

**Date : 7/15/2021 9:30:55 AM**

**From : "Alphonse Talarico"**

**To : "Paul Dulberg"**

**Subject : Re: Missing affidavit from complaint used in exhibit**

**Attachment : Notice of Motion to Supplement and CC-Civil - 17LA000377 - 7\_13\_2021 - - - NOTM - -.pdf; Motion to compel and CC-Civil - 17LA000377 - 7\_13\_2021 - - - MOTCOM - -.pdf;**

Please see the attached

**From:** Paul Dulberg <Paul\_Dulberg@comcast.net>

**Sent:** Tuesday, July 13, 2021 11:42 PM

**To:** Alphonse Talarico <contact@lawofficeofalphonsetalarico.com>

**Subject:** Missing affidavit from complaint used in exhibit

Dear Mr Talarico,

I have found the 222(b) affidavit in 2 locations from when Mr Gooch originally scanned in the documents.

The first location in the Clinton file:

Folder: Dulberg Gooch File

Folder: Dulberg UNDERLYING CASE DOCS

Folder: Files From Baudin's Office

Folder: Pleadings

File: Affidavit.pdf

File: Complaint FS 5.15.12.pdf

This location shows the 222(b) affidavit was saved as a separate file from the complaint when scanned in at the Gooch office.

So, I dug out and went back to the original Baudin paper files, which Gooch named UNDERLYING CASE DOCS, and found the 222(b) affidavit with the complaint as the very last page but it was loose and not physically attached to the complaint.

It is my guess that the copy of the complaint and it's 222(b) affidavit in the Baudin file is most likely from one of two possible sources:

(1) The original "Brown Jacket File" picked up from the Popovich office and given to the Baudin's.

Or

(2) The Baudin's may have pulled this from the public record filed with the circuit clerk.

I have no clue which of the above two possible sources it is from and I have no clue if the complaint was even in the original "Brown Jacket File" Mast turned over.

The second location in the Clinton file:

Folder: Dulberg Gooch File

Folder: Dulberg Paul Dulberg Files From Client

Folder: Misc

File: Affidavit.pdf

This location is exactly as the folder describes "Misc" and does not contain an actual copy of the complaint but does have a copy of the 222(b) affidavit.

It is my Guess that the 222(b) affidavit in the second location may be from the "Mixed Brown Box File" turned over to subsequent counsel Balke by Mast and later given to the Baudin's and was left as a mixed up mess, now called Misc, since the Baudin's had the very neat and orderly "Brown Jacket File" and anything filed with the circuit clerk to pull documents from.

Either way it is fairly obvious that the 222(b) affidavit was scanned in as a separate document/file from the complaint at the Gooch office even though it is with the complaint as the last page but loose and not attached to the complaint from the Baudin's office paper files and being loose from the complaint may explain why it was scanned in as a different document from the original complaint and not included in the exhibit used in the original Gooch complaint against Popovich. Yes, I agree, Gooch should have caught this.

We should be able to convince the Judge to allow us to either fix the existing exhibit and add the affidavit or just let us use what is on record with the circuit clerk since there obviously isn't any attempt by us to deceive anyone about what Mast filed with the Circuit Clerk in his complaint.

As to number 11 in the complaint, when taken in context, any reasonable person can see that Gooch was not referring to how Mast filed the complaint and the 222(b) affidavit with the circuit clerk but rather that Mast did appropriately apply liability to the McGuires within the complaint.

I hope this helps answer some of the concerns we discussed over the phone.

I do not have access to the documents filed in the case with the circuit clerk without paying for each document.

Any chance you could send me a copy of Mr. Flynn's crazy supplemental motion to compel?

It sounds to me like Mr Flynn can't see that his original motion was continued because he skipped court and that there is no need to file a supplemental.

I'd just like to see what crazy arguments he has and I want to keep written discovery open till we are finished with our requests to produce.

Thank you

Paul