

COPY

Discovery Deposition
of **WILLIAM MCGUIRE**

Date: March 20, 2013

Case: Dulberg v. Gagnon

Urbananski
Reporting Company

Phone: 312-977-1777

IN THE CIRCUIT COURT
FOR THE 22ND JUDICIAL CIRCUIT
MCHENRY COUNTY, ILLINOIS

PAUL DULBERG,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 12 LA 178
	)	
DAVID GAGNON,	)	
Individually, and as	)	
Agent of CAROLINE	)	
McGUIRE and BILL McGUIRE	)	
and CAROLINE McGUIRE and	)	
BILL McGUIRE,	)	
individually,	)	
	)	
Defendants.	)	

The deposition of WILLIAM McGUIRE, taken in the above-entitled cause, before Paula Ann Erickson, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public, on March 20, 2013, at 3421 West Elm Street, McHenry, Illinois, at the approximate hour of 2:25 p.m.

REPORTED BY: PAULA A. ERICKSON
C.S.R. LICENSE NO. 084-003899

1 APPEARANCES:

2
3 MR. HANS MAST
4 LAW OFFICES OF THOMAS J. POPOVICH
5 3416 W. Elm Street
6 McHenry, Illinois 60050
7 (815) 344-3797

8 Appeared on behalf of the Plaintiff.

9
10 MR. RONALD A. BARCH
11 CICERO, FRANCE, BARCH & ALEXANDER, PC
12 6323 East Riverside Boulevard
13 Rockford, Illinois 61114
14 (815) 226-7700

15 Appeared on behalf of the Defendants, Carolyn
16 and Bill McGuire.

17 MR. PERRY A. ACCARDO
18 LAW OFFICE OF M. GERARD GREGOIRE
19 200 North LaSalle Street
20 Suite 2650
21 Chicago, Illinois 60601
22 (312) 558-9821

23 Appeared on behalf of the Defendant, David
24 Gagnon.

* * *

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1 THE REPORTER: Sir, can you raise your right
2 hand, please?

3 WILLIAM MCGUIRE,

4 after being first duly sworn, deposeeth and saith as
5 follows:

6 EXAMINATION

7 BY MR. MAST:

8 Q. Please state your name, sir.

9 A. William McGuire.

10 MR. MAST: This is the discovery deposition of
11 William McGuire, taken pursuant to notice, in
12 accordance with the applicable rules.

13 BY MR. MAST:

14 Q. Mr. McGuire, what's your address?

15 A. 1016 West Elder Avenue, McHenry,
16 Illinois 60051.

17 Q. Okay. And you live with Carolyn?

18 A. Yes.

19 Q. She is your wife?

20 A. Yes.

21 Q. How long have you been married?

22 A. I am not remembering very good. '91. Since
23 '91.

24 Q. Okay. And you have always lived at that

1 address?

2 A. Let's see.

3 Q. I meant during your marriage.

4 A. I moved in in '89.

5 Q. At the Elder address?

6 A. Correct.

7 Q. Before you were married?

8 A. Yeah. Yes.

9 Q. Okay. Do you have any prior marriages?

10 A. No.

11 Q. Okay. Any children?

12 A. No.

13 Q. Okay. Okay. And Carolyn has three children,
14 two daughters and a son, correct?

15 A. Yes.

16 Q. And the son is David Gagnon?

17 A. Yes.

18 Q. Okay. And have you known Dave -- Well, let
19 me ask this: How long before you were married did you
20 know --

21 A. I have known Dave since 1984.

22 Q. How did you meet Dave?

23 A. Through his mother.

24 Q. So you have known Carolyn since '84 as well?

1 A. Correct.

2 Q. Okay. Is that when you started kind of
3 dating, that type of thing?

4 A. Yes.

5 Q. Where did you meet? Through what kind of --

6 A. Where did I meet Carolyn?

7 Q. How did you meet Carolyn? I'm sorry.

8 A. I met Carolyn at a marina.

9 Q. Okay. And are you retired?

10 A. Yes. *Disabled?*

11 Q. What is your work -- Before you retired, what
12 were you doing?

13 A. Carpenter.

14 Q. Okay. When did you retire?

15 A. '06.

16 Q. Is that because of the disability?

17 A. Yes.

18 Q. Okay. Are you -- What's your injury? What's
19 your disability, back?

20 A. Correct.

21 Q. Okay. So you are not able to do heavy type
22 work; is that correct?

23 A. No.

24 Q. Is that correct?

Disabled?

*How Did Hans Know
about Disability?*

1 A. Yes.

2 Q. Okay. So you have some type of permanent
3 chronic back problem?

4 A. Yes.

5 Q. All right. I am sure you have used a chain
6 saw in your life, correct, or not?

7 A. No.

8 Q. So you never used a chain saw?

9 A. No.

*DAVE USED ELECT.
CHAIN SAW PER BOB SADDLECK*

10 Q. Okay. Although we have a chain saw here on
11 the table that I am understanding you and Carolyn
12 purchased --

13 A. Correct.

14 Q. -- the same year as Paul's accident at your
15 house?

16 A. Yes. *Same Month*

17 Q. Okay. And I might be wrong but I am taking
18 this from what Carolyn said but Carolyn said that
19 sometime early 2011 before Paul's June 2011 accident
20 you two purchased this chain saw that's here on the
21 desk today?

22 A. Yes.

23 Q. And it's a red bodied chain saw and it's a
24 gas chain saw, correct?

1 A. Yes.

2 Q. From Efco, E-F-C-O, MT, 3500. That's what I
3 am reading off of it; is that right?

4 A. Yes.

5 Q. Yes?

6 A. Yes.

7 Q. Okay. Who purchased it?

8 A. I did.

9 Q. Okay. Where did you purchase it from?

10 A. Menards.

11 Q. And since you have never used the chain saw
12 before and I am assuming because of your injury you
13 weren't planning on using this one, why did you
14 purchase it?

15 A. Well, I was wondering if we had a storm come
16 through and some trees come down I would learn how to
17 use it. I am a carpenter.

*Schedule and
classes?*

18 Q. Okay.

19 A. And I pick up things very quick but if I
20 don't have to use it, I don't want to use it.

21 Q. Okay. So you got it in case?

22 A. Emergency, correct.

23 Q. Okay. And you got it for your use, not
24 anybody else's?

1 A. Yes. - Then why lend it out?

2 Q. For yours, I mean, you physically?

3 A. Personally. Personally in case we have trees
4 come down or any of that problems.

5 Q. But for you to use, correct? Not for you to
6 have somebody else use. You got it for you to use; is
7 that correct?

8 A. Basically I bought it if one of the kids } ^{changed}
9 wanted to borrow it, I would let them borrow it. } REASON

10 Q. I understand the options there, but I am
11 asking the reason you bought it is for you to use, not
12 somebody else to use?

13 A. Yes. - ^{Back to use Again?}
_{Personal} Flip/Flop

14 Q. There is options, anybody can use it. I get
15 that.

16 A. Yes.

17 Q. But you bought it for yourself to use,
18 though, correct?

19 A. Yes.

20 Q. All right. How long have you known Paul
21 Dulberg?

22 A. I probably met him in the '80s because David
23 and him were probably friends and, you know, kids come
24 over and come and go and that's probably when I ran

1 across him the first time. ~~TRUE~~

2 Q. All right. Before -- I think Paul's chain
3 saw accident at your house was sometime June 2011; is
4 that your understanding?

5 A. Yeah.

6 Q. Okay. Did you know Paul to ever use a chain
7 saw before his injury at your house in 2011?

8 A. Yes. ~~Yes?~~ He was on the property and David used
9 the chain saw.

10 Q. Are we talking the day of his accident?

11 A. This is prior.

12 Q. Okay. Go ahead.

13 A. Because you were asking if Paul -- I ever saw
14 him operate a chain saw.

15 Q. You are right.

16 A. And he was at the house. David cut down an
17 apple tree in the backyard and I saw Paul use the chain
18 saw on an apple -- the ~~TRUE~~ stump, the apple stump, to try
19 to get it closer to the ground. That's the only time I
20 ever seen him use the chain saw. ~~TRUE~~

21 Q. Fair enough. Was that in the same year of
22 his accident at your house?

23 A. That was prior.

24 Q. Same year, though?

1 A. You know, probably -- I believe it was. I
2 believe it was.

3 Q. Carolyn seemed to think the apple tree
4 cutting was sometime in May of that year.

5 A. You know, she was probably right. It was
6 before the pine tree. *True*

7 Q. The evergreens or -- *spruce*

8 A. Well, I call them evergreen, pine tree.

9 Q. Same thing. Right. Before Paul's accident?
10 A. Yes.

11 Q. Right. Okay. So according to you, sometime
12 in May 2011 when the apple tree was being cut down by
13 Dave, Paul was also there to help and he used it to
14 cut the stump?

15 A. The stump, the tree stump.

16 Q. Down lower?

17 A. Yes.

18 Q. Okay. And that's the only time -- So the
19 only time you ever saw Paul use a chain saw before his
20 accident in June 2011 was the one time at your house
21 when he cut the stump off that apple tree?

22 A. Yes. He got the stump lower to the ground.

23 Q. Is that true? What I just said, is that
24 true? I will say it again because you interrupted me

1 by adding on. Let's just answer what my question is.

2 Okay. My question is: The only time
3 you ever seen Paul use a chain saw before his accident
4 at your house in June 2011 was when he cut the stump
5 down a little bit lower from the apple tree that was
6 at your house in May of 2011?

7 A. Yes. The one David Gagnon cut down and he
8 got the stump down lower, yes. - True - Contradicts Daves
9 Testimony & Carolyn's -

Q. Is what I just said true?

Carolyn seems to think
Paul cut up Elm tree
in front of house.

10 A. Yes. Yes.

11 Q. All right. Because you keep adding. Just
12 answer -- If you don't understand my question, I will
13 reword it, but try to answer what I am asking instead
14 of adding on to what my question is, all right?

15 A. Okay.

16 Q. Got me?

17 A. Yeah.

18 Q. Did you see Paul doing anything with the use
19 of the chain saw that you thought dangerous or unsafe
20 before his accident?

21 A. No. - True

22 Q. Did you know that Paul -- and I'm not sure he
23 was but I have to ask you. On the day of Paul's
24 injury at your house in June 2011, you know, with Dave

1 there, do you know if Paul was ever even using the
2 chain saw that day?

3 A. No.

4 Q. Do you know? You don't know?

B.S.

5 A. I don't know if he was using the chain saw.

6 Q. That's what I am asking. Okay. Let me ask
7 you a couple questions and today -- Well, let me ask
8 it this way: When is the last time you spoke or saw
9 Paul?

