

No.

In the Supreme Court of Illinois

PAUL R. DULBERG,

Plaintiff-Petitioner,

v.

**HANS MAST and the LAW OFFICES
OF THOMAS J. POPOVICH, P.C.**

Defendants-Appellees

)
) On Petition for Leave to Appeal
) from the Illinois Appellate Court,
) Second Judicial District, Case No.
) 2-23-0072
)
) There on Appeal from the Circuit Court
) of McHenry County, Illinois,
) Law Division, 17LA377
)
)
) Hon. Joel D. Berg,
) *Judge Presiding*
)

**PAUL R. DULBERG'S
PETITION FOR LEAVE TO APPEAL**

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Dated: January 04, 2024

Oral Argument Requested

PREAMBLE:

Much of the matter that follows can be characterized as a snowballing effect caused by fraud committed by officers of the court. Currently there are nine (9) related ARDC investigations pending (#2023INO2517, #2023INO2518, #2023INO3135, #2023INO3136, #2023INO3894-R, 2023INO3898-R, #2023INO3897-R, 2023INO3895-R, #2023INO3896-R), one (1) submitted Judicial Inquiry Board “Complaints against a Judge,” (Associate Judge Joel D. Berg) and one (1) Judiciary Inquiry Board “Complaint against a Judge” that was unable to be processed because the individual named (former Associate Judge Thomas A. Meyer) is no longer an active Illinois state court judge.

The events of this matter occurred over a period of time in excess of 13 years and the Record on Appeal, with at least two known dates missing from the file, is currently equal to or greater than two thousand six hundred and sixty pages (2660).

This matter was hampered not only by the fraud committed by officers of the court but also by the traumatic life events that befell Plaintiff/Appellant Paul R. Dulberg but also his attorney as follows:

- a. The unexpected death of key witness, lifelong friend and live-in caretaker Michael McArtor;
- b. The disappearance of, false arrest and medieval interrogations , imprisonment and, by law, lack of the ability to consult with an attorney, nor contact anyone of Plaintiff/Appellant’s attorney Alphonse A. Talarico’s fiancé during a scheduled stopover in Tokyo, Japan on the way to O’Hare International Airport, Illinois.

The Appellate Court was made aware of each traumatic life event through motions for extension of time and other related and consequential motion practice but culminated in the order that ended this matter before the Appellate Court. (A)

The history of this matter is as follows:

TWENTY SECOND JUDICIAL CIRCUIT COURT OF MCHENRY COUNTY History:

1. 12LA178 was filed On May 15, 2012 and is the underlying case to 17LA377.

The case records from 12LA178 was motioned to be added to the record on appeal but was denied by the appellate court so it cannot be referenced in the record on appeal.

In 2011 Plaintiff/Appellant Paul R. Dulberg was permanently injured by a chainsaw owned by Caroline and William McGuire (principles) but operated by their chosen person David Gagnon (agent).

The debilitating injuries caused Dulberg to seek out a law firm (Law Offices of Thomas J. Popovich, P.C.) and they filed a cause of action for negligence in the Twenty Second Judicial Circuit Court of McHenry County, case number 12LA178 against both the chainsaw owners for negligence under vicarious liability and their chosen operator for negligence.

The Trial Court Judge for the original matter (12LA178) was then Associate Judge Thomas A. Meyer. Thomas A. Meyer is a close personal friend of Thomas J. Popovich owner of the Law offices of Thomas J. Popovich, P.C. Associate Judge Thomas A. Meyer did not disclose the personal friendship with Thomas J. Popovich nor did he recuse himself from the underlying case 12LA178.

From October 22, 2013 to December 18 or 20?, 2013 the Law Offices of Thomas J. Popovich, P.C. systematically coerced a \$5000 settlement out of the Plaintiff/Appellee Paul R. Dulberg. First by submitting a unauthorized settlement offer of \$7500.00 on October 22, 2013 to the attorney (Ronald Barch) representing the McGuires' without informing Dulberg. Second by repeatedly telling Dulberg in emails and at meetings that case law doesn't support Dulberg's claim against the McGuires' claiming it is a common law 318 case not adopted by Illinois while providing Dulberg with a certified slip copy of *Tilshner v Spangler* and copies of *Choi* and *Lajato* rulings from law books to prove it but have nothing to do with the vicarious liability of the agent. Thirdly the Law Offices of Thomas J. Popovich provided forged documents (depositions) to Dulberg to read from which Dulberg was to make the settlement decision. This took place years prior to final adjudication of the matter with the chainsaw operator or agent (Gagnon).

