


From: Paul Dulberg pdulberg@comcast.net 
Subject: Re: Dulberg v Popovich; Documents
Date: July 1, 2020 at 11:34 AM
To: The Clinton Law Firm juliawilliams@clintonlaw.net
Cc: Mary Winch marywinch@clintonlaw.net, Ed Clinton ed@clintonlaw.net

PD

Please find Michael McArtor Dep With Notes.pdf

This is new photos of the deposition so you can read what didn't show up in the gooch scans



Michael McArtor
Dep Wi...tes.pdf

On Jul 1, 2020, at 11:31 AM, Paul Dulberg <pdulberg@comcast.net> wrote:

Hi Julia,

Please find the attached file named Authors of handwritten notes.txt

The attached file should be self explanatory but please let me know if you need help.

To answer your questions below it should be self explanatory in the attached file Authors of handwritten notes.txt but I will also try to generally answer them here.

1. Notes 5.pdf is all Dr. Kujawa
2. Yes
3. No

I did take new photos of each page of the depositions and compiled them into PDF's which will follow this email. Hopefully it will be in some sort of link for you to download the large pdf's

Thank you and stay safe,
Paul

<Authors of handwritten notes.txt>

On Jun 26, 2020, at 4:21 PM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

Dear Paul,

Instead of investing loads of time in rescanning and identifying each note, let's rethink this.

Within the next week, can you determine:

1. For the file titled "Notes 5.pdf" are all of the notes on that file (it is one page) written by Dr. Kathy Kujawa? If not, were they a combination of Dr. Kathy Kujawa and either you, your mother, or your brother?
2. For the depositions and remainder of the "Notes" files (Notes 1-4), are all of those notes written by either you, your brother, or your mother?
3. Did an attorney (either Gooch or one of your other attorneys during the underlying litigation) make any of the notes, either in the "Notes" files or on the deposition transcripts?

Thanks,

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

This message may be privileged and confidential. If you are not the intended recipient, please delete the email and notify the sender immediately.

On Jun 26, 2020, at 3:27 PM, Paul Dulberg <pdulberg@comcast.net> wrote:

Hi Julia,

Ok, I have a question but a short background first

Many of the notes are illegible probably because Gooch scanned these in as black and white yet we used different colors of pens and pencils depending on what was we had available at the time to make the notes.

I dug out the originals which are more legible but some are fading, particularly the ones made with colored pencil.

A good example of this is the gagnon deposition cover page, in Gooch's scan you can read 2 handwritten notes that were written in black ink, the other 4 notes are either missing or can't be read. On The original I can read all of it still but the ones in blue pencil seem to be fading the fastest and can barely be read at all.

Do you want me to incorporate the text of what I can still make out on the originals with who wrote them?

Thanks,
Paul

On Jun 26, 2020, at 1:43 PM, Paul Dulberg <pdulberg@comcast.net> wrote:

Ok there are a lot of pages it will take more than a few minutes because 3 different people wrote these notes at various times and I need to go through page by page and give you who wrote what on what page of each pdf

I can't say how long this will take but I can tell you there is no way I can finish this today

Paul

On Jun 26, 2020, at 1:25 PM, Paul Dulberg <pdulberg@comcast.net> wrote:

Ok, give me a few minutes to get back to you on this

I didn't realize there was attachments

Paul

On Jun 26, 2020, at 1:22 PM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

Dear Paul,

I hope everything is well with you and your mother.

Please take your time to review the documents that were attached to the first email and determine who wrote which notes. To be clear, when I said handwritten notes, I was specifically referring to the ones attached, thus you should be able to see the handwriting to determine who wrote the notes. I have attached them again here for ease.

To be clear, I am not asking generally wrote various notes. I am specifically asking about who wrote the notes attached or the notes on the documents that I had attached. Thus, if that will take a number of days to determine who wrote the notes, taking the time is fine.

Here is the list of attached documents again with a bit more clarity:

1. David Gagnon Dep with Notes. Who wrote the notes on the deposition transcript?
2. Michael McArtor Dep with Notes. Who wrote the notes on the deposition transcript?
3. Paul Dulberg Dep with Notes. Who wrote the notes on the deposition transcript?
4. William McGuire Dep with Notes. Who wrote the notes on the deposition transcript?
5. Notes 1-5. Who wrote the handwritten notes from the five files of handwritten notes attached?

In addition to the four deposition transcripts, there are five files attached named (1) Notes 1.pdf, (2) Notes 2.pdf, (3) Notes 3.pdf, (4) Note 4.pdf, (5) Note 5.pdf. I specifically want to know who the author is of each note contained within

the pdf document. For some of the files, it is simply one page, but others have several pages. Do your best to identify the author of each of the notes. If you do not know, simply state you do not know. If there are several do your best to describe who wrote each note within the document. One of the files contains about 100 pages—it appears that the handwriting is similar so I am hopeful that it is one author, but if not, simply do your best to identify the authors/page numbers.

Best Regards,

Julia Williams
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On Jun 26, 2020, at 12:27 PM, Paul Dulberg <pdulberg@comcast.net> wrote:

Hi Julia,

On all of the deps or on anything else, it was my mom/Barb, brother/Tom and myself.

I would need to see the hand writing on any specific note to say who wrote it.

Mom kept most of her notes on separate papers which is what I am thinking you are referring to as notes 1-5 but am not sure without seeing the writing

Barbs notes are not the most accurate but Toms and mine are.

All three of us went through it separately and tried to see what we could find

Sorry I can't be more specific right now, had an issue at moms today and have been out

Paul

On Jun 26, 2020, at 9:40 AM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

Dear Paul,

I am working to produce more documents to the other side as we indicated in your deposition and pursuant to our duty to continually update discovery. There appear to be some documents from the Gooch file that were not produced in discovery in the legal malpractice case and I want to make sure we have produced everything required to the other side. We are going to produce those now. Many appear to be duplicates.

I am continuing to work on the total supplemental production, but for now, I need your help with some files that I have attached.

1. David Gagnon Dep with Notes. Who wrote the notes on the deposition transcript?
2. Michael McArtor Dep with Notes. Who wrote the notes on the deposition transcript?
3. Paul Dulberg Dep with Notes. Who wrote the notes on the deposition transcript?
4. William McGuire Dep with Notes. Who wrote the notes on the deposition transcript?
5. Notes 1-5. Who wrote the handwritten notes from the five files of handwritten notes attached?

We appreciate your help with this.

Best Regards,

Julia Williams
Of Counsel
The Clinton Law Firm

111 W. Washington, Ste. 143/
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<David Gagnon Dep with Notes.pdf><Michael McArtor Dep With Notes.pdf><Paul Dulberg Dep with Notes.pdf>
<William McGuire Dep with Notes.pdf><Notes 2.pdf><Notes 5.pdf><Notes 4.pdf><Notes 3.pdf><Notes 1.pdf>

<Notes 1.pdf><Notes 2.pdf><Notes 3.pdf><Notes 4.pdf><Notes 5.pdf><David Gagnon Dep with Notes.pdf><Michael
McArtor Dep With Notes.pdf><Paul Dulberg Dep with Notes.pdf><William McGuire Dep with Notes.pdf>

ORIGINAL

Discovery Deposition
of **MICHAEL McARTOR**

Date: March 20, 2013

Case: Dulberg v. Gagnon

Mike gets confused
AND TRIES TO
ANSWER things
He HAS NO knowledge
of. Like who
Pays Bills at Pats
house prior
to Accident

Thanks
TO
HANS → Also confused
which car is
which...

Also list himself
as unemployed
even though he
owned & operated
T-shirt Printing
Company

↓
Paid through
Dividends

↓
Mike wasn't
sure how to
ANSWER.

Urbanski
Reporting Company

Phone: 312-977-1777

IN THE CIRCUIT COURT
FOR THE 22ND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

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

The deposition of MICHAEL McARTOR, taken in the
above-entitled cause, before Paula Ann Erickson,
Certified Shorthand Reporter, Registered Professional
Reporter and Notary Public, on March 20, 2013, at 3421
West Elm Street, McHenry, Illinois, at the approximate
hour of 11:50 a.m.

