

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 22<sup>ND</sup> JUDICIAL CIRCUIT  
COUNTY OF McHENRY

PAUL DULBERG, )  
)  
Plaintiff, ) Case No. 12 LA 178  
)  
vs. )  
)  
DAVID GAGNON, Individually, and as )  
Agent of CAROLINE MCGUIRE and BILL )  
MCGUIRE, and CAROLINE MCGUIRE )  
and BILL MCGUIRE, Individually, )  
)  
Defendants. )

**ANSWER TO PLAINTIFF'S INTERROGATORIES TO  
DEFENDANTS BILL MCGUIRE AND CAROLYN MCGUIRE**

TO: Paul Dulberg  
c/o Attorney Hans A. Mast  
Law Offices of Thomas J. Popovich  
3416 West Elm Street  
McHenry, IL 60050

Defendants, BILL MCGUIRE AND CAROLYN MCGUIRE (improperly named Caroline),  
by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their Answer to  
Plaintiff's Interrogatories, state as follows:

1. State the full name of the defendant(s) answering, as well as your current residence address, date of birth, marital status, and social security number, and, if different, give the full name, as well as the current residence address, date of birth, marital status, and social security number of the individual(s) signing these Answers.

**ANSWER:** William "Bill" McGuire  
1016 W. Elder Avenue  
McHenry, IL 60051  
Married: Carolyn  
DOB: July 29, 1952

Carolyn McGuire  
1016 W. Elder Avenue  
McHenry, IL 60051  
Married: Bill  
November 26, 1946

Defendants object to providing Social Security Numbers. Such information is highly sensitive and private and is furthermore irrelevant to any issues in the pending lawsuit.

Exhibit 13  
Witness: Hans Mast  
Date: 6/25/20  
Court Reporter: Barb Smith

2. State the full name and current residence address of each person who witnessed or claims to have witnessed the accident to the Plaintiff on the premises as described in the complaint.

**ANSWER:** David Gagnon  
39010 90<sup>th</sup> Place  
Genoa City, WI 53128

Paul Dulberg  
4606 Hayden  
McHenry, IL 60051

3. State the full name and current residence address of each person who witnessed or claims to have witnessed the work and/or conditions existing as described in the complaint at the location of the accident on the date of the accident described.

**ANSWER:** See answer to Interrogatory No. 2.

4. State the name and address of the person(s) or entity that owned the property premises whereat the accident occurred as alleged, as of the date in question.

**ANSWER:** Bill and Carolyn McGuire  
1016 W. Elder Avenue  
McHenry, IL 60051

5. State the name and address of the person(s) or entity that was involved in the work and/or maintenance of the exterior of the premises as alleged on the date in question.

**ANSWER:** See response to Interrogatory No. 2.

6. State the name and address of the person(s) or entity that decided or chose to undertake the work and/or maintenance of the exterior of the premises as alleged on the date in question, including chain saw use and activity.

**ANSWER:** See response to Interrogatory No. 2.

7. State the name and address of the person(s) or entity that was to supervise or oversee the work and/or maintenance at the exterior of the premises as alleged on the date in question including chain saw use and activity.

**ANSWER:** See response to Interrogatory No. 2.

8. State the full name and current residence address of each person, who was present and/or claims to have been present at the scene immediately before, at the time of, and/or immediately after said occurrence.

**ANSWER:**

**Before:** William "Bill" McGuire  
1016 W. Elder Avenue  
McHenry, IL 60051

Carolyn McGuire  
1016 W. Elder Avenue  
McHenry, IL 60051

David Gagnon  
39010 90<sup>th</sup> Place  
Genoa City, WI 53128

Paul Dulberg  
4606 Hayden  
McHenry, IL 60051

**At Time Of**

**Occurrence:** David Gagnon  
39010 90<sup>th</sup> Place  
Genoa City, WI 53128

Paul Dulberg  
4606 Hayden  
McHenry, IL 60051

**After:** William "Bill" McGuire  
1016 W. Elder Avenue  
McHenry, IL 60051

Carolyn McGuire  
1016 W. Elder Avenue  
McHenry, IL 60051

David Gagnon  
39010 90<sup>th</sup> Place  
Genoa City, WI 53128

Paul Dulberg  
4606 Hayden  
McHenry, IL 60051

9. State the name and address of each witness that knows or claims to know the circumstances of the alleged accident, how it occurred or how the Plaintiff became injured – as alleged in the Complaint.

