

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

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) Case No. 12 LA 178
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NOTICE OF MOTION

TO: ATTACHED SERVICE LIST

YOU ARE HEREBY notified that on the 30th day of January, 2013, at 9:00 o'clock A.M., or soon thereafter as Counsel may be heard, I shall appear before his Honor, Judge Thomas A. Meyer, in the room usually occupied by him as a Court Room, or in his absence, before any other Judge that may be presiding in said Court Room, in the Courthouse in McHenry County at Rockford, Illinois, and then and there present: Defendants' Motion to Compel; At which time and place you may appear, if you so desire.

Dated: January 25, 2013

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 1/25/13.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

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

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Dated: January 25, 2013

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By


RONALD A. BARCH (6209572)

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STATE OF ILLINOIS
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PAUL DULBERG,)	
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Plaintiff,)	Case No. 12 LA 178
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MCGUIRE, and CAROLINE MCGUIRE)	
and BILL MCGUIRE, Individually,)	
)	
Defendants.)	

**McGUIRE DEFENDANTS' MOTION FOR LEAVE TO FILE
CROSS-CLAIM FOR CONTRIBUTION**

Defendants, BILL McGUIRE and CAROLYN McGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, hereby moves the Court for an Order granting them leave to file a cross-claim for contribution against Defendant David Gagnon. In support of their Motion, the movants further state as follows:

1. On May 15, 2012, Plaintiff PAUL DULBER filed a two count complaint over injuries he attributes to a chainsaw accident that occurred on June 28, 2011.
2. Defendants Bill McGuire and Carolyn McGuire owned the residential property upon which the chainsaw accident purportedly occurred. However, neither defendant witnessed the occurrence set forth in Plaintiff's Complaint.
3. On January 24, 2013, Plaintiff Paul Dulberg submitted for a discovery deposition.
4. Based upon the deposition testimony of Plaintiff Paul Dulberg, the movants reasonably believe Defendant David Gagnon was guilty of negligence in connection with the occurrence set forth in Plaintiff's complaint.

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, pray that the Court enter an Order granting them leave to file a cross-claim for contribution against Defendant

David Gagnon. A copy of the proposed Cross-Claim for Contribution is attached to this motion as Exhibit A.

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By

A handwritten signature in black ink, appearing to be 'RBA', written over a horizontal line.

RONALD A. BARCH (6209572)

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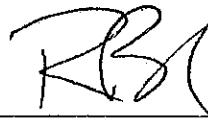
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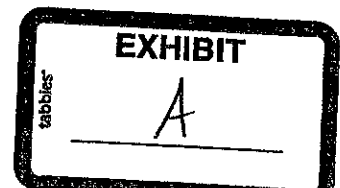
STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
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Plaintiff,)	Case No. 12 LA 178
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DAVID GAGNON, Individually, and as)	
Agent of CAROLINE MCGUIRE and BILL)	
MCGUIRE, and CAROLINE MCGUIRE)	
and BILL MCGUIRE, Individually,)	
)	
Defendants.)	

CROSS-CLAIM FOR CONTRIBUTION AGAINST
CO-DEFENDANT DAVID GAGNON

The Defendants, BILL McGUIRE and CAROLYN McGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their cross-claim for counterclaim for contribution against Defendant David Gagnon, state as follows:

1. Plaintiff PAUL DULBERG has filed a two-count complaint against Defendants David Gagnon, Bill McGuire and Carolyn McGuire seeking damages for injuries he attributes to a chainsaw incident that purportedly occurred on June 28, 2011 in the County of McHenry, State of Illinois.
2. The chainsaw incident set forth in Plaintiff's Complaint purportedly occurred on a residential parcel owned by Defendants Bill McGuire and Carolyn McGuire.
3. Defendants Bill McGuire and Carolyn McGuire were not present in the vicinity of the chainsaw incident when it occurred.
4. At the time of the alleged chainsaw incident, Plaintiff PAUL DULBERG was assisting Defendant David Gagnon as Defendant Gagnon was cutting and trimming trees and branches with a chainsaw.
5. At said time and place, Defendant David Gagnon owed a duty to exercise reasonable care at all times to avoid causing injury and property damages to others.