REPORTED BY: PAULA A. ERICKSON
C.S.R. LICENSE NO. 084-003899

1 APPEARANCES:
2

3 MR. HANS MAST
4 LAW OFFICES OF THOMAS J. POPOVICH
5 3416 W. Elm Street
6 McHenry, Illinois 60050
7 (815) 344-3797

8 Appeared on behalf of the Plaintiff.

9 MR. RONALD A. BARCH
10 CICERO, FRANCE, BARCH & ALEXANDER, PC
11 6323 East Riverside Boulevard
12 Rockford, Illinois 61114
13 (815) 226-7700

14 Appeared on behalf of the Defendants, Carolyn
15 and Bill McGuire.

16 MR. PERRY A. ACCARDO
17 LAW OFFICE OF M. GERARD GREGOIRE
18 200 North LaSalle Street
19 Suite 2650
20 Chicago, Illinois 60601
21 (312) 558-9821

22 Appeared on behalf of the Defendant, David
23 Gagnon.

24 * * * *

I N D E X

WITNESS

PAGE

MICHAEL McARTOR

BY MR. MAST..... 4
BY MR. BARCH.....41

E X H I B I T S

(NO EXHIBITS MARKED)

1 THE REPORTER: Sir, can you raise your right
2 hand, please?

3 MICHAEL McARTOR,
4 after being first duly sworn, deposeth and saith as
5 follows:

6 EXAMINATION

7 BY MR. MAST:

8 Q. All right. Would you please state your name?

9 A. Michael McArtor.

10 Q. How do you spell the last name?

11 A. M-C capital A-R-T-O-R.

12 Q. Okay. All right.

13 MR. MAST: This is the discovery deposition of
14 Michael McArtor, taken pursuant to subpoena with
15 notice. Mr. McArtor, I am going to ask you some
16 questions regarding what you may or may not know about
17 a chain saw incident that involved my client Paul
18 Dulberg and the other parties in this case. Let's see
19 if I have a date of accident I can reference. Anybody
20 have the date of accident?

21 MR. BARCH: I think it's June 28th of 2011 was
22 the date.

23 BY MR. MAST:

24 Q. Okay. Do you recall that date as being the

1 approximate time of Paul's accident?

2 A. Yes. Summer of '11.

3 MR. MAST: Okay. What I am going to do and maybe
4 the other attorneys are going to ask you some
5 questions regarding just some matters regarding Paul,
6 my client, and just the incident and things that arose
7 from the incident. Please let me finish the question
8 and I will let you answer it. Let's try not to talk
9 over each other and we will go from there, okay?

10 THE WITNESS: Okay.

11 BY MR. MAST:

12 Q. You have probably never given a deposition
13 before I take it?

14 A. No.

15 Q. Okay.

16 A. Never been in a lawyer's office really.

17 Q. Well, that's actually good. So let's start
18 with your address.

19 A. 4606 Hayden Court, McHenry, Illinois 60051.

20 Q. Hayden, H-A-Y-D-E-N?

21 A. Correct.

22 Q. All right. And who do you live with?

23 A. Paul and his mom.

24 Q. What's his mother's name?

1 A. Barb.

2 Q. And is this a single family residence?

3 A. Yes. There is two. It's like two floors. I
4 live on the bottom.

5 Q. Do you like live in an apartment?

6 A. No. It's one house. We share a kitchen.
7 Everything else I have is my own. You know, I have my
8 own bathroom and everything.

9 Q. So it's kind of --

10 A. It's kind of like a duplex.

*walk out
Basement*

11 Q. This is the problem we are going to have is
12 when I start talking and when you start talking. You
13 got to let me finish my question and then I will let
14 you say whatever you want to say, okay? All right?

15 A. Yep.

16 Q. So although it's a single family house, you
17 use it in kind of sections where you have a place that
18 you use and then the second floor they use?

19 A. Yes.

20 Q. Okay. So does Paul live in the area where
21 his mother lives?

22 A. Yes.

23 Q. And then you live alone in the area of the
24 first floor? -- *Basement*

1 A. Yes.

2 Q. Okay. See, that's better. That makes it a
3 little bit easier. All right. What's your date of
4 birth?

5 A. 9/3/70.

6 Q. Okay. And what do you do for a living?

7 A. I am unemployed right now.

8 Q. How long have you been unemployed?

9 A. About five years. - *owned & operated T-shirt Business*

10 Q. Is that by choice or for some reason?

11 A. I was fired. - *FROM DAY JOB IN 07-08?*

12 Q. Well, that was five years ago, though. Are
13 you staying -- Hold on. Are you staying unemployed by
14 choice or for some season?

15 A. Oh, no. Not by choice. It's just hard to
16 find a job. - *Mike Doesn't consider ~~not~~ owning a company as Employment.*

17 Q. So you haven't been able to find a job?

18 A. Right. - *2nd Job.*

19 Q. What is it that you do that you are looking
20 to find work in?

21 A. I do printing. - *HE WAS FIRED FROM UNDERCOATING CARS. PRINTING ON T-SHIRTS WAS 2nd Job.*

22 Q. Okay. How long have you lived at that
23 address with Paul and his mother?

24 A. About seven years.

Paid in Dividends from stocks invested in Company

- 1 Q. How long have you known Paul and his mother?
- 2 A. My whole life. Since I was like three.
- 3 Q. So you grew up with Paul? *Paul since*
- 4 A. Yes. *Kindergarten*
- 5 Q. Did you go to school with him as well?
- 6 A. Yes.
- 7 Q. What -- Did you go to grade school with him?
- 8 A. Yes.
- 9 Q. What grade school?
- 10 A. All of them, Johnsburg, Ringwood.
- 11 Q. What high school did you go?
- 12 A. Johnsburg.
- 13 Q. Same with Paul?
- 14 A. Yes.
- 15 Q. So is it fair to say since maybe 3 or 4 years
- 16 old you and Paul have been friends?
- 17 A. We have known each other.
- 18 Q. Okay. How long would you say you and Paul
- 19 have been friends?
- 20 A. Probably since '80.
- 21 Q. Okay. What started that friendship?
- 22 A. Just we live two roads away from each other.
- 23 Q. Okay. How is it that you began to live with
- 24 Paul?

1 A. We originally had a business together.

2 Q. What kind of business?

3 A. T-shirt business.

4 Q. A what?

5 A. T-shirt printing.

6 Q. How did that carry on to living together?

7 A. We pretty much needed somebody there all the
8 time and he was working at Intermatic and I wasn't
9 really working at the time. - 1 yr.

10 Q. Is it out of the home?

11 A. Yes.

12 Q. Okay. Is that something you are still doing
13 with Paul?

14 A. No. We are not doing that anymore.

15 Q. So do you do anything to earn any income
16 right now?

17 A. No. - yes, *WORKED FOR MIKE THOMAS,*
Cash Job. Got in with Mike Thomas
2 months after accident &
is still there

18 Q. Okay. When did the T-shirt business stop, *Today.*
19 end?

20 A. Roughly about 2011.

21 Q. Okay. And was it -- Was it run out of the
22 home?

23 A. Yes.

24 Q. Do you pay rent?

*↓ Did until just before
Accident, close
were going to ~~reopen~~
~~business & open~~
& REOPEN as NEW
CORPORATION.*

*Accident
and
it
all
it*

1 A. No.

2 Q. Or do you do anything in exchange for living
3 there?

4 A. ^{no} I clean. I cook. ^{yes}

5 Q. Okay. For everyone?

6 A. Yes.

7 Q. Oh. Are you a good cook?

8 A. Yes.

9 Q. Good.

10 A. I think so.

11 Q. Do you have anything beyond high school? Any
12 type of college?

13 A. No.

14 Q. Okay. How about David Gagnon, do you know
15 him?

16 A. Yes.

17 Q. How long have you known Dave?

18 A. Since probably 1984.

19 Q. Has he been a friend since then?

20 A. He was an acquaintance at that time.
21 Probably about 1986 we probably became friends.

22 Q. Okay. So almost as long as with Paul but not
23 quite?

24 A. Yes. Right.

1 Q. Okay. What began your friendship with Dave?

2 A. Once again, we lived in the same
3 neighborhood. We knew each other.

4 Q. Okay. And up until Paul's incident in 2011
5 with the chain saw -- You are familiar with that
6 incident, right?

7 A. Yes.

8 Q. Up until then, were you -- from '86 until
9 then, were you friends with Dave?

10 A. Yes.

11 Q. Okay. And friends can mean a lot of
12 different things. Some friends are very close and
13 they see each other every day and go out and socialize
14 and stuff. Other people can be friends. They see
15 each other once a year, so how would you describe
16 before Paul's accident your friendship with Dave?

