



T Kost <tkost999@gmail.com>

Clinton fully knew about Tilschner

1 message

Paul Dulberg <Paul_Dulberg@comcast.net>

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To: Alphonse Talarico <contact@lawofficeofalphonsetalarico.com>

This is a work in progress and is being shared for discussion.

'timeline_of_hiding_tilschner_v_spangler' is an updated version of 'history_of_exhibit_12'

1) IT ALL BEGAN WITH GOOCH:

Gooch was the first person to try to hide Tilschner v Spangler from cited evidence.

WHY GOOCH WAS FIRED:

It was because he was clearly informed in a text document that he is not correctly addressing evidence of liability in both the case and the underlying case in his first amended complaint (which was just rejected).

The following text document was sent to Gooch on October 2, 2018:

second_amended_complaint.txt

quote from the document:

"The only case Mast cited to Dulberg was Tilscher v Spangler, and because the case confirmed that restatement of torts 318 is not applicable in Illinois, Mast told Dulberg he has no case against the McGuires. Mast also told Dulberg the judge would grant a summary judgement if Dulberg refused the offer."

The text clearly included the following 4 points:

- that Illinois law requires that the complaint address both the current case and the underlying case in a malpractice complaint. Gooch was not doing this and this needs to be fixed.
- a clear and detailed list of McGuire liabilities in the underlying case that should be included in the complaint.
- a clear and detailed list of Mast and Popovich liabilities in the current case that should be included in the complaint.
- Tilschner v Spangler is the only case Mast discussed with Dulberg in detail. The Tilschner v Spangler conclusion that Restatement of Torts 318 is not applicable in Illinois was Mast's entire legal theory to explain to Dulberg that the McGuires are not liable for his injury.

Gooch took offense to this document and told Dulberg that in the future his brother Tom Kost could not participate in the case or write any more comments about it. Dulberg could not accept this condition and fired Gooch immediately. The email exchange that led to the firing is reproduced in this document:

(place email document here)

2) CLINTON and WILLIAMS CONTINUED WHAT GOOCH BEGAN:

a) THEY WERE CLEARLY INFORMED OF THE CENTRAL IMPORTANCE OF TILSCHNER V SPANGLER FROM THE OPENING MEETING WHEN THEY AGREED TO TAKE THE CASE

In October, 2018, Clinton and Williams were clearly informed of the central importance of Tilschner v Spangler at our very first meeting. It was shortly after this meeting that they decided to take the case. (Proof - findlaw on Tilschner in Clinton files)

It was explained to them why Gooch was fired. They were shown the text document written by Dulberg's brother, Tom Kost, and Gooch's response that led to Gooch being fired.

They were told what Dulberg believed Gooch was doing wrong and what needed to be fixed. They agreed.

They were told that Dulberg insists that his brother, Tom Kost, will continue to be informed of all aspects of the case and will issue comments on the case similar to the one Gooch took offense to. They agreed to that and said they have no problem with the text document that Tom Kost issued to Gooch through Dulberg and have no problem with Tom Kost being involved with all aspects of the case. They had no problem with Tom Kost issuing similar text documents in the future.

Once again, direct quote from the document Clinton and Williams were given:

"The only case Mast cited to Dulberg was Tilscher v Spangler, and because the case confirmed that restatement of torts 318 is not applicable in Illinois, Mast told Dulberg he has no case against the McGuires. Mast also told Dulberg the judge would grant a summary judgement if Dulberg refused the offer."

In short, they were clearly informed at our first meeting of these same 4 points:

--- that Illinois law requires that the complaint address both the current case and the underlying case in a malpractice complaint. Gooch was not doing this and this needs to be fixed.

--- a clear and detailed list of McGuire liabilities in the underlying case that should be included in the complaint.

--- a clear and detailed list of Mast and Popovich liabilities in the current case that should be included in the complaint.

--- Tilschner v Spangler is the only case Mast discussed with Dulberg in detail. The Tilschner v Spangler conclusion that Restatement of Torts 318 is not applicable in Illinois was Mast's entire legal theory to explain to Dulberg that the McGuires are not liable for his injury.

They were informed both in writing and verbally and they agreed with these points when they first took the case.

b) CLINTON'S AND WILLIAMS' COMPLAINT DOES NOT MENTION TILSCHNER V SPANGLER

It is important to note that Williams used the same arguments that Tom Kost listed in his text document to Gooch to show McGuires liability in the 3rd amended complaint. But She did not use the same arguments that Tom Kost listed in his text document to Gooch to show Mast and Popovich liability.

