

<b>Instructions ▼</b> Check the box to the right if your case involves parental responsibility or parenting time (custody/visitation rights) or relocation of a child. Enter the appellate court case number. Just below "In the Appellate Court of Illinois," enter the number of the appellate district where the appeal was filed.	<div style="text-align: center;"> <input type="checkbox"/> <b>THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a).</b> </div> <div style="text-align: center; margin-top: 20px;"> <b>Appellate Case No.:</b> <u>1 - 2 3 - 1 1 4 2</u> </div> <div style="text-align: center; margin-top: 20px;"> <b>IN THE APPELLATE COURT OF ILLINOIS</b> </div> <div style="text-align: center; margin-top: 10px;"> <b>FIRST</b> _____ <b>District</b> </div>
If the case name in the trial court began with "In re" (for example, "In re Marriage of Jones"), enter that phrase. If the case name did not begin with "In re," enter the names of the parties as they appeared in the trial court documents. Below each party name check either <b>Appellant</b> if the party filed the appeal or <b>Appellee</b> if the party is responding to the appeal. At the far right, enter the trial court county, trial court case number, the trial judge's name, date of the notice of appeal, date of the judgment, date of the ruling on any post-judgment motion, and the Supreme Court Rule that allows the appellate court to hear the appeal.	<div style="display: flex; justify-content: space-between;"> <div style="width: 65%;"> <p><b>In re</b> _____</p> <p><b>Plaintiffs/Petitioners</b> in trial court (<i>First, middle, last names</i>):</p> <p><input checked="" type="checkbox"/> <b>Appellants</b>    <input type="checkbox"/> <b>Appellees</b></p> <p><u>Paul R. Dulberg individually and The Paul R. Dulberg Revocable Trust</u></p> <hr/> <p style="text-align: center;">v.</p> <p><b>Defendants/Respondents</b> in trial court (<i>First, middle, last names</i>):</p> <p><input type="checkbox"/> <b>Appellants</b>    <input checked="" type="checkbox"/> <b>Appellees</b></p> <p><u>Joseph David Olsen, Craig A. Willette, Raphael E. Yalden II</u>  <u>Yalden, Olsen &amp; Willette Law Offices</u></p> <hr/> <p><b>DEFENDANTS:</b> <u>Kelly N. Baudin, William Randal Baudin II, Kelran Inc., Baudin &amp; Baudin, Baudin &amp; Baudin an Association of Attorneys, Law Offices of Baudin &amp; Baudin, Baudin &amp; Baudin Law Offices, The Baudin Law Group, Ltd., ADR Systems of America, LLC., Assumed Name ADR Commercial Services, Allstate Property and Casualty Company</u></p> </div> <div style="width: 30%; padding-left: 10px;"> <p><b>Appeal from the Circuit Court of</b> <u>COOK</u> <b>County</b></p> <p><b>Trial Court Case No:</b>  <u>2022 L 010905</u></p> <p><b>Trial Judge:</b>  <u>Michael F. Otto</u></p> <p><b>Date of Notice of Appeal:</b>  <u>10/19/2023</u></p> <p><b>Date Judgment was entered:</b>  <u>09/21/2023</u></p> <p><b>Date Post-Judgment Motion was ruled on:</b> _____</p> <p><b>Supreme Court Rule:</b> <u>301</u></p> </div> </div>
In 1, check "Yes" if this appeal is related to another appeal and write the docket (case) number of any other appeal. Check "No" if this appeal is not related to another appeal.	<div style="text-align: center; margin-bottom: 10px;"> <b>DOCKETING STATEMENT (CIVIL)</b> </div> <p><b>1.</b> Is this a cross-appeal, separate appeal, joining in a prior appeal, or related to another appeal that is currently pending or that has been decided by this court?</p> <p><input checked="" type="checkbox"/> <b>Yes</b>    <input type="checkbox"/> <b>No</b></p> <p>If yes, list the docket numbers of the other appeals: <u>1 - 2 3 - 1 1 4 2</u></p>

In 2, if any party, either Appellant or Appellee, is a corporation or business association, write the name of any company related to that corporation or business association.

In 3, enter your full name and other contact information. If there are other appellants besides you, include all their names and contact information on the *Additional Appellant Information* form and attach it to this *Docketing Statement (Civil)* and put a check in the box. If you have a lawyer, fill in their information below "Lawyer on Appeal for appellant filing this statement." If there is more than one lawyer for the appellants, check the box and fill out the *Additional* form. Insert it after this page.

In 4, you must enter the full name and contact information for all appellees you are filing your appeal against. If there is more than one appellee, include all their names and contact information on the *Additional Appellee Information* form and put a check in the box. You must also enter the full name and contact information for each lawyer. If you don't know the name of an appellee's lawyer, fill in the name and address of their trial lawyer. If there is more than one appellee or more than one lawyer for the appellee, check the box and fill out the *Additional Lawyer on Appeal Information* form. Insert it after this page.

2. If any party is a corporation or association, identify any affiliate, subsidiary, or parent group:

~~none~~

UNKNOWN

3. Full name and complete address of appellant filing this statement:

Paul	R.	Dulberg
First	Middle	Last
4606 Hayden Ct.		847-497-4250
Street, Apt #		Telephone number
McHenry Illinois 60051		PAUL.DULBERG@comcast.NET
City	State	ZIP
		Email address

☒ I have listed additional appellants on the *Additional Appellant Information* form.

