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MAURI B. KELLY
LACKAWANNA COUNTY
2025 MAY 16 P 2:07
**CLERK OF JUDICIAL
RECORDS CIVIL DIVISION**
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PHILIP GODLEWSKI

PLAINTIFF,

V.

BRIENNA L. DUBORGEL

DEFENDANT.

**IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY**

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

NO.: CV-2023-1354

**DEFENDANT'S BRIEF IN OPPOSITION TO PLAINTIFF'S APPLICATION FOR
AMENDMENT OF ORDER**

Defendant, Brienna L. Duborgel ("Defendant" or "Ms. DuBorgel"), by and through her legal counsel, Fellerman & Ciarimboli Law, P.C., hereby respectfully submits this Brief in Opposition to Plaintiff's Application for Amendment of Order and in support thereof, avers as follows:

I. FACTUAL BACKGROUND and PROCEDURAL HISTORY

As this Court is well aware, this case involves various claims spawning from a sexual relationship that occurred between the Plaintiff, Mr. Godlewski, and the Defendant, Ms. DuBorgel. By way of brief summary for purposes of this Brief, beginning in or around October of 2008, Mr. Godlewski began engaging in a sexual relationship with Ms. DuBorgel while she was under the age of sixteen (16), and he was approximately twenty-five (25) years of age. At the time, Ms. DuBorgel was a student at Riverside High School and Mr. Godlewski was a coach. Sometime thereafter, Ms. DuBorgel's family learned of the inappropriate and illegal sexual relationship and reported the same to the school. Mr. Godlewski was ultimately arrested and charged with various crimes. The Scranton Times then published an article summarizing the evidence and Mr. Godlewski's criminal charges and ultimate plea. The article reads "[i]n the normal course of reporting this column, I stumbled upon some legal troubles in Godlewski's recent past. In 2011, the former Riverside High School baseball coach pleaded guilty to corruption of minors and admitted to having a sexual relationship with a 15-year-old girl" and went on to say "I have many character defects, but the last time I had sex with a 15-year-old was never."

Following the publication of this article, Mr. Godlewski filed a Complaint against Chris Kelly and the Scranton Times styled Philip Godlewski v. Chris Kelly and the Scranton Times, L.P. at CV-2195 (the "Godlewski v. Times Case") sounding in defamation. The Godlewski v. Times Complaint is attached hereto as Exhibit A. In defending said claims, the Times obtained an Affidavit from Ms. DuBorgel wherein she swore, among other things, to the existence of the above sexual relationship. See the

Affidavit of Ms. DuBorgel attached as Exhibit B. Mr. Godlewski has steadfastly maintained the statements in Ms. DuBorgel's Affidavit are false and defamatory in nature prompting him to file a Complaint against Ms. DuBorgel asserting claims sounding in defamation and false light invasion of privacy. See Mr. Godlewski's Complaint attached as Exhibit C. Ms. DuBorgel filed an Answer, New Matter and Counterclaim asserting cause of action sounding in defamation, false light invasion of privacy, assault, battery, intentional infliction of emotional distress ("IIED"), and negligent infliction of emotional distress ("NIED"). See Ms. DuBorgel's Answer, New Matter and Counterclaim attached as Exhibit D.

The procedural history that followed, and the related Godlewski v. Times Case rulings are beyond significant and must be acknowledged here. To this end, after months of discovery in the Godlewski v. Times Case, the Times Defendants filed a Motion for Summary Judgment arguing the Times Defendants were entitled to judgment as a matter of law. In the meantime, and while the Scranton Times' Motion for Summary Judgment was pending, Mr. Godlewski did not take a single action to prove his claims against Ms. DuBorgel in the instant case. Indeed, as the Plaintiff, Mr. Godlewski did not take a single deposition. Mr. Godlewski then filed a Motion for Summary Judgment making the very same arguments as those in his previously denied Motion for Judgment on the Pleadings without having developed any additional facts or evidence to support the same.

Ms. DuBorgel responded to Mr Godlewski's Motion for Summary Judgment and filed a Motion for Summary Judgment of her own, arguing for the dismissal of Mr. Godlewski's claims against her, and arguing in favor of summary Judgment regarding

her counterclaims against Mr. Godlewski. On April 17, 2025, this Honorable Court entered an order with the following effect:

- Granting Mr. Godlewski's Motion regarding Ms. DuBorgel's Intentional Infliction of Emotional Distress ("IIED") claim;
- Denying Mr. Godlewski's Motion regarding his Defamation and Invasion of Privacy False Light claims;
- Denying Mr. Godlewski's Motion regarding Ms. DuBorgel's other claims;
- Granting Ms. DuBorgel's Motion regarding Mr. Godlewski's Defamation and Invasion of Privacy False Light Claims;
- Granting Ms. DuBorgel's Motion regarding her Assault and Battery claims; and
- Denying Ms. DuBorgel's Motion regarding her other claims.

See the Order attached as Exhibit E. As such, issues involving liability and damages remain in dispute in the instant action.

On April 28, 2025, Mr. Godlewski filed an Application for Amendment of Order regarding this Court's April 17, 2025 Order, to which the instant brief is in response.

II. QUESTIONS PRESENTED

A. WHETHER THIS COURT MUST DENY PLAINTIFF'S APPLICATION FOR AMENDMENT OF ORDER WHERE APPEAL WILL BE AVAILABLE AT THE END OF TRIAL AND AN IMMEDIATE APPEAL WOULD NOT FACILITATE A PROMPTER RESOLUTION TO THE INSTANT MATTER.

SUGGESTED ANSWER: YES.

III. LEGAL STANDARD AND ARGUMENT

Pa. Rap. 341(c) identifies that "when more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim or when

multiple parties are involved, the trial court or other government[al] unit may enter a final order as to one or more but fewer than all of the claims and parties **only upon an express determination that an immediate appeal would facilitate resolution of the entire case.**" Our Superior Court has unambiguously stated that "(w)ith very limited exception..., interlocutory orders are not immediately appealable." Iron City Constr., Inc. v. Westmoreland Wooded Acres, Inc., 2023 PA Super 5, 288 A.3d 528, 530 (2023). Mr. Godlewski has not presented a single argument to support his Application.

Indeed, nothing in Mr. Godlewski's Application for Amendment of Order indicates that an immediate appeal is necessary. Instead, Mr. Godlewski first attempts to argue that Ms. DuBorgel's claims for assault, battery, IIED, and NIED were not barred by the statute of limitations for each claim. Mr. Godlewski states that a finding that they were, in fact, barred by statutes of limitation would require reconsideration by the Court. See Godlewski Application for Amendment of Order at ¶¶6-7. Mr. Godlewski does not identify how this requires immediate appeal and cites no case law indicating that this is not an issue that can be considered following the conclusion of the entire case.

Further, Mr. Godlewski makes no attempt to explain how an immediate appeal will facilitate the resolution of the entire case. If Ms. DuBorgel's claims for Assault, Battery, IIED, and NIED were somehow barred, it would still have no bearing on the liability issues surrounding Ms. DuBorgel's Defamation and False Light claims. Issues of liability/damages will remain either way. Without any factual or legal support that "an immediate appeal would facilitate resolution of the entire case" (*Id.*), this Court must refuse to amend its order to allow Mr. Godlewski the opportunity to immediately appeal in this regard.

Additionally, Ms. DuBorgel's claim for IIED has been dismissed on separate grounds. There is no need to discuss the application of the statute of limitations to a claim that has already been dismissed.

Mr. Godlewski's next attempt to claim he is entitled to an appeal centers around this Honorable Court's finding that Mr. Godlewski's claims for Defamation and Invasion of Privacy should be dismissed. Mr. Godlewski claims this issue should be immediately appealable based on its improper implication that this Court chose to grant summary Judgment in favor of Ms. DuBorgel solely on the Court's finding that Godlewski had admitted to a series of text messages outlining his sexual relationship with Ms. DuBorgel.

First and foremost, this Court found that Mr. Godlewski's claims should be dismissed because "no issue of material fact exists as to the truth of Ms. DuBorgel's statements in her affidavit." See Court's Summary Judgment Memorandum attached hereto as Exhibit "A" at p. 17. This Court did not need to find that Mr. Godlewski admitted to transmitting the text messages in order to find that the text messages were authentic and that no issue of material fact existed. Mr. Godlewski has provided absolutely no evidence to refute the authenticity of the text messages. The fact that Mr. Godlewski admitted to the authenticity of the text messages made their authenticity more apparent to the Court, but the fact that Mr. Godlewski has produced nothing to refute their authenticity is reason enough for this Court to consider them as evidence. When that fact is coupled with Mr. Godlewski's complete failure to produce a scintilla of evidence promoting his claim that Ms. DuBorgel's statements are false, it is blatantly apparent that no legitimate issue of material fact exists.

This Court then provides additional support for its finding that no issue of material fact exists by explaining that Ms. DuBorgel's statements regarding Mr. Godlewski's charges were true. (*"The precise wording of DuBorgel's affidavit states that Godlewski was charged with crimes "relating to [their] sexual relationship." There can be no dispute that this is true, as the original criminal complaint against Godlewski charged him with Statutory Sexual Assault, 18 Pa. C.S. § 3122.1, Involuntary Deviate Sexual Intercourse, 18 Pa. C.S. § 3123(a)(7), Aggravated Indecent Assault, 18 Pa. C.S. § 3125(a)(8), Indecent Assault, 18 Pa. C.S. § 3126(a)(8), and the offense which Godlewski later pled guilty to, Corruption of Minors, 18 Pa. C.S. § 6301(a)(1)"*). See Exhibit A at p. 17.

As such, this Court provided ample explanation for its decision to dismiss Mr. Godlewski's claims regarding Defamation and Invasion of Privacy False Light outside of Mr. Godlewski's admission to the authenticity of the text messages. This Court aptly described that no issue of material facts exists. A finding that Mr. Godlewski did not admit to the authenticity of the text messages would not be dispositive, and would not change this Court's ruling.

Further, this is once again an issue that can be argued following the conclusion of the entire case. If Mr. Godlewski believes his claims were wrongfully dismissed, he will have the opportunity to appeal the issue following the conclusion of the entire case. Mr. Godlewski conflates this Court's decision to dismiss his claims with the Court's reasoning for dismissing his claims. Mr. Godlewski has requested that this Court amend its order to allow him the right to appeal this Court's decision to dismiss his claims for Defamation and False Light invasion of privacy, and then proceeds to base his application on a completely separate issues – this Court's finding that he admitted to

having transmitted the subject text messages. Mr. Godlewski has no right to appeal in this regard. As such, Mr. Godlewski's argument does not make logical sense and must be rejected.

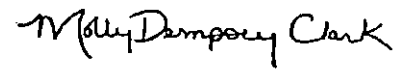
Lastly, Mr. Godlewski makes one final argument with no support that the issues he is attempting to raise are collateral. Regarding an issue's designation as being "collateral," our Superior Court has indicated that "(t)o be reviewable at this stage of the proceedings, the order must, *inter alia*, involve a "right ... too important to be denied review." Iron City Constr., Inc. v. Westmoreland Wooded Acres, Inc., 2023 PA Super 5, 288 A.3d 528, 531 (2023). Godlewski has offered no support for this contention. Respectfully, the issues raised by Mr. Godlewski are not so important as to require immediate review, and Mr. Godlewski has offered no legal or factual foundation to support this flimsy contention.

IV. CONCLUSION

As outlined in detail above, Mr. Godlewski has not met his burden to warrant an **"express determination that an immediate appeal would facilitate resolution of the entire case."** As such, this Honorable Court must reject Plaintiff's Application for Amendment of Order.

Respectfully submitted,

FELLERMAN & CIARIMBOLI LAW, PC

A handwritten signature in black ink that reads "Molly Dempsey Clark". The signature is written in a cursive, flowing style.