17 A. I'd say I saw him probably four times a week
18 at least. *Back in the - 80's & early 90's not
this often since mid 90's*

19 Q. Any type of social activities together?

20 A. No. We just go to his house and play like
21 hacky sack. *- 80's - 90's*

22 Q. Did Dave live alone?

23 A. No. He lived with his mom and Bill.

24 Q. Mom and who?

1 A. Bill.

2 Q. Who is Bill?

3 A. McGuire.

4 Q. I'm sorry?

5 A. Carol and Bill.

6 Q. His parents you are saying?

7 A. It wasn't his parents at the time. Bill was
8 not his dad. They weren't married at the time.

9 Q. So Bill is like his stepfather?

10 A. Bill would be his stepfather, yes.

11 Q. Does Dave still live with them?

12 A. No.

13 Q. Is he married now?

14 A. Yes.

15 Q. Does he have children?

16 A. No. — *should be yes! Mike knows Dave has a kid.*

17 Q. How long has Dave lived -- I imagine Dave
18 lives with his wife now?

19 A. Correct.

20 Q. How long have they lived together, if you
21 know?

22 A. Oh, probably it was at least probably six
23 years. — ? *Guess*

24 Q. Okay. Up until then -- up until he got

1 married and started living with his now wife, he lived
2 with his mother and Bill?

3 A. Yes.

4 Q. Okay. And is that the same address where she
5 lives today?

6 A. Yes. - *No, Dave moved out of Parents*

7 Q. What street is that?

8 A. Oakleaf I think. - *ELDER AVE.*

9 Q. Is that in McHenry?

10 A. They have a McHenry mailing address, yes.

11 Q. And so the time that you would see Dave four
12 times a week at his mom's house on Oakleaf that would
13 be before Dave got married and moved out obviously?

14 A. Correct. - *TRUE*

15 Q. Okay. So for six years -- for the past six
16 years, have you had a friendship with Dave?

17 A. I would see him every now and then. I
18 wouldn't see him as much, no. - *once-twice a year.*

19 Q. And the reason you saw him it looks like
20 significantly less is because he got married and moved
21 in with his wife and moved?

22 A. They moved away. They moved to Wisconsin.

23 Q. Is that where they are living now?

24 A. Yes.

1 Q. So once Dave got married and moved up to
2 Wisconsin to live with his wife, that's when your
3 connection with him got a little bit less?

4 A. Yes.

5 Q. But you still had a friendship with him?

6 A. Yes.

7 Q. Okay. Okay. And then if you would, you
8 described now your relationship friendship with Dave
9 over the years. How about now with Paul? You have
10 lived with him for the past six years. I am assuming
11 you socialize with him from time to time?

12 A. Sure.

13 Q. Is that on a frequent everyday basis or what?

14 A. Yeah.

15 Q. Okay. So you still have a close relationship
16 with Paul then?

17 A. Yes.

18 Q. All right. Are you -- Do you have a close
19 relationship with his mother then as well?

20 A. Yes.

21 Q. What's his mother's name?

22 A. Barbara.

23 Q. Anybody else that lives in the house?

24 A. No.

1 Q. Do you know Dave's mother and stepfather?

2 A. Yes.

3 Q. Okay. Does he have a -- Is his natural
4 father still living?

5 A. No.

6 Q. Okay. What's his mother's name?

7 A. Carol.

8 Q. Carol. Since Dave moved out of their house
9 like six years ago, have you maintained any type of
10 contact with Carol and Bill?

11 A. I have talked to them a couple times, not
12 much. - TRUE

13 Q. Okay. With regard to Paul's accident, the
14 chain saw that we are here about today, June, 2011,
15 other than -- and we will get to your communications
16 or what you have overheard with regard to Dave and
17 Paul, but other than Dave and Paul, have you had
18 communications with anyone else regarding that
19 incident?

20 A. No. - Barb, Paul, Dave, Tom, Scott
likes mom & Dad.

21 Q. Okay. So all of the information you know
22 about the chain saw accident with Paul has all come
23 from either Paul or Dave?

24 A. Well, and Carol. Carol. Carol is the one

1 who called me the day it happened. - TRUE

2 Q. That's what I was trying to find out.

3 A. Yes.

4 Q. So it's just three people then you have
5 learned about the chain saw accident, Carol, Dave and
6 Paul?

7 A. Yes.

8 Q. Okay. You have never talked to Bill about it
9 then?

10 A. No.

11 Q. Okay. Before the -- Before the accident
12 occurred with Paul -- You know it happened over at the
13 McGuire's house, right?

14 A. Yes.

15 Q. Before it happened, did you know what Paul
16 was doing that day?

17 A. No. - yes, Barb Told Mike where Paul
went.

18 Q. Did you know he was going to be using a chain
19 saw or working around a chain saw?

20 A. No. No. - TRUE

21 Q. Okay. Did you know what Dave was going to be
22 doing that day?

23 A. I had no idea what any of them were doing.

24 Q. Okay. Okay. Obviously they don't have to

TRUE, Except what Barb
said about where
Paul
went
That
morning

1 report to you what they decide to do, right?

2 A. Right.

3 Q. And you don't know every day what they're
4 doing?

5 A. No.

6 Q. All right. So your first notification of
7 what happened in Paul's chain saw accident was when
8 Carol called you?

9 A. Yes. - TRUE

10 Q. Okay. Was it the day of the incident?

11 A. Yes. - TRUE

12 Q. What time did she call you?

13 A. Probably five, six hours after it happened.

14 Q. Okay. So Paul had already been to the
15 hospital I am assuming?

16 A. Yes. He was at the hospital when she called.

17 Q. Okay. All right. So let's start with that
18 telephone call then. What did Carol say to the best
19 you can paraphrase for us?

20 A. Carol called and told me why she didn't want
21 to call earlier. She didn't want to talk to Barb
22 because she was afraid what she would say because Dave
23 cut Paul's arm with the chain saw.

24 Q. Were those her words?

1 A. Those were her words.

2 Q. She didn't want to call earlier because she
3 didn't want to talk to Barb?

4 A. She didn't want to put Barb in stress until
5 she found out what was going on.

6 Q. About the injury?

7 A. Yes.

8 Q. Okay. And she described it as Dave cut
9 Paul's --

10 A. Paul with the chain saw.

11 Q. With the chain saw. Okay. All right. What
12 else did Carol say?

13 A. Come get your dog.

14 Q. Why was your dog over there?

15 A. Paul had the dog over there.

16 Q. Okay. And what kind of dog was that?

17 A. A German Shepherd.

18 Q. So apparently when Paul was going over to the
19 house to help Dave, he brought your dog with?

20 A. Well, it's both of our dog. - No, Paul's Dog!

21 Q. He brought the dog with?

22 A. Yes.

23 Q. And I guess that's something he does from
24 time to time, right?

1 A. Yes.

2 Q. So not unusual?

3 A. No. - Paul's Dog goes everywhere
Paul goes.

4 Q. Did she say anything else in the phone call?

5 A. No.

6 Q. So it was about a minute or two phone call?

7 A. Yes.

8 Q. What did you do -- So I imagine she said Paul
9 was in the hospital?

10 A. Yes.

11 Q. Okay. Did she tell you what type of injury
12 or how severe it was?

13 A. No. No. She just said it was a chain saw
14 cut.

15 Q. On the arm?

16 A. Yes.

17 Q. Okay. So what did you do after hanging up
18 with Carol?

19 A. Walked over to their house and got the dog.

20 Q. How far away did they live?

21 A. A couple blocks.

22 Q. And that is from the place where you are
23 living today --

24 A. Yes.

1 Q. -- when you were living with Paul at the
2 time?

3 A. Yes.

4 Q. And you went and got the dog, brought him
5 home and what did you do next?

6 A. Waited to find out about Paul.

7 Q. So you were waiting for someone to call you?

8 A. Waiting to find out what was going on. You
9 know, Dave was with him at the hospital.

10 Q. So you were assuming one of them was going to
11 call you?

12 A. Well, I was assuming that he was going to
13 show back up after he was done with the hospital.

14 Q. Right. So either they were going to call you
15 or somehow show up at the house and then you were
16 going to find out what happened?