True

10 A. Probably three weeks ago in a grocery store.

11 Q. Did you speak to him or just see him?

12 A. Said hi.

13 Q. Did he say hi to you?

14 A. Yes.

15 Q. Was that it?

16 A. Correct.

17 Q. Did you see him carrying anything?

18 A. No.

19 Q. Okay. Did you see him do anything that would
20 suggest he wasn't having problems with his arm that he
21 cut in this chain saw accident at your house in 2011?

22 A. I did not see him doing anything but walking
23 with his mother.

24 Q. Okay. Before Paul's accident in June 2011 at

1 your house, were -- did you consider him a friend,
2 just a friend of your stepson's? How did you -- What
3 was his status with you?

4 A. I considered him a friend of my stepson.

5 Q. Okay. So more of an acquaintance to you
6 then? He wasn't somebody you'd socialize with outside
7 of your son or something then?

8 A. Correct. If he wasn't around for my son, he
9 didn't come around. *True - Contradicts Daves Testimony*
ABOUT Paul stopping By a few Times

10 Q. So he wasn't like your buddy or anything?

11 A. No. *True*

12 Q. Okay. So you were on good terms with him
13 because he was obviously on good terms with your son
14 before this accident occurred, right?

15 A. Yes.

16 Q. Did that change at all at least in your mind?
17 Now Dave has spoken his peace so we don't even need to
18 go into what Dave thinks, but in your mind has your
19 feelings about Paul changed today versus before his
20 injury at your house?

21 A. Yes.

22 Q. Okay. Good, bad, indifferent, what?

23 A. Well, I think he is a fibber. *why?*

24 Q. Okay. Fair enough. You are just being

1 honest. Okay. Why do you think he is a fibber?

2 A. You know, it should be cut and dry. I mean,
3 it was an accident.

yes, Paul's ARM
was cut.
Depositions - is cut & dry!

4 Q. Right. All right.

5 A. And that's all I know.

6 Q. Is it -- So I am reading into this, you can
7 tell me if I am wrong, but is it because a lawsuit was
8 filed; is that why?

9 A. Duh. Yes.

10 Q. Well, listen, I have to ask these questions,
11 sir. Let me just go through this and make it easy for
12 me, all right?

13 A. I'm sorry. Yes.

14 Q. You are making it hard. The fact that a
15 lawsuit was filed and you are part of that lawsuit has
16 that made you feel that he is a fibber?

17 A. Well --

18 Q. Or I am trying to find out.

19 A. Basically, since the lawsuit was filed and,
20 you know, it wasn't cut and dry, I just probably don't
21 want nothing to do with him now, so.

22 Q. Okay. So let me -- again, I have -- because
23 some of the words you have used, I have to ask you
24 about it. Do you feel he is a fibber or you just

1 don't like the fact that he filed a lawsuit against
2 you?

3 A. I don't like the fact that he filed a
4 lawsuit. *- and how Does Bill Think cutting works?*

5 Q. Okay. So fibber meaning liar, you are not
6 calling him a liar?

7 A. No. No. No. I'm sorry. Just because he
8 filed a lawsuit. *- Not a liar/fibber any more?*

9 Q. All right. So let me -- Again, I got to
10 clear that up now. Do you believe in your mind that
11 Paul is a fibber or a liar or don't you know?

12 A. I don't know. *- Flip/Flop again?*

13 Q. Okay. And I meant more about this lawsuit
14 obviously. You don't know if he is lying or fibbing
15 about the lawsuit because you don't know what
16 happened, right?

17 A. Yes.

18 Q. Fair enough?

19 A. Yes.

20 Q. Okay. So you would not characterize him as a
21 fibber for filing the lawsuit because you don't know
22 if he is or not, true?

23 A. True. True. Yes. *- flip/flop*

24 Q. Before the accident occurred at your house in

1 June 2011, did you believe Paul was a credible, honest
2 soul, person?

3 A. Yes.

4 Q. Okay. Did you have any reason to believe
5 that he would fib prior to this accident?

6 A. No.

7 Q. Okay. All right. Have you heard -- Well,
8 let me put Dave aside for a minute. Other than
9 through Dave, have you heard that Paul was trying to
10 make more out of this accident than was warranted
11 other than -- I'm sorry. Let me --

12 MR. BARCH: Other than David or his attorney.

13 BY MR. MAST:

14 Q. Yeah. Other than through Dave or Dave's
15 attorney or your attorney I guess, have you heard
16 either from Paul or anybody else --

17 A. No. - *John Chojinski?*

18 Q. -- something to the effect that Paul was
19 trying to make more out of this claim or accident than
20 he should?

21 A. I have not heard nothing, no.

22 Q. Okay. Have you ever heard Paul suggest since
23 his accident that he was trying to get people to say
24 things to make this case worth more than it is?

1 A. No.

2 Q. Have you ever heard Paul since his accident
3 or anybody -- Strike that.

4 Have you ever heard Paul since his
5 accident ever suggest that he may never have to work
6 again in his life or he is going to be able to be rich
7 or anything like that, those issues, since this
8 accident?

9 A. No.

10 Q. Okay. Have you heard those through Dave?

11 A. No.

12 Q. Dave has not even told you those things that
13 Paul has said supposedly?

14 A. David has told me that he is not telling the
15 truth.

16 Q. Okay.

17 A. That's what he told me.

18 Q. All right. So Dave told you Paul is not
19 telling the truth about the accident. - *Consider the*
20 *SOURCE, Dave.*

21 A. Correct.

22 Q. But has Dave ever told you since the accident
23 that Paul was trying to get him to lie or get him to
say things so that they can retire?

24 A. Dave --

1 Q. Hold on. Let me finish the question -- so he
2 can retire or make a lot of money out of this case?

3 Has he said that?

4 A. No. Dave has never told me that.

5 Q. Okay. So I just want to make one
6 other question on that just to make sure I covered
7 everything.

8 Is it fair to say then other than maybe
9 through your attorney you have never heard any
10 allegation or suggestion whether by Paul or anybody
11 else, Dave, Paul, anybody, that Paul was trying to
12 make more out of this case than was justified and/or
13 trying to get people to talk in favor of him in return
14 for anything? Have you ever heard those things?

15 A. Other than David's comments or maybe my
16 attorney a little bit, I haven't heard nobody else say
17 a word.

18 Q. Okay. Including Paul, correct?

19 A. Oh, yeah.

20 Q. Okay. So what did Dave tell you in that
21 regard?

22 A. Dave was saying that somehow the accident
23 happened different than when the way Paul was
24 describing it.

1 Q. Okay. And that's not quite what I asked so
2 let me go back because we are going to get into that.
3 Okay.

4 Let me -- My question was framed more to
5 other than your attorney, have you heard from anyone
6 including Paul, including Dave, anyone, that Paul was
7 trying to get people to fabricate or lie to his favor
8 in this case or to help him recover in this case?

9 A. No. Nobody told me that.

10 Q. Not Dave, not Paul, nobody, right?

11 A. The only thing I am saying is the question
12 you are asking me is the same question I am saying is
13 if it's got to pertain to the accident, David didn't
14 agree with the way Paul stated the accident happened.

15 Other than that --

*Did Dave get to READ
Paul's Dep. Before Testifying?*

16 Q. And I understand there is two versions of the
17 accident. I understand that.

18 A. Correct.

19 Q. My question was different, though. My
20 question was: Have you ever heard, other than through
21 your attorney, that either Paul or Dave suggested that
22 Paul was wanting people to lie for him or to fabricate
23 anything?

24 A. Other than Dave and my attorney, no. Nobody

1 has told me anything about --

2 Q. I am including Dave in that. What did Dave
3 tell you about Paul wanting him to fabricate or lie?
4 Did he say that?

5 A. As far as Paul telling David to change the
6 story or fabricate?

7 Q. Yeah. Did he do that?

8 A. David never mentioned it to me like that, no.

9 Q. Okay. So all right. So let me say the
10 question again then. Is it fair to say, and putting
11 your attorney's comments to you aside, okay, I am not
12 asking you about your attorneys, but with regard to
13 anybody else, you have never heard anyone suggest that
14 Paul was trying to get Dave to lie, fabricate about
15 this case, fair enough?

16 A. Yeah.

17 Q. Okay. You never heard that?

18 A. No.

19 Q. All right. As I understand it, there are two
20 evergreens in your backyard back in June 2011 that you
21 guys wanted cut down so you could put a storage shed
22 back there, right?

23 A. Yes.

24 Q. Okay. And as I understand it, I don't

1 remember if it was you or your wife, but one of you
2 asked Dave to do that work -- help with that work,
3 right?

4 A. Yeah. Knock some lower branches down.

5 Q. Right. Who asked him to do that?

6 A. You know, I don't remember.

7 Q. Okay. It was either you or your wife?

8 A. Correct.

9 Q. And I think your wife said she was going to
10 pay Dave something for his gas or whatever, right?

11 A. Basically, she'd give him a pair of pants. I
12 don't know. They are always mothering the son, you
13 know.

14 Q. Right. So what their arrangement was as far
15 as money or --

16 A. Some kind of gift.

17 Q. Listen, you are going to make this last twice
18 as long as -- I'd like to get you in and out of here
19 as quick as possible but because I have to keep
20 repeating the question, it's going to make it
21 difficult so I am just trying to tell you we can
22 probably get out of here real quick but I am going to
23 have to keep backing up. So let me try to move
24 forward but let me finish my question, okay?

1 A. Uh-huh.

2 Q. All right. So whatever the arrangement was
3 between Carolyn and Dave as far as what he would get
4 in return for doing this work, you don't know; fair
5 enough?

6 A. Yes.

7 Q. Okay. And what was Dave's experience, if you
8 know, in use of a chain saw before this accident with
9 Paul at your house?

10 A. Stuff I have heard, a project he worked on
11 through the course of me living there and physically
12 seeing him prune the trees on the property with a chain
13 saw. ~ Who's, when

14 Q. Okay.

15 A. That's about the extent of it.

16 Q. With a chain saw?

17 A. Correct.

18 Q. With your chain saw?

19 A. No. We didn't have it then. ^{David + Ric}
~~He~~ ^{decided} to chain saw?

20 Q. Okay. With his chain saw on his property?

21 A. No. Back when David lived at the house.

22 Q. With you?

23 A. On our property when David lived there --

24 Q. Right.

1 A. -- I don't know where he got the chain saw
2 but he had a chain saw and he done some pruning on the
3 property and that I have seen him do.

4 Q. Okay. Okay. And how often was that? Just
5 the one time or was it repeatedly?

6 A. I would say a handful of times.

7 Q. Okay. Over the course of several years?

8 A. Yeah. Correct.

9 Q. And that was while he was living with you?

10 A. Yeah.

11 Q. And that's the only time you have known him
12 to use a chain saw other than in 2011?

13 A. This goes back in, you know, in say in the
14 mid '80s, in the '90s, you know, whenever he would go
15 around the yard and prune stuff up with the chain saw.