By: _____

EDWARD J. CIARIMBOLI, ESQUIRE

MOLLY DEMPSEY CLARK, ESQUIRE

Attorneys for the Defendant

Date: May 15, 2025

EXHIBIT “A”

Court of Common Pleas of Lackawanna County

FORMERLY
MADEIRA
LACKAWANNA COUNTY

2021 MAY 24 P 2:30

CLERK OF JUDICIAL
RECORDS CIVIL DIVISION

FOR CLERK OF JUDICIAL RECORDS USE ONLY

21CV
2195

Civil Cover Sheet

Plaintiff's Name PHILIP GODLEWSKI	Defendant's Name CHRIS KELLY
Plaintiff's Address 115 Huckleberry Lane, Duryea, PA 18642	Defendant's Address 149 Penn Avenue, Scranton, PA 18503
Plaintiff's Name	Defendant's Name TIMES-SHAMROCK COMMUNICATIONS
Plaintiff's Address	Defendant's Address 149 Penn Avenue, Scranton, PA 18503
Plaintiff's Name	Defendant's Name THE SCRANTON TIMES-TRIBUNE
Plaintiff's Address	Defendant's Address 149 Penn Avenue, Scranton, PA 18503

Total Number of Plaintiffs 1	Total No. of Defendants 4	Commencement of Action <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer from other Jurisdiction
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Amount of Controversy In Excess of Jurisdictional Amount? Yes ___ No ___	Court Programs Arbitration ___ Jury ___ X Non-Jury ___ Appeals ___ Other ___	Petition ___ Minor Court Appeal ___ Statutory ___
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Case Type and Code (See Instructions)

TORT/LS

Statutory Basis for Cause of Action (See Instructions)

42 Pa.C.S.A. §§ 8341-8345, 42 Pa.C.S.A. §§ 8341-8345, 42 Pa.C.S.A. §§ 8341-8345

Remarks:

TO THE CLERK OF JUDICIAL RECORDS:

Please enter my appearance on behalf of Plaintiff:
Papers may be served at the address set forth below:

NAME OF PLAINTIFF'S ATTORNEY OR PRO SE PLAINTIFF Timothy M. Kolman	ADDRESS 414 Hulmeville Ave, Penndel, PA 19047
PHONE NUMBER (215)-750-3134	FAX NUMBER (215)-750-3138
SUPREME COURT IDENTIFICATION NO. 51982	E-MAIL ADDRESS TKolman@kolmanlaw.com
SIGNATURE /s/ Timothy M. Kolman	DATE May 18, 2021

Civil Cover Sheet Additional Parties

Plaintiff's Name	Defendant's Name
	LARRY HOLEVA
Plaintiff's Address	Defendant's Address
	149 Penn Avenue, Scranton, PA 18503

PHILIP GODLEWSKI

Plaintiff MAURI B. KELLY IN THE COURT OF COMMON PLEAS
LACKAWANNA COUNTY

2021 MAY 24 P 2:30 OF LACKAWANNA COUNTY

VS.

CIVIL ACTION
CLERK OF JUDICIAL
RECORDS CIVIL DIVISION

JURY TRIAL DEMANDED

CHRIS KELLY,
TIMES-SHAMROCK COMMUNICATIONS,
THE SCRANTON TIMES-TRIBUNE,
LARRY HOLEVA

Defendant : No.

: : : : : : : : : : : : : : : : : :

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed against you by the Court without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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507 Linden Street
Suite 300
Scranton, PA 18503
(570) 342-0184

Pennsylvania Lawyer Referral Services
Lackawanna Bar Association
338 N. Washington Avenue
Third Floor
Scranton, PA 18503
(570) 969-9161
(570) 969-9170 - Business Fax

TO DEFENDANT: YOU ARE HEREBY
NOTIFIED TO PLEAD TO THE ENCLOSED
COMPLAINT WITHIN TWENTY (20) DAYS
FROM SERVICE HEREOF OR A JUDGMENT
MAY BE ENTERED AGAINST YOU.

CLERK OF JUDICIAL
RECORDS CIVIL DIVISION

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Attorneys for Plaintiff
Philip Godlewski

PHILIP GODLEWSKI
115 Huckleberry Lane
Duryea, PA 18642

Plaintiff

v.

CHRIS KELLY
149 Penn Avenue
Scranton, PA 18503

and

**TIMES-SHAMROCK
COMMUNICATIONS**
149 Penn Avenue
Scranton, PA 18503

and

THE SCRANTON TIMES-TRIBUNE
149 Penn Avenue
Scranton, PA 18503

and

IN THE COURT OF COMMON PLEAS
FOR LACKAWANNA COUNTY

NO.

CIVIL ACTION

LARRY HOLEVA
149 Penn Avenue
Scranton, PA 18503

Defendants

COMPLAINT

Plaintiff, Philip Godlewski ("Plaintiff or Mr. Godlewski"), by and through his undersigned counsel, Kolman Law P.C., hereby avers as follows:

I. PRELIMINARY STATEMENT

1. Mr. Godlewski brings this action for libel and libel per se, by violations of Uniform Single Publication Act, 42 Pa.C.S.A. §§ 8341–8345 and for false light and intentional interference with his contractual relationships, all of which arise out of the Defendants' false, defamatory, and malicious article, published in the Scranton Times Tribune on February 14, 2021, attached herein as Exhibit A, and demands \$5 million in damages. On that day, the Scranton Times-Tribune wrote, among other defamatory slurs, that Mr. Godlewski had had sex with a 15-year-old in 2011. The article was malicious in both tone and substance, stating that Mr. Godlewski was a "purveyor of a poison that has curdled the hearts and minds of millions who may never recover." Further, Defendants juxtaposed their defamation by associating the Plaintiff with 'the seditionist mayhem that resulted in five deaths' when the Capitol was stormed. Finally, the Defendants slurred the professional reputation of Mr. Godlewski as a Realtor making it clear to any reader that he was unreliable, unethical, and misrepresented, for his own interests, the properties he sold. In fact, the opposite is the case. Mr. Godlewski has always been a top producer of property sales in the Luzerne/Lackawanna area and had, until the Defendants destroyed it, an excellent reputation of ethics, responsibility, and care for his clients

II. PARTIES

2. Mr. Godlewski is a private citizen and adult individual with a residence in the Commonwealth of Pennsylvania located at 115 Huckleberry Lane, Duryea, Pennsylvania 18642. For the purposes of this complaint, by virtue of his large following, Mr. Godlewski is a public figure.

3. Defendant Chris Kelly is an adult individual and a journalist employed by the Scranton Times-Tribune who works at 149 Penn Avenue, Scranton, PA 18503.

4. Defendant Times Shamrock Communications is the owner and publisher of the Scranton Times-Tribune and located at 149 Penn Avenue, Scranton, PA 18503.

5. Defendant, the Scranton Times Chronicle, is the newspaper in which the defamatory article appeared and is located at 149 Penn Avenue, Scranton, PA 18503.

6. Defendant Larry Holeva, is an adult individual and an executive editor employed by the Scranton Times-Tribune and who works at 149 Penn Avenue, Scranton, PA 18503 and who, on information and belief was the editor who decided, along with Defendant Kelly, to run the 'story.'

III. JURISDICTION AND VENUE

7. Jurisdiction over the parties in the Courts of the Commonwealth of Pennsylvania is proper pursuant to the provisions of 42 Pa.C.S. § 5301 et seq. Defendants carry on a continuous and systematic part of their general business within the Commonwealth and transact business in the Commonwealth. Defendants have caused harm and tortious injury to Mr. Godlewski in the Commonwealth by their acts in the Commonwealth, to wit, by making publishing and making public defamatory statements which were published in the greater Scranton area and beyond.

8. Venue is proper in the Court of Common Pleas of Lackawanna County under Pennsylvania Rule of Civil Procedure 1006(a) and Pennsylvania Rule of Civil Procedure 2179, in as much as Lackawanna County is the place where Defendants regularly conduct business, and inasmuch as the occurrences out of which Mr. Godlewski's cause of action arises, to wit, publication of Defendants' false and defamatory statements about him took place in Lackawanna County, Mr. Godlewski felt the brunt of the harm in Lackawanna County and Defendants' defamatory statements had and continue to have the most significant impact in Lackawanna because Mr. Godlewski lives and works in Lackawanna County.

IV. FACTUAL BACKGROUND

A. Mr. Godlewski's Reputation as a Commercial and Residential Realtor

9. Mr. Godlewski is a Certified Realtor and Broker who worked for Era Elite Real Estate Team until he was terminated because of the defamatory article written and published by the Defendants.

10. Mr. Godlewski is married with three children and made his reputation as a Realtor by being trustworthy, reliable, and knowledgeable.

11. Specifically, by virtue of his extensive knowledge, Mr. Godlewski sold real estate in very desirable neighborhoods in Lackawanna and Luzerne Counties.

12. Since 2007, he has been one of the top producing agents in the Greater Scranton Board of Realtors garnering many awards due to his personal and business achievements.

13. Mr. Godlewski has been a multimillion-dollar seller of real estate sales each and every year, the status he has achieved by discharging the highest ethical standards and always putting his client's interests first.

14. In addition to residential real estate, Mr. Godlewski has also sold a significant number of commercial properties each year.

B. Defendants' Libelous References to Mr. Godlewski as a Realtor

15. On February 14, 2021, journalist Chris Kelly who accurately describes himself as "an old-school muckraker," wrote an article about Mr. Godlewski headed "QAnon Realtor sells rabbit holes on YouTube."

16. Defendant Kelly, by virtue of this heading alone, deliberately associated the selling of "rabbit holes," thereby undermining Mr. Godlewski's integrity as a realtor.

17. In stating that Mr. Godlewski was selling rabbit holes on YouTube, coupled with the cartoon of a real estate sign on top of which was written "RABBIT HOLE FOR SALE!" and beneath were the words UNREAL-TOR, clearly referring to Mr. Godlewski.

18. Defendants implied that Mr. Godlewski sold valueless or devalued real estate, misrepresenting his infantry to unsuspecting clients and was therefore, not be trusted as a realtor. This cartoon is hereto attached and incorporated as Exhibit A.

19. Further, the diagram in the center of the sign represents QAnon.

20. Despite being totally irrelevant, the Defendants gratuitously, maliciously, unnecessarily, and inextricably linked Mr. Godlewski's professional integrity to his alleged political views using the latter to impugn his integrity as a Realtor, as set out in more detail *infra*.

C. Mr. Godlewski As a Purveyor of Poison and an Organizer and/or a Participant in the Attack on the Capitol

21. The article also referred to Mr. Godlewski as "a purveyor of poison that has curdled the hearts and minds of millions who may never recover."

22. The term “purveyor of poison” casts Mr. Godlewski as a supplier, seller, or source of poison who, according to the article, has irreparably damaged “the hearts and minds of millions.”

23. Despite not having one wit of evidence that Mr. Godlewski’s views and opinions have irreparably damaged anyone, Defendants nonetheless state this is a fact.

24. Mr. Godlewski, therefore, is cast by the Defendants as a one-man destroyer of men and women children and families.

25. Further, despite stating that Mr. Godlewski was not at the Capitol on January 6, 2021, the date of the insurgency, Defendants tab Mr. Godlewski as, not only a supporter, but an active participant and organizer.

26. Specifically, Defendants’ article reads, “The Capitol riot is empirical evidence that we ignore this insidious war on truth at our peril. Despite the demolition of all its so-called prophecies, the Q. movement marches on. Godlewski happily calls out the cadence.”

27. The prior paragraph to this reads: “The new video of the seditionist mayhem that resulted in 5 deaths and the airtight case made by the House managers convinced me we can’t afford to ignore citizens of a separate reality who act, organize and seek to undermine and up and objective reality.”

28. By virtue of this juxtaposition, and specifically “in calling out the cadence” the Defendants place Mr. Godlewski at the heart of what the Defendants described as “seditionist mayhem that resulted in 5 deaths.”

29. In other words, Mr. Godlewski is, according to the clear implication of the article, integrally involved in the unlawful assault on the Capitol and is part of a conspiracy to overthrow the United States government by force and is thus a “seditionist.”

30. Sedition is a serious felony punishable by fines and up to 20 years in prison and it refers to the act of inciting revolt or violence against a lawful authority with the goal of destroying or overthrowing it.

31. As stated, Mr. Godlewski was not at the Capitol on January 6, 2021, as acknowledged by the Defendants in their article.

32. Determined however, in any way to link Mr. Godlewski to the riots Defendants by juxtapose a post on Mr. Godlewski's Facebook page with the false assertion that Mr. Godlewski directly participated in the insurgency.