The following documents were prepared by Dulberg and Tom Kost on December 3 and 4, 2018. They are drafts of the second amended complaint prepared by Clinton and Williams and our suggested edits in colored font:

Working.pdf

newWorking.pdf

In both versions we told Williams to include the sections on Tilschner v Spangler.

She removed any mention of Tilschner v Spangler in the final version she submitted to the court.

c) January, 2019(?): INTERROGATORIES TO MAST: NO MENTION OF TILSCHNER V SPANGLER

d) April 2019 Dulberg emails the Tilchner case to Williams as part 1 of 3 emails containing the case law mast used on Dulberg.

e) May, 2019: DOCUMENT DISCLOSURE : TILSCHNER V SPANGLER IS MISSING FROM THE DULBERG DOCUMENT DISCLOSURE but part 2 of 3 and 3 of 3 are included. (I failed to notice it was missing due to the sheer volume of documents and limited time to confirm)

Williams did not bates-stamp or hand over the Tilschner v Spangler documents to the opposing side. The Dulberg documents were over 10,000 pages in no clear order. Williams told Dulberg she did this intentionally to confuse the opposing counsel.

Neither Dulberg nor his brother, Tom Kost, noticed the Tilschner v Spangler case was missing from Dulberg's document disclosure. They just assumed it was included since virtually no time was allowed for Dulberg to confirm each individual document.

f) June - July, 2019?: The following documents were given to Julia Williams on or around July 10, 2019 (in a folder called "To_Julia"):

_READ_ME.txt

questions_for_mast.txt

timeline_of_mcguire_settlement.txt

missing_files.txt

These documents prove that Clinton and Williams were clearly informed that Dulberg had evidence of intentional tort against Mast and Popovich from July, 2019. They were given detailed evidence with bates-numbered documents to prove Dulberg's claim of intentional tort. I used the word "smoking gun" for the first time to describe the evidence in July, 2019, in the document _READ_ME. I also used capital letters in the title so Williams would read this document first.

Quote from _READ_ME:

"timeline_of_mcguire_settlement.txt

This gives you a rough timeline of events leading to Paul accepting a \$5,000 settlement from the McGuires. Since we were never able to see (pop 192) until now, we never understood the details of how Mast tricked Paul into such a small settlement. The fact that Mast initiated the settlement process through (pop 192) without Paul's knowledge or permission is proof that this case is about more than Mast's negligence. It is about willful intent or malicious intent to deceive his client.

Of course you will need convincing proof that (pop 192) was initiated without Paul's knowledge. We have that proof. As I fill in the timeline more and more, the evidence will be stronger and stronger."

(end quote)

Another quote from _READ_ME:

"The opposing counsel has released one "smoking gun" document that we've never seen before. It is (pop 192). Paul never gave Mast authorization to make this offer. We have ample evidence that Paul never authorized the offer made in (pop 192) and he knew nothing about it until seeing it last week. Note that it is not in the box of files we gave to you. It is not in the box of files that Mast gave to Paul when Mast withdrew from counsel. Also, the Baudin law firm and the Gooch law firm never saw this document."

They were also clearly informed in 'timeline...' and 'questions...' that Mast first gave the legal theory that Tilschner v Spangler means Dulberg has no claim against the McGuires one month AFTER the \$7,500 offer was made without Dulberg's knowledge. They were clearly informed that the "smoking gun" evidence of intentional tort was the contrast between these 2 facts:

Fact 1: \$7,500 offer was made on October 22, 2013

Fact 2: Dulberg was first informed of the legal reason why McGuires were not liable on November 20, 2013 (one month later). The reason was Tilschner v Spangler and that Restatement of Torts 318 was not applicable in Illinois.

The contrast between these 2 facts was "smoking gun" evidence for intentional tort. Clinton and Williams were informed of this for the first time on or about July 10, 2013.

This is a direct quote from timeline_of_mcguire_settlement under the November 20, 2013 timeline entry:

"Dulberg agrees to have another meeting with Mast in his office. (memo of meeting: pop 3)

Dulberg brings his brother Thomas Kost with him. Before the meeting Dulberg asks Mast to show examples of case laws which demonstrate that McGuires are not partially responsible for the chainsaw accident. (email: folder 2013 11, file Mast2-201)

In the meeting Mast uses the example of Tilschner vs Spangler. He claims that the McGuires are not responsible because Restatement of Torts 318 is not applicable in Illinois.