**ANSWER:** On information and belief, David Gagnon and Paul Dulberg were present at the time of the alleged occurrence and therefore know the circumstances surrounding the occurrence. Answering further, Defendants Bill McGuire and Carolyn McGuire were not present at the time of the occurrence but knew that David Gagnon and Paul Dulberg were present on the date of the occurrence. From conversations with David Gagnon, the answering Defendants believe that Mr. Gagnon and Mr. Dulberg had been cutting logs and tree branches into smaller sections without incident. While in the process of cutting tree branches Paul Dulberg unexpectedly and without warning moved his right arm directly in the path of the running chain saw. Investigation continues.

10. With respect to the chain saw that was being operated on the premises at the time of the alleged injury, state as follows:
- a. Who was operating the chain saw at the time of the Plaintiff's alleged injury;
  - b. Who owned the chain saw at the time of Plaintiff's alleged injury;
  - c. who requested that the chain saw be used to perform work at the time of Plaintiff's injury.

**ANSWER:**

- a. On information and belief, David Gagnon was operating the chain saw at the time Mr. Dulberg was injured.
- b. Bill McGuire was the owner of the chain saw on the date of the occurrence.
- c. David Gagnon had Bill McGuire's permission to use the chain saw.

11. With respect to David Gagnon's experience in use of a chain saw prior to the date of the alleged accident, state as follows:
- a. How many times had David Gagnon operated the same or similar chain saw prior to the date of alleged accident;
  - b. What formal training did David Gagnon receive in use or operation of a chain saw prior to the occurrence alleged;
  - c. Who, if any, (names and addresses) trained David Gagnon in use or operation of a chain saw prior to the occurrence.

**ANSWER:**

- a. Objection. This interrogatory is better directed to David Gagnon. Answering subject to objection, and to the best of the answering parties' knowledge, David Gagnon has used chain saws in the past but the answering parties do not know how often he has used chain saws in the past.
- b. Objection. This interrogatory is better directed to David Gagnon. Answering subject to objection, the answering parties do not know whether David Gagnon has been formally trained the use or operation of a chain saw. Answering further, the answering parties are aware that Mr. Gagnon has used chain saws many times in the past and he appears/appeared to know what he is doing.

- c. Objection. This interrogatory is better directed to David Gagnon. Answering subject to objection, the answering party do now know whether or by whom David Gagnon was trained in the use of chain saws. Answering further, the answering parties are aware that Mr. Gagnon has used chain saws many times in the past and he appears/appeared to know what he is doing.
12. What was the scope of work or task David Gagnon was engaged in with use of the chain saw at or about the time of the alleged accident.

**ANSWER:**

To the extent "scope of work" or "engaged" constitute legal conclusions, the answering Defendants object to Interrogatory No. 12. Answering subject to objection, at the time of the alleged occurrence, the answering Defendants were in the process of replacing an old shed on their property. Paul Dulberg helped David Gagnon tear down the old shed. The answering Defendants further believe that Mr. Dulberg took the components of the old shed to his property for eventual reassembly. On the date of the occurrence, Mr. Dulberg was helping David Gagnon take down several trees to make room for a new shed. On information and belief, prior to the occurrence Mr. Gagnon and Mr. Dulberg had been cutting logs and tree branches into smaller sections without incident. While in the process of cutting tree branches Paul Dulberg unexpectedly and without warning moved his right arm directly in the path of the running chain saw. Answering further, the answering Defendants did not engage, hire or pay either individual for their activities on site. Nor did either answering Defendant dictate, control or otherwise supervise the methods and means by which Mr. Gagnon and Mr. Dulberg performed the tree and branch cutting at issue.

13. Who (names and addresses) requested or chose to engage Gagnon in the "task" of use and operation of the chain saw at or about the time of the alleged accident.

**ANSWER:**

To the extent the words "chose" and "engage" constitute legal conclusions, the answering Defendants object to Interrogatory No. 13. Answering subject to objection, David Gagnon undertook the tree cutting and trimming in question as a favor to his parents. He was not engaged, hired or paid for the activities in question.

14. What instructions or guidance, if any, was given to Gagnon prior to Plaintiff's alleged injury/accident with regard to how he was to perform the chain saw work at the premises.