6. On the date and in the location set forth in Plaintiff's Complaint, the chainsaw being then and there operated by Defendant David Gagnon made contact with the right arm of Plaintiff PAUL DULBERG.

7. At the time and place alleged, notwithstanding his aforementioned duty, Defendant David Gagnon was then and there guilty of one or more of the following negligent acts and/or omissions:

- a. Caused or permitted a chainsaw to make contact with Plaintiff's right arm;
- b. Failed to operate said chainsaw in a safe and reasonable manner so as to avoid injuring Plaintiff's right arm;
- c. Failed to maintain a reasonable and safe distance between the chainsaw he was operating and Plaintiff's right arm;
- d. Failed to properly instruct Plaintiff prior to approaching him with an operating chainsaw;
- e. Failed to properly warn Plaintiff prior to approaching him with an operating chainsaw;
- f. Failed to maintain the chainsaw in the idle or off position when he knew or should have known that Plaintiff was close enough to sustain injury from direct contact with the subject chainsaw;
- g. Failed to maintain a proper lookout for Plaintiff while operating the subject chainsaw;
- h. Failed to maintain proper control over an operating chainsaw;
- i. Was otherwise negligent in the operation and control of the subject chainsaw.

8. That the injuries alleged by Plaintiff PAUL DULBERG, if any, were the direct and proximate result of negligence on the part of Defendant David Gagnon.

9. By virtue of those aforesaid actions, Defendant David Gagnon is a joint tortfeasor within the meaning of the Illinois Contribution Among Joint Tortfeasors Act (740 ILCS 100/0.01, et seq.) which was in full force and effect on the date of the occurrence and, as such, the State of

Illinois recognizes the right of contribution among joint tortfeasors.

9. Should the Defendants Bill McGuire and Carolyn McGuire be found liable for the injuries to Plaintiff PAUL DULBERG, Defendants Bill McGuire and Carolyn McGuire are entitled to contribution from Defendant David Gagnon for that portion of the total recoveries, if any, by Plaintiff PAUL DULBERG that the Defendants Bill McGuire and Carolyn McGuire are required to pay in excess of their pro rata share of the liability pursuant to the aforesaid Illinois Contribution Among Joint Tortfeasors Act.

WHEREFORE, the Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, demand judgment in their favor and against Defendant David Gagnon for any and all sums for which Defendants BILL MCGUIRE and CAROLYN MCGUIRE may be held liable to Plaintiff PAUL DULBERG, in excess of their pro rata share.

Defendants Hereby Demands A Trial By Jury

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
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CERTIFICATE OF SERVICE

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Dated: January 25, 2013

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

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RBC

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MOTION TO COMPEL

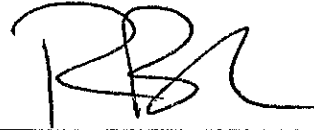
Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, hereby moves the Court for an Order compelling Defendant David Gagnon to answer Interrogatories and a Request for Production previously propounded upon him. In support of their Motion, the movants further state as follows:

1. On September 27, 2012, the Defendants Bill McGuire and Carolyn McGuire served upon the Defendant David Gagnon written interrogatories and a production request to be answered within 28 days.
2. On October 29, 2012, during efforts to schedule party depositions, counsel for the movants orally requested Defendant Gagnon's discovery responses. The subject was revisited during Plaintiff Dulberg's deposition on January 24, 2013.
3. As of the date of writing, Defendant Gagnon has failed to cooperate in discovery by failing to answer the movant's written interrogatories and production request.

WHEREFORE, the Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, pray that the Court enter an Order compelling Defendant GAGNON to provide responses to Defendants' written discovery within seven (7) days.

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By

A handwritten signature in black ink, appearing to be 'RAB', written over a horizontal line.

RONALD A. BARCH (6209572)

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and BILL MCGUIRE, Individually,)	
)	
Defendants.)	

