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1 THE COURT: Are we ready to proceed on Dulberg  
2 right now? Dulberg versus Mast.

3 MR. FLYNN: Mast and Popovich.

4 THE COURT: Okay. Plaintiff's counsel, if you  
5 can identify yourself?

6 MR. TALARICO: Yes. My name is Alphonse  
7 Talarico for the plaintiff, Paul Dulberg.

8 THE COURT: Okay.

9 MR. FLYNN: George Flynn on behalf of the  
10 defendants, Hans Mast and the Popovich Law Offices.

11 THE COURT: All right. Plaintiff's counsel,  
12 what's going on?

13 MR. TALARICO: Judge, the last time we were  
14 here -- actually in January, you allowed plaintiff  
15 ten additional interrogatories and ten additional  
16 requests to produce and you had stated reasons which  
17 I won't go through right now. But we served the ten  
18 additional interrogatories, ten additional requests  
19 to produce. The defendants have answered that, and  
20 at this moment, we are -- we are still talking.  
21 201(K) conversations are going on.

22 THE COURT: What's the -- if he's answered,  
23 what's the 201(k) conference?

24 MR. TALARICO: Basically, how best can I say it,

1 nonresponse to a lot of answers.

2 THE COURT: All right. So Mr. Flynn, you're  
3 aware of their objections?

4 MR. FLYNN: Yes, Judge. We painstakingly  
5 responded to discovery. Much of it was duplicative.  
6 I had a paralegal go through all the prior discovery  
7 including deposition testimony and pinpointed  
8 citations where the discovery was duplicative.  
9 There was other discovery that was irrelevant,  
10 though we answered it best we could. But for  
11 example, going on conflict of interest, the  
12 conflicts checks that were prevented (indiscernible)  
13 the case. There has never been an allegation in  
14 five years that there was an issue of conflict.

15 THE COURT: All right.

16 MR. FLYNN: Nevertheless --

17 THE COURT: Hang on. Hang on. I'm going to  
18 hold you guys to the end, and I'm going to try and  
19 work our way through this as best we can. I see  
20 that we have an April 13 -- I think it's April 13  
21 motion to compel. I assume that's plaintiff's  
22 motion, am I correct?

23 MR. TALARICO: That's correct, your Honor. But  
24 I have not filed a motion because of we are still in

1       201(k). I set the date when I first got a response.

2       THE COURT: Okay. Let me --

3       MR. FLYNN: I have not seen -- I have not seen  
4       that motion --

5       THE COURT: There is not a motion in the file.  
6       There is just a date reserved. So I'm going to pass  
7       this. I'll come back to you guys, and we will try  
8       and work this out without further motions.

9                               (Whereupon the afore-captioned  
10                              cause was recalled.)

11       THE COURT: All right. Go back to Dulberg.  
12       Sorry about the lengthy wait. All right. Dulberg,  
13       do I -- and maybe I can't address your issue. But  
14       most of these are a -- more easily resolved than  
15       writing motions.

16               So Mr. Talarico, if you could tell me what  
17       the issue is with their response specifically.

18       MR. TALARICO: Judge, well, specifically, I  
19       submitted a six-page letter with numerous issues to  
20       Mr. Flynn for us to talk about pursuant to Supreme  
21       Court Rule 201. I can name a few. But it's a  
22       six-page document.

23       THE COURT: Yeah. That -- yeah, you are right.  
24       I was overly ambitious. So Mr. Flynn, you made

1 reference, and I'm hoping to provide some guidance  
2 so we waste as little time as possible. That's not  
3 directed at either one of you.

4           You made reference to duplicative, is that  
5 correct?

6           MR. FLYNN: Yes, I did.

7           THE COURT: All right. And I limited them, and  
8 I'm thinking out loud. I certainly am not looking  
9 at the interrogatories or your answers or the basis  
10 of your objection, but is -- the failed to have may  
11 be duplicative tells me you can just refer to the  
12 prior answers. Or did you do that?

13          MR. FLYNN: Judge, I have actually done that.

14          THE COURT: Okay.

15          MR. FLYNN: In fact, I've referenced even  
16 specific deposition pages.

17          THE COURT: All right. But where -- the fact  
18 that it shows up in the deposition, in my opinion,  
19 doesn't make it duplicative, doesn't prohibit them  
20 from asking in writing effectively the same  
21 question. I mean -- and I'm just trying to be  
22 clear.