33. To accomplish this, the article reads in relevant part, "Shortly after the mob stormed into the Peoples house, Godlewski posted on Facebook that Vice President Mike Pence had been arrested."

34. Defendants directly imply that Mr. Godlewski was a willing participant and/organizer in an ongoing felonious criminal conspiracy to bring down the United States government by force.

35. This is not an opinion. Defendants cast themselves as the arbiter of "objective reality on a mission against the insidious war on truth."

36. As stated, Defendants place Mr. Godlewski at the very heart of the insurrection by the false statement that he was counting the cadence on behalf of the insurgents.

D. Mr. Godlewski's Interview with Defendant Kelly

37. Defendants apparent excuse for their libel, as if it can ever be excused, is that Mr. Godlewski did not make himself available for an interview.

38. In this regard, the article states in relevant part “this is the epitome of the self-fulfilling prophecy. Godlewski refuses to engage me as an admitted critic, ensuring that my report will be one-sided.”

39. Defendant Kelly makes two things clear: first that the article is one-sided and two that Mr. Godlewski is responsible because he did not give an interview.

40. However, as if to highlight his own disingenuousness of Defendant Kelly blatantly contradicts himself, writing in a later sentence that the exchange of texts between him and Kelly “soon became a sporadic exchange of messages that amounted to an interview.”

41. Aside from the fact that a refusal to engage in an interview is never a consent to be libeled, in this case Defendants’ admit that they got their interview with Mr. Godlewski interview through text messaging.

E. Mr. Godlewski As a Sexual Predator

42. Defendants also accuse Mr. Godlewski of having a sexual relationship with a 15-year-old pursuant to a criminal matter which occurred in 2011.

43. The reason why the Defendants included this was because Defendant Kelly allegedly just “stumbled upon it” and considered it relevant to “Godlewski’s credibility.”

44. Defendants justify bringing this issue up by stating that it had been previously published in the Times-Tribune and that Lackawanna detectives had said Mr. Godlewski had had sex with a 15-year-old girl in cars and homes.

45. Having now written as fact that Mr. Godlewski did have sex with a 15-year-old girl, the Defendants write, immediately thereafter, in the next phrase, “Godlewski... was sentenced to 3 to 23 months...”

46. Defendants, through juxtaposition of these two phrases make it appear that Mr. Godlewski actually pled guilty to having had sex with the underage girl and was sentenced to 3 to 23 months.

47. Significantly, Defendant Kelly could not have “stumbled upon” the fact that Mr. Godlewski had sex with a fifteen-year-old girl, because that never happened.

48. Mr. Godlewski never pled guilty to having sex with an underage girl because he never had sex an underage girl.

49. Notably, Defendant Kelly “as an old-fashioned muckraker” could have checked the public record, wherein he would have learned (if he did not already know) that Mr. Godlewski is not, and has not been, listed as a sexual predator.

50. Further, Mr. Godlewski never spent any time in jail.

51. If Defendant Kelly had been an honest journalist, and not a muckraker, he would have also ‘stumbled upon’ the article which reported that Mr. Godlewski’s pled to a misdemeanor.

52. Further, if the Defendants were actually interested in the truth, they could have directly asked (or texted) Mr. Godlewski as to what happened in court and what the outcome was.

53. Defendant Kelly, as if out of the goodness of his heart and because he wishes his readers to know he is a decent man, allegedly gave Mr. Godlewski a heads-up that he was going to refer to the July 2011 conviction because, according to him, he did not wish Mr. Godlewski to be “blindsided.”

54. However, Mr. Godlewski was completely blindsided because what Defendant Kelly wrote was false and Mr. Godlewski never got the heads-up opportunity, prior to publication, to correct or point out the article’s blatant falsehoods.

55. Instead, Defendant Kelly deliberately conflated the charges against Mr. Godlewski of having sex with a girl, with his plea to a misdemeanor charge for corruption of minors.

56. In other words, the Defendants, by willful juxtaposition of the two phrases deliberately made it seem as if Mr. Godlewski pled to the charge of “corruption of minors” because he had sex with a 15-year-old girl.

57. The Lackawanna detectives and the Times Tribune who allegedly reported that Mr. Godlewski had sex with a 15-year-old girl, were referring not to convictions but only to the charges which had been filed against him.

58. At the time of that report, charges against Mr. Godlewski were only pending and at that time, as far as the law was concerned, Mr. Godlewski was entirely innocent of all the charges against him.

59. Defendant Kelly, however, references the Lackawanna detectives and the Times Tribune to make it appear that Mr. Godlewski was either guilty of having sex with an underage girl or had been found guilty.

60. Defendant Kelly never makes it clear that the Lackawanna detectives and the Times Tribune were referring only to the charges against Mr. Godlewski and not to the outcome of the case.

61. There is nothing in Mr. Godlewski’s criminal record which indicates, relates and/or references to Mr. Godlewski pleading guilty to having had sex with a 15-year-old girl, or any other underage girl.

F. The Actual Malice of the Defendants

62. The reporting as fact, by the Defendants, that Mr. Godlewski did have sex with a 15-year-old girl, is in accordance with the entire article which takes every opportunity to slur Mr.

Godlewski's reputation in every way possible, accusing him of sedition and criminal conspiracy, accusing him of him of child molestation and statutory rape and accusing him of fraudulently selling real estate.

63. The true purpose of Defendants' article is to destroy Mr. Godlewski because of Mr. Godlewski's political views to which Defendant Kelly has a visceral, unhinged, and hysterical reaction.

64. Defendant Kelly therefore sets aside all objectivity and professionalism and uses his journalistic skills in order to smear Mr. Godlewski in every way possible.

65. Indeed, Defendant Kelly begins his article by not even referring to Mr. Godlewski as a private person but references him as a "Clark's Summit-based Realtor" when in fact, his profession as a real estate broker has absolutely nothing to do with his political views and is not and never has been, a part of his YouTube presentation.

66. Kelly again refers to Mr. Godlewski's profession as a realtor in the next paragraph and makes certain all the readers are informed where Mr. Godlewski lives, even though where he lives is irrelevant and given the incendiary nature of the defamatory article, actually puts Mr. Godlewski in danger.

67. Defendant Kelly believes that he, and the other defendants, can avoid the accusation of malice by stating that he wishes Mr. Godlewski "no ill will."

68. However, Defendants' article seethes with of ill will.

69. For example, Defendants described Mr. Godlewski as a "purveyor of poison that has curdled the hearts and minds of millions who may never recover."

70. There is no factual evidence that Mr. Godlewski has ever been a purveyor of any poison let alone curdled the hearts and minds of millions who may never recover.

71. Even if not taken literally, Defendants accuse Mr. Godlewski, without any factual basis whatsoever, of permanently injuring millions of people.

72. The Defendants also impute a leadership/organizer role to Mr. Godlewski in the “seditionist mayhem” that “resulted in 5 deaths” when the Capitol was ransacked because Mr. Godlewski called “out the cadence.”

73. According to the article, Mr. Godlewski called out the cadence which kept the rioters attacking, ransacking, and vandalizing the Capitol just as a military cadence keeps soldiers marching or running as one.

74. By making Mr. Godlewski an integral part of the Capitol insurgency, the article labels Mr. Godlewski, not just as a seditionist insurgent and a traitor to his country, but also a murderer, complicit in the deaths of five persons.

75. Defendants justify referencing Mr. Godlewski’s case from 10 years ago case by arguing that it was relevant to Mr. Godlewski’s credibility but there is neither an allegation nor finding that in the 2011 case, Mr. Godlewski did not tell the truth.

76. The Defendants’ justification in bringing up Mr. Godlewski’s case is bogus, malicious and in keeping with the Defendant’s aim of denigrating Mr. Godlewski’s reputation.

77. Defendants also refer to current criminal charges against Mr. Godlewski, as if Mr. Godlewski had already been convicted of them. However, these charges are not convictions and have no bearing on Mr. Godlewski’s “credibility.”

78. Defendants referred to both cases for the sole purpose of blackening Mr. Godlewski’s character, by maliciously conflating the criminal charges against Mr. Godlewski, with actual convictions in order to persuade the average reader into believing that Mr. Godlewski did everything he was charged with.

79. In any event, these charges have no possible relevance to Mr. Godlewski's political views.

80. Defendants openly accuse Mr. Godlewski "inciting a mob overthrow the government," specifically implying he was doing it in front of an army of photojournalists while carrying a location pinging cell phone.

81. Mr. Godlewski, according to Defendants, bears some responsibility for the "millions of Americans who have lost parents, siblings, children and friends to the QAnon cult."

82. This accusation, along with the declaration that Mr. Godlewski is a "purveyor of poison" casts Mr. Godlewski as a quasi-cult figure breaking up families by permanently taking their parents, siblings, children, and friends.

83. Mr. Godlewski, therefore, was according to the Defendants Mr. Godlewski leading them down the "rabbit holes from which they may never return."

84. Once again, there is absolutely no factual basis to the bogus accusation that Mr. Godlewski disrupted and destroyed families or indeed that he led millions down a metaphorical rabbit hole which they will never return.

85. Further, as stated, Defendants have tabbed Mr. Godlewski as the "seller" of these "rabbit holes," in accordance with their systematic intent of ruining his hard-won professional reputation.

86. Defendants managed to convey to the average reader that Mr. Godlewski is an unprofessional, irresponsible, fraudulent, and unreliable realtor when he is just the opposite.

87. As stated, Defendants' entire article slurs, degrades demeans and libels Mr. Godlewski's reputation in every way possible by writing that he is a seditionist, traitor, a felonious murderer, a poisoner, a permanent destroyer of millions of lives and a criminal conspirator who is

also a child molester and statutory rapist and who fraudulently sells real estate to unsuspecting buyers.

88. Defendants published its article either knowing that the specific statements within, as referenced supra were false or with reckless disregard of their falsity.

G. Mr. Godlewski Is a Private Figure of the Standpoint of Defendants' Defamation

89. With respect to his political views, Mr. Godlewski is a public figure, expressing these views to thousands of people on YouTube, but that is not where defamation lies.

90. Mr. Godlewski has been defamed in his profession as a realtor in which he functions as a private individual.

91. Mr. Godlewski also remains a private figure with respect to criminal charges which were brought against him and any plea agreement does not transform him into a public figure in that respect.

92. Mr. Godlewski's reputation, moral character and integrity are also protectable by him as a private individual.

93. Notably, even if Mr. Godlewski was a public figure, he is able to show actual malice on the part of the Defendants.

COUNT 1

**Defamation by Imputation of Crimes Mr. Godlewski Never Committed
Violation of the Uniform Single Publication Act, 42 Pa.C.S.A. §§ 8341-8345**

94. The foregoing paragraphs are incorporated herein as if set forth at length.

95. Although Defendants, as journalists, have a conditional First Amendment privilege with respect to what they publish, they abused that conditional privilege by printing falsehoods about Mr. Godlewski.

96. Defendants wrote that Mr. Godlewski had had sexual intercourse with a 15-year-old girl in 2011.

97. This was untrue.

98. This article was published by the Defendants.

99. The entire article referred to Mr. Godlewski.

100. Any average person reading the article would understand its defamatory meaning.

101. The average person reading the article would also know that the article applied only to Mr. Godlewski.

102. Mr. Godlewski suffered special harm, as set out in more detail below, as a consequence of the publication of the defamatory article.

103. The statements as fact, that Mr. Godlewski had sexual intercourse with and underage 15-year-old girl blackened his reputation, exposed him to public hatred and grievously injured him in the community of respectable society.

104. Defendants are therefore liable against Mr. Godlewski for defamation per se.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT 2

Defamation for Blackening Mr. Godlewski's Reputation as a Realtor Violation of the Uniform Single Publication Act, 42 Pa.C.S.A. §§ 8341-8345

105. The foregoing paragraphs are hereto incorporated as if set forth at length.

106. Defendants publication of the article blackens the reputation of Mr. Godlewski in his profession as a Realtor.

107. Defendants willfully impugned Mr. Godlewski's business reputation as a Realtor directly and by innuendo and with reckless regard to the truth, gratuitously, unnecessary, and maliciously referring to his profession as a Realtor.

