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	4 JUDICIAL CIRCUIT MCHENRY COUNTY, ILLINOIS	5	Examination by Mr. Barch
	5 6 PAUL DULBERG,)	6	Examination by Mr. Callahan
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	11 BILL McGUIRE, Individually,)) 12 Defendants.)	12	EXHIBITS
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	15 Margaret Maggie Orton, Certified Shorthand Reporter	14	No. 1
	16 and Registered Professional Reporter, taken pursuant	15	No. 2 180
	17 to the provisions of the Illinois Code of Civil	16	No. 3 183
	18 Procedure and the Rules of the Supreme Court thereof 19 pertaining to the taking of depositions for the	17	
	20 purpose of discovery at 3421 West Elm Street, McHenry,	18	
	21 Illinois, commencing at 1:12 p.m. on February 4, 2013.	19	
	22	20	
	23	21	
	24	22	
	1	23	
		24	
	ADDEADANCEC		3
1	APPEARANCES:	1	(Witness sworn.)
2	LAW OFFICES OF THOMAS J. POPOVICH, P.C. MR. HANS A. MAST	2	MR. MAST: All right. This is the discovery
3			
1	3416 West Elm Street	3	deposition of David Gagnon taken pursuant to notice in
4	McHenry, Illinois 60050	3	deposition of David Gagnon taken pursuant to notice in accordance with the applicable rules.
4			
4 5	McHenry, Illinois 60050 Phone: (815) 344-3797	4	accordance with the applicable rules.
4	McHenry, Illinois 60050 Phone: (815) 344-3797 E-mail: hansmast@comcast.net	4 5	accordance with the applicable rules. WHEREUPON:
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1			
1	Q I want to make sure, though, that your	1	Q Has it always been full-time?
2	answers are responsive to my questions. So if you	2	A I would have liked it to have been. As work
3	don't understand the question, let me know. Otherwise	3	comes, I work on that; otherwise, I fill the void with
4	if you answer it, we're all going to assume that you	4	other things that I can perform.
5	understood the question, okay?	5	Q All right. Have you had to fill the void
6	A I understand.	6	with other things in the last ten years?
7	Q Okay. Let's see what else. You're aware	7	A Yes, and I have been employed with other
8	obviously of Paul's accident that this case is all	8	people in between.
9	about that happened, I think, at your parents' house	9	Q Okay. So we'll get to that in a minute,
10	during some chain saw work at their house? You're	10	then, okay?
11	aware of that?	11	A Okay.
12	A Yes, I'm aware of that.	12	Q What is your current address?
13	Q Okay. And I believe, and you can correct me	13	A 39010 90th Place, Genoa City, Wisconsin.
14	if I'm wrong on anything obviously, but I believe it	14	Q So that's right over the border here to the
15	happened June 28th, 2011? Does that	15	north?
16	A Yes.	16	A Yeah. 53128 is the zip.
17	Q sound right?	17	Q Who do you live with there?
18	A Yes, that sounds correct.	18	A My wife.
19	Q Okay. Do you remember what day of the week	19	Q What's her name?
20	that was?	20	A Pamela.
21	A No, I do not.	21	Q Anybody else live at that address?
22	Q Was it Saturday or Sunday?	22	A No.
23	A No, it was not. It was during the week, I'm	23	Q Do you have any children?
24	quite sure.	24	A No, I do not.
	5		7
1	Q Okay. I'd like to start now and go through	1	Q And your Social Security number?
2	some background information. So why don't we start	2	A In full?
3	with this: What's your date of birth?	3	Q Yes.
4	A 4-3-67.	4	MR. CALLAHAN: Can we do this off the record
5	Q And that makes you how old today?	5	then?
6	A I am 45.	6	MR. MAST: We can do it off the record.
7	Q Are you employed today?	7	BY MR. MAST:
8	A I am self-employed as I have been my entire	8	Q Let's say on the record, what are the last
9	life.	9	four digits?
10	Q What are you self-employed in doing?	10	A 2535.
11	A I do auto restorations and collision repair.	11	Q 2535?
12	Q Do you do that under your own name?	12	A Yes.
13	A I do that under the name of Dave's Auto Body.	13	MR. MAST: Okay. Give it to us off the record
14	Q At home?	14	now.
15	A Yes.	15	(Discussion off the record.)
16	Q Is that an incorporation or some type of	16	BY MR. MAST:
17	formal	17	Q Did you give us your
18	A No.	18	MR. CALLAHAN: Back on the record?
19	Q organization?	19	MR. MAST: Back on the record.
20	A No. No.	20	BY MR. MAST:
21	Q Okay. How long have you been doing auto	21	Q Did you give us your full Social Security
i		22	
22	restoration and collision repair under Dave's Auto		number off the record?
22 23	restoration and collision repair under Dave's Auto Body, under that name?	23	A Yes.
	Body, under that name?	23	A Yes.
23	Body, under that name?		A Yes.

_		1	
1	convictions on your record in the last ten years?	1	A That's correct.
2	A No.	2	Q Okay. And you can correct me if I say
3	Q How long have you known Paul Dulberg?	3	something that's not accurate, but so is it my
4	A 35 years.	4	feeling, even though you don't know what Paul's view
5	Q And 35 years, how did you meet him?	5	of your friendship is, this suit being filed against
6	35 years	6	you has brought negative feelings in your mind about
7	A Riding bicycles in a place we had deemed	7	your friendship?
8	called the mini trails.	8	A Yes, and only recently, if I may.
9	Q So were you neighbors, or	9	Q Okay. Go ahead.
10	A We lived close by. He lives in Pistakee	10	A At first when it had arisen, this situation,
11	Terrace, my mother or my mother lives in Pistakee	11	we were still talking to one another and I was freely
12	Terrace; he lives in Pistakee Highlands which is	12	submitting both insurance information, whatever he
13	about, I would say, a quarter mile maybe away from one	13	requested because, you know, there wasn't a problem at
14	another.	14	that time. But things turned as Paul had said some
15	Q And the mini trails were by your mother's	15	things that didn't really go well with me.
16	house?	16	Q You mean in his deposition or somewhere else?
17	A They were closer to his home.	17	A Personally to me.
18	Q Closer?	18	Q Well, if I guess I've got to ask you what
19	A They were closer to his home. They were just	19	those things were then.
20	down the road from his home.	20	A Okay. After bringing him to the hospital
21	Q Okay. And since you kind of met at the	21	after this occurrence took place with his vehicle, we
22	trails and you became a friendship arose?	22	had left. Myself still being very (inaudible) and my
23	A Yeah. Yes.	23	heart being concerned as to his condition because he's
24	Q Okay. Has that friendship been in pretty	24	my friend, he turned to me just leaving the hospital
	9		11
1	good standing since then till today?	1	and said that we can make a lot of money at this.
2	A Yes, and as of right now I don't know where	2	Q Okay. Was anybody else present during that
3	it stands. I have not spoken with him as I was	3	conversation?
4	directed not to.	4	A No. No.
5	Q Fair enough. But at least in your mind is it	5	Q Was that in your car on the way from the
6	still in good standing Hold on. Let me just finish	6	hospital?
7	the questions. Is your friend At least in your	7	A That was in his vehicle immediately leaving
8	mind, is your friendship still in good standing with	8	the hospital and still in the parking lot at the
9	Paul Dulberg today?	9	hospital.
10	A No.	10	Q Was that the same day of your accident of
11	Q Okay. And is that because of the suit?	11	his accident?
12	A Yes.	12	A Yes.
13	Q Okay. Fair enough. Understood about that.	13	Q Okay. So that would have been June 28, 2011,
14	Until the suit was filed, okay, was your	14	he was discharged out of the hospital and he was in
15	friendship with Paul Dulberg in good standing?	15	his car?
16	A Yes.	16	A Passenger's seat; I was driving, yeah.
17	Q Had it been all the way for those 35 years	17	Q Okay. Did you not have a car at the time or
18	until the suit was filed?	18	something?
19	A Yes.	19	A No. His vehicle was at my house my
20	Q Okay. So there was never any times where	20	mother's house, I should say, where the occurrence
21	your friendship was seriously tested over that	21	happened; and when we left, he said, Just take my car,
22	35 years?	22	so we took his vehicle to the
23	A No.	23	Q All right. Let me stop you because I
24	Q Is that correct?	24	understand what you're saying. You're saying after
	10		12

Page 9 to 12 of 214

1	his injury you drove his car with him as a passenger	1	leaving and he had mentioned that, This may possibly
2	to the hospital?	2	be the best thing that could happen to me because I
3	A Yes.	3	won't have to work the rest of my life.
4	Q He got treated, discharged, and then you were	4	Q Any witness to that conversation?
5	back in his car going back to your mom's house?	5	A Yes, Michael Mcartor.
6	A Never left the parking lot and he said that.	6	Q Who?
7	Q No, I understand that	7	A Michael Mcartor, who lives with him.
8	A Yes, but that's	8	Q How do you spell the last name?
9	Q but that's where you were going?	9	A Capital M small C, Artor, A R T O R or E R;
10	A Yes. Yes.	10	I'm not quite certain of that spelling, but he resides
11	Q All right. Let's try not to I'll try and	11	with Paul there at his home.
12	won't talk over you; you try not to talk over me.	12	Q Where Paul's living now?
13	All right. So you're leaving the	13	A Yes.
14	hospital still in his car on the way to your mother's	14	Q Okay. And where did that conversation take
15	house, right? Right? That's on the way? That's	15	place four months after the accident?
16	where you were going?	16	A In his kitchen where In his kitchen.
17	A Right, that's where we were going, but we	17	Q And the extent of this conversation regarding
18	still had not left the parking lot.	18	the financial aspects that we're talking about is that
19	Q All right. I didn't say anything about where	19	he said, This might be the best thing that happened to
20	you were. I'm saying you're in the car on the way to	20	me, and what else? Was there anything else?
21	your mother's house, right?	21	A Because I may not have to work another day of
22	A Yes.	22	my life.
23	Q Okay.	23	Q Because I what?
24	A Yes.	24	A May not have to work another day of my life.
	13		15
1	Q But before you left the parking lot, you're	1	Q Did he say anything else during that
2	in the car in the parking lot of the hospital and	2	conversation now about the financial aspects of this
3	that's when he made that statement?	3	accident?
4	A Yes.	4	A No.
5	Q Did he say anything else during that	5	Q Did he say anything else during that
6	conversation that you that you didn't like?	6	conversation that you found uncomfortable or wrong?
7	A No.	7	A No. No.
8	Q Okay. So that was the extent of anything	8	Q Okay. Any other things that Paul has said
9	that he said about financial aspects of this case?	9	that you believed were wrong or had some kind of
10	A Yes.	10	financial component to this accident other than those
11	Q Is that the only time he said anything about	11	two that we've you've already described?
12	financial aspects of this case?	12	A There was also another instance where he
13	A No.	13	visited me at my home, I believe it was in 2012 when
14	Q When is the next time he said anything like	14	things were going along here; we were still in
15	that?	15	conversation with one another.
16	A I had visited him shortly after because we	16	Q Okay. Let me just stop you. After the suit
17	were still in friendship, and I stopped in his home,	17	was filed or before the suit was filed?
18	and	18	A It was after the suit was filed, yeah.
19	Q How soon after the accident?	19	Q Okay.
10	A Oh, this is about three or four months after	20	A And he was not if not coaching me,
20		i	and the second s
	the accident.	21	reassuring me that if I did make it easier, shall we
20		21 22	say, or that I would be awarded something for my
20 21	the accident.		-
20 21 22	the accident. Q Okay.	22	say, or that I would be awarded something for my

		1	
1	communication?	1	spoke of of the hundred thousand and \$10,000 offering
2	A No. No.	2	there.
3	Q Did he say how you would be awarded?	3	Q Was it after suit was filed or before suit
4	A No.	4	A It was after the suit was filed.
5	Q Did he promise to pay you anything in	5	Q Okay.
6	exchange for your testimony?	6	A And he showed up at my residence with an
7	A Yes.	7	iPad, which he's into techy things, things like that,
8	Q What did he promise to pay you?	8	and I wasn't aware that there was a camera on front
9	A \$10,000.	9	and back but I was aware that there was a camera that
10	Q What did he say?	10	was on and he was showing me what was being viewed on
11	A If he got a hundred thousand dollars.	11	the screen, and then we proceeded into our house and
12	Q What was the I need to know the exact	12	it was on again. He was showing me how you can look
13	wording of that communication so that we all can	13	at the front and the rear screen and me not being of
14	understand what he said.	14	much interest of this device, I just told him, Could
15	A If this goes well for me, I wouldn't have a	15	you shut that thing off. I felt as though I was being
16	problem with giving you \$10,000 if say I was to get a	16	inventoried.
17	hundred thousand dollars.	17	Q Okay.
18	Q Okay. Did he, though, make that hundred	18	A So that would be the only other issue.
19	that \$10,000 conditional on what you would say or just	19	Q Okay. Fair enough.
20	said, If it goes well for me, I'll give you 10,000 out	20	A Yeah.
21	of the hundred thousand?	21	Q I appreciate that. Did he say or do anything
22	A He didn't place conditions on it.	22	that you felt was wrong or inappropriate regarding the
23	Q Okay.	23	case in and of itself?
24	A I was assuming.	24	A No.
24	17 1 was assuming.	24	7 NO.
1		1	
		2	Q Okay. Nothing about financial interest
2	you. I appreciate that. This is my question then		A Not that time, no, nothing.
3	Well, let me go further. Did he say anything else	3	Q Okay. Do me a favor, and you're doing very
4	during that conversation in 2012 about anything you	4	good so far, but you were just kind of cutting me off
_	felt was inappropriate or uncomfortable for you or	5	the last
6	related to financial interests that he was	6	A I'm sorry.
7	A No.	7	Q part of my sentence and I want to make
8	Q talking about?	8	sure you understand the full thing I'm going to say,
9	A No, he did not.	9	okay? So let's try not to cut each other off.
10	Q Okay. Any other conversations with Paul now?	10	All right. So at least, and you can
11	We've talked three different incidents now so I want	11	correct me if I'm wrong, as I understand it, there are
12	to make sure I've talked about everything. Is there	12	just three conversations where Paul made any
13	any other conversation you've had with Paul or contact	13	statements that felt that made you feel
14	with Paul regarding any uncomfortable or uneasy	14	uncomfortable pertaining to financial parts of the
15	conversations or things he said relating to either	15	lawsuit?
16	financial interests or some other component of the	16	A Yes.
17	suit or claim?	17	Q Okay. Or the claim; fair enough?
18	A There was one time where he came up and he	18	A Yes. Yes.
19	was asking for information, which I gave him, my	19	Q And that was the day of the accident where he
20	insurance.	20	made that one-sentence statement, correct?
21	Q When was this? Just give me a date so I know	21	A Mm-hmm.
22	how to	22	Q Yes?
23	A I cannot supply you with a date. I could say	23	A Yes. Yes.
24	that it was before that last incident that I just	24	Q And that was four months later where he made
	18		20
<u> </u>		↓	

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	22		24
24	A Yes.	24	what you said, all right, so let's just go straight
23	what else he said that you've already told me, right?	23	question was, what more did he say and you told me
22	Q Okay. You took that from an inference of	22	than what I'm asking, though, but that's fine. My
21	no.	21	Q All right. You're going a little further
20	A He did not say he wanted me to lie for him,	20	conversed with him since then.
19	him?	19	spoke to him really very much or been with him or
18	did he ever tell you that he wanted you to lie for	18	And that's basically where our friendship I haven't
17	you're free to do that, okay. My question, though, is	17	I would not do that. I'm going to tell the truth.
16	any assumptions you want from what he said to you;	16	freewheeling a chain saw and I was negligent? I said
15	question is what he said to you, okay. You can take	15	expect from me? What would you want me to say, I was
14	Q This is what I'm questioning, though. My	14	A He I said to him, Well, what would you
13	A Yes.	13	say?
12	Q I understand what your judgment is.	12	Q And now you're adding on to what else did he
11	it would be easier for him.	11	A Yes.
10	be submitting to what he would want me to say so that	10	it, right?
9	be submitting the truth in my judgment, but it would	9	hundred thousand dollars, he would give you \$10,000 of
8	A And making it easier for him would not just	8	he said is if he would be awarded something, say a
7	Q Right.	7	Q It says, If you would What you're saying
6	what he was asking me to do to make it easier for him.	6	A Yeah.
5	A No, he was blatantly asking me in regards to	5	about was after suit was filed?
4	BY THE WITNESS:	4	now. The 2012 conversation that we've already talked
3	MR. CALLAHAN: I'll join that objection.	3	Q Okay. And what So let me get it clear
2	MR. MAST: Go ahead.	2	A Yes. Yes.
1	argumentative, but go ahead.	1	Q So that's the 2012 conversation?
	21	1	23
24	MR. BARCH: I'm going to object. It's	24	hundred thousand dollars and the \$10,000.
23	pertained to having him wanting you to lie for him?	23	A That same conversation when he spoke of the
22	okay, but my question is nothing he ever said	22	conversation?
21	assumptions you want, and you're free to do that,	21	Q Okay. And when did he say that, which
20	Q Okay. So he never You could make the	20	easy.
19	A That's true.	19	And he said, That sure would make things
18	Q Is that true?	18	negligent?
17	A Yes.	17	say, that I was freewheeling a chain saw and I was
16	this for me, I'll do this for you; fair enough?	16	A And I said, Well, what would you want me to
15	that last 2012 conversation, he never said, If you do	15	Q Okay.
14	Q Okay. And would it be fair to say, including	14	recollecting now.
13	A Yes.	13	A There is one more thing that I said that I'm
12	Q Right?	12	him say for him?
11	A Yes.	11	give you money in exchange for what you would say to
10	thousand, I'll give you \$10,000 of that?	10	Q Okay. Is it fair to say he never agreed to
9	didn't condition it, he said, Hey, if I get a hundred	9	A That is correct.
8	2012 after suit was filed where he said although he	8	lie for him?
7	Q And then there was the last thing that was in	7	Is it fair to say he never asked you to
6	A Yes.	6	going to try to just summarize it.
5	Q Yes?	5	to lie for you Well, let me put it this way. I'm
4	A Yeah.	4	Q Okay. Did you ever say, Hey, do you want me
3	work the rest of my life?	3	A Yes.
2	that could happen to me because I might not have to	2	told you, correct?
1	that statement about, This could be the best thing	1	Q Those were inferences you made from what he
4	that statement about This sould be the best thing		O These was information was defined what he

1 with what I'm asking. I'm asking ther than, Hey, if 2 liget a hundred thousand dollars, I'd be glod of you sign, 000 of that, other than Paul saying in that 2012 5 conversation at your house? 6 A Nothing. 7 Q. Oh, okay. It was just what you said then? 8 A That's what I said after. I sufficed by way of example, Is this what you would want? 9 of example, Is this what you would want? 10 And he said, That sure would make it easy. 11 easy. 12 O Well, then that is something that he said. 13 Listen, this is what I'm trying to get at, I'm trying				. 0
3 you \$10,000 of that, other than Paul saying that, what 4 else do you recall Paul saying in that 2012 5 conversation at your house? 6 A Nothing. 7 Q Oh, okay. It was just what you said then? 8 A That's what I said after. I sufficed by way 9 of example, Is this what you would want? 10 And he said, That sure would make it easy. 11 easy. 12 Q Well, then that is something that he said. 13 Listen, this what I'm trying to get at, I'm trying 14 to find out what he said, okay? 15 A Okay. He said nothing in response to that 16 except he said, That sure would make it easy. 17 Q All right. You're interrupting me again. 18 Let's go back at it again. 19 A Okay. 20 Q I want to go step by step because I want to 20 don't want there to be any stones untrumed, okay? 21 Try to find out everything you're going to say. I 22 don't want there to be any stones untrumed, okay? 22 A Yesh. 23 A Correct, that is what he said. 24 Q You told me that in that 2012 conversation he said, I'f I get a hundred thousand dollars, I'd be happy to give you \$10,000 of this. I shat what he said? 25 Q Okay. In response to that, what did you say? 26 A I said, I'f I get a hundred thousand dollars, I'd be happy to give you \$10,000 of this. Is that what he said? 27 A Pesh. 28 A Correct, that is what he said. 29 A Vesh. 29 Q Okay. In response to that, what did you say? 30 A I said, What would you want me to say, I was 7 freewheeling a chain saw and I was negligent? I said, 7 is will not do that. 30 Q Okay. All right. Stop. That's what you said that he said was uneasy or uncomfortable or financially 11 motivated, correct? 29 A Nothing. 20 Q Okay. Nothing, right? 31 Q Okay. So let's go through it again now. 32 A Pesh. 33 Q All he said that Paul made a statement that, I'I igwe you said, What do und want me to say, that I was reewheeling a chain saw and I was negligent? I said, 7 is was 1 in the said wa				
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5 conversation at your house? 6 A Nothing. 7 Q Oly, okay. It was just what you said then? 8 A That's what I said after. I sufficed by way 9 of example, Is this what you would want? 10 And he said, That sure would make it 11 easy. 2 Q Well, then that is something that he said. 11 Listen, this is what I'm trying to get at, I'm trying 14 to find out what he said, okay? 15 A Okay. He said nothing in response to that 16 except he said, That sure would make it easy. 17 Q All right. You're interrupting me again. 18 Let's go back at it again. 19 A Okay. 20 Q I want to go step by step because I want to 19 A Okay. 21 try to find out everything you're going to say. I 22 don't want there to be any stones unturned, okay? 23 A Yesh. 24 Q You told me that in that 2012 conversation he 25 Test of happy to give you \$10,000 of this. — of that. 21 Said, If I get a hundred thousand doilars, I'd be 22 happy to give you \$10,000 of this. — of that. 23 I will not do that. 24 A Correct, that is what he said. 25 Q Okay. In response to that, what did you say? 26 A I said, What would you want me to say, I was freewheeling and negligent? I wall, was a final saw and I was negligent? 25 Test of May and then in response to that, what did you say? 26 A I said, What would you want me to say, I was freewheeling and the say that was the wants you to said, okay. And then that the said. 3 and? 4 A Correct, that is what he said. 4 A Correct, that is what he said. 5 Q Okay. In response to that, what did you say? 6 A I said, What would you want me to say, I was freewheeling and the say that was mere wheeling and have seen that, what did you say? 6 A I said, What would you want me to say, I was freewheeling and the say that was the wants you that the said that was uneasy or one of the day of the accident where he said, we can make a lot of money at this, right? 1 will not do that. 9 Q Okay. Nothing, right? 14 A Nothing. 15 Q Okay. So let's go through it again now. 16 A Nothing. 17 A Okay. So let's go through it again now. 18 A Pes. 19 Q So he did say				
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<u> </u>	24		124	he gets a hundred, he'd give you ten and then you
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1	said, Well, what, if I say that What do you want me	1	Q Okay.
2	to say, if I'm wheeling it, the chain saw, and	2	A This is not related to him.
3	negligent?	3	Q So the reason you're not friends with Paul
4	And he said, Well, that would make it	4	anymore is after the third conversation in 2012 where
5	easy.	5	you said, I would not do that, and he said, That would
6	Is that everything out of that	6	make it easy, you haven't spoken to him since; but in
	conversation that was uneasy, uncomfortable or	7	your mind it's not friendly because of what you
8	financially related?	8	thought he was asking you to do?
9		9	A Yes.
	•		
10	Q Okay. Have you now	10	Q Fair enough?
11	MR. CALLAHAN: Can I object? I think he did	11	A Yes.
12	leave off that one comment, I'm sorry, the one he	12	Q Do you know in his mind if he thinks you're
13	said, I won't do that.	13	still friends?
14	BY MR. MAST:	14	A I do not know.
15	Q Okay. Yes, and you also said you wouldn't do	15	MR. CALLAHAN: I'd just object as to relevancy
16	that after you	16	and as to speculation.
17	A I said that I would not do that, yes.	17	BY THE WITNESS:
18	Q After your con After your response to	18	A I don't know.
19	what he said, you said, I would not do that?	19	MR. BARCH: Join the objections.
20	A Yes.	20	BY THE WITNESS:
21	Q Okay. Have we now covered everything that	21	A I haven't spoken to him. I don't
22	you and Paul talked about after the accident that made	22	Q Hold on. Just let them give the All
23	you feel uncomfortable, uneasy or financially related	23	right. They objected.
24	to this accident?	24	MR. CALLAHAN: You may answer.
_	29	1	DV MD MACT:
1	A Yes, that would be all.	1	BY MR. MAST:
2	Q Okay. Very good. That wasn't too hard.	2	Q What's your answer to that question? Do you
3	A No.	3	know in Paul's mind whether he thinks you guys are
4	Q Oh, one final question on those things.	4	still friends or not?
5	A Okay.	5	A I do not know. I have not conversed with him
6	Q Were there any witnesses to either of those	6	in quite a while now.
7	three conversations other than you said the	7	Q All right. And then that fourth thing that
8	A Michael Maarton was a with sea to the second	8	you talked about didn't really have to do with any
9	Q Michael Mcartor was a witness to the second	9	statements but he had an iPad and it looked like he
10	one four months after the accident?	10	was videoing or something. He didn't do anything
11	A Yes, which was at Paul's home in his kitchen,	11	wrong during that; you just weren't sure what he was
12	yes.	12	up to, right?
13	Q Right. Any other witnesses to any other	13	A Right.
14	parts of those communications?	14	Q Okay. That didn't have anything to do with
15	A No.	15	any statements or anything; fair enough?
16	Q Just you and Paul and then the second	16	A Fair.
17	conversation was with Michael?	17	Q Okay. So we've covered all the statements
18	A Correct.	18	that Paul made that made you feel uncomfortable?
19	Q Okay. Are you friends with Michael? Have	19	A Yes.
20	you ever been friends with Michael probably about	20	Q Okay. All right. How long have you been
21	A I've been friends with Michael probably about	21	married?
22	25 years.	22	A I've been married since 2008, August 16th.
23	Q Are you still friends with Michael?	23	Q Okay. Does your wife Pamela know Paul?
24	A As far as I know, yes.	24	A Yes.
1	30		32