**ANSWER:** See response to Interrogatory No. 11.

- 15 Were you (Defendant) covered under any policy of insurance at the time of the occurrence. If so, were you named or covered under any policy, policy, or policies, of liability insurance effective on the date of said occurrence, and: State the name of each such company or companies, the policy number of numbers, the effective period(s) occurrence, including umbrella or excess insurance coverage, property damage and medical payment coverage.

**ANSWER:** Yes.  
Auto-Owners Insurance Company  
Policy No. 48-010-965-01  
Eff.: May 9, 2011 thru May 9, 2012  
Personal Liability (Each Occurrence): \$300,000.00  
Medical Payments (Each Person): \$1,000.00

16. Do you have any information:

- (a) That any plaintiff was, within the 5 years immediately prior to said occurrence, confined in a hospital and/or clinic, treated by a physician and/or other health professional, or x-rayed for any reason other than person injury? If so, state each plaintiff so involved, the name and address of each such hospital and/or clinic, physician, technician and/or other health care professional, the approximate date of such confinement or service and state the reason for such confinement or service;
- (b) That any plaintiff has suffered any serious personal injury and/or illness prior to the date of said occurrence? If so, state each plaintiff so involved, state when, where and how he or she was injured and/or ill and describe the injuries and/or illness suffered;
- (c) That any plaintiff has suffered any serious personal injury and/or illness since the date of said occurrence? If so, state each plaintiff so involved, state when, where and how he or she was injured and/or ill and describe the injuries and/or illness suffered;
- (d) That any plaintiff has ever filed any other suit for his or her own personal injuries? If so, state each plaintiff so involved, state the court, and caption in which filed, the year filed, the title and docket number of said case.

**ANSWER:**

- a. On information and belief, the answering parties believe that Paul Dulberg was involved in a motor vehicle accident that resulted in a shoulder injury of some sort. The answering parties do not know of any other details about the auto accident or injuries, if any.
- b. See answer to Interrogatory No. 16(a).
- c-d. No.

17. Were any photographs, movies and/or videotapes taken of the scene of the occurrence or of the persons involved? If so, state the date or dates on which such photographs, movies and/or videotapes were taken, the subject thereof, who now has custody of them, the name, address and occupation and employer of the person taking them.

**ANSWER:** None, other than those furnished as part of Plaintiff's discovery response.

18. Have you (or anyone acting on your behalf) had any conversations with any person at any time with regard to the manner in which the occurrence complained of occurred, or have you overheard any statements made by any person at any time with regard to the injuries complained of by plaintiff or the manner in which the occurrence complained of occurred? If the answer to this Interrogatory is in the affirmative, state the following:

- (a) The date or dates of such conversations and/or statements;
- (b) The place of such conversations and/or statements;
- (c) All persons present for the for the conversations and/or statements;
- (d) The matters and things stated by the person in the conversations and/or statements;
- (e) Whether the conversation was oral, written and/or recorded; and
- (f) Who has possession of said statement if written and/or recorded.

**ANSWER:** (a) thru (f): See summary of oral communication received from David Gagnon set forth in response to Interrogatory No. 9. Answering further, on information and belief, a few weeks after the subject occurrence Paul Dulberg did roofing work and moved heavy pieces of lumber for Mike Thomas, 460 Walbeck Drive, Twin Lakes, WI 53181 (312/961-9655). Investigation continues.

19. Do you know of any statements made by any person relating to the occurrence complained of by the plaintiff? If so, give the name and address of each such witness, the date of said statement, and state whether such statement was written and/or oral.

**ANSWER:** See answers to Interrogatories No. 9 and 18.

20. State the name and address of each person having knowledge of Plaintiff's activities on the premises PRIOR to the accident in question.

**ANSWER:** Paul Dulberg and David Gagnon.

21. State the name and address of each person having knowledge of Plaintiff's activities on the premises AFTER the accident in question.

**ANSWER:** Paul Dulberg, David Gagnon, Bill McGuire and Carolyn McGuire.

22. Had the Plaintiff ever used or operated a chain saw on the premises or for the Defendant's prior to his alleged accident. If so, state the dates and times such occurred.