16 Q. Did you have a chain saw at the house at that
17 point?
*who burned the Electric Chain saw
Carolyn claimed she had in the
Basement?*

18 A. Not mine. You know, he might have borrowed
19 one from a friend or he might have had one. I don't
20 know.

21 Q. Okay. In 2011 other than the two evergreen
22 trees he was going to take some of the branches down
23 off of, did he do -- did Dave do any other work with
24 the chain saw on your property in that year?

1 A. Cut the apple tree down.

2 Q. Okay. Anything else?

3 A. No.

4 Q. Okay.

5 A. You know, he did a little chain saw work.

6 No. That was about it. That was about it that I
7 remember.

8 Q. Okay. So the apple tree and the two
9 evergreens, those are the only chain saw work he was
10 doing at your house in 2011, correct?

11 A. That I remember. You know, I'm trying to
12 remember because I know Paul took some scrap from the
13 front yard from a maple tree.

14 Q. Yeah. Your wife said just to --

15 A. And --

16 Q. Go ahead.

17 A. And I don't remember if he used the chain saw
18 to cut them pieces up a little further but I don't
19 remember that.

20 Q. What your wife said was a tree company took
21 that tree down.

22 A. Yes, they did.

23 Q. Let me finish. And left some stumps or
24 sections and Paul and Dave cut those sections up so

1 Paul could have firewood. That's what she said.

2 A. I --

3 Q. You don't know?

4 A. I know Paul took the wood, the bulk of the
5 wood.

6 Q. Who cut it up, you don't know?

7 A. No. *True - Bill Helped Roll Logs whole - No chainsaw was used.*

8 Q. Okay. So the only time you know that Dave
9 used a chain saw on your property in 2011 was the two
10 evergreens that he was cutting branches off at the
11 time Paul was hurt and the one apple tree?

12 A. Yes.

13 Q. Okay. I think Paul's accident was June 28,
14 2011. Do you know that to be true or not?

15 A. You know, it sounds -- but I don't know.

16 Q. Do you know what day of the week it was?

17 A. No.

18 Q. Okay. You were retired so you would have not
19 been working. Would you have been home at the time?

20 A. Yes.

21 Q. What were you doing at the time of Paul's
22 injury?

23 A. I was in the house.

24 Q. Doing what?

1 A. Watching TV.

2 Q. Okay. Was that -- Do you know about what
3 time Paul's accident occurred that day?

4 A. I don't remember.

5 Q. If you were watching TV when his accident
6 occurred, would that have been pretty much what you
7 were doing for most of the day prior to leading up to
8 his accident or were you doing other things in the
9 house?

10 A. I was in the house. I am trying to
11 remember -- I might have walked around a little bit,
12 you know, and then I was in the house. *Bill Burned Branches
in the garden*

13 Q. Did you ever go outside the house while Paul
14 and Dave were in the backyard working?

15 A. No.

*LIE - Bill used Pool & Hauled & Burned
Branches in garden.*

16 Q. So would it be fair to say that day of Paul's
17 accident before his injury, you don't know who was
18 doing what type of work, where, when or how? *Behind garage
Can't hear?
C. Wain*

19 A. That's true.

20 Q. Okay. And you never viewed at any time prior
21 to Paul's injury what they were doing back there in
22 the backyard, correct?

23 A. That's correct.

24 Q. Do you know what -- I know that you said Dave

1 was going to cut down some limbs from the two
2 evergreens, right?

3 A. Yes.

4 Q. And I think Carolyn then said ultimately once
5 the limbs were down, you were going to have the tree
6 company come out and cut the big base of the tree
7 down, right?

8 A. Yes.

lie

9 Q. So Dave's task was really just to take the
10 branches off the base of the tree, right?

11 A. Yeah.

12 Q. All the way up?

13 A. No. No. It was too high.

14 Q. So just up to a certain level?

15 A. Yes. Yes.

16 Q. Okay. How high, do you know?

17 A. You know, I want to say, I don't know, 15, 20
18 some feet. You know, I don't know. It was tall trees.

19 That's all I am saying.

20 Q. And the limbs at the bottom are bigger than
21 the limbs at the top, right?

22 A. Yes. *True*

23 Q. How wide -- if you have an estimate, how wide
24 are the limbs, the branches, coming off the evergreens

True
↑

1 at the bottom of the trees?

2 A. Oh, they had to be -- in the base of it had
3 to be, I don't know, four or five feet, something like
4 that. *lie*

5 Q. How wide around?

6 A. Oh, wide around, inch and a half in diameter.

7 Q. Okay. All right. And do you have any idea
8 of how many total branches needed to be cut down by
9 Dave?

10 A. No.

11 Q. Okay. Was it more than 20?

12 A. Oh, yeah. (Probably.)

13 Q. There was a lot of them?

14 A. Probably, yes.

15 Q. Do you know when he started this work in
16 relationship to the day of the accident?

17 A. The day before.

18 Q. Okay. Do you know how many hours he worked
19 the day before?

20 A. Maybe an hour and a half, a couple hours I
21 think. I really don't remember.

22 Q. Okay. So after working the day before, there
23 would have been branches already on the ground, right?

24 A. Correct. *FALSE*

Nothing was cut on the tree when I suggested

lie
How would Bill He know this if he knows in woods?

1 Q. And did you know Paul was coming over to help
2 out?

3 A. No.

4 Q. Did you know who invited him over?

5 A. No. — Dave?

6 Q. Okay. Did you even know he was on your
7 property when --

8 A. Yes.

9 Q. Let me finish the question. Did you even
10 know Paul was on your property by the time he got
11 hurt?

12 A. Yes.

13 Q. How did you know he was on the property?

14 A. Because I seen him out in the yard. I petted
15 his dog.

16 Q. You mean when he arrived?

17 A. Sometime through the course when he was
18 there.

19 Q. Oh, because I asked you before if you ever
20 saw them work during the process of their work and you
21 said no, so.

22 A. I didn't see them working but I petted his
23 dog.

24 Q. Oh, so you knew he was there because his dog

1 was there?

2 A. Yes. - *How Does Bill Know Paul's Dog
From Any Other Dog?*

3 Q. You didn't know he was there by seeing him?

4 A. Yes. I seen him on the property.

5 Q. All right. When he got there or during the
6 course of the day?

7 A. I don't know when the exact time he arrived
8 but I looked out in the yard and there was him and his
9 dog.

10 Q. Okay. And did you go outside when you saw
11 him there?

12 A. Maybe I was outside or something. I don't
13 remember coming in and out but --

14 Q. This is what I am trying to understand, you
15 said you never saw what they were doing.

16 A. Right. ~ ~ ~

17 Q. Paul and Dave, so I am assuming what did the
18 dog come inside and that's when you petted him or when
19 did you pet the dog?

20 A. They were working behind the garage and I
21 didn't go behind the garage where they were working but
22 if you come up to the back -- the back of the house,
23 before you go around the garage, that's where I saw
24 David, Paul and the dog. I went outside, petted the

1 dog, said hi to Paul and I went back in the house.

2 Q. All right. So you were only outside a minute
3 or two?

4 A. Yeah. Not long.

*Then Bill went
Noon - Inside, changed,
used pool then
Bacile Inside.*

5 Q. Okay. And you went out there specifically to
6 pet the dog and say hi to them or for some other
7 reason?

8 A. You know, I might have been taking out a bag
9 of trash. I don't remember. - *is memory the reason
Bill is Disabled?*

10 Q. Okay. And where you saw Paul and Dave, were
11 they engaged in the tree work at the time or had they
12 taken a break? What were they doing?

13 A. No. No. Just chitchatting.

14 Q. Okay. So this is before they began work that
15 day, during the midst of their work, do you know?

16 A. I couldn't tell you. - *like*

17 Q. Okay. What time was this, do you know?

18 A. No. I don't remember.

19 Q. Do you know how long Paul was at the property
20 already by the time you went back to pet the dog and
21 say hi to him?

22 A. No.

23 Q. Okay. Where you saw them was that in the
24 area that they would have been working to cut the tree

1 down --

2 A. No.

3 Q. -- or was that somewhere else?

4 A. It was in -- It was like by the driveway and
5 the work was in the back of the -- towards the back of
6 the yard. They were in the -- by the -- say around the
7 back door of the back porch.

8 Q. Of the house.

9 A. Correct.

10 Q. Why were they there in relationship to the
11 work they were doing? Do you have any idea?

12 A. No. I don't know what they were doing. They
13 were standing there talking and the dog was sitting
14 there.

15 Q. All right. Your wife was inside?

16 A. Yes. -- L'c

17 Q. Did you know your wife ever to go outside
18 while they were working that day?

19 A. She might have -- Go ahead.

20 Q. Did you know if your wife was ever outside
21 that day of Paul's injury before his injury?

22 A. I don't keep track of her.

23 Q. So the answer is you don't know?

24 A. I don't know. ~ L'c

1 Q. Okay. All right. So when you went outside,
2 you met up with them kind of at the rear of the house?

3 A. Yes.

4 Q. But they were not engaged in the work at the
5 time, right?

6 A. Right.

7 Q. And you pet the dog and went back inside?

8 A. Yes.

9 Q. Okay. And that's the extent of your time
10 outside the house prior to Paul's injury to your
11 knowledge?

12 A. Yeah.

13 Q. Okay. So you don't know who was doing what
14 that day, when and how, fair enough?

15 A. Yes. I don't know. -- like

16 Q. As far as Dave and Paul, you don't know who
17 was doing what -- whose tasks were what tasks or what
18 they were doing, fair enough?

19 A. I don't know. I don't know.

20 Q. Is that fair enough then?

21 A. That's -- I don't know. Correct.

22 Q. Okay. What is your first knowledge or notice
23 of Paul's accident then?

24 A. I heard some commotion and I ran outside and

1 they were getting in the vehicle to go to the -- to get
2 patched up.

3 Q. To go to the hospital?

4 A. Yeah.

5 Q. Okay. So was Paul's arm already wrapped?

6 A. You know, I am trying to remember if my wife
7 was getting him a towel or something like that. I
8 don't know but all I know is they were beelining it for
9 the -- a vehicle. *TRUE*

10 Q. Okay. So they were on their way from the
11 house to the car?

12 A. Yeah. Yeah. So I might have caught a
13 glimpse of them by the back door going to the -- I am
14 trying to remember and then something about -- oh.
15 Yeah. I did hear him say from the vehicle please watch
16 my dog.

17 Q. Okay. Paul said that?

18 A. Yes. Yeah.

19 Q. It was Paul's dog?

20 A. Yes and I believe he was already in the
21 vehicle when he yelled out the window that.

22 Q. Okay. So they were already basically gone --

23 A. Yeah.

24 Q. You didn't have a chance to talk to them,

1 right?

2 A. I did not talk to them.

3 Q. So by the time they were leaving for the
4 hospital in the car that you saw, you didn't know what
5 happened other than there must have been some injury?