1	Q On a like a friendly basis or just sees	1	Illinois University?
2	him every now and then? I mean, how would you	2	A Two months.
3	describe her knowledge of Paul, just passing?	3	Q Okay. And what program were you there, just
4	A He's my friend and is friends with him is the	4	general?
5	same; there was never anything between us until	5	A Program?
6	Q I mean, did she spend as much time with	6	Q What type of degree? What program?
7	Paul	7	A Oh, engineering.
8	A No.	8	Q Okay.
9	Q as you did?	9	A Mechanical engineering.
10	A No.	10	Q Okay. And what year was that, approximately?
11	Q Okay. Her contact with Paul was just passing	11	A That was 1985.
12	then? It wasn't where she would do anything with him?	12	Q Instead of going to DeKalb or at least after
13	A Correct.	13	two months of going to DeKalb, where did you go after
14	Q Is that fair enough?	14	that?
15	A Yeah, correct.	15	A I pursued employment as an auto body worker.
16	Q Okay. And she doesn't have any knowledge	16	Q With who?
17	regarding any communications Paul made regarding the	17	A It was called Lakeland Autobody. It was in
18	incident that were uncomfortable or financially	18	Volo, Illinois.
19	motivated?	19	Q Are they still together?
20	A No.	20	A No.
21	Q Is that fair?	21	Q How long did you work there?
22	A That's fair.	22	A Three years.
23	Q Okay. Okay. What's the highest level of	23	Q Doing auto body work?
24	education you have?	24	A Correct.
	33		35
1	A I was accepted at DeKalb University. I	1	Q Who was your supervisor?
2	didn't pursue it until its end, and then I went to	2	A Owner and supervisor Brian Schuman
3	College of Lake County.	3	(phonetic).
4	Q You mean Northern Illinois Medical Center	4	Q Brian what?
5	Northern Illinois University?	5	A Schuman.
6	A Yeah, DeKalb College.	6	Q Schuman?
7	Q Okay. All right. I know, I'm just trying to	7	A Yeah, Schuman.
8	connect the dots here.	8	Q So after two months of DeKalb, you went to
9	You were accepted at Northern but you	9	Lakeland Auto?
10	never went there?	10	A Mm-hmm.
11	A Oh, no, I went there and I just because of	11	Q Right?
12	turns of events in my life, personal, I did not	12	A Yes, correct.
13	finish, and	13	Q Okay. When did you go to You said you
14	Q All right. But I'm not getting to that	14	went to another college?
15	point. I'm just	15	A CLC, College of Lake County.
16	A Okay.	16	Q When was that?
17	Q The question was, where did you go to the	17	A I believe that was 1987.
18	highest level of education, that's the question.	18	Q Sometime while you were at Lakeland?
19	A I was accepted at Northern Illinois	19	A Yeah, I was Yes, I was working at the auto
20	University.	20	body.
21	Q You weren't just accepted. You went there,	21	Q And how long were you at CLC?
22	right?	22	A I want to say six months.
23	A Yes.	23	Q Okay. On what program?
24	Q Okay. How long did you go to Northern	24	A Same, mechanical engineering.
	34		36

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		Bill Cirl III			
1	Q	Did you finish that program?	1	Q	Okay.
2	A	No, I did not.	2	A	I'm not sure what town it resides in.
3	Q	Why not?	3	Q	And when did they let you go?
4	. A	Because I needed to earn money, and I wasn't	4	Α	They let me go just at Christmastime last
5		enough doing going to school and working.	5	year.	
6	Q	Okay.	6	Q	2012 Christmas?
7	A	Pretty physical job, auto body.	7	A	Yes.
8	Q	Okay. Any other college education after high	8	Q 	All right. Any other employment since high
9	school?		9		re have not discussed?
10	A	Completed, no.	10	A	No.
11	Q	Not I didn't say completed, any other	11	Q	Okay. Do you have any training other than
12	_	education after high school? Did you go to	12	_	If-trained on working with a chain saw?
13	•	er colleges?	13	Α	No.
14	Α	None other than the ones I had mentioned.	14	Q	So you're Well, let me ask you this way:
15	Q	That's what I'm asking you.	15	How long	g have Well, strike that.
16	Α	Okay.	16		How long have you Strike that.
17	Q	You went to NIU and CLC. Any other college?	17		When's the first time you operated a
18	Α	No.	18	chain sa	w yourself?
19	Q	Okay. Where did you graduate high school?	19	Α	Age 18.
20	Α	Johnsburg.	20	Q	Okay. About '85? No, wait. Is that '85?
21	Q	What year?	21		. CALLAHAN: Yeah.
22	Α	1985.	22	BY THE \	WITNESS:
23	Q	Okay. After Lakeland Auto, which I'm	23	Α	Yeah.
24	assumin	ng was somewhere around when you finished	24	Q	Yeah. About 1985 then?
		37			39
1		nere around 1988, '89, somewhere around there?	1	A	Mm-hmm.
2	A	Finished	2	Q	Yes?
3	Q	When you finished Lakeland Auto, I'm assuming	3	A	Yes.
4	_	s somewhere around '88 or '89?	4	Q	Yes. Okay.
5	A	Yes. Yes.	5		Whose chain saw was that that you
6	Q	Okay. Where did you go after that?	6	operated	
7	A	I became self-employed performing the same.	7	A	I do not recollect. We were camping, and I
8	Q	To the present date?	8		p a chain saw and was cutting firewood for the
9	A	Yeah.	9		at was there.
10	Q	Okay.	10	Q	Okay. Was Paul with you at the time?
11	A	Yes.	11	A	No.
12	Q	Okay. Have you worked for anybody else	12	Q	Okay. Have you ever owned a chain saw?
13	_	1989 until now other than yourself?	13	A	Yes.
14	A	Yes.	14	Q A	Okay. Do you own one now? No.
15	Q	How many jobs are we talking, lots?	15	A	
16	A South B	One at a machine shop, Swiss Automation in	16	Q a chain c	Okay. During what period of time did you own
17		arrington, that was between 1999 and 2001, and	17	a chain s	
18	_	st currently last winter working at a place	18	A	Oh, 2000 till 2004.
19	called A	dvantage Auto Body for three months. They let	19	Q no longo	And for what reason did you own it and then
20	me ee		20	no longe	r own it during those four years?
20	me go.	Where was that?	04	Λ.	A friend had garbage midled it It
21	Q	Where was that?	21	A ald really	A friend had garbage-picked it. It was an
21 22	Q A	That I'm not sure what town it is. It's	22	old really	y big chain saw that I rebuilt. I used it
21 22 23	Q A in Wisco	That I'm not sure what town it is. It's onsin and about two miles from my home between	22 23	old really	y big chain saw that I rebuilt. I used it times and then I sold it at a garage sale
21 22	Q A in Wisco	That I'm not sure what town it is. It's	22	old really	y big chain saw that I rebuilt. I used it

		1 .	
1	Someone wanted to fix up theirs too, so It was an	1	chain saw they brought to the camping site and you
2	old David Bradley chain saw; it was a very old model.	2	used them to cut up for camping wood?
3	Q Wait, I missed some of that. You said you	3	A Yes.
4	had one that you got from a friend from a garage sale	4	Q Okay. And then beginning of 2000 you would
5	but another, what was the other one?	5	use them a little bit more frequently because it was
6	MR. CALLAHAN: No.	6	yours and you were using it on your property?
7	MR. MAST: Sorry.	7	A Yes.
8	BY THE WITNESS:	8	Q Okay. Do you have some type of forest or
9	A No, I had I had one that I operated and	9	something on your property that you use it for, or
10	then I picked one up at a garage sale.	10	A No, I have negligent neighbors that when
11	Q So you had two of them?	11	trees fall, they don't
12	A Yeah, I had two of them, and I sold them both	12	Q Okay.
13	at the same time, yeah. One worked and one didn't.	13	A they don't really seem to attend to them,
14	Q And that was from 2000 to 2004?	14	so I opted to do the clearing myself.
15	A Correct.	15	Q Okay. So you clear up a tree here and there?
16	Q Okay. During 2000-2004, did you use those	16	A Yeah. Yes.
17	chain saws on any type of continual basis?	17	Q And I know there's no way easy way to do
18	A No.	18	this, but I still have to ask the question. From 2000
19	Q They were just there for because you had	19	to 2004 what would you estimate the number of times
20	fixed them up and you just kind of liked to have them	20	you used a chain saw?
21	around?	21	A Three times.
22	A No, they were very useful because they were	22	Q All right. So up until 2004 the total times
23	large and I used them on my property to trim off a	23	you used a chain saw was about 15 times?
24	large maple branch that had fallen.	24	A Correct.
	41		43
4		1	
1	Q Oh, so you used them?		
2	A I used the one that was working. The other	2	accident in June of 2011, how many times did you use a
2	A I used the one that was working. The other one was not operational.	2	accident in June of 2011, how many times did you use a chain saw?
2 3 4	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from	2 3 4	accident in June of 2011, how many times did you use a chain saw? A Four times.
2 3 4 5	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you	2 3 4 5	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it?
2 3 4 5 6	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you used only for your own personal use on your personal	2 3 4 5 6	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it? A The first time was a friend's, on his
2 3 4 5 6 7	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you used only for your own personal use on your personal property?	2 3 4 5 6 7	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it? A The first time was a friend's, on his property; second time, again, camping; third time on
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2 3 4 5 6 7 8 9 10 11 12 13 14 15	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you used only for your own personal use on your personal property? A Yes. Q Had you used a chain saw from 1985 until 2000? A Yes. Q Whose chain saws? A Once again, I'm a camper and there would be a time when I would just elect myself to cut the wood, I just	2 3 4 5 6 7 8 9 10 11 12 13 14 15	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it? A The first time was a friend's, on his property; second time, again, camping; third time on my property, and the fourth and final time was at my mother's place. Q Now, when you say your property, whose chain saw was it? A That would be my friend Mike. Q The first The first Well, okay. That would be the same friend that you operated the chain saw on his property the first time that you were
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you used only for your own personal use on your personal property? A Yes. Q Had you used a chain saw from 1985 until 2000? A Yes. Q Whose chain saws? A Once again, I'm a camper and there would be a time when I would just elect myself to cut the wood, I just Q Let me ask it this way, maybe it will be easier, because I know these aren't all easy questions. Before 2000, okay, when you first got your own chain saw, how many times would you have operated a chain saw over the 15 years?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it? A The first time was a friend's, on his property; second time, again, camping; third time on my property, and the fourth and final time was at my mother's place. Q Now, when you say your property, whose chain saw was it? A That would be my friend Mike. Q The first The first Well, okay. That would be the same friend that you operated the chain saw on his property the first time that you were spelling these out? A After the 2004, yes. Yes. Q Yeah. So beginning in 2004 when you no longer owned a chain saw, the first time you used it after that was with a friend at his house?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you used only for your own personal use on your personal property? A Yes. Q Had you used a chain saw from 1985 until 2000? A Yes. Q Whose chain saws? A Once again, I'm a camper and there would be a time when I would just elect myself to cut the wood, I just Q Let me ask it this way, maybe it will be easier, because I know these aren't all easy questions. Before 2000, okay, when you first got your own chain saw, how many times would you have operated a chain saw over the 15 years? A At least a dozen times.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it? A The first time was a friend's, on his property; second time, again, camping; third time on my property, and the fourth and final time was at my mother's place. Q Now, when you say your property, whose chain saw was it? A That would be my friend Mike. Q The first The first Well, okay. That would be the same friend that you operated the chain saw on his property the first time that you were spelling these out? A After the 2004, yes. Yes. Q Yeah. So beginning in 2004 when you no longer owned a chain saw, the first time you used it after that was with a friend at his house? A Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you used only for your own personal use on your personal property? A Yes. Q Had you used a chain saw from 1985 until 2000? A Yes. Q Whose chain saws? A Once again, I'm a camper and there would be a time when I would just elect myself to cut the wood, I just Q Let me ask it this way, maybe it will be easier, because I know these aren't all easy questions. Before 2000, okay, when you first got your own chain saw, how many times would you have operated a chain saw over the 15 years? A At least a dozen times. Q Were they all during camping trips?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it? A The first time was a friend's, on his property; second time, again, camping; third time on my property, and the fourth and final time was at my mother's place. Q Now, when you say your property, whose chain saw was it? A That would be my friend Mike. Q The first The first Well, okay. That would be the same friend that you operated the chain saw on his property the first time that you were spelling these out? A After the 2004, yes. Yes. Q Yeah. So beginning in 2004 when you no longer owned a chain saw, the first time you used it after that was with a friend at his house? A Yes. Q And that's Mike's?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A I used the one that was working. The other one was not operational. Q The one that was working that you owned from 2000-2004, the one chain saw that was working, you used only for your own personal use on your personal property? A Yes. Q Had you used a chain saw from 1985 until 2000? A Yes. Q Whose chain saws? A Once again, I'm a camper and there would be a time when I would just elect myself to cut the wood, I just Q Let me ask it this way, maybe it will be easier, because I know these aren't all easy questions. Before 2000, okay, when you first got your own chain saw, how many times would you have operated a chain saw over the 15 years? A At least a dozen times. Q Were they all during camping trips? A Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	accident in June of 2011, how many times did you use a chain saw? A Four times. Q And whose chain saw was it? A The first time was a friend's, on his property; second time, again, camping; third time on my property, and the fourth and final time was at my mother's place. Q Now, when you say your property, whose chain saw was it? A That would be my friend Mike. Q The first The first Well, okay. That would be the same friend that you operated the chain saw on his property the first time that you were spelling these out? A After the 2004, yes. Yes. Q Yeah. So beginning in 2004 when you no longer owned a chain saw, the first time you used it after that was with a friend at his house? A Yes. Q And that's Mike's? A Yeah. Not Mike Mcartor.

		1	
1	A Okay. I'm just clarifying.	1	answers, I take it?
2	Q That's fine. Okay. Second time was out	2	MR. CALLAHAN: Yes.
3	camping cutting up firewood?	3	MR. MAST: All right. So we'll go through that.
4	A Correct.	4	We will go through that.
5	Q Third time was at your house with Mike's	5	BY MR. MAST:
6	chain saw?	6	Q Well, any All right. Whether it's
7	A Yes.	7	stepparents or real biological parents, we'll just put
8	Q And fourth time was at your parents' house?	8	them all in one group, okay.
9	A Yes.	9	Whether it's your stepparents or real
10	Q Okay. And was that fourth time at your	10	biological parents, have your parents, meaning
11	parents' house the day of this incident or before the	11	either/or, ever attempted to train you or direct you
12	day of this incident?	12	in the proper method or way to operate a chain saw
13	A It was the day of that incident.	13	your entire life until today?
14	Q Okay. So if I were to and I know this	14	A No.
15	isn't the easiest thing to do, but if the day of the	15	Q Okay. Might as well go through your parents
16	incident was June 28, 2011, when was the last time you	16	then. Bill and Carolyn McGuire, are they your
17	used a chain saw before that date?	17	parents?
18	A Oh. Datewise?	18	A My mother is my biological mother, Carolyn
19	Q Some estimate, yeah. Within a month, a year,	19	McGuire. William McGuire is not my biological father.
20	three years?	20	Q Okay. So William McGuire is your stepfather?
21	A It was a year.	21	A Correct.
22	Q Within a year?	22	Q Is your father your natural father living?
23	A Yeah, within a year.	23	A No.
24	Q So it would have been the prior summer maybe?	24	Q Okay. When did he pass?
	45		47
1	A Yes.	1	A 1996.
2	Q Okay.	2	Q Okay. I'm assuming he had never did anything
3	A Yeah, a storm took down some branches in my	3	with you with regard to chain saws; is that fair to
4	yard.	4	say?
5	Q So that third incident after 2004, which you	5	A We never interacted in that way.
6	spelled out four times you used a chain saw, that	6	Q Okay. Did either William or Carolyn McGuire
7	third incident where it was Mike's chain saw on your	7	ever interact with you with regard to how to use the
8	property was the one in 2010 during the summer?	8	chain saw?
9	A Yes.	9	A No.
10	Q Okay. And then the next time you used a	10	Q Okay. Are your So when I say parents,
11	chain saw was on your parents' property on the day of	11	since your father passed and Carolyn is your natural,
12	Paul's accident with your parents' chain saw?	12	I'll just talk about Carolyn and William as your
13	A Yes.	13	parents, then, okay? Is that fair to you?
14	Q Okay. Did your parents ever attempt to	14	A That would be fair to me.
15	educate you or train you on how to operate a chain saw	15	Q Okay. Have your parents What was I going
16	at any time in your life?	16	to ask you? Oh, what do your parents do presently for
17	A No.	17	a living?
18	Q Up till today?	18	A They're currently both retired.
19	A No.	19	Q Okay. Do you know how long they'd been
20	Q Okay.	20	retired?
21	MR. CALLAHAN: Excuse me. You say Just to be	21	A My mother, I believe, two years now. She was
22	clear, his parents, do you mean Mr. McGuire and	22	employed at Intermatic
23	Mrs. McGuire or his father and Mrs. McGuire?	23	Q Okay.
24	MR. MAST: Okay. So those are two different	24	A in Spring Grove, and William McGuire
	46		48

1	worked for last Tempest Construction, and he was an	1	themselves were going to operate that chain saw?
2	industrial commercial drywaller.	2	A You would have to ask them that question.
3	Q Okay. To your knowledge and, again, we'll	3	Q So you don't know?
4	probably end up deposing them soon so we'll ask them,	4	A I do not know.
5	but to your knowledge do either of your parents have	5	Q Okay. Fair enough. Had you known either of
6	any expertise or experience in operating chain saws	6	your parents ever to operate a chain saw before Paul's
7	except just, you know, doing it on their own and	7	accident?
8	around the house?	8	A Neither one of them have ever operated a
9	A They never have operated. They bought that	9	chain saw.
10	tool specifically for that the cutting of the trees	10	Q You know that?
11	that needed to be done on their property.	11	A I know that.
12	Q And they weren't going to use it then? They	12	Q Okay. What kind of Are they still living
13	were letting	13	in the same house they were living at the time of the
14	A No.	14	accident?
15	Q you do it?	15	A Yes.
16	A Right.	16	Q Okay. What kind of property is that if you
17	Q Okay. So they The chain saw that you were	17	describe it? Is it like a small little half-acre
18	operating at the time of Paul's accident on their	18	property, or is it a larger
19	property, your parents' property, that chain saw was	19	A It's a small one, third-acre residential
20	purchased by your parents for that particular project?	20	what is it called? ranch.
21	A I wouldn't say they bought it and then do	21	Q Okay.
22	this, they bought the chain saw because they had known	22	A Ranch home, full basement.
23	that there would be need to be work done	23	Q How many trees would you say are on their
24	Q Okay.	24	physical third-acre of property, if you had to give me
	49		51
1	A and I later was elected to do that.	1	an estimate?
2	Q So when they purchased the chain saw and,	2	A I'm going to tell you.
3	again, I'll ask them these questions, but I'm	3	Q Okay.
4	wondering what your knowledge is, when they purchased	4	A Currently?
	3 , , , , , , , , , , , , , , , , , , ,	_	A Currently:
5	this chain saw, your parents, did they purchase it	5	
	this chain saw, your parents, did they purchase it knowing that you were going to use it or just that	5	Q Yes.
6	knowing that you were going to use it or just that	5 6	Q Yes. A Ten.
6	knowing that you were going to use it or just that somebody else and not them were going to use it?	5 6 7	Q Yes.A Ten.Q Okay. Prior to the day of Paul's accident,
6 7 8	knowing that you were going to use it or just that somebody else and not them were going to use it? MR. BARCH: Speculation, but go ahead, objection.	5 6 7 8	Q Yes. A Ten. Q Okay. Prior to the day of Paul's accident, how many trees were on that property?
6 7 8 9	knowing that you were going to use it or just that somebody else and not them were going to use it? MR. BARCH: Speculation, but go ahead, objection. BY THE WITNESS:	5 6 7 8 9	Q Yes. A Ten. Q Okay. Prior to the day of Paul's accident, how many trees were on that property? A 12. Oh, 13.
6 7 8 9 10	knowing that you were going to use it or just that somebody else and not them were going to use it? MR. BARCH: Speculation, but go ahead, objection. BY THE WITNESS: A I can answer that when they purchased it that	5 6 7 8 9	Q Yes. A Ten. Q Okay. Prior to the day of Paul's accident, how many trees were on that property? A 12. Oh, 13. Q So on the day of Paul's accident, did you
6 7 8 9 10 11	knowing that you were going to use it or just that somebody else and not them were going to use it? MR. BARCH: Speculation, but go ahead, objection. BY THE WITNESS: A I can answer that when they purchased it that they didn't solely purchase it with intent for me to	5 6 7 8 9 10	Q Yes. A Ten. Q Okay. Prior to the day of Paul's accident, how many trees were on that property? A 12. Oh, 13. Q So on the day of Paul's accident, did you take all three of those down then?
6 7 8 9 10 11 12	knowing that you were going to use it or just that somebody else and not them were going to use it? MR. BARCH: Speculation, but go ahead, objection. BY THE WITNESS: A I can answer that when they purchased it that they didn't solely purchase it with intent for me to use it.	5 6 7 8 9 10 11	Q Yes. A Ten. Q Okay. Prior to the day of Paul's accident, how many trees were on that property? A 12. Oh, 13. Q So on the day of Paul's accident, did you take all three of those down then? A I didn't take any trees down that day
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4 A I know. I'm just apologizing. 5 Q No, you don't have to apologize, and let me 6 just give you kind of an idea. You're being helpful 7 and open, and I appreciate that. The thing is, 8 though, I'm still going to have to go through those 9 questions again as I go through this so it's not going 10 to cut down the time. So I'm just trying to tell you. 11 A I'm in no hurry. 12 Q Okay. The three trees that were taken down 13 since Paul's accident we'll get to when and all, 14 who and all that who took those three trees down? 15 A I don't know. 16 Q Okay. Okay. Before the day of Paul's 17 accident, so before June 28, 2011, had you known Paul 18 ever to operate a chain saw? 19 A Yes. 20 Q Okay. How frequently? 21 A I don't know. 22 Q How did you know then if he operated a chain 23 saw? 24 A I've seen him operating a chain saw. 24 A I've seen him operating a chain saw. 25 Q Okay. Okay. 26 A Okay. 27 A Okay. 28 A Okay. 29 A Okay. 30 Okay. Had Paul ever seen you operate a chain 5 saw before the day of his accident? 7 A Yes. 8 Q Okay. Had Paul ever seen you operate a chain 5 saw before the day of his accident? 7 A Yes. 9 Q Where was that? 9 A Yes. 9 Q Well, let's go back then because when I asked 12 you how many times you operated the chain saw after 13 2004, you only described one time on your mother's 14 property and that was on the day of the accident. 15 A Does operating to clarify it include 16 starting or actually cutting wood? Because there's 17 Q Fair question but you didn't you didn't 18 condition it when I asked you that before so that's 19 Why I'm going back. 20 A Okay. 21 Q We can I'm glad to define it any way you 22 want. I'm just You didn't clarify it before so 23 that's why I'm going back. 24 A Okay.	2	A Sorry for being all-inclusive.	2	before the day of his accident, whatever times you saw
5 Q No, you don't have to apologize, and let me 6 just give you kind of an idea. You're being helpful 7 and open, and I appreciate that. The thing is, 8 though, I'm still going to have to go through those 9 questions again as I go through this so it's not going 10 to cut down the time. So I'm just trying to tell you. 11 A I'm in no hurry. 12 Q Okay. The three trees that were taken down 13 since Paul's accident we'll get to when and all, 14 who and all that who took those three trees down? 15 A I don't know. 16 Q Okay. Okay. Before the day of Paul's 17 accident, so before June 28, 2011, had you known Paul 18 ever to operate a chain saw? 19 A Yes. 20 Q Okay. Had Paul ever seen you operate a chain 6 saw before the day of his accident? 7 A Yes. 8 Q Where was that? 9 A Multiple times camping and also on my 10 mother's property. 11 Q Well, let's go back then because when I asked 12 you how many times you operated the chain saw after 13 2004, you only described one time on your mother's 14 property and that was on the day of the accident. 15 A Does operating to clarify it include 16 starting or actually cutting wood? Because there's 17 Q Fair question but you didn't you didn't 18 condition it when I asked you that before so that's 19 why I'm going back. 20 A Okay. 21 Q We can I'm glad to define it any way you 22 Q How did you know then if he operated a chain 23 saw? 24 A I've seen him operating a chain saw. 24 A Okay. 25 A Okay.	3	Q It's okay.	3	him, the chain saw in a safe manner?
6 just give you kind of an idea. You're being helpful 7 and open, and I appreciate that. The thing is, 8 though, I'm still going to have to go through those 9 questions again as I go through this so it's not going 10 to cut down the time. So I'm just trying to tell you. 11 A I'm in no hurry. 12 Q Okay. The three trees that were taken down 13 since Paul's accident we'll get to when and all, 14 who and all that who took those three trees down? 15 A I don't know. 16 Q Okay. Okay. Before the day of Paul's 17 accident, so before June 28, 2011, had you known Paul 18 ever to operate a chain saw? 19 A Yes. 20 Q Okay. How frequently? 21 A I don't know. 22 Q How did you know then if he operated a chain 23 saw? 24 A I've seen him operating a chain saw. 26 Saw before the day of his accident? 7 A Yes. 8 Q Where was that? 9 A Multiple times camping and also on my 10 mother's property. 11 Q Well, let's go back then because when I asked 12 you how many times you operated the chain saw after 13 2004, you only described one time on your mother's 14 property and that was on the day of the accident. 15 A Does operating to clarify it include 16 starting or actually cutting wood? Because there's 17 Q Fair question but you didn't you didn't 18 condition it when I asked you that before so that's 19 why I'm going back. 20 A Okay. 21 Q We can I'm glad to define it any way you 22 want. I'm just You didn't clarify it before so 23 that's why I'm going back. 24 A Okay.	4		4	A Yes.
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since Paul's accident we'll get to when and all, who and all that who took those three trees down? A I don't know. Q Okay. Okay. Before the day of Paul's accident, so before June 28, 2011, had you known Paul ever to operate a chain saw? A Yes. Q Okay. How frequently? A I don't know. Q Okay. How did you know then if he operated a chain saw? A I don't know. A I don't know. C Okay. How did you know then if he operated a chain saw? A I've seen him operating a chain saw. 13 2004, you only described one time on your mother's property and that was on the day of the accident. A Does operating to clarify it include starting or actually cutting wood? Because there's Q Fair question but you didn't you didn't condition it when I asked you that before so that's why I'm going back. Q We can I'm glad to define it any way you want. I'm just You didn't clarify it before so that's why I'm going back. A I've seen him operating a chain saw.	11	A I'm in no hurry.	11	Q Well, let's go back then because when I asked
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18 ever to operate a chain saw? 19 A Yes. 19 Why I'm going back. 20 Q Okay. How frequently? 21 A I don't know. 22 Q How did you know then if he operated a chain 23 saw? 24 A I've seen him operating a chain saw. 28 Condition it when I asked you that before so that's 19 Why I'm going back. 20 A Okay. 21 Q We can I'm glad to define it any way you 22 want. I'm just You didn't clarify it before so 23 that's why I'm going back. 24 A Okay.	16	Q Okay. Okay. Before the day of Paul's	16	starting or actually cutting wood? Because there's
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22 Q How did you know then if he operated a chain 22 want. I'm just You didn't clarify it before so 23 saw? 23 that's why I'm going back. 24 A I've seen him operating a chain saw. 24 A Okay.	20	Q Okay. How frequently?	20	A Okay.
23 saw? 24 A I've seen him operating a chain saw. 23 that's why I'm going back. 24 A Okay.	21	A I don't know.	21	Q We can I'm glad to define it any way you
24 A I've seen him operating a chain saw. 24 A Okay.	22	Q How did you know then if he operated a chain	22	want. I'm just You didn't clarify it before so
	23	saw?	23	that's why I'm going back.
54 56	24	A I've seen him operating a chain saw.	24	A Okay.
		54		56