17 A. Yes.

18 Q. Okay. So you weren't going to do anything
19 yourself until somebody contacted you?

20 A. Yes.

21 Q. Okay. So you just waited at home?

22 A. Yep. -- Did you tell Barb?

23 Q. Okay. What's the next thing that happened
24 then?

1 A. A couple hours later Paul came home. - This puts

2 Q. Do you remember what time that was? The call
at 1 hr
after incident

3 A. No.

4 Q. Can you give me an estimate, like after 7:00,
5 before 7:00, something like that?

6 A. Oh, it was before that. → 3 hrs after

7 Q. Before 5:00, somewhere around there?

8 A. Maybe around there.

9 Q. So around 5:00 p.m.?

10 A. I suppose. I am not really sure on the time.

11 Q. Okay. It wasn't late evening, though?

12 A. No. It was not pitch dark out, no.

13 Q. Was it still light out?

14 A. Yes. It was still light out.

15 Q. And who -- So your first -- the next thing
16 that happened then is Paul arrived home?

17 A. Yes.

18 Q. Did he arrive home with anyone?

19 A. Well, Dave brought him home.

20 Q. Okay. Did Dave just drop him off and drive
21 away or did he come into the house?

22 A. Dave did not come into the house. - True -
Dave did not
want to
stay.

23 Q. Did you speak to Dave?

24 A. No. - True

1 Q. Did you see Dave?

2 A. No. -TRUE

3 Q. Okay. You just know he got dropped off
4 because somebody had to drop him off?

5 A. Well, because they took him to the hospital
6 so they brought him home.

7 Q. Where was Paul's truck at the time then?

8 A. Dave drove Paul's truck to the hospital. - Mike
9 Q. Okay. And then Dave drove Paul home? confused
about time.

10 A. Yes.

11 Q. And then Dave took Paul's truck away to his
12 house?

13 A. I don't think so.

14 Q. What -- How did Dave get home?

15 A. He could have walked. It's only two blocks
16 away.

17 Q. I am just trying to find out.

18 A. I have no idea. -TRUE

19 Q. So as far as you know, Dave probably left
20 Paul's truck there and just walked home? That's
21 probably what happened?

22 A. Yeah.

23 Q. Okay. Okay. So Paul came in the house and
24 did you have a conversation with him?

1 A. Well, no, not really. He was on pills. You
2 really can't have much of a conversation at that point.

3 Q. What was his demeanor or how was he acting at
4 the time?

5 A. Sore. - *True*

6 Q. In his arm?

7 A. Yes.

8 Q. Okay. Was his arm bandaged?

9 A. Yes. - *No, It Did Have stitches though*

10 Q. Do you remember which arm?

11 A. It was the -- I believe it was the right arm. *True*

12 Q. Okay.

13 A. Or left arm. - *Mike Confused over which arm? said Hans looked at him as if his first answer was wrong.*

14 Q. Left arm. No words exchanged or just hi, how
15 are you doing? That type of thing and you went to
16 bed?

17 A. Just, oh, my God. I can't believe that
18 happened. *In Response to Paul telling him.*

19 Q. All right. Did Paul at this point -- and,
20 again, we are going to go step by step -- but did Paul
21 describe to you what had happened? *Mike Doesn't Remember*

22 A. Not at the time, no. He was -- Like I said
23 he was on pills, so there wasn't much talking. I mean,
24 he pretty much wanted to sleep. - *True.*

*Paul
Told
Mike & Ann
what Dave Did
& went to
Bed.*

1 Q. Okay. So after the hi and, oh, my God, what
2 happened, then he just went to bed?

3 A. Yeah. *True*

4 Q. Okay. Okay. Did you see Paul the next
5 morning then?

6 A. I saw him the next day, yes.

7 Q. Did you have a conversation with him more now
8 about the incident and what happened?

9 A. Yes. *True*

10 Q. How did Paul describe what happened?

11 A. He said he was holding the branch for Dave
12 and the next thing he knows Dave came up and -- too
13 high and cut him in the arm. *True*

14 Q. Those are his words?

15 A. Yeah.

16 Q. Okay. Did he say anything else? And, again,
17 I know this has been some time but I need to go
18 through everything and make sure you said everything
19 you recall so did he say anything else regarding how
20 it happened?

21 A. No. He was just there helping Dave hold some
22 branches while he cut them.

23 Q. Okay. Anything else discussed that you
24 recall the next morning?

1 A. No.

2 Q. Okay. Are you the kind of -- Again, I don't
3 know. You guys live together. Did you know when Paul
4 was receiving medical treatment and all that or did
5 you not kind of stay up on that?

6 A. I try not to. I don't want to get into too
7 much stuff with him so no. I didn't really pay much
8 attention to it.

9 Q. He obviously had some issues with the arm
10 later on, right?

11 A. Yes. I have to help him do a lot of things. ^{True}

12 Q. I am not going to go and belabor it. If they
13 want to, they can but what did you notice over the
14 next we are going on two years so let's say over the
15 next few months after the incident, what did you
16 notice about -- if anything, about his injury and how
17 that affected his day-to-day activities?

18 A. Well, he couldn't do a lot of things. He
19 can't open a jar. He can't do lots of things. He
20 can't, you know, type on a keyboard for more than maybe
21 20 minutes. He lost a lot of movement basically in his
22 arm. The grip and everything. ^{True}

23 Q. And when you notice from day to day it was
24 causing him pain, so you would notice some visual

1 issues in his face that would show that he is having
2 some problems or not?

3 A. Well, when you see him work with his hands,
4 yes. You can see him -- stress in his face. *-True*

5 Q. Okay. And was that something that you would
6 see on a day-to-day basis because you saw him every
7 day or would it be more once a week, once a month?
8 How often would you notice these things about him?

9 A. If he uses his hands, it happens all the
10 time. *-True*

11 Q. So it depends on how active he is trying to
12 be?

13 A. Yes.

14 Q. How about outside of the house? Were there
15 things he was having difficulties doing because of his
16 left hand/left arm issues?

17 A. Like mowing the lawn, things like that?

18 Q. Yes. Yes. Whatever he does outside.

19 A. Yes. Yes. *-True*

20 Q. Before this accident, was he kind of an
21 outdoors guy or indoor guy?

22 A. Outdoors.

23 Q. What did he like to do outdoors?

24 A. Camping. We used to cut wood, gardening.
Fishing, Boating, Canoeing, water ski.
Bicycles, motor cycles, 4 wheelers etc..

1 Q. Was he able to do any of that after the
2 accident that you noticed?

3 A. No, not really. He would plant a few seeds
4 in the garden but, you know, that's not really doing
5 anything. -True

6 Q. Okay. Okay. All right. Have you -- I will
7 just make this all kind of in one question and if they
8 want to go into more particulars, they can but since
9 the accident, have you noticed over now we are a year
10 and a half to two years, have you noticed any
11 improvement or him being able to be more active such
12 as he is getting better over the years or has he
13 gotten worse or has he pretty much stayed the same?

14 A. It definitely hasn't gotten better. -True

15 Q. Okay. His limitations if you compare them
16 today versus in the months after the accident, are
17 they about the same or have they improved or gotten
18 worse?