As a direct result of the coerced settlement the remainder of the underlying case 12LA178 became an asset of a Federal Bankruptcy Estate, Bk No. 14-83578 in the Northern District of Illinois, Western Division in November 2014 and was placed under an automatic stay.

The Law Offices of Thomas J. Popovich knowingly proceeded to file motions attempting to settle with the remaining defendant (Gagnon) in the 22nd Judicial Circuit Court as if no stay was in place and without permission of the bankruptcy estate trustee or court. Unsuccessful in settling with the remaining defendant, The Law Offices of Thomas J. Popovich withdrew in March 2015.

Associate Judge Thomas A. Meyer knowingly operating in circuit court in violation of the automatic stay instructed Plaintiff/Appellate Paul R. Dulberg that he would need to find new counsel, file a pro se appearance or face dismissal of the cause of action. Dulberg, having no standing but following Associate Judge Meyers instructions hired Brad J. Balke, P.C.

Brad J Balke P.C. knowingly operated in violation of the stay and pressed forward in the 22nd Judicial Circuit Court attempting to get Plaintiff/Appellee Paul R. Dulberg to accept the same settlement deal the Law Offices of Thomas J. Popovich, P.C. pursued. Plaintiff/Appellate Paul R. Dulberg fired Brad J. Balke, P.C. and was once again instructed by Associate Judge Thomas A. Meyer to find new counsel, file an appearance pre se or have his case dismissed. Dulberg, having no standing but following Associate Judge Meyers instructions hired Baudin and Baudin an association of attorneys.

Baudin and Baudin knowingly operated in violation of the stay in the circuit court for over 16? months striking a deal with the remaining Defendants' insurance carrier Allstate to enter

into a capped ADR agreement reporting the deal to Associate Judge Thomas A. Meyer on August 10, 2016 against plaintiff/appellant Paul R. Dulberg's desires and in violation of the stay.

Attorneys Kelly Baudin and Randall Baudin acting under the name Baudin Law Group then made contact with a newly appointed bankruptcy estate trustee after September 1, 2016 and were approved to be hired by the bankruptcy court on October 31, 2016 on falsified affidavits containing contracts for legal services with Baudin and Baudin an association of attorneys and misrepresentations of Dulberg's desires made to the bankruptcy court claiming Dulberg wanted the capped ADR agreement.

After the ADR award on December 12, 2016 was issued and Dulberg could finally realize a pecuniary loss from the Law Offices of Thomas J. Popovich, P.C.'s mishandling of and coerced settlement with the vicariously liable owners of the chainsaw (the McGuires'). Plaintiff/Appellant Paul R. Dulberg, now able to realize a pecuniary injury, hired Thomas Gooch of Gauthier and Gooch and filed a legal malpractice suit in the 22nd Judicial Circuit Court of McHenry County, case number 13LA377 in November 2017.

2. 17LA377 was filed on November DAY, 2017 and is the underlying case to 2-23-0072 filed in the Illinois Appellate Court Second District.

Associate Judge Meyer was assigned to 17LA377 in the 22nd Judicial Circuit Court of McHenry County and did not self recuse even though he was personal friends with the defendants and possibly a witness in the instant case since he presided over the underlying case 12LA178.

Defendants moved for Summary Judgement, Judge Meyer set the hearing date and was replaced by Associate Judge Joel D. Berg.

Associate Judge Joel D. Berg did not self recuse and is also an admitted close personal friend of Thomas J. Popovich and also has self recused from cases where Thomas J. Popovich is

a defendant. This was discovered in documents filed in other cases but not allowed to be part of the record on appeal.

Associate Judge Joel D. Berg entered Judgement in favor of his close personal friends the defendants after a hearing.

Associate Judge Joel D. Berg set the date that Plaintiff/Appellant knew or should have known of the pecuniary injury back to when the wrongdoing occurred before Mast and Popovich withdrew in March of 2015 even though Dulberg pled the discovery of the pecuniary injury came after the final award was issued in December 2016.