**ANSWER:** Yes. In June 2011 Carolyn and Bill McGuire had a contractor take down a large tree on their property. The contractor left the fallen limbs. Shortly thereafter, Paul Dulberg brought his own chain saw down to the property. He cut the limbs into logs. David Gagnon helped him cut and load the logs.

23. Pursuant to Illinois Supreme Court Rule 213(f), provide the name and address of each witness who will testify at trial, and state the subject of each witness' testimony, giving the following information:

- (a) The subject matter on which the opinion witness is expected to testify;
- (b) The conclusions and/or opinions of the opinion witness and the basis therefore, including reports of said witness, if any;
- (c) The qualifications of each opinion witness, including a Curriculum Vitae and/or resume, if any; and
- (d) Identify any written reports of the opinion witness regarding this occurrence.

**ANSWER:**

**Illinois Supreme Court Rule 213(f)(1) – Lay Witnesses:**

The answering party has not yet determined the identity of the witnesses that might be called upon to offer lay witness testimony and opinions at trial. However, each of the following individuals are possible trial witnesses:

- a. Paul Dulberg. Presumably, Mr. Kemp will testify about his age, education and work experience. He may testify concerning all the events and occurrences alleged in his complaint. He may also testify concerning his state of health before the events and occurrences alleged in his complaint, the injuries he attributes to the events and occurrences alleged in his complaint, and his current state of health. Lastly, it is anticipated that he will testify concerning all matters covered by his discovery responses and discovery deposition, if taken. Investigation continues.
- b. David Gagnon. The answering party does not know the specifics of Mr. Gagnon's potential trial testimony. Presumably, however, Mr. Gagnon will testify about his age, education and work experience. He may testify concerning his connection to Bill McGuire and Carolyn McGuire. He may testify concerning the events and occurrences alleged in Plaintiff's Complaint. He may also testify concerning observations he made about Mr. Dulberg's state of health before the events and occurrences alleged in Plaintiff's Complaint, observations he made about the injuries Mr.

Dulberg attributes to the events and occurrences alleged in Plaintiff's Complaint, and observations he made about Mr. Dulberg's current state of health. Lastly, it is anticipated that he will testify concerning all matters covered by his discovery responses and discovery deposition, if taken. Investigation continues.

- c. Bill McGuire. If called upon to testify, Mr. McGuire will testify about his age, education and work experience. He will testify concerning his connection to David Gagnon and Carolyn McGuire. He may testify concerning the circumstances surrounding the occurrence alleged in Plaintiff's Complaint. He may also testify concerning observations he made about Mr. Dulberg's state of health immediately after and since the occurrence alleged in Plaintiff's Complaint, including observations he made about the injuries Mr. Dulberg attributes to the occurrence alleged in Plaintiff's Complaint. Lastly, it is anticipated that he will testify concerning all matters covered by his discovery responses and discovery deposition, if taken. Investigation continues.
- d. Carolyn McGuire. If called upon to testify, Mrs. McGuire will testify about her age, education and work experience. She will testify concerning her connection to David Gagnon and Bill McGuire. She may testify concerning the circumstances surrounding the occurrence alleged in Plaintiff's Complaint. She may also testify concerning observations she made about Mr. Dulberg's state of health immediately after and since the occurrence alleged in Plaintiff's Complaint, including observations she made about the injuries Mr. Dulberg attributes to the occurrence alleged in Plaintiff's Complaint. Lastly, it is anticipated that she will testify concerning all matters covered by her discovery responses and discovery deposition, if taken. Investigation continues.
- e. Mike Thomas. If called upon to testify, Mr. Thomas may testify about his age, education and work experience. He may testify concerning his connection to Paul Dulberg. He may also testify concerning observations he made about Mr. Dulberg's state of health after the occurrence alleged in Plaintiff's Complaint, including observations he made of Mr. Dulberg performing roofing work and moving lumber. Lastly, it is anticipated that he will testify concerning all matters covered in his discovery deposition, if taken. Investigation continues.
- f. Investigation continues.

**Illinois Supreme Court Rule 213(f)(2) – Independent Opinion Witnesses.**

To the extent any of the individuals disclosed above as potential Rule 213(f)(1) witnesses also qualify for disclosure as an independent expert witness within the meaning of Illinois Supreme Court Rule 213(f)(2), the responding Defendants incorporate the above Rule 213(f)(1) disclosure as though fully and completely set forth herein as a Rule 213(f)(2) disclosure. Answering further, the responding Defendants further incorporate the identity and opinions of any medical provider that treated Plaintiff for injuries he claims are associated with the occurrence alleged in his Complaint. For additional detail, see the medical records and materials produced by Plaintiff as part of his production response. Investigation continues.