19 A. Probably the same. -True

20 Q. Okay. So you haven't really noticed any
21 significant changes since the months after the
22 accident until today? It's about the same?

23 A. On the cut arm?

24 Q. On his arm, yes.

1 A. No. It's about the same. - True

2 Q. Have you noticed something on the other parts
3 of his body?

4 A. Well, he had an accident on the other arm a
5 few years before that and now he has to use that arm a
6 little bit more and it's taken a toll on that arm. - True

7 Q. What was that accident?

8 A. A car accident. - True

9 Q. And he hurt his right arm?

10 A. Yes. - True

11 Q. Now that he has to use his right arm because
12 he can't use his left arm, that's making difficulties
13 using the right arm?

14 A. Yes. He had to have the ulnar nerve moved
15 from --

16 Q. From his right arm?

17 A. Yes. - Left.

18 Q. Because of that auto accident?

19 A. Yes. - True

20 Q. Did he have any prior problems with the left
21 arm where he had the saw accident?

22 A. No. - Right & Its True

23 Q. Okay. Since you see Paul frequently, I don't
24 want to go into every time you see him, but this is

- Mike got mixed
up on which arm
is which.

1 what I am trying to get at: Since the day after the
2 accident when you had the conversation a little bit
3 more particular about what happened, have you had
4 additional conversations with Paul over the years
5 about more specifically how it happened or has it
6 always been him saying pretty much what you already
7 told me?

8 A. On how it happen? That's pretty much what
9 it's always been. - True

10 Q. Yes. So although he said it a few times over
11 the years, he has pretty much said the same thing?

12 A. Yes. - True

13 Q. Had there been any other versions you heard
14 from Paul other than what you described for us about
15 how the incident occurred?

16 A. No. - True

17 Q. Okay. All right. Have you told us then
18 everything that Paul has told you since the accident
19 and again over the years about how the accident
20 occurred?

21 A. Yes. - No, Paul & Talked many times about it
with Both Mike & Barb.

22 Q. Is there anything else about the accident
23 that he has told you that you have not told us?

24 A. About him?

1 Q. About the accident. About how it happened.

2 A. No. That's how it happened.

3 Q. Okay. You were not -- obviously not a
4 witness to the accident?

5 A. No. *True*

6 Q. Okay. Other than Dave and Paul, are you
7 aware of any other witnesses to the accident?

8 A. No.

9 Q. The chain saw accident.

10 A. No.

11 Q. Okay. Do you know if Carol or her husband
12 were present at the time the incident occurred?

13 A. They told me they were inside.

14 Q. Okay. And when did they tell you they were
15 inside?

16 A. When I went to pick up the dog.

17 Q. All right. And so I didn't talk to you about
18 that conversation, so let's go back to that. That's
19 with Carol?

20 A. Yes. Carol.

21 Q. Okay. So let's go back then because I want
22 to cover as much as I can. When you went to pick up
23 the dog after Carol called you the day of Paul's
24 accident and said pick up the dog, you went to pick it

1 up. You walked over there?

2 A. Yes.

3 Q. And did you have to go inside?

4 A. No. It was outside. - Tied up ^{OR Just} outside?

5 Q. Okay. You picked up the dog. Did you talk
6 to Carol?

7 A. Carol came out.

8 Q. Did you only talk to Carol?

9 A. Carol and Bill came out.

10 Q. Did you talk to Bill and Carol?

11 A. Yeah.

12 Q. All right. What was said between you?

13 A. Pretty much that what happened. Dave cut
14 Paul with the chain saw and they were waiting to hear
15 back.

16 Q. Okay. That was it then?

17 A. Yeah.

18 Q. Have you ever talked to Carol or her husband
19 since that time up until today any more about this
20 incident?

21 A. No.

22 Q. Okay. All right. All right. How about
23 Dave? Now let's talk about Dave. After the accident,
24 how long, how many days was it when you first spoke

1 with Dave or heard Dave talk about the incident?

2 A. Dave didn't really want to talk about the
3 incident. - True

4 Q. Okay. Well, when is the first time -- how
5 long after the accident was the first time you even
6 were around him where you noticed he didn't want to
7 talk about it?

8 A. When we went up to try to get his insurance
9 policy number.

10 Q. How many days, though, later?

11 A. Oh, I don't know.

12 Q. Was it a week?

13 A. Maybe a month.

14 Q. Okay. I just need to get a timeframe so I
15 know what we are talking about. So approximately one
16 month after Paul's chain saw accident, you and Paul
17 went over to Dave's house?

18 A. Yes. - No, Not 1 month.

19 Q. Okay. And, again, that's when he is with his
20 wife up in Wisconsin?

21 A. Yes. In Powers Lake.

22 Q. Do you remember his wife's name? I don't
23 know if I asked you.

24 A. Pam.

*Loofed
It was many months after,
6 months?*

1 Q. Pam. Okay. And why did you go up with Paul?

2 A. Because he wanted me to drive him.

3 Q. Because he is not able to drive with his
4 injury?

5 A. Well, he can drive. I mean, it's just too
6 much turning, you know, and his hand ^{arm} gets sore. - True

7 Q. Okay. So the only reason you accompanied
8 Paul up to Dave's house a month after his accident is
9 because he needed you to help him drive?

10 A. I told him I would drive, yes. - Paul wanted
Mike as a

11 Q. Okay. All right. And how long were you at ^{witness.} Dave's
^{wasn't sure how} house that day? ^{Dave} ^{would} ^{React.}

12 Dave's house that day?

13 A. Half hour, maybe an hour. ^{over 2 hours}

14 Q. And was it a sit-down meeting or is it just
15 kind of walking around talking a little bit?

16 A. Went into his garage, he showed us his cars,
17 things he is working on. ^{walk & talked}

18 Q. What does Dave do for a living, do you
19 recall?

20 A. Auto body. - True

21 Q. Okay. Does he do it out of his house?

22 A. Yeah.

23 Q. Okay. Do you know if he has any other work
24 other than auto body out of his house?

1 A. That's all that I know of.

2 Q. In the entire time that you were at Dave's
3 house the month after the accident was Paul and Dave
4 and all three of you together?

5 A. Yes. We were in the garage. - *True*

6 Q. Okay. So whatever was said all three of you
7 would overhear presumably?

8 A. Yes. - *True*

9 Q. It's not like Paul or Dave went off somewhere
10 and talked to somebody else. You all three were there
11 together for that half hour to an hour? - *2 hrs +*

12 A. Yes. - *True*

13 Q. So let me just to your knowledge, if Paul or
14 Dave said something during that half hour or hour
15 visit, you would have heard what they had to say
16 because you all three were together, right?

17 A. Yes. - *True*

18 Q. Okay. There was never a time during that
19 visit that Paul and Dave were alone without you
20 around?

21 A. No. - *True*

22 Q. Okay. Can you attempt to describe what was
23 talked about during that half hour to an hour visit up
24 at Dave's house one month after the accident with you

1 and Paul present? *-Dave?*

2 A. Well, he first wanted to start to talk about
3 the cars he is working on and Paul wanted to know about
4 the insurance policy.

5 Q. How did Paul say it?

6 A. He asked if he can get his insurance policy
7 number.

8 Q. His home insurance?

9 A. Yes. Homeowner's insurance.

10 Q. And what did Dave respond?

11 A. He didn't. *-True*

12 Q. He didn't even talk?

13 A. He didn't say yes or no.

14 Q. Okay. Did he say anything else in response?

15 A. About that, no. *-True, Dave Avoided & Changed conversation to anything But*

16 Q. Okay. Anything else discussed about the
17 incident?

18 A. Yes. He wanted to know what he was going to
19 get out of it, Dave did.

20 Q. Okay. Was that brought up out of the blue or
21 was that brought up in response to what Paul asked of
22 him?

23 A. After Paul asked about the insurance policy,
24 Dave wouldn't answer him and Dave wanted to know what

1 he was going to get out of it if he did. -TRUE But It
2 *TOOK a long time*

3 Q. And, again, I know you don't have it recorded
4 or know the exact words but can you give me kind of a
5 paraphrasing of his response?