1	Q I asked you just recently, just the past	1	Q Okay.
2	question, how many times had Paul I'm trying to	2	A No. No.
3	remember the question. How many times did Paul see	3	Q But when I've asked you about you seeing Paul
4	you operate a chain saw before the day of his	4	operate a chain saw, you meant and referred to him
5	accident, right? I think that was the question. And	5	using the chain saw to cut things, right, that was
6	you said numerous times, I think; is that right?	6	your answer?
7	A Yes. Paul has seen me operate a chain saw	7	A I've seen him using a chain saw to cut
8	before.	8	things, yes.
9	Q Before the day of his accident	9	Q Yeah, okay.
10	A Yes.	10	A Yes.
11	Q on numerous occasions?	11	Q So before the day of Paul's accident, setting
12	A Yes.	12	aside the camping trips, Paul has seen you start a
13	Q Okay. And then you were describing when and	13	chain saw to get it running but not use it?
14	under what circumstances?	14	A Yes.
15	A Yeah.	15	Q Okay. Under what circumstances?
16	Q In addition to camping, those different	16	A It's good to start a piece of machinery every
17	camping trips, he would sometimes be on camping trips	17	now and then and you may
18	with you?	18	Q Where and when? What are we talking about?
19	A Yes.	19	At your mom's house?
20	Q And he would see you operate a chain saw	20	A Yeah, probably in the garage there at my
21	during those camping trips?	21	mom's house.
22	A Yes.	22	Q Because they had the chain saw?
23	Q And you would see him operating a chain saw	23	A No, they didn't have the chain saw then.
24	during those camping trips?	24	I'm You're talking about the chain saw that was in
	57		59
1	A Yes.	1	the accident?
2	Q Okay. And putting the camping trips aside,	2	Q Okay. Let's go back.
3	had Paul ever seen you operate a chain saw any other	3	A Or are you talking about chain saw in
4	time before the day of his accident other than on	4	general?
5	camping trips? And operate, if you want to know what	5	Q Fair enough. Let me ask it this way: Did
6	definition of operate is, I'm happy to tell you	6	your parents purchase a chain saw to cut trees in
7	that	7	2011?
8	A Yes, please.	8	A I don't know.
9	Q in my view but you can define it any way	9	Q All right. The chain saw that you were
10	you want. Operate means using the chain saw to cut	10	operating
11	wood.	11	A Yes.
12	A No, starting a chain saw and making sure that	12	Q at the time of Paul's accident was your
13	it's running. That operating I thought you meant it	13	parents' chain saw, right?
14	running, not literally using it.	14	A Correct.
15	Q Okay. So let's Let me ask the question	15	Q When did they purchase that chain saw?
16	again now that we have the definition.	16	A Shortly before the incident.
17	A Okay.	17	Q Are we talking if the accident happened
18	Q If we define chain saw operation as operating	18	June 28th, sometime in June?
19	a chain saw so as to cut wood or cut any other object	19	A I wasn't there for the purchase. I wouldn't
20	I guess for that purpose, have you now, based on that	20	know the purchase date.
21	definition, ever has Paul ever seen you operate a	21	Q Okay. Sometime that summer, though; fair
22	chain saw before the day of his accident other than at	22	enough?
23	camping trips?	23	A Yes.
24	A No.	24	Q Okay. And before they purchased that chain
L	58		60

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1			
	saw in the summer of 2011, did your parents own any	1	Q No, I did ever. My word was ever, but I'll
2	other chain saws to your knowledge?	2	say it again. Look it, I just want the truth. I
3	A No.	3	don't care. If you don't understand my question, I'll
4	Q Okay. So the chain saw that Paul would have	4	restate it.
5	seen before the day of his accident, see you start but	5	My question before, I think, if you
6	not operate, would be the chain saw that your parents	6	looked at the record, said had you ever operated a
7	purchased in 2011 or some other chain saw?	7	chain saw for money. Now, maybe you meant before the
8	A It would be some other chain saw.	8	accident
9	Q Where? Putting aside the camping trips,	9	A Yes, I did.
10	remember I talked, putting aside that.	10	Q but I didn't phrase it that way.
11	A Yes, in my mother's garage.	11	A Okay.
12	Q Whose chain saw was it?	12	Q So let's go back and correct it. Okay. We
13	A I don't even recollect. I, you know	13	can do that.
14	Q Okay.	14	The question is, ever means in your
15	A It was a piece of machine I was starting to	15	lifetime. Have you ever operated a chain saw for
16	keep it in good working order.	16	money in your lifetime?
17	Q Okay. But it wasn't your parents and it	17	A Yes.
18	wasn't yours?	18	Q Okay. And was that the times you did it
19	A That's correct.	19	for money, was that only with your parents?
20	Q Okay. How many times did he see you start a	20	A That one, yep, the occurrence that we're
21	chain saw but not use it under your description	21	speaking of, that was the only time that I was paid.
22	before?	22	Q The day of the accident?
23	A I don't know.	23	A The day of the accident.
24	Q Couple, maybe two or three times?	24	Q All right. Okay. Before the day of the
	61		63
1	A I don't know. I don't know.	1	accident, had you ever cut Strike that. Let me
2	Q Okay. At least once; fair enough?	2	Let me get
2	Q Okay. At least once; fair enough?A At least once, yeah.	2	Let me get Before the day of your accident, had you
			•
3	A At least once, yeah.	3	Before the day of your accident, had you
3 4	A At least once, yeah. Q Okay. All right. Have you ever used a chain	3	Before the day of your accident, had you ever cut any trees down with a chain saw or limbs,
3 4 5	A At least once, yeah. Q Okay. All right. Have you ever used a chain saw and operated a chain saw, meaning cut things for	3 4 5	Before the day of your accident, had you ever cut any trees down with a chain saw or limbs, parts of trees, with a chain saw at your parents'
3 4 5 6	A At least once, yeah. Q Okay. All right. Have you ever used a chain saw and operated a chain saw, meaning cut things for money in your life?	3 4 5 6	Before the day of your accident, had you ever cut any trees down with a chain saw or limbs, parts of trees, with a chain saw at your parents' house? Before the date of
3 4 5 6 7	A At least once, yeah. Q Okay. All right. Have you ever used a chain saw and operated a chain saw, meaning cut things for money in your life? A No.	3 4 5 6 7	Before the day of your accident, had you ever cut any trees down with a chain saw or limbs, parts of trees, with a chain saw at your parents' house? Before the date of A Reask that question.
3 4 5 6 7 8	A At least once, yeah. Q Okay. All right. Have you ever used a chain saw and operated a chain saw, meaning cut things for money in your life? A No. Q And, I mean, whether through your employment	3 4 5 6 7 8	Before the day of your accident, had you ever cut any trees down with a chain saw or limbs, parts of trees, with a chain saw at your parents' house? Before the date of A Reask that question. Q Pardon?
3 4 5 6 7 8 9	A At least once, yeah. Q Okay. All right. Have you ever used a chain saw and operated a chain saw, meaning cut things for money in your life? A No. Q And, I mean, whether through your employment or through somebody just giving you money to do it,	3 4 5 6 7 8 9	Before the day of your accident, had you ever cut any trees down with a chain saw or limbs, parts of trees, with a chain saw at your parents' house? Before the date of A Reask that question. Q Pardon? A Could you please reask that question?
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1 house if he knew you weren't going to be 2 MR. BARCH: Speculation. 3 Q Okay. And I want to make sure you caught 4 that I used the word assisted, meaning he never 5 assisted anybody, whether yourself or anybody else, in 6 the trimming of trees or cutting down of trees at your 7 parents' house before the day of his accident; is that 8 correct? 8 A That's correct. 9 A That's correct. 9 A That's correct. 10 Q Okay. Okay. Did Paul Well, let me ask it 11 this way: How frequent in the year before the 12 accident would Paul, to your knowledge, be visiting 13 your parents' house? 14 A At least twice a month. 15 Q And would it be only to visit with you or 16 would he be there sometimes when you wouldn't be 17 house if he knew you weren't going to be at the 2 MR. BARCH: Speculation. 3 BY THE WITNESS: 4 A A friendship. 5 Q MR. BARCH: Speculation. 3 BY THE WITNESS: 4 A A friendship. 5 Q Go ahead. 6 A Friendship again. 7 Q Okay. So would there be time 4 visit your parents' house merely to visit 9 even whether you're there or not? 10 A No, he would arrive there with 11 seeing me and me not being there, he would 12 congenial and friendly towards my moth 13 question; let me say it again. My question; let me say it again. My question; let me say it again. My question 15 Paul knew you weren't going to be at the 16 there be any ever any instance where	s Paul would them and not the purpose of rould stay being er. the other on is, if e house, would
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16 would be be there sometimes when you wouldn't be 16 there be any ever any instance where	VOU know that
17 there, to your knowledge? 17 he would visit your parents' house anyw	
18 A He would be there when I wasn't there. 18 A That would be between Paul ar	nd my parents
19 Q When you weren't there? 19 then.	
20 A Yeah. 20 Q So you don't know?	
21 Q What was his and that's what I'm not sure 21 A I don't know.	
22 about, what is his relationship with your parents that 22 Q Okay. That's what I was trying	j to get at.
23 would make him come to your parents' house when you're 23 A Okay.	
24 not there, what's the 24 Q Okay. Do you know if Paul eve	er worked at
65	67
1 A He would show up assuming that I was there 1 your parents' house doing anything befo	re the day of
2 and knowing my mother since they worked at the same 2 his accident?	
3 place of employment, interacted there, that he would 3 A Yes.	
4 sit and just speak with them on a friendly basis. 4 Q What types of things would he	do at your
5 Q Okay. So he was good friends with your 5 parents' house for work?	
6 parents? 6 A Well, there was a large elm tre	e that was
7 A Yes. 7 removed in the front yard by another pro	ovider; I do
8 Q Okay. Do you know if your parents still hold 8 not know their name, and he said, I wou	ıld like that
9 goodwill to him today or whether that has changed? 9 firewood. So I helped him load it onto a	_
10 MR. BARCH: Speculation. 10 trailer and I believe that large pile of wo	od still
11 BY THE WITNESS: 11 sits on his property.	
12 A I don't know. You'd have to ask them. 12 Q Okay.	
13 Q Do you know if your parents have overheard 13 A To some extent. He's used sor	me of it.
14 Paul say anything that was uncomfortable or 14 Q What year would that have been	en?
15 financially motivated relating to this claim at all? 15 A Just 2010.	
16 A No, I believe that they have not. 16 Q Okay.	
17 Q Okay. And same with your wife? I think we 17 A Just before this incident where	she was
18 already talked about that, right? 18 getting into the mode of upgrading the h	nome, you know.
19 A Correct. 19 Q I get it. So it would have been	the summer
20 Q Okay. Would Paul have any reason, in your 20 before this accident then?	
21 knowledge, to visit your parents when you weren't 21 A Yes.	
22 there? Now, I know he'd go there and you happened not 22 Q Okay. So	
23 to be there so he'd talk to them; but, I mean, was 23 A Or it may it may have been	that same
24 there anything that would take him to your parents' 24 summer.	
66	

1	Q Okay.	1	that fair to say?
2	A That question would probably be better off	2	MR. BARCH: Foundation, but go ahead.
3	answered by my mother.	3	BY MR. MAST:
4	Q So the answer is, I don't know the time,	4	Q That you know of obviously.
5	that's your answer when that happened? You don't know	5	A That I know of.
6	when that happened?	6	Q None?
7	A It was before this occurrence and shortly	7	A That I know of, none.
8	before that.	8	Q Okay. How long have your parents lived at
9	Q Okay. But the work that you're describing in	9	that house?
10	that answer that Paul did at your parents' house	10	A My mother, biological mother, has lived there
11	before the day of his accident was simply to collect	11	since 1971.
12	wood that had already been cut up and pile it onto a	12	Q And give us the address of the house so we
13	truck to take it to his house?	13	could have that.
14	A Correct.	14	A 1016 West Elder, McHenry, Illinois 600, I
15	Q Okay. So I guess my question was more	15	think it's, 51 now. It may have changed.
16	designed toward did Paul do any work for your parents	16	Q Okay. And is that once And that's
17	or for the property itself at your parents' property?	17	After your father passed, that's where she was
18	A Yeah, he	18	remarried and began to live there then, correct?
19	Q Before the day of his accident?	19	A She was remarried be No, she was
20	A Yes, he moved a large load of wood onto a	20	remarried before his passing.
21	trailer removing it from their property for his own	21	Q I see.
22	usage.	22	A Yeah.
23	Q Okay. Just once?	23	Q Okay. So until you moved out of the house,
24	A That day was the That day we made several	24	you had lived at that house almost your entire
	69		71
1	trips.	1	childhood, right?
2	Q What day?	2	A I lived there until I was 30 years old.
3	A I don't know exactly what day, that's what	3	Q Okay.
4	was in dis and we were uncertain of as to right	4	A 29. 29 years old. 1999 June 1st I
5	there but it was before this occurrence possibly that	5	moved to my new residence, which I currently live at.
6	same summer.	6	
	Same Sammer		O From your From about four years old.
	O All right. So this is what you're saving.		Q From your From about four years old,
7	Q All right. So this is what you're saying,	7	right?
7 8	you're saying before Paul's accident	7 8	right? A Yeah.
7 8 9	you're saying before Paul's accident A Yes.	7 8 9	right? A Yeah. Q Okay.
7 8 9 10	you're saying before Paul's accident A Yes. Q whether that year or the year before,	7 8 9 10	right? A Yeah. Q Okay. A Yes.
7 8 9 10 11	you're saying before Paul's accident A Yes. Q whether that year or the year before, there was an instance where an elm tree was cut down	7 8 9 10 11	right? A Yeah. Q Okay. A Yes. Q All right. And let's take you to the day of
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7 8 9 10 11 12 13	you're saying before Paul's accident A Yes. Q whether that year or the year before, there was an instance where an elm tree was cut down and Paul made one or more trips to collect the cut up wood on a pickup truck to take to his house?	7 8 9 10 11 12 13	right? A Yeah. Q Okay. A Yes. Q All right. And let's take you to the day of the accident. When were you first Well, strike that.
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1	Q Okay. When did you first know that they	1	A The ones that were being trimmed up, that
2	wanted you your parents wanted you to cut do	2	were being considered to be removed at that time.
3	some cutting with the chain saw on their property?	3	Q Okay. So let's go back to the conversation
4	When did you first learn that?	4	two days before Paul's accident when you brought up
5	A Actually, I offered my services to them.	5	the issue of cutting the trees down, was the topic of
6	They had need to rebuild a shed and with the shed	6	cutting the trees down involving only two trees at
7	down, there was an opportune time for trees to come	7	that point?
8	down.	8	A Yes.
9	Q What shed down, what do you mean?	9	Q And they were pine trees?
10	A There was an old shed that if since it was	10	A Yes.
11	taken down because it was in disrepair, planning to	11	Q Okay. And how tall were the pine trees?
12	put up a new one, there was an opportunity to now drop	12	A I would In my best guesstimate, I would
13	these trees where there was a clear field, clear area.	13	say 50 feet tall.
14	Q Fair enough. When was that that you offered	14	Q Both of them?
15	your services to cut the trees down?	15	A Yes.
16	A Two days before the occurrence.	16	Q And they had been on the property ever since
17	Q Okay. Were you at their house when this	17	you knew?
18	conversation arose?	18	A Yes. I watched my mother plant them herself.
19	A Yes, I was.	19	Q Oh, okay. So when you were a very young
20	Q Okay. Was Paul with you?	20	child?
21	A No.	21	A Yes.
22	Q It was just you and your two parents?	22	Q Okay. And what necessitated that they be
23	A Yes.	23	removed given the rebuilding of the shed?
24	Q And it was discussed Did you bring up the	24	A At that time they had become large and an
	73		75
1	issue or did they bring up the issue?	1	overburden.
2	A Well, as I've mentioned, it was an ongoing	2	Q Just taking up a lot of space
3	upgrading of the property and it was just discussed	3	A Yes.
4	that now is an opportune time to do that.	4	Q and in the way?
5	Q My question was, who brought up the issue, if	5	A Yes. Hanging over the area adjoining
6	you know, about cutting the trees down?	6	neighbors. They were a nuisance. They needed to come
7	A I did.	7	down. They weren't decaying at all, but they were
8	Q Okay. And it was something like, Hey, now's	8	they were too full.
9	a good time with the shed down, why don't we cut those	9	Q So would the trees have been about over
10	trees down?	10	25 years old then at the time?
11	A Yes.	11	A Yes. Yes.
12	Q Something like that. Okay. And there were	12	Q But they were in good health?
13	three trees in particular that were	13	A Yes.
14	A Two.	14	Q So it was elective in taking them down, not a
15	Q All right. Let me just finish the question.	15	necessity, correct?
16	My question was, there were three trees in particular	16	A It was a necessity as to Well, that was
17	to cut down and you're saying there were only two?	17	the opportune time. I mean, as I said, the shed was
18	A There are three trees that since that	18	gone, so
19	occurrence are now gone.	19	Q I get it. I'm saying elective meaning that
20	Q Right.	20	they didn't have to be taken down for the safety of
21	A Two of which were involved in the occurrence	21	anybody, they were being taken down more for
22	which were pine trees.	22	convenience's sake; fair enough?
23	Q When you say involved in the occurrence, what	23	MR. CALLAHAN: If you know.
~ .		~ .	
24	do you mean?	24	
24		24	76

1	BY THE WITNESS:	1	discussed was just taking the two pine trees down
1		1	discussed was just taking the two pine trees down,
2	A I don't know. I don't I don't really know	2	correct?
3	at what point they chose to. I suggested that they	3	A Yes.
4	come down and they chose to have me take them down.	4	Q All right. And that would include the limbs,
5	Q Were they being taken down for any safety	5	cutting it up into wood, and then hauling it off the
6	reason?	6	property?
7	A No.	7	A Not hauling it off the property; that's why I
8	Q Okay. The third tree, what kind of The	8	was cutting up the limbs to stack it on the property.
9	third tree that was taken down after Paul's accident,	9	Q Okay. So that Just fair enough. I just
10	what kind of tree was that?	10	want to get the scope of it. The scope was cutting
11	A It was an apple tree.	11	the tree down, including all limbs and parts of the
12	Q And that tree being taken down, at least in	12	trees, the two trees, and getting them cut up into
13	your view, had nothing to do with the shed issue then,	13	stacks and then stacking the wood?
14	right?	14	A Yes.
15	A Nothing at all.	15	Q And then that would be the end of the work?
16	Q Right?	16	A Yes.
17	A Yes.	17	Q Okay. And it only involved those two pine
18	Q Okay. And that's why you described earlier	18	trees, right?
19	in the deposition the two trees, the two pine trees,	19	A Yes.
20	were taken down in relation to this accident because	20	Q Are you aware of any photographs that show
21	you were taking trees down at the time of the accident	21	those pine trees before they were cut?
22	or at least the intent was to take trees down at the	22	A No.
23	time of the accident to make room for the shed?	23	Q Or during them being cut?
24	A No, the shed was already standing before	24	A No.
	77		79
1	that. It was torn down because it was in disrepair.	1	Q Or after they were cut?
2	It being torn down, it seemed as though it was an	2	A No.
3	opportune time to take down these trees that were	3	Q Or how they are today?
4	large and overgrown.	4	A No.
5	Q Okay. So you said, Hey, why don't we take	5	Q Okay. Once you discussed two days before
6	down the trees now. It's a good time to take down the	6	Paul's accident doing the work and how much you were
7	two trees, and they said yes, right?	7	going to get paid, what was the next step in your
8	A Yes.	8	preparation for doing the work?
9	Q Okay. Did you tell them how long it would	9	A I by myself trimmed the trees up to about
10	take to do the work?	10	40
11	A No.	11	Q No. No. You went You jumped too far
12	Q Did they offer you to pay you Did they	12	ahead. Let me just I said the next step. So the
13	offer to pay you some money to take the two pine trees	13	next step would be two days later showing up on the
14	43	14	property, getting ready to cut them off then, I'm
	down?		
15	A Yes.	15	assuming, right?
15 16		15 16	assuming, right? A Mm-hmm.
	A Yes.		
16	A Yes.Q How much?A It was a matter of hourly wage, \$15 an hour.	16	A Mm-hmm.
16 17	A Yes.Q How much?A It was a matter of hourly wage, \$15 an hour.Q Was there any scope discussed as far as how	16 17	A Mm-hmm. Q Yes? A Yes.
16 17 18 19	A Yes.Q How much?A It was a matter of hourly wage, \$15 an hour.	16 17 18	A Mm-hmm.Q Yes?A Yes.Q Did you do anything in the interim to
16 17 18 19 20	A Yes. Q How much? A It was a matter of hourly wage, \$15 an hour. Q Was there any scope discussed as far as how long it was going to take you to do the work? A No.	16 17 18 19 20	A Mm-hmm. Q Yes? A Yes. Q Did you do anything in the interim to prepare, like go buy a set of gloves or something?
16 17 18 19 20 21	A Yes. Q How much? A It was a matter of hourly wage, \$15 an hour. Q Was there any scope discussed as far as how long it was going to take you to do the work? A No. Q Any time frame on how long it would take you	16 17 18 19 20 21	A Mm-hmm. Q Yes? A Yes. Q Did you do anything in the interim to prepare, like go buy a set of gloves or something? I'm just trying to find out what you had to do.
16 17 18 19 20 21 22	A Yes. Q How much? A It was a matter of hourly wage, \$15 an hour. Q Was there any scope discussed as far as how long it was going to take you to do the work? A No. Q Any time frame on how long it would take you to do it?	16 17 18 19 20 21 22	A Mm-hmm. Q Yes? A Yes. Q Did you do anything in the interim to prepare, like go buy a set of gloves or something? I'm just trying to find out what you had to do. A No.
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16 17 18 19 20 21 22	A Yes. Q How much? A It was a matter of hourly wage, \$15 an hour. Q Was there any scope discussed as far as how long it was going to take you to do the work? A No. Q Any time frame on how long it would take you to do it?	16 17 18 19 20 21 22	A Mm-hmm. Q Yes? A Yes. Q Did you do anything in the interim to prepare, like go buy a set of gloves or something? I'm just trying to find out what you had to do. A No.