McGUIRE DEFENDANTS' MOTION FOR LEAVE TO FILE
AMENDED ANSWER AND AFFIRMATIVE DEFENSE

Defendants, BILL McGUIRE and CAROLYN McGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, hereby moves the Court for an Order granting them leave to file an amended answer and affirmative defense to Count I of Plaintiff's complaint. In support of their Motion, the movants further state as follows:

1. On May 15, 2012, Plaintiff PAUL DULBER filed a two count complaint over injuries he attributes to a chainsaw accident that occurred on June 28, 2011.
2. Defendants Bill McGuire and Carolyn McGuire owned the residential property upon which the chainsaw accident purportedly occurred. However, neither defendant witnessed the occurrence set forth in Plaintiff's Complaint.
3. On January 24, 2013, Plaintiff Paul Dulberg submitted for a discovery deposition.
4. Based upon the deposition testimony of Plaintiff Paul Dulberg, the movants reasonably believe Plaintiff Paul Dulberg was guilty of contributory negligence in connection with the occurrence set forth in his complaint.

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, pray that the Court enter an Order granting them leave to file an amended answer adding an affirmative defense

of comparative fault. A copy of the proposed Amended Answer and Affirmative Defense is attached to this motion as Exhibit A.

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

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Defendants.

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AMENDED ANSWER AND
AFFIRMATIVE DEFENSE BY
DEFENDANTS BILL MCGUIRE
AND CAROLYN MCGUIRE
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DEFENDANTS' ANSWER

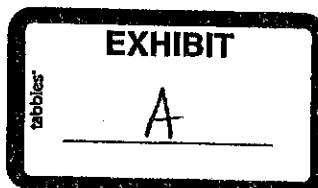
ANSWER TO COUNT I

Defendants, BILL MCGUIRE and CAROLYN MCGUIRE, make no response to Count I of Plaintiff's Complaint inasmuch as said allegations are directed at a separate and distinct Defendant.

ANSWER TO COUNT II

Defendants, BILL MCGUIRE AND CAROLYN MCGUIRE (improperly named Caroline), by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their Answer to Count I of Plaintiff's Complaint, state as follows:

1. Defendants admit the allegations of paragraph one (1).
2. Defendants admit that on June 28, 2011, they owned and lived in a single family home located at 1016 W. Elder Avenue, City of McHenry, County of McHenry, Illinois. Defendants neither admit nor deny the remaining allegations set forth in paragraph two (2) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
3. Defendants deny the allegations of paragraph three (3).
4. Defendants deny the allegations of paragraph four (4).



5. Defendants admit that on June 28, 2011, Defendant David Gagnon was engaged in cutting, trimming and maintaining trees and brush on the premises at 1016 W. Elder Avenue, in the City of McHenry, County of McHenry, Illinois. Defendants admit that David Gagnon was doing so at their request, with their authority and permission and for their benefit. Defendants deny the remaining allegations of paragraph five (5).
6. Defendants admit that Defendant David Gagnon used a chain saw from time to time on June 28, 2011. Defendants admit that they owned a chain saw on June 28, 2011. Defendants deny the remaining allegations of paragraph six (6).
7. Defendants deny the allegations of paragraph seven (7).
8. Defendants deny the allegations of paragraph eight (8).
9. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations set forth in paragraph nine (9). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
10. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations of paragraph ten (10). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
11. Defendants deny the allegations of paragraph eleven (11).
12. Defendants deny the allegations of paragraph twelve (12).
13. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to the truth of the allegations of paragraph thirteen (13). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.
14. The answering Defendants were not present and therefore lack sufficient

information upon which to form a belief as to the truth of the allegations of paragraph fourteen (14). Defendants therefore neither admit nor deny said allegations but demand strict proof thereof.

15. Defendants make no response to the allegations set forth in paragraph fifteen (15) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
16. Defendants admit that at all relevant times they owned and lived in the premises that are the subject of Plaintiff's Complaint. Defendants neither admit nor deny the remaining allegations set forth in paragraph sixteen (16) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
17. Defendants make no response to the allegations set forth in paragraph fifteen (15) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
18. Defendants deny the allegations of paragraph eighteen (18).
19. Defendants admit that Defendant David Gagnon used a chain saw from time to time on June 28, 2011. The answering Defendants were not present and therefore lack sufficient information upon which to form a belief as to whether Defendant David Dagnon was operating a chain saw with the assistance of Plaintiff Paul Dulberg. Defendants neither admit nor deny the remaining allegations set forth in paragraph nineteen (19) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
20. Defendants make no response to the allegations set forth in paragraph twenty (20) as said allegations call for the admission of a conclusion of law rather than an allegation of fact.
21. Defendants deny the allegations of paragraph twenty-one (21).
22. Defendants deny the allegations of paragraph twenty-two (22).

