


From: Julia Williams juliawilliams@clintonlaw.net 
Subject: Re: Discovery and status update
Date: October 29, 2019 at 4:58 PM
To: Paul Dulberg Paul_Dulberg@comcast.net
Cc: Ed Clinton ed@clintonlaw.net, Mary Winch marywinch@clintonlaw.net

JW

Dear Paul,

Attached please find revised supplemental interrogatories.

I am a bit concerned that we are making Attorney Gooch a witness in the case and that in doing so may waive attorney client privilege as to him by disclosing him as the "expert witness" identified in your complaint. That being said, I did my best to state that you discovered that something was wrong only after receiving the award in Dec. 2018 and then consulting with Attorney who agreed to take the case.

Please review.

Best Regards,

Julia Williams
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On Oct 24, 2019, at 12:12 PM, Paul Dulberg <Paul_Dulberg@comcast.net> wrote:

Hi Julia,
Please look for the Red highlighted text below.
Red Italics are my concerns and responses.
Thanks,
Paul

12. Identify and describe each of your employers in the ten year period prior to the accident of June 28, 2011, including any self-employment. For each employer, identify your wage rate or salary, your title, your job description, your required duties, and your income for the ten year period prior to the accident in question.

SUPPLEMENT TO ORIGINAL ANSWER:

1. 1999-2011 Sharp Printing, Inc., 4606 Hayden Ct., McHenry, IL 60051

Paul Dulberg was an owner and operator of Sharp Printing, Inc. along with his two partners Scott Dulberg and Michael McArtor. **Dulberg was employed by Sharp Printing, Inc.**

Paul Dulberg was the President, salesperson, graphic designer, 8 color screen print pressman, handled fulfillment, shipping & receiving, as well

as other day to day operations of the company.

For income, see tax returns.

Sharp Printing, Inc. operated out of the lower floor of Paul Dulberg's personal residence and paid all utilities bills, including garbage, water, natural gas, electric, internet, phone, and cable. The approximate value is \$650 per month.

Note: I'm not sure about "Dulberg was employed by Sharp Printing Inc.". Can I legally claim myself as being employed by Sharp Printing? I never pulled a salary or hourly wage and never claimed it on my taxes as income nor did I even collect on dividends owed to me as a stockholder.

I kept all the monies in the company so we could afford new equipment to expand our capacity and enter into new markets over the years.

I suppose it could be considered reinvesting in the company.

What is the legal status of an owner/operator if they do not pull an income from the company so the company has more money to grow?

This confuses me because I'm not a tax or employment status expert and I need to defer to someone else's expert opinion on this because I don't want to be caught in some sort of perjury trap over my employment status with Sharp Printing.

In the underlying case I tried to keep sharp printing out of the equation because I was confused about the legal status then as well.

Also, on this topic of Sharp Printing Inc. something that has come to light to me in the past few weeks that you should be aware of, I looked up Sharp Printing Inc on the Secretary of State web site because I was curious if they finally dissolved the corporation and I noticed that the date they have for ending the company is wrong.

It says April of 2011 which is before the chainsaw accident.

I'm not sure but from the date my guess is it looks as if the Secretary of State's office or whoever handles this sort of thing used the date from the last quarterly sales tax I filed before my accident because April 2011 is the last time I filed anything with the State until I sent the letter notifying them of our closing in 2012, or it could simply be a typo.

Either way I noticed it's wrong and I'm not sure how they even decide when to officially date the dissolution of a corporation.

Just thought you should know this because if the defense does their homework their going to see the date and probably try to use it against

us in some fashion.

19. As a result of your personal injuries from the underlying case, were you unable to work? If so, state:

(a) The name and address of your employer, if any, at the time of the occurrence, your wage and/or salary, and the name of your supervisor and/or foreperson;

(b) The date or inclusive dates on which you were unable to work;

(c) The amount of wage and/or income lost by you; and

(d) The name and address of your present employer and/or wage and/or salary.