6 A. Correct.

7 Q. Did you know who was injured?

8 A. Yes. Paul.

9 Q. How did you know that?

10 A. My wife said Paul is injured.

11 Q. Did she say how he got injured?

12 A. No.

13 Q. Okay. After he left, Paul left with Dave to
14 the hospital, when did you next see Paul and Dave?

15 A. When they came back from the hospital.

16 Q. How many hours later?

17 A. It seemed like three, four. ^{-TRVE}

18 Q. And did you speak to Paul and Dave?

19 A. Yeah.

20 Q. What did they say?

21 A. Well, they weren't talking too much. I asked
22 Paul how he is feeling. He said I am a little sore and

23 I asked David, you know, and Dave says not too good.

24 You know, he says -- weren't in a very talkative mood.

1 Q. Not too good meaning Paul wasn't too good or
2 what?

3 A. Well, Paul basically just came back and he --
4 I am trying to figure out how he got home. Maybe
5 Mike --

6 Q. I am not even asking that right now.

7 A. Okay.

8 Q. My question is: What did Paul and Dave say
9 when they arrived home at the hospital? You said Paul
10 said I am sore. Then David --

11 A. David really wasn't talking at all.

12 Q. Did either of them discuss how the accident
13 occurred with the chain saw?

14 A. No. No.

15 Q. How long were they back at the house?
16 Short -- Were they only there for a short period of
17 time?

18 A. Yes. Yes. ^{True}

19 Q. And did they both leave again?

20 A. I am trying to remember how he got home.

21 Q. I'm not asking how anybody got home. I am
22 asking once they arrived home with Paul and Dave, they
23 then left again or don't you know that?

24 A. You know, I don't remember if he came back to

1 our house or he came back to his house.

2 Q. Who is "he"? Who, Paul?

3 A. After the emergency room.

4 Q. Who?

5 A. Paul.

6 Q. Who is "he"? Okay.

7 A. I don't remember if he came back to our house
8 or I don't remember if David drove him directly home to
9 his house. I don't remember that. I am trying to
10 remember that.

11 Q. Okay. All right. So when -- You would not
12 have talked at least --

13 A. Wait a minute. I do remember now. He did
14 come back to our house and I asked him how you doing
15 and he says okay. And then --

16 Q. Who is "he"? I don't know who you are
17 talking about.

18 A. Paul, the guy that got hurt.

19 Q. Paul said I am okay?

20 A. I asked him how are you doing? Paul said I
21 am okay.

*- I said
I'm going to
live.
Not ok*

22 Q. Okay. Did he say anything else?

23 A. No.

24 Q. And then what did Dave say?

1 A. Dave didn't really talk. — Dave was already *clamed*
up & feeling bawdy.

2 Q. Okay. How long did they stay home?

3 A. A minute or something. He was collecting on
 4 the dog.

5 Q. Okay. Then what did they do?

6 A. Let's see. Mike McArtor picked the dog up.
 7 Maybe he took Paul, too. I don't remember.

8 Q. All right.

9 A. I don't remember.

10 Q. At least what Carolyn says is that Dave and
 11 Paul drove away to fill his prescription and then Dave
 12 came back alone.

13 A. You know, they could have. They could have.

14 Q. So you don't know that?

15 A. Right.

16 Q. Okay. All right. So by the time Dave
 17 returned home, whether Paul was with him or not, you
 18 don't know?

19 A. I don't know.

20 Q. Okay. Did Dave tell you -- now this is still
 21 the same day of the accident? Did Dave tell you how
 22 the accident occurred?

23 A. No. — *why?*

24 Q. Has Dave ever described for you how the

1 accident occurred?

2 A. Yeah.

3 Q. When? First time.

4 A. Probably a day or so later.

5 Q. What -- So a day or so after the accident,
6 Dave had a conversation with you?

7 A. Yeah.

8 Q. What did he say?

9 A. He says -- How did it go? He stuck his
10 arm --

11 Q. Who is "he"? I need names so I know who you
12 are talking about.

13 A. Hang on. Hang on. He said that Paul stuck
14 his arm --

15 Q. Wait. Stop. Dave said that Paul --

16 MR. BARCH: Try to use names when you are
17 referring to the people. That's all he is asking.

18 THE WITNESS: Okay. David said that when working
19 with Paul, somehow Paul did something wrong and got
20 his arm cut.

21 BY MR. MAST: *Day or So Later David Formulated
His way out of liability and started
To Pitch Paul Did something wrong*

22 Q. Did he explain what he did wrong?

23 A. No. He really didn't.

24 Q. Did he say that he got his arm cut on the

1 chain saw?

2 MR. BARCH: "He," David?

3 MR. MAST: You got me.

4 THE WITNESS: David said he got his arm -- Paul
5 got his arm cut on a chain saw.

6 BY MR. MAST:

7 Q. But David didn't specify how or what he did
8 to get cut?

9 A. No. No. ✓

10 Q. Okay. Did Dave ever specify to you at any
11 other conversations about what Paul did and why it
12 caused him to get cut by the chain saw?

13 A. No.

14 Q. So other than that first conversation with
15 Dave where he just described generally that Paul did
16 something wrong to get cut --

17 A. Yeah.

18 Q. -- did you have any other conversations with
19 Dave about how the incident occurred?

20 A. No.

21 Q. Was that the only time?

22 A. Basically, yeah.

23 Q. Okay. Dave never got more specific than
24 that?

1 A. No. - seems odd

2 Q. All right. So any time you have talked to
3 Dave it's always been, well, Paul did something wrong
4 to get cut but he didn't specify anything more than
5 that?

6 A. No.

7 Q. Is that correct? *Wm?*

8 A. Yes. He didn't want to talk about that, and
9 he wasn't --

10 Q. Is that correct what I just said?

11 A. Correct.

12 Q. Okay. Did you ever talk to Paul about how
13 the accident occurred?

14 A. No.

15 Q. Since the accident, have you ever talked to
16 Paul?

17 A. Yes.

18 Q. How many times?

19 A. Maybe -- I am trying to think here. That may
20 be once since the accident happened I have seen him in
21 the grocery store. *and Directly After Hospital?*

22 Q. Is that the one you talked about earlier
23 today?

24 A. Correct.

1 Q. Where you just said hi to him?

2 A. Correct.

3 Q. So since Paul's accident at your house with
4 the chain saw, you have only spoken to him once and
5 that was at the supermarket when you said hi to him
6 and he said hi to you and that was it, right?

7 A. You know, I think he did come over. I don't
8 remember. I think he did come over and I asked him,
9 you know, how you doing or something like that and it
10 was probably a week or so after.

11 Q. Okay. Let me go back then. My question was
12 how many times have you spoken to Paul since the
13 accident. Your answer is twice, right?

14 A. Probably twice.

15 Q. Okay. The first time is one week after the
16 accident where Paul came over to the house, correct?

17 A. Yes. *False, Paul didn't leave his house*
EXCEPT TO SEE DR. FOR A MONTH.

18 Q. And who was present?

19 A. My wife.

20 Q. Okay. And Paul?

21 A. Yes.

22 Q. Okay. And what -- How long was Paul there?

23 A. A couple minutes with his dog.

24 Q. And what did Paul say to you or either of

1 you?

2 A. Well, you know, basically said I am going
3 along. Everything is fine and, you know, my wife said
4 how you doing and exchanged pleasantries and that was
5 about it. - *This Didn't Happen*

6 Q. Okay. Now, this is kind of what I'm wanting
7 to find out. Paul has obviously -- at least to me
8 obviously, has had some follow-up treatment and has
9 had some difficulties with his arm because of this
10 accident. Okay. Are you aware of that or not?

11 A. I have heard that, yes. - *From who?*

12 Q. Okay. So when you say a week afterwards that
13 he said I am doing fine, are you saying that
14 everything is great? He is not having --

15 A. Well, he seemed to be --

16 Q. Let me finish the question. Are you saying
17 that he related to you that everything is great, he is
18 having no problems or was he just trying to exchange
19 pleasantries and say yeah, everything is okay?

20 MR. BARCH: I just object to the form of the
21 question but go ahead if you understand it.

22 THE WITNESS: When the guy said he is fine, I
23 thought he was healing well and meant I am doing fine.

24

1 BY MR. MAST:

2 Q. Okay. Did he describe for you what he meant
3 by fine other than use the word --

4 A. No. No. No.

5 Q. -- other than use the word fine in response
6 to your inquiry?

7 A. No. He didn't describe fine.

8 Q. Okay. Did he say I am pain free?

9 A. No.

10 Q. Did he say I am back to normal or anything in
11 that regard?

12 A. No.

13 Q. Okay. Did he ever describe for you, again
14 Paul, how the specifics of his accident occurred?

15 A. No. - *yes, Same Day AS Accident upon RETURN*
FROM the Hospital

16 Q. After that couple minutes at your house, he
17 left and you only saw him one other time, that was at
18 the supermarket where you exchanged hi's and that was
19 it?

20 A. Yes. Yes. - *True*

21 Q. And that was the one you described earlier on
22 in this deposition when you met him at the grocery
23 store?

24 A. Yes.

1 Q. Okay. And you never spoken or talked to Paul
2 other than those two times since the accident,
3 correct?

4 A. Yeah.

5 Q. All right. I think I am -- Oh, wait. I
6 wanted to ask you since I got these photographs, I
7 might as well get these marked. I will just mark one
8 of them because they are all the same.

9 (Whereupon, Deposition Exhibits

10 1, 2 and 3 were marked and
11 dated.)

12 BY MR. MAST:

13 Q. Okay. I just marked three exhibits. The
14 first one is a photograph we took today of the chain
15 saw that's on the table in front of you, correct?

16 A. Uh-huh.

17 Q. Yes. I need you to verbalize the answer yes.

18 A. Yes.

19 Q. Okay. Is that the chain saw you have talked
20 about over the course of your deposition today?
21 That's the chain saw that Dave was using at the time
22 of Paul's accident?

23 A. Yes.

24 Q. And that's the chain saw that you purchased

1 earlier in the year new from Menards, correct?

2 A. Yes.

3 Q. Okay. And Exhibit 2, is that a true and
4 accurate copy of the manual for that same chain saw
5 you purchased?

6 A. I believe so.

7 Q. And Exhibit 3 I believe is some additional
8 paperwork that came with it as well as the receipt on
9 the top, correct?

10 A. I assume so, yes.

11 Q. Well, take a look. I need you to make sure.
12 Is that what that is? Just take a look through all of
13 those documents in Exhibit 3 just to make sure those
14 were all documents that came with the purchase of the
15 chain saw.

16 A. Yes. They came with the chain saw.

17 Q. So all of the materials, Exhibit 2 and 3, all
18 those materials came with the purchase of the chain
19 saw, correct?