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, pray the court dismiss Count I of Plaintiff's Complaint and enter judgment for the Defendants for their costs of suit.

Defendants Hereby Demand A Trial By Jury

DEFENDANTS' AFFIRMATIVE DEFENSE

The Defendants, BILL McGUIRE and CAROLYN McGUIRE, by and through their attorneys, Cicero, France, Barch & Alexander, PC, and for their Affirmative Defense to Count II of Plaintiff's Complaint, state as follows:

1. That on the date and at the place alleged in the Plaintiff's Complaint, the Plaintiff, PAUL DULBERG, was guilty of negligence by failing to exercise due care and caution for his own safety, in that he:

- a. Failed to use due care and caution as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches.
- b. Failed to use due care and caution as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches when he knew and appreciated the dangers associated with chainsaw usage.
- c. Was inattentive and unobservant to surrounding conditions and dangers as he assisted Defendant David Gagnon during the trimming and cutting of trees and branches.
- d. Notwithstanding a reasonable opportunity to do so, failed to maintain a safe distance between himself and an operating chainsaw.
- e. Was otherwise careless and negligent as will be demonstrated by the evidence at trial.

2. That by reason of the aforesaid negligence of the Plaintiff, PAUL DULBERG, and as a direct and proximate result thereof, the Plaintiff sustained the damages claimed.

3. That pursuant to the Illinois Code of Civil Procedure, Section 5/2-613(d) and Section 5/2-1116, the Complaint of PAUL DULBERG should be dismissed in that the contributory

fault on the part of the Plaintiff was more than 50 percent and, therefore, PAUL DULBERG's Complaint is barred.

4. Or, in the alternative, that any verdict against the Defendants, BILL McGUIRE and CAROLYN McGUIRE, should be reduced in direct proportion to the percentage of PAUL DULBERG's contributory negligence causing his claimed injuries.

WHEREFORE, the Defendants, BILL McGUIRE and CAROLYN McGUIRE, moves this Court for an Order dismissing Count I of Plaintiff's Complaint, costs being assessed to the Plaintiff.

Defendants Hereby Demand A Trial By Jury

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

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STATE OF ILLINOIS

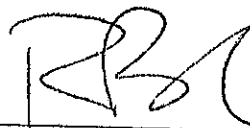
)

) SS

COUNTY OF WINNEBAGO

)

RONALD A. BARCH, being first duly sworn on oath, deposes and states that he is one of the attorneys for the Defendants, BILL McGUIRE and CAROLYN McGUIRE, that he has read the foregoing Answer signed by him; that the allegations as to insufficient knowledge are true to the best of his knowledge and belief.



RONALD A. BARCH

Subscribed and sworn to before
me on _____.

Notary Public

CERTIFICATE OF SERVICE

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vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

NOTICE OF MOTION

TO: Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle Street, Suite 2650
Chicago, IL 60601-1092

YOU ARE HEREBY notified that on the 16th day of April, 2014, at 9:00 o'clock A.M., or soon thereafter as Counsel may be heard, I shall appear before his Honor, Judge Thomas A. Meyer, in the room usually occupied by him as a Court Room (#201), or in his absence, before any other Judge that may be presiding in said Court Room, in the Courthouse in McHenry County at Rockford, Illinois, and then and there present: **McGuire Defendants' Motion to Vacate Protective Order**; At which time and place you may appear, if you so desire.

Dated: January 9, 2014

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Cicero, France, Barch & Alexander, PC
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700

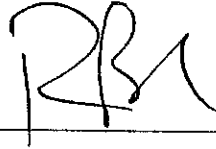
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was
served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on April 4, 2014.



Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

)
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) Case No. 12 LA 178
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McGUIRE DEFENDANTS' MOTION TO VACATE PROTECTIVE ORDER

Defendants, CAROLYN McGUIRE and BILL McGUIRE, by their attorneys, Cicero, France, Barch & Alexander, PC, herby move this Court to vacate the Protective Order entered on August 8, 2012 and modified on April 3, 2013. In further support of the Motion, Defendants Carolyn and Bill McGuire state as follows:

1. On or about May 5, 2012, the Plaintiff, Paul Dulberg, filed a multiple count complaint alleging he suffered injuries as a result of negligence on the parts of David Gagnon, Carolyn McGuire and Bill McGuire. In general, Plaintiff alleges he sustained severe and permanent injuries when a chain saw being operated by David Gagnon made contact with his arm.

2. On July 31, 2012, Plaintiff filed a Motion for Protective Order wherein he alleged that Plaintiff's counsel (Attorney Hans Mast) wanted an opportunity to photograph and inspect the subject "chain saw" and any parts, accessories and manual/paperwork pertaining to the saw. In his prayer for relief, Plaintiff requested a protective order declaring the "saw and its parts and

accessories and paperwork/manual be preserved and protected without destruction or loss until further order of this court.” A copy of Plaintiff’s Motion for Protective Order is attached as “Exhibit A.”

3. On August 8, 2012, the Court granted Plaintiff’s Motion for Protective Order. A copy of the Court’s order of August 8, 2012 is attached as “Exhibit B.”

4. On March 20, 2013, the depositions of Carolyn McGuire and Bill McGuire proceeded with counsel for Plaintiff (Attorney Hans Mast) and counsel for Co-Defendant (Attorney Perry Accardo) present. Prior to the start of the depositions the “chain saw” allegedly involved in the injury to Plaintiff was presented for inspection and photographing. Plaintiff’s counsel photographed the chain saw and also photographed the Owner’s Manual.

5. On April 3, 2013, the Court’s protective order was modified to allow the owners to utilize the chain saw and Owner’s Manual in the ordinary course. The protective order further directed that the owners shall not sell or discard the chain saw, parts, accessories and associated paperwork without further order of the court. A copy of the Amended Protective Order dated April 3, 2013 is attached as “Exhibit C.”

6. Subsequent to the entry of the amended protective order the Plaintiff reached a settlement agreement with Carolyn McGuire and Bill McGuire as to all matters in controversy, whereupon the negligence claims and contribution claims against them were dismissed with prejudice. A copy of the Good Faith Finding and Order of Dismissal entered on January 22, 2014 is attached as “Exhibit D.”

7. With the claims against Carolyn McGuire and Bill McGuire fully resolved, counsel for the McGuires issued a letter to Attorney Mast and Attorney Accardo seeking an agreement to

have the pending protective order vacated. A copy of the February 12, 2014, letter to counsel is attached as "Exhibit E."

8. During a chance meeting in the Winnebago County Courthouse shortly after the February 12 letter issued, Attorney Accardo advised informally that he had no objection to vacating the protective order. Counsel for the McGuires has not heard from Attorney Mast.

9. Counsel for Plaintiff and Counsel for Defendant Gagnon have both had an opportunity to photograph and inspect the subject chain saw. In addition, both attorneys have copies of the Owner's Manual associated with the subject chain saw.

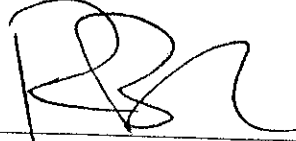
10. The subject chain saw was brand new on the date of Plaintiff's claimed injury and Plaintiff does not allege or claim that he was injured due to a manufacturing defect associated with the subject chain saw.

11. No prejudice will result to Plaintiff or Defendant Gagnon should this Court vacate the Amended Protective Order.

12. No just reason exists to delay the McGuires' request to vacate the Amended Protective Order.

WHEREFORE, the Defendants, Carolyn McGuire and Bill McGuire, respectfully pray this court to vacate the Amended Protective Order dated April 3, 2013.

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By 
RONALD A. BARCH (6209572)

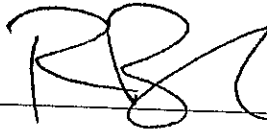
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon:

Attorney Perry A. Accardo
Law Office of M. Gerard Gregoire
200 N. LaSalle St., Ste 2650
Chicago, IL 60601-1092

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich
3416 West Elm Street
McHenry, IL 60050

by depositing the same in the United States Post Office Box addressed as above, postage prepaid,
at Rockford, Illinois, at 5:00 o'clock p.m. on 4/4/14.



