

From: Julia Williams juliawilliams@clintonlaw.net
Subject: Re: Dulberg v Mast et al
Date: June 5, 2020 at 9:01 AM
To: Paul Dulberg Paul_Dulberg@comcast.net
Cc: Mary Winch marywinch@clintonlaw.net, Ed Clinton ed@clintonlaw.net

JW

Dear Paul,

We will be able to view Mr. Mast via the video connection during the deposition. We will ask that the camera be placed at such a distance that we can see his body as seated and will know if he is receiving coaching via texting or other electronic means. Further, we will ask that no electronic devices be in his immediate reach and that any he brought will be turned off. As I previously stated, the video will not be recorded for future use, there will be a transcript, which is the same as a traditional deposition.

Given the pandemic, our office is not conducting any in-person depositions due to the risk to our attorneys/staff and their families. We do not know when that will resume given that some of our attorneys/staff and their families are in high risk populations.

We believe it is in your best interest to move forward with the remote deposition as scheduled.

Best Regards,

Julia Williams
Of Counsel
The Clinton Law Firm
111 W. Washington, Ste. 1437
Chicago, IL 60602
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On Jun 4, 2020, at 7:50 PM, Paul Dulberg <Paul_Dulberg@comcast.net> wrote:

Hi Julia,

I am sorry for the earlier emotional rant.

The only issues I have is with the answer to question number 5.

I do not feel there is enough of a guarantee that Mast will not be coached in his answers.

Also, we lose out on the non verbal expressions and postures we would see in an in person interview. As you know those non verbal expressions don't end up in the final transcript but often do change the next question asked.

I do not feel that this is fair, it puts us at a disadvantage and I need more guarantees than Masts word and a teleconference can't offer those guarantees.

Paul

On Jun 4, 2020, at 5:03 PM, Paul Dulberg <Paul_Dulberg@comcast.net> wrote:

Hi Julia,

I'm confused and upset.

Why won't Mast come in and sit 6 feet or more apart with a mask on and undergo a deposition like I was?

We filed suit because Mast committed Malpractice and a large part of that Malpractice is Masts inability to be honest.

Now I am expected to believe Mast will be honest, turn off his electronic devices and not be coached by a team of attorneys sitting in the same office.

This doesn't seem fair.

Mast is not to be trusted at all.

Do I have a choice in this?

Paul

On Jun 4, 2020, at 1:56 PM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

Dear Paul,

Responses below.

Best Regards,

Julia Williams
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On Jun 4, 2020, at 12:42 PM, Paul Dulberg <Paul_Dulberg@comcast.net> wrote:

Hi Julia,

I am requesting a meeting with you, Ed and my brother Tom within one week prior to Mast's deposition. Let's find a time that works for both you and Ed and schedule this in.

Yes. We are available on June 22 or 23 at 2pm.

Also, I have 5 questions about the remote deposition:

1. Who will conduct the deposition, both you and Ed or just one of you, if only one which one?

I will conduct the deposition. Only one attorney can ask questions (we both cannot ask questions).

2. If this is a video deposition may we record the actual video of the deposition and use it later at trial?

No. It is a traditional deposition in that there will be a transcript that can be used at trial to impeach, just like we would have had if we weren't dealing with the pandemic.

3. If this is to be an audio only deposition may we record the actual audio and use it later at trial?

Generally I believe the court reporter does record the audio for the purposes of correctly transcribing the transcript, but it is not available for use later. It is strictly to ensure that the transcript is accurate.

4. Will Mast be in the same location as his attorney or will each of them attend from different locations?

As of now, Mast's attorney, George Flynn, will be present with him.

5. If Mast is not in the same location as his attorney what guarantees do we have that no one else will be present?

At the beginning of the deposition, we will ask about who else is present in the room and ask them to confirm by showing us the room. A party would be allowed to be present—since the Popovich Firm is a party, a representative from the firm, such as Tom Popovich, would be permitted to be present. However, he cannot interfere or prompt the witness. Any notes exchanged would be discoverable.

I have spoken to George Flynn about the logistics of the deposition and it is my understanding that Tom Popovich is not intending to appear at Mast's deposition. I will be sure to confirm prior to the date.

Communication with the witness through text or electronic means is not permitted, would be discoverable, and could open the other side up to sanctions. There are a few preliminary questions that we will ask at the beginning of the deposition to be sure that no one else is present, that all electronic communication is off, and that they are following the rules.

My concern here is coaching by Thomas Popovich or any other person with Mast that will not be in view of the camera or seen at all if this is audio only. Including coaching over text or other electronic means.

Thank you and stay safe,
Paul

On Jun 4, 2020, at 12:14 PM, Julia Williams <juliawilliams@clintonlaw.net> wrote:

Dear Paul,

Attached is the notice of deposition for Hans Mast. June 25, 2020 at 10 am. It will be a remote deposition. You will be able to participate remotely.

We will provide more information on the logistics of that.

Best Regards,

Julia Williams
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<Dulberg Mast Notice of Deposition 2020 June 2.pdf>