20 A. Yes.

21 Q. Okay. And they are all accurate copies of
22 those documents, correct?

23 A. Yeah.

24 MR. MAST: Okay. Thank you. That's all I have.

1 MR. ACCARDO: I do not have any questions.

2 EXAMINATION

3 BY MR. BARCH:

4 Q. Just earlier when Mr. Mast was asking you
5 about what you knew about Dave's experience with a
6 chain saw, you mentioned that he did some pruning of
7 trees. You saw him do that around your home?

8 A. Uh-huh.

9 Q. Yes?

10 A. Yes.

11 Q. Then you also said you heard some stuff about
12 him using chain saws?

13 A. Yes.

14 Q. And when you say you heard some stuff about
15 him using chain saws, what were you referencing?

16 A. I was referencing to him through the course
17 of the years when he was living there when I was living
18 there when he was out helping friends and coming back
19 home and saying something like I did some work for --
20 pruning some trees on some people's property or, you
21 know, helping a friend out.

22 Q. Okay. So -- And to the extent David may have
23 had some experience with a chain saw away from your
24 home, you wouldn't know about that, you weren't there;

1 is that fair?

2 A. True.

3 Q. And at any time prior to Mr. Dulberg being
4 injured on June 28, 2011, did you have any reason to
5 be concerned about the manner or method that David was
6 using the chain saw?

7 A. No. I had no concern.

8 Q. At any time that day or the day before, did
9 you go out there and tell him how you wanted him to
10 use the chain saw?

11 A. No.

12 Q. Did you tell him how you wanted him to go
13 about tending to the trees, the pruning of the trees?

14 A. No.

*- self adm. 4400
that he wanted the
bottom branches removed.*

15 Q. Is it fair to say that you left all the
16 cutting and the decisions on what to do and how to do
17 it up to David?

18 A. Yes.

19 Q. And with respect to what David and Paul may
20 have talked about, if anything, that day, how they
21 were going to go about using the chain saw, what they
22 were going to do with respect to those trees, you
23 weren't part of any of that?

24 A. True. I was not part of any of it.

How did David know what his Parents wanted Done?

1 MR. BARCH: That's all I have.

2 MR. ACCARDO: I don't have anything.

3 MR. MAST: All right.

4 MR. BARCH: We are going to -- We are just going
5 to reserve. Carolyn is going to look at her
6 transcript. I will give you a chance to read it, too,
7 before it's final.

8 THE WITNESS: Okay.

9 (FURTHER DEPONENT SAITH NOT.)

10
11 *Was Carolyn allowed to stay in Room*
12 *with Bill During Deposition?*

13 *Is this Normal?*
14 *Explains some of His Answers.*
15
16
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23
24

PAUL DULBERG,

VS.

DAVID GAGNON,

Agent of CAROLINE

and CAROLINE MCGUIRE and

individually.

I, WILLIAM MCGUIRE, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken on March 20, 2013; that I have read the foregoing transcript of my deposition, and affix my signature to same.

Subscribed and sworn to
before me this day
of , 2013

Notary Public

C E R T I F I C A T E

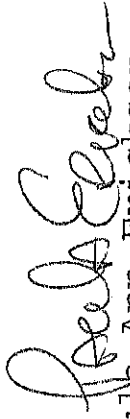
I, Paula Ann Erickson, Certified Professional
Reporter, Registered Professional Reporter and Notary
Public, do hereby certify:

That the witness in the foregoing deposition
named was present at the time and place therein
specified;

That the said proceeding was taken before me
as a Notary Public at the same time and place and was
taken down in shorthand writing by me;

That this transcript is a true and accurate
transcript of my shorthand notes so taken, to the best
of my ability.

1 I further certify that I am neither counsel for
2 nor related to or employed by any of the parties to
3 this action and that I am not a relative or employee
4 of any counsel employed by the parties hereto or
5 financially interested in the action.
6

7 
8 Paula Ann Erickson

9 Certified Shorthand Reporter
10 Registered Professional Reporter
11 License No. 084-003899
12 Notary Public

13
14 Dated this 9th day

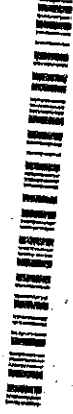
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TOTAL	TD
TAX AT 7%	199.00
TOTAL SALE	199.00
CASH	13.93
CHANGE	212.93
	220.00
	7.07-

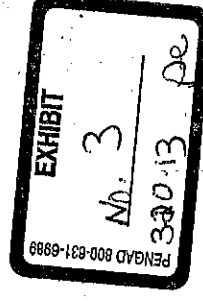
TOTAL SAVINGS 50.99

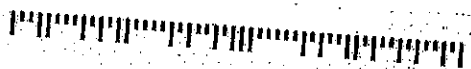
TOTAL NUMBER OF ITEMS = 1

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products may be returned or exchanged
within 30 days of purchase with a
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exchanges, or credits will be issued
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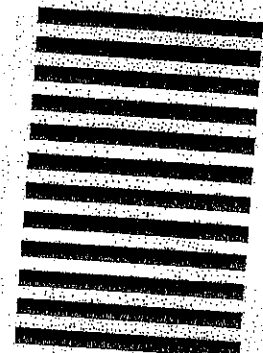




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PURCHASER'S NAME AND ADDRESS - NOM DU CLIENT ET ADRESSE - NOMBRE COMPTADOR / DIRECCION William McGwire 1010 W. Elder Ave McHenry, IL 60051		
MODEL - MODELE - MODELO MT 3500 (2.38 cu.in)		
SERIAL NUMBER - NUMERO DE SERIE - MATRICULA 9840200296		
PURCHASE DATE - DATE D'ACHAT - FECHA DE COMPRA 11-22-5		
PRIMARY USE (ONE ONLY): ☒ PERSONAL & CONSUMER - PERSONNELLE TITRE PRIVE - PRIVADO ☐ BUSINESS & COMMERCIAL - PROFESSIONNELLE - PROFESIONAL ☐ RENTAL - LOCATION - ALQUILADO		
UTILIZATION PRINCIPAL: ☐ UTILIZATION PRINCIPAL: Menard's Hardware		
DEALER NAME AND SIGNATURE - NOM DISTRIBUTEUR ET SIGNATURE - NOMBRE DISTRIBUIDOR / FIRMA Menard's Hardware		
COMPLETE IF PURCHASING A CHAINSAW - COMPLETER EN CAS D'ACHAT DE THONNEUSE COMPLETEAR SI COMPRA UNA MOTOSIERRA EFCO BAR LENGTH - LONGUEUR GUIDE EFCO LARGE BARRE EFCO		
EFCO CHAIN TYPE - TYPE DE CHAINE EFCO TIPO DE CADENA EFCO William McGwire		
PURCHASER SIGNATURE - SIGNATURE DU CLIENT - FIRMA CLIENTE		

IMPORTANT: The undersigned (Customer) confirm the following: The Operator's instruction book/Limited Warranty Certificate containing safety precautions was received with the purchase of the unit listed on this warranty registration card. I have also been shown the basic safe operation and controls of the unit purchased. I am aware of the causes and consequences of kickback and am aware that the chain brake can reduce injuries if properly maintained. I have read and understand the above Important Statement. The failure to complete and return this card does not diminish the customers warranty rights.

IMPORTANT: Je soussigné(e) (Client(e)) confirme que le Manuel d'utilisation et d'entretien / Certificat de garantie contenant les consignes de sécurité m'a été remis avec la machine indiquée sur ce coupon de garantie. Je déclare également avoir été instruit sur les précautions de sécurité de base et les principales commandes de la machine achetée. Je connais les causes et les conséquences du recul et je suis conscient que le frein de chaîne peut réduire les risques d'accidents s'il est correctement entretenu.

Je déclare avoir lu et compris la déclaration ci-dessus. Les conditions générales de garantie ne sont pas remises en cause si le client omet de compléter et de renvoyer ce coupon.

IMPORTANT: El infrascrito (Cliente) confirma lo que sigue: ha recibido manual de instrucciones y la carta de registro de producto que contienen las medidas de seguridad con la compra de la maquina nominada en esta tarjeta de registro de garantía. También me han demostrado la operación segura y los controles básicos de la maquina. Estoy enterado de las causas y de las consecuencias del contragolpe y que el freno cadena pueda reducir las lesiones si se mantiene correctamente. He leído y entendido las declaraciones importantes antes dichas. La falta de cumplimiento y devolución de las tarjetas no disminuye sus derechos de garantía.



Legendary Italian Design and Performance

For California only:

EMAK USA Incorporated California Exhaust and Evaporative Emissions Control Warranty Statement

Your Warranty Rights and Obligations

The California Air Resources Board (CARB) and EMAK USA Incorporated are pleased to explain the emissions control system's warranty on your 2010 and later small off-road equipment engine.

In California, new equipment that uses small off-road-engines must be designed, built, and equipped to meet the State's stringent anti-smog standards. EMAK USA Incorporated must warrant the emissions control system on your small off-road engine for the period listed below provided there has been no abuse, neglect or improper maintenance of your small off-road engine.

Your emissions control system may include parts such as:

Air filter, Carburetor, Air Purge, Choke (Cold Start Enrichment System), Control Linkages, Intake Manifold, Magneto or Electronic Ignition System (Ignition module), Spark plug, Catalytic Converter (if applicable), Fuel Tank, Fuel Cap, Fuel line, Fuel Line Fittings, Clamps, Fasteners.

Where a warrantable condition exists, EMAK USA Incorporated will repair your small off-road equipment engine at no cost to you including diagnosis, parts and labor.

Manufacturer's Warranty Coverage:

This emissions control system is warranted for two years in California. If any emissions-related part on your equipment is defective, the part will be repaired or replaced by EMAK USA Incorporated free of charge.

Owner's Warranty Responsibilities:

As the small off-road equipment engine owner, you are responsible for performance of the required maintenance listed in your instruction manual. EMAK USA Incorporated recommends that you retain all receipts covering maintenance on your small off-road equipment engine, but EMAK USA Incorporated cannot deny warranty solely for the lack of receipts or your failure to ensure the performance of all scheduled maintenance.

As the small off-road equipment engine owner, you should however be aware that EMAK USA Incorporated may deny you warranty coverage if your small off-road equipment engine or a part has failed due to abuse, neglect, or improper maintenance or unapproved modifications.

You are responsible for presenting your small off-road equipment engine to an authorized Efco servicing dealer as soon as the problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 days. If you have any questions regarding your warranty rights and responsibilities, please contact an EMAK customer service representative at 1-800-800-4420 or you can write to

EMAK USA Inc., 770 Spruce Street,
Wooster, Ohio 44691



efco®

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LIMITED WARRANTY CERTIFICATE

EMAK USA warrants this product from the time of purchase to be free from defects in material and workmanship under normal use and maintenance, subject to the periods, limitations and exclusions listed below.

