

From: Ed Clinton ed@clintonlaw.net 
Subject: Dulberg v Popovich 2017 L 377
Date: July 27, 2020 at 2:24 PM
To: Paul Dulberg paul_dulberg@comcast.net
Cc: Mary Winch marywinch@clintonlaw.net, Julia Williams juliawilliams@clintonlaw.net

EC

Dear Paul,

Please see the attached letter.

Best Regards,

Edward X. Clinton, Jr.
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Dulberg Client
Letter...27.pdf

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July 27, 2020

Via Email Only

Paul Dulberg
4606 Hayden Ct.
McHenry, IL 60051
paul_dulberg@comcast.net

Re: Dulberg v Law Offices of Thomas Popovich et al.; 2017 LA 377

Dear Paul,

Due to the coronavirus crisis and its impact on our firm, we are reevaluating all of our contingent fee cases. Your case is not moving toward resolution. Rather, there is significant litigation that will need to occur prior to any resolution of the case. We cannot continue to be involved in the prolonged litigation and thus believe you should seek out alternative counsel.

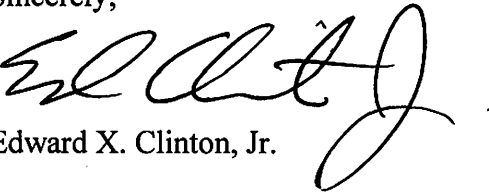
Your case involves several hurdles in order to win at trial. First, you must show you would have won the underlying case against the McGuires. We have been unable to find a strong theory whereby the McGuires would be liable for your injuries. It is unlikely that a jury will find that the McGuires controlled the chainsaw or Gagnon's work. Homeowners are not generally liable for known hazardous conditions on their property. In other words, if you knew there was a dangerous condition, such as someone utilizing a chainsaw, then the McGuires are not responsible for protecting you against it. The other theory is that the McGuires controlled Gagnon's work. In our opinion, there is a strong likelihood that a jury would find that the McGuires did not control Gagnon's work.

Additionally, there is a statute of limitations issue to overcome. The statute of limitations for legal malpractice is two years from the date you discovered your injury. You settled with the McGuires in the winter of 2013 and signed the agreement in early 2014. You testified in your deposition that at least one attorney told you that he could not take the case because you had already settled with the McGuires. (pg. 38 and 39 of your deposition). That communication occurred prior to March of 2015. Thus, there is evidence that you knew as early as March 2015 that there may have been an error in settling with the McGuires. It is very likely that a court would find that you knew or should have known that you had a claim against Mast and/or the Popovich firm at that time. You did not sue Mast and the Popovich Firm until late 2017. Your claims may be barred. Again, a judge may find that you did not discover your injuries until later, but there is a substantial likelihood that the court will find you should have discovered the injury in March of 2015, and thus your claims would be barred.

While a jury or judge could rule differently, we are concerned that these two hurdles may be fatal to your case, meaning that you will recover nothing in the legal malpractice case. We are simply not able to invest substantial resources into your case when we do not see a viable path to recovery. We understand that you believe strongly in your case. For that reason, we feel that it is important for you to find counsel that will be a strong advocate for you and is willing to invest the resources necessary to move this case forward to trial.

Accordingly, we will be filing a motion to withdraw within the next fourteen days. Once we file, the court will set the matter for a hearing and will grant you additional time to find counsel. Based upon court procedure, you should have over a month to find alternative counsel. We recommend that seek out alternative counsel immediately.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Clinton, Jr.", with a large, stylized flourish at the end.

Edward X. Clinton, Jr.