108. The article can be interpreted defamatory because it likened Mr. Godlewski's sales of his properties to "RABBIT HOLES."

109. The article demeaned Mr. Godlewski by referring to him as an "UN-REALTOR."

110. The article implied that because Mr. Godlewski had been involved in QAnon, he was, among other things, a violent, felonious poisoner of hearts and minds and *ipso facto*, not fit to sell real estate to anyone.

111. The article depicted Mr. Godlewski as a child molester with no credibility.

112. Defendants' depictions of Mr. Godlewski were false and untrue.

113. Mr. Godlewski enjoyed an excellent, trustworthy reputation as a Realtor prior to Defendants' article which completely ruined it and resulted in a loss of his job.

114. Defendants statements and innuendo have blackened Mr. Godlewski's professional and business reputation and exposed him to public hatred and grievously injured him in the community of respectable society and injured his business and professional status.

115. Defendants are therefore liable against Mr. Godlewski for defamation per se.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT 3

Defamation by Innuendo by Directly Associating Mr. Godlewski with the Insurgency on the Capitol on January 6, 2021 Violation of the Uniform Single Publication Act, 42 Pa.C.S.A. §§ 8341-8345

116. The foregoing paragraphs are hereto incorporated as if set forth at length.

117. Because Mr. Godlewski was apparently counting the cadence when the insurgents stormed the Capitol, Defendants placed Mr. Godlewski at the heart of the insurgency as an organizer, activist, leader, coordinator, director, and planner.

118. He was never any of those things.

119. Because Mr. Godlewski was, according to the Defendants so involved with the insurgency, Defendant Kelly rhetorically asked in the article why Mr. Godlewski had not actually been at the Capitol building showing himself before a bevy of cameras and using a cell phone which pinged his exact location.

120. Defendants by virtue of the foregoing and, as set forth in more detail *supra*, dubbed Mr. Godlewski a traitor, a murderer, a felonious insurgent, and critical and integral participant in the criminal conspiracy to storm the Capitol building.

121. Mr. Godlewski was never any of those things.

122. Defendants, by virtue of the foregoing, maliciously blackened Mr. Godlewski's reputation directly and by innuendo, grievously fracturing his standing in the community of respectable society and exposing him to public hatred.

123. Defendants are therefore liable against Mr. Godlewski for defamation per se.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT 4

False Light Invasion of Privacy

124. The foregoing paragraphs are hereto incorporated as if set forth at length.

125. Defendants, by way of their conduct, as set forth herein above, placed Mr. Godlewski in a false light which would be highly offensive to a reasonable person.

126. Defendants had knowledge or acted in reckless disregard as to the falsity of the publicized matters and the consequent false light in which Mr. Godlewski would be placed.

127. Defendants article contained major misrepresentations of Mr. Godlewski's character, history, activities, and beliefs that serious offense could reasonably be expected to be taken.

128. The actions of the Defendants against Mr. Godlewski were done with actual malice.
WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT 5

Intentional Interference with Mr. Godlewski's Contractual Relations

129. Defendants specifically and gratuitously referenced Mr. Godlewski's profession as a Realtor, even though such reference was irrelevant.

130. The Defendants referenced where Mr. Godlewski was employed as a realtor.

131. The Defendants wrote their defamatory article, knowing its content would have a detrimental effect on Mr. Godlewski's business and personal reputation and therefore also, on his ability to make a living as a Realtor.

132. The allegations Defendants made against Mr. Godlewski were false and unjustified.

133. Defendants article was written without justification, to hurt Mr. Godlewski in every way it could including intentionally harming his relationship with his then, current employer.

134. As a direct consequence of the article, Mr. Godlewski was terminated from his position as a Realtor.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT 5

Intentional Interference with Mr. Godlewski's Prospective Contractual Relations

135. Defendants specifically and gratuitously referenced Mr. Godlewski's profession as a Realtor, even though that reference was irrelevant.

136. The Defendants pejoratively and gratuitously referred to Mr. Godlewski's as a Realtor.

137. The Defendants wrote their defamatory article, knowing that it would have a detrimental effect on Mr. Godlewski's prospective business and therefore also, on his ability to make a living as a Realtor in the future.

138. The allegations Defendants made against Mr. Godlewski were false and unjustified.

139. Defendants article was written without justification and to hurt Mr. Godlewski in every way it could, including but not limited to, its intention to harm Mr. Godlewski in his prospective contractual relationships with potential real estate clients and other realtors.

140. As a direct consequence of the article, Mr. Godlewski will be affected adversely in in his prospective contractual relationships.

WHEREFORE, the Plaintiff requests the relief set forth below.

AD DAMNUM CLAUSE/PRAYER FOR RELIEF

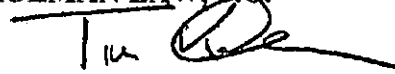
WHEREFORE, Plaintiff prays that the Court enter judgment in his favor against Defendant and that it enter an Order as follows:

- a. Defendants are to compensate the Plaintiff in the amount of \$5 million for the actual and special damages they have caused to the Plaintiff by virtue of their vicious conduct.
- b. Plaintiff is to be awarded out-of-pocket expenses due to the defamation and for injury done to his reputation and for any other injury of which the libel is the legal cause.
- c. Plaintiff is to be awarded liquidated and/or punitive damages as permitted by applicable law, in an amount set forth by statute and/or believed by the Court or trier of fact to be appropriate to punish Defendants for their defamatory conduct.

- d. Plaintiff is to be afforded any and all other equitable and legal relief as the Court deems just, proper, and appropriate.
- e. Plaintiff is to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable state law.
- f. The Court is to maintain jurisdiction of this action after verdict to ensure compliance with its Orders therein.

Respectfully Submitted,

KOLMAN LAW, P.C.



Timothy M. Kolman, Esquire
414 Hulmeville Ave
Pennel, PA 19047
(215) 750-3134
Attorney for Plaintiff

Dated: May 19, 2021

PHILIP GODLEWSKI,
Plaintiff

v.

CHRIS KELLY, TIMES SHAMROCK
COMMUNICATIONS, THE SCRANTON
TIMES-TRIBUNE, LARRY HOLEVA
Defendants.

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY

CIVIL DIVISION

JURY TRIAL DEMANDED

No.: 2021-CV-2195

AFFIDAVIT

STATE OF PENNSYLVANIA

:

: ss.

COUNTY OF LACKAWANNA

:

I, Brienna L. DuBorgel, an adult individual who resides at 1101 Claire Drive, Taylor, PA 18517, being duly sworn according to law hereby swears and affirms as follows:

1. My date of birth is 9/8/1993. A copy of my driver's license is attached to this Affidavit.
2. I was the minor victim in the criminal case brought against Philip Godlewski in July 2010.
3. In September of 2008 I began ninth (9th) grade at Riverside High School at the age of 15 years old.
4. On November 10, 2008, my boyfriend, Joseph Strok, III, committed suicide. I was very upset by his death.
5. Shortly before Joseph Strok's death I met Philip Godlewski. I began communicating with him after Joseph's death. Philip Godlewski was 10 years older than me.
6. Within a couple of months after Joseph Strok's death I began having a sexual relationship with Philip Godlewski. I was fifteen (15) years old when we started our sexual relationship.
7. Philip Godlewski bought me gifts including jewelry, a hat and other items during the first few months of our relationship.

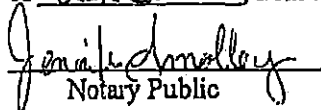
Exhibit 1

8. Philip Godlewski and I had sex multiple times while I was a ninth (9th) grade and tenth (10th) grade student at Riverside High School.
9. Philip Godlewski was charged with crimes relating to our sexual relationship in July of 2010.
10. Philip Godlewski and I continued to communicate with each other while the criminal case was pending against him.
11. After Philip Godlewski was arrested, he pleaded with me not to testify against him and said he would commit suicide if I testified against him.
12. In response to Philip Godlewski's pleas and just wanting the situation to end, I stopped cooperating with the District Attorney's office during the criminal case against him and I refused to testify against Philip Godlewski at the preliminary hearing in the criminal case.
13. Philip Godlewski and I continued our sexual relationship in the 2014-16 time period after his criminal case was over.

I, Brienna L. DuBorgel, do hereby swear and affirm that the statements made in this affidavit are true and correct to the best of my personal knowledge, information, and/or belief. I am of sound mind and I make this Affidavit of my own free will. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.


Brienna L. DuBorgel

Sworn to and Subscribed

before me this 31st day
of October, 2022.

Notary Public

Commonwealth of Pennsylvania - Notary Seal
Jennifer Smolley, Notary Public
Lackawanna County
My commission expires September 4, 2024
Commission number 1377297
Member, Pennsylvania Association of Notaries

INFORMATION
IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

Criminal Action No. 10 CR 2613

COMMONWEALTH OF PENNSYLVANIA

VS.

PHILIP GODLEWSKI

The District Attorney of Lackawanna County, by this Information charges that Between Tuesday, the 1st day of January, 2008, and Wednesday, the 7th day of July, 2010 in said County of Lackawanna, Philip Godlewski did commit the crime or crimes herein,

COUNT I: CORRUPTION OF MINORS

(18 C.P.S.A. Sec. 6301(a-1); Grade: Misdemeanor 1; \$10,000.00; 5 years;
unlawfully, being of the age of 18 years and upwards, corrupt or tend to corrupt the morals of any minor less than 18 years of age, or did aid, abet, entice or encourage any such minor in the commission of any crime, or did knowingly assist or encourage such minor in violating his or her parole or any order of court, to wit; the defendant did repeatedly have inappropriate text naessages and contact with a minor.

MARY F. RINALDI
LACKAWANNA COUNTY

2010 NOV 16 A 9:06

CLERK OF
JUDICIAL RECORDS
CRIMINAL DIVISION

All of which is against the Acts of Assembly and the peace and dignity of the Commonwealth of Pennsylvania.


District Attorney

Exhibit 2

ST 0588

Name

Phillip G. Goscinski

Case No.

CR 2613

GUILTY PLEA COLLOQUY

You are present before this Court because you or your lawyer has stated that you wish to plead guilty to some or all of the criminal offenses with which you have been charged. Please answer fully all of the questions on this document. If you do not understand any question, do not answer that question. If you do understand the question, you should answer "yes" or "no", or fill in another appropriate answer.

This is a sworn statement. After you have finished reading this form and filling it out, you should sign it on the last page, on the line that says "Defendant." You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should tell your lawyer and the judge who hears your case, so that they can explain it to you fully, to make sure you understand all of your rights.

Most of these questions can be answered "yes" or "no." Where general information is requested, please answer fully.

1. What is your full name? Phillip Goscinski
2. Do you wish to plead guilty to the charges of Robbery of Money as laid out in criminal action _____?
yes
3. How old are you? 27
4. How far did you go in school? College grad.
5. Do you read and write the English language:
yes
- 5(a). Have you had an opportunity to read the charges pending against you? yes
- 5(b). Therefore, do you know exactly what you are charged with and what you are pleading to? yes
6. Have you ever been in a mental institution or received treatment for a mental disease? no
7. Have you had any alcoholic beverages or drugs within the last 24 hours? no
8. Have you fully discussed your case with your attorney and are you fully satisfied that he knows all the facts of your case and has had sufficient time to look into any questions either he or you may have about your case? yes

 **Exhibit 3**

ST 0584

8(a). Are you satisfied with your attorney? yes.

9. Do you understand that even though you are guilty or may be guilty, you are presumed innocent and have a right to go to trial either before a judge or before a jury of 12 individuals and the Commonwealth must prove to the satisfaction of each and every one of the 12 jurors or to the satisfaction of the judge that you are guilty beyond a reasonable doubt? yes.

9(a). Do you understand that you and your attorney have a right to participate in the selection of a jury? _____

10. Do you understand that if you want to go to trial your attorney will be permitted to cross-examine the Commonwealth's witnesses and to call witnesses on your behalf, but if you plead guilty, you will lose the right to call witnesses or to cross-examine the Commonwealth witnesses? yes.

11. Do you understand that by pleading guilty you are admitting that you did things you are charged with and that if you plead not guilty, the Commonwealth cannot force you to take the stand and either admit or deny that you did the things you are charged with? yes.