SUPPLEMENT TO ORIGINAL ANSWER:

Paul Dulberg was **self-employed by Sharp Printing** and unable to work after the accident. He was **also** an independent contractor with Juskie Printing. He has not been employed since the date of the accident. See tax returns for lost wages. See SSDI documents for current income. **Prior to**

the accident, in 2010, Dulberg earned approximately \$16,000 in employment or business income. In 2011, because of the accident, Dulberg only earned approximately \$8,000 in employment or business income.

self-employed by Sharp Printing - Same employment status issue as to the answer to Interrogatory # 12 above.

also - Should be removed if it's determined I cannot claim to be employed by Sharp Printing

Prior to the accident, in 2010, Dulberg earned approximately \$16,000 in employment or business income. In 2011, because of the accident, Dulberg only earned approximately \$8,000 in employment or business income. - why are we restating this when we already directed the defense to look at the actual tax documents for wages?

26. Identify and describe the false and misleading information Mast and Popovich provided to you, and explain how you realized for the first time in December of 2016 that the information was false and misleading and the dismissal of the McGuire was a serious and substantial mistake, as

the dismissal of the McGuire's was a serious and substantial mistake, as alleged in paragraph 56 of your second amended complaint

SUPPLEMENT TO ORIGINAL ANSWER:

Dulberg learned from expert Dr. Bobby Landford that the McGuire's permitted an individual who did not understand how to utilize a chainsaw, despite the warnings in the owner's manual. Based upon Dr. Landford's report, Dulberg learned that he could have prevailed on his claims against the McGuire's.

The original report was dated February 17, 2016.

This interrogatory has nothing to do with Dr Lanford's report.

I see two distinct parts in this interrogatory.

1. Identify and describe the false and misleading information Mast and Popovich provided to you - This part is already addressed in the original response. If they want further information it can be pulled from timeline_of_mcguire_settlement.txt that I sent to you in July of this year.

2. How you realized for the first time in December of 2016 - Dulberg realized he had an actionable malpractice case for the first time in December 2016. In early December Dulberg received a mediation award far in excess of what Dulberg could recover from the remaining defendant. After that Dulberg met with and received the opinion of a professional malpractice attorney who told Dulberg he had a case.

27. Identify and describe the expert opinions provided to you in December 2016 as alleged in paragraph 57 of your second amended complaint, including the identity of the expert, the opinions, and any other information provided by the expert which caused you to learn in the summer of 2016 and become reasonably aware that Mast and Popovich did not properly represent you.

SUPPLEMENT TO ORIGINAL ANSWER:

Dulberg learned from expert Dr. Bobby Landford that the McGuire's permitted an individual who did not understand how to utilize a chainsaw, despite the warnings in the owner's manual. Based upon Dr. Landford's report, Dulberg learned that he could have prevailed on his claims

against the McGuire's.

The original report was dated February 17, 2016.

The supplemental answer you gave here is a copy and paste from Interrogatory #26.

Rereading the original, we did not answer this interrogatory correctly the first time around and will need to amend and answer correctly this time.

Again I am going to break this into its key components and answer each accordingly because they keep compounding different events into one question.

1. Identify and describe the expert opinions provided to you in December 2016 - *The expert opinion provided in December 2016 was that of Thomas W. Gooch III a professional malpractice attorney who told Dulberg he had a case.*

2. the identity of the expert, the opinions, and any other information provided by the expert which caused you to learn in the summer of 2016 - *Dulberg doesn't believe he had any new expert opinions in the summer of 2016. However, Dulberg was emailed a copy of Dr Lanfords report in July of 2016, perhaps that's where the confusion came in here and caused us to answer this incorrectly?*

Dr. Lanfords report was in January or February of 2016 and used in the Mediation in December 2016.

3. and become reasonably aware that Mast and Popovich did not properly represent you. - *Again, that expert opinion happened in December 2016 and was that of Thomas W. Gooch III a professional malpractice attorney. Note: "Reasonably aware" is not a factor and I suspect is being used to confuse when the malpractice case was realized .*

There is one more thing I want to be clear about.

You wrote;

"Please note that I believe that you first realized the legal malpractice case against Mr. Mast and the Popovich firm was viable when you received Dr. Robby Lanford's report. The report is dated February 2016

received Dr. Bobby Langford's report. The report is dated February 2016, but in the Complaint we allege that you came to learn of the legal malpractice in December 2016. Please verify the date that you learned of the legal malpractice case. Was it in fact with Dr. Langford's report in February 2016? If not, please explain. If so, we can amend the complaint to make that consistent."