6 A. What am I going to get out of this? -TRUE.

7 Q. Okay. Did he define what he meant by that
8 statement?

9 A. Not really. -No. *Dave wanted money!*

10 Q. All right. What did Paul say in response to
11 that?

12 A. What's there to get out of this?

13 Q. And, again, give me the back and forth. What
14 was said then?

15 A. Basically, he wanted to know -- you know,
16 Paul wanted the insurance policy, Dave -- like I said
17 Dave didn't give us an answer. He wanted to know what
18 he was going to get out of it and Paul said there is
19 nothing to get out of this. It's insurance. I want my
20 arm fixed and Dave is like, well, if my insurance goes
21 up a penny, the chain saw cut is going to be the least
22 of your worries. You haven't seen me mad yet. Exact
23 words. -TRUE

24 Q. Okay. Anything else discussed?

A. At that point I said let's go. -TRUE

1 Q. And you left?

2 A. Yes. *-True*

3 Q. Okay. So, again, I got to say this then:
4 Have you told me now, and if you have to add anything,
5 now is the time to add it, have you told me now pretty
6 much as you can remember it everything that was said
7 during that half an hour to an hour meeting regarding
8 the chain saw incident, the injuries, anything related
9 to that incident?

10 A. Yeah. That was it.

11 Q. Okay. So you suggested, hey, Paul, let's go?

12 A. Yeah. I saw this was going nowhere.

13 Q. Okay. Was the whole trip -- What was the
14 whole point of the trip up to Dave's house?

15 A. To get his homeowner's insurance policy
16 number. *-True*

17 Q. Why couldn't you have called him?

18 A. We tried. *-True*

19 Q. Okay. I didn't know that. So Paul had
20 tried?

21 A. Paul tried.

22 Q. Paul said I can't get ahold of him or I can't
23 get the info so let's just drive up there? *-True*

24 A. He wouldn't give it to him so we just drove

1 up there. - True

2 Q. Got you. Did Dave ever describe -- Let me
3 strike that.

4 That was your first meeting with Dave
5 since Paul's accident, right?

6 A. Yes. - True

7 Q. Did Dave ever talk about how the incident
8 occurred?

9 A. No. - False - Dave wanted to fabricate
story.

10 Q. Okay. Have you been with Dave or overheard
11 Dave in any way say anything else more about how the
12 incident occurred or anything more about these -- the
13 conversation we just heard from you?

14 A. No. No.

15 Q. Have you ever been around Dave since that
16 first meeting?

17 A. I have seen him once since then.

18 Q. How long ago was that?

19 A. Probably six months after that last meeting
20 there.

21 Q. And under what circumstances?

22 A. He stopped over at the house.

23 Q. At Paul's house?

24 A. Yes.

1 Q. Do you know why?

2 A. To visit I suppose.

3 Q. Okay. Was that -- and maybe you don't know
4 this. Was that before this suit in this case was
5 filed to your knowledge?

6 A. I have no idea. -

7 Q. Okay. So it would approximately have been
8 sometime at the end of 2011 or early 2012?

9 A. It was wintertime, so.

10 Q. So sometime in the winter of 2011, 2012?

11 A. Yes.

12 Q. Okay. And how long was Dave over?

13 A. 15 minutes. - TRUE - BUT LESS TIME

14 Q. And, again, we are going to go through the
15 same exercise. Can you tell me what was said during
16 that conversation?

17 A. He came in and wanted to talk about him.

18 Q. What do you mean?

19 A. Just talk about what Dave is doing, you know.

20 Q. Oh, he wanted to tell you guys what he is
21 doing?

22 A. Yeah. Nothing about this accident, no. It
23 had nothing to do with the accident. As a matter of
24 fact, Dave said he didn't want to hear anything about

STOP
THAT
↓
They
Don't
Know

1 it; and he said this is done with. You are fine, there
2 is no big deal and that was it. -True Dave avoided it.

3 Q. Do you know what he meant by you are fine?

4 A. He said there is nothing wrong with you. -True

5 Q. I see. Okay. To Paul?

6 A. Yes. -True

7 Q. Okay. And obviously in your view and Paul's
8 view that wasn't accurate?

9 A. I don't see how nothing is wrong with you
10 when you get cut by a chain saw. -True

11 Q. All right. Now, you have been seeing Paul,
12 what, every day since the accident pretty much?

13 A. Yeah. I live with him, so.

14 Q. Have you ever heard Paul say anything about
15 trying to get rich from this claim?

16 A. No. -True

17 Q. Or that he may not have to work the rest of
18 his life?

19 A. No. -True

20 Q. Did you ever hear Paul suggest that either
21 Dave or somebody else needs to testify to help him win
22 big in this claim?

23 A. No. -True

24 Q. Other than from Paul, have you heard anybody

1 else's version of how this incident occurred?

2 A. No. Besides what Carol told me about Dave
3 cutting him with the chain saw on the phone, that was
4 it.

5 Q. Very good. And you have only seen Dave twice
6 since Paul's accident, right?

7 A. Yes. -

8 MR. MAST: Okay. That's all I have.

9 MR. ACCARDO: I don't have anything.

10 EXAMINATION

11 BY MR. BARCH:

12 Q. So just to backtrack a little bit, my name is
13 Ron Barch. I am here for Carol and Bill McGuire.
14 With respect to the living arrangements over at 4606
15 Hayden Court, you have been I guess a housemate with
16 Barbara and Paul for six years?

17 A. Yes. Six or seven years, yes.

18 Q. And you have known them your whole life
19 essentially?

20 A. Yes.

21 Q. Both of them?

22 A. Yes.

23 Q. And this is a sensitive question, please
24 don't take offense, but are you and Paul, are you a

1 couple?

2 A. No. - True

3 Q. Okay. You are just friends?

4 A. Yes. - True

5 Q. And in terms of people that work in the
6 house, Paul was not working when this accident
7 happened, correct?

8 A. Well, he was doing part work -- consulting
9 work for Intermatic. ← Juskie - Not Intermatic -
sharp Printing

10 Q. Okay.

11 A. And at Juskie's Printing he was doing some
12 work. - True

13 Q. That was prior to the accident?

14 A. Yes. - True

15 Q. And since the accident has he ever had
16 another job since?

17 A. No. Just partially working for Juskie's
18 trying to see if he can do things and obviously he
19 couldn't too well. - True + Mike Thomas.

20 Q. And Barb, is she retired or does she work?

21 A. She is retired. - True

22 Q. She retired when Paul was injured?

23 A. No. She was retired. - True

24 Q. She was already retired?

1 A. Yes.

2 Q. And your last job was years before this
3 happened?

4 A. Yes. - *Mike Doesn't acknowledge ~~working~~ & operating as employment?*
sharp printing Because he was paid by stock

5 Q. And how does everybody coexist there with *Did,*
6 nobody working?

7 A. Well, Barb pays the bills. *- after accident Not Before*

8 Q. Barb does?

9 A. Yes.

10 Q. And when you say you were in printing, what
11 does that mean? What were you doing?

12 A. T-shirt screening. Printing T-shirts.

13 Q. Okay. There is a lot of different printing.
14 In fact Paul testified he did a different type of
15 printing, correct?

16 A. Yes. He did paper printing. *& screen*

17 Q. Okay. But you were actually --

18 A. I did like this stuff, printing on T-shirts.
19 (Indicating.)

20 Q. Silk screening?

21 A. Silk screening, yes.

22 Q. Got you. And have you tried to go get
23 another job for someone else?

24 A. Have I?

Paul Paid All Bills PRIOR TO Accident. Mike wouldn't know this

1 Q. We got to stop talking over each other. Let
2 me get the whole question out.

3 A. Sorry.

4 Q. In the last five years, have you gone
5 anywhere else that does silk screening or printing on
6 shirts and things?

7 A. Yes, I have tried. ^{where when who}

8 Q. Nothing locally?

9 A. No. - Mike Thomas?

10 Q. You mentioned that there is a dog of some
11 sort that stays at the house with you?

12 A. Yes. - True

13 Q. Do you still have the dog?

14 A. Yes. - True

15 Q. And it's a -- what's the dog's name?

16 A. Duke.

17 Q. Duke. And that's co-owned by you and Paul?

18 A. Well, it's his -- Technically it's in his
19 mom's name. + Paul's name

20 Q. Is that a dog -- Is it a pure breed or
21 something?

22 A. Yes. - True

23 Q. So there is some papers associated with the
24 dog?

Mike was doing the
work for Sharp Printing
But was not Employee
He was part owner
Paid through stock
Dividends

1 A. We don't have papers.

2 Q. But it's actually if there was -- somebody
3 was to look up the ownership of this dog, there is
4 some paper declaring her the owner?