ILLINOIS APPELLATE COURT SECOND DISTRICT History:

2-23-0072 was filed on March DAY, 2023

[Start Here](#)

PRAYER FOR LEAVE TO APPEAL

Pursuant to Illinois Supreme Court Rule 315(c)(1), Paul R. Dulberg (“DUL”) respectfully petitions for leave to appeal the judgement of the Illinois Appellate Court for the Second District in *PAUL R. DULBERG v. HANS MAST and the LAW OFFICES OF THOMAS J. POPOVICH*, P.C. 2023 IL App (2nd) 2-23-0072 (??).¹

Pursuant to Illinois Supreme Court Rule 315(c) (2), “Date of Judgment” The date judgment was entered is December 4, 2023. There was no petition for rehearing filed. (A)

STATEMENT OF THE DATE UPON WHICH THE JUDGEMENT WAS ENTERED

(A1) Pursuant to Supreme Court Rule 315(c)(2) The Date the Judgment was entered is December 4, 2023

STATEMENT OF THE POINTS RELIED UPON IN ASKING THE SUPREME COURT TO REVIEW THE JUDGEMENT OF THE APPELLATE COURT

1. There are 9 ARDC COMPLAINTS filed and a submitted Judicial Inquiry Board “Complaints against a Judge,” in relation to this case.

¹ The record on appeal contains 2 common law volumes cited as “C__.” and one volume of transcripts cited as “__ROP.__.” Citations to this Petition’s appendix are cited as “A__.”

- a. Due to the nature and severity of the ARDC complaints there is the need for the exercise of the Supreme Court's supervisory authority in this case
- b. Dulberg was targeted by his own attorneys (in collaboration with opposing counsel) by a sophisticated system of document and information suppression to sabotage his case against Popovich and Mast.
- c. Dulberg was subject to fraud perpetrated by officers of the court so that the judicial machinery could not perform in the usual manner its impartial task of adjudging cases.

2. APPELLATE COURT ORDERS DENIED DULBERG THE ABILITY TO SUPPLEMENT THE RECORD WITH RELATED CASES.

- a. of Meyer recusal listed in 2023-11-03 Emergency Mot page 4 and as exhibit A
- b. Berg recusal? Didn't we have one recusal prior to the dismissal?
- c. to fix 17LA377 clerks file (problems with clerks file described in next section)
- d. to add Barbara G. Smith thumbdrive. mentioned in 2023-11-03 Mot Page 5, paragraph 3. Also described in Clinton-Williams ARDC Setion 2K and section 2C
- e. to add related cases listed in 2023-10-02 Motion page 7 (cases listed as a through e). Significance of cases also described in ARDC complaint Popovich-Mast, Balke, Baudins, Gooch-Walczyk
- f. Supreme court rule 329 gives us the right to suppliment or correct the record through the appellate court. Listed in Motion to Reonsider 2023-11-21 page 4
- g. Law never requires doing a useless thing. It was impossible for us to return to the 22nd Judicial Circuit Court for the request. Reasons why listed in 2023-11-21 Motion to Reconsider page 6

3. APPELLATE COURT ORDER DENIED DULBERG'S REQUEST FOR AUDIT

(cencerning missing and altered documents in Clerks file)

- a. The Record on Appeal was filed on April 24, 2023.

- b.** Common Law Record Volume 1, Common Law Record Volume 2 and Reports of proceedings all have a submission date of April 24, 2023 from 10:00 AM to 10:03 AM. (Exhibit in 2023-11-03 Mot page 77 and 78 and page 1 of CLR vol 1 and 2 and page 1 of ROP in Appeal Package)
- c.** The Record on Appeal was made available for download on April 25, 2023 at 8:48 AM (Exhibit in 2023-11-03 Mot page 75)
- d.** Common Law Volume 1 has a creation date of April 24, 2023 at 9:31 AM. Common Law Volume 2 has a creation date of April 24, 2023 at 9:28 AM. The Reports of proceedings has a creation date of April 25, 2023 at 8:06 AM and is missing ROPs. Note creation date is AFTER submission date. (Exhibit in 2023-11-03 Mot page 77 and 78)
- e.** The creation dates show that the CLR vol 1 and 2 were treated differently than the ROP. They followed a different pathway in the digital system.
- f.** There are missing ROPs, mismatched sections and broken hyperlinks.
- g.** Hyperlinks are broken in a way that only defendants MTD motion and after are working. Hyperlinks are broken in a way which favors the defendants

4. APPELLATE COURT ISSUED ORDERS WITHOUT JUDGES NAMES

- a.** The following orders were issued by the 2nd Appellate Court, none of which were signed by any Judges and were signed only by the clerk:
 - 5-26-2023 granted ([exhibit linked](#))
 - 7-25-2023 granted ([exhibit linked](#))
 - 10-10-2023 denied ([exhibit linked](#))
 - 11-09-2023 denied ([exhibit linked](#))
- b.** All motions had Illinois Supreme Court approved order forms submitted with them that were tossed aside not used by the second district appellate court:
 - 5-24-2023 proposed order ([exhibit linked](#))

7-25-2023 proposed order ([exhibit linked](#))

10-01-2023 proposed order ([exhibit linked](#))