12. Do you understand that by pleading guilty you are giving up your right to appeal any question in this case except for those concerning the right of this court to try you (jurisdiction over the subject matter) or the legality or propriety of the sentence imposed? yes.

13. State specifically in detail any plea agreement with the District Attorney:

Plea to Conspiracy of Minors; Agreed sentence 3 months
Home Confinement to 23 months.

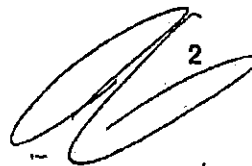
All other counts dismissed

13(a) Has the District Attorney made any other promises to you in exchange for your guilty plea other than what is mentioned above? No.

13(b) Have you been threatened or coerced in any manner to enter this guilty plea? No.

13(c) Are you entering this guilty plea of your own free will after discussing the merits of your case with your attorney? yes.

14. Do you understand that the Court is not bound by the agreement you made with the District Attorney? yes.



15. Do you understand that the maximum penalty to the charges you are pleading guilty to is

5 YRS / \$7,500.

15(a) If you are pleading guilty to more than one charge, do you understand that the judge may impose consecutive sentences? N/A

If the answer to the preceding question is "yes", state the mandatory sentence that may be imposed on you.

15(b) Do you understand that certain crimes carry mandatory minimum penalties? N/A

Did your attorney advise you that any mandatory penalties apply to your case? N/A

If you answered "yes", please state the mandatory provisions that apply to your case: N/A

16. The elements of the crime charged are as follows:

Being of the age of 16 or older, by an act concepts of
and to commit the murder of a person.

16(a) Do you understand these are the elements of the crimes charged that you are pleading to? Yes

17. The District Attorney indicates this is what you did on the date of the crime charged:

18. Do you admit that you did the above stated act? Yes

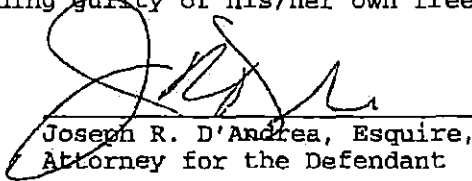
19. Understanding the full meaning of the plea of guilty as stated above, do you still wish to plead guilty? Yes

I affirm that I have read the above document in its entirety and have reviewed it with my attorney. I affirm that I am aware of the full implications of pleading guilty and nevertheless wish to plead to the specified offense(s). I further affirm that my signature on this Guilty Plea Colloquy and initials on each page of this document are true and correct.

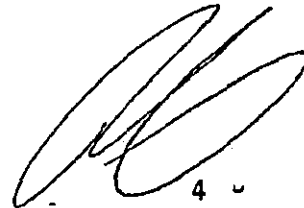
Philadelluski
DEFENDANT

I, Joseph R. D'Andrea, Esquire, attorney for

Phil Coddenski, state that I have advised my client of the contents and meanings of the document; it is my belief that he/she fully comprehends the implication of pleading guilty and is pleading guilty of his/her own free will.


Joseph R. D'Andrea, Esquire,
Attorney for the Defendant

11/12/10
7


4

VERIFICATION

I hereby verify that the statements in the foregoing document are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.

Date: 3/21/2023

Phil Godlewski

Philip Godlewski

EXHIBIT “B”

PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
Plaintiff	:	OF LACKAWANNA COUNTY
	:	
v.	:	CIVIL DIVISION
	:	
CHRIS KELLY, TIMES SHAMROCK	:	JURY TRIAL DEMANDED
COMMUNICATIONS, THE SCRANTON	:	
TIMES-TRIBUNE, LARRY HOLEVA	:	
Defendants.	:	No.: 2021-CV-2195

AFFIDAVIT

STATE OF PENNSYLVANIA	:
	: ss.
COUNTY OF LACKAWANNA	:

I, Brienna L. DuBorgel, an adult individual who resides at 1101 Claire Drive, Taylor, PA 18517, being duly sworn according to law hereby swears and affirms as follows:

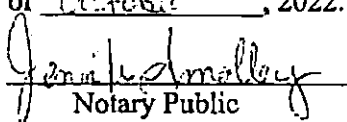
1. My date of birth is 9/8/1993. A copy of my driver's license is attached to this Affidavit.
2. I was the minor victim in the criminal case brought against Philip Godlewski in July 2010.
3. In September of 2008 I began ninth (9th) grade at Riverside High School at the age of 15 years old.
4. On November 10, 2008, my boyfriend, Joseph Strok, III, committed suicide. I was very upset by his death.
5. Shortly before Joseph Strok's death I met Philip Godlewski. I began communicating with him after Joseph's death. Philip Godlewski was 10 years older than me.
6. Within a couple of months after Joseph Strok's death I began having a sexual relationship with Philip Godlewski. I was fifteen (15) years old when we started our sexual relationship.
7. Philip Godlewski bought me gifts including jewelry, a hat and other items during the first few months of our relationship.

8. Philip Godlewski and I had sex multiple times while I was a ninth (9th) grade and tenth (10th) grade student at Riverside High School.
9. Philip Godlewski was charged with crimes relating to our sexual relationship in July of 2010.
10. Philip Godlewski and I continued to communicate with each other while the criminal case was pending against him.
11. After Philip Godlewski was arrested, he pleaded with me not to testify against him and said he would commit suicide if I testified against him.
12. In response to Philip Godlewski's pleas and just wanting the situation to end, I stopped cooperating with the District Attorney's office during the criminal case against him and I refused to testify against Philip Godlewski at the preliminary hearing in the criminal case.
13. Philip Godlewski and I continued our sexual relationship in the 2014-16 time period after his criminal case was over.

I, Brienna L. DuBorgel, do hereby swear and affirm that the statements made in this affidavit are true and correct to the best of my personal knowledge, information, and/or belief. I am of sound mind and I make this Affidavit of my own free will. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.


Brienna L. DuBorgel

Sworn to and Subscribed

before me this 31st day
of October, 2022.

Notary Public

Commonwealth of Pennsylvania - Notary Seal
Jennifer Smolley, Notary Public
Lackawanna County
My commission expires September 4, 2024
Commission number 1377297
Member, Pennsylvania Association of Notaries

EXHIBIT “C”

PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	of LACKAWANNA COUNTY
	:	
v.	:	CV-2023- <u>1354</u>
	:	
BRIENNA L. DUBORGEL,	:	CIVIL ACTION - LAW
Defendant.	:	JURY TRIAL DEMANDED

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Northeastern Pennsylvania Legal Services
33 N. Main Street, Suite 200
Pittston, PA 18640
Telephone (570) 299-4100

KOLMAN LAW, P.C.
Timothy M. Kolman, PA51982
414 Hulmeville Avenue
Penn del, PA 19047
(215) 750-3134

PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	of LACKAWANNA COUNTY
	:	
v.	:	CV-2023- <u>1354</u>
	:	
BRIENNA L. DUBORGEL,	:	CIVIL ACTION - LAW
Defendant.	:	JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff Philip Godlewski, by and through his counsel, Timothy M. Kolman, JD and makes the following Complaint:

1. Plaintiff Philip Godlewski ("Godlewski") is an adult individual residing at 115 Hickberry Lane, Duryea, Lackawanna County, Pennsylvania 18642.
2. Defendant Brienna L. BuBorgel ("DuBorgel") is an adult individual residing at 1101 Claire Drive, Taylor, Lackawanna County Pennsylvania 18517.
3. Jurisdiction over this matter is conferred upon this Court pursuant 42 Pa.C.S.A. § 5301 *et seq.*
4. Venue is proper in Lackawanna County pursuant Pa.R.C.P. 1006(a) and Pa.R.C.P. 2179.

COUNT I - DEFAMATION - IMPUTATION OF CRIMES
VIOLATION OF UNIFORM SINGLE PUBLICATION ACT,
42 Pa.C.S.A. §8341 *et seq*

5. Paragraphs 1 through 4 of this Complaint are restated and reincorporated by reference as though fully set forth.

6. On October 31, 2022 DuBorgel signed an Affidavit prepared by, or at the direction of Attorney J. Timothy Hinton. See true and correct copy of Affidavit attached hereto as Exhibit 1.

7. In the Affidavit, DuBorgel alleges that she commenced a sexual relationship with Godlewski in late 2008 or early 2009 while DuBorgel was 15 years of age. See Exhibit 1, ¶¶ 3, 4 and 6.

8. In the Affidavit, DuBorgel asserts that Godlewski was ten years older than DuBorgel at the time DuBorgel alleges the sexual relationship began between the two. See Exhibit 1, ¶ 5.

9. DuBorgel asserts that Godlewski and DuBorgel "had sex multiple times while [DuBorgel] was ninth [sic] (9th) grade and tenth (10th) grade student at Riverside High School." Exhibit 1, ¶ 8.

10. DuBorgel asserts that "Godlewski was charged with crimes relating to our sexual relationship in July of 2010." See Exhibit 1, ¶ 9.

11. DuBorgel alleges that Godlewski and DuBorgel resumed a sexual relationship in 2014-2016. See Exhibit 1, ¶ 13.

12. Godlewski did not have a sexual relationship with DuBorgel while DuBorgel was a minor.

13. In the Affidavit, DuBorgel falsely accuses Godlewski of having a sexual relationship with DuBorgel while Godlewski was an adult and DuBorgel was a minor.

14. Godlewski has not been convicted of any sex offense with respect to DuBorgel.

15. By Information filed on November 16, 2020 at Lackawanna County Docket No. 10

COUNT 1: CORRUPTION OF MINORS

(18 C.P.S.A. Sec. 6301(a-1); Grade: Misdemeanor 1; \$10,000.00; 5 years; unlawfully, being of the age of 18 years and upwards, corrupt or tend to corrupt the morals of any minor less than 18 years of age, or did aid, abet, entice or encourage any such minor in the commission of any crime, or did knowingly assist or encourage such minor in violating his or her parole or any order of court, to wit; the defendant did repeatedly have inappropriate text messages and contact with a minor.

CR 2613, Godlewski was charged with one count of corruption of minors, 18 Pa.C.S.A. § 6301 (a)(1) upon the following factual allegations:

See true and correct copy of Information attached hereto as Exhibit 2.

16. Godlewski has not been charged by Information with any sex offense with respect to DuBorgel.

17. Godlewski entered a plea of guilty, at Lackawanna County Docket No. 10 CR 2613, to the single count of Corruption of Minors set forth in the Information. See true and correct copy of Guilty Plea Colloquy attached hereto as Exhibit 3.

18. The Guilty Plea Colloquy does not set forth any facts contrary to the Information upon which the plea was based. See Exhibit 3, ¶ 17.

19. DuBorgel's Affidavit falsely implies that Godlewski was convicted of sex offenses with respect to DuBorgel.

20. DuBorgel's Affidavit is defamatory in that it accuses Godlewski of having a sexual relationship with a minor and implies that Godlewski was convicted of sex offenses.

21. DuBorgel published the Affidavit to Attorney J. Timothy Hinton ("Hinton") with the knowledge and intent that Hinton would re-publish the Affidavit in other litigation.

22. DuBorgel's Affidavit applies to Godlewski in that it specifically identifies Godlewski as the alleged perpetrator of sexual acts with a minor.

23. Any reasonable recipient of the Affidavit would understand the Affidavit to be defamatory as it accuses Godlewski of extreme moral turpitude and engaging in criminal acts by having sexual relations with a minor.

24. Any reasonable recipient of the Affidavit would under the Affidavit as being intended to apply to Godlewski in that it specifically identifies Godlewski as the alleged perpetrator of sexual acts with a minor.

25. Godlewski has suffered special harm in the form of damage to Godlewski's reputation and character.

26. DuBorgel was not conditionally privileged to make the defamatory statements regarding Godlewski.

27. In the alternative, DuBorgel has abused any conditional privilege in that DuBorgel made the statements in the Affidavit from improper motive, in an improper manner and not based upon reasonable cause.

28. DuBorgel made the statements in the Affidavit knowing them to be false and with willful disregard of the truth of those statements.

