

Date : 10/5/2022 10:38:42 AM
From : "Paul Dulberg"
To : "Alphonse Talarico"
BCc : "Paul Dulberg"
Subject : Fwd: Dulberg v Mast et al

Begin forwarded message:

From: Julia Williams <juliawilliams@clintonlaw.net>
Subject: Re: Dulberg v Mast et al
Date: June 5, 2020 at 9:01:17 AM CDT
To: Paul Dulberg <Paul_Dulberg@comcast.net>
Cc: Mary Winch <marywinch@clintonlaw.net>, Ed Clinton <ed@clintonlaw.net>

Dear Paul,

We will be able to view Mr. Mast via the video connection during the deposition.

We will ask that the camera be placed at such a distance that we can see his body as seated and will know if he is receiving coaching via texting or other electronic means. Further, we will ask that no electronic devices be in his immediate reach and that any he brought will be turned off. As I previously stated, the video will not be recorded for future use, there will be a transcript, which is the same as a traditional deposition.

Given the pandemic, our office is not conducting any in-person depositions due to the risk to our attorneys/staff and their families. We do not know when that will resume given that some of our attorneys/staff and their families are in high risk populations.

We believe it is in your best interest to move forward with the remote deposition as scheduled.

Best Regards,

Julia Williams

Of Counsel

The Clinton Law Firm

111 W. Washington, Ste. 1437

Chicago, IL 60602

P:312.357.1515

F: 312.201.0737

juliawilliams@clintonlaw.net

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On Jun 4, 2020, at 7:50 PM, Paul Dulberg
<Paul_Dulberg@comcast.net> wrote:

Hi Julia,
I am sorry for the earlier emotional rant.
The only issues I have is with the answer to question number 5.
I do not feel there is enough of a guarantee that Mast will not be coached in his answers.
Also, we lose out on the non verbal expressions and postures we would see in an in person interview. As you know those non verbal expressions don't end up in the final transcript but often do change the next question asked.
I do not feel that this is fair, it puts us at a disadvantage and I need more guarantees than Masts word and a teleconference can't offer those guarantees.
Paul

On Jun 4, 2020, at 5:03 PM, Paul Dulberg
<Paul_Dulberg@comcast.net> wrote:

Hi Julia,
I'm confused and upset.
Why won't Mast come in and sit 6 feet or more apart with a mask on and undergo a deposition like I was?
We filed suit because Mast committed Malpractice and a large part of that Malpractice is Masts inability to be honest.
Now I am expected to believe Mast will be honest, turn off his electronic devices and not be coached by a team of attorneys sitting in the same office.
This doesn't seem fair.
Mast is not to be trusted at all.
Do I have a choice in this?
Paul

On Jun 4, 2020, at 1:56 PM, Julia Williams
<juliawilliams@clintonlaw.net> wrote:

Dear Paul,
Responses below.
Best Regards,

Julia Williams
Of Counsel
The Clinton Law Firm

111 W. Washington, Ste. 1437
Chicago, IL 60602
P:312.357.1515
F: 312.201.0737
juliawilliams@clintonlaw.net

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On Jun 4, 2020, at 12:42 PM, Paul
Dulberg
<Paul_Dulberg@comcast.net>
wrote:

Hi Julia,

I am requesting a meeting with
you, Ed and my brother Tom
within one week prior to Masts
deposition.
Lets find a time that works for
both you and Ed and schedule this
in.

Yes. We are available on June 22 or 23 at
2pm.

Also, I have 5 questions about the
remote deposition:

1. Who will conduct the
deposition, both you and Ed or
just one of you, if only one which
one?

I will conduct the deposition. Only one
attorney can ask questions (we both cannot ask
questions).

2. If this is a video deposition may
we record the actual video of the
deposition and use it later at trial?

No. It is a traditional deposition in that there
will be a transcript that can be used at trial to
impeach, just like we would have had if we
weren't dealing the pandemic.

3. If this is to be an audio only deposition may we record the actual audio and use it later at trial?

Generally I believe the court reporter does record the audio for the purposes of correctly the transcript, but it is not available for use later. It is strictly to ensure that the transcript is accurate.

4. Will Mast be in the same location as his attorney or will each of them attend from different locations?

As of now, Mast's attorney, George Flynn, will be present with him.

5. If mast is not in the same location as his attorney what guarantees do we have that no one else will be present?

At the beginning of the deposition, we will ask about who else is present in the room and ask they confirm by showing us the room. A party would be allowed to be present—since the Popovich Firm is a party, a representative from the firm, such as Tom Popovich, would be permitted to be present. However, he cannot interfere or prompt the witness. Any notes exchanged would be discoverable.

I have spoken to George Flynn about the logistics of the deposition and it is my understanding that Tom Popovich is not intending to appear at Hans' deposition. I will be sure to confirm prior to the date.

Communication with the witness through text or electronic means is not permitted, would be discoverable, and could open the other side up to sanctions. There are a few preliminary questions that we will ask at the beginning of the deposition to be sure that no one else is present, that all electronic communication is off, and that they are following the rules.

My concern here is coaching by Thomas Popovich or any other person with Mast that will not be in view of the camera or seen at all if this is audio only. Including coaching over text or other electronic means.
Thank you and stay safe,
Paul

On Jun 4, 2020, at 12:14 PM, Julia Williams
<juliawilliams@clintonlaw.net> wrote:

Dear Paul,

Attached is the notice of deposition for Hans Mast. June 25, 2020 at 10 am. It will be a remote deposition. You will be able to participate remotely.

We will provide more information on the logistics of that.

Best Regards,

Julia Williams
Of Counsel
The Clinton Law Firm
111 W. Washington,
Ste. 1437
Chicago, IL 60602
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F: 312.201.0737
juliawilliams@clintonlaw.net

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<Dulberg Mast
Notice of Deposition
2020 June 2.pdf>