**Illinois Supreme Court Rule 213(f)(3) – Controlled Opinion Witnesses.**

None at this time. Answering further, Defendants reserve the right to retain and disclose controlled opinion witnesses and will do so, if necessary, in accordance with all applicable court orders and discovery rules.

24. List the names and addresses of all other persons (other than yourself and persons heretofore listed) who have knowledge of the facts of said occurrence and/or of the injuries and damages claimed to have resulted therefrom.

**ANSWER:** None, other than as disclosed in response to the interrogatories above.

25. Identify any statements, information and/or documents known to you and requested by any of the foregoing Interrogatories which you claim to be work product or subject to any common law or statutory privilege, and with respect to each Interrogatory, specify the legal basis for the claim as required by Supreme Court Rule 201(n).

**ANSWER:** None at this time.

26. State the name and address of each person at the premises (although maybe at different location or not a witness to the incident) described at the time of the occurrence.

**ANSWER:** See response to Interrogatory Nos. 1 and 2.

27. Was the Plaintiff struck and injured by the chain saw while in operation on the date and time alleged. If so, what caused the chain saw to strike the Plaintiff.

**ANSWER:** On information and belief, yes. Answering further, Defendants were not present at the time of the occurrence. See answer to Interrogatory No. 9.

28. Describe what, if any, of the Plaintiff's conduct caused or contributed to his injury on the date and time in question.

**ANSWER:** See answer to Interrogatory No. 9.

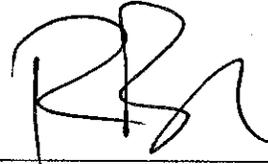
29. Did the chain saw malfunction at any time during its use prior to Plaintiff's alleged injury.

**ANSWER:** To the best of the answering parties' knowledge, no.

30. Prior to Plaintiff's alleged injury, was the subject chain saw operating safely and properly.

**ANSWER:** To the best of the answering parties knowledge, yes.

CAROLYN MCGUIRE and BILL MCGUIRE,  
Defendants, by their attorneys,  
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,



By \_\_\_\_\_

RONALD A. BARCH (6209572)

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

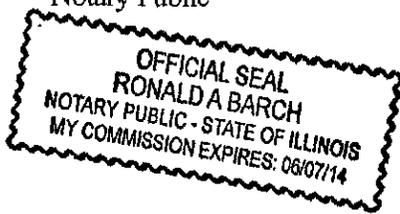
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF WINNEBAGO )

BILL MCGUIRE, being first duly sworn on oath, deposes and states that he is one of the defendants herein; that he has read the foregoing interrogatory answers; and that the interrogatory answers herein are true, correct and complete to the best of his knowledge and belief.

Bill McGuire  
Bill McGuire

Subscribed and sworn to before  
me on the 6<sup>th</sup> day August, 2012.

RBA  
Notary Public

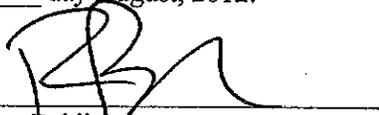


STATE OF ILLINOIS )  
 ) SS  
COUNTY OF WINNEBAGO )

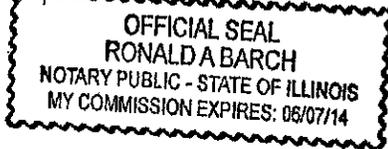
CAROLYN McGUIRE, being first duly sworn on oath, deposes and states that she is one of the defendants herein; that she has read the foregoing interrogatory answers; and that the interrogatory answers herein are true, correct and complete to the best of her knowledge and belief.

Carolyn McGuire  
Carolyn McGuire

Subscribed and sworn to before  
me on the 6th day August, 2012.



Notary Public



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon:

Attorney Hans A. Mast  
Law Offices of Thomas J. Popovich  
3416 West Elm Street  
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,  
at Rockford, Illinois, at 5:00 o'clock p.m. on 2/6/12.

  
\_\_\_\_\_

Cicero, France, Barch & Alexander, P.C.  
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