WARRANTY PERIOD:

PRODUCT	USAGE		
	PROFESSIONAL OR COMMERCIAL	RENTAL	PERSONAL AND CONSUMER
Chainsaws and polesaws		3 months	5 years
Line trimmers / Brushcutters		3 months	5 years
Blowers (handheld & backpack)		3 months	2 years
Hedge Trimmer		3 months	2 years
Out-Off Saw		3 months	3 months
Earth Auger		3 months	5 years
Stick Edger		3 months	5 years

The cost of the drive shaft and electronic ignition module and the respective installation labor cost will be covered under the warranty time period as defined above for all Efco line trimmers / brushcutters, hedge trimmer and chainsaws. The material cost only of the drive shaft (excluding models 82701TR, 8271TR, PT2500 and PTX2500) and electronic ignition modules will be for the life of the unit for the original purchaser except for rental use which is 3 months. The labor costs for the installation of the electronic ignition module and drive shaft after the warranty period defined above will be the responsibility of the original purchaser.

SEE ATTACHED EMAK SPA FORM

Personal Use: Personal, non-institutional, and non-income producing use.

Commercial Use: Business, commercial, institutional or income producing use.

Rental Use: Rental income producing use.

EXCLUSIONS:

THIS WARRANTY DOES NOT EXTEND TO PARTS AFFECTED OR DAMAGED BY ACCIDENT, NORMAL WEAR, FUEL CONTAMINATION OR DETERIORATION, USE IN AN APPLICATION FOR WHICH THE PRODUCT WAS NOT DESIGNED OR ANY OTHER MISUSE, NEGLIGENCE, INCORPORATION OR USE OF UNSUITABLE ATTACHMENTS, PARTS OR FUELS/LUBRICANTS/FLUIDS, UNAUTHORIZED ALTERATION, IMPROPER MAINTENANCE/SERVICE, IMPROPER OPERATION NOT IN ACCORDANCE WITH THE INSTRUCTION MANUAL, OR ANY CAUSES OTHER THAN DEFECTS IN MATERIAL OR WORKMANSHIP OF THE PRODUCT.

Additionally, this warranty does not apply to:

- parts and components not supplied by EMAK USA, and any trade accessory or engine which is separately warranted by another manufacturer and not manufactured by EMAK USA;
- items or service required when performing normal and regular maintenance (e.g., valve adjustments, spark plugs, filters, lubricants, starter cords, carburetor adjustments, engine tune-ups, sharpening, etc.);
- damage caused by pressure or steam cleaning the unit;
- repairs made necessary by dirt, abrasives, moisture, rust, corrosion, fuel deposits, carbon deposits, oil deposits, or other similar conditions.

DISCLAIMER OF CONSEQUENTIAL DAMAGE AND LIMITATION OF IMPLIED WARRANTIES:

THIS WARRANTY IS IN LIEU OF ALL OTHER EXPRESS WARRANTIES. EMAK USA DISCLAIMS ANY RESPONSIBILITY

FOR LOSS OF TIME OR USE OF THE PRODUCT, COMMERCIAL LOSS, OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGE. ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR OTHERWISE APPLICABLE TO THIS PRODUCT, SHALL BE LIMITED IN DURATION TO THE DURATION OF THIS LIMITED WARRANTY. Some states do not allow limitations on how long an implied warranty lasts and/or do not allow the exclusion or limitation of incidental or consequential damages, so the above exclusions may not apply to you. This warranty gives you specific legal rights. You may also have other rights, which vary from state to state.

WHAT EMAK USA WILL REPAIR OR REPLACE UNDER WARRANTY:

The warranty period begins on the date of purchase. EMAK USA, acting through its authorized dealers, shall replace free of charge any parts proven defective in material or workmanship. All parts replaced under warranty will be considered as part of the original product and any warranty on those parts will expire coincident with the original product warranty.

TO OBTAIN WARRANTY SERVICE:

To make any claim under the warranty, proof of purchase of the product in the form of the invoice or receipt showing the date of purchase and product serial number must be presented to the authorized dealer for warranty service.

EMISSION CONTROL SYSTEMS WARRANTY COVERAGE:

California and Federal Emission Control Systems - Warranty The U.S. Environmental Protection Agency (EPA), the California Air Resources Board (CARB), and EMAK USA are pleased to explain the Emission Control System Warranty on your model year 2006 or later nonroad or small off-road engine. In California, new small off-road engines must be designed, built and equipped to meet the state's stringent anti-smog standards. In other states, new 1997 and later model year nonroad engines must be designed, built and equipped, at the time of sale, to meet the U.S. EPA regulations for small nonroad engines. The nonroad engine must be free from defects in materials and workmanship which cause it to fail to conform with U.S. EPA standards for the first two years of engine use from the date of sale to the ultimate purchaser. EMAK USA must warrant the emission control system on your nonroad or small off-road engine for the period of time listed above provided there has been no abuse, neglect, improper maintenance, or unapproved modifications of your nonroad or small off-road engine.

Your emission control system may include parts such as the carburetor or fuel injection system, the ignition system, the catalytic converter. Also included may be hoses, belts, and connectors and other emission related assemblies.

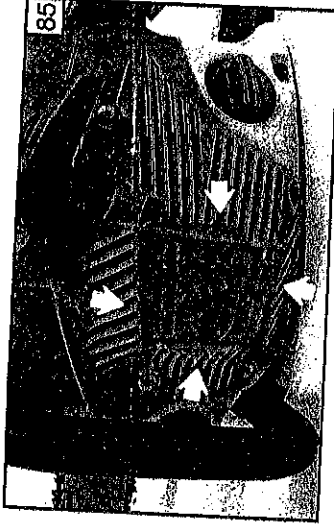
Where a warrantable condition exists, EMAK USA will repair your nonroad or small off-road engine at no cost to you, including diagnosis (if the diagnostic work is performed at an authorized dealer), parts, and labour.

MANUFACTURER'S WARRANTY COVERAGE:

The 1995 and later small off road engines are warranted for two years in California. In other states, 1997 and later model year small off road engines are also warranted for two years. If any emission-related part on your engine is defective, the part will be repaired or replaced by Emak s.p.a. free of charge.

OWNER'S WARRANTY RESPONSIBILITIES:

a) As the small off road engine owner, you are responsible for the performance of the **required maintenance listed in the owner's manual**. Emak USA recommends that you retain all receipts covering maintenance on you small off road engine, but Emak USA cannot deny warranty solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance. Any replacement part or service that is equivalent in performance and durability may be used in non-warranty maintenance or repairs, and shall not reduce the warranty obligations of the engine manufacturer.



Carburetor Adjustment

Before adjusting the carburetor, clean the starter cover vents as shown in Illustration Fig. 85, and air filter as shown in Illustration Fig. 86, refer to Operation-Starting Unit and Maintenance-Air Filter Sections for details. Allow the engine to warm up prior to carburetor adjustment.

This engine is designed and manufactured in order to comply with EPA (Environmental Protection Agency) Phase 2 regulations. The carburetor is factory set and should not require adjusting. The carburetor will permit only limited adjustment of the "L" (Low Jet) and "H" (High Jet) needles (Fig. 87). Any adjustment should be done by a Servicing Dealer.

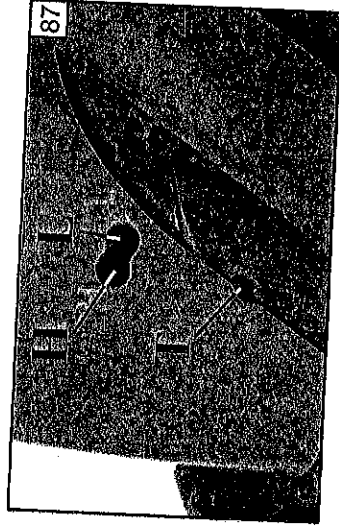
Under no circumstances should the "L" (Low Jet) and "H" (High Jet) needles be forced outside the range of adjustment.



WARNING: Serious damage can occur to the engine if improper adjustments are made to the "L" and "H" needles. Do not force the "L" and "H" needles outside the adjustment range in such case the engine will not run in compliance with emissions regulations.

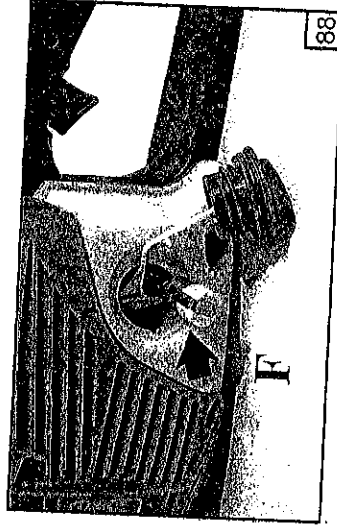
Idle Speed Adjustment

- If the engine starts, runs, and accelerates but will not idle; turn the idle speed screw "T" clockwise to increase idle speed (Fig. 87).
- If the chain turns at idle, turn the idle speed screw "T" counterclockwise to reduce the idle RPM and stop the chain movement. If the saw chain still moves at idle speed, contact a Servicing Dealer for adjustment and discontinue use until the repair is made.



Fuel Filter

Check the fuel filter (F, Fig. 88) periodically. Replace it if contaminated or damaged.



Air Filter

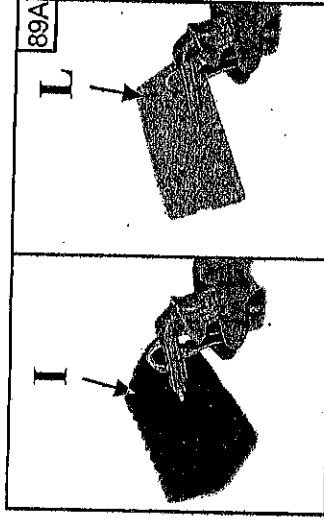


WARNING: Do not clean filter in gasoline or other flammable solvent to avoid creating a fire hazard or producing harmful evaporative emissions.

Unscrew the screws on the cover (G, Fig. 89), remove air filter cover (H) and check the air filters (I-L, Fig. 89A) each day. Filter (L): snake it and clean it with a soft brush. Filter (I) clean with degreaser, wash with water and blow from a distance with compressed air. Reinstall the air filters. Place the air filter cover onto the chain saw. Tighten the air filter cover screws securely. A used air filter can never be completely cleaned. It is advisable to replace your air filters with a new one after six month of operation.



CAUTION: Never run the engine without the air filters, serious damage could result. Make sure the air filters is correctly placed in the air filter cover before reassembly. Always replace damaged filters. Do not clean a filter with a brush.



Starter Unit

Use a brush to keep the cooling vents of the starter assembly free and clean of debris (Fig. 90).



WARNING: The coil spring is under tension and could fly apart causing serious injuries. Never try to disassembly or modify it.

Engine

Clean the cylinder & flywheel fins with compressed air or a brush periodically (Fig. 91). Dangerous overheating of engine may occur due to impurities on the cylinder.