1	A I suppose that a person should.	1	A That's correct.
2	Q Did you?	2	Q Okay. And when you showed up on June 28,
3	A No.	3	2011, was that the only thing you were going to do
4	Q Did you wear a helmet?	4	there that day at your parents' house is cut those two
5	A No.	5	trees down?
6	Q Gloves?	6	A That day that I showed up, I was only going
			to trim the branches off of the trees.
7		7	
8	Q Okay. Work gloves?	8	Q Prepare them for, like, the next day's work
9	A Yes.	9	of starting to cut them down?
10	Q Boots?	10	A Yes.
11	A I can't recollect if I was wearing boots or	11	Q Okay. Were there a lot of branches on each
12	shoes that day.	12	tree?
13	Q Okay. Any other type of particular things	13	A Yes, it's a pine tree.
14	that you would wear specific to cutting trees down?	14	Q Okay.
15	A No.	15	A There's many branches on pine trees.
16	Q Other than gloves and clothes?	16	Q And the branches can get thick as well,
17	A No.	17	right?
18	Q No. Okay.	18	A Thick by way of
19	Who decided the day that you were going	19	Q By way of being just thick.
20	to start the work?	20	A Diameter?
21	A I did.	21	Q Yeah.
22	Q Okay. Did you just show up out of the blue	22	A No, not really. Branches
23	or did you say, I'll be back in two days to start the	23	Q I mean, we're not talking like a half an inch
24	work?	24	around. We're talking they can be several inches
	81		83
1	A I said that I'll be back and start the work	1	around even on the branches.
2	on a pre on the day, you know, the day I began	2	A There were no limbs on that tree that were
	on a pre on the day, you know, the day I began Q Okay.	2	A There were no limbs on that tree that were probably over 3 inches in diameter.
2			
2 3 4	Q Okay.	3 4	probably over 3 inches in diameter.
2 3 4	Q Okay. A which is two days before Paul's the	3 4	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then,
2 3 4 5	Q Okay. A which is two days before Paul's the incident happened.	3 4 5	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of
2 3 4 5 6	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do,	3 4 5 6	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees?
2 3 4 5 6 7	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and	3 4 5 6 7	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches?
2 3 4 5 6 7 8 9	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start	3 4 5 6 7 8	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches?
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2 3 4 5 6 7 8 9 10	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work?	3 4 5 6 7 8 9 10	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees?
2 3 4 5 6 7 8 9 10 11	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You	3 4 5 6 7 8 9 10 11 12	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep.
2 3 4 5 6 7 8 9 10 11 12 13	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at	3 4 5 6 7 8 9 10 11 12 13	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six.
2 3 4 5 6 7 8 9 10 11 12 13 14	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up	3 4 5 6 7 8 9 10 11 12 13 14	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work.	3 4 5 6 7 8 9 10 11 12 13 14 15	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you.	3 4 5 6 7 8 9 10 11 12 13 14 15 16	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you. A And then I	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and go up or start at the top and go down?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you. A And then I Q That's fine. So you showed up when you	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and go up or start at the bottom and go up.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you. A And then I Q That's fine. So you showed up when you wanted to, right? A Yes.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and go up or start at the top and go down? A Start at the bottom and go up. Q Okay. So if the first day of work And that was the day Paul was injured, the first day of
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you. A And then I Q That's fine. So you showed up when you wanted to, right? A Yes. Q Okay. So there wasn't any preset day that	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and go up or start at the top and go down? A Start at the bottom and go up. Q Okay. So if the first day of work And that was the day Paul was injured, the first day of work, right?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you. A And then I Q That's fine. So you showed up when you wanted to, right? A Yes. Q Okay. So there wasn't any preset day that you were going to start the work?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and go up or start at the top and go down? A Start at the bottom and go up. Q Okay. So if the first day of work And that was the day Paul was injured, the first day of work, right? A No. The first day of work that I performed
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you. A And then I Q That's fine. So you showed up when you wanted to, right? A Yes. Q Okay. So there wasn't any preset day that you were going to start the work? A No.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and go up or start at the top and go down? A Start at the bottom and go up. Q Okay. So if the first day of work And that was the day Paul was injured, the first day of work, right? A No. The first day of work that I performed on those trees was the day before Paul showed up. I
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q Okay. A which is two days before Paul's the incident happened. Q Right. So we're two days before the accident, you talked about what you were going to do, how much it was going to cost, blah-blah-blah, and then did you say, I'll come back in two days to start the work, or how was it decided when you were going to start the work? A It's my mother. It's kind of a free You know, it isn't like I've got to show up for work at 10:00 o'clock. It wasn't really decided. I showed up at my own accord and began to work. Q That's all I'm asking you. A And then I Q That's fine. So you showed up when you wanted to, right? A Yes. Q Okay. So there wasn't any preset day that you were going to start the work?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	probably over 3 inches in diameter. Q Okay. Fair enough. Let me ask that then, just it sounds like you have some understanding. Of the two trees, how many trees would you say were about 3 inches in diameter on both trees? A How many branches? Q Were 3 inches in diameter at one side or one end? A Between the two trees? Q Yep. A Six. Q Okay. A The lowermost were the thickest. Q And were you going to start at the bottom and go up or start at the top and go down? A Start at the bottom and go up. Q Okay. So if the first day of work And that was the day Paul was injured, the first day of work, right? A No. The first day of work that I performed

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3	1	Q All right. Hold on. You're going too fast	1	
4 course. 5 up two days after speaking to your parents to work so that would have been the day before Paul's accident? 7 A Yes. 8 Q Okay. So that would have been the 27th? 9 A Yes. It was preparatory work, you know 10 Q I understand that, but I want to go step by the step. So on June 27 you show up at your parents' 11 step. So on June 27 you show up at your parents' 12 house? 13 A Yes. 14 Q Which is two days after you first talk to them about this and you showed up to do the 16 preparatory work? 15 them about this and you showed up to do the 16 preparatory work? 16 what work you were going to do on your parents' house 17 A Yes. 18 Q Okay. And how long were you on their 19 property that day, on the 27th? 21 A Yes. 21 Q And what did you do during that four hours on 22 the 27th? 22 the 27th? 23 A I trimmed branches up to about 40 feet on both trees. 25 the 27th? 26 A Up. From the bottom going up. 27 A Yes. 3 Q You've got to let me We've got to go back 4 and forth with this because I'm not going to 40 of the times off of those two trees on 3 June 27th? 3 Q Correct? 4 A Yes. 10 Q And they were now all on the ground, those 11 limbs? 11 Q Ares. 12 A Yes. 13 Q Correct? 14 Q Wh? 15 Q And was Paul home? 16 A Yes. 17 Q And did you say, Hey, I'm cutting some trees when the accidence in the property to help me clean up the brush 11 or Very Paus and the property to help me clean up the brush 11 or Very Foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pretty much figure out it 20 every foot or so, you can pr	2	so	2	Q Okay.
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6 that would have been the day before Paul's accident? 7 A Yes. 8 Q Okay. So that would have been the 27th? 9 A Yes. It was preparatory work, you know 10 Q I understand that, but I want to go step by 11 step. So on June 27 you show up at your parents' 12 house? 11 A Yes. 12 house? 13 A Yes. 14 Q Which is two days after you first talk to 15 them about this and you showed up to do the 16 preparatory work? 16 preparatory work? 17 A Yes. 18 Q Okay. And how long were you on their 17 A Yes. 19 Property that day, on the 27th? 20 A Four hours. 21 Q And what did you do during that four hours on 21 the 27th? 22 A I I trimmed branches up to about 40 feet on 24 both trees. 25 A I I rimmed branches up to about 40 feet on 24 both trees. 26 A Up. From the bottom going up. 3 Q You've got to let me - We've got to go back 4 and forth with this because I'm not going to 5 understand you. You're saying from the ground up 4 40 feet high you trimmed all the trees of of those 5 two trees - all the branches off those two trees on 3 June 27th? 20 A Yes. 21 Q And what did you do during that four hours on 24 the 27th? 22 A Up. From the bottom going up. 3 Q You've got to let me - We've got to go back 4 and forth with this because I'm not going to 5 understand you. You're saying from the ground up 4 40 feet high you trimmed all the trees of of those 5 two trees - all the branches off those two trees on 8 June 27th? 24 A Yes. 25 Q And they were now all on the ground, those 11 limbs? 26 A Yes. 27 Q And did you say, Hey, I'm cutting some trees 6 down at my parents', do you want to help clean some of 9 it up? 31 A Yes. 32 A Yes. 33 Q Correct? 34 A Yes. 35 A I wonthly in the property of the pre clean up the brush 1 Fur to you be more like hundreds. 36 A Yes. 37 Q And was paul home? 38 A Yes. 39 A Yes. 30 Q Okay. Varying sizes? 31 A Yes. 31 A Own, my assumption, you can correct me If I'm 7 wrong, but at least that conversation at Paul's house where 1 help in medial with what was already cut? 39 A Yesh. 30 Q Okay. Varying sizes? 31 A Yesh. 32	4	Q let's slow down a little bit. You showed	4	course.
7	5	up two days after speaking to your parents to work so	5	Q Okay. And did you work by yourself on that
8 Q So Paul was not on the property on that day, 9 correct? 10 Q I understand that, but I want to go step by 11 step. So on June 27 you show up at your parents' 12 house? 13 A Yes. 14 Q Which is two days after you first talk to 15 them about this and you showed up to do the 16 preparatory work? 17 A Yes. 18 Q Okay. And how long were you on their 19 property that day, on the 27th? 19 A Four hours. 21 Q And what did you do during that four hours on 21 the 27th? 22 A I trimmed branches up to about 40 feet on 24 both trees. 25 Yes 26 A Up. From the bottom going up. 27 A Ves. 28 A Up. From the bottom going up. 28 A Up. From the bottom going up. 29 A Yes. 20 Q And what list because I'm not going to 20 Understand you. You're saying from the ground up 21 do feet high you trimmed all the trees off of those 25 two trees all the branches off those two trees on 26 June 27th? 27 A Yes. 28 A Yes. 29 A Yes. 30 Q Correct? 31 Q Ocorrect? 32 A Yes. 33 Q Correct? 34 A Yes. 35 Q Hundredds of limbs? 46 A Yes. 47 A Yes. 48 A Yes. 49 Correct. 40 A Correct. 41 Q By the time you were working on the property on hat day, or on the 27th; 20 June 27th, 2011, did Paul know the work you were going to do on your parents' house with the work you were going to do on your parents' house with these trees in June? 40 A Of the 28th I had made my travels to my mother's house after doing the preparatory work on the 27th; and I figured that Paul, since he was sitting 21 idle and unemployed and we worked together on trees 22 before, that he would possibly want tog jive a hand in 4 helping me to get rid of the scrub that was already on 24 the 27th? 50 Q Up? 51 Q Up? 52 A Ves. 53 Q Vor've got to let me We've got to go back 4 and forth with this because I'm not going up. 54 Of eet high you trimmed all the trees off of those 4 for the scrub that was already on 24 the 27th he would possibly want tog jive a hand in 4 helping me to get rid of the scrub that was already on 25 it up? 54 A Yes. 55 O A A Yes. 56 A Yes. 57 Wo trees all the branches off th	6	that would have been the day before Paul's accident?	6	day, the 27th?
9 A Yes. It was preparatory work, you know 10 Q I understand that, but I want to go step by 11 step. So on June 27 you show up at your parents' 12 house? 13 A Yes. 14 Q Which is two days after you first talk to 15 them about this and you showed up to do the 16 preparatory work? 17 A Yes. 18 Q Okay. And how long were you on their 19 property that day, on the 27th? 19 A Four hours. 10 Q And what did you do during that four hours on 10 the 27th? 11 Q Up? 12 A Up. From the bottom going up. 13 A Up. From the bottom going up. 14 Q Up? 15 Q And work you trimmed all the trees off of those 16 understand you. You're saying from the ground up 17 A Yes. 18 Q Orand they were now all on the ground, those 18 A Yes. 19 Q And they were now all on the ground, those 19 A Yes. 10 Q And they were now all on the ground, those 10 Q And they were now all on the ground, those 11 Imbs? 12 A Yes. 13 A Yes. 14 Q Up? 15 Q And was Paul home? 16 A Yes. 17 Q Up? 18 A Yes. 18 Q Orrect? 19 A Yes. 10 Q And they were now all on the ground, those 10 Q And they were now all on the ground, those 11 Imbs? 12 A Yes. 13 Q Correct? 14 A Yes. 15 Q And was Paul home? 16 A Yes. 17 Q Like 30, something like that? 18 A I would say more than that. You're talking 19 about 40 or 50 feet and if a pine tree has a limb at every foot or so, you can pretty much figure out it probably would be more like hundreds. 15 Q Okay. Varying sizes? 16 A Yes. 17 Q Okay. Varying sizes? 18 A On what did you do during that four hours on the ground up sup. 29 A Yesh. 20 Q Okay. Varying sizes? 20 Q Hundreds of limbs? 21 A Yesh. 22 Q Okay. Varying sizes? 21 A Yesh. 22 Q Okay. Varying sizes? 22 Q Okay. Varying sizes? 23 A Yesh. 24 Correct? 25 Q Okay. Varying sizes? 26 Vere foot or so, you can pretty much figure out it probably would be more like hundreds. 29 Q Okay. Varying sizes? 20 Q Hundreds of limbs? 20 Q Okay. Varying sizes? 21 A Yesh. 22 Q Okay. Varying sizes?	7	A Yes.	7	A Yes.
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13	11	step. So on June 27 you show up at your parents'	11	Q By the time you were working on the property
14	12	house?	12	on June 27th, 2011, did Paul know the work you were
15 them about this and you showed up to do the 16 preparatory work? 17 A Yes. 18 Q Okay. And how long were you on their 19 property that day, on the 27th? 20 A Four hours. 21 Q And what did you do during that four hours on 22 the 27th? 23 A I trimmed branches up to about 40 feet on 24 both trees. 25 before, that he would possibly want to give a hand in 26 helping me to get rind of the scrub that was already on 27 before the thigh you trimmed all the trees off of those 28 June 27th? 29 A Yes. 20 And they were now all on the ground, those 29 I understand you. You're saying from the ground, those 30 Q And they were now all on the ground, those 31 Q Correct? 32 A Yes. 33 Q Correct? 34 A Yes. 35 C And they were now all on the ground, those 36 June 27th? 37 Q Like 30, something like that? 38 A I would say more than that. You're talking 39 about 40 or 50 feet and if a pine tree has a limb at every foot or so, you can pretty much figure out it 20 Q Nay. Varying sizes? 20 A Yeah. 21 Q Okay. Varying sizes? 21 Vand was Paul hom (you preparatory work on the what was airready on the ground in the ground up 40 A Yes. 41 Q Okay. Did you say anything else differently 42 than what I've just said? 43 A No, basically would you like to give a hand 44 at my mother's property to help me clean up the brush on the ground it 45 Q Like 30, something like that? 46 A I don't know. 47 Q Like 30, something like that? 48 A Yes. 49 A Yes. 40 Q Okay. Varying sizes? 40 Varying sizes? 41 A Yes. 42 Q Okay. 41 Carrect me if I'm 42 Varying sizes? 41 A Yes. 42 Q Okay. 43 A Yesh. 44 Yes. 45 Q Okay. Varying sizes? 45 Varying sizes? 46 Varying sizes? 47 Varying sizes? 48 A Our intentions that day were not to take the trees down; it was to clean up the brush on the ground trees down; it was to clean up the brush on the ground trees down; it was to clean up the brush on the ground trees down; it was to clean up the brush on the ground trees. 49 Okay. Varying sizes?	13	A Yes.	13	doing?
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	24	Q Okay. Varying sizes?	24	trees down; it was to clean up the brush on the ground

1 itself that I already, cut the day before. 2 O Way your intention on hat day, the 28th, to 3 do any use of the chain saw? 4 A Yes. 5 Q Okay. You were going to cut up the limbs 6 that were already on the ground? 7 A Yes. 8 Q Had you begun to cut any of the limbs on the 9 ground the day before? 10 A The larger ones I had already cut on my own 11 into sections. 11 O Na The larger ones I had already cut on my own 11 into sections. 12 Q On the 27th? 13 A On the 27th, yesh. 14 Q Okay. 15 A And then realized I'm going to need help. 16 Q Okay. 17 A You know, there's a lot here. 18 Q So the 27th now, the four-hour work you. 19 A Yesh. 20 Q - the four-hour work you did on the 27th 21 included trimming up 40 feet on each tree and then 22 trimming up some of the larger limbs that are on the 23 ground now cutting them up? 24 A Yes. 25 Q Okay. Then you get to the 28th and realize 2 this is a pretty big amount of work to do, you could 3 use some help? 4 A Yes. 5 Q Okay. And what specific task did you expect 6 before, right? 7 A Yes. 6 Do Kay. And what specific task did you expect 7 Paul would be needed to do at your parents' house when 8 you user to Paul's house to talk to him, you didn't sound like to cut it up for firewood or just to get— 10 Q Okay. Then you get to the 28th and realize 11 talk details, you just said, Hey, Paul, I need some 12 you spoke to him that marming before going to the 13 house of the day before going to the 14 house? 15 Q Okay. And what specific task did you expect 16 Paul would be needed to do at your parents' house when 17 you spoke to him that marming before going to the 18 house? 19 A There was really no outline. I just simply 10 went to a lifend's house and asked him if he'd like to 10 Q Okay. You were going to be the one to use 18 he house? 19 A The actual limbs, yes. 20 Q And did he ever use the chain saw the day? 21 Q A No. 22 Q A No. 23 Q Okay. You were going to be the one to use 24 the chain saw? 25 Q A No. 26 Q Okay. And what was your were going to be the one to use 27 the thin the part	1	itself that I already cut the day before	1	A Correct he did not use the shain saw on the
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24 never used a chain saw? 24 were going to pay him anything? I don't know. 90 92			22	
90 92	23		23	
	24		24	
		90		

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1	A Equal to what I was being paid, \$15 an hour.	1	kind of time frame that we can agree on even though
2	Q Oh, so your parents were going to pay now	2	we're not sure just so that we can do the
3	both of you \$15 an hour?	3	chronological order of things here. So if we assume
4	A I was assuming that they would.	4	that and, again, I know this is just an assumption
5	Q Okay. Did they ever agree to before Paul's	5	but just for the purposes of figuring out when things
6	accident?	6	happened, if we assume you arrived at 11:00 and Paul
7	A No.	7	arrived at 11:30, okay?
8	Q Okay. Had you ever talked to Paul about that	8	A Mm-hmm.
9	arrangement before his accident?	9	Q All right?
10	A No.	10	A Yes.
11	Q Okay. That was just your kind of your	11	Q How soon after Paul arrived at 11:30 would
12	A Yeah, I was going to	12	his accident have occurred?
13	Q Hold on. Hold on. Let me finish the	13	A I believe about an hour.
14	question. That was just your kind of own assumption?	14	Q So if he arrived at If Paul arrived at
15	A Yes.	15	11:30, his accident happened around 12:30; fair
16	Q Okay. Did Paul leave with you to go to your	16	enough?
17	parents' house or did he come at a different time in a	17	A Yes. Or if arriving at 10:30, the accident
18	different vehicle?	18	happened at 11:30.
19	A He came about a half-hour after I had asked	19	Q I get it. I get it. We can do that, I'm
20	him to in his vehicle. Could have been more.	20	just I want to get the chronological time frame.
21	Q Okay.	21	So if we assume you get there at 11:00, Paul got there
22	A Somewhere between a half-hour and an hour	22	at 11:30, his accident happened around 12:30; fair
23	before he arrived.	23	enough?
24	Q Fair enough. What time did you arrive at	24	A Yes.
	93		95
1	your parents' on the day of Paul's accident on the	1	Q Okay. And when Paul's accident occurred, he
2	28th?	2	was in the midst of helping you cut up these trees,
3	A 10:00, 11:00 o'clock. Before noon.	3	right?
4	Q Okay.	4	A Yes.
5	A That's the best I can recollect.	5	Q Okay. Other than you and Were you also in
6	Q Okay. And how long did you anticipate it was	6	the midst of cutting down helping cut up the trees?
7	going to require both you two to cut up these trees as	7	A Yes, I was Yes, when he showed up, I was
8	you said completely?	8	already in the process of working.
9	A I have no	9	Q All right. So when Paul's accident occurred,
10	Q These limbs. I'm sorry.	10	both of you were working together to cut up these
11	A I had no estimate in my mind or need to	11	trees?
12	construct one. I just was going to work with a friend	12	A Yes.
13	and get the job done.	13	Q Was anyone else working with you two?
14	Q Okay. Were you expecting, though, that it	14	A No.
15	would be done that day?	15	Q Was anyone else watching you two?
16	A I was hoping. I wasn't expecting.	16	A No.
17	Q Okay. Okay. So if you arrived from 10:00 to	17	Q Were your parents in or out of the house
18	11:00 sometime that day of Paul's accident, you're	18	during the time that Paul had arrived up to the time
19	saying Paul would arrive somewhere around 10:30 to	19	of his injury?
20	11:30?	20	A They were in the house.
21	A Yes.	21	Q Okay. Do you know if your parents even knew
22	Q And he arrived alone in his car?	22	Paul was over?
23	A Yes.	23	A Yes, they did because when I arrived I told
24	Q Okay. And we're going to have to use some	24	them that Paul would be coming over to help me.
	94		96

1	Q Okay. And that's fine but that's not quite	1	A Paul's not a drinker to my knowledge, and I
2	what I was asking. Do you know if your parents knew	2	wouldn't know about any prescribed drugs because I'm
3	he was actually on the property at the time of the	3	not him.
4	accident?	4	Q Okay. Did Paul seem to be acting normal
5	A Yes, they did know that he was on the	5	leading up to the time of his accident?
6	property.	6	A Yes.
7	Q How did they know that?	7	Q Were you having any internal stressors or any
8	A Because his vehicle was parked outside and	8	problems internally for you at the time of this?
9	they could visually see that his vehicle was there.	9	A No.
10	Q Okay. And they can connect the dots; I get	10	Q Okay. Were your parents keeping any type of
11	it.	11	watch over the work you were doing to kind of see how
12	A They see him. Okay. Sorry.	12	things progressed?
13	Q I can't talk while you're talking. Let me	13	A No.
14	A I know.	14	Q Okay. So the from the beginning to the
15	Q My question was, at the time of Paul's	15	end, the work that was being done by you to cut the
16	accident do you know if your parents were aware that	16	trees up was done under your own supervision, under
17	he was on their property? Even they could have looked	17	your own control?
18	out and saw the car, I get it, but do you know if they	18	A Under my supervision.
19	were aware?	19	Q Yeah. Was anybody telling you what to do and
20	A I don't know.	20	how to do it?
21	Q Okay. Do you know anyone that was aware Paul	21	A No.
22	was on your parents' property at the time of his	22	Q Were your parents in any way telling you how
23	accident other than you?	23	to do things as far as cutting up the trees?
24	A No, I do not know.	24	A No.
	97		99
1	Q Okay. Were there any visitors or witnesses	1	Q How you did it, the method and means for
2	to the work on the property at your parents' house for	2	cutting up the trees, was that done under by your
3	the hour Paul was there leading up and at the time of	3	own control and your own decisions?
4	his accident?	4	A By my own decisions.
5	A No.	5	Q Okay. The manner in which the work was being
6	Q Okay. So the only witnesses you're aware of	6	done at the time of this accident, was that done in
7	of the circumstances leading up to the accident and	7	the manner that you wanted it to be done?
8	Paul's accident itself, the only witnesses to that are	8	A Until Paul arrived.
9	you and Paul, right?	9	Q Okay. How about when Paul arrived, did he
10	A Correct.	10	change things?
11	Q Okay. All right. Now, I've got to ask a few	11	A He chose He chose to take up his own
12	questions that don't take it personally but these	12	technique or helping, and I went along with it because
13	are just questions we always ask in these depositions	13	we worked together in a good fashion for so many years
14	of witnesses, okay? So it's nothing against you, it's	14	previous to that.
15	just we always ask these.	15	Q Leading up to the time of his accident, okay,
16	Any alcohol to drink that day?	16	was Paul doing anything wrong working at the property?
17	A I don't drink alcohol.	17	A No.
18	Q Okay. Any medications?	18	Q Okay. Was he doing everything appropriately?
19	A None.	19	A It seemed so.
20	Q Any drugs anyway?	20	Q Okay. And did you have to criticize him or
21	A No.	21	instruct him to do things differently because you were
22	Q Any type of drugs?	22	not happy with the way Paul was doing his work leading
23	Paul, same question for Paul, if you	23	up to the time of his accident?
24	know, drugs, alcohol?	24	A No, I gave no instruction basically to him.
	98		100

1	Q You left it up to him to do the best for him	1	the photograph, where Paul was cut by the chain saw
2	and you did the best for you?	2	you were operating at the time of his accident on
3	A We've worked well together in the past.	3	June 28, 2011, on his body, where?
4	There was no need for instructions. It was a mutual	4	A Yes, exactly where.
5	understanding of two men working together.	5	Q Where?
6	Q Okay. But is my question correct, you left	6	A On his right forearm.
7	Paul to work appropriately under his own control and	7	Q Okay.
8	you were to work appropriately under your own	8	A (Indicating.)
9	control	9	Q Is that the only place he was cut?
10	A Yes.	10	A Yes.
11	Q correct?	11	Q Okay. I'm going to show you a photograph. I
12	A Yes.	12	just want to make sure it's the same injury that he
13	Q Okay. And leading up to the time of Paul's	13	talked about, okay?
14	accident, did you notice Paul doing anything unsafe or	14	MR. CALLAHAN: Can I take a look? Thanks.
15	wrong in your view?	15	BY MR. MAST:
16	A No.	16	Q We've got what's marked as Exhibits 2A, 2B,
17	Q Leading up to the time of the accident, did	17	2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J, okay?
18	you believe you were doing anything unsafe or wrong in	18	A Yes.
19	the process of the work leading up to Paul's accident?	19	Q These aren't all I'm going to ask you about
20	A No.	20	but the first page, 2A, does that appear to show his
21	Q Okay. When Paul was Well, Paul was	21	right arm and the scarring where he was cut by the
22	eventually cut by your chain saw, correct?	22	chain saw you were operating at the time of his
23	A Paul was cut by a chain saw.	23	accident?
24	Q A chain saw that you were using and	24	A Yes.
	101		103
1	operating, right?	1	Q Okay. Is that the only spot he was cut shown
		1	Q Okay: 15 that the only spot he was cat shown
2	A Correct.	2	in this photograph?
2	A Correct.	2	in this photograph?
2 3 4	A Correct. Q Okay. I said your chain saw and you're	2	in this photograph? A Yes.
2 3 4	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's	2 3 4	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I
2 3 4 5	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right?	2 3 4 5	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell?
2 3 4 5 6	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah.	2 3 4 5 6	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me.
2 3 4 5 6 7	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain	2 3 4 5 6 7	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one?
2 3 4 5 6 7 8	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of,	2 3 4 5 6 7 8	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah.
2 3 4 5 6 7 8	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of, correct?	2 3 4 5 6 7 8 9	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah. Q Okay. How about 2C, does that look like the
2 3 4 5 6 7 8 9	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of, correct? A Then that's what I'll agree to, yes.	2 3 4 5 6 7 8 9	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah. Q Okay. How about 2C, does that look like the same injury?
2 3 4 5 6 7 8 9 10	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of, correct? A Then that's what I'll agree to, yes. Q All right. So you're agreeing and accepting	2 3 4 5 6 7 8 9 10	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah. Q Okay. How about 2C, does that look like the same injury? A Yes, it does.
2 3 4 5 6 7 8 9 10 11	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of, correct? A Then that's what I'll agree to, yes. Q All right. So you're agreeing and accepting the fact that Paul was, during the process of working	2 3 4 5 6 7 8 9 10 11	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah. Q Okay. How about 2C, does that look like the same injury? A Yes, it does. Q 2D. If he has his hand down to his right, it
2 3 4 5 6 7 8 9 10 11 12 13	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of, correct? A Then that's what I'll agree to, yes. Q All right. So you're agreeing and accepting the fact that Paul was, during the process of working at your parents' house, cut by a chain saw while you	2 3 4 5 6 7 8 9 10 11 12 13	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah. Q Okay. How about 2C, does that look like the same injury? A Yes, it does. Q 2D. If he has his hand down to his right, it would be on the backside of the
2 3 4 5 6 7 8 9 10 11 12 13 14	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of, correct? A Then that's what I'll agree to, yes. Q All right. So you're agreeing and accepting the fact that Paul was, during the process of working at your parents' house, cut by a chain saw while you were holding the chain saw and while it was running, correct? A Yes.	2 3 4 5 6 7 8 9 10 11 12 13	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah. Q Okay. How about 2C, does that look like the same injury? A Yes, it does. Q 2D. If he has his hand down to his right, it would be on the backside of the A Yes. Q forearm, correct? A Yes.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A Correct. Q Okay. I said your chain saw and you're probably saying well, it wasn't my chain saw; that's what you're thinking, right? A That's correct, yeah. Q Okay. But it was When I meant your chain saw, I meant the chain saw you had control of, correct? A Then that's what I'll agree to, yes. Q All right. So you're agreeing and accepting the fact that Paul was, during the process of working at your parents' house, cut by a chain saw while you were holding the chain saw and while it was running, correct? A Yes. Q Okay. And Oh, here it is. I was looking	2 3 4 5 6 7 8 9 10 11 12 13 14 15	in this photograph? A Yes. Q Okay. And maybe you can't tell on 2B, but I think that's the same injury. Can you tell? A Sure looks good to me. Q Looks like the same one? A Yeah. Q Okay. How about 2C, does that look like the same injury? A Yes, it does. Q 2D. If he has his hand down to his right, it would be on the backside of the A Yes. Q forearm, correct?
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1	on June 28, 2011, right?	1	before in the past.
2	A Yes, about a half an hour.	2	Q Okay. But that's not my question, okay?
3	Q And by that time, when Paul arrived at your	3	We're hoping that he's going to hold the branch you're
4	parents' house, you had already been working?	4	going to end up cutting, right, the same branch?
5	A Yes.	5	A I never intended him to hold the branch.
6	Q Okay. So you had the chain saw in hand and	6	Q Okay.
7	you were cutting things or not?	7	A He chose to hold the branches.
8	A No.	8	Q All right. So you're telling me Well,
9	Q What were you doing?	9	what work were you wanting Paul to help you with then?
10	A I was sorting.	10	A There was moving material, there was stacking
11	Q You were what?	11	wood, there was raking the ground.
12	A Sorting the branches. When you have pine	12	Q Moving material, stacking what?
13	trees, they get snaggled, snarled, and tangled	13	A Stacking wood.
14	together. I was placing them so that they could be	14	Q Okay.
15	fed in a safe manner as, you know, to lift it up and	15	A And raking.
16	to work with it.	16	Q Was there a rake available?
17	Q Okay. What was the manner which you wanted	17	A Was there a rake available?
18	to use to Well, strike that.	18	Q Mm-hmm.
19	Having Paul come and assist you, did you	19	A Yes.
20	have an expected manner in which you preferred to have	20	Q Okay. Stacking wood meaning after it's all
21	him assist you?	21	cut up into little foot pieces, you would stack them
22	A No.	22	up
23	Q So you just left it up to him to decide?	23	A Into 18 inch pieces.
24	A Well, he showed up and as I had said, we just	24	Q to store them, correct?
	105		107
1	worked well together. We understood one another.	1	A Into 18 inch pieces and then stack, yeah.
2	Q But my question was	2	Q You're doing fine but please let me finish my
3	A I didn't specifically have any expectations	3	question before you get to the answer, okay, because
4	or did I direct him to do anything.	4	we're going to have a hard time if we don't have
5	Q So my question then was, did you just leave	5	separation, okay? So maybe give me one beat after I'm
6	it up to him to decide what to do and how to help you	6	done and then give me your answer, okay?
7	or did you have to tell him, Hey, hold that branch.	7	Moving material meaning what?
8	I'll cut that branch?	8	A Once it's cut, to stack it and then to clean
9	A I left it up to him.	9	up the area where we were working.
10	Q So how would he know what branch you wanted	10	Q All right. So moving material, stacking the
11	to cut unless you told him what branch to cut?	11	wood, and raking up the debris, those were the three
12	A He didn't cut. He held.	12	things you envisioned Paul was going to assist you
13	Q How did he I'm sorry. I didn't say it	13	with?
14	right. How did he know what branch to hold unless you	14	A Yes.
15	told him what branch to hold?	15	Q Okay. Before Paul arrived at the property,
16	A I didn't tell him. He chose	16	were you envisioning that he was going to help hold
17	Q How would he know then is the question.	17	some of the branches so you could cut them?
18	A You'd have to ask him. I don't know.	18	A No.
19	Q Well, was he supposed to just guess what	19	Q That was not even in the back of your mind?
20	branch to hold on to?	20	A No.
21	A There was no guessing, but	21	Q Okay. Did you not want Paul to help hold the
22	Q How was he going to know then?	22	branches or you just didn't know if he was going to or
23	A Because we've done this before. We've	23	not?
24	watched each other work. We've worked with tools	24	A I didn't know that he was going to do that.
	106		108