Lawyer on Appeal for appellant filing this statement:

Alphonse	A.	Talarico
First	Middle	Last
707 Skokie Boulevard # 600		312-808-1410
Street, Apt #		Telephone number
Northbrook Illinois 60062		CONTACT @ LAW OFFICE OF ALPHONSE TALARICO.COM
City	State	ZIP
6184530		847-291-8492
Lawyer Registration Number		Fax number

☐ I have listed additional lawyers on the *Additional Lawyer on Appeal Information* form.

4. Full name and complete address of appellee:

Joseph	DAVID	OLSEN
First	Middle	Last
5702 ELAINE Drive #104		815-708-0234
Street, Apt #		Telephone number
ROCKFORD ILL. 61108		JOLSEN@comcast.NET
City	State	ZIP
		Email address

☒ I have listed additional appellees on the *Additional Appellee Information* form.

Lawyer for appellee:

JASON W. JOCHUM		
First	Middle	Last
550 W. Adams ST. #300		312-345-1718
Street, Apt #		Telephone number
CHICAGO ILLINOIS 60601		JASON.JOCHUM@LEWISBRISBOIS.COM
City	State	ZIP
417 37		(312) 345-1778
Lawyer Registration Number		Fax number

☒ I have listed additional lawyers on the *Additional Lawyer on Appeal Information* form.



In 5, enter the name and address of the court reporter who recorded the hearing in the trial court. If the hearing was electronically recorded, contact the trial court clerk's office to order the transcript. If there was no court reporter or recording, then leave 5 blank.

In 6, check "Yes" if your case involves parental responsibility or parenting time (custody/visitation rights) or relocation of a child. There are special rules that apply to speed up these appeals.

In 7, briefly write down your reasons for filing this appeal. If you don't list a reason here, you will still be able to bring it up later.

In 8a, enter the date you filed your Request for Preparation of Record on Appeal with the trial court.

In 8b, enter the date you delivered your Request for Report of Proceedings (Transcripts) to the court reporter you listed above in 5. If there was no court reporter or recording, leave 8b blank.

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name. Fill in your address, telephone number, and email address, if you have one.

### 5. Court reporter information:

Connie L. JAMES  
 First Middle Last  
1 North Franklin St. #3000 CHICAGO ILLINOIS 60606  
 Street Address City State Zip  
800-248-3290 \_\_\_\_\_  
 Telephone Email address

- ☐ I have listed additional court reporters on the Additional Court Reporter Information form.  
 (If there was more than one court reporter, check the box above and fill out the Additional Court Reporter Information form. Insert it before this page.)

### 6. Is this appeal from a final order in a matter involving child custody, allocation of parental responsibilities, or relocation of a minor child under Illinois Supreme Court Rule 311(a), which requires **Mandatory Accelerated Disposition**?

☐ Yes ☒ No

If yes, this *Docketing Statement (Civil)*, and all other notices, briefs, motions, and pleadings filed by any party shall include the following statement in bold type on the top of the front page:

**THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a).**

### 7. State the general issues you want to raise in your appeal:

DID THE TRIAL COURT ERROR IN HOLDING THAT PLAINTIFF PAUL R. DUBOSE WAS NOT TOTALLY DISABLED. DID DEFENDANT ALLSTATE CASUALTY INSURANCE CO & DEFENDANT ALTERNATIVE DISPUTE RESOLUTION BREACH THE BINDING MEDIATION AGREEMENT BY VIOLATING THE TERMS OF THE COURT'S ORDER?

### 8. I certify that DID DEFENDANT'S VIOLATION OF THE B.K. COURT ORDER

- a. on this date NOVEMBER 2, 2023 I filed a request with the trial court clerk to CONTINUING TO LITIGATE BEFORE THE TRIAL COURT  
 Date prepare the appeal record on appeal.
- b. on this date SEPTEMBER 22, 2023 I made a written request to the court  
 Date reporting personnel to prepare the transcripts, a copy of which is attached to this *Docketing Statement.*

Alphonse A. Talarico  
 Your Signature  
ALPHONSE A. TALARICO  
 Print Your Name  
CONTACT @ LAW OFFICE OF  
ALPHONSE TALARICO.COM  
 Email

707 SHAW BLVD #600  
 Street Address  
NORTHBROOK, ILL. 60062  
 City, State, ZIP  
(312) 808-1410 6184530  
 Telephone Attorney # (if any)

**GETTING COURT DOCUMENTS BY EMAIL:** You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

1-23-1142

**PROOF OF SERVICE** (You must serve the other party and complete this section)

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

In **1b**, check the box to show how you sent the document, and fill in any other information required on the blank lines.

In **1b**, check the box to show how you are sending the document.

**CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

In **1c**, fill in the date and time that you sent the document.

In **2**, if you sent the document to more than 1 party or lawyer, fill in **a**, **b**, and **c**. Otherwise leave **2** blank.

In **2b**, check the box to show how you are sending the document.

**CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

1. I sent this document:

a. To:  
 Name: JASON W. JOCKUM  
First Middle Last  
 Address: 550 W. Adams St. #300 CHGO. IL. 60601  
Street, Apt # City State ZIP  
 Email address: JASON.JOCKUM@LEWISBRISBOIS.COM

- b. By:
- ☒ An approved electronic filing service provider (EFSP)
- ☐ Email (not through an EFSP)  
 Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.
- ☐ Personal hand delivery to:
- ☐ The party
  - ☐ The party's family member who is 13 or older, at the party's residence
  - ☐ The party's lawyer
  - ☐ The party's lawyer's office
  - ☐ Mail or third-party carrier

c. On: NOVEMBER 2, 2023  
Date  
 At: 4:59 ☐ a.m. ☒ p.m.  
Time

2. I sent this document:

a. To:  
 Name: GEORGE W. MANOS  
First Middle Last  
 Address: 550 W. Adams St. #300 CHGO. IL. 60601  
Street, Apt # City State ZIP  
 Email address: GEORGE.MANOS@LEWISBRISBOIS.COM

- b. By:
- ☒ An approved electronic filing service provider (EFSP)
- ☐ Email (not through an EFSP)  
 Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.
- ☐ Personal hand delivery to:
- ☐ The party
  - ☐ The party's family member who is 13 or older, at the party's residence
  - ☐ The party's lawyer
  - ☐ The party's lawyer's office
  - ☐ Mail or third-party carrier

c. On: NOVEMBER 2, 2023  
Date  
 At: 4:59 ☐ a.m. ☒ p.m.  
Time

4 of 5



In 3, if you sent the document to more than 1 party or lawyer, fill in a, b, and c. Otherwise leave 2 blank.

In 3b, check the box to show how you are sending the document.

**CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign by hand and print your name.

1-23-1142

3. I sent this document:

a. To:  
Name: ZACHARY Mc GOURNTY  
First Middle Last  
Address: 550 W. Adams ST. #300 CHGO. 142. 60601  
Street, Apt # City State ZIP  
Email address: ZACHARY.McGOURNTY@LEOISBRISBOIS.COM

- b. By:
- ☒ An approved electronic filing service provider (EFSP)
- ☐ Email (not through an EFSP)  
Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.
- ☐ Personal hand delivery to:
- ☐ The party
  - ☐ The party's family member who is 13 or older, at the party's residence
  - ☐ The party's lawyer
  - ☐ The party's lawyer's office
- ☐ Mail or third-party carrier

c. On: NOVEMBER 2, 2023  
Date  
At: 4:59 ☐ a.m. ☒ p.m.  
Time

☒ I have completed an Additional Proof of Service form.

**I certify that everything in the Proof of Service is true and correct. I understand that a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.**

Isi [Signature]  
Your Signature

ALPHONSE A. TALLARICO  
Print Your Name

6184530  
Attorney # (if any)

5 of 5

**ADDITIONAL PROOF OF SERVICE**

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

## 1. I sent this document:

a. To:

Name:

ROBERT  
FirstA.  
MiddleCHAPMAN  
Last

Address:

1905. LA SALLE ST. #  
Street, Apt #3850  
CityCHGO.  
State122. 60603  
ZIP

Email address:

RCHAPMAN@CHAPMANSPINGOLA.COM

In **1b**, check the box to show how you are sending the document.

**CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

b. By:

☒ An approved electronic filing service provider (EFSP)☐ Email (not through an EFSP)

Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.

☐ Personal hand delivery to:☐ The party☐ The party's family member who is 13 or older, at the party's residence☐ The party's lawyer☐ The party's lawyer's office☐ Mail or third-party carrierc. On: 11/02/2023

Date

At: 4.59

Time

☐ a.m. ☒ p.m.



**ADDITIONAL PROOF OF SERVICE**

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

## 1. I sent this document:

## a. To:

Name: CHRISTINE V. ANTO  
First Middle Last

Address: 150 N. MICHAEL AVE. #3300 OKLAHOMA 60601  
Street, Apt # City State ZIP

Email address: CANTO@AMUNDSEND-ADVISELAW.COM

In **1b**, check the box to show how you are sending the document.

**CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

## b. By:

- ☒ An approved electronic filing service provider (EFSP)
- ☐ Email (not through an EFSP)  
*Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.*
- ☐ Personal hand delivery to:
- ☐ The party
  - ☐ The party's family member who is 13 or older, at the party's residence
  - ☐ The party's lawyer
  - ☐ The party's lawyer's office
- ☐ Mail or third-party carrier

In **c**, fill in the date and time that you sent the document.

c. On: 11/02/2023  
Date

At: 4.59 ☐ a.m. ☒ p.m.  
Time

**ADDITIONAL PROOF OF SERVICE**

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

## 1. I sent this document:

## a. To:

Name:

Jeremy N. Boeder  
First Middle Last

Address:

225 W. WASHINGTON ST. #2530 CHGO. ILL. 60606  
Street, Apt # City State ZIP

Email address:

JNBOEDER@TRIBLER.COM

In **1b**, check the box to show how you are sending the document.

**CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

## b. By:

☒ An approved electronic filing service provider (EFSP)

☐ Email (*not through an EFSP*)

*Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.*

☐ Personal hand delivery to:

☐ The party

☐ The party's family member who is 13 or older, at the party's residence

☐ The party's lawyer

☐ The party's lawyer's office

☐ Mail or third-party carrier

c. On: 11/02/2023

Date

At:

4.59

☐

a.m.

☒

p.m.

Time

In **c**, fill in the date and time that you sent the document.



**ADDITIONAL PROOF OF SERVICE**

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

## 1. I sent this document:

## a. To:

Name: MICHELLE TINAJERO  
First Middle Last

Address: 150 N. MICHAEL AVE. #3300 CHGO. ILL. 60601  
Street, Apt # City State ZIP

Email address: MTINAJERO@AMONDSENDAVISLAW.COM

In **1b**, check the box to show how you are sending the document.

**CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

## b. By:

☒ An approved electronic filing service provider (EFSP)

☐ Email (not through an EFSP)

*Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.*

☐ Personal hand delivery to:

☐ The party

☐ The party's family member who is 13 or older, at the party's residence

☐ The party's lawyer

☐ The party's lawyer's office

☐ Mail or third-party carrier

c. On: 11/02/2023

Date

At: 4.59 ☐ a.m. ☒ p.m.