WARNING: Never run the saw without all the parts, including the drivecase cover and starting housing, securely in place. Because parts can fracture and pose a danger of thrown objects, leave repairs to the flywheel and clutch to trained Servicing Dealers.

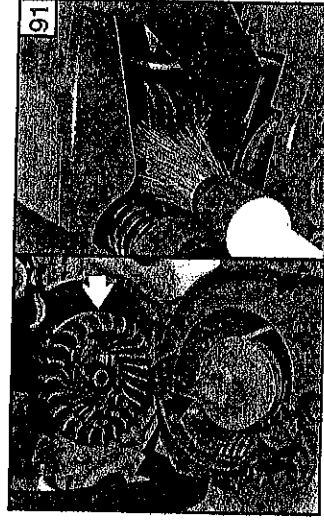


Spark Plug

This engine uses a NGK BPMR8Y with .02" (0.5 mm) electrode gap (Fig. 92). Use an exact replacement and replace every six months or more frequently, if necessary.



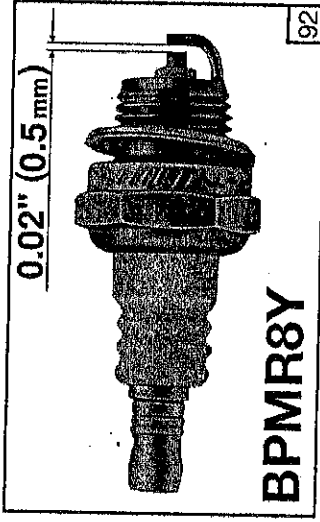
WARNING: Never test the ignition system with ignition wire connector removed from spark plug or with unseated spark plug, since uncontained sparking may cause a fire. A loose connection between spark plug terminal and ignition wire connector in the boot may create arcing that could ignite combustible fumes and cause a fire.



Use only resistor type spark plugs of the approved range.

Factors such as:

- too much oil in fuel mix;
- dirty air filter;
- unfavourable running conditions, e.g. operating at part load; may result in rapid deterioration of the spark plug.

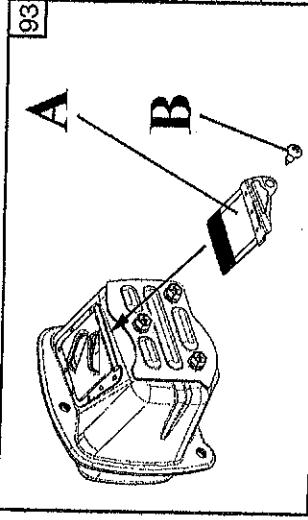


Spark Arresting Muffler

The chainsaw is provided with a Spark Arrester System p.n. 50240109 (Fig. 93) complying with the requirements of SAE J335 standard; you can check the p.n. of the Spark Arrester System on the muffler itself.



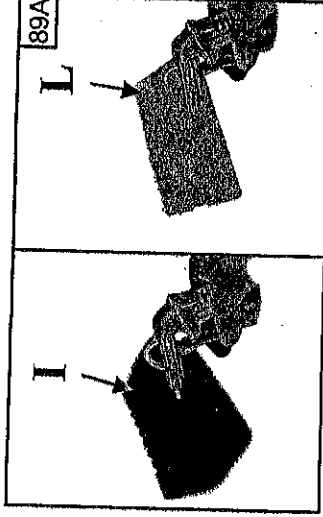
WARNING: A faulty or altered spark arrester system screen can create a fire hazard.



Through normal use the screen can become dirty and should be inspected weekly and cleaned as required.

To clean:

- Allow the muffler to cool.
- Remove the spark arrester screen screw (B).
- Remove the spark arrester screen (A) p.n. 50240155.
- Clean and inspect the spark arrester screen. If the spark arrester screen is damaged, faulty or deteriorated, replace the screen.



cubierta. Ponga la cubierta del filtro de aire en la motosierra. Apriete firmemente el mando de la cubierta. Un filtro de aire utilizado nunca se puede limpiar por completo. Se recomienda sustituir los filtros de aire por otro nuevo tras seis meses de funcionamiento.



PRECAUCIÓN: No ponga nunca el motor en marcha sin los filtros de aire, ya que se pueden producir daños importantes.

Compruebe que los filtros de aire están correctamente colocado en su cubierta antes de volver a montarlo. Sustituya siempre el filtro si está dañado. No limpie el filtro con un cepillo.

Unidad de motor de arranque

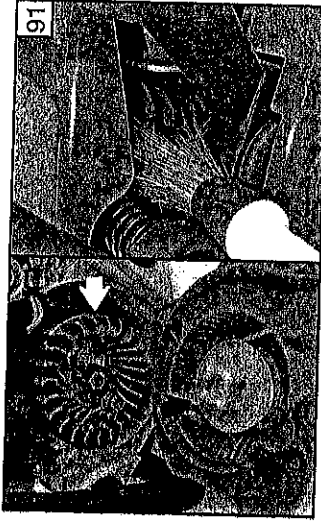
Utilice un cepillo para eliminar los residuos que haya en las salidas de refrigeración del conjunto de motor de arranque (Fig. 90).



ADVERTENCIA: El resorte de la bobina está bajo tensión y podría salir despedido provocando lesiones graves. No intente nunca desmontarlo ni modificarlo.

Motor

Limpie periódicamente las aletas del volante y del cilindro con aire comprimido o con un cepillo (Fig. 91). Si hay impurezas en el cilindro, es posible que el motor se sobrecaliente de forma peligrosa.

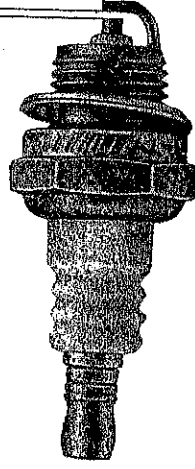


ADVERTENCIA: No ponga nunca la motosierra en marcha sin estar todas las piezas correctamente colocadas en su sitio, incluyendo la cubierta de la carcasa de transmisión y el alojamiento de arranque. Puesto que las piezas se pueden romper y salir despedidas, los trabajos de reparación del volante y el embrague los debe realizar personal de un concesionario de servicio con la formación adecuada.

Bujía

Este motor utiliza una bujía NGK BPMR8Y con una separación de las puntas del electrodo de .02" (0.5 mm) (Fig. 92). Utilice una bujía de repuesto exactamente igual a la original y sustitúyala cada seis meses o con mayor frecuencia, si es necesario.

0.02" (0.5mm)



BPMR8Y



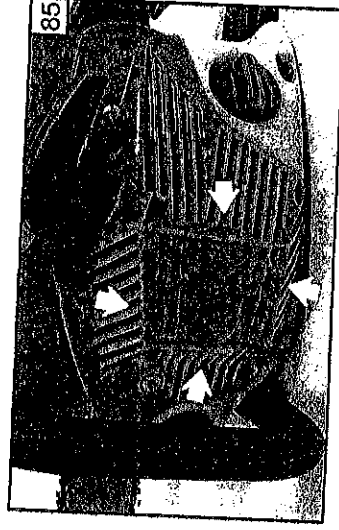
ADVERTENCIA: No someta nunca el sistema de encendido a pruebas con el conector del cable de encendido desconectado de la bujía o sin estar correctamente puesta la bujía, ya que las chispas no contenidas pueden provocar un incendio. Una conexión floja entre el terminal de la bujía y el conector del cable de encendido en la funda puede generar formación de arco, que puede inflamar los gases combustibles y provocar un incendio.

Utilice solamente bujías de tipo resistor de gama homologada.

Factores tales como:

- Demasiado aceite en la mezcla de combustible;
- Filtro de aire sucio;
- Condiciones de funcionamiento desfavorables (por ejemplo, funcionamiento con carga parcial);

Pueden provocar que la bujía se deteriore rápidamente.



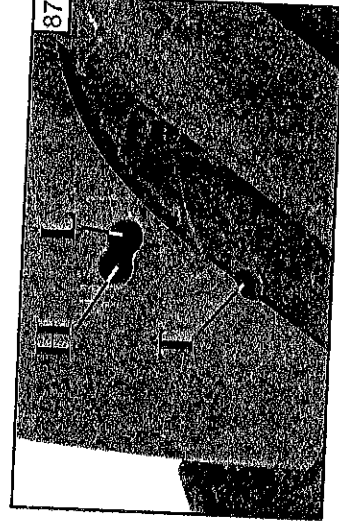
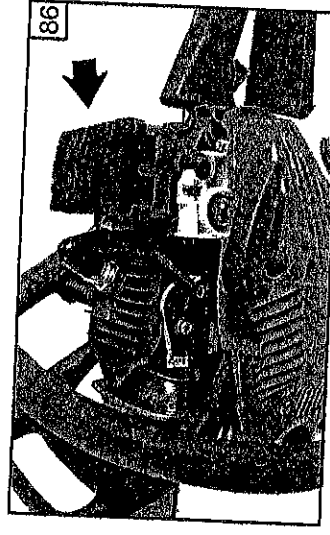
- Barra guía doblada.
- Raíles agrietados o rotos.
- Raíles abiertos.

Además, las barras guía que tengan una rueda dentada en la punta se deben lubricar periódicamente con una jeringa de engrase para aumentar su vida útil. Gire la barra guía y compruebe que los orificios de lubricación (M) y la ranura de la cadena (S) no tienen impurezas.

Ajuste del carburador

Antes de ajustar el carburador, limpie las salidas de ventilación de la cubierta del motor de arranque como se muestra en la Fig. 85 y el filtro de aire como se indica en la Fig. 86. Para obtener más información, consulte las secciones de funcionamiento (unidad de arranque) y de mantenimiento (filtro de aire). Deje que el motor se caliente antes de ajustar el carburador.

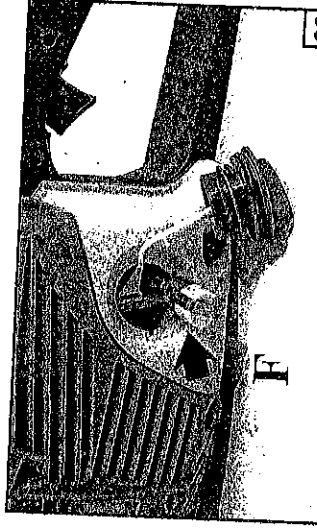
Este motor está diseñado y fabricado para cumplir las regulaciones de Fase 2 de la EPA (Agencia de protección del medio ambiente de EE.UU.). El carburador se ha ajustado en fábrica y no debe requerir ningún ajuste. El carburador sólo permitirá realizar un ajuste limitado de las agujas "L" (chorro bajo) y "H" (chorro alto). Los ajustes se deberán realizar en un concesionario de servicio. Las agujas "L" (chorro bajo) y "H" (chorro alto) no se deberán forzar para fijarlas fuera del rango de ajuste bajo ninguna circunstancia.