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1 A No. 3 Q Did you wank him to hold the branches or did you not 's care?' 6 A It wasn't a matter of not caring. He chose to a duth then we went with it. 8 Q Okay. So was that appropriate for you that 9 he hold the branches for you that? 9 he hold the branches for you than? 10 A It seemed to be appropriate at the time. 11 Q Okay. Tim just trying to find out whether he 12 was holding these branches			1	
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would tell him not to do that, I assume, right? A I suppose, yeah. A Yes. Did you ever have to tell Paul not to do something before he got hurt and got cut by the chain saw? A No. Q Okay. So up to the time that Paul got hurt, the was doing the work in a way that was okay to you, Correct? A Yeah. A Yeah. Did you ever have to tell Paul not to do something before he got hurt and got cut by the chain the was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The was doing the work in a way that was okay to you, The would have told him not to do that, The was doing something inappropriate prior or at the time he The would have told him not to do something unsafe, The was doing something inappropriate prior or at the time he The would have told him not to do something unsafe, The was doing something inappropriate prior or at the time he The would have told him not to do something unsafe, The was doing something inappropriate, I don't under The was doing something inappropriate, I don't would have told him not to do something unsafe, The was doing something inappropriate, I don't under The would have told him not to do something unsafe, The was doing something unsafe, The w	10	${\sf Q} {\sf I}$ understand. This is what ${\sf I'm}$ saying, if	10	A No.
13 A I suppose, yeah. 14 Q Okay. 15 A Yes. 16 Q Did you ever have to tell Paul not to do 17 something before he got hurt and got cut by the chain 18 saw? 19 A No. 19 A That wasn't even really considered. It 20 Q Okay. So up to the time that Paul got hurt, 21 he was doing the work in a way that was okay to you, 22 correct? 23 A Yeah. 24 Q Okay. 15 A Again, inappropriate, I don't under 16 Q Okay. If he was doing something unsafe, you 17 would have told him not to do something unsafe, would have told him not to do something unsafe, and the work in a way that was okay to you, 26 Usay. So up to the time that Paul got hurt, 27 Usay. 28 Did you would have told him not to do that, 29 Okay. If he was doing something unsafe, would have told him not to do that, 20 Usay. If he was doing something unsafe, would have told him not to do that, 20 Usay. If he was doing something unsafe, would have told him not to do that, 29 Usay. If he was doing something unsafe, would have told him not to do that, 20 Usay. If he was doing something unsafe, would have told him not to do that, 20 Usay. If he was doing something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have told him not to do something unsafe, would have	11	Paul did something you didn't want him to do, you	11	Q Okay. Had he been doing Had Paul been
14 Q Okay. 15 A Yes. 16 Q Did you ever have to tell Paul not to do 17 something before he got hurt and got cut by the chain 18 saw? 19 A No. 10 Q Okay. So up to the time that Paul got hurt, 21 he was doing the work in a way that was okay to you, 22 correct? 23 A Yeah. 24 Q Okay. 14 correct? 15 A Again, inappropriate, I don't under 16 Q Okay. If he was doing something unsafe, you 17 would have told him not to do something unsafe, 18 correct? 19 A That wasn't even really considered. It 20 wasn't I'm honestly telling you that it wasn't a 21 thought in my mind at the time. 22 Q I'm not asking you if you considered it. If 23 you can say Hold on. Wait. You stopped. Let me 24 go. If you don't know, you can just say I don't know	12	would tell him not to do that, I assume, right?	12	doing something inappropriate prior or at the time he
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22 correct? 22 Q I'm not asking you if you considered it. If 23 A Yeah. 24 Q Okay. 29 Q I'm not asking you if you considered it. If 20 you can say Hold on. Wait. You stopped. Let me 21 go. If you don't know, you can just say I don't know	20	Q Okay. So up to the time that Paul got hurt,	20	wasn't I'm honestly telling you that it wasn't a
23 A Yeah. 23 you can say Hold on. Wait. You stopped. Let me 24 Q Okay. 24 go. If you don't know, you can just say I don't know	21	he was doing the work in a way that was okay to you,	21	thought in my mind at the time.
24 Q Okay. 24 go. If you don't know, you can just say I don't know	22	correct?	22	Q I'm not asking you if you considered it. If
	23	A Yeah.	23	
110 112	24	Q Okay.	24	go. If you don't know, you can just say I don't know
		110		112

	unsafe, would you have told him or directed him not to do something unsafe? A Yes. Q Okay. That's all I'm asking. So your	3 4	and says, Can I help, right? A How may I help.
4	A Yes.		
		1	O Hannard Thala Cl
5	Q Okay. That's all I'm asking. So your	-	Q How may I help. Okay.
		5	And what do you say?
6	testimony is that you never told Paul once what to do	6	A I said, Well, I'm sorting branches. I guess
7	prior to his injury on that property, correct?	7	you can start by doing that.
8	MR. CALLAHAN: I just object as to form of the	8	Q Okay. So you had him start sorting branches
9	question.	9	with you then?
10	BY MR. MAST:	10	A Yes.
11	Q Is that correct or not?	11	Q Okay. And how long was he sorting branches
12	MR. CALLAHAN: You may answer.	12	with you?
13	BY THE WITNESS:	13	A Maybe another 15 minutes after I had spent
14	A Ask the question again, please.	14	some time doing it myself.
15	Q My under Strike that.	15	Q All right. So Got you. So now we're at
16	Did you ever tell Paul what to do or how	16	about and I know these are just guesstimates, but I
17	to do it before he got hurt by being cut by the chain	17	just want to get a chronology. We're at about 11:45
	saw on the date of his accident	18	now, okay?
19	A No, I did not.	19	A Mm-hmm.
20	Q at your parents' house? Huh?	20	Q Yes?
21	A No, I did not.	21	A Yes.
22	Q Never told him what to do?	22	Q What happens next?
23	A No.	23	A The piles were sorted, time went by and chose
24	Q Never told him how to do it?	24	to start cutting the branches up. At first we had
	113		115
1	A No.	1	placed them on these horses.
2	Q Okay. So when he first arrived at, let's	2	Q Well, wait. You're going into detail now. I
3	say, 11:30, what was the first thing he did?	3	want to go step by step. The next step; that's all I
4	A He was watching me sort the branches and	4	asked.
5	said, What can I do to help? And I said	5	A Okay.
6	Q Let's go step by step. Okay. So he was	6	Q The next step was to start cutting the
7	watching you sort branches, right?	7	branches up?
8	A Yes.	8	A Yes.
9	Q Okay. I want to go just step by step now	9	Q Okay. Who decided to start cutting the
10	because we're going to get toward the accident and I	10	branches up? Was that your decision?
11	don't want to go too fast, okay?	11	A Yes.
12	A Okay.	12	Q Okay. So after the piles were sorted, you
13	Q So let's go step by step here. He got there.	13	said, Let's start cutting the branches, right?
14	You were sorting branches. You mean putting them in	14	A Yes.
15	piles?	15	Q Okay. And did he say, Can I help?
16	A No. They were already in a pile and as I had	16	A He was there to help. I don't recollect if
	mentioned earlier, pine, when you cut it, it needs to	17	he specifically said
	be addressed or orientated. If you put branches like	18	Q Okay.
	this, it's going to pull out unsafely. So if you	19	A that.
	stack them with the cut ends like this, you can easily	20	Q So when you started cutting the branches,
21	pull them off one another.	21	what was Paul's task during the cutting of the
22	Q Okay.	22	branches?
23	A That's why I was sorting, so that it would	23	A To put them on the horses.
24	go	24	Q The sawhorses?
	114	<u> </u>	Page 113 to 116 of 214

1	A Yeah.	1	A Top down.
2	Q How many sawhorses do you have?	2	Q Okay. So let me say it again then. Instead
3	A There was two there.	3	of using these sawhorses, you're saying Paul took it
4	Q And how far apart were they spaced?	4	on his own to hold the branches with his left arm up
5	A Four feet.	5	and the branches down to the ground and you would cut
6	Q And were you going to be putting them on the	6	from the top down to the ground each branch, right?
7	sawhorses too or was that only what Paul was going to	7	A Yes.
8	do?	8	Q And that was Paul's chosen way that he was
9	A That's what Paul was going to do, remove them	9	going to hold the branches?
10	from the sorted piles onto the sawhorses.	10	A Yes.
11	Q And when he puts them on the sawhorses, you	11	Q Did you in any way voice any objection to him
12	were going to cut them up with a chain saw?	12	doing it that way?
13	A Yes.	13	A No.
14	Q Okay. Who told Paul or who gave Paul that	14	Q Okay. And for how long a period of time were
15	job task? Was that you?	15	you cutting these branches in that manner where Paul
16	A Yes.	16	was holding them up with his left arm to the ground
17	Q Okay. So the next step, piles are sorted	17	and you were cutting them from the top down?
18	now, let's start cutting the branches. Paul, why	18	A 20 minutes.
19	don't you put the branches on top of the sawhorses and	19	Q Okay. So now we're at about 12:20, if my
20	me, meaning you, I'll cut these branches on the	20	math is correct. Is that about right?
21	sawhorses up with the chain saw. That's the what's	21	MR. BARCH: Hans?
22	going on, right?	22	MR. MAST: Yes.
23	A Yes.	23	MR. BARCH: Can I just ask, are these little
24	Q Okay. How long did that occur?	24	horizontal cuts or are we talking
	117		119
1	A Ten minutes.	1	MR. MAST: Well, I was going to get to that. I
2	Q All right. So we're getting close now to	2	want to first get the time line down. Yeah, we'll get
3	noon. What happens next?	3	to that, but I will ask it now then.
4	A Paul opted to stand them up.	4	BY MR. MAST:
5	Q Wait. Wait. Say that again. I missed that.	5	Q So Paul is holding the limb the branches
6	A Paul opted to stand them up instead of	6	up with his left arm over his head, the branch is now
7	working on the sawhorses, and I just continued	7	from his left arm and hand going down to the ground
8	cutting. It seemed like it was okay to do.	8	and you were starting up below his hand and cutting
9	Q Okay. Fair enough. So instead of putting	9	every 18 inches?
10	the branches across the two sawhorses, you're saying	10	A No, I was cutting the branches off of the
11	Paul on his own opted to stand them up aside of the	11	limb.
12	sawhorses?	12	Q Got it. So you were cutting vertically up
13	A Yes.	13	and down. While he was holding the tree vertically,
14	Q So it would be leaning up against just one	14	you were cutting the horizontal branches in a vertical
15	sawhorse?	15	fashion
16	A No, freestanding large end.	16	A Yes.
17	Q Oh, you mean and hold them with his hand?	17	Q from a top to a bottom?
18	A Hold them with his hand. He was holding them	18	A Yes.
19	with his left hand to make a point of that.	19	Q And I imagine each branch has probably 30,
20	Q Got you. Got you. Okay. So instead of	20	40, 50 little
21	using the sawhorses, you're saying Paul decided to	21	A I would
22	hold them by himself with his left arm up while you	22	Q branches off of it?
23	cut them from ground up; is that right? I need an	23	A I would say
24	answer.	24	Q Hold on. Let me finish the question.
1		1	400
	118		120

		1	
1	A Okay. Sorry.	1	and it just nicked his arm.
2	Q Let me say it again now. Every branch or	2	Q Okay.
3	limb or whatever that Paul's holding above his head	3	A And that's that's what happened.
4	with his left arm, I'm assuming those branches, if	4	Q Fair enough. Now, that's the one that sounds
5	they're reaching to the ground, are going to have 30	5	like where his accident happened, right?
6	to 40 little branches coming off of it horizontally,	6	A Yes.
7	correct?	7	Q Okay. Because I see. Okay. Because if
8	A Not that many.	8	Paul arrived at 11:30, you're saying his accident
9	Q Okay. Maybe 20 then?	9	happened around 12:30 which would be about the time
10	A Or less.	10	where we reached going through the task by task,
11	Q Okay. So those are the 20 little branches	11	right?
12	coming off of that branch that Paul was holding	12	A Yes.
13	vertically that you were cutting?	13	Q I got you. Okay. So were you still working
14	A Yes.	14	at the time of Paul's injury with being cut by the
15	Q And then the branch would be left bare branch	15	chain saw in the manner of where he's holding the
16	from his hand to the ground?	16	limbs up the branches up with his left hand over
17	A Yes.	17	his head and you're cutting the horizontal branches
18	Q And then what would he do with that branch	18	off of that branch? You're still doing that at the
19	then, set it on the sawhorses to be cut up?	19	time of his injury?
20	A Set it off to the side. We never got to	20	A That's what we were doing at the time of the
21	actually cutting up the whole load of wood because of	21	injury.
22	what	22	Q Because you said you only did that for
23	Q Happened?	23	20 minutes and then you did something and I thought
24	A happened, yeah.	24	you were going to say you were doing something
	121		123
1	Q His injury?	1	differently. You were still doing that at the time of
2	A Yes.	2	his injury, right?
3	Q Okay. So for 20 minutes you and Paul worked	3	A We stopped as soon as he was injured.
4	where he would hold a limb up with his left hand over	4	Q Okay. Let me ask it this way: Once Paul
5	his head and the branch would be vertically down to	5	opted to hold the branches up with his left hand
6	the ground and you would be cutting from top to bottom	6	instead of using the sawhorses and you started cutting
7	each of the little limbs, 20 or so, off of that branch	7	the limbs now off of that branch
8	he was holding?	8	A Yes.
9	A Correct.	9	Q and you said you did 25 to 30 of those
10	Q And how many separate branches did you do for	10	branches
11	that 20 minutes? How many separate branches did Paul	11	A Yes.
12	have to hold?	12	Q the last branch you did, is that the
13	A I'll estimate between 25 and 30.	13	branch that Paul was holding when he was hurt?
14	Q Okay. And then what happened after that	14	A Well, it was the last branch that we did
15	20 minutes of doing that work? What was next?	15	because he did get hurt.
16	A We arrived at a branch being held in the same	16	Q That's what I just said.
17	fashion that was a little flimsy and in making the	17	A Yeah, we just stopped.
18	first cut, that went well as the uppermost one, second	18	Q Let me say it again because I want
19	one and of course a pine, you know, they're left and	19	A Yes, I agree.
20	right so I'm not just cutting on this side. I'm over	20	Q Let me say it again.
21	here, over here, taking it down, taking it down. One	21	A Okay.
22	didn't go through; and at the same time I went to go	22	Q You gave an estimate of like for 20 minutes
23	make the second cut, he put his right hand down to	23	you were cutting these horizontal limbs off of a
24	support it so it wouldn't bow and it did go through	24	branch that Paul was holding overhead, remember that?
	122		124

1	A Yes.	1	giving estimates all along, but go ahead.
2	Q You said you did that for about 20 minutes.	2	BY MR. MAST:
3	A Yes.	3	Q All right. So under the estimates of time
4	Q And you did 25 to 30 separate branches,	4	that we're giving, Paul arrives around 11:30, you
5	right? Right?	5	start the type of work that Paul is holding the trees
6	A Estimating, yes.	6	up by his left hand overhead as opposed to using the
7	Q Okay. The last branch that you did in that	7	sawhorses around noon. You do that for about
8	fashion, is that the branch that Paul was holding when	8	20 minutes in your estimate and that's when he's
9	he was cut?	9	injured, correct?
10	A Yes.	10	A Yes.
11	Q Oh, okay. Because this is why I was a little	11	Q All right. So that last branch that Paul was
12	confused. You said at around 12:00, and I know we're	12	holding when he was injured, that's what I want to
13	just doing estimates on times, but you said around	13	talk about now. And that was a branch similar to the
14	12:00 you did for 20 minutes you cut those 25 to 30	14	25 or more before that, right
15	branches; so I thought there was something else you	15	A Yes.
16	were doing then after that by the time Paul got hurt,	16	Q that you were cutting, correct?
17	but that 20 minutes is inclusive of the time of his	17	A Yes.
18	injury then, right?	18	Q And you had cut these branches 25 to 30 times
19	A Yes.	19	without incident, without any problem, correct?
20	Q Okay. So really the time frame you gave me	20	A Yes.
21	from the time Paul arrived at 11:30 until his accident	21	Q And that Paul was holding the branches the
22	was more 50 minutes; does that sound about right?	22	same way in all those 25 to 30 times without incident,
23	A It's really hard to recollect the time frame	23	correct?
24	when it wasn't relative at the time. There was	24	A Yes.
	125		127
1	Q I understand that.	1	Q Okay. And they were all being held over
2	A Let me finish, please. There was no time	2	Paul's head if Paul's 5, 8, then they were probably
3	frame of getting the job done nor was I aware of the	3	what, maybe six and a half feet over his or six and
4	exact time that it happened because what was most	4	a half feet from the ground?
5	important at that time when it did happen was to get	5	A They varied in amount of debris on each limb
6	him to the hospital.	6	and height. As you go up a tree
7	Q I understand.	7	Q Okay.
8	A And the only time that And the only time	8	A the lengths diminish.
9	that I checked the clock is when we checked into the	9	Q So sometimes Paul is holding the branch
10	emergency room.	10	directly out?
11	Q I understand all that.	11	A Deviating between four and six
12	A Okay.	12	Q You've got to let me finish my question, and
13	Q That's not what my concern was. My concern	13	you can answer in any way you want but at least let me
14	was you gave me an hour after Paul arrived is when his	14	finish.
15	accident occurred but the time line we gave was only	15	So Paul might be holding some branches
16	50 minutes by the time his accident occurred.	16	out directly out from his chest, some over his head
17	A Did you say 50 minutes?	17	just varying depending on height
18	Q 50.	18	A Yes.
19	A Okay.	19	Q of the branch?
20	Q So I just want to make sure we're not missing	20	A Yes. Yes.
21	some other element of work that he was doing.	21	Q Okay. So anywhere from four feet off the
22	A No. No, we're not.	22	ground he might be holding a branch to six and a half
23	Q Okay.	23	feet to maybe seven feet?
24	MR. BARCH: I'm going to object because he's been	24	A No, not six and a half feet. I would say
1	126	1	128

1	somewhere between four and five feet.	1	was cutting in the crotches of them. He was holding
2	Q Okay.	2	it, and I would stay away from him cutting off and
3	A Somewhere in and around just right here.	3	I would not, like, cut towards the top, which is
4	Q Fair enough.	4	smaller, it's useless wood; we were just trying to get
5	A Yeah.	5	rid of the debris. So he would hold it and I would
6	Q So Paul is holding with his left arm or	6	start cutting like this and put it over there. Off
7	left hand out from his body extending out the branch	7	the pile
8	is from anywhere from four feet off the ground to five	8	Q I got you.
9	feet off the ground, correct?	9	A another one
10	A The point where he was clasping that limb,	10	Q I got you.
11	yes, would be four to five feet above the ground.	11	A stump down and hold it like that.
12	Q And then underneath where he's grasping is	12	Q I got you. So he is not cutting The base
13	where you're cutting?	13	of the branch that Paul's actually holding, you're not
14	A Correct.	14	cutting that?
15	Q The first cut that you're going to make is	15	A No.
16	the highest off the ground is how far under his hand?	16	Q You're cutting the stems or limbs that come
17	A A foot and a half, foot. So it really	17	off of that horizontally?
18	depe	18	A The sub limbs off the main limbs that were
19	Q All right. A foot and a half or a foot?	19	already removed.
20	A May I finish?	20	Q Is that correct?
21	Q Well, it's going to be best if you just	21	A Yes.
22	answer what I'm asking and not try to add on every	22	Q Okay. And the Although there might be
23	time.	23	limbs off of that branch all the way up to his hand,
24	A (Inaudible) sit here through that. I'm	24	you're starting 18 inches below his hand just to stay
	129		131
1	sorry.	1	away from his hand, right?
2	Q What's that?	2	A Yes. Yes.
3	A I'm sorry. It's just my character.	3	Q Okay. So when you're done cutting that
4	Q Well, that's fine. The question is this,	4	branch, there is still going to be some smaller limbs
5	he's holding these branches extending his arm out and	5	coming off of that branch at the top by his hand and
6	holding them four to five feet off the ground	6	that's okay, you can deal with it later?
7	depending on the height of the branch, right?	7	A Correct.
8	A Yes.	8	Q Okay. So after you're done cutting
9	Q Okay. And you are cutting the first cut	9	horizontally all those horiz Strike that.
10	about 18 inches below his hand, correct?	10	After you're done cutting vertically all
11	A Yes.	11	those horizontal limbs off of that branch, he puts the
12	Q That's the first cut, yes?	12	branch back and picks up another branch and you do
13	A Yes.	13	that 25 to 30 times before Paul's injury?
14	Q So that the branch that he's holding after	14	A Yes.
15	you cut it is going to be about 18 inches long, right?	15	Q Okay. The branch that Paul was holding when
16	The piece of wood that's in his hand after you make	16	he was injured.
17	your first cut is going to be 18 inches long?	17	A Yes.
18	A No. No, he was placing the whole limb if	18	Q Describe how high or off the ground he was
19	I may, I know she can't record this. There's your	19	holding that.
20	limb off your tree. There's a pile of them. Stump	20	A Five feet.
21	down, that's where I cut it, the larger portion down	21	Q Okay. And was it a branch like all the other
22	to the ground. He would hold the smaller portion	22	branches?
23	because on a pine tree they grow like this. If you	23	MR. CALLAHAN: Just object to form of the
24	don't know that, they grow upwards like that. So I	24	question.
	130		132

1	BY THE WITNESS:	1	A I'm waiting to see what
2	A By way of species?	2	Q I'm not expecting you You don't have to
3	Q No. Was it any different from any of the	3	follow my picture. I'm just saying if I'm
4	other 25 to 30 branches he had held previously?	4	A Well, I don't follow your description so I'm
5	A It may have been a smaller one that is by way	5	looking at the picture.
6	of diameter that he chose to hold up.	6	Q Okay. Well, I'm drawing a picture myself
7	Q This is what I'm asking. I'm not asking what	7	to
8	you might what might have happened. I'm asking	8	A Okay.
9	you, based upon you being there and I wasn't there,	9	Q demonstrate to you
10	was the branch that Paul was holding when he was	10	A I'll wait till you're done.
11	injured different in any way that you can tell that	11	Q No, I can demonstrate it to you. I don't
12	you recall than any of the 25 to 30 branches he had	12	care. You can look at it.
13	held previously without incident?	13	This is a branch and then it has all
14	A None of the branches were exactly the same.	14	these limbs coming off it in varying sizes, widths,
15	Q I understand that, but I	15	and heights, okay? Fair enough?
16	A I don't know how to answer the question then.	16	A No, it's not the description of what was
17	Q Well, let	17	being cut. That's why I
18	A The	18	Q All right. You describe what was being cut
19	Q Hold on. You answered it then. If you don't	19	then.
20	know how to answer it; you've answered it. So let me	20	A The description of a pine branch or a limb is
21	ask it a different way then. Other than every branch	21	that it starts at a certain diameter, whether it be
22	being a little different in size and thickness and	22	3 inches or 2 inches, and over its length, which is
23	amount of limbs off of it, is there anything unusual,	23	also varying, it diminishes to just pine needles.
24	anything necessarily different from that branch than	24	About increments of every and varying also between
	133		135
1	the other 25 to 30 branches?	1	6 and 12 inches are branches again that from the
1 2	the other 25 to 30 branches? A No.	1 2	6 and 12 inches are branches again that from the larger diameter where it was cut from the tree begin
2	A No.	2	larger diameter where it was cut from the tree begin
3	A No. Q Okay. And in appearance, the branch looked	2	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of
2 3 4	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just	2 3 4	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many
2 3 4 5	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct?	2 3 4 5	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay.
2 3 4 5 6	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes.	2 3 4 5 6	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many
2 3 4 5 6 7	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to	2 3 4 5 6 7	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the
2 3 4 5 6 7 8	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul	2 3 4 5 6 7 8	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were
2 3 4 5 6 7 8 9 10	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting?	2 3 4 5 6 7 8 9	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like.
2 3 4 5 6 7 8 9 10 11	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes.	2 3 4 5 6 7 8 9 10 11	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top?
2 3 4 5 6 7 8 9 10	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay.	2 3 4 5 6 7 8 9 10	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct.
2 3 4 5 6 7 8 9 10 11 12 13	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay.	2 3 4 5 6 7 8 9 10 11	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand?
2 3 4 5 6 7 8 9 10 11 12 13	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of	2 3 4 5 6 7 8 9 10 11 12 13	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes.
2 3 4 5 6 7 8 9 10 11 12 13	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his	2 3 4 5 6 7 8 9 10 11 12 13 14	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured? A Four.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No. Q Just to the side to the side of him?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured? A Four. Q Okay. So if I'm going to draw a picture of	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No. Q Just to the side to the side of him? A Just aside aside and away, yeah.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured? A Four. Q Okay. So if I'm going to draw a picture of the branch, okay, and we're assuming that's a five	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No. Q Just to the side to the side of him? A Just aside aside and away, yeah. Q Okay.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured? A Four. Q Okay. So if I'm going to draw a picture of the branch, okay, and we're assuming that's a five foot branch and it has limbs going all off it up and	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No. Q Just to the side to the side of him? A Just aside aside and away, yeah. Q Okay. A Standing away from it actually as you had
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured? A Four. Q Okay. So if I'm going to draw a picture of the branch, okay, and we're assuming that's a five foot branch and it has limbs going all off it up and down the branch, right? Right? Correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No. Q Just to the side to the side of him? A Just aside aside and away, yeah. Q Okay. A Standing away from it actually as you had physically shown it.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured? A Four. Q Okay. So if I'm going to draw a picture of the branch, okay, and we're assuming that's a five foot branch and it has limbs going all off it up and down the branch, right? Right? Correct? A (Nodding.)	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No. Q Just to the side to the side of him? A Just aside aside and away, yeah. Q Okay. A Standing away from it actually as you had physically shown it. Q All right. What you're saying is he's
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A No. Q Okay. And in appearance, the branch looked like any of the other 25 to 30 that you had cut just previously, correct? A Yes. Q Okay. And probably a similar number of a similar number of cuts off of this branch that Paul was holding when he was injured, you were going to have to make a similar number of cuts on that branch as to the other 25 to 30 branches you were cutting? A Generally, yes. Q Okay. A Okay. Q How many cuts were you able to make off of the branch that Paul was holding at the time of his injury before he got injured? A Four. Q Okay. So if I'm going to draw a picture of the branch, okay, and we're assuming that's a five foot branch and it has limbs going all off it up and down the branch, right? Right? Correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	larger diameter where it was cut from the tree begin to get lesser and lesser as you go towards the end of the branch. Q Okay. A There is a varying amount of how many branches are on there because no tree is exactly the same, so I was in conflict with what you were thinking Q Okay. Fair enough. A it looked like. Q So Paul's holding the branch at the top? A Correct. Q Okay. With his left hand? A Yes. Q What's he doing with his right hand? A No. Q Just to the side to the side of him? A Just aside aside and away, yeah. Q Okay. A Standing away from it actually as you had physically shown it.