29. DuBorgel made the statements in the Affidavit with reckless disregard for their veracity

30. DuBorgel made the statements in the Affidavit with negligent disregard for their veracity.

31. DuBorgel made the statements in the Affidavit with actual malice.

32. The statements in DuBorgel's Affidavit are defamatory per se.

COUNT II - INVASION OF PRIVACY - FALSE LIGHT

33. Paragraphs 1 through 32 of this Complaint are restated and reincorporated by reference as though fully set forth.

34. The statements in DuBorgel's Affidavit placed Godlewski in a false light.

35. The statements in DuBorgel's Affidavit are highly offensive to a reasonable person.

36. The statements in DuBorgel's Affidavit contain major misrepresentations of Godlewski's character, history, activities and/or beliefs.

37. DuBorgel made the statements in the Affidavit knowing them to be false and with willful disregard of the truth of those statements.

38. DuBorgel made the statements in the Affidavit with reckless disregard for their veracity

39. DuBorgel made the statements in the Affidavit with negligent disregard for their veracity.

40. DuBorgel made the statements in the Affidavit with actual malice.

41. DuBorgel's conduct has invaded Godlewski's privacy by casting Godlewski in a false light to the public.

COUNT III - INVASION OF PRIVACY - PUBLICITY TO PRIVATE LIFE

42. Paragraphs 1 through 41 of this Complaint are restated and reincorporated by reference as though fully set forth.

43. The statements in DuBorgel's affidavit falsely allege that Godlewski engaged in a sexual relationship with DuBorgel while DuBorgel was a minor.

44. The statements in DuBorgel's affidavit assert that Godlewski and DuBorgel engaged in an consensual sexual relationship in 2014-2016 after DuBorgel attained the age majority.

45. DuBorgel's allegations of a fact relate to the private facts of Godlewski's life.

46. A reasonable person would be highly offended by disclosure of the private facts of one's sexual life.

47. The facts alleged in DuBorgel's Affidavit are not matters of legitimate public concern.

48. DuBorgel's conduct has invaded Godlewski's privacy by giving publicity to Godlewski's public life.

WHEREFORE, Plaintiff Philip Godlewski respectfully requests that the Honorable Court enter judgment in his favor and against Defendant Brienna L. DuBorgel providing the following relief:

- A. Compensatory damages in an amount in excess of the jurisdictional threshold requiring compulsory arbitration.
- B. Nominal damages.
- C. Punitive damages in an amount sufficient to deter similar future conduct by the Defendant.
- D. Equitable relief sufficient to prevent similar future conduct by the Defendant.
- E. Costs and Counsel Fees.

F. Such other relief as the Court may deem just.

Respectfully submitted,

KOLMAN LAW, P.C.

A handwritten signature in black ink, appearing to read 'Tim Kolman', is written over a horizontal line.

Timothy M. Kolman, PA51982
414 Hulmeville Avenue
Pennel, PA 19047
(215) 750-3134
Attorney for Plaintiff.

EXHIBIT “D”

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PHILIP GODLEWSKI

PLAINTIFF,

V.

BRIENNA L. DUBORGEL

DEFENDANT.

**IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY**

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

NO.: CV-2023-1354

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take prompt action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by an attorney and filing a writing with the Court of your defenses objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in this Complaint for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

AVISO

A USTED SE LE HA DEMANDADO EN LA CORTE. Si usted quiere defenderse contra la demanda expuesta en las siguientes páginas, tiene que tomar acción en un plazo de veinte (20) días después que reciba esta demanda y aviso, por presentar una

notificación de comparecencia escrita personalmente o por un abogada y radicar por escrito en la Corte sus defensas u objeciones a las demandas presentadas en su contra. Se le advierte que si falla en hacerlo, el caso podría seguir adelante sin usted y un fallo podría ser dictado en su contra por la Corte sin previo aviso por cualquier dinero reclamado en la demanda o por cualquier otro reclamo o desagravio pedido por el/la demandante. Puede que usted pierda dinero o propiedad u otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO, DIRÍJASE O LLAME, POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ABAJO. ESTA OFICINA PUEDE PROVEERLE CON INFORMACIÓN SOBRE COMO CONTRATAR UN ABOGADO. SI NO TIENE LOS FONDOS SUFICIENTES PARA CONTRATAR UN ABOGADO, ESTA OFICINA PODRÍA PROPORCIONARLE INFORMACIÓN ACERCA DE AGENCIAS QUE PUEDAN OFRECERLES SERVICIOS LEGALES A PERSONAS QUE REÚNAN LOS REQUISITOS A UN HONORARIO REDUCIDO O GRATIS.

North Penn Legal Services, Inc.
33 N. Main Street
Suite 200
Pittston, PA 18640
(570) 299-4100
(877) 953-4250 Toll free
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FELLERMAN & CIARIMBOLI LAW, PC



By: _____
EDWARD J. CIARIMBOLI, ESQUIRE
MOLLY DEMPSEY CLARK, ESQUIRE
Counsel for Defendant

Date: May 2, 2023

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PHILIP GODLEWSKI

PLAINTIFF,

V.

BRIENNA L. DUBORGEL

DEFENDANT.

**IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY**

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

NO.: CV-2023-1354

**DEFENDANT'S ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT AND
DEFENDANT'S COUNTER-CLAIM**

Defendant Brienna L. DuBorgel ("Defendant"), by and through her legal counsel, Fellerman and Ciarimboli Law PC, hereby answers the Complaint filed by Plaintiff Phillip Godlewski ("Plaintiff"), asserts its defenses and new matter and counterclaim against the Plaintiff as follows:

ANSWER

1. Admitted, upon information and belief available to Defendant.
2. Admitted.
3. Denied in part, admitted in part. Paragraph three (3) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant admits that this court has jurisdiction over the subject matter of this case.

4. Denied in part, admitted in part. Paragraph four (4) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant admits that venue is proper in this Court.

**COUNT I – DEFAMATION – IMPUTATION OF CRIMES VIOLATION OF UNIFORM
SINGLE PUBLICATION ACT 42 PA.C.S.A. 8341**

5. Paragraph five (5) is an incorporation paragraph to which no response is required. To the extent a response is deemed required, Defendant incorporates the paragraphs of this pleading as though fully set forth.
6. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
7. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
8. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
9. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
10. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
11. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
12. Denied. Strict proof of this allegation is demanded at the time of trial.
13. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for themselves. It is denied that the Affidavit contains any false statements.
14. Denied as stated. The conviction speaks for itself.

15. Denied as stated. The "Information" attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
16. Denied as stated. The "Information" attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
17. Denied as stated. The Guilty Plea Colloquy attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
18. Denied as stated. The Guilty Plea Colloquy attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
19. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.
20. Paragraph twenty (20) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the Affidavit is "defamatory." Strict proof of this allegation is demanded at the time of trial. In the meantime, and by way of further response, see the text messages between Plaintiff and Defendant attached hereto as Exhibit A. Most notably, please refer to the March 5, 2010, text from Plaintiff to Defendant pertaining to how Plaintiff believes Defendant's mother would view him, stating "I disagree, I think she'll see me as the 25 year old that fucked her 15 year old daughter and lied to her about it" attached as Exhibit B.
21. Paragraph twenty-one (21) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial.
22. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself.

23. Paragraph twenty-three (23) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. By way of further response, the Affidavit is not “defamatory,” but instead speaks the truth. See Exhibit A.
24. Paragraph twenty-four (24) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. By way of further response, the Affidavit is not “defamatory,” but instead speaks the truth. See Exhibit A.
25. Paragraph twenty-four (24) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
26. Paragraph twenty-four (24) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
27. Paragraph twenty-seven (27) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
28. Paragraph twenty-eight (28) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
29. Paragraph twenty-nine (29) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

30. Paragraph thirty (30) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
31. Paragraph thirty-one (31) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
32. Paragraph thirty-two (32) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

COUNT II – INVASION OF PRIVACY - FALSE LIGHT

33. Paragraph thirty-three (33) is an incorporation paragraph to which no response is required. To the extent a response is deemed required, Defendant incorporates the paragraphs of this pleading as though fully set forth.
34. Paragraph thirty-four (34) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
35. Paragraph thirty-five (35) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.
36. Paragraph thirty-six (36) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

37. Paragraph thirty-seven (37) contains conclusions of law to which no response is required.

To the extent a response is deemed required, Defendant specifically denies the same.

Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

38. Paragraph thirty-eight (38) contains conclusions of law to which no response is required.

To the extent a response is deemed required, Defendant specifically denies the same.

Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

39. Paragraph thirty-nine (39) contains conclusions of law to which no response is required.

To the extent a response is deemed required, Defendant specifically denies the same.

Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

40. Paragraph forty (40) contains conclusions of law to which no response is required. To the

extent a response is deemed required, Defendant specifically denies the same. Strict

proof of this allegation is demanded at the time of trial. See Exhibit A.

41. Paragraph forty-one (41) contains conclusions of law to which no response is required.

To the extent a response is deemed required, Defendant specifically denies the same.

Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

COUNT III – INVASION OF PRIVACY – PUBLICITY TO PRIVATE LIFE

42. Paragraph forty-two (42) is an incorporation paragraph to which no response is required.

To the extent a response is deemed required, Defendant incorporates the paragraphs of this pleading as though fully set forth.

43. Paragraph forty-three (43) contains conclusions of law to which no response is required.

To the extent a response is deemed required, Defendant specifically denies the same.

Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

44. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself. By way of further response, the Affidavit speaks the truth. See Exhibit A.

45. Denied as stated. The Affidavit attached to Plaintiff's Complaint is a writing the terms of which speak for itself. By way of further response, the Affidavit speaks the truth. See Exhibit A.

46. Paragraph forty-six (46) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

47. Paragraph forty-seven (47) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

48. Paragraph forty-eight (48) contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendant specifically denies the same. Strict proof of this allegation is demanded at the time of trial. See Exhibit A.

WHEREFORE, Defendant, Brienna DuBorgel, respectfully requests this Honorable Court enter judgement in her favor and against Plaintiff, dismissing Plaintiff's claims and awarding Defendant whatever additional and equitable relief the Court deems appropriate.

NEW MATTER

1. The statements complained of are not defamatory or capable of defamatory meaning as a matter of law.
2. The statements complained of are true, or substantially true.

3. Plaintiff is a public figure or limited purpose public figure, and thus must prove that Defendant acted with actual malice.
4. Plaintiff cannot prove Defendant acted with actual malice.
5. The statements complained of were privileged, reasonable and justified.
6. Plaintiff suffered no damage by reason of the statements complained of.
7. The statements complained of are not the legal cause of any injury to Plaintiff.
8. The implications and innuendos alleged by Plaintiff are unreasonable, unfair, strained, and unwarranted.
9. The statements complained of were made in the exercise of Defendant's right to freedom of speech afforded by the First and Fourteenth Amendments to the United States Constitution, and by the Constitution of the Commonwealth of Pennsylvania.
10. A Plaintiff must show that his standing in the community has been "grievously fractured" to prove language was defamatory, and not only are the statements not defamatory, Plaintiff's standing in the community has not been "grievously fractured."
11. Plaintiff is not entitled to punitive damages.
12. An award of punitive damages for speech concerning matters of public concern is prohibited by the Constitution and the laws of the Commonwealth of Pennsylvania.

WHEREFORE, Defendant, Brienna DuBorgel, respectfully requests this Honorable Court enter judgement in her favor and against Plaintiff, dismissing Plaintiff's claims and awarding Defendant whatever additional and equitable relief the Court deems appropriate.