A handwritten signature consisting of the letters 'RBZ' in a stylized, cursive script, positioned above a horizontal line.

Cicero, France, Barch & Alexander, P.C.
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700
815/226-7701 (fax)

IN THE CIRCUIT COURT FOR THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL DULBERG,

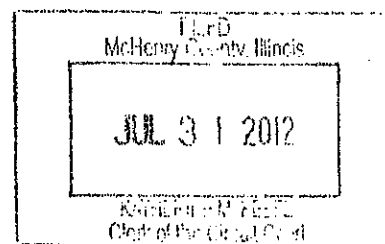
Plaintiff,

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.

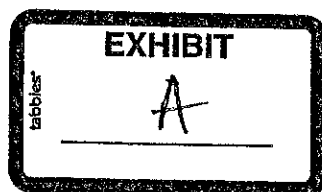


PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

NOW COME the Plaintiff, PAUL DULBERG, by and through his attorneys, LAW OFFICES OF THOMAS J. POPOVICH, P.C. and for his Motion for Protective Order to preserve and protect the "chain saw" involved in the underlying occurrence along with all parts and accessories and manual/paperwork, and states as follows:

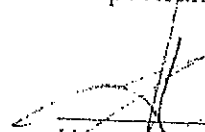
1. This suit arises from injuries suffered by the Plaintiff, PAUL DULBERG, on June 28, 2011, when he was negligently struck by a "chain saw" operated by DAVID GAGNON while working on behalf and/or at the request of the Defendants, CAROLINE McGUIRE and BILL McGUIRE at their premises at 1016 W. Elder Avenue, in the City of McHenry, County of McHenry, Illinois.

2. Plaintiff's counsel would like an opportunity to photograph and inspect the subject "chain saw" and any parts, accessories and manual/paperwork pertaining to the saw and moves that this court order the "saw and its parts and accessories and paperwork/manual be preserved and protected without destruction or loss until further order of this court."



WHEREFORE, the Plaintiff, PAUL DULBERG, respectfully moves this Court to enter a protective order against the Defendants, their agents, employees, staff and/or representatives and any others under it's control, and it's attorneys, to preserve and protect the chain saw and its parts and accessories and paperwork/manual, from any destruction, alterations, modifications, or other changes from its condition as presently exists, until further order of the court and to present the saw and its parts etc within 30 days hereof to the Plaintiff's counsel for inspection and photographing.

Respectfully Submitted:


Hans A. Mast, Attorney for Plaintiff

LAW OFFICES OF THOMAS J. POPOVICH, P.C.
3416 W. Elm Street
McHenry, IL 60050
815/344-3797
ARDC: #06203684

Plaintiff

Dulberg

vs

Gagnon

Defendant

AUG - 8 2012

KATHERINE M. KEEFE
Clerk of the Circuit Court

Case Number 12 LA 178

Circuit Clerk Use Only

ORD

ORDJ

ORDDWP

ORDER

- ☒ Plaintiff(s) appear in person/by attorney T. German / Papovich
- ☐ Defendant(s) appear in person/by attorney Ron Borch
- ☐ Summons not served; alias summons to issue; return date _____, 20____
- ☐ Summons has been properly served on Defendant(s) _____
- ☐ Defendant(s) appear and admit liability. Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ Defendant(s), having failed to appear or otherwise respond to the summons, is found in default. Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ Case set for ☐ trial ☐ arbitration on _____, 20____ at _____ m. in Courtroom _____
- ☐ Defendant(s) shall file an Appearance within _____ days of today's date, or without further Notice to Defendant(s), the trial date will be stricken and a judgment by default will be entered against Defendant(s) and in favor of Plaintiff(s).

NOTICE TO DEFENDANT(S): THIS IS THE ONLY NOTICE YOU WILL RECEIVE OF THE TRIAL, OR ARBITRATION DATE AND YOUR OBLIGATION TO FILE AN APPEARANCE.