11-03-2023 proposed order ([exhibit linked](#))

([possible exhibit linked](#))

- c.** Dulberg contacted the appellate court clerk to ask for the actual order signed by a Judge and not just what appeared to be the clerk's notice. He was informed that the one signed by the clerk was the court order. ([exhibit linked](#))
 - d.** The only appellate court order showing the Judges names is final dismissal order on 12-04-2023 and was only signed by the clerk ([exhibit linked](#))
 - e.** The final dismissal order on 12-04-2023 is when Dulberg first saw Hutchinson's name typed on an order signed by the clerk. ([exhibit linked](#)) Dulberg lost his statutory right to substitute the Judge because he was not informed which judges were assigned to his case. Dulberg and his attorney believed these rulings came from the clerk's office alone since that is all they were shown.
 - f.** Dulberg can find no local rule in the appellate court allowing the clerk to create and sign their own ORDER while tossing aside the Illinois Supreme Court approved order form properly filed with each motion.
- 5.** Judge Hutchinson previously presided over a 1990 criminal case involving Dulberg in McHenry County Illinois that was a high profile case and heavily covered in the local press.
 - a.** In the 1990 criminal case Dulberg had filed a series of motions all to be heard at the same time based on testimony given before Judge Hutchinson.
 - b.** Before the motions were to be heard, Dulberg remembers that Judge Hutchinson asked the parties to approach the bench and explained to Dulberg's attorney and the states attorney why she was splitting the motions up. Judge Hutchinson would hear the motions for reconsideration and was having the motion to quash assigned to

another judge.

- c. Judge Hutchinson explained that she had to hear the motions for reconsideration because she made the prior rulings but the motion to quash was new and since she felt the states witnesses were less than honest when testifying before her on the issues now raised in the motion to quash she was concerned with the political implications of her possible ruling and how it would be played in the local press due to her running for the position she currently holds in the Appellate court.
- d. During the 1990 case Judge Hutchinson did cause a split of the series of motions filed at the same time, she did hear the motions to reconsider and had the motion to quash assigned to another Judge that was not present for the live testimony.
- e. Judge Hutchinson had placed her political aspirations to become an appellate court judge above the case before her because she feared the local press coverage and possible political ramifications if she were to rule in favor of Dulberg.
- f. Hutchinson was then reassigned to less publicized cases for the duration of her campaign for appellate Court Judge.
- g. The 1990 criminal case was a high profile case for Hutchinson and widely publicized by the local newspaper covering McHenry County. During Dulberg's case Hutchinson decided to run in the election for appellate court. Dulberg believes it is not possible for Hutchinson to forget about it since his case kept Hutchinson's name in the newspapers for well over a year till she got herself reassigned and transferred off it. Hutchinson's time in Dulberg's case placed her name in the hands of every reader of the news paper making her a household name just before she was elected to her current position with the appellate court.

Obviously, if Dulberg knew Judge Hutchinson was assigned to this civil appeal 30 plus years after his prior criminal case he would have asked for a substitution of Judge since Judge Hutchinson comes armed with prior knowledge about Dulberg that no impartial Judge

would have embedded in their memory.

6. MOTION TO RULE WAS ACCEPTED DECEMBER 3, IGNORED BEFORE FINAL RULING ON DEC 4, AND SENT BACK ON DEC 5 (this is a retroactive use of dismissal order on motions timely and properly filed before the dismissal)

- a.** On December 3, 2023 Dulberg filed a Motion for Ruling on 2023-11-21 Motion to Reconsider - (We needed an answer to know what we could include in our brief before filing it) ([exhibit linked](#))
- b.** On December 4, 2023 Dulberg received Order, case dismissed for not filing brief - signed by clerk Case dismissed with Judges names appearing for first time in print on an ORDER signed by the Clerk. ([exhibit linked](#))
- c.** On December 5, 2023 the Motion for Ruling filed on 2023-12-03 was sent back because the case was dismissed on 2023-12-04 after the proper and timely filing of the motion. ([exhibit linked](#)) It is as if the later dismissal of the case can be applied retroactively to motions timely and properly filed before the case was actually dismissed. (Retroactive use of an order of dismissal on motions timely and properly filed before the dismissal as an excuse to reject them)

7. ORDER DENIED OVER EXTENSION OF TIME TO FILE

Previous motions for extension of time were based on serious family emergencies.
(emergencies explained in 2023-10-0 Mot page 4)