DEFENDANT'S COUNTERCLAIM

FACTUAL BACKGROUND

1. In and around October 2008, Plaintiff began pursuing a sexual relationship with Defendant – a minor at the time.
2. At or around March 2010, and after Defendant's parents learned said sexual relationship was continuing, Defendant provided a statement to police acknowledging her sexual relationship with Plaintiff.
3. At no point in this statement did Defendant lie, embellish, or otherwise make defamatory statements regarding Plaintiff. Instead, she told the truth.
4. At various times during their sexual relationship, Plaintiff – in his capacity as a realtor – took Defendant to third party homes in order to have sexual relations.
5. On July 11, 2011, Plaintiff pled guilty to corrupting Defendant's morals.
6. On October 31, 2022, Defendant signed an Affidavit (hereinafter "October 2022 Affidavit") attached hereto as Exhibit C outlining her sexual relationship with Plaintiff.
7. At no point in this Affidavit did Defendant lie, embellish, or otherwise make defamatory statements regarding Plaintiff. Instead, the Affidavit is truthful.
8. All factual allegations made in the Affidavit were entirely true, including, but not limited to:
 - a. The existence of a sexual relationship between Plaintiff and Defendant when Defendant was fifteen (15) years of age;
 - b. The time at which this sexual relationship between Plaintiff and Defendant began;
 - c. Plaintiff's purchase of gifts for Defendant;
 - d. Plaintiff and Defendant having had sex while Defendant was in ninth (9th) and tenth (10th) grade at Riverside Highschool;

- e. Plaintiff's threats of suicide if Defendant were to testify against him during Defendant's criminal proceedings related to his relationship with Plaintiff;
 - f. Defendant's decision not to testify against Plaintiff during his criminal case partially in response to Plaintiff's pleas; and
 - g. The resumption of Plaintiff and Defendant's sexual relationship following Defendant's criminal case.
9. On March 28, 2023, Defendant signed an Affidavit (hereinafter "March 2023 Affidavit") attached hereto as Exhibit D accompanied by two attachments -- the first being a record created by Plaintiff of what he did minute-by-minute pertaining to Defendant that day which came with expensive earrings and the second being the collection of text messages between Plaintiff and Defendant (previously attached as Exhibit A).
10. The abovementioned text messages begin on February 24, 2010, but make clear references to an existing sexual relationship prior to the inception of these text messages - - while Defendant was a minor.
11. Plaintiff and Defendant discuss having a relationship "again" numerous times, and Plaintiff indicates that he "is finished having sex with (Defendant) for a long time, if that's okay with (Defendant)" -- all of which evidence the existence of a past relationship. Moreover, and significantly, Plaintiff clearly identifies a past sexual relationship with Defendant while Defendant was underage when he sends the following text message on March 5, 2010, regarding how he believes Defendant's mother would feel about him: "I disagree, I think she'll see me as the 25-year-old that fucked her 15-year-old daughter and lied to her about it." See Exhibit B.

12. As evidenced above, at no point in the March 2023 Affidavit did Defendant lie, embellish, or otherwise make defamatory statements regarding Plaintiff. Instead, she spoke the truth and the Affidavit is truthful.
13. Between November of 2021 and April of 2023, Plaintiff has continuously deliberately and/or recklessly published and spoken defamatory falsehoods concerning Defendant.
14. Plaintiff has channels on at least three streaming platforms -- "Rumble", "DLive", and "Loud" -- where he regularly hosts podcast-like live videos discussing various topics including political ideals, financial opinions, and information about his personal life.
15. Plaintiff simultaneously livestreams to all three platforms to reach a larger audience.
16. According to Plaintiff, his live streams regularly have millions of viewers watching live, reaching 25,000,000 live viewers during one particularly popular video.
17. In addition to the millions of viewers watching live, the videos are posted to Plaintiff's Rumble page, where more viewers can watch recordings of the original livestreams.
18. During multiple livestreams, Plaintiff made implied and/or outright defamatory claims pertaining to Defendant, identifying Plaintiff by name at times in the live streams or otherwise providing sufficient information for Defendant to be identified in the local community.
19. Indeed, in Plaintiff's August 5, 2022, livestream, Plaintiff states that Defendant "filed a false police report" that led to the numerous charges Plaintiff faced in 2010 alleging he had engaged in sexual relations with a minor, and/or corrupted the morals of a minor.
20. In Plaintiff's August 20, 2022, livestream, Plaintiff states that he and Defendant had "no sexual contact or speech," implying that Defendant lied in her 2010 statement to police, and under oath in her October 2022 Affidavit.

21. In Plaintiff's November 26, 2022, livestream, Plaintiff stated that he "never did anything inappropriate" with Defendant, and that Defendant's 2022 Affidavit was "fabricated" implying that Defendant lied under oath in her October 2022 Affidavit.
22. Later in the same livestream, Plaintiff stated that "nothing happened between us" referring to himself and Defendant, again implying that Defendant lied under oath in her October 2022 Affidavit.
23. Again, in the same livestream, Plaintiff states that "the girl lied the first and second time, and this time she perjured herself" referring to Defendant's original statement to police in 2010, and Defendant's October 2022 affidavit.
24. These statements outright state that Defendant lied to the police, and lied again under oath to the Court, ultimately stating that the Defendant committed perjury.
25. Plaintiff proceeds to outright state later in the same live stream that he and Defendant had "never had sexual relations" and that Defendant "lied about it multiple times" then identifies the Defendant as "Brie" shortly thereafter.
26. On November 27, 2022, Plaintiff's attorney, Timothy M. Kolman, Esq. (hereinafter "Attorney Kolman") stated in an email (attached hereto as Exhibit E) on behalf of Plaintiff that Defendant's October 2022 Affidavit was "sudden and improvident". The email then states that "any sexual relationship occurred when the couple were of age, and this has never been denied."
27. The above statement implies that Defendant's October 2022 Affidavit was lies or otherwise fabricated.
28. That same day, Plaintiff posted a screenshot of and reiterated the statement made in the abovementioned email on his page on an app known as Telegram, where Plaintiff had

approximately 285,000 followers at the time the screenshot was posted. The screenshot is attached hereto as Exhibit F.

29. In Plaintiff's February 3, 2023, livestream, Plaintiff stated that "An affidavit doesn't mean an affidavit is true. It just means she swore to a lie."
30. On March 2, 2023, Plaintiff stated in a post on his Telegram page that "they extorted Brie for her affidavit" implying that Defendant lied under oath in her October 2022 Affidavit. The post is attached hereto as Exhibit G.
31. In Plaintiff's April 18, 2023, livestream, Plaintiff identified Defendant as "Brie" then stated that Defendant "swore to an Affidavit that was false... incorrect, and defamatory". He then stated "keep lying. I'm going to get you."
32. In Plaintiff's May 2, 2023, livestream, Plaintiff stated that Defendant "wrote an affidavit that is just completely lies" in reference to the October 2022 affidavit.
33. All above referenced clips from Plaintiff's livestreams on Rumble have been downloaded and are otherwise available online at <https://rumble.com/c/PhilGodlewski>, but could not be attached here.
34. Upon information and belief, Plaintiff also stated that "Brie was not born in 1993" in a video posted on August 11, 2022, that has since been deleted, or is otherwise unavailable to the public.
35. In making the abovementioned written and verbal statements, Plaintiff knowingly and willfully published and spoke false and defamatory matter about Defendant which:
 - a. Imputed to Defendant conduct constituting felonies and other criminal offenses;
 - b. Imputed to Defendant conduct that would give a reasonable person grounds to avoid romantic involvement with Defendant;
 - c. Imputed to Defendant conduct that would impact Defendant's standing in her religious community and her employment; and

- d. Imputed to Defendant conduct that would impact her reputation generally in her community and across the country.

COUNT I
DEFAMATION
BRIENNA DUBORGEL v. PHILLIP GODLEWSKI

36. The preceding paragraphs are incorporated herein as if fully set forth below.
37. The abovementioned statements made by Plaintiff, Phillip Godlewski, were entirely false insofar as they reflect upon Defendant's conduct, character, and reputation.
38. Plaintiff knew that his statements were false when they were made, but intentionally and maliciously chose to make these false statements to his millions of viewers on Rumble, DLive, and Locals, and his hundreds of thousands of followers on Telegram.
39. The false and defamatory statements made by Plaintiff were understood by his viewers and followers to have a negative and damaging impact on their perception of Defendant and were understood or reasonably understood as intended to be applied to Defendant.
40. The written and verbal false and defamatory statements made by Plaintiff in reference to Defendant have reached and continue to reach a massive audience, and Defendant likewise demands presumed, compensatory, economic, and punitive damages for the harm flowing from any and all such continued circulation of the false and defamatory statements in addition to the harm flowing from the initial livestreams and posts.
41. The abovementioned false and defamatory statements were in no manner privileged.
42. The aforementioned statements, collectively and individually, maliciously, intentionally, recklessly, and falsely, by words, innuendo, and inference, created an atmosphere of public scorn and ridicule against Defendant, and attributed improper conduct to Defendant.

43. The statements and implications outlined above were made with actual malice, and constitute defamation which is actionable *per se* for two separate reasons:

- a. The statements claim Defendant committed perjury, which is a felony offense and thus constitute “words imputing a criminal offense”; and
- b. The statements claim Defendant lied when accusing a man of engaging in illegal sexual activities, which unquestionably constitutes “serious sexual misconduct” by today’s standards, as the current climate surrounding sexual misconduct allegation claims has attached a stigma to false accusers that is no less severe than that of sexual predators.

44. The abovementioned statements have caused special harm to Defendant, as they have irreparably damaged her reputation, and exposed her to hatred, contempt, ridicule, and humiliation.

45. As a direct and proximate cause of the intentional and malicious statements identified above, and when considering the massive audience Plaintiff reaches, Defendant’s reputation and esteem in and well beyond her community have been severely adversely affected.

46. As a result of the aforementioned defamatory statements, Defendant has suffered, and will sustain in the future, a loss of income and earning capacity.

47. As a result of the aforementioned defamatory statements, Defendant has suffered and will continue to suffer grave mental anguish, humiliation, and loss of enjoyment of life.

48. The conduct of Plaintiff in making the above defamatory statements was outrageous and Plaintiff acted in bad faith and/or with reckless indifference towards the truth, for which Defendant claims additional punitive damages.

WHEREFORE, Defendant, Brienna DuBorgel, seeks all damages, including punitive damages, allowed under the Commonwealth of Pennsylvania in an amount in excess of \$50,000,

plus cost of suit, which sum is in excess of the amount requiring compulsory arbitration under the applicable statutes of the Commonwealth of Pennsylvania and Local Rules of Court.

COUNT II
FALSE LIGHT
BRIENNA DUBORGEL v. PHILLIP GODLEWSKI

49. The preceding paragraphs are incorporated herein as if fully set forth below.

50. The aforementioned statements contained distortions, misrepresentations, misstatements of fact, and omissions of fact designed to cast Defendant in a false light.

51. The aforementioned statements, collectively and individually, and without regard to their truth or their falsity, created false impressions by repeatedly, widely, and extensively disseminating information which state or implied falsehoods about Defendant and placed her before the public in a false light that would be considered highly offensive to a reasonable person.

52. As a direct and proximate cause of these intentional, malicious, reckless, and/or negligent statements, Defendant has suffered the aforementioned injuries.

WHEREFORE, Defendant, Brienna DuBorgel, seeks all damages, including punitive damages, allowed under the Commonwealth of Pennsylvania in an amount in excess of \$50,000, plus cost of suit, which sum is in excess of the amount requiring compulsory arbitration under the applicable statutes of the Commonwealth of Pennsylvania and Local Rules of Court.

COUNT III
ASSAULT
BRIENNA DUBORGEL v. PHILLIP GODLEWSKI

53. The preceding paragraphs are incorporated herein as if fully set forth below.

54. Under 42 Pa. C. S. §5533 (2021), "If an individual entitled to bring a civil action arising from sexual abuse is under 18 years of age at the time the cause of action accrues, the

individual shall have a period of 37 years after attaining 18 years of age in which to commence an action for damages regardless of whether the individual files a criminal complaint regarding the sexual abuse.”

55. Beginning at or around the Fall of 2008 through Spring/Summer 2010, Defendant, a fifteen-sixteen-year-old minor during that time period, engaged in sexual intercourse multiple times with Plaintiff, who upon information and belief, was between twenty-five (25) and twenty-six (26) years of age at the time.
56. During the beginning of this relationship between Plaintiff and Defendant, Plaintiff held a position of authority over Defendant, as Plaintiff was a coach at Defendant’s high school.
57. During numerous sexual interactions between Plaintiff and Defendant, Plaintiff intentionally caused offensive and/or harmful bodily contact with Defendant.
58. During numerous sexual interactions between Plaintiff and Defendant, Defendant experienced reasonable apprehension that offensive and/or harmful bodily contact was imminent.
59. As a result of this harmful and/or offensive bodily contact, Defendant suffered injuries including, but not limited to the following:
 - a. Anxiety;
 - b. Depression;
 - c. Stress;
 - d. Embarrassment;
 - e. Humiliation; and
 - f. All other injuries and damages resulting from those injuries listed above.