1	body away	1	Q All right. And then how far down is the next
2	A Yes.	2	limb that you're cutting from that one you just cut,
3	Q his left arm above and holding the branch	3	the second one?
4	while his right arm is aside of him so the branch is	4	A Again, 8 to 12 inches.
5	standing vertically maybe three feet from his body;	5	Q All right. And you're now on your fourth
6	fair enough?	6	one. How far is the fourth one from the third one?
7	A Yes.	7	A There are branches on either side of that
8	Q Okay. And then you start cutting these	8	limb, which means I would cut this one, this one.
9	horizontal limbs off the branch at about 18 inches	9	This one, this one (indicating).
10	below his hand?	10	Q Okay.
11	A Yes.	11	A It looks like this.
12	Q Okay. And do you remember how many cuts you	12	Q I got you.
13	had to make at a distance of about 18 inches from his	13	A Okay.
14	hand before he was hurt? I'm not saying going further	14	Q So what you're saying is, and I'm putting on
	,		, , , , , , , , , , , , , , , , , , , ,
15	down, I'm just saying at the 18-inch mark where you	15	my diagram on the same side hold on on the same side, but what you're saying is when you cut the first
16	were going to start the cuts.	16	· · · · · · · · · · · · · · · · · · ·
17	A One.	17	one, the second one is going to be on the other side?
18	Q Made one cut?	18	A Yes.
19	A One cut.	19	Q Okay. That's fine. You can describe that.
20	Q Okay. You got one cut?	20	So the first one is on one side; you cut that
21	A Very	21	18 inches from his hand. The second one's on the
22	Q Hold on.	22	other side; you cut that 8 to 12 inches below the
23	A I know that.	23	first one?
24	Q All right. Then you go down another distance	24	A Yes.
.	137		139
1	to make the second cut?	1	Q The third one's on the same side as the first
2	A To make another singular cut on a different	2	cut 8 to 12 inches below the second one, right?
3	branch, yeah.	3	A Yes.
4	Q How far down do you go?	4	Q And where's the fourth one? Same side as the
5	A It varies with how how far apart they are	5	second one?
6	on the branch. I would say between 6 8 and	6	A On the right side.
7	12 inches.	7	Q Over here?
8	Q Listen, I don't want to guess so this is my	8	A Staggered one, two, three, four.
9	question, okay? Hold on. Hold on. We know he's	9	Q Right. So it's the same side as the second
10	holding it at the top.	10	cut then. If you have one, two, three, four
11	A Yeah.	11	A I wasn't methodically approaching each branch
12	Q We know it's about five feet, you said. We	12	going left and right per se like, oh, I've got to
13	know your first cut is 18 inches from his hand, right?	13	start here or start there. It really mattered where
14	We know those things, right?	14	he grabbed it and what was what was below his hand
15	A Yes.	15	for me to start cutting and again
16	Q Okay. So my question is, based on what	16	Q Listen.
17	you've just told me now, how far down from the first	17	A And, again, the branches aren't aligned as
18	cut that's 18 inches from his hand is the second cut	18	you are drawing them. It's relative to me because
19	on give me your estimate.	19	Q Listen. The easiest process is for you to
20	A I will give you an estimate of between 8 and	20	either say you know something or you don't know
21	12 inches.	21	something, but you keep first leading
22	Q Okay. So that's the next limb is 8 to	22	A Sorry.
23	12 inches, right?	23	Q Hold on. Hold on. You first lead
24	A V	24	me down here and then you just say well. I don't know
1	A Yes. 138	24	me down here and then you just say well, I don't know 140

			DV TUE WITHER
1	then. Tell me what you don't know and I'll move on,	1	BY THE WITNESS:
2	okay, but I'm going with what you're telling me. If	2	A I'm making one cut.
3	you don't know something, you just say I don't know.	3	Q Here, let me do it. I think this is what
4	Let's start over. He's holding his left	4	A May I?
5	hand at the top of the branch. His first cut is about	5	Q Hold on. Yeah, I'd be happy to. Let's
6	18 inches below his hand, right?	6	probably do it that way. Make it easy.
7	A Yes.	7	A Thank you.
8	Q On one side of that limb or branch?	8	Q We'll save about a half an hour of questions.
9	A Yes.	9	A Right.
10	Q Okay. So that limb is 18 inches down. You	10	Q I was trying to get it described that way but
11	cut that limb off, that horizontal limb, and then you	11	it might be easier just to do it this way.
12	go down probably on the other side 8 to 12 inches and	12	A Oh, I'm going to make it pretty. We've got
13	you cut the limb on the other side?	13	time. I have time.
14	A No.	14	Q You want some crayons?
15	Q Okay. What? You tell me.	15	A I'm going to make a Christmas tree for you.
16	A On a pine tree they're grouped, that's what I	16	That is a pine branch.
17	was trying to show you, like this. They're not	17	Q Okay. Now, let me ask the questions here.
18	staggered all over the place. When they grow, it's a	18	All right.
19	fan and they grow out like this. So it being stood	19	A I'm cutting it right here in the crotch.
20	up, I'd go one, two, three, four.	20	Q I've got it. See, your answers aren't going
21	Q That's what I just did here but we can do it	21	to help unless they're after my questions.
22	again. Let's try it again.	22	A We'll get it all figured out.
23	A Okay, but	23	Q All right. We're going to mark as Gagnon
24	Q Hold on. This is what I'm trying to	24	Exhibit 1 that pretty tree you just drew, okay?
	141		143
1	understand and I'm trying to make it easy, but we can	1	A Thank you.
2	go through this. He's holding the branch up with his	2	MR. BARCH: You'll have to call it a It's a
3	left hand and I'm trying to find out what distances	3	single branch, not a whole tree.
4	you cut each of those four limbs until he's hurt,	4	THE WITNESS: Single branch.
5	okay? I'm trying to find that out.	5	MR. MAST: Okay. It's a branch. All right. I'm
6	MR. CALLAHAN: Excuse me. It's just that there's	6	sorry. I'm not good at these things.
7	a disconnect here.	7	BY MR. MAST:
8	MR. MAST: Well, that's why I have to ask these	8	Q All right. That's a Obviously it's not to
9	questions. We'll get there.	9	scale or anything, but it's just a drawing of a pine
10	MR. CALLAHAN: I understand. I'm thinking he's	10	branch, right?
11	thinking that on your branch this branch comes out	11	A Correct.
12	like it'd be on a 45-degree angle up	12	Q And it's supposed to represent, even though
13	THE WITNESS: Yes.	13	it's not exact, a typical type of pine branch that you
14	MR. CALLAHAN: if I may. Then there's	14	and Paul were cutting on the day of his accident?
15	branches like this and this with the pine needles on	15	A Correct.
16	them so he's cutting this one here, this one here, and	16	Q Okay. Different sizes, different amount of
17	this one here.	17	limbs coming off them but that's a representative of
18	BY MR. MAST:	18	those types of branches, right?
19	Q Are you making three cuts on one branch?	19	A Yes, it is.
20	MR. CALLAHAN: Four cuts.	20	Q Okay. So if we look at this, the base is
21	MR. MAST: No, I don't think that's what he's	21	obviously going to be wider than the top of it, right?
22	saying.	22	A Yes.
23	MR. CALLAHAN: I think that's	23	Q So I'm going to put a T on your drawing where
24		24	the top of that is and a B where the base is. Did I
	142		144
		1	

1	just do that?	1	half an hour, so thank you.
2	A Yes.	2	A You're welcome.
3	Q So we know what words to use?	3	Q Okay. And I'm sure they weren't all six cuts
4	A Yeah.	4	every branch, right?
5	Q Okay. So I'm going to put T O P and B A S E.	5	A No, they varied.
6	So we can refer so that we're using the same language.	6	Q Is six pretty much an average or no?
7	Paul is going to be holding with his left hand the top	7	A No.
8	of the branch, right?	8	Q As far as
9	A Correct.	9	A There's no average.
10	Q And then the base is going to be against the	10	Q Okay. There's maybe six, eight, ten,
11	ground in a vertical fashion from where he's holding	11	something like that?
12	at the top, right?	12	A There's no average. There's no way to
13	A Yes.	13	average it.
14	Q And then starting 18 inches below his hand,	14	Q Okay. The branch that Paul was holding when
15	you were going to start cutting on either side of that	15	he was injured was a branch like most other branches
16	branch the horizontal limbs that are coming off that	16	although in different sizes, correct?
17	branch, right?	17	A Yes.
18	A Yes.	18	Q Okay. And you're telling me you made four
19	Q Okay. So if this were a branch that Paul was	19	cuts until he was injured?
20	holding, his hand would be at the top and then you	20	A Fourth cut he got injured.
21	would make one cut oh, you'd start okay, you'd	21	Q Okay. On the fourth cut?
22	skip the top of it	22	A On the fourth cut.
23	A Because it's	23	Q Fair enough. So if we just start with that
24	Q Hold on. You'd skip the top limbs because	24	one branch that Paul's holding and discuss what you
	145		147
1	that's too close to his hand so you'd come down to	1	did up and to the time he was injured, you made the
2	maybe the next set 18 inches below and start making a	2	first vertical cut from the horizontal limb 18 inches
3	cut there?	3	below his hand, you made the second one on the other
4	A Yes.	4	side just like you did on Exhibit 1 here, then you
5	Q Then you'd go on the other side and make	5	went down 8 to 12 inches lower, made the third cut on
6	another cut?	6	one side, then you're going to the other side to cut
7	A Yes.	7	the fourth cut, right?
8	Q That's two. Then you'd make another cut on	8	A Yes, correct.
9	there	9	Q What happens when you're going from the third
10	A Yes.	10	cut to the fourth cut that you believe is what caused
11	Q that's three. Then make another cut;	11	Paul to get injured?
12	that's four. Then cut there, five. Cut there, six.	12	A The fourth cut, not much unlike all the other
13	And you have the whole branch cut, right?	13	ones, the branch bowed. It may have been because it
14	A Yes.	14	wasn't rigid; it may have been weaker than the rest.
15	Q Okay. So let's number these one, two, three,	15	I don't know.
16	four, five, six. Does that number what we just discussed?	16	Q Can I stop you for a minute just so I know
17		17	what you mean by bowed. What do you mean, it was
18	A Yes. Q So you're basically at least on this	18	it was like limp?
19	, ,		A Yes.
20	demonstrative drawing, you're making six separate cuts	20	Q Okay.
21	off of this branch and then you put the branch down on	21	A Yes, not as rigid as the other one perhaps.
23	the ground and get a new one? A Yes.	23	Q So when you say I don't want to jump too far. When you say bowed then, that means when you
23	A Yes. Q Okay. All right. That did clear up about a	24	press the chain saw down, it kind of gives a little
24	Q Okay. All right. That did clear up about a 146	24	press the chain saw down, it kind or gives a little
<u> </u>	140		140

24	chain saw to come out of the crotch.	24	A Yes.
1	A The limb had hexed slightly causing the	_	was his right arm on any part of that hims of brahen.
23	A The limb had flexed slightly causing the	23	was his right arm on any part of that limb or branch?
22	branch?	22	Q Okay. So when you cut his arm, Paul's arm,
21	the fourth branch What happens with the fourth	21	to finish the cut.
20	three of the branches off of the limb Paul's holding,	20	A Went to support it below that cut as I went
19	Q Okay. So what you're saying is after you cut	19	saying Paul then with his right arm did what?
18	A Yes.	18	Q And it kind of bowed a little bit and you're
17	right?	17	A Yes.
16	cutting off of that limb six to eight or so cuts,	16	against the ground?
15	Q And the branches are the things you're	15	the limb, it kind of flexed because it's held up
14	A Correct.	14	Q And when Paul was holding with his left hand
13	his hand to the ground?	13	A Yes.
12	Paul's holding with his hand that goes vertically from	12	Q But you were attempting to cut it, right?
11	so we use the same terminology, the limb is what	11	A Yes.
10	Q All right. So what you're talking about is	10	Q Okay. So the fourth branch was still there?
9	A Yes.	9	A No.
8	Q That's what we're going to describe?	8	Paul was injured?
7	A Yes.	7	Q And had you cut the fourth branch by the time
6	Q Fair enough?	6	A Yes.
5	A Yes.	5	Q of the third cut, right?
4	off the main limb.	4	A Yes.
3	Exhibit 1 here branch for the little parts that come	3	Q but it was on the other side
2	Because I don't want to change the words so I put on	2	A Yes.
1	write that on here so we use these same words.	1	distance from the top of the limb
	149		distance from the ten of the limb
24	Q So let's put that on the I'm going to	24	Q And the fourth cut was still the same
23	BY MR. MAST:		A Yes.
22	MR. MAST: No. No. No, I don't.	23	Q You just made the third cut.
21		21	
	MR. BARCH: Don't you watch that show on TV, those Ax Men?	21	
20	it that way then. Let's define it that way. MR_BARCH: Don't you watch that show on TV	20	
19		19	
18	Q All right. I'm sorry. All right. We'll do	18	Q All right.
17	are what come off the limb.	17	I'm talking about and followed through.
16	A The limb is the larger piece; the branches	16	that I made when it flexed and just below the one that
15	come off of that branch. Let's use those terms, okay?	15	A Below the next cut that I was the last cut
14	Paul's holding whereas the limbs are the parts that	14	Q What part of the limb?
13	the branch is the solid continuous piece of wood that	13	hand. He actually grabbed the limb and supported it.
12	then just so we know we're talking the same language,	12	A I'll tell you what he did with his right
11	Q Okay. So if we Hold on. If we define	11	to do with his right hand?
10	branch which I depicted on the drawing there gave way.	10	Q What was he Do you know what he was going
9	I'm cutting off. As I approached the crotch, the main	9	A Yes, support it.
8	I'm talking about. I'm not talking about the branch	8	went to what did you say? support it?
7	A The main branch taken from the tree is what	7	Q Okay. Okay. Now, when you're saying Paul
6	other three that you already cut?	6	cut and I nicked his arm.
5	little more weak, it gives a little bit more than the	5	right hand and at that same time I went through the
4	fourth limb that you're going to cut, that limb is a	4	Paul wanting to help me went to support it with his
3	Q Okay. All right. So you're saying the	3	instance, I approached the cut again. Simultaneously
2	A Yes. Yes.	2	A At that time, without moving away from that
1	bit more?	1	Q Okay.

7 demonstrated that his left arm was up, his right arm 8 was down on this limb, right? 9 A Correct. 10 Q So when you when he had his right arm on 1 the limb and his left arm on the limb together, his 12 right arm was below the fourth branch that you were 13 going to cut, right? 14 A Yes. 15 Q How far below? 16 A Maybe 8 inches. His hand was collapsed onto 17 the limb about 8 inches below that last cut that 18 didn't go through. 19 Q Fair enough. Okay. And when you made that 20 first attempt to cut that fourth branch, was his hand 21 there at that time or was that after you tried to make 24 fourth cut. 153 1 Q Okay. You made the first attempt at the 25 fourth cut and because the limb bowed, you were not 3 able to penetrate the fourth branch, correct? 4 A Correct. 5 Q So did you just in a split second go back and 6 try it again or did you wait a couple seconds or what 7 happened? How long was the process? 8 A Like microseconds. It was You know, it's 9 a matter of just going and at the speed you can 10 see I'll describe if I need to or if you want me 11 to cut, cut and also the manner in which I'm 12 cutting, it's called the locked elbow position. You 13 don't just freewheel a saw. Nip, nip, nip, nip, and it went I was like okay. And at that same time he 15 just reached over to kind of help me out so it wouldn't flex and that's how it all came together. 17 Q All right. Well, if he's reaching over and 18 that's why you cut him, then that leads me to believe 18 and over again and if we ca and overy? okay? 10 A Okay. Oka	
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19 that he's not holding on to the limb at the time that 20 you cut him. 19 A It's hard to operate 20 operating a chain saw. I re-	
20 you cut him. 20 operating a chain saw. I re	
	ite a stopwatch while you're
21 A Oh, he's holding on to the limb. 21 frame as to something that	
	her. Like I said, I can't I
23 him or is he already holding on to the limb? 23 can't answer that question.	. I don't know. I don't
24 A Simultaneously as he reached down to that 24 know.	
154	156

Listen, you gave me five minutes of why you 1 Q 1 wasn't looking at him. 2 2 don't know. Just tell me you don't know, that's fine. So your answer is you didn't see his hand 3 3 We can move on. moving toward the --4 4 I'm sorry. It's my character. I'm very No, I did not see his hand. 5 inclusive in my answer descriptive. 5 You've got to let me finish the question. Q All right. Well, I'm just trying to tell you 6 6 I'm sorry. you don't need to do that. 7 We're going to be here all day. Your answer 7 8 And I'm working on it right now. is you did not see his hand motioning toward the Α 8 9 All right. 9 limb -- his right hand motioning toward the limb to Q 10 I'm glad you --10 hold on to it, you only saw it right when it clasped Α 11 So the question is, and I'm not saying is it the limb right when you were going at the branch a Q 11 12 five minutes between the time you first tried to cut 12 second time? it until the second time you cut it. I understand 13 A Yes. 14 we're talking seconds, okay. My question is --14 So the time -- Simultaneously when you're Q 15 Α Milliseconds. 15 cutting that fourth branch, that's when you go through 16 Q All right. Milliseconds. Fine. My question 16 that branch and then you end up going into his arm, is, when you went down to cut that fourth branch the correct, his forearm? 17 17 first time and the tree bent --18 18 MR. CALLAHAN: I'd just object to the form of the 19 Α Yes. 19 question. 20 Q -- and you had to go down right away and cut BY THE WITNESS: 20 it a second time, when you went toward that fourth 21 You're leading me into cutting him and that's 21 branch to cut it a second time, when you went toward 22 not what happened. 22 23 it, was his right arm on the limb at that time or was 23 Q Oh, I'm sorry. 24 he off it and going toward it to hold on to it? I feel as though I am. 157 159 At the exact same time that my saw went 1 1 I get what you're saying. I'm sorry, maybe through that fourth cut, his hand clasped that limb. that wasn't the way you wanted me to word it. I'll 2 2 Q That's not my question. My question is this; try to word it differently. 3 3 4 Thank you. I'm going to say it again. My question is, you went down to cut that fourth branch off and the limb bowed 5 You're -- At least from what you're saying so you went at it again; and my question is, when you is, you are motioning toward that fourth branch a 6 6 7 went at it again for that second cut on that fourth 7 second time in attempts to cut it so you're moving the branch, was his right hand clasping below that fourth chain saw, as you said, in that rigid locked position branch at that point? 9 9 with your elbow --Α In time? 10 Α Yes. 10 -- toward that fourth branch to cut it, 11 Q Yeah. 11 12 12 right? Α Simultaneously. 13 Okay. So that simultaneously you're saying 13 Yes. Α when you're going after that fourth branch the second 14 So if you're going toward that fourth branch 15 time --15 to cut it, and I understand you're saying his right 16 Yeah. 16 arm is locking on to that limb at the same time, Α 17 -- he's now at the same time grasping on 17 right? Right? below that fourth branch to hold on to the limb? 18 18 Α 19 19 Α Yes. But you're moving the chain saw forward to 20 Q Okay. And do you see him as he is moving his 20 cut that branch, right? 21 right arm toward the limb to hold on to it or do you 21 Α Yes. 22 just see at the last second when your saw is going 22 Q So when you're moving that chain saw forward 23 23 towards the branch? to cut that branch, that moving forward manner ends up 24 I was focused on the branch and the cut. I striking his forearm in the manner that it did to cut 158 160

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1	him, right?	1	now. So you're holding the chain saw, you're going
2	A I think we're overlooking the word		for that second attempt at the fourth branch to cut
3	simultaneous. I'm sorry that I can't just answer your	3	it, and while you are cutting that fourth branch is
4	question but it's the description is	4	when the when Paul's arm is struck; is that right?
5	Q What do you mean?	5	A Yes.
6	A The description is not fitting the instance	6	Q And so the chain saw is under your control at
7	that happened for me per se.	7	the time, right?
8	Q Put his arm movement aside for a minute.	8	A Yes.
9	A Okay.	9	Q You're not out of control, are you?
10	Q Okay?	10	A I'm in control with the chain saw, yes.
11	A All right.	11	Q Okay. And you're wanting to cut it when this
12	Q We know simultaneously he's using his right	12	happens, right? You're wanting to cut with it when it
13	arm to grab on to that limb while you're making that	13	happens?
14	second cut to the fourth branch, right?	14	A Yes.
15	A Yes.	15	Q Okay. You are attempting to cut the branch
16	Q That's happening simultaneously; I understand	16	and that's when Paul's arm is attempting to hold on to
17	that.	17	the limb, right?
18	A Yes. Okay.	18	A Correct.
19	Q My question is, while you were going down to	19	Q And the chain saw is in motion when Paul's
20	that second cut of that fourth branch, you're moving	20	arm is struck, correct?
21	the chain saw forward to cut that branch, right?	21	A Yes.
22	A Yes.	22	Q Okay. And the first time you see Paul's arm
23	Q And in the process of moving the chain saw	23	is when his right hand is grasping the base of the
24	forward to cut that fourth branch, that is the process	24	limb below the fourth branch, correct?
	161		163
1	that takes your saw blade into his arm. Whether his	1	A Yes.
2	arm is moving or not, we can I can ask that next,	2	Q You don't see it coming from the side toward
3	but the process of you moving forward with the chain	3	that bottom part of the
4	saw is part of what led to his arm being cut, right?	4	A No.
5	MR. BARCH: I'm going to object to the form of	5	Q of the of the limb, correct?
6	the question. It's also argumentative. Go ahead.	6	A No, I did not, correct.
7	BY MR. MAST:	7	Q Is that correct?
8	Q Go ahead.	8	A (Nodding.)
9	MR. CALLAHAN: I'll join that objection.	9	Q Okay. Is that correct?
10	BY THE WITNESS:	10	A That is correct.
11	A As you had said, it's part of how it	11	Q Okay. Okay. When he gets cut, what is the
12	happened.	12	first thing that happens? Does he scream? Do you say
13	Q Right.	13	something? What's the first thing that happens the
14	A It's an equal share.	14	split second he's cut?
15	Q Okay. Equal share meaning you're saying his	15	A I say no. He says yes.
16	arm's moving near the limb as well as the chain saw	16	Q And what do you mean by no? You mean no,
17	you are operating is pushing forward toward that limb	17	that's not happening or what?
18	and the arm and the chain saw meet and he becomes	18	A Yeah, like no. No, it didn't happen.
19	injured, correct?	19	Q Okay. And he says what?
20	A Correct.	20	A Yes. Let's go.
21	Q Okay.	21	Q Yes what?
22	(A short break was had.)	22	A Let's go.
23	BY MR. MAST:	23	Q Let's go what?
24	Q All right. Finish up where we got this tree	24	A Let's get out of here. It's time to go.
	162	-	164
		1	

	166		168
24	Q You don't have any medical education or	24	A I'm descriptive and inclusive.
23	time looking.	23	Q All right.
22	even Paul said look, and I was right there the whole	22	character.
21	everything that was being said and I was shown and	21	A As I said, it's a struggle because of my
20	educated there in the emergency room and I heard	20	fast, okay?
19	A I'm educated to a certain extent and I was	19	follow me, we'll go where we need to go and get there
18	got cut?	18	Q Okay. Here, listen. Just follow me. If you
17	have some kind of medical ability to tell how far it	17	and he also pursued.
16	to tell us how deep it went. Are you telling me you	16	was an instant which he was involved in an accident
15	Q Okay. Well, I mean, the doctors will be able	15	A I am guessing at that, but I know that there
13	Q And it was bleeding? A Yes.	14	Q Okay. So maybe around 2006, somewhere around there?
12 13	A Yes.	12	, -
11	Q Did it open the skin?	11	A I cannot put a pin date on it, but I can say it was over seven years ago.
10	A Yeah.	10	Q When was that?
9	Q What do you mean, the skin?	9	A A car accident.
8	epidermis.	8	Q Okay. What is that?
7	there in the operating room. It never went past the	7	A Yes.
6	A I could tell you pretty accurately. I was	6	in any way before this accident?
5	deep the chain saw went into his arm?	5	Q Okay. Have you ever known him to be injured
4	but I just have to ask. Do you know how far or how	4	A 35 years.
3	fine answers. I'm not trying to imply you know things	3	a long time before the accident?
2	Q Do you know and, again, I don't knows are	2	Q All right. Do you know You've known Paul
1	A Yes.	1	said.
	165		167
24	Q Was he bleeding?	24	A It only hit the fascia; that's what they
23	to go to the hospital.	23	Q Okay.
22	A I threw the chain saw down and got in his car	22	A He was lucky.
21	and get in his car and go to the hospital?	21	Q Okay.
20	do you guys do you basically put the chain saw down	20	A Not deep, that was their assessment.
19	Q Okay. And after you say no and he says yes,	19	Q How far did they say?
18	A No, I did not.	18	A Yes.
17	Q Okay. So you did not expect him to do that?	17	how far it was cut in?
16	A No.	16	Q Okay. Did you hear the doctors talk about
15	he got cut with both hands before this?	15	A No measuring devices were employed, no.
14	Q All right. Had Paul ever held a limb before	14	Q Or any type of object?
13	A That's what I did, I touched him.	13	A No.
12	Q Okay.	12	wound?
11	touched him.	11	Q You never went with your finger inside the
10	It was so close that it looked like I could have	10	A It was visual, yes.
9	A It just looked like I could have nipped him.	9	based upon what you saw visually, correct?
8	first discover he's cut?	8	cut that you would be talking about would be just
7	Q And when he gets cut, are you able to see the chain saw making contact with his arm, or how do you	7	Q Okay. So any type of depth of incision or
5 6	A Yes. Q And when he gets cut, are you able to see the	5	you? A No.
4	cut, right?	4	You don't have any medical education or training, do
3	Q That's the first thing that happens once he's	3	Q Wait. Back and forth here, please, please.
	go.	2	
2	~~		A No, I don't.