Time

In **c**, fill in the date and time that you sent the document.

**ADDITIONAL APPELLANT INFORMATION**

Enter the name,  
address, telephone  
number, and email  
address of any other  
appellants.

Name: Thomas W. Kost Co-Trustee, The Paul R. Dulberg Revocable Trust  
*First Middle Last*

Address: 423 Dempster Street Mt. Prospect Illinois 60056  
*Street, Apt # City State ZIP*

(847) 439-2198 tkost999@gmail.com  
*Telephone Email address*

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street Address City State ZIP*

\_\_\_\_\_  
*Telephone Email address*

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street Address City State ZIP*

\_\_\_\_\_  
*Telephone Email address*

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street Address City State ZIP*

\_\_\_\_\_  
*Telephone Email address*

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street Address City State ZIP*

\_\_\_\_\_  
*Telephone Email address*



## ADDITIONAL APPELLEE INFORMATION

Enter the name,  
address, telephone  
number, and email  
address of any other  
appellees.

Name: Craig A. Willette  
First Middle Last  
Address: 1837 National Avenue Rockford Illinois 61103  
Street, Apt # City State ZIP  
815-965-8635 CRAIG WILLETTE@COMCAST.NET  
UNKNOWN UNKNOWN  
Telephone Email address

Name: Yalden, Olsen and Will;ette  
First Middle Last  
Address: 838 North Main Street Rockford Illinois 61103  
Street Address City State ZIP  
(815) 965-8635  
Telephone Email address

Name: Ralph E. Yalden II  
First Middle Last  
Address: 1505 National Avenue Rockford Illinois 61103  
Street Address City State ZIP  
815-540-6119 RALPH RAPHAEL YALDEN II @  
UNKNOWN UNKNOWN MSN.COM  
Telephone Email address

Name: ARD Systems of America, L.L.C. assumed name ADR Commercial Services  
First Middle Last  
Address: 20 N. CLARK ST #2900 CH GO. ILL 60602  
Multiple Multiple  
Street Address City State ZIP  
Multiple Multiple  
Telephone Email address

Name: Allstate Property and Casualty Insurance Company  
First Middle Last  
Address: 3100 SANDERS ROAD, #201 NORTHBROOK, ILL 60062  
Multiple addresses  
Street Address City State ZIP  
Multiple Multiple  
Telephone Email address

## ADDITIONAL APPELLEE INFORMATION

Enter the name,  
address, telephone  
number, and email  
address of any other  
appellees.

Name: Kelly N Baudin  
First Middle Last

Address: 820 E Terra Cotta Ave #138 Crystal Lake Illinois  
Street, Apt # City State ZIP

(815) 526-3202  
Telephone Email address

Name: William Randal Baudin II  
First Middle Last

Address: 820 E Terra Cotta Ave #138 Crystal Lake Illinois  
Street Address City State ZIP

(740) 888-1858  
Telephone Email address

Name: Kelran Inc  
First Middle Last

Address: 820 E Terra Cotta Ave #138 Crystal Lake Illinois  
Street Address City State ZIP

(815) 526-3202  
Telephone Email address

Name: \_\_\_\_\_  
First Middle Last

Address: \_\_\_\_\_  
Street Address City State ZIP

\_\_\_\_\_  
Telephone Email address

Name: \_\_\_\_\_  
First Middle Last

Address: \_\_\_\_\_  
Street Address City State ZIP

\_\_\_\_\_  
Telephone Email address



**ADDITIONAL LAWYER ON APPEAL INFORMATION**

Check the appropriate box.

Enter the name, address, telephone number, email address, lawyer registration number, and fax number of any other lawyers.

Lawyer for: ☐ Appellant ☒ Appellee

Name: George J. Manos  
First Middle Last  
 Address: 550 W. ADAMS ST. #300 CHGO. ILL. 60616  
Street, Apt # City State ZIP  
312-345-1718 GEORGE.MANOS@LEWISBEA.COM  
Telephone Email address  
41737 312-345-1776  
Lawyer Registration Number Fax number

Lawyer for: ☐ Appellant ☒ Appellee

Name: ZACHARY  Mc GOURTY  
First Middle Last  
 Address: 550 W. ADAMS ST. #300 CHGO. ILL. 60616  
Street, Apt # City State ZIP  
312-345-1718 ZACHARY.McGOURTY@LEWISBEA.COM  
Telephone Email address  
41737 312-345-1776  
Lawyer Registration Number Fax number

Lawyer for: ☐ Appellant ☒ Appellee

Name: ROBERT A. CHAPMAN  
First Middle Last  
 Address: 190 S. LA SALLE STREET #3850  
Street, Apt # City State ZIP  
312-630-9202 RCHAPMAN@CHAPMANSPINGOLA.COM  
Telephone Email address  
 (312) 630-9233  
Lawyer Registration Number Fax number

Lawyer for: ☐ Appellant ☒ Appellee

Name: CHRISTINE V. ANTO  
First Middle Last  
 Address: 150 N. MICHIGAN AVE #3300 CHGO. ILL. 60601  
Street, Apt # City State ZIP  
312-894-3200 CANTO@AMUNDSENDRAVISLAW.CO  
Telephone Email address  
   
Lawyer Registration Number Fax number

**ADDITIONAL LAWYER ON APPEAL INFORMATION**

Check the appropriate box.

Enter the name, address, telephone number, email address, lawyer registration number, and fax number of any other lawyers.