He also claims that the accident was not foreseeable by the McGuires and they had no control over Gagnon's actions.

Mast also gave Dulberg a packet of other examples of case law. (ddd 204) (ddd 301)?

Thomas Kost kept a rough set of notes during the meeting. (ddd 1217)

Mast claims that if Dulberg doesn't accept the \$5,000 the McGuires will simply file a motion to get out of the case for free.

Mast said the McGuires do not have to offer anything and are offering \$5,000 to be nice."

(end quote)

g) On or about June 20, 2020: The following documents were given to Julia Williams and Ed Clinton just before Mast's deposition and these same points were discussed in a telephone conference which included Ed Clinton, Julia Williams, Paul Dulberg and Thomas Kost:

questions_for_mast.txt

evidence_list.txt

The June 20, 2020 version of questions_for_mast contain questions presented in 9 different categories which are clearly listed at the beginning of the document. They are a more developed version of a file by the same name sent to Williams on or about July 10, 2019. Questions in each category are carefully written in the order they should be asked. One of the 9 categories is named "ABOUT THE NOVEMBER 20th, 2013 MEETING IN MAST'S OFFICE"

This is a direct quote from the June 20, 2020 version of 'questions_for_mast':

"ABOUT THE NOVEMBER 20th, 2013 MEETING IN MAST'S OFFICE

who was at the November 20th meeting? (Answer: Paul Dulberg, Hans Mast, Thomas Kost)

who called for the meeting?

what was the purpose of the November 4 meeting?

What were the main topics discussed?

Was the \$7,500 offer made on october 22 discussed at the November 20th meeting?

Were any decisions made at this meeting?

Did Dulberg agree to accept the \$5,000 counter-offer made by Barch on November 18 at the meeting?

What were his grounds for disagreeing with the \$5,000 counter-offer if it was Dulberg himself that initiated an offer of \$7,500 on October 22nd?

Did you point out to him that there is only a \$2,500 difference in between the offer and the counter-offer?

Did you suggest that he reply by offering to accept less than \$7,500 but more than \$5,000, like, for example, \$6000?

Was there any attempt to make another counter-offer for any amount higher than \$5,000 but lower than \$7,500? Why

not?

Did you hand Dulberg documents of case laws at the meeting of November 20, 2013?

What was the purpose of providing him with documents of case laws?

What case laws were in those documents?

Did you discuss cases at the meeting?

Which cases were discussed?

What were you trying to explain to Dulberg by discussing those cases?

Why did you choose those cases to use as examples?

In what way were those cases applicable to the situation with the McGuires?

At the meeting did you say something about how the restatement of torts 318 doesn't apply in Illinois and that fact affects the case against the McGuires?

Can you explain how the restatement of torts 318 affected Dulberg's case against the McGuires?

Did you cite the case of Tilschner vs Spangler to Dulberg during the November 20th meeting?

Why? How was the Tilschner vs Spangler case similar to what happened to Dulberg at the McGuires?"

(end quote)

These were detailed, organized questions that Dulberg and his brother, Tom Kost, asked Julia Williams to ask Mast on the subject of the November 20, 2013 meeting in which Tilschner v Spangler was discussed. She was directly asked by her client to ask these questions but she didn't ask any of them.

Instead, as we know, Tilschner v Spangler doesn't even appear in exhibit 12.

The document 'evidence_list' gives the 6 pieces of evidence needed to prove intentional tort. The term "evidence_list" means evidence of intentional tort. I explained this clearly to Clinton and Williams during the telephone conference. I said these 6 facts taken together give "overwhelming evidence" (I used this term) that Popovich and Mast acted intentionally and not through simple negligence.

These documents prove that Williams and Clinton were clearly informed there was "smoking gun" evidence of intentional tort from July, 2019 and that Tilschner v Spangler was key evidence of Mast's legal theory. They were clearly informed once again in June, 2020, that there was "overwhelming evidence" of intentional tort and they were shown what it was in detail.

When Tom Kost explained in detail why the 6 points listed in 'evidence-list' was "overwhelming evidence" of intentional tort to both Clinton and Williams in detail during the phone conference, they did not disagree or make any comment. They presented no counter-arguments at all. They were quiet about this but they did not object to what I said at all.

h) June, 2020: MAST DEPOSITION: DEPOSITION TRANSCRIPTS AND EXHIBIT 12 HIDES TILSCHNER V SPANGLER

This is what we are currently researching.