8. Contrary to the precise ruling contained in *Suburban Real Estate Services, Inc. v. Carlson*, 2022 IL 126935, 193 N.E.3d 1187, 456 Ill.Dec.779 (Ill.2022) the trial court was not clear and errored, presiding Associate Judge Joel D. Berg, being a personal friend of the sole (at this time and 50% with ex-wife previously) owner of the Defendant/Appellee's Law firm, was not clear in his ruling and failed to take into account or recognize the principal/agent relationship between the codefendants in the underlying case (12LA178) thereby erroneously setting the date that Plaintiff/Appellant knew or should have known of the pecuniary injury back to the time of

the alleged wrongdoing as sometime on or before the Defendant's/Appellee's withdrawal from the underlying case (12LA178) in March of 2015 yet not earlier than the coerced settlement with only the principal in February 2014 while not taking into account that without the coerced settlement the principal would remain vicariously liable for anything the agent could not pay if found negligent which did occur on December 12, 2016, the only time the pecuniary injury could be calculated since anything prior would be purely speculative.

9. Article XI Illinois Code of Judicial Conduct was violated:

Rule 1.2 Promoting Confidence in the Judiciary;

Rule 2.2 Impartiality and fairness;

Rule 2.3 Bias, Prejudice and Harassment;

Rule 2.11 Disqualification.

**A FAIR AND ACCURATE STATEMENT OF THE FACTS, WHICH CONTAINS THE
FACTS NECESSARY TO AN UNDERSTANDING OF THE CASE**

Starts here

**A SHORT ARGUMENT STATING WHY REVIEW BY THE SUPREME COURT IS
WARRANTED AND WHY THE DECISION OF THE APPELLATE COURT SHOULD
BE REVERSED OR MODIFIED**

I. The Illinois Supreme Court should review this matter because the trial court summary judgment ruling disregarded the Supreme Court’s clear statement in Suburban Real Estate Services, Inc. v. Carlson, 2022 IL 126935, 193 N.E.3d 1187, 456 Ill.Dec.779 (Ill.2022) (A) that in a legal malpractice cases the Statute of Limitations does not begin to run until a pecuniary loss is incurred.

1. In this matter the pecuniary loss was first experienced on December 20 (A) and Dulberg filed his Malpractice action within 2 years of that date.
2. Furthermore, pursuant to the Constitution of the State of Illinois, Article VI The Judiciary Section 16

SECTION 16. ADMINISTRATION

General administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules. The Supreme Court shall appoint an administrative director and staff, who shall serve at its pleasure, to assist the Chief Justice in his duties. The Supreme Court may assign a Judge temporarily to any court and an Associate Judge to serve temporarily as an Associate Judge on any Circuit Court. The Supreme Court shall provide by rule for expeditious and inexpensive appeals.

(Source: Illinois Constitution.)

II. A major issue that was discovered subsequent to the trial court granting summary judgment to the Defendants/Appellees is that one trial court judge was the judge for the underlying

case and the current case, a matter of over (X) years, and the second judge who replaced the aforementioned judge for the hearing on Defendants/Appellees Motion for Summary Judgment had, for all times relevant herein each recused themselves for all cases assigned to them other than this case, based upon the fact that they were personal friends of the owner of Defendant/Appellees' law firm.

III. The decision of the Appellate Court should be modified to allow the requested relief of supplementing the Record on Appeal to include the underlying case, the recusals of the two judges who regularly recused themselves as personal friends of the Owner of the Defendant/Appellee Law firm and the auditing by the suggested (in the motion) Expert attorney who had previously filed an audit report that was not used to supplement the Record on Appeal indicated two missing Report of Proceedings.

APPENDIX

(A1) Illinois Supreme Court Rule 315(c)(2). Judgment was entered, December 4, 2023

CONCLUSION

For the foregoing reasons, Paul R. Dulberg respectfully requests that this Court grant this Petition and reverse the Second District's December 4, 2023 ruling.

Dated: January 8, 2024

Respectfully submitted by:

/s/ Paul R. Dulberg
Plaintiff-Petitioner

/s/ Alphonse A Talarico
Attorney for Plaintiff-Petitioner

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(c) certificate of compliance, the certificate of service, and the Appendix, is # words.

/s/ Alphonse A. Talarico

CERTIFICATE OF SERVICE

The undersigned certifies under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, that on **MONTH DAY**, 2024, a copy of the foregoing Paul R. DULBERG's Petition for Leave to Appeal and the attached Paul R. Dulberg's Appendix to Petition for Leave to Appeal were filed and served upon the Clerk of the Illinois Supreme Court via the efileIL system through an approved electronic filing service provider and was served on counsel of record below in the manner indicated:

Via Email and approved efilng system

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Alphonse A. Talarico