11 allegedly struck. 12 allegedly struck. 13 Q In this case you mean? 14 A In that other Yeah. 15 Q Did he ever have any surgery for that left elbow? 16 elbow? 17 A I know he was poked and prodded. I don't 18 know if he was had actual open surgery for it 19 though. 18 know if he was had actual open surgery for it 19 though. 20 Q Did he ever resolve that injury up until the 21 accident in this case? 21 A I don't know. 22 A I don't know. 23 Q Okay. Other than a left elbow nerve injury 24 in a motor vehicle accident around 2006, any other 10 injuries from that motor vehicle accident? 21 I injuries from that motor vehicle accident? 22 A I don't know. 3 Q Okay. How do you know about that left elbow 4 nerve injury then? 4 A B accause he showed people and talked about it 6 openly. 5 A B accause he showed people and talked about it 6 openly. 6 Q Oyh, I'm sorry, You're right. I'm sorry, I 10 wasn't thinking that far ahead. Good. In this 11 wasn't thinking that far ahead. Good. In this 12 case In this case the chain saw sate he if harm. 10 Q Oyh, I'm sorry, You're right. I'm sorry, I 11 wasn't thinking that far ahead. Good. In this 11 wasn't thinking that far ahead. Good. In this 12 case In this case the chain saw sate he if harm. 13 In that case it was the left elbow, right? 14 A Yes. 15 Q Okay. Any other injuries other than the 16 motor vehicle accident? 16 Q Okay. Any other injuries other than the 16 motor vehicle accident? 17 A I'm not aware of. 18 Q Okay. Any other prior prior to this case, 18 Q Okay. Any other injuries other than the 19 motor vehicle accident? 16 Q Oxay. Any other prior prior to this case, 18 Q Oxay. Any other injuries to Paul? 19 any prior injuries to Paul? 20 A Not that I'm aware of. 21 Q Any prior conditions of ill health with Paul 2b defore his chain saw accident are you aware of 19 A Infrequently, okay, yes.		170		172
2 In the five years before this chain saw accident in June of 2011, was Paul in any way disabled 4 Q Fair enough. 5 A I'll try to get there for you, okay? 6 Q All right. Motor vehicle accident about 2 2006. Were you in the accident with him? 8 A No. 9 Q Do you know what injuries to Paul's claim of the was had actual open surgery for that left elbow? 11 A Nerve damage to the left elbow that was allegedly struck. 13 Q In this case you mean? 14 A In that other Yeah. 15 Q Did he ever have any surgery for that left elbow? 16 A I don't know. 17 A I know he was poked and prodded. I don't though. 20 Q Did he ever resolve that injury up until the elacident in June of 2011, was Paul in any way disabled 4 or limited in what he could do physically? 16 A No. 17 A I know he was conded the was had actual open surgery for it though. 18 A I that other Yeah. 19 Q Did he ever resolve that injury up until the elbow? 19 A I don't know. 20 Q Did he ever resolve that injury up until the elacident in this case? 21 A I don't know. 22 A I don't know. 23 Q Okay. Other than a left elbow nerve injury in a motor vehicle accident? 24 A I don't know. 25 A Because he showed people and talked about it eleopely. 26 A Pes, it was an entirely different arm. 27 Q Was it a different location than where he was all accrated or cut in the chain saw in this case? 28 A Yes, it was an entirely different arm. 29 Q Okay. Any other injuries other than the motor vehicle accident? 20 Q Okay. Any other injuries other than the motor vehicle accident? 21 Q Okay. Any other injuries other than the motor vehicle accident? 22 A Yes, it was an entirely different arm. 23 Q Okay. Any other injuries other than the motor vehicle accident? 24 A Yes. 25 Q Okay. Any other injuries other than the motor vehicle accident? 26 Q Okay. Any other injuries other than the motor vehicle accident? 27 A Yes, it was an entirely different arm. 38 I accrated or cut in the chain saw as the right arm. 39 Q Okay. Any other injuries other than the motor vehicle accident in June			24	
2 In the five years before this chain saw 3 you do have to correct me; that's your job, but 4 O Fair enough, 5 A I'll try to get there for you, okay? 6 O All right. Motor vehicle accident about 7 2006. Were you in the accident with him? 8 A No. 9 O Do you know what injuries he suffered in that 10 auto accident? 11 A Nerve damage to the left elbow that was 2 allegedly struck. 13 O In this case you mean? 14 A I in that other Yeah. 15 O Did he ever have any surgery for that left 16 elbow? 17 A I know he was poked and prodded. I don't 18 know if he was had actual open surgery for it 19 though. 21 accident in this case? 22 A I don't know. 23 O Ckay. Other than a left elbow nerve injury 24 in a motor vehicle accident around 2006, any other 25 A I don't know. 3 O Ckay. How do you know about that left elbow 3 I injuries from that motor vehicle accident? 4 A Yes. 5 A Because he showed people and talked about it 6 openly. 7 O Was it a different location than where he was 8 lacerated or cut in the chain saw was in this case? 9 A Yes, it was an entirely different arm. 10 O Ohay. Any other injuries other than the 10 motor vehicle accident? 11 masm't thinking that far ahead. Good. In this 12 Case in this case the chain saw was the right arm. 13 In that case it was the left elbow, right? 14 A Yes. 15 O Okay. Any other prior prior to this case, 16 O Okay. Any other prior prior to this case, 17 A Yes. 18 O Chay. Any other prior prior to this case, 19 any prior injuries to Paul? 20 A No that I'm aware of. 21 O Any prior conditions of ill health with Paul 22 Effort the accident round ware of. 23 O Okay. Any other prior prior to this case, 24 A Yeah, So let me wormmarize that just to time. 25 A I wouldn't even say frequency. From time to time. 26 Cokay. Any other prior prior to this case, 27 A Yes, So lify been very couple of weeks or something? 28 A Yesh, So let me word that all out then. 29 C Right. 20 C A Not that I'm aware of. 20 C Right. 21 A Yesh C So let me word that all out then. 21 Before the	23	A I'm not aware of any.	23	
2 In the five years before this chain saw 3 you do have to correct me; that's your job, but 4 O Fair enough, 5 A I'll try to get there for you, okay? 6 Q All right. Motor vehicle accident about 7 2006. Were you in the accident with him? 8 A No. 9 Q Do you know what injuries he suffered in that 1 auto accident? 11 A Nerve damage to the left elbow that was 12 allegedly struck. 13 Q In this case you mean? 14 A In that other Yeah. 15 Q Did he ever have any surgery for that left 16 elbow? 17 A I know he was poked and prodded. I don't 18 know if he was had actual open surgery for it 19 though. 20 Q Did he ever resolve that injury up until the 19 accident in this case? 21 a I don't know. 22 A I don't know. 23 Q Okay. Other than a left elbow nerve injury 19 in a motor vehicle accident? 21 injuries from that motor vehicle accident? 22 A I don't know. 3 Q Okay. How do you know about that left elbow 4 nerve injury then? 5 A Because he showed people and talked about it 6 openly. 7 Q Was it a different location than where he was 8 lacerated or cut in the chain saw was the right arm. 10 Q Oh, I'm sorry. You're right. I'm sorry. I 11 wasn't thinking that far ahead. Good. In this 12 case In this case the chain saw was the right arm. 13 In that case it was the left elbow, right? 14 A Yes. 15 Q Okay. Any other prior prior to this case, 16 Q Okay. Any other prior prior to this case, 17 Q Maybe once every couple of weeks or 18 Q Okay. Any other prior prior to this case, 18 any of ware of. 29 A Not that I'm aware of. 20 A Not that I'm aware of. 20 A Not that I'm aware of. 21 A Not that I'm aware of. 22 A Rot that I'm aware of. 23 A Not that I'm aware of. 24 A Yesh, that's honest. That's fair. 25 A Pach, that's honest. That's fair. 26 A Rot that I'm aware of. 27 A Rot that'I'm aware of.	22		22	
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2 A You don't have to keep correcting me or 2 In the five years before this chain saw	4	Q Fair enough.	4	or limited in what he could do physically?
	3	you do have to correct me; that's your job, but	3	accident in June of 2011, was Paul in any way disabled
1 Q Fair enough. 1 that.	2	A You don't have to keep correcting me or	2	In the five years before this chain saw
	1	Q Fair enough.	1	that.

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1	A Yes.	1	Q How many days was he helping you?
2	Q After the accident you saw Paul only on those	2	A Just one.
3	occasions where you had words with him that you	3	Q For how many hours?
4	described at the beginning of the deposition?	4	A Five, six hours.
5	A Correct.	5	Q Okay. So you're saying after the accident in
6	Q And that would have been, looks like, four	6	October of 2011, we're talking maybe about four months
7	times?	7	after the accident, Paul helped you on one day five to
8	A Yeah.	8	six hours to pull your old roof up off your house?
9	Q Right?	9	A Yes.
10	A Yeah.	10	Q Okay. Was anybody else helping you
11	Q Okay.	11	A Yes.
12	A With the exception of the one time when he	12	Q during that time?
13	did come up to help me work, but we didn't discuss	13	Who?
14	anything that had to do with the case; he just came up	14	A Mike Shoshie, neighborhood friend.
15	to work.	15	Q How do you spell that?
16	Q When was that? Was that a different time?	16	A SHOSHIE.
17	A It was after the accident. He helped me do a	17	Q Is he still a neighborhood friend?
18	roof on my house.	18	A Yes, he is.
19	Q So it's different than the four times we	19	Q Where does he live?
20	talked about at the beginning of the deposition?	20	A Two blocks away from me. I can't give you
21	A Yeah, we were talking about conversation and	21	his address; I don't retain it in my memory, but I
22	this wasn't really conversation. It was we were	22	know where he lives. I could submit that to you at a
23	just working.	23	later time if you'd like.
24	Q Okay. So that's why I'm trying to get this	24	Q Very good.
	173		175
1	summarized.	1	MR. BARCH: I need to at least go on record that
2	A Okay.	2	we started around 1:00. There's been some breaks,
3	Q After the accident we talked about four	3	it's now 3:45. If Mr. Gagnon's attorney is going to
4	different times you had a conversation with Paul about	4	stick to the three-hour limit, I need some time.
5	various things. We talked about those, we tried to	5	MR. MAST: I'll try to wrap it up.
6	give approximate dates and things.	6	MR. BARCH: I know, but I don't want to get to
7	A Yes.	7	the three-hour point and have the plug pulled.
8	Q Okay. Other than those four conversations	8	There's only 15 to 20 minutes left.
9	with Paul, you said there was one other time you	9	MR. MAST: Well, I guess that's that's I
10	had you were with Paul after his accident and that	10	mean, we didn't Hold on.
11	was to do a roof?	11	MR. BARCH: Well, I think you and I have a duty
12	A My roof at my home, yeah.	12	to share our time.
13	Q Okay. When was that?	13	MR. MAST: Before the dep we didn't really
14	A It would be October.	14	discuss this so it's fair that you bring that up. I
15	Q Of what year?	15	don't know if you have a lot, but I'm trying to wrap
16	A 2011.	16	it up now with me. I don't think I'm going to take
17	Q Same year as the accident?	17	the full I don't think I'm going to be a half an
18	A Yes. Yeah.	18	hour from now. I don't know how much time you have so
19	Q All right. So you did Was he helping you	19	is it do you have a lot of time or are you just
20	do roofing work on your house?	20	looking at 10, 15 minutes?
21	A He was helping me tear it off.	21	MR. BARCH: Yeah.
22	Q Okay. Did he have any kind of bandage or	22	MR. MAST: Yeah, so we should be fine.
23	brace on his right arm from the injury in this case?	23	MR. CALLAHAN: Yeah, during the break Mr. Mast
24	A No.	24	and I discussed this. We're told the deposition
	174	1	176

1	started at 1:12. He said he'd wrap it up so you	1	Q The next one was four months later, the other
2	should have time.	2	one was 2012 and the last one wasn't about any
3	MR. MAST: Yeah.	3	financial thing but it was a little bit before the
4	MR. BARCH: Okay. Good. I just want to make	4	2012 meeting; fair enough?
5	sure we're all on the same page, that's all.	5	A Yes.
6	MR. CALLAHAN: If you go a little over, I'm not	6	Q Okay. Have you now told me everything that
7	going to jump up and scream.	7	you had Well, strike that.
8	BY MR. MAST:	8	Let me ask this question first. Did you
9	Q Anyone other than Mike Shoshie, you and Paul	9	and Paul at any time discuss how or why the accident
10	that was assisting on your roof at the time Paul was	10	occurred?
11	helping you?	11	A No.
12	A No one else was assisting but there were	12	Q Okay. And that's on both sides. You never
13	witnesses that seen him helping in those duties.	13	told Paul, Hey, why were you holding on to the branch,
14	Q That was my next question by the way. Who	14	or, I didn't know you were doing that, or, Why were
15	was that?	15	you grabbing with your right arm? You never told that
16	A Joe Vlk.	16	to Paul, did you?
17	Q How do you spell the last name?	17	A No.
18	A VLK. No vowels.	18	Q And Paul never said, Hey, why were you
19	Q Where does he live?	19	cutting the way you did, or anything like that; he
20	A In the neighborhood by me also.	20	wasn't complaining to you?
21	Q Anybody else?	21	A No.
22	A My wife.	22	Q Okay. Have you talked to anybody else other
23	Q Okay. And are you aware of him having any	23	than your attorney and your insurance company about
24	difficulties in helping you during those five or	24	what happened?
	177		179
		1	
1	six hours because of his injury in this case?	1	A No. My mother. Just back to my mother.
2	six hours because of his injury in this case? A He seemed to not exert himself fully and was,	2	A No. My mother. Just back to my mother. Q Oh, and you might have You know what?
	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in		
2	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in full but nonetheless was still grappling and moving.	2	Q Oh, and you might have You know what? This isn't a big deal, but I think in terms of just being all-inclusive, you did I printed out what my
3	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in full but nonetheless was still grappling and moving. Q Fair enough. So you're allowing the fact	3	Q Oh, and you might have You know what? This isn't a big deal, but I think in terms of just being all-inclusive, you did I printed out what my assistant wrote down from a recorded statement that
2 3 4	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in full but nonetheless was still grappling and moving. Q Fair enough. So you're allowing the fact that he was reserving some of his saving himself a	2 3 4	Q Oh, and you might have You know what? This isn't a big deal, but I think in terms of just being all-inclusive, you did I printed out what my
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2 3 4 5 6	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in full but nonetheless was still grappling and moving. Q Fair enough. So you're allowing the fact that he was reserving some of his saving himself a	2 3 4 5 6	Q Oh, and you might have You know what? This isn't a big deal, but I think in terms of just being all-inclusive, you did I printed out what my assistant wrote down from a recorded statement that you knew I was taking over the phone of you, correct? A Yes. Q Did you read this at all?
2 3 4 5 6 7	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in full but nonetheless was still grappling and moving. Q Fair enough. So you're allowing the fact that he was reserving some of his saving himself a little bit for the right side where he hurt his arm in	2 3 4 5 6 7	Q Oh, and you might have You know what? This isn't a big deal, but I think in terms of just being all-inclusive, you did I printed out what my assistant wrote down from a recorded statement that you knew I was taking over the phone of you, correct? A Yes. Q Did you read this at all? A That one I Yeah.
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2 3 4 5 6 7 8 9 10 11 12 13 14	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in full but nonetheless was still grappling and moving. Q Fair enough. So you're allowing the fact that he was reserving some of his saving himself a little bit for the right side where he hurt his arm in this chain saw accident as if there was something still lingering there? A Yes. Q Okay. But he still was able to help you for five or six hours irrespective of what might be his ongoing issue? A Yes.	2 3 4 5 6 7 8 9 10 11 12 13	Q Oh, and you might have You know what? This isn't a big deal, but I think in terms of just being all-inclusive, you did I printed out what my assistant wrote down from a recorded statement that you knew I was taking over the phone of you, correct? A Yes. Q Did you read this at all? A That one I Yeah. Q Huh? A Yeah. Q This is the narrative from the recorded statement that she took down and I'm assuming she took it down right. I didn't go and read it and listen to
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A He seemed to not exert himself fully and was, if not nursing, staying away from using that arm in full but nonetheless was still grappling and moving. Q Fair enough. So you're allowing the fact that he was reserving some of his saving himself a little bit for the right side where he hurt his arm in this chain saw accident as if there was something still lingering there? A Yes. Q Okay. But he still was able to help you for five or six hours irrespective of what might be his ongoing issue? A Yes. Q Okay. So other than those five to six hours that given day in October 2011, you had four other meetings and conversations with Paul that we already fully talked about and there's no more need to detail those anymore; fair enough? A Correct. Q Okay. And the first conversation was coming right out of the hospital that day of the accident,	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q Oh, and you might have You know what? This isn't a big deal, but I think in terms of just being all-inclusive, you did I printed out what my assistant wrote down from a recorded statement that you knew I was taking over the phone of you, correct? A Yes. Q Did you read this at all? A That one I Yeah. Q Huh? A Yeah. Q This is the narrative from the recorded statement that she took down and I'm assuming she took it down right. I didn't go and read it and listen to it. A Yeah, I had a few blanks in there and such that, you know Q Well, hold on. The question is A Yeah. Q And I'll mark this as Exhibit 2, okay, and I'll just put a 2 for now. But would you agree that and I know you didn't listen to the recording

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what you would have said on that phone call to me? 1 Α Yes. 2 2 MR. CALLAHAN: I'd just object to the form of the Q Okay. And that's Exhibit 2, correct? 3 3 question and as to the number of variables with the Α recording and with the transcription of the process 4 All right. Again, it is what it is. Let's 5 itself, including some of the language in the 5 put Exhibit 2 on here so we can keep track of these 6 transcript and ask him if he could -- I think it's 6 things. Okay. 7 better if this would be pointed out page by page or --7 Now -excuse me -- line by line more or less if he's 8 MR. MAST: Oh, I didn't put this on the record. 8 9 agreeing with that. 9 I'd like to put this on the record. I don't have 10 MR. MAST: I can do that. Yeah. Joe, I'm just 10 answers today of interrogatories, nor I don't think 11 trying to make it easy. 11 this response is to my production request. Let me 12 MR. CALLAHAN: Yeah. 12 just see. No, this response to the production request 13 BY MR. MAST: 13 is to codefendants' response. So I don't have that 14 Q Let me put it this way: Have you read this 14 discovery, nor answers to interrogatories to my 15 narrative from your recorded statement? 15 discovery. I'm assuming nothing is going to be crazy 16 Α Yes. 16 or different than what went over today but to the Q Is there anything in the narrative -- and 17 17 extent it does, I'm going to reserve my right to the I'll let you read it again if you need to, is there 18 extent I need to, but let's just mark this as anything in this narrative, Exhibit 2, that you 19 Exhibit 3. 19 20 believe you did not say that's attributed to you? 20 BY MR. MAST: 21 MR. BARCH: Form of the question, but go ahead. 21 Q And what Exhibit 3 is, is what I was given 22 BY MR. MAST: 22 today right before the deposition are, Mr. Gagnon, 23 Q Here, I'll give it to you again. Just read 23 your answers to codefendants' interrogatories and it through. I don't want to go through line by line 24 response to production request. Nothing that you need 181 183 unless you want to but basically I'm asking you, did to concern yourself to other than I will ask you vou say those words and is this --Exhibit 3, is this your signed answers to 3 This besides the blanks that are there -interrogatories that you're giving in this case? 3 4 Q Yeah, besides the blanks. 4 A Yes, I received this in the mail and answered -- yeah. 5 Α 5 those questions as they are printed. 6 6 Q Okay. All right. Q And you signed it verifying these are your MR. CALLAHAN: And I'd just point out too that 7 7 true and correct answers, correct? there seems to be -- like if you read that thing in 8 A Yes. 9 9 total, there are eight parts where the subject and MR. BARCH: Do you have a signed version? I verb don't agree, there's parts where it goes on, it don't have a signed one. 11 doesn't make sense and that also has to be considered 11 MR. MAST: Yeah, it's signed. 12 as well as to the totality of the accuracy and the 12 BY MR. MAST: candor of the statement. 13 Q All right. Has -- I think defense counsel 13 14 BY MR. MAST: 14 already answered this, but I just want to make sure 15 Q Okay. This is my question, and again I know 15 that you haven't heard anything that your defense you didn't compare the audio to that statement; but 16 counsel hasn't heard -- has your homeowners insurance 17 you read that statement and all I'm asking is, you 17 rejected or reserved their right for coverage in this generally recall giving me a statement over the phone, case at all, to your knowledge? 18 18 19 MR. CALLAHAN: I'd just object, it may call for 19 riaht? privileged conversation and I object as to it may call 20 A Yes, I do. 20 21 Q And does that generally, and again we can 21 for conversations with insurance company but -- and I 22 listen to it to find out specifically what it says; 22 can answer as far as I know, there's been no rejection 23 but does that generally meet with your recollection of 23 of anything, and I'll make that stipulation --24 what you said? MR. MAST: I'll accept your answer then; that's 182 184