- I) Tilschner v Spangler are not included in exhibit 12.
- II) Tilschner v Spangler is 10 pages long
- III) A case called "Lajato" is also 10-11 pages and appears twice in exhibit 12
- IV) Exhibit tag manipulated

and more still being researched.

SUMMARY: WHY GOOCH, CLINTON, WILLIAMS AND FLYNN HID TILSCHNER V SPANGLER

Gooch knew about the significance of the Tilschner v Spangler case from the first meeting between them, Dulberg, and Kost. Clinton and Williams were also clearly informed at their first meeting when they took the case. They were all clearly told about the significance of the case; that it was Mast's sole legal theory for why he considered the McGuires not to be liable for Dulberg's injury. They knew this even before we had our first proof of intentional tort (in July, 2019).

Williams and Clinton were informed in detail from July, 2019 onward that the Tilschner v Spangler case and the November 20, 2013 meeting is vital evidence that shows that Mast and Popovich intentionally sent out the \$7,500 dollar offer to settle with the McGuires on October 22, 2013 without Dulberg's knowledge or consent. A month after sending out the \$7,500 offer to settle, Mast told Dulberg the legal theory of why the McGuires are not liable for the injury. It is because of Tilschner v Spangler. Mast gave exact details of the legal theory he used to explain why the McGuires are not liable for the injury.

In short, they knew:

Fact 1: \$7,500 offer was made on October 22, 2013

Fact 2: Dulberg was first informed of the legal reason why McGuires were not liable on November 20, 2013 (one month later). The reason was Tilschner v Spangler and that Restatement of Torts 318 was not applicable in Illinois.

So, it is most accurate to think of the forgery of exhibit 12 as a 2 stage process:

Stage 1: Make any reference to Tilschner vs Spangler disappear so Mast and Popovich can claim that Dulberg was never told the detailed, exact legal theory on which Mast's decision is based.

Stage 2: While doing this, Clinton's forgerer accidentally screwed up when attaching an exhibit tag.

The true purpose of the forgery was to remove Tilschner v Spangler as Mast's and Popovich's legal theory that they actually told Dulberg. This is done to turn the Mast and Popovich legal theory into some 'general theory', the specifics of which they can't recall.

SUMMARY OF DOCUMENTS AND MEETINGS PROVING THAT GOOCH, CLINTON, AND WILLIAMS HAD DETAILED KNOWLEDGE THAT TILSCHNER V SPANGLER WAS KEY EVIDENCE AND MAST'S ENTIRE LEGAL THEORY AS TO WHY THE MCGUIRES WERE NOT LIABLE FOR DULBERG'S INJURY

To Gooch in October, 2018: second_amended_complaint_comments.txt

To Clinton and Williams in October, 2018: second_amended_complaint_comments.txt - findlaw Tilschner case in Clinton files

To Clinton and Williams in April, 2019: Dulberg Emails Williams the case law mast provided in parts, 1 of 3, 2 of 3 and 3 of 3

Clinton to Flynn - Dulberg Bates numbered documents. Clinton produces Dulberg's bates stamped documents to Flynn - Missing is Tilschner

To Clinton and Williams in July, 2019: _READ_ME.txt

questions_for_mast.txt

timeline_of_mcguire_settlement.txt

missing_files.txt

2020 Post Dulberg deposition Clinton to Flynn case - revisit with date of balance turned over Balance of missing bates documents - still doesn't have Tilschner

To Clinton and Williams in June, 2020: questions_for_mast.txt (second version)

evidence_list.txt

To Gooch in December, 2016: Tilschner v Spangler as key evidence was also discussed at an opening meeting between Gooch, Dulberg and Tom Kost when Gooch decided to take the case. Dulberg brought the original 10 page Tilschner v Spangler document that Mast had given him to the meeting with Gooch.

Also discussed at the opening meeting between Clinton, Williams, Dulberg and Tom Kost when they decided to take the case.

Sent to Clinton as part 1 of 3 part case law mast provided dulberg

Instructions in email prior to mast deposition - Questions for Mast

And discussed at a Pre Mast deposition teleconference between Clinton, Williams, Dulberg and Tom Kost just before Mast deposition.