Lawyer for: ☐ Appellant ☒ AppelleeName: Jeremy N. BoederFirstMiddleLastAddress: 225 W. Washington Street Suite 2550 Chicago Illinois 60606Street, Apt #CityStateZIP312-894-3200Telephonejnboeder@tribler.comEmail addressLawyer Registration NumberFax numberLawyer for: ☐ Appellant ☒ AppelleeName: MICHELLE TINAJEROFirstMiddleLastAddress: 150 N. MICHIGAN AVE. #3300 CHGO. ILL. 60601Street, Apt #CityStateZIPTelephoneMTINAJERO@AMENDSENDAVISEmail addressLAW.COMLawyer Registration NumberFax numberLawyer for: ☐ Appellant ☐ Appellee

Name: \_\_\_\_\_

FirstMiddleLast

Address: \_\_\_\_\_

Street, Apt #CityStateZIPTelephoneEmail addressLawyer Registration NumberFax numberLawyer for: ☐ Appellant ☐ Appellee

Name: \_\_\_\_\_

FirstMiddleLast

Address: \_\_\_\_\_

Street, Apt #CityStateZIPTelephoneEmail addressLawyer Registration NumberFax number

1 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

2 COUNTY DEPARTMENT - LAW DIVISION

3 PAUL R. DULBERG and THE PAUL )

4 R. DULBERG REVOCABLE TRUST, )

5 )

6 Plaintiff, )

7 vs. )

No. 2022 L 010905

8 KELLY N. BAUDIN, et al, )

9 Defendants. )

10

11 Zoom video conference of the Hearing

12 held before the HONORABLE MICHAEL F. OTTO,

13 Courtroom 1407, taken pursuant to notice, commencing

14 at 11:15 a.m., Thursday, September 21, 2023.

15

16

17

18

19

20

21

22 Reported by: Connie L. James, CSR

23 License No. 084.002510



A P P E A R A N C E S:

ALL PARTIES APPEARING VIA ZOOM VIDEO CONFERENCE:

FOR PLAINTIFF:

ALPHONSE TALARICO LAW OFFICES

BY: MR. ALPHONSE TALARICO

707 Skokie Boulevard - Suite 600

Northbrook, Illinois 60062

(312) 808-1410

FOR DEFENDANT ALLSTATE:

AMUNDSEN DAVIS

BY: MS. MICHELLE TINAJERO

150 N. Michigan Avenue - Suite 3300

Chicago, Illinois 60601

(312) 894-3200

FOR DEFENDANTS OLSEN, WILLETTE & YALDEN:

LEWIS BRISBOIS BISGAARD & SMITH, LLP

BY: MR. JASON JOCHUM

550 W. Adams Street - Suite 300

Chicago, Illinois 60661

(312) 345-1718

I N D E X

HEARING ON MOTION FOR SUMMARY JUDGMENT:

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1 THE COURT: Good morning. Would everyone please  
2 identify themselves for the record?

3 MR. TALARICO: Good morning, Your Honor.  
4 Alphonse Talarico. I represent the Plaintiffs.

5 MS. TINAJERO: Good morning, Judge Otto. My name  
6 is Michelle Tinajero. I represent Allstate Property  
7 and Casualty Insurance Company.

8 THE COURT: Thank you.

9 Mr. is it Mr. Jochum?

10 MR. JOCHUM: Jochum, Your Honor. Sorry.

11 THE COURT: All right. Good morning.

12 MR. JOCHUM: Jason Jochum representing what we  
13 refer to as the Olsen Defendants, Joseph Olsen, Craig  
14 Willette and Raphael Yalden. They were dismissed  
15 earlier, but I'm just observing because we're still on  
16 appeal.

17 THE COURT: Thank you. I see we are also joined  
18 by Mr. Dulberg, individually, as well as Thomas Kost,  
19 K O S T, who is identified in his Zoom window as, the  
20 quote, full trustee of Paul R. Dulberg Revocable Trust,  
21 unquote.

22 We're up today for hearing on Allstate's  
23 Motion For Summary Judgment, which has been fully  
24 briefed. Anything to discuss before we move forward



1 with that hearing?

2 Mr. Talarico for the Plaintiff?

3 MR. TALARICO: Judge, no, nothing.

4 THE COURT: Ms. Tinajero, ready?

5 MS. TINAJERO: Yes, Your Honor.

6 THE COURT: Okay. You'll have the first and last  
7 word.

8 I will say for the record I have read the  
9 briefs, I have, of course, reviewed the exhibits as  
10 well as the authority that the parties have cited. So  
11 no within should feel that they need to read their  
12 brief to me, but I will, of course, give both sides an  
13 opportunity to be heard.

14 Ms. Tinajero, it's your motion, you'll have  
15 the first and last word.

16 MS. TINAJERO: Thank you, Your Honor. I will  
17 keep it brief this morning since you have gone through  
18 the briefs.

19 ARGUMENT BY

20 MS. TINAJERO:

21 The arguments set forth in our Motion For  
22 Summary Judgment are very straight forward. You know,  
23 as to the unsigned agreement, the position Plaintiffs  
24 have taken that a party is bound by and, therefore, can

1 breach an unsigned, undated agreement is a legally  
2 flawed position. Simply put, Allstate cannot be bound  
3 by an unsigned agreement.

4 As to the binding mediation agreement, which  
5 is the only executed valid agreement between the  
6 parties, which is undisputed, to the extent terms were  
7 modified and/or admitted between the unsigned agreement  
8 and the executed binding mediation agreement, it is not  
9 alleged Allstate does not maintain that it played any  
10 role in drafting anything about the mediation  
11 agreement. And, importantly, such amendments were made  
12 before the binding mediation was executed.