5 A. Yes. True

6 Q. But the three of you guys treat it as your
7 own?

8 A. Yes. True

9 Q. Is there anything else that you guys consider
10 joint or is that pretty much it?

11 A. That's pretty much it. Sharp printings
was joint owned
By us.

12 Q. All right. Now the conversation -- Strike
13 that.

14 Going back to your first notice that
15 something had happened to Paul, that was the phone
16 call from Carol McGuire, correct?

17 A. Yes. -

18 Q. And what she described to you was that she
19 was -- she wanted to call later and not speak to Barb?

20 A. Yes. -

21 Q. Did she explain why she didn't want to speak
22 to Barb?

23 A. She didn't want to get Barb all worried until
24 she found out what was wrong with Paul. - why?

Carol never met Barb till after
accident. Paul told Carol to call his house
+ tell Barb + Mike.
That's how Carol knew
Barb's Name.

1 Q. And at that point she was unclear as far as
2 she told you as to what the situation was with Paul?

3 A. As far as to what the extent of the injury
4 was?

5 Q. Yes.

6 A. Yes.

7 Q. The only thing that she was able to report to
8 you is that he was still at the hospital?

9 A. Yes.

10 Q. And that he had an injury with the chain saw?

11 A. That Dave cut him with the chain saw.

12 Q. She reported to you that he was injured by a
13 chain saw?

14 A. She reported that Dave cut Paul with a chain
15 saw.

16 Q. So you knew that he was injured or believed
17 based on that that he was injured by a chain saw?

18 A. Yes.

19 Q. All right. So now with respect to what she
20 said about how, the only thing you can recall right
21 now is that Dave cut Paul with a chain saw?

22 A. Yes.

23 Q. Any other detail at all that you can
24 remember?

1 A. That's all that she said.

2 Q. There was no discussion as to what they were
3 doing, how they were doing, anything like that?

4 A. No.

5 Q. And then when you did go back to get the dog,
6 you said you walked over there and got the dog?

7 A. Yes.

8 Q. When you did meet up with Bill and Carolyn to
9 retrieve the dog, did -- was there any additional
10 description offered to you as to how Paul was injured?

11 A. No.

12 Q. That same comment roughly?

13 A. Yes. That -- She didn't even make the
14 comment at that point. I came to pick up the dog and
15 that was about it. I mean, they were inside when it
16 happened is what they told me.

17 Q. There was no further discussion about how
18 Paul got injured or what happened to him when you got
19 the dog?

20 A. No.

21 Q. There was a comment, though, that neither one
22 of them claimed to have been outside when it happened?

23 A. They were inside, yes.

24 Q. Did they talk about anything else that had

1 happened on the premises that day leading up to when
2 Paul was hurt?

3 A. No.

4 Q. It was a pretty short conversation then?

5 A. Yes. I was there to get the dog and leave.

6 Q. All right. And Paul had not returned at that
7 point yet, correct?

8 A. No. - yes?

9 Q. Did you at any time over the last several
10 weeks talk to Paul about his deposition in this case?

11 A. No. - TRUE

12 Q. No conversation at all?

13 A. None. - TRUE

14 Q. Did you even know he gave a deposition?

15 A. I thought it was a few months ago.

16 Q. Okay. However long it has been --

17 A. We did not discuss any of it. - ~~True other than~~
~~Paul~~

18 Q. And you see him every day and didn't talk
19 about it?

20 A. Yes. - False, Paul said He wanted to
Hear Daves version FOR FIRST
Time ever.

21 Q. And in terms of that description that Paul
22 gave you the morning after, and I am paraphrasing what
23 you said, but generally he was holding a branch and
24 the next thing he knows is Dave came up with the saw

1 and cut him?

2 A. Yes. - *True*

3 Q. All right. Does that capture what you recall
4 telling us a few minutes ago?

5 A. Yes. -

6 Q. All right. Has Dave -- I'm sorry. Has Paul
7 ever given you any more background on what they
8 were -- the tasks they were doing and how long they
9 had been, any detail around what happened?

10 A. They were just cutting a tree down.

11 Q. Okay. So as best you can recall in terms of
12 the details of who was doing what, where they were
13 positioned, how Paul was positioned when he was
14 injured, no details on that from Paul?

15 A. No. All I know is he was holding a branch.

16 Q. Okay. Whether he was holding a branch with
17 the stump on the ground, holding it straight up and
18 down, whether he was holding the stump if the branch
19 was horizontal to the ground, no discussion about
20 that?

21 A. No. - *Paul I told Mike the orientation many
times over. Mike didn't care about
the details, only that Dave*

22 Q. And specifically how many branches they may *Did*
23 have cut or how or what technique they were using to
24 cut those branches, no detail?

1 A. Well, they were cutting for quite awhile.
2 That's all I know.

3 Q. So it had been going on for awhile?

4 A. Yes.

5 Q. Did Paul ever share with you that he was
6 concerned about the approach that David Gagnon was
7 using to cut the branches up?

8 A. No.

9 Q. Did he share with you any concerns he had
10 right up until the very point where he was cut?

11 A. No.

12 Q. Nothing. And when you -- And you and David
13 have never talked about what happened?

14 A. No.

15 Q. You said prior to the injury Mr. Dulberg was
16 an outdoors guy. He would do gardening. He would cut
17 wood. He would also go camping.

18 A. Yeah. Canoeing. Pretty much any outdoor
19 activity. *True*

20 Q. And since this accident June of 2011, has he
21 gone out camping or canoeing?

22 A. We have gone camping.

23 Q. Okay. And how is he different now when he is
24 out camping versus what he was like before?

1 A. He doesn't do anything. He sits in his chair
2 and that's about it. He can't really go do anything. *True*

3 Q. So he still goes but his activities are more
4 limited?

5 A. Very. He basically just sits in the chair. *- we went once.*

6 Q. Where do you guys typically camp?

7 A. Up in Wisconsin. Boulder Junction. *- Tree*

8 Q. Now you said one of the things he used to do
9 before this is cut wood. What do you mean by that?

10 A. We have a fireplace so we got to split wood.

11 Q. And when you cut wood and split wood, do you
12 use a chain saw?

13 A. Log splitter. *- True*

14 Q. A log splitter?

15 A. Yes.

16 Q. Have you ever used a chain saw?

17 *400 Not Paul* A. We use a log splitter. Yes. He has used
18 chain saws.

19 Q. Have you seen him use chain saws?

20 A. I have seen him use a chain saw, yes.

21 Q. And this was before he was ever injured?

22 A. Yes.

23 Q. Do either you or Paul or Barbara own a chain
24 saw?

1 A. Paul does, yes. -True

2 Q. And did you ever observe Paul using a chain
3 saw in a way where you were concerned about him
4 possibly getting injured?