Ajuste de la velocidad de ralentí

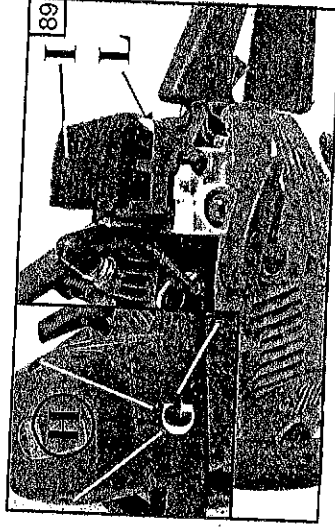
- Si el motor arranca, se pone en marcha y acelera pero no se pone a ralentí, gire el tornillo de velocidad de ralentí "T" en el sentido de las agujas del reloj para aumentar la velocidad de ralentí (Fig. 87).
- Si la cadena gira al ralentí, gire el tornillo de velocidad de ralentí "T" en el sentido contrario a las agujas del reloj para reducir las RPM de ralentí y parar la cadena. Si la cadena sigue moviéndose a velocidad de ralentí, póngase en contacto con un concesionario de servicio para su ajuste, y no utilice la unidad hasta que se haya realizado la reparación.

ADVERTENCIA: El motor puede sufrir daños importantes si se realizan ajustes inadecuados en las agujas "L" y "H". No fuerce las agujas "L" y "H" para fijarlas fuera del rango de ajuste; en tal caso, el motor no funcionará en conformidad con las regulaciones sobre emisiones.



Filtro de combustible

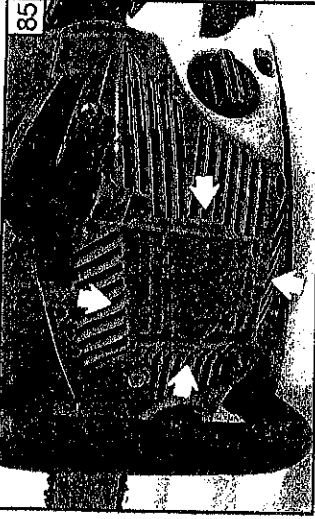
Compruebe periódicamente el filtro de combustible (F, Fig. 88). Sustitúyalo si está contaminado o dañado.



Filtro de aire

ADVERTENCIA: No limpie el filtro con gasolina u otros disolventes inflamables a fin de evitar que se cree el peligro de incendio o que se generen emisiones de evaporación perjudiciales.

Desenrosque los tornillos de la cubierta (G, Fig. 89), retire la cubierta (H) y compruebe los filtros de aire (I-L, Fig. 89A) cada día. Filtro (L): sacudirlo y limpiarlo con un pincel suave. Filtro (J): limpiar con desengrasante, lavar con agua y soplar a distancia con aire comprimido. Vuelva a instalar los filtros de aire en la



- Rails fendillés ou cassés.
- Rails ébréchés.

En outre, les guide-chaîne équipés d'un pignon en leur pointe doivent être lubrifiés périodiquement à l'aide d'une seringue à huile afin de rallonger leur durée de vie. Retournez le guide-chaîne et vérifiez que les orifices de lubrification (T) et la gorge de chaîne (S) sont exempts d'impuretés.

Réglage du carburateur

Avant de procéder au réglage du carburateur, nettoyez les ouïes d'aération du couvercle de démarreur comme indiqué dans la Fig. 85, ainsi que le filtre à air comme indiqué dans la Fig. 86. Reportez-vous aux sections Fonctionnement-Démarrage de la machine et Entretien-Filtre à air pour de plus amples détails. Laissez chauffer le moteur avant de procéder au réglage du carburateur. Ce moteur est conçu et fabriqué conformément aux réglementations de Phase 2 de l'EPA (Agence de protection de l'environnement). Le carburateur est réglé en usine et ne nécessite normalement aucun réglage. Ce modèle de carburateur ne permet que le réglage des aiguilles "L" (gicleur bas) et "H" (gicleur haut). Tout réglage doit être effectué par un service d'entretien agréé.

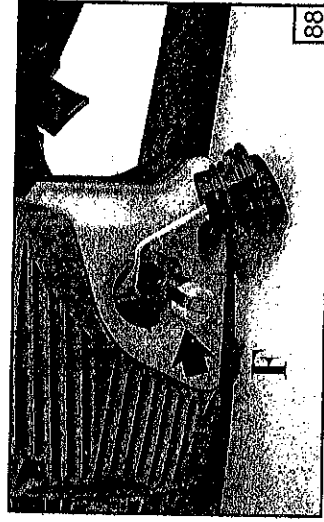
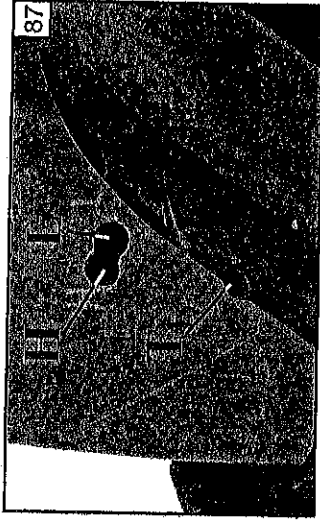
Ne forcez en aucun cas les aiguilles "L" (gicleur bas) et "H" (gicleur haut) hors de leur plage de réglage.



AVERTISSEMENT: Un réglage incorrect des aiguilles "L" et "H" peut entraîner de graves dégâts au niveau du moteur. Ne forcez pas les aiguilles "L" et "H" hors de leur plage de réglage sous peine de rendre le moteur non conforme à la réglementation relative aux émissions polluantes.

Réglage du ralenti

- Si le moteur démarre, tourne et accélère mais ne tient pas le ralenti, tournez la vis de réglage du ralenti "T" dans le sens des aiguilles d'une montre pour augmenter le ralenti (Fig. 87).
- Si la chaîne tourne au régime de ralenti, tournez la vis de réglage du ralenti "T" ans le sens inverse des aiguilles d'une montre pour réduire le régime de ralenti et stopper la rotation de la chaîne. Si la chaîne continue à tourner au régime de ralenti, contactez un service d'entretien agréé pour procéder au réglage et n'utilisez pas la machine tant que la réparation n'a pas été effectuée.



Filtre à carburant

Contrôlez le filtre à carburant (F, Fig. 88) périodiquement. Remplacez-le s'il est contaminé ou endommagé.

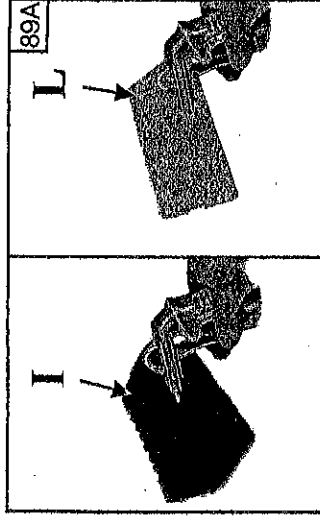


Filtre à air



AVERTISSEMENT: Ne nettoyez pas le filtre à air à l'essence ou avec tout autre produit inflammable afin d'éviter tout risque d'incendie ou de générer des vapeurs nocives.

Dévissez les vis du couvercle (G, Fig. 89), déposez le couvercle du filtre à air (H) et contrôlez les filtres à air (I-L, Fig. 89A) quotidiennement. Filtre (L): secouez-le et nettoyez-le avec un pinceau souple. Filtre (I): nettoyez à l'aide du dégraissant, lavez à



l'eau et souffler de l'air comprimé à une certaine distance. Remontez les filtres à air dans le couvercle. Posez le couvercle de filtre à air sur la tronçonneuse. Resserrez fermement les vis du couvercle de filtre à air.

Un filtre à air usagé ne peut jamais être complètement nettoyé. Il est recommandé de remplacer le filtre à air après six mois d'utilisation.



MISE EN GARDE: Ne faites jamais tourner le moteur sans les filtres à air au risque de l'endommager. Vérifiez que les filtres à air est correctement logé dans le couvercle de filtre à air avant procéder au remontage de l'ensemble. Remplacez toujours un filtre à air endommagé. Ne nettoyez pas le filtre à l'aide d'une brosse.



Démarrreur

Éliminez les débris accumulés au niveau des ouïes d'aération du démarreur à l'aide d'une brosse (Fig. 90).



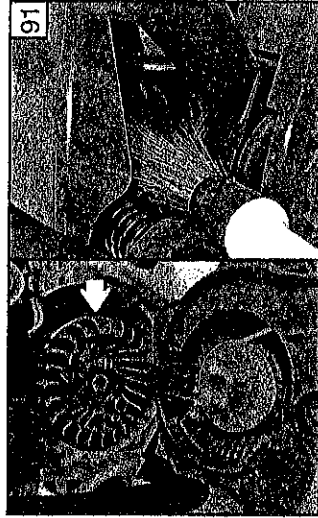
AVERTISSEMENT: Le ressort à enroulement est sous tension et peut "sauter" à tout moment, entraînant de graves blessures. Ne tentez jamais de le démonter ou de le modifier.

Moteur

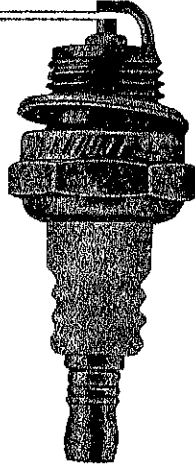
Nettoyez périodiquement les ailettes du moteur et du volant-moteur à l'air comprimé ou à l'aide d'une brosse (Fig. 91). Les impuretés incrustées sur le cylindre peuvent entraîner une surchauffe dangereuse du moteur.



AVERTISSEMENT: Ne faites jamais fonctionner la tronçonneuse si toutes les pièces ne sont pas correctement montées, notamment le couvercle du carter d'entraînement et le carter du démarreur. Dans la mesure où les pièces peuvent se casser et voler en éclat, faites réparer le volant-moteur et l'embrayage à un réparateur agréé.



0.02" (0.5 mm)



BPMR8Y

Bougie

Ce moteur utilise une bougie NGK BPMR8Y avec un espacement entre les électrodes de 0,5 mm (0,02 pouce) (Fig. 92). Remplacez-la par une bougie identique tous les six mois ou plus fréquemment si nécessaire.



AVERTISSEMENT: Ne testez jamais le système d'allumage alors que le connecteur du câble d'allumage est débranché de la bougie ou si la bougie n'est pas montée dans son logement, au risque de produire un jaillissement d'étincelles non contrôlé qui peut entraîner un risque d'incendie. Une mauvaise connexion entre la borne de la bougie et le connecteur du câble d'allumage au niveau de la coiffe peut générer un arc électrique susceptible d'enflammer les vapeurs de carburant à l'origine d'un incendie.

Utilisez exclusivement des bougies antiparasites de la gamme préconisée.

Les facteurs tels que:

- un excès d'huile dans le mélange de carburant;