60. As a result of the aforesaid injuries and natural consequences thereof, Defendant has suffered mental discomfort, inconvenience, anxiety, and limitations on her ability to do normal everyday activities, especially with her ability to engage in healthy sexual relationships, and will continue to suffer into the future.

WHEREFORE, Defendant, Brienna DuBorgel, seeks all damages, including punitive damages, allowed under the Commonwealth of Pennsylvania in an amount in excess of \$50,000, plus cost of suit, which sum is in excess of the amount requiring compulsory arbitration under the applicable statutes of the Commonwealth of Pennsylvania and Local Rules of Court.

COUNT IV
BATTERY
BRIENNA DUBORGEL v. PHILLIP GODLEWSKI

61. The preceding paragraphs are incorporated herein as if fully set forth below.

62. Beginning at or around the Fall of 2008 through Spring/Summer 2010, Defendant, a fifteen-sixteen-year-old minor during that time period, engaged in sexual intercourse multiple times with Plaintiff, who upon information and belief, was between twenty-five (25) and twenty-six (26) years of age at the time.

63. During numerous sexual interactions between Plaintiff and Defendant, Plaintiff intentionally initiated harmful or offensive physical contact with Defendant who was a minor at all relevant times.

64. During none of these sexual interactions did Plaintiff obtain actual consent, as any consent given was given under duress considering Plaintiff held a position of power as a high school baseball coach at Defendant's high school and Plaintiff preyed upon the

minor Defendant who was suffering due to the sudden and untimely death of her boyfriend.

65. As a result of this harmful and/or offensive bodily contact, Defendant suffered injuries including, but not limited to the following:

- a. Anxiety;
- b. Depression;
- c. Stress;
- d. Embarrassment;
- e. Humiliation; and
- f. All other injuries and damages resulting from those injuries listed above.

66. As a result of the aforesaid injuries and natural consequences thereof, Defendant has suffered mental discomfort, inconvenience, anxiety, and limitations on her ability to do normal everyday activities, especially with her ability to engage in healthy sexual relationships, and will continue to suffer into the future.

WHEREFORE, Defendant, Brienna DuBorgel, seeks all damages, including punitive damages, allowed under the Commonwealth of Pennsylvania in an amount in excess of \$50,000, plus cost of suit, which sum is in excess of the amount requiring compulsory arbitration under the applicable statutes of the Commonwealth of Pennsylvania and Local Rules of Court.

COUNT V
INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS
BRIENNA DUBORGEL v. PHILLIP GODLEWSKI

67. The preceding paragraphs are incorporated herein as if fully set forth below.

68. Beginning at or around the Fall of 2008 through Spring/Summer 2010, Defendant, a fifteen-sixteen-year-old minor during that time period, engaged in sexual intercourse multiple times with Plaintiff, who upon information and belief, was between twenty-five (25) and twenty-six (26) years of age at the time.
69. Throughout their sexual relationship, Defendant and Plaintiff communicated through texts, phone calls, and through a downloaded application designed for discreet messaging.
70. In the conversations, Plaintiff mentally abused, manipulated, and extorted Defendant, acting extraordinarily possessive towards the minor despite being engaged and living with another woman.
71. Plaintiff repeatedly attempted to control aspects of Defendant's life, including her dating life, her choices, and her relationships with friends and family, using offers of money and gifts to influence Defendant, including a puppy and a car.
72. Defendant's abusive, manipulative, and extortionary text messages must be read in their entirety to fully understand the depth of the outrageous conduct, but by way of example, include the following texts evidenced in Exhibit A:
- a. "I'm going out tonight. Right now actually. I haven't been drunk in over a year and I need to be because of you." (February 27, 2010)
 - b. "What kind of puppy (do you want?)... I'll make you sign a paper that says it's mine though, so I can hold it hostage when we're fighting <3" (February 28, 2010)
 - c. (In response to Defendant not answering Plaintiff's texts for about an hour) "I don't like that some days you treat me like a piece of annoying garbage. That's either going to change, reallllllll soon, or this is over. Plain and simple. I wanted to talk to you all day and you've done nothing but dismiss me for over an hour now. Like, fuck you. Sorry for loving you and being excited to hear your voice. Fuck you." (March 1, 2010)

- d. "3:00 and no later you bitch. I'll kill you if you're late again." (March 2, 2010)
- e. (After Plaintiff tells Defendant he will buy her a car) "There's going to be rules. The car will be titled to me, not you. If you break the rules I'll pull the car." (March 5, 2010)
- f. "Oh you're with Tom. That's why you aren't talking to me. K... The feeling I have in my stomach when you're with Tom and I'm on the other line trying to talk to you and the pain and awful feeling I'm left with for the rest of the day, is far worse than the thrilling feeling of loving you, being with you, and having sex with you... We need to stop talking Brie... I can't love you knowing you're with someone else who loves you and you shouldn't either. This has to end". (March 6, 2010)
- g. (After an approximately one and a half (1.5) hour conversation where Plaintiff claims he is ending the relationship due to Defendant's choice to have a relationship with another male, claims he will move on from Defendant, and otherwise plays with the emotions of the minor Defendant) "I have no intentions on not talking to you anymore, you retard. I told you I wouldn't. And I meant it. I wanted to see how you reacted to all this... You failed today though. Big time fail. Don't make it seem like you wasn't crying, dumb bitch. I needed to get to the heart of your feelings." (March 6, 2010)
- h. (In response to Defendant telling Plaintiff he makes her life miserable) "By offering to buy you a car, give you money so you don't have to work, keep you clean and off drugs, and fall in love with you? You're right. I'm so terrible." (March 7, 2010)
- i. (Following a fight which started because Plaintiff messaged one of Defendant's friends telling the friend he had a dream about her) "We need a break, period. I can't convey how much I care about because you just do not trust me. Time apart may help (I don't know). Goodbye <3 (I love you)... Fuck you then... Fuck your shopping trip and your car too. I'm not spending a dollar on you until I'm convinced you realize how much I care about you. There's no way I'm buying your love, and right now, I'm the furthest thing from convinced. I temporarily blocked your number from texting me. I need some time to figure this out. I love you Brie <3" (It then appears Plaintiff blocked Defendant's number for approximately ten (10) hours). (March 7, 2010)
- j. "(I don't know) if I can love someone who cares about someone else. I just don't think I can... The difference is, I don't have feelings for (my fiance), but you have feelings for the guy (you're) with... (I don't care anymore). I'm going to limit how much I can care about you from now on." (March 12, 2010)
- k. (Following Defendant saying she wants to tell Plaintiff's fiancé the full extent of their relationship) "And if I got to jail? Your boy comes with me. I've got texts to

show you've admitted to sexual relationship with Tom Nezlo, So go blow your whistle. I'll be ready... The texts were forwarded to my email address and time stamped. I'll print them and mail them to your moms, k?" (March 12, 2010)

73. Although the actions of Plaintiff in sexually, mentally, and emotionally abusing a fifteen-sixteen-year-old constitute extreme and outrageous conduct in and of themselves, Plaintiff's depraved conduct continued when he threatened to commit suicide if Defendant chose to testify against him at his 2010 criminal trial.
74. A threat of suicide by someone a child cares about would cause mental anguish in any child, however, this threat hit Defendant particularly hard, since her previous boyfriend committed suicide a few years earlier.
75. Plaintiff intentionally and/or recklessly used this threat, as he knew it would elicit an extreme emotional response out of Defendant in hopes that it would persuade her against testifying.
76. All of the above stated conduct was done intentionally and/or with reckless disregard for the mental well-being of Defendant.
77. The above stated instances of Plaintiff's conduct, individually and collectively, represent extreme and outrageous conduct, especially when considering his actions were directed at a fifteen/sixteen (15/16) year old girl.
78. As a direct result of Plaintiff's conduct, Defendant suffered severe and permanent emotional distress.
79. As a direct result of Plaintiff's conduct, Defendant suffered the following injuries:
- a. Anxiety;
 - b. Depression;
 - c. Stress;

- d. Embarrassment;
- e. Humiliation; and
- f. All other injuries and damages resulting from those injuries listed above.

80. As a result of the aforesaid injuries and natural consequences thereof, Defendant has suffered severe emotional distress, mental discomfort, inconvenience, anxiety, and limitations on her ability to do normal everyday activities, especially with her ability to engage in healthy sexual relationships and will continue to suffer into the future.

WHEREFORE, Defendant, Brienna DuBorgel, seeks all damages, including punitive damages, allowed under the Commonwealth of Pennsylvania in an amount in excess of \$50,000, plus cost of suit, which sum is in excess of the amount requiring compulsory arbitration under the applicable statutes of the Commonwealth of Pennsylvania and Local Rules of Court.

COUNT VI
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
BRIENNA DUBORGEL v. PHILLIP GODLEWSKI

81. The preceding paragraphs are incorporated herein as if fully set forth below.
82. At the beginning of the relationship between Plaintiff and Defendant, Plaintiff was a baseball coach at Defendant's high school and twenty-five-twenty-six years old.
83. Plaintiff's position as a coach at Defendant's high school constitutes a "Special Relationship" for purposes of this claim.
84. Further, by Plaintiff's own admission in his Rumble/DLive/Locals livestreams, Plaintiff took on somewhat of a role of a grief counselor in his capacity as a coach at Defendant's high school, further clarifying that a "special relationship" existed between Defendant and Plaintiff.

85. If this Court finds that Plaintiff's infliction of emotional distress on Defendant was not intentional, Defendant pleads that such infliction of emotional distress was at least negligent, and arising from the special relationship between Plaintiff and Defendant.

WHEREFORE, Defendant, Brienna DuBorgel, seeks all damages, including punitive damages, allowed under the Commonwealth of Pennsylvania in an amount in excess of \$50,000, plus cost of suit, which sum is in excess of the amount requiring compulsory arbitration under the applicable statutes of the Commonwealth of Pennsylvania and Local Rules of Court.

Respectfully submitted,

FELLERMAN & CIARIMBOLI LAW, PC



By: _____
EDWARD J. CIARIMBOLI, ESQUIRE
MOLLY DEMPSEY CLARK, ESQUIRE
Counsel for Defendant

Date: May 2, 2023

VERIFICATION

I, Brianna DuBorgel, hereby certify that the facts contained in the foregoing Answer and Counter Claim are true and correct to the best of my knowledge, information and belief. I make this statement subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

DATE: 5/1/2023

Not Signed by

Not a Notary
CLIENT _____

EXHIBIT “E”

PHILIP GODLEWSKI,
Plaintiff

v.

BRIENNA DuBORGEL
Defendant

In the Court of Common Pleas
of Lackawanna County
Civil Action - Law

No. 2023-CV-1354

RECORDED & INDEXED
2025 APR 17 P 2:42
NAUMI B. KELLY
LACKAWANNA COUNTY

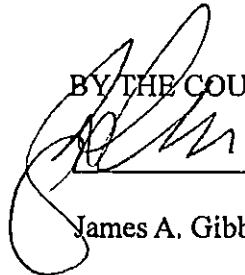
ORDER

de
NOW, this 17 day of April, 2025, upon consideration of the parties' Motions for

Partial Summary Judgment, it is hereby **ORDERED** that:

1. Godlewski's Motion for Partial Summary Judgment is **GRANTED** and judgment is hereby entered in favor of Plaintiff on Defendant's counterclaim for intentional infliction of emotional distress;
2. Godlewski's Motion for Partial Summary Judgment is otherwise **DENIED** in all other respects;
3. DuBorgel's Motion for Partial Summary Judgment is **GRANTED** in favor of Defendant and against Plaintiff on Plaintiff's claims for defamation and invasion of privacy false light;
4. DuBorgel's Motion for Partial Summary Judgment is **GRANTED** in favor of Defendant and against Plaintiff on Defendant's counterclaims for assault and battery; and
5. DuBorgel's Motion for Partial Summary Judgment is otherwise **DENIED** in all other respects.

BY THE COURT:


James A. Gibbons

cc: *Written notice of the entry of the foregoing Order has been provided to each party pursuant to Pa. R. Civ. P. 236(a)(2) by mailing time-stamped copies to:*

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