13 Additionally, the monetary parameters set  
14 forth in the agreement remains the same in both the  
15 unsigned agreement and the executed binding mediation  
16 agreement.

17 The damage that Dulberg identifies in the  
18 complaint, you know, in an amount in excess of \$261,000  
19 do not flow from any breach complained of as against  
20 Allstate. And it's our position that there are no set  
21 of facts under which Dulberg can prove a breach of an  
22 unsigned agreement or the executed binding mediation  
23 agreement.  
24

1 Further, Dulberg executed a release, which is  
2 attached to our Motion For Summary Judgment. The terms  
3 of the release are clear, certain, free from doubt and  
4 Dulberg admits to signing the release in his reply to  
5 Allstate's affirmative defenses. That's all I have,  
6 Your Honor.

7 THE COURT: Thank you, Tinajero.

8 Mr. Talarico?

9 ARGUMENT BY

10 MR. TALARICO:

11 I think I would like to start in reverse  
12 order. I would like to address, Judge, the release.

13 Mr. Dulberg -- I filed on behalf of  
14 Mr. Dulberg, he signed a counter-affidavit, which was  
15 sent to the Court and I believe it's actually been  
16 delivered personally to your courtroom today. It was  
17 filed yesterday. Mr. Dulberg had been sick for a few  
18 days and he couldn't cooperate or give me any of his  
19 time, but I filed it yesterday and it's in opposite to  
20 the release, the reasons why the release is not  
21 effective. His reasoning is that he was forced to do  
22 this against his will.

23 In his counter-affidavit he indicated, and I  
24 think copied transcripts of e-mails that he received



1 from his own attorney forcing -- telling him that if he  
2 didn't sign the release, the Judge would hold him in  
3 contempt and he would be jailed, different than the  
4 general terms of contract by signing a release, which  
5 is a contract, under those terms cannot be enforced  
6 against the person that's being threatened with jail,  
7 and/or being held in contempt. Plus, that particular  
8 release makes no sense, Judge.

9 If you really think about all of the things  
10 they talk about in their motion and affidavit,  
11 especially the affidavit.

12 I would like to bring up the fact that the  
13 statement, the affiant says the money was paid and then  
14 the releases were sent out to be signed. Judge, I  
15 would ask you to take judicial notice that insurance  
16 companies do not pay first and then send out releases.

17 Furthermore, since this matter was already  
18 adjudicated and an order was entered by the arbitration  
19 judge, there was no need for a release; that Allstate  
20 had paid, according to their own affidavit, and now  
21 they're trying to enforce and ask for and force  
22 Mr. Dulberg to sign a release. I think that brings up  
23 a considerable amount of questionable contrary facts  
24 just on its own, Judge.

1           So I would hope that you would contemplate  
2 what I'm saying and see that summary judgment is so  
3 inappropriate, that's just one of hundreds of things  
4 that we are at different ends of the spectrum on. And  
5 I think that's all been supplied to Your Honor, but,  
6 most importantly, this release issue, it is contrary to  
7 the logic that the money was paid first and released.  
8 In my practice, Judge, but I've never settled with an  
9 insurance company that would pay first and then ask for  
10 a release. That's all I have to say today, Judge.  
11 Thank you.

12           THE COURT: Okay. Mr. Talarico, the only  
13 argument you want to make today is a brand new argument  
14 based on, I believe, duress that did not appear  
15 anywhere in your response brief. It is based  
16 exclusively on an affidavit that was filed yesterday  
17 and hand delivered to the Court minutes before this  
18 proceeding began.

19           That's the only argument you want to make?  
20 You don't want to address anything that Ms. Tinajero  
21 spelled out in the motion or the reply regarding the  
22 enforceability of an unsigned agreement, which is the  
23 entire basis of Count 5? I just want to make sure that  
24 you have a full opportunity to make whatever arguments

1 you wish.

2 FURTHER ARGUMENT

3 BY MR. TALARICO:

4 First, I would like to get back to the  
5 release. The release was filed yesterday, Your Honor.  
6 It was filed and it was accepted. I sent it out to  
7 Your Honor this morning at about 6:00 a.m. with the  
8 attached exhibits and all the other counsel of record.  
9 What response I got was please send a hard copy from  
10 your support staff. So I had a hard copy delivered to  
11 the courtroom today, but this was filed yesterday.

12 Judge, this was filed pursuant to, and I  
13 think it's clear there, Subsection C of the Motion For  
14 Summary Judgment. I'm allowed to do that, Your Honor.  
15 And I just complied with the statute, 735 5 -- Well,  
16 you know, Judge, better than I know. But 105  
17 Subsection C says I can file counter-affidavits up to  
18 the time of hearing and I did that.

19 So I don't think I violated anyone and I  
20 tried -- I sent a message to everybody that if anybody  
21 objects, they want more time to review, they want more  
22 time to respond, we have no objection. And I also --  
23 counsel suggested the reason why Mr. Dulberg is here  
24 because if the Court wants to examine him as to the



1 affidavit, he's more than willing to answer questions  
2 of the Court.

3 THE COURT: This is not an evidentiary hearing.

4 MR. TALARICO: You're right, Your Honor. I just  
5 made that option.

6 THE COURT: The other question I asked you, and,  
7 again, you focused exclusively on this 11th hour  
8 affidavit, which only addresses the effectiveness of  
9 the release, I want to make sure that you've had the  
10 opportunity to address today, if you choose, because I  
11 didn't see anything really in your brief that addresses  
12 why the draft agreement attached as Exhibit 6B to the  
13 complaint would be enforceable?

