ServeManager] Job #6975323 Update

Job Uploads

Paul Gizel shared 1 upload with you:

Hello,

Attached is a link to the interview. Once you click on the link, it'll automatically download it to your computer and you can listen. We are currently editing the transcript.

-Paul

□ [Brian Beebe Interview \(6.98 MB\)](#)

[View Job and Uploads](#)

Job & Case

Job: @job.display_id

Recipient: Brian Beebe

Case: 17 LA 377

Plaintiff: Paul Dulberg

Defendant: The Law Offices of Thomas J. Popivich, P.C., and Hans Mast

Court: Circuit Court of the Twenty Second Judicial Circuit

County: Mchenry