23                 So in your answer relative to the  
24 deposition, you said, see answer on Page 45,

1 Lines 10 through 12 or something like that.

2 MR. FLYNN: Some cases, yes.

3 THE COURT: Then I guess I will have to -- I --  
4 what I was afraid of you're saying is see  
5 deposition, and you didn't do that so that's --

6 MR. FLYNN: I just put specific page numbers of  
7 the deposition testimony. If you think it's  
8 (indiscernible.)

9 THE COURT: Okay.

10 MR. FLYNN: It was after -- after the discovery  
11 was already done.

12 THE COURT: All right.

13 MR. FLYNN: Those --

14 THE COURT: Have you seen his letter?

15 MR. FLYNN: I have, Judge. To be honest, I got  
16 it yesterday. I received it yesterday.

17 THE COURT: All right.

18 MR. FLYNN: By the way, I never did receive  
19 whatever was noticed from the 13th. But the letter  
20 is --

21 THE COURT: Yes, there isn't a notice. So --

22 MR. FLYNN: It's hard for me to follow the  
23 letter, to be honest. I don't really  
24 (indiscernible) 201(k) discussions or letters back

1 and forth (indiscernible) to advance the case. But  
2 on the other hand, I don't see how the Court can  
3 make rulings without copies of the discovery  
4 responses and the (indiscernible) pages that I have  
5 referenced.

6 THE COURT: All right.

7 MR. FLYNN: And other --

8 THE COURT: I was kind of hoping I would find  
9 them in the court file. That was dumb on my part,  
10 and I feel bad for making you wait because this  
11 was --

12 MR. FLYNN: No. No. That's okay.

13 THE COURT: So what I would -- what I don't want  
14 to do is have you brief it. What I -- what I prefer  
15 to do, and I don't know if we have done it  
16 previously in this case, is just walk through them  
17 and I'll make my rulings. You can tell me orally  
18 what your -- your objections are and why you think  
19 it's inappropriate. And hopefully we will save some  
20 time, effort and money by doing it that way unless  
21 you have a specific issue with it. Mr. Talarico?

22 MR. TALARICO: Judge, I'm willing to any way  
23 that we can resolve this.

24 THE COURT: Six pages sounds like it's going to

1 take some time. How about the week of April 25? I  
2 can do -- I can give you a 10:00 o'clock on the 27th  
3 or 28th, and we will take as long as we need.

4 MR. FLYNN: The 27th would be better for me.

5 MR. TALARICO: That's fine.

6 THE COURT: All right. I'm going to draft the  
7 order. Hang on a second. If you guys are able to  
8 resolve any of these disputes in the interim, please  
9 feel free to do so. And --

10 MR. FLYNN: This will be April 27 at what time,  
11 Judge?

12 THE COURT: I'm sorry?

13 MR. FLYNN: April 27 at what time?

14 THE COURT: 10:00 o'clock.

15 MR. FLYNN: 10:00 o'clock.

16 THE CLERK: Are we keeping the April 13?

17 THE COURT: Is it --

18 THE CLERK: Motion to compel.

19 THE COURT: I'm going to strike April 13 even  
20 though it wasn't formally noticed.

21 MR. FLYNN: I have a deposition at 1:00.

22 THE COURT: Okay. What I --

23 MR. FLYNN: Judge.

24 THE COURT: Yeah.



1           MR. FLYNN: As far as courtesy copies of the  
2 documents we submit to you -- as far as the  
3 documents themselves should be (indiscernible) to  
4 the Court.

5           THE COURT: Yeah.

6           MR. FLYNN: For instance, deposition --

7           THE COURT: You are cutting in and out. But  
8 what I -- I agree. I'm going to need copies of the  
9 interrogatories, production requests that are at  
10 issue. Probably it wouldn't hurt to have your --  
11 the plaintiff's letter documenting what he finds  
12 objectionable. So that will give you some guidance  
13 in preparation. And what I anticipate doing then is  
14 asking your response and explaining your answers.  
15 And I'll make a ruling on the fly whether or not  
16 that's responsive to the interrogatory of production  
17 request.

18           Okay. Any questions? All right. I have  
19 drafted the order. It just says hearing on  
20 discovery objections. I will await your courtesy  
21 copies. I guess you can file them at the proposed  
22 orders email address and then get to me. You don't  
23 need to physically file them. So that would be  
24 helpful. All right anything else?

1 MR. TALARICO: No, Judge.

2 THE COURT: All right. We will see you then on  
3 April 27. Thank you.

4 MR. TALARICO: Thank you, counsel. Thank you,  
5 Judge.

6 THE COURT: All right.

7 (Which were all the proceedings  
8 had in the above-entitled cause  
9 this date.)

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STATE OF ILLINOIS     )  
                             ) SS:  
COUNTY OF McHENRY   )

I, JUDY CARLSON, an official Court Reporter for the Circuit Court of McHenry County, Twenty-Second Judicial Circuit of Illinois, transcribed the electronic recording of the proceeding in the above-entitled cause to the best of my ability and based on the quality of the recording, and I hereby certify the foregoing to be a true and accurate transcript of said electronic recording.

*Judy R. Carlson*  
Certified Shorthand Reporter  
License No. 084-003347