1	fine. All right. Let me just look through your	1	doing it, were you, other than getting money for it?
2	answers to interrogatories, the ones that I've got.	2	MR. BARCH: I object to the form of that
3	Hold on one minute.	3	question. It calls for legal opinions.
4	BY MR. MAST:	4	MR. MAST: I don't
5	Q Have you talked to your mother Or strike	5	BY MR. MAST:
6	that.	6	Q Go ahead. Do you want me to ask the question
7	Have you talked to your parents at all	7	again?
8	about this incident with regard to whether they saw	8	A Yeah.
9	anything?	9	Q All right. The work you were doing in
10	A No.	10	cutting the tree on your parents' property when this
11	Q Okay. Do you know if they saw anything	11	injury occurred was to benefit your parents, correct?
12	regarding the incident?	12	A Yes.
13	A I know they didn't see how it went down.	13	MR. BARCH: Same objection.
14	Q Did they Do you know if they saw the	14	BY MR. MAST:
15	process of what you and Paul were doing in cutting	15	Q Okay. And you were getting paid to do it,
16	these branches down?	16	correct?
17	A No.	17	A Yes.
18	Q Okay. Do you know if they knew about the	18	Q Okay.
19	incident before you left the property that day?	19	MR. MAST: Go ahead. I'll let you go and see if
20	A Yeah, they knew that something had	20	I have anything else here.
21	happened	21	That's unjuming close here.
22	Q Okay.	22	
23	A bad.	23	
24	Q Okay. Since you only met or spoke with Paul	24	
-	185		187
1	on a few various occasions after the incident, I'm	1	EXAMINATION
2	assuming you're not really up-to-date on the nature	2	BY MR. BARCH:
3	and extent of his recovery and/or his medical injury;	3	Q Hopefully don't have to cover everything over
4	fair enough?	4	again, but I do want to back up a little bit. Mike
5	A No, I'm not.	5	McArdle?
6	Q Is that fair enough?	6	A Mike Mcartor.
7	A That's fair.	7	Q Mcartor?
8	Q Okay. So what limitations or the severity of	8	A Yeah, Mcartor.
9	the injury and what it's turned out to be, you don't	9	Q He was a friend of yours for a long time as
10	know about; fair enough?	10	well?
11	A I don't know.	11	A Yes.
12	Q Okay. And the work you were doing was at the	12	Q And what's the connection between him and
13	request of your parents, correct?	13	Mr. Dulberg? I mean
14	A It was at the submitting of my parents for my	14	A They both live together in Paul's mother's
15			7 They been me together in radio mether 5
16		1 15	home.
	suggestion that it was a good time to do this.	15 16	home. O They've been living together for years?
17	suggestion that it was a good time to do this. Q It was for purposes of your parents. It was	16	Q They've been living together for years?
17 18	suggestion that it was a good time to do this.		Q They've been living together for years?A Ten years.
18	suggestion that it was a good time to do this. Q It was for purposes of your parents. It was their property and it was A Yes.	16 17 18	Q They've been living together for years?A Ten years.Q Ten years?
18 19	suggestion that it was a good time to do this. Q It was for purposes of your parents. It was their property and it was A Yes. Q work doing	16 17	Q They've been living together for years?A Ten years.Q Ten years?And it's a sensitive question, but are
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18 19 20 21 22	suggestion that it was a good time to do this. Q It was for purposes of your parents. It was their property and it was A Yes. Q work doing A It was for purposes of my Q Hold on. A Okay.	16 17 18 19 20 21	Q They've been living together for years? A Ten years. Q Ten years? And it's a sensitive question, but are they a couple? A A lot of people wonder.
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1			
	A I don't know. I mean, I don't know either	1	Q And you were there If I understand what
2	way so I just don't know. I'm not being facetious; I	2	you're saying, you were there, there was a discussion
3	just don't know.		as to what to do with these trees now that the shed
4	Q Have you ever talked to Mr. Mcartor about	4	was down?
5	what happened?	5	A Correct.
6	A No.	6	Q And it was just a if I heard your
7	Q No?	7	testimony, a good opportunity to take down these
8	A No.	8	overhanging trees?
9	Q They There was one conversation	9	A Yes.
10	(Short interruption.)	10	Q Was there plans to put up a new shed?
11	BY MR. BARCH:	11	A No. Actually, we installed the same size
12	Q There was one conversation I think you had	12	shed on the same platform in the same spot after the
13	with Mr. Dulberg and Mr. Mcartor was present?	13	trees came down.
14	A Yes.	14	Q Okay.
15	Q And let me see if I can remember which one	15	A As I said, it was opportune because it was
16	that was. Do you remember of the four that we talked	16	absent now.
17	about earlier	17	Q Okay. But was there the long-range plan
18	A Yes, it's the one in the kitchen where Mike	18	was to put a new shed back in the same spot?
19	was present and Paul had commented that he thought	19	A Yes.
20	that this was a blessing and the best thing that could	20	Q A replacement?
21	have happened because he won't have to work another	21	A Yes.
22	day of his life. Won't have to retrain for a job,	22	Q All right. So before doing that, it was
23	blah-blah-blah, on and on.	23	your thought is let's get rid of this overhanging
24	Q Okay. Do you recall Mr. Mcartor making any	24	tree?
	189		191
1	statements?	1	A Yes.
2	A No. No, Mike is a listener.	2	Q All right. And I I This whole notion
3	Q Okay.	3	as to whether you were paid or not paid, did they end
4	A He stays out of things.	4	up giving you cash for doing work out there?
	Q And I may be confused but was that the same	5	
5	•	"	A I did a multitude of things; but yes, for
6	conversation where he where you basically said you	6	A I did a multitude of things; but yes, for that job
	conversation where he where you basically said you wouldn't tell something that wasn't true?		that job Q Okay.
6	conversation where he where you basically said you wouldn't tell something that wasn't true? A No, that was a separate conversation. I was	6	that job Q Okay. A there was many upgrades done on the
6	conversation where he where you basically said you wouldn't tell something that wasn't true? A No, that was a separate conversation. I was leaving his house and he kind of just blurted out	6 7	that job Q Okay. A there was many upgrades done on the property, so
6 7 8	conversation where he where you basically said you wouldn't tell something that wasn't true? A No, that was a separate conversation. I was leaving his house and he kind of just blurted out across the kitchen where Mike was witness to him	6 7 8	that job Q Okay. A there was many upgrades done on the property, so Q Did you consider yourself to be their
6 7 8 9 10	conversation where he where you basically said you wouldn't tell something that wasn't true? A No, that was a separate conversation. I was leaving his house and he kind of just blurted out across the kitchen where Mike was witness to him saying it.	6 7 8 9 10 11	that job Q Okay. A there was many upgrades done on the property, so Q Did you consider yourself to be their employee or were you just doing a favor for them for
6 7 8 9 10 11 12	conversation where he where you basically said you wouldn't tell something that wasn't true? A No, that was a separate conversation. I was leaving his house and he kind of just blurted out across the kitchen where Mike was witness to him saying it. Q The one that Mike was there, there wasn't any	6 7 8 9 10 11	that job Q Okay. A there was many upgrades done on the property, so Q Did you consider yourself to be their employee or were you just doing a favor for them for money, what?
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1	tell you	now they wanted this done?	1	fireplace at his home that he burns
2	Α	No.	2	Q Okay.
3	Q	Prior to you undertaking that job, did you	3	A where we don't or she doesn't here.
4	sit down	with them and have them tell you what they	4	Q That was an assumption but was it actually a
5	wanted (done, what their expectations were, or anything	5	subject of conversation between you and he?
6	like that	?	6	A No, we did not discuss it.
7	Α	No.	7	Q So in terms of what, if anything, Paul might
8	Q	Have you ever actually seen either one of	8	get out of it, as you sit here today, you don't recall
9	them us	e a chain saw?	9	any discussions with Paul about what he would get in
10	Α	No.	10	return for helping you?
11	Q	Would you agree that you were free to cut	11	A No, he just agreed to help a friend take down
12	those lin	nbs, take down the branches, to do that in any	12	some trees.
13	way you	saw fit?	13	Q And I if I'm understanding your testimony
14	Α	Yes.	14	too, Paul wasn't trying to override anything you were
15	Q	And you didn't have an invoice or a written	15	doing; he wasn't telling you what to do either?
16	contract	with them	16	A No.
17	Α	No.	17	Q There was a lot of unspoken things happen
18	Q	or anything like that?	18	between the two of you?
19	Α	No.	19	A Yes.
20	Q	And then this whole concept as to whether	20	Q The branch that you and Mr. Dulberg were
21	David wa	as there I'm sorry as to why Paul was	21	
22		was there you invited him over?	22	
23	A	I did.	23	
24	Q	And Mr. and Mrs. McGuire may have known he	24	
		193		195
1	was com	ing over?	1	A Yes.
1 2	was com A	ing over? Yes.	1 2	
				Q And you used the word flexed, at one point
2	Α	Yes.	2	Q And you used the word flexed, at one point also bowed, you used that word?
3	A Q	Yes. You told them that?	2 3	Q And you used the word flexed, at one point also bowed, you used that word? A Yes.
2 3 4	A Q A	Yes. You told them that? Yes. Did you tell them that he was coming over to	2 3 4	Q And you used the word flexed, at one point also bowed, you used that word? A Yes. Q If I'm understanding what you're saying, the
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A Q A Q help you A they didibefore a about th A Q even tall A Q of the tr A suffice h	Yes. You told them that? Yes. Did you tell them that he was coming over to? I said that I asked Paul to help me today and n't say anything because we worked together and they're friends, so And at that point, if I heard your testimony, as no discussion between you and your parents em paying for Paul's time? No. And that wasn't something that you and Paul ked about? No. Even up until the point of injury, that was bject of conversation? No, it was not. Do you know if he was planning on taking some immed-up branches for firewood? I was assuming in my mind that that would	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q And you used the word flexed, at one point also bowed, you used that word? A Yes. Q If I'm understanding what you're saying, the actual limb itself bent? A Yes. Q All right. Did you have that happen on any of the other 24 to 29 branches that you were cutting? A No. Q That was the first time that happened? A Yes. Q All right. And the at the point in time you described, and I don't want to go through in detail what you and Mr. Mast just went over, but you described how you were moving for that at the second attempt to get that fourth branch; and if I understood your testimony, simultaneously Mr. Gagnon is coming in with his right arm to grab the limb A Mr. Dulberg, yes. Q and the saw and his arm converged simultaneously? A Yes.

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1	anywhere near the chain saw any closer than 12 to	1	the chain to move?
1 2	18 inches anytime prior to that?	2	A Yes.
3	A No.	3	Q And which elbow are you talking about being
4	Q At any point in time did you perceive or fear that he was getting his arm too close or hand or	5	locked, both of them? A Right elbow locked into my ribs so that my
5			A Right elbow locked into my ribs so that my strokes were short.
6	whatever, any part of his body too close to the blade of the chain saw that you were operating?	6	
7	,	7	Q Okay. So that was some that was a
8	A No. No.	8	technique that you were using to maintain control over that chain saw?
9	Q Right up until the very end?	9	
10	A No.	10	A Yes.
11	Q Did you ex As you were cutting, having	11	Q Is that something that you learned just in
12	down 24 to 29 branches, because this happened you're	12	practice or something you heard before?
13	estimating on the twenty-fifth or thirtieth branch,	13	A No, I witnessed people doing it when they're
14	correct?	14	in close quarters because sometimes you'll have to do
15	A Yeah, somewhere around there.	15	that. You know, I have a friend who does tree
16	Q Limb. Did you expect him to be putting his	16	trimming and I'd just seen it performed before.
17	arm in there to help with the flex?	17	Q Okay.
18	A No, because none of them flexed previous to	18	A It's also less fatiguing on the worker.
19	that. I didn't foresee it at all.	19	Q And it may be elementary but correct me if
20	Q All right. And would you agree that prior to	20	I'm wrong, you were as you were using the saw to
21	June 28, 2011, indeed right up until the point where	21	cut those branches off the limbs, part of what you
22	Mr where the saw came in contact with	22	were doing is removing these limbs, correct?
23	Mr. Dulberg's arm, you knew that a chain saw could cut	23	A Yes.
24	somebody?	24	Q The branches from the limbs?
	197		199
1	A Yes.	1	A Yeah.
2	Q You didn't have to be told that	2	Q And part of what you're doing is trying to
3	A No.	3	not hurt yourself
4	Q by anybody else?	4	A Correct.
5	A Did not have to be told that.	5	Q in the process?
6	Q And would you also agree that you knew that	6	A Yeah.
7	it would be important if you were using a chain saw to	7	Q Were you also endeavoring to not hurt
8	keep it clear of somebody else's arm and hands and	8	Mr. Dulberg?
9	body for that matter?	9	A Yes. I had no intentions of hurting anyone.
10	A Yes.	10	Q At any point in time prior right up until
11	Q You didn't have to be told that by anybody?	11	the point where the chain blade came into contact with
12	A No.	12	Mr. Dulberg's arm, did you feel there was a did you
13	Q And you talked about a certain position you	13	feel compelled or was there anything causing you to
14	took with the chain saw, you called it a lock	14	feel compelled to tell him to keep his hands or arms
15	A Locked elbow.	15	out of the way?
16	Q Locked elbow?	16	A No, they were not in the way.
17	A Yeah.	17	Q He was doing that all the way up until that
18	Q Is that where one hand's on there there's	18	point in time?
19	like a bar that you can hold the chain saw with?	19	A Yes.
20	A Yes.	20	Q And if I heard you, you don't know all the
21	Q Then there's another part where there's a	21	injuries the extent of any injuries or
22	trigger?	22	complications Mr. Dulberg had as a result of that car
23	A Yes.	23	accident that he had?
24	Q You actually have to pull the trigger to get	24	A Nerve damage is all I was aware of.
	198		200
	190		

22 23 24	Q Okay. Have you ever seen him till his garden?	23 24	him to see what he does in the garden? A No, I didn't witness him working in the
		23	him to see what he does in the garden?
22	Did I See Did I See IIIII. No.		
1	Did I see Did I see him? No.	22	that he's done with his garden, have you ever visited
21	although he did borrow my tiller to till it.	21	Q Okay. So the times that you've seen anything
20	no, I have not seen him labor as far as tilling,	20	A Yes.
19	vegetables, yeah. I mean, as far as tilling and that,	19	Q Is that a yes?
18	A Physically walking in his garden and picking	18	A Yeah.
17	Q Since the accident?	17	right?
16	A I've seen him tend to his garden.	16	Paul's house since his accident? It's one time,
15	tend the garden?	15	So the question is, how many times have you been to
14	Q He tends a garden. Do you ever watch him	14	Q Okay. Just say one then; that's the answer.
13	BY MR. MAST:	13	A Yeah.
12	FURTHER EXAMINATION	12	Q So one time?
11	MR. MAST: Yeah, I want to follow up on that.	11	A And there you go.
10	MR. CALLAHAN: Okay. That's all I have.	10	Q Right.
9	A Yes.	9	A I told you the one time in the kitchen.
8	that you gave Mr. Mast before this deposition?	8	about. How many?
7	Q And that was referred to in your statement	7	Q How many? I don't know what you're talking
6	A Yeah.	6	A You've got it written down right there.
5	people?	5	many is that?
4	Q So he did some demolition work for some other	4	Q What is as I had said? What answer How
3	roofing.	3	A As I had said.
2	the one example; and then of course on my home, my	2	Q How many?
1	want to get involved now, I don't know, but that was	1	A As I had said.
	201		203
24	said, I don't want to get involved. So maybe he'd	24	how many times have you been to his house?
23	really? And I asked him if he would testify and he	23	Q Hold on. Hold on. Stop. After the accident
22	wall in my basement and stuff and then I was like, oh,	22	A His brother doesn't tend the garden.
21	You know, he helped me tear out the dry	21	Q Wait. Wait.
20	Yeah, I met your friend Paul.	20	A Such as Such as that, you know, and
19	Twin Lakes and he just freely gave up, he's like,	19	Q Right. That's the one time. You said
18	strange you asked that, but a homosexual that lives in	18	A No, the one where I was in the kitchen.
17	did some renovation and tear-out work for a kind of	17	of this deposition weren't all at his house.
16	yard this summer, the last summer. He did some He	16	These conversations we talked about at the beginning
15	A He tends a garden which is his whole front	15	Q You're going too fast. On what occasions?
14	tear off a roof after the date of the incident?	14	stuff lined up at his house.
13	that Mr. Dulberg has done in addition to helping you	13	mentioned, he's got all his, you know, vegetables and
12	Q Mr. Gagnon, are you aware of any other work	12	A Yeah. On those On those occasions that I
11	BY MR. CALLAHAN:	11	Q After the accident?
10	EXAMINATION	10	A When I was there.
9	MR. MAST: Okay.	9	Q He told you when? What are we talking about?
8	if I can just go?	8	there, you know, look at all the produce I have.
7	questions that you may want to have some follow-up on	7	A He's He told me at those times when I was
6	MR. CALLAHAN: I just have one two quick	6	you see him doing that?
5	MR. BARCH: All right. That's all I have.	5	Q Okay. And that's just by when you drive by
4	A Yeah, I don't know.	4	A Yeah.
3	that you don't know?	3	accident as far as his garden is to pick vegetables?
2	residuals with the elbow, rehab or surgeries, none of	2	Q The only thing you've seen him do since his
1	Q Okay. Whether he broke his neck or had any	1	A No.

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		ı	
1	garden.	1	him do?
2	Q Okay. So what you're saying is the testimony	2	A Harvesting vegetables.
3	you just gave about him tending the garden is what you	3	Q Picking vegetables?
4	have had that one conversation when you were at his	4	A Yes.
5	house that one time after the accident, right?	5	Q Okay. With his hands?
6	A Yeah.	6	A Yes.
7	Q And that was a conversation you had with him	7	Q Putting them in some type of basket or
8	and he said, Hey, look at what I do when I tend my	8	something?
9	garden?	9	A Yes.
10	A Yeah. I was figuring maybe the dog helped	10	Q Okay. And you would see him just by passing
11	him, you know.	11	by so it'd be a matter of a couple seconds you would
12	Q You know, I'm not trying to be funny. I'm	12	see him, right?
13	just trying to get the facts, okay? Because what you	13	A Yes.
14	say might you might not understand but it leaves a	14	Q For each of those ten times, right?
15	lot of inferences. I'm trying to finish find out	15	A Yes.
16	exactly what you mean as far as so I don't have to	16	Q And those are ten separate dates?
17	infer what you mean, okay?	17	A Yes.
18	A Okay.	18	Q Over a course of a summer?
19	Q So I'm not trying to be funny about it. You	19	A Over the course of since this occurrence.
20	were there at his house one time after the accident,	20	Q Okay. So that would be two summers?
21	right?	21	A So two summers, right.
22	A Yes.	22	Q Okay. Very good. Let's talk about that
23	Q And that was the time four months after the	23	renovation work then. The renovation work that you're
24	accident?	24	talking about isn't something you saw him do, it's
	205		207
1	A Yes.	1	something that somebody else told you that he has
1 2	Q Okay. And that's the information then that	1 2	something that somebody else told you that he has done, right?
			done, right? A Yes.
2	Q Okay. And that's the information then that you got about him tending his garden, correct? A Yes.	2	done, right? A Yes. Q And who is the individual, what's his name?
3	Q Okay. And that's the information then that you got about him tending his garden, correct? A Yes. Q Okay. You've never seen him tend his garden	2	done, right? A Yes. Q And who is the individual, what's his name? A Mike Thomas.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q Okay. And that's the information then that you got about him tending his garden, correct? A Yes. Q Okay. You've never seen him tend his garden since the accident, have you? A Picking fruit, tending? Yeah. I mean, are you talking about tilling soil? Are you talking about walking in the garden in the sense Q Have you seen A What are you saying is tending? Q All right. A I don't understand. Q Okay. I understand that. A Okay. Q How many times have you seen him in his garden since the accident? A We'll say ten times driving by his house, going into the neighborhood that I used to live in, no conversations, not stopping by, not talking to him. Q I got the answer, ten times. A But I'd usually seen him in his garden.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	done, right? A Yes. Q And who is the individual, what's his name? A Mike Thomas. Q Mike Thomas? A Yeah. Q He's the homosexual you were talking about? A Yes. Q And he lives in where? A He lives in Twin Lakes. Q Okay. Are you friends with him? A No. Q Okay. So you don't know personally what Paul did, if anything, at Mike Thomas's house, you just know what Mike Thomas told you, correct? A Correct. Q Okay. So whether he actually did renovation work, meaning Paul, you don't know; fair enough? A His basement was renovated. Q Whether Paul did the work or not, you don't know; fair enough?

1	Paul did the work or just through what you were told?	1 MR. MAST: All right.
2	A I was informed that Paul had done the work	2 MR. CALLAHAN: Signature reserved.
3	inadvertently without asking for me to be revealed	3 (Witness excused.)
4	that someone someone had told me that I know this	4
5	person.	5
6	Q All right. Here, let me say it a different	6
7	way.	7
8	A I know, you're trying to work it your way.	8
9	Q I'm not trying to work I'm just trying to	9
10	get the basis of what you're saying and you didn't see	10
11	him do the work, right?	11
12	A No, I didn't see him do the work.	12
13	Q So you don't know if he really did the work,	13
14	do you, other than what somebody told you, correct?	14
15	A That's a fair assumption.	15
16	Q And Mike is the only person that told you he	16
17	did the renovation work, right?	17
18	A That is correct.	18
19	Q And what part of the renovation work you	19
20	don't know; fair enough?	20
21	A That's a fair assumption.	21
22	Q Okay.	22
23	MR. MAST: That's all I have. Thanks.	23
24		24
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24	209	211
1	FURTHER EXAMINATION	1 STATE OF ILLINOIS) SS.
		1 STATE OF ILLINOIS)) SS. 2 COUNTY OF McHENRY)
1	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question.	1 STATE OF ILLINOIS)
1 2 3 4	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen	1 STATE OF ILLINOIS) 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 MCHENRY COUNTY, ILLINOIS
1 2 3 4 5	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,)
1 2 3 4 5	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer?	1 STATE OF ILLINOIS) 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) 6) Plaintiff,)
1 2 3 4 5 6 7	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes.	1 STATE OF ILLINOIS) 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) 6) 7 Plaintiff,) 7 vs.) No. 12 LA 178
1 2 3 4 5 6 7 8	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use	1 STATE OF ILLINOIS) 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) 6 Plaintiff,) 7 vs.) No. 12 LA 178 8 DAVID GAGNON, Individually,)
1 2 3 4 5 6 7 8 9	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer?	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) 6) Plaintiff,) 7 Vs. No. 12 LA 178 8 DAVID GAGNON, Individually,) 9 and as Agent of CAROLINE) McGUIRE and BILL McGUIRE;
1 2 3 4 5 6 7 8 9	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah.	1 STATE OF ILLINOIS) 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) 6 Plaintiff,) 7 vs.) No. 12 LA 178 8 DAVID GAGNON, Individually,) 9 and as Agent of CAROLINE) McGUIRE and BILL McGUIRE;) 10 and CAROLINE McGUIRE and) BILL McGUIRE, Individually,)
1 2 3 4 5 6 7 8 9 10 11	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay.	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) ON ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 4 MCHENRY COUNTY, ILLINOIS 5 PAUL DULBERG, ON ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 6 PAUL DULBERG, ON ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 7 ON ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 8 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 9 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 10 AND THE TWENTY-SECOND JUDICIAL CIRCUIT 11 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 12 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 13 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 14 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 15 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 16 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 17 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 18 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 18 ONE OF THE TWENTY-SECOND JUDICIAL CIRCUIT 19 ONE OF THE TWENTY-SECOND JUDIC
1 2 3 4 5 6 7 8 9 10 11 12	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay. A That's what he does.	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) Plaintiff,) 7 vs. No. 12 LA 178 8 DAVID GAGNON, Individually, 9 and as Agent of CAROLINE) McGUIRE and BILL McGUIRE;) and CAROLINE McGUIRE and BILL McGUIRE and BILL McGUIRE, Individually,) 11 Defendants.)
1 2 3 4 5 6 7 8 9 10 11 12 13	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay. A That's what he does. MR. CALLAHAN: That's all I have. Thank you.	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) 6) 7 Vs. No. 12 LA 178 8 DAVID GAGNON, Individually,) 9 and as Agent of CAROLINE) McGUIRE and BILL McGUIRE;) 10 and CAROLINE McGUIRE and) BILL McGUIRE, Individually,) 11 Defendants.) 12 13 I, DAVID A. GAGNON, state that I have read the foregoing transcript of the testimony given by me at
1 2 3 4 5 6 7 8 9 10 11 12 13 14	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay. A That's what he does. MR. CALLAHAN: That's all I have. Thank you. MR. MAST: Now I've got to ask you that. All	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) Plaintiff,) 7
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay. A That's what he does. MR. CALLAHAN: That's all I have. Thank you. MR. MAST: Now I've got to ask you that. All right.	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) 6 Plaintiff,) 7 Vs. No. 12 LA 178 8 DAVID GAGNON, Individually,) 9 and as Agent of CAROLINE) McGUIRE and BILL McGUIRE;) 10 and CAROLINE McGUIRE and) BILL McGUIRE, Individually,) 11 Defendants.) 12 13 I, DAVID A. GAGNON, state that I have read the foregoing transcript of the testimony given by me at my deposition on February 4, 2013, and that said transcript constitutes a true and correct record of the testimony given by me at the said deposition except as I have so indicated on the errata sheets
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay. A That's what he does. MR. CALLAHAN: That's all I have. Thank you. MR. MAST: Now I've got to ask you that. All right. FURTHER EXAMINATION BY MR. MAST: Q How many times have you been to Paul's house since the accident, just that one time?	1 STATE OF ILLINOIS) SS. 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) ONDITION OF THE TWENTY-SECOND JUDICIAL CIRCUIT 4 MCHENRY COUNTY, ILLINOIS 6 PAUL DULBERG, ONDITION OF THE TWENTY-SECOND JUDICIAL CIRCUIT 7 VS. ONDITION OF THE TWENTY-SECOND JUDICIAL CIRCUIT 8 DAVID GAGNON, Individually, ONDITION OF THE TWENTY-SECOND O
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay. A That's what he does. MR. CALLAHAN: That's all I have. Thank you. MR. MAST: Now I've got to ask you that. All right. FURTHER EXAMINATION BY MR. MAST: Q How many times have you been to Paul's house since the accident, just that one time? A Yes. Q Is that the only time you've seen him operate his computer after the accident?	1 STATE OF ILLINOIS) SS. 2 COUNTY OF MCHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 MCHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) (
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	FURTHER EXAMINATION BY MR. CALLAHAN: Q I hate to do this but one more question. Have you seen Mr In the time you've seen Mr. Dulberg after the accident, have you seen him working on his computer? A I've seen him working on his computer, yes. Q All right. And he seems to be able to use both hands on the computer? A He's always on his computer, yeah. Q Okay. A That's what he does. MR. CALLAHAN: That's all I have. Thank you. MR. MAST: Now I've got to ask you that. All right. FURTHER EXAMINATION BY MR. MAST: Q How many times have you been to Paul's house since the accident, just that one time? A Yes. Q Is that the only time you've seen him operate his computer after the accident?	1 STATE OF ILLINOIS) 2 COUNTY OF McHENRY) 3 IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT 4 McHENRY COUNTY, ILLINOIS 5 PAUL DULBERG,) Plaintiff,) 7 vs. No. 12 LA 178 DAVID GAGNON, Individually,) 9 and as Agent of CAROLINE McGUIRE and BILL McGUIRE;) 10 and CAROLINE McGUIRE and) BILL McGUIRE, Individually,) 11 Defendants.) 12 13 I, DAVID A. GAGNON, state that I have read the foregoing transcript of the testimony given by me at my deposition on February 4, 2013, and that said transcript constitutes a true and correct record of the testimony given by me at the said deposition except as I have so indicated on the errata sheets provided herein. 17 18 DAVID A. GAGNON 19 No corrections (Please initial) (pgs.) 20 21 SUBSCRIBED AND SWORN to before me this day

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STATE OF ILLINOIS)
                         ) SS.
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      COUNTY OF COOK )
 3
 4
        I, Margaret Maggie Orton, Certified Shorthand
 5
    Reporter and Registered Professional Reporter, do
 6 hereby certify that on February 4, 2013, the
 7
    deposition of the witness, DAVID A. GAGNON, called by
   the Plaintiff, was taken before me, reported
    stenographically, and was thereafter reduced to
10
   typewriting under my direction.
11
        The said deposition was taken at the offices of
12 Thomas J. Popovich, 3421 West Elm Street, McHenry,
13
   Illinois; and there were present counsel as previously
14
    set forth.
15
        The said witness, DAVID A. GAGNON, was first
   duly sworn to tell the truth, the whole truth, and
16
17
    nothing but the truth, and was then examined upon oral
18
    interrogatories.
19
        I further certify that the foregoing is a true,
20
   accurate, and complete record of the questions asked
21
    of and answers made by the said witness, DAVID A.
22
    GAGNON, at the time and place hereinabove referred to.
23
24
                                                       213
        The signature of the witness, DAVID A. GAGNON,
 2
    was reserved by agreement of counsel.
 3
        The undersigned is not interested in the within
    case, nor of kin or counsel to any of the parties.
 5
        Witness my official signature on this 9th day of
 6
    December, 2019.
 7
 8
9
10
11
                   MARGARET MAGGIE ORTON, CSR, RPR
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    CSR No. 084-004046
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