5 A. No.

6 Q. Had you ever helped Paul cut up the wood?

7 A. Yes. -True

8 Q. Did you ever hold any branches for him while
9 he was cutting?

10 A. We never cut branches. We cut the big
11 stumps. The main tree, the main trunk.

12 Q. Where -- How would you get to the point of
13 having I guess a log to split?

14 A. How do we get it?

15 Q. How did you get to the log before it was a
16 branch I guess?

17 A. Well, you cut the tree down and let it fall
18 down.

19 Q. So you and Paul I guess you guys would cut
20 down an entire tree?

21 A. Yes. - *Goofed again. From Jason Madaoscan*
We got trees Jason Fell the TREES
on a farm. With a Loader & gave them
to PAUL. Mike was there

22 Q. And then you would trim off the branches off
23 the logs?

24 A. He would.

1 Q. He would?

2 A. I wouldn't.

3 Q. All right. And then those -- the logs would
4 get cut into small sections where they could then be
5 split?

6 A. Well, like I said for the most part we only
7 wanted the main branch. - TRUNK

8 Q. What happened with all the little branches,
9 though, I guess?

10 A. They got left behind. - mine ^{was} ~~was~~ ^{There at farm} ~~once~~

11 Q. You didn't even take them with you?

12 A. No. Too small to burn.

13 Q. Okay. Did you ever see Paul -- Well,
14 sometimes the limbs can be big enough to burn as well.

15 A. Yes, but we were going -- we were going to
16 like farm fields and taking -- we have a buddy that has
17 farm fields and they remove trees so we go and take
18 trees that they knock down or cut down. - yes & Mike ~~was~~ ^{was There, ONE}

19 Q. Did you ever see Paul removing branches off
20 of a limb?

21 A. Yes. - TRUE ^{mostly} ^{Back at home.}

22 Q. Okay. And then you would -- obviously you
23 would see him. You seen it yourself where he cut up
24 the trunk into logs where they could be split?

1 A. Yes. *~TRUE, at home*

2 Q. And some of the larger pieces of limbs those
3 would be cut then and split as well?

4 A. Yes.

5 Q. And in a situation where there was a limb,
6 sometimes the limbs don't have branches for quite a
7 ways. Sometimes there is branches throughout the
8 limb; would you agree?

9 A. Yes.

10 Q. As a general proposition?

11 A. Sure.

12 Q. Did you ever see him working on a limb that
13 was sizable that could be a log where he was cutting
14 branches off those, off the limbs?

15 A. Yeah.

16 Q. Did you ever help him do that?

17 A. No. *- mika watched.*

18 Q. How did he go about -- When you did see him
19 doing it, how did he go about getting all those
20 branches off the limbs before he was able to chop the
21 limb into some series of --

22 A. The tree would be on the ground and he would
23 walk up and just hack at it. Just cut them right off
24 right where the stump is and the branch.

1 Q. So the times where you saw Paul doing it he
2 would do it while the limb was on the ground?

3 A. Yes.

4 Q. Did you ever see anybody help him by standing
5 the limb upright or holding the limb off the ground so
6 he could get at those?

7 A. No. There is nobody there to help. *Paul Put Branches over
other logs at 90° to
get them
off the ground
and then cut
them
smaller.*

8 Q. You were just watching?

9 A. Yeah. I would move the logs once he cut
10 them. *smaller.*

11 Q. All right. So when he did it --

12 A. I'd load them on the trailer. *-True*

13 Q. When you saw Paul doing this trimming
14 branches off of a limb, he would do that solo?

15 A. Yes, because we were the only two there.

16 Q. So if I'm understanding your testimony, as
17 you sit here today, there was never an occasion where
18 you would hold the limb off the ground so that Paul
19 could have an easier time cutting the branches off the
20 limb?

21 A. I didn't, no. *-True*

22 Q. Okay. Did you ever see anybody else help him
23 in that position?

24 A. No, because *↳ Jasons Form?*
we were the only ones that went.

1 Q. Okay. Did you and Paul ever do anything with
2 the cut wood other than use it yourself? For
3 instance, did you ever sell it?

4 A. No. We burned it in our fireplace. *- True*

5 Q. Okay. And then the source of the wood would
6 be a friend of yours that has a farm?

7 A. Or we'd find people who chopped a tree down
8 and it's laying down in the yard and we'd go and pick
9 up the pieces that they had cut already. *True But only close to home.*

10 Q. Who is the fellow that you know that has the
11 farm and might let you take some --

12 A. His name is Jason.

13 Q. Jason, last name?

14 A. Madeus. *- True*

15 Q. How do you spell that, sir?

16 A. M-A-D-E-U-S. I think. *→ Ma Dause*

17 Q. And where does he reside?

18 A. Out by Woodstock. I don't know the little
19 town name. *- Heartland*

20 Q. Is he an acquaintance of yours?

21 A. He used to live across the street. We all
22 lived in the same neighborhood.

23 Q. All right. Would he be somebody that you
24 would have a cell phone number for him?

1 A. I don't have the number. He is not really my
2 friend. He was one of Paul's friends.

3 Q. All right. Just in followup to some
4 questions that Mr. Mast had, you never -- you did not
5 go to the hospital with David and Paul, correct?

6 A. Correct.

7 Q. You didn't go up there anytime?

8 A. No.

9 Q. So the conversation -- You would not have
10 direct personal knowledge of any conversations that
11 occurred between Mr. Gagnon and Mr. Dulberg at the
12 hospital or in the parking lot of the hospital?

13 A. No.

14 Q. And with respect to -- Strike that.

15 If someone was to claim that you were
16 present for a conversation during which Mr. Dulberg
17 said this could be the best thing that ever happened
18 to me, I might not have to work again, you would deny
19 hearing a comment like that?

20 A. Yes. That never happened. *-True*

21 Q. And there was a conversation when you went to
22 get the insurance information from Mr. Gagnon and if I
23 heard your testimony correctly, Dave had asked what
24 would be in it for him if he gave the insurance

1 information; is that how you recall it?

2 A. Yes. Yes. - *why Double yes?*

3 Q. So if Mr. Gagnon was claiming actually the
4 reverse was the situation, that Mr. Dulberg posited to
5 him that it could be to his advantage that if he
6 helped him, that's not your recall as to that
7 conversation?

8 A. No. What I recall is Dave saying what am I
9 going to get out of this? I can go the easy way or the
10 hard way. - *True*

11 Q. So to answer the question then, your recall
12 of that conversation you didn't take away from it that
13 Mr. Dulberg was implying that he would -- that
14 Mr. Gagnon could get money out of this, too?

15 A. No.

16 Q. Do you know anything about the training that
17 Mr. Dulberg may have received as to how to use a chain
18 saw?

19 A. I have no idea. - *True*

20 Q. Had you ever seen David Gagnon using a chain
21 saw at any time prior to this?

22 A. Have I? *(No) - True - camping? LOL*

23 MR. BARCH: I think that's all I have.

24 MR. MAST: I don't have anything.

1 MR. ACCARDO: I don't have anything else.

2 MR. MAST: As a witness, you have a right to
3 review the transcript if it's transcribed of this and
4 review it and sign off on it or you can waive that
5 right and just rely on the accuracy of the court
6 reporter taking this down.

7 Most people just waive it and rely on
8 the court reporter but you do have a right to see it
9 if you want to see it.

10 THE WITNESS: She seems like a good typer.

11 MR. MAST: So you are going to waive?

12 THE WITNESS: I am good.

13 MR. MAST: Very good. You are done.

14 (FURTHER DEPONENT SAITH NOT.)

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C E R T I F I C A T E

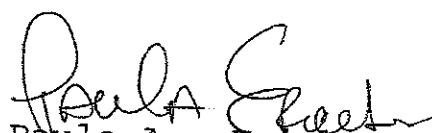
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2
3
4 I, Paula Ann Erickson, Certified Shorthand
5 Reporter, Registered Professional Reporter and Notary
6 Public, do hereby certify:
7

8 That the witness in the foregoing deposition
9 named was present at the time and place therein
10 specified;
11

12 That the said proceeding was taken before me as
13 a Notary Public at the same time and place and was
14 taken down in shorthand writing by me;
15

16 That this transcript is a true and accurate
17 transcript of my shorthand notes so taken, to the best
18 of my ability.
19
20
21
22
23
24

1 I further certify that I am neither counsel for
2 nor related to or employed by any of the parties to
3 this action and that I am not a relative or employee
4 of any counsel employed by the parties hereto or
5 financially interested in the action.
6
7

8 
9 Paula Ann Erickson


10 Certified Shorthand Reporter

11 Registered Professional Reporter

12 License No. 084-003899

13 Notary Public
14
15

16 Dated this  day

17
18 of , 2013.
19
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