The only way I can realize that the legal malpractice case was actionable is by consulting a legal malpractice attorney. I didn't do that until December 2016.

I wouldn't have had a malpractice case if the award didn't exceed what I could collect. I didn't know that until December 2016.

Dr. Lanford's opinion alone couldn't possibly tell me whether I had an actionable malpractice case.

Therefore, I first knew I had an actionable malpractice case in December 2016 because I couldn't collect the full award and Thomas Gooch told me I had a case.

If I could collect the full award I wouldn't have had an actionable malpractice case against Mast and Popovich. That information was first learned in December 2016.

On Oct 23, 2019, at 2:37 PM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

Dear Paul,

I had a conversation with opposing counsel and the request was not in writing.

Here is the basis of the request:

#12. It was unclear as to whether you simply owned Sharp Printing Inc. or if you were actually employed there. We have clarified that response.

#19. Similarly, it was unclear whether you were actually working at Sharp Printing, Inc. We have clarified that you were employed and working at Sharp Printing, Inc.

#26. It was unclear who provided the information that made you realize that there was an error by Mast in releasing the McGuires as alleged in paragraph 56 of the Complaint. We cleared that up.

#27 The issue is similar to 26, who provided what information to make you realize that there was an error by Mast in releasing the McGuires as alleged in the Complaint. We cleared that up.

If any of the information in the supplemental answers is incorrect, please let me know. To be clear, these answers supplement and do not replace the prior answers. We are just providing a bit more information.

Best Regards,

Julia Williams
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On Oct 22, 2019, at 3:30 PM, Paul Dulberg <Paul_Dulberg@comcast.net> wrote:

Hi Julia,

You wrote: " Opposing counsel requested certain supplemental information to questions 12, 19, 26, and 27 of the interrogatories. I have draft supplemental responses which are attached here for your review."

I see your responses but not their request for certain supplemental information.

I don't know how to answer these if I can't see their request

Thanks,
Paul

On Oct 21, 2019, at 1:40 PM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

Dear Paul,

I am addressing various issues in turn in this email. Please review it carefully and respond as necessary.

Supplemental Interrogatories:

Opposing counsel requested certain supplemental information to questions 12, 19, 26, and 27 of the interrogatories. I have draft supplemental responses which are attached here for your review.

Please review and respond by close of business on Thursday, October 24, 2019.

Please note that I believe that you first realized the legal malpractice case against Mr. Mast and the Popovich firm was viable when you received Dr. Bobby Langford's report. The report is dated February 2016, but in the Complaint we allege that you came to learn of the legal malpractice in December 2016. Please verify the date that you learned of the legal malpractice case. Was it in fact with Dr. Langford's report in February 2016? If not, please explain. If so, we can amend the complaint to make that consistent.

Discovery Answers from Defendant:

You have the documents they sent. Their written responses are attached or will be sent by separate email.

I requested information on the blacked out pages and waiting for a response on those.

I reviewed documents 192 and 1207 that you noted. I believe it is prudent to question Mast further in a deposition about the settlement discussions, both with you and opposing counsel.

There is nothing further for you to do on this at this time.

Discovery Answers we sent to Defendant:

Our responses and documents are attached or will be sent by separate email.

The only outstanding item at this time is the supplemental interrogatory answers.

Subpoenas:

Mary is working on the issuing various subpoenas. She will send copies to you.

There is nothing further for you to do on this at this time.

Punitive Damages:

Punitive Damages are not available in this case. The statute does not limit it to the attorney or the firm. It limits the award of punitive damages based upon the cause of action. Here, your claims are based in legal malpractice and arise from negligent conduct of your attorney. I have not seen any case law that would permit recovery of punitive damages given the facts of your case.

(735 ILCS 5/2-1115) (from Ch. 110, par. 2-1115)

Sec. 2-1115. Punitive damages not recoverable in healing art and legal malpractice cases. In all cases, whether in tort, contract or otherwise, in which the plaintiff seeks damages by reason of legal, medical, hospital, or other healing art malpractice, no punitive, exemplary, vindictive or aggravated damages shall be allowed.

(Source: P.A. 84-7.)

There is nothing further for you to do on this at this time.