- ☐ Defendant(s) shall file an answer or other pleading within _____ days of today's date.
- ☒ This case is continued on Motion of ☐ Plaintiff; ☐ Defendant; ☐ By Agreement; ☒ Court; to 9-18, 2012 at 9:00 a m. for Settlement
- ☐ Case called, Plaintiff(s) fail to appear. Case dismissed for Plaintiff's failure to prosecute.
- ☐ Case dismissed with/without prejudice on Plaintiff's motion.
- ☐ After trial of this case, the Court enters a Judgment for Plaintiff(s) against Defendant(s) for \$ _____, plus interest of \$ _____ plus attorney fees of \$ _____ for a total of \$ _____ plus court costs.
- ☐ After trial of this case, the Court enters a Judgment for Defendant(s) against Plaintiff(s).
- ☒ COURT FURTHER ORDERS: Plaintiff Motion for Judgment entered is granted as set forth in Plaintiff Motion.

Date: _____

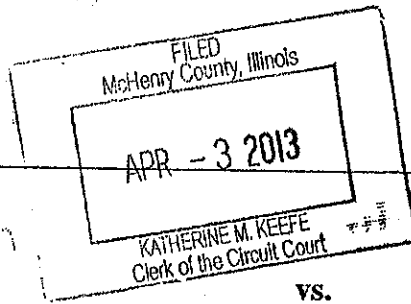
EXHIBIT

B

Judge

STATE OF ILLINOIS
COUNTY OF MCHEM

SS



GEN. NO. 12LA178

☐ Jury ☐ Non-Jury

Paul D. B. B. B.

Down (continued) A 22.

VS.

Date 4/3/13 Plaintiff's Attorney [Signature] Defendant's Attorney [Signature]

ORDER

Charge for all papers appearing, and
 the time & long delay from the McGraw
 Department. The same date must be presented
 for all papers for publication and
 copy of the same to be sent
 to the Editor.

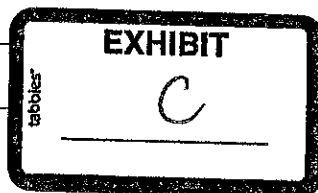
[illegible]

Prepared by: _____

Attorney for: _____

Attorney Registration No.: _____

Judge _____



ORD 1

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

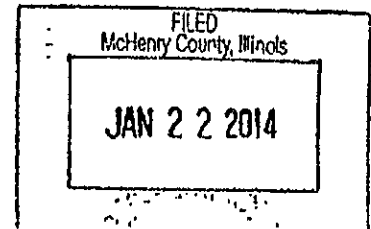
Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178



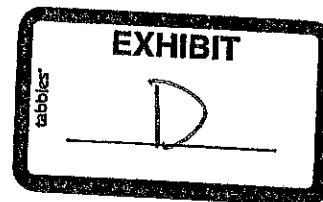
GOOD FAITH FINDING AND ORDER OF DISMISSAL

THIS CAUSE coming on to be heard on the Motion for Good Faith Finding and for Order of Dismissal with Prejudice filed by Defendants Bill McGuire and Carolyn McGuire, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That settlement between Plaintiff Paul Dulberg and Defendants Bill McGuire and Carolyn McGuire (improperly named Caroline) constitutes a fair and reasonable and good faith settlement within the meaning of the Illinois Joint Tortfeasor Contribution Act, 740 ILCS 0.01 et seq.

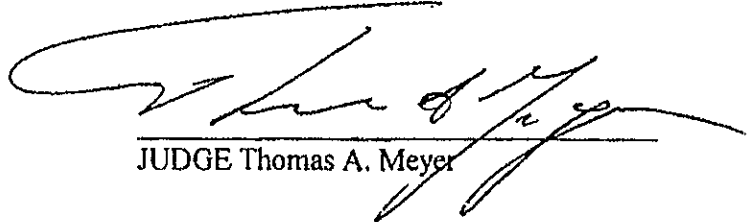
2. That the good faith settlement shall henceforth constitute a bar to any and all claims that Plaintiff Paul Dulberg and Defendant David Gagnon and other known or unknown tortfeasors may have against Defendants Bill McGuire and Carolyn McGuire on account of or arising out of the injuries, if any, sustained by Plaintiff Paul Dulberg as a result of the alleged chain saw accident that occurred on June 28, 2011, whether by way of original action, third party claim, cross-claim, counterclaim, claim for contribution or otherwise.



