

From: Julia Williams juliawilliams@clintonlaw.net
Subject: Re: Mast-Popovich Malpractice - Recap, outstanding issues and questions yet to be addressed
Date: December 23, 2019 at 5:06 PM
To: Paul Dulberg Paul_Dulberg@comcast.net

JW

I will be out of the office celebrating the holidays with limited access to voicemail and email until January 3, 2020. I will reply to your message upon my return. If you have an urgent issue, please leave a voicemail at 312-508-3376.

Happy Holidays!

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On Sep 6, 2019, at 11:18 AM, Paul Dulberg <Paul_Dulberg@comcast.net> wrote:

Hi Julia,

To recap our conversations outside court yesterday below is a list of 11 things we discussed, outstanding questions and our course of action.

1. When may I expect to see the 107 pages of blacked out defense documents?

2. You agreed to subpoena McGuire's Atty Barch and Auto Owners Insurance for all communications they had with Mast or any other attorney pertaining to the Dulberg case.

How soon will this be done and how long should it take to receive those communications?

3. You agreed to subpoena Gagnon's Atty's Accardo and Shoshaun and Allstate Insurance for all communications they had with Mast or any other attorney pertaining to the Dulberg case.

How soon will this be done and how long should it take to receive those communications?

4. You agreed to subpoena all of the bankruptcy trustees for all communications they had with Mast or any other attorney pertaining to the Dulberg case.

How soon will this be done and how long should it take to receive those communications?

5. We should also ask for a subpoena for Thomas J Popovich's communications with anyone and everyone concerning the Dulberg case. Particularly Thomas J Popovich's internal communications amongst employees and officers within the firm.

6. I would like to blanket subpoena for every employee's, partners, officers and principles emails at the Popovich firm that have anything to do with the Dulberg case. If an in camera review is necessary I'm ok with this.

7. You said you needed to talk with Ed Clinton about possible strategy change due to the October 22, 2013 letter between Mast and Barch (POP 000192).

I believe we need the "blacked out" defense documents revealed and the soon to be subpoenaed communications from Barch to determine the letter isn't a "Red Herring" before changing strategy. We also need to consider the next issue, #8

8. You said you would talk with Ed Clinton and look into the case law and common law pertaining to the law firm itself as a corporation and whether or not it is protected from punitive damages under the malpractice statute since the Mast malpractice arose from one of 2 scenarios.

Either the Popovich law firm improperly supervised its employee Mast and the work he did on the Dulberg case or the firm made the decision itself and ordered Mast to do what he did.

Either scenario is or should be negligence on the corporation beyond simple vicarious liability because the Popovich corporation caused the conditions for the malpractice to occur either by ordering Mast to do what he did or by not properly supervising Mast and reviewing his work before an error of this nature could occur.

Perhaps there needs to be a separate charge against the firm itself for it's role or lack of it along side the malpractice suit and the firms vicarious liability because the firm isn't just benign here, either the firm participated or it let its employee run in a disorganized or unplanned manner, sloppily with little or no supervision creating the environment for the malpractice to occur?

In essence, Mast, as an employee, could not have done what he did if the law firm did their part correctly and it should be up to a jury to decide if and how much the Popovich Law firm needs to be fined so the Popovich firm corrects the environment and procedures within itself so as to never let this happen again to another unsuspecting client.

Without punitive damages there is no incentive for the Popovich firm to correct the problems that led to the malpractice and more clients will be harmed in the future.

9. You said you would email me the defendants answers to our interrogatories.

When should I expect to get the defendants answers to the interrogatories?

10. We agreed that we need the entire insurance policy for Mast and the Popovich Firm and not just the declaration pages the defense turned over.

When should I expect to get a copy of the entire insurance policy for each of the defendants?

11. The internal memorandum I spoke of is POP 001207 just prior to the November 20 meeting with Dulberg and his brother Tom Kost.

I used the term "innocent defendant" outside court yesterday but I mis spoke.

The actual phrase Mast used is:

We have a co-defendant that is not really responsible in this case

I think we need to stay in written discovery and not move on to f1 until we have received and had a chance to digest all the communications we are to subpoena.

If there are fees needed for the subpoenas please let me know and I will cut a check to you asap.

I look forward to hearing your take and answers on the above questions and issues

Than you,

Paul