14 MR. TALARICO: Why it wouldn't be enforceable?  
15 Is that what you said? I'm sorry.

16 THE COURT: Why it would be enforceable because  
17 that's your claim. Count 5 is for breach of contract.

18 MR. TALARICO: Yes, Judge.

19 THE COURT: The breach that you claim in  
20 Paragraph 106 is that Defendant breached the contract  
21 by not following the terms regarding amending the  
22 contract, but the only amendments that you cite are the  
23 changes between Exhibit 6B and Exhibit 11. So for  
24 there to possibly be a breach of contract, Exhibit 6B

1 must have been enforceable, otherwise you can't  
2 possibly have a claim for its breach. And Ms. Tinajero  
3 on behalf of Allstate has argued in the motion and the  
4 reply that because Exhibit B was unsigned it was not  
5 enforceable.

6 THE COURT: Judge, Exhibit B was the only exhibit  
7 permitted by the bankruptcy court. It was presented to  
8 the bankruptcy judge as unsigned and the bankruptcy  
9 judge, Judge Lynch, said to the trustee "sign the  
10 contract and you can go forward." Trustee never signed  
11 it. They refused to sign -- They didn't actually  
12 refuse to sign it, but he didn't. Then another  
13 contract appeared.

14 One of the things we said, Judge, is that  
15 this matter -- this binding mediation agreement had  
16 been already presented to the trial court judge maybe  
17 6 months before. So there's all of these issues of  
18 what's the valid contract, names are changing from the  
19 Defendant being liable, the contract now says a  
20 relative of the Dulbergs is liable to Paul, but there's  
21 a person, David Dulberg, he exists.

22 Again, the bankruptcy judge saw an unsigned  
23 contract and told and instructed his trustee to sign  
24 it.

1           We have an enforceable contract, I believe.  
2       And I think that the fact that all of these things were  
3       done -- and forgive me, Judge, because I don't practice  
4       bankruptcy -- but in violation of the stay that had  
5       been in effect that whole time. I think that with all  
6       of those issues I should be allowed as representative  
7       of the Plaintiff to do some discovery upon to see  
8       really what the truth of the matter is, we've had  
9       allegations back and forth.

10           THE COURT: You said that the bankruptcy court  
11       directed the trustee to sign the agreement. So what  
12       possible relevance can any prior alleged violations of  
13       the stay have to do with Allstate's liability under any  
14       contract?

15           MR. TALARICO: Judge, the terms of the contract,  
16       we say that the signed contract is a contract. The  
17       terms of the contract as accepted and signed by all the  
18       parties were -- when I say parties I mean Dulberg  
19       denies he signed it, but, anyway, the terms of the  
20       contract are sufficient, they say that the breach is  
21       that they changed the terms of the contract from the  
22       contract they presented to the Court; that the plain  
23       language of the contract says if you do this you have  
24       to do it, you have to submit hard copies, you have to



1 do it in advance, I think it's 2 weeks, you have to get  
2 permission by the ADR. None of that was done. And  
3 both Baudin and the attorney for Allstate were  
4 participants in that. So I believe that's a breach of  
5 contract.

6 THE COURT: Mr. Talarico, that assumes that the  
7 unsigned contract was enforceable. What factual or  
8 legal support do you have for that proposition because  
9 I saw not a single case cited in your brief at all?  
10 And the extensive factual recitation appears completely  
11 irrelevant. So what did you point me to that I  
12 overlooked in your brief that provides factual or legal  
13 support for the proposition that the unsigned contract  
14 is enforceable?

15 MR. TALARICO: Judge, I will rest now. I said  
16 what I have to say. What I pointed you to was the fact  
17 that the only contract empowered was the unsigned one.  
18 So I'm going to stay on that and I'm finished talking.  
19 Thank you, Judge.

20 THE COURT: Thank you, Mr. Talarico.

21 Ms. Tinajero, if you wish?

22 FURTHER ARGUMENT

23 BY MS. TINAJERO:

24 Judge, just briefly. I will say as to the

1 counter-affidavit that was filed this morning, or at  
2 least a courtesy copy of which we only received this  
3 morning, it's Allstate's position it should be  
4 stricken.

5 A briefing schedule was entered in this case.  
6 Dulberg, Plaintiff's counsel received an extension of  
7 time to file his response. But, more importantly,  
8 procedural matters aside, all the information contained  
9 in the counter-affidavit it doesn't create a genuine  
10 issue of material fact as to Allstate's breach of an  
11 unsigned agreement:

12 Any representations that the Baudin  
13 Defendants made or the Olsen Defendants made to Dulberg  
14 in the course of the binding mediation proceedings, any  
15 execution of the binding mediation agreement or in  
16 Dulberg's execution of the release have no bearing on  
17 the specific claim against Allstate here, which is  
18 breach of an unsigned contract. That's all, Your  
19 Honor.

20 MR. TALARICO: Your Honor, may I respond?

21 THE COURT: You had a full opportunity to argue,  
22 Mr. Talarico, but in the interest of making a complete  
23 record, what did you wish to say, bearing in mind that  
24 Ms. Tinajero will have the last word?