3. That Defendants Bill McGuire and Carolyn McGuire be and are hereby dismissed from the above-captioned lawsuit as party defendants and cross-claimants, with prejudice, and in bar of further suit.

4. That that there is no just reason to delay the enforcement or appeal of this good faith finding and order of dismissal.

DATED: _____


JUDGE Thomas A. Meyer

Prepared by:
Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700

CICERO, FRANCE, BARCH & ALEXANDER, P.C.

A Professional Corporation

Attorneys at Law

6323 EAST RIVERSIDE BOULEVARD

ROCKFORD, ILLINOIS 61114

PAUL R. CICERO
JOHN W. FRANCE
RONALD A. BARCH
CHARLES P. ALEXANDER
CHANTEL R. BIELSKIS
ANDREW T. SMITH

February 12, 2014

TEL: (815) 226-7700

FAX: (815) 226-7701

COPY

Attorney Hans A. Mast
Law Offices of Thomas J. Popovich, PC
3416 West Elm Street
McHenry, IL 60050

Attorney Perry A. Accardo
Law Office of Steven A. Lihosit
200 N. LaSalle Street, Suite 2550
Chicago, IL 60601

Case: *Paul Dulberg v. David Gagnon, Caroline McGuire and Bill McGuire*
(McHenry County Case No. 12 LA 178)

Dear Counsel:

With my departure from the case I feel compelled to address the subject of the chain saw that was involved in Mr. Dulberg's injury. Early on in the case a protective order was entered which prohibited Mr. and Mrs. McGuire from destroying or otherwise disposing of the chain saw and any associated documentation. The primary purpose behind the order of protection was to preserve the chainsaw and associated documentation until such time that Plaintiff's counsel could inspect and photograph same.

On March 20, 2013, the chain saw and owner's manual were made available for inspection and photographing. Plaintiff's counsel inspected and photographed the chainsaw. Plaintiff's counsel also secured a photocopy of the owner's manual.

On April 3, 2013, the protective order was modified to allow the Plaintiffs to use the subject chainsaw, owner's manual and associated paperwork in the ordinary course. The order further provides, however, that the owners may not destroy, dispose of, or sell the items without further order of the court.

Given the above, I am concerned about the possibility of a spoliation claim in the event the McGuires destroy, dispose of, or otherwise sell the chainsaw following my departure from the case. Please advise in writing whether you believe there is any reason to maintain the protective order as it currently exists. If not, I believe it makes sense to have the April 3, 2013 version of the protective order vacated.

I look forward to hearing from both of you at your earliest convenience.



Very truly yours,

A handwritten signature in black ink, appearing to be 'RAB' with a stylized flourish at the end.

RONALD A. BARCH

RB:mj\44ltr.OC

Encl.

CC Tom Malatia (13-2779-11)

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
COUNTY OF McHENRY

PAUL DULBERG,

Plaintiff,

vs.

DAVID GAGNON, Individually, and as
Agent of CAROLINE MCGUIRE and BILL
MCGUIRE, and CAROLINE MCGUIRE
and BILL MCGUIRE, Individually,

Defendants.

Case No. 12 LA 178

NOTICE OF MOTION

TO: ATTACHED SERVICE LIST

YOU ARE HEREBY notified that on the 22nd day of January, 2014, at 9:00 o'clock A.M., or soon thereafter as Counsel may be heard, I shall appear before his Honor, Judge Thomas A. Meyer, in the room usually occupied by him as a Court Room (#201), or in his absence, before any other Judge that may be presiding in said Court Room, in the Courthouse in McHenry County at Rockford, Illinois, and then and there present: **Defendant Bill McGuire and Defendant Carolyn McGuire's Motion for Good Faith Finding and for Order of Dismissal with Prejudice**; At which time and place you may appear, if you so desire.

Dated: January 9, 2014

CAROLYN MCGUIRE and BILL MCGUIRE,
Defendants, by their attorneys,
CICERO, FRANCE, BARCH & ALEXANDER, P.C.,

By



RONALD A. BARCH (6209572)

Attorney Ronald A. Barch
Cicero, France, Barch & Alexander, PC
6323 East Riverside Blvd.
Rockford, IL 61114
815/226-7700

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