Best Regards,

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209 KB



Dulberg
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IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,)	
)	
Plaintiff,)	
)	
v.)	Case No. 17 LA 377
)	
THE LAW OFFICE OF THOMAS J.)	
POPOVICH, P.C. and HANS MAST,)	
)	
Defendants.)	

**DULBERG’S SUPPLEMENTAL ANSWERS TO DEFENDANTS THE LAW OFFICES
OF THOMAS J.
POPOVICH, P.C.’S INTERROGATORIES TO PLAINTIFF PAUL DULBERG**

Paul Dulberg, by and through his attorneys, The Clinton Law Firm, LLC, pursuant to the provisions of Illinois Supreme Court Rule 213, responds, in supplement, to Defendant, The Law Offices of Thomas J. Popovich, P.C.’s Interrogatories To Plaintiff Paul Dulberg as follows:

INTERROGATORIES

12. Identify and describe each of your employers in the ten year period prior to the accident of June 28, 2011, including any self-employment. For each employer, identify your wage rate or salary, your title, your job description, your required duties, and your income for the ten year period prior to the accident in question.

SUPPLEMENT TO ORIGINAL ANSWER:

1. 1999-2011 Sharp Printing, Inc., 4606 Hayden Ct., McHenry, IL 60051

Paul Dulberg was an owner and operator of Sharp Printing, Inc. along with his two partners Scott Dulberg and Michael McArtor. Dulberg provided full time employment services to Sharp Printing, Inc. and thus was “employed” by Sharp Printing, Inc. However, Dulberg did not draw a salary from Sharp Printing, Inc. and did not receive any profits from the company.

Paul Dulberg was the President, salesperson, graphic designer, 8 color screen print pressman, handled fulfillment, shipping & receiving, as well as other day to day operations of the company.

For income, see tax returns.

Sharp Printing, Inc. operated out of the lower floor of Paul Dulberg's personal residence and paid all utilities bills, including garbage, water, natural gas, electric, internet, phone, and cable. The approximate value is \$650 per month.

19. As a result of your personal injuries from the underlying case, were you unable to work? If so, state:

- (a) The name and address of your employer, if any, at the time of the occurrence, your wage and/or salary, and the name of your supervisor and/or foreperson;**
- (b) The date or inclusive dates on which you were unable to work;**
- (c) The amount of wage and/or income lost by you; and**
- (d) The name and address of your present employer and/or wage and/or salary.**

SUPPLEMENT TO ORIGINAL ANSWER:

Paul Dulberg was self-employed by Sharp Printing and unable to work after the accident. He was also an independent contractor with Juskie Printing. He has not been employed since the date of the accident. See tax returns for lost wages. See SSDI documents for current income.

26. Identify and describe the false and misleading information Mast and Popovich provided to you, and explain how you realized for the first time in December of 2016 that the information was false and misleading and the dismissal of the McGuires was a serious and substantial mistake, as alleged in paragraph 56 of your second amended complaint

SUPPLEMENT TO ORIGINAL ANSWER:

Dulberg received an arbitration award on or about December 8, 2016. Thereafter, Dulberg discovered that he could not collect the full amount of the award from Gagnon. He then consulted attorney Thomas Gooch. Thomas Gooch advised Dulberg that he had a viable legal malpractice claim against Dulberg's prior counsel, Hans Mast and The Law Office of Thomas J. Popovich, P.C., as outlined in Dulberg's complaint and agreed to file a case on Dulberg's behalf.

27. Identify and describe the expert opinions provided to you in December 2016 as alleged in paragraph 57 of your second amended complaint, including the identity of the expert, the opinions, and any other information provided by the expert which caused you to learn in the summer of 2016 and become reasonably aware that Mast and Popovich did not properly represent you.

SUPPLEMENT TO ORIGINAL ANSWER:

Dulberg received an arbitration award on or about December 8, 2016. Thereafter, Dulberg discovered that he could not collect the full amount of the award from Gagnon. He then consulted attorney Thomas Gooch. Thomas Gooch advised Dulberg that he had a viable legal malpractice claim against Dulberg's prior counsel, Hans Mast and The Law Office of Thomas J. Popovich, P.C., as outlined in Dulberg's complaint and agreed to file a case on Dulberg's behalf.

Respectfully submitted,

/s/ Julia C. Williams
Julia C. Williams
One of Plaintiff's Attorneys

Edward X. Clinton, Jr.
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