1 FURTHER ARGUMENT

2 BY MR. TALARICO:

3 Yes. I'm repeating myself but --

4 THE COURT: Then why are you taking everybody's  
5 time if all you're going to do is repeat yourself?

6 MR. TALARICO: One sentence, Judge, will be all I  
7 want.

8 I'm allowed to do that pursuant to 735 ILCS  
9 5/2-1005(c). Thank you, Judge.

10 THE COURT: All right. You did, indeed, repeat  
11 yourself, but I suppose if you wanted to say that a  
12 second time for the record, fine.

13 COURT'S RULING

14 ON THE MOTION:

15 Plaintiff's counsel is correct, Section 2  
16 1005 of the Illinois Code of Civil Procedure, 735 ILCS  
17 5/2-1005, Subparagraph (c), does permit an opposing  
18 party to, quote, prior to or at the time of the hearing  
19 on the motion file counter-affidavits, unquote.

20 I remain unconvinced of the wisdom of that  
21 provision of the Illinois Code of Civil Procedure, but  
22 there's nothing unconstitutional about it and judges  
23 don't ignore or overlook a statute simply because they  
24 can't understand why in the world that would be the



1 law. So, yes, there is nothing procedurally improper  
2 about launching an affidavit at the opposing parties  
3 and the Court hours before a hearing on a fully briefed  
4 Motion For Summary Judgment. So I have received the  
5 affidavit.

6 The affidavit, as I said, essentially seeks  
7 to lay ground work for a claim of duress in executing  
8 the release. I don't see anything about duress by  
9 Allstate and I don't see anything in the affidavit, nor  
10 have I heard anything in counsel's argument today, that  
11 would suggest that Allstate was not entitled to rely on  
12 the release, but the release issue is only one of the  
13 arguments that Allstate makes in support of its Motion  
14 For Summary Judgment.

15 Even if I were to find that there were an  
16 issue of material fact as to the enforceability of the  
17 release, Allstate is entitled to summary judgment on  
18 Count 5 of the complaint as pled because the only  
19 breach of contract that the Plaintiff alleges is  
20 failure to follow, quote, the terms regarding amending  
21 the contract. But the only amendments of the contract  
22 that the Plaintiff identifies are changes from an  
23 unsigned version of the contract to the final signed  
24 version of the contract.

1           The Plaintiff provides no authority to  
2 support the proposition that the unsigned contract was  
3 binding on Allstate or anyone else. And if the  
4 contract, itself, was not binding, definitionally the  
5 terms regarding amending the contract, quote, unquote,  
6 cannot have been bind. There is no other breach pled.  
7 So Allstate ask entitled to summary judgment.

8           In addition, even if hypothetically, because  
9 I understand Mr. Talarico's point, that the unsigned  
10 version of the contract was the version presented to  
11 the bankruptcy judge in advance, even if theoretically  
12 there might be some potential claim for hoodwinking the  
13 bankruptcy judge, or something like that, I don't know  
14 what it would be, even if hoodwinking the bankruptcy  
15 judge, quote, unquote, were a basis for finding a  
16 contract enforceable, even so the breaches that the  
17 Plaintiff claims did not cause any injury.

18           Mr. Talarico notes that there were a few  
19 changes and one does appear to have introduced a  
20 typographical error in terms of the individual who  
21 would be responsible to the Plaintiff, but both  
22 contracts, the unsigned and the signed, were identical  
23 as far as Allstate's obligation and there is no  
24 suggestion, there is not even any suggestion, let alone

1 an issue of material fact that Allstate paid the full  
2 amount that it was obligated to pay under either  
3 version of the contract.

4 So Allstate is entitled to summary judgment  
5 not only on the grounds that there was no breach, but,  
6 even if there were a breach, there was no injury.

7 The motion for summary judgment is granted in  
8 its entirety.

9 And the parties will have to remind me, I  
10 don't believe there are any other parties remaining,  
11 but, perhaps, I'm overlooking someone.

12 Mr. Talarico, to your knowledge are there any  
13 other party defendants remaining in the case?

14 MR. TALARICO: Not at this moment, Your Honor.  
15 There are no more, you've already released everyone.

16 THE COURT: Okay. So then today's order will be  
17 final and appealable.

18 Ms. Tinajero, I'll ask you to draft a short  
19 written order. It doesn't need to say anything more  
20 than that the parties appearing on Allstate's Motion  
21 For Summary Judgment, Court having heard argument of  
22 both sides, having considered all briefs and all  
23 exhibits, including the recent affidavit by Plaintiff  
24 Paul Dulberg grants summary judgment for the reasons



1 stated on the record. This is a final and appealable  
2 order.

3 Thank you, everybody. Have a good day.  
4 We're in recess.

5 MS. TINAJERO: Thank you, Judge.

6 MR. TALARICO: Thank you, Your Honor.

7 (Whereupon the hearing concluded at 11:40 a.m.)  
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1 REPORTER'S CERTIFICATE

2  
3 I, CONNIE L. JAMES, CSR No. 084.002510,  
4 Certified Shorthand Reporter, certify:

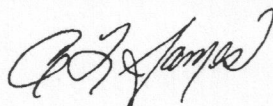
5  
6 That the foregoing proceedings were taken before  
7 me at the time and place therein set forth;

8 That all statements made at the time of the  
9 hearing were recorded stenographically by me and were  
10 thereafter transcribed;

11 That the foregoing is a true and correct  
12 transcript of my shorthand notes so taken;

13 I further certify that I am not a relative  
14 or employee of any attorney of the parties, nor  
15 financially interested in the action.

16 I declare under penalty of perjury under the Laws  
17 of Illinois that the foregoing is true and correct.

18 Dated this 2<sup>nd</sup> 

19  
20 CONNIE L. JAMES, CSR No. 084.002510  
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