

Timothy M. Kolman, Esquire
KOLMAN LAW P.C.
414 Hulmeville Avenue,
Pennel, Pa 19047
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS FOR LACKAWANNA COUNTY
PENNSYLVANIA

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

LARRY HOLEVA
149 Penn Avenue,

No: 2021-CV-2195

Scranton,
PA 18503.

Defendants

:
:
:
:

MAURI B. KELLY
LACKAWANNA COUNTY
2022 MAY 25 P 2:26
CLERK OF JUDICIAL
RECORDS CIVIL DIVISION

**MOTION FOR SANCTIONS AGAINST DEFENDANTS FOR VIOLATION OF
42 PA.C.S. § 2503(7), (9)**

Plaintiff, Philip Godlewski ("Plaintiff or Mr. Godlewski"), by and through his attorneys, hereby files this Motion for Sanctions against Defendants for violation of 42 PA.C.S. § 2503(7), (9) and avers as follows.

1. Pursuant to this case, and to obtain additional discovery in the above-captioned matter, on March 29, 2022, Defendants filed a 'Motion to Obtain Access to Sealed Court Records. This Motion is hereto attached and incorporated as Exhibit 1.
2. On the same date, the Defendants also filed a brief In Support of Their Motion to Obtain Access to Sealed Records. This document is hereto incorporated and attached as Exhibit 2.
3. Defendants cast themselves as intervenors in the matter of Commonwealth of Pennsylvania v. Philip Godlewski, civil action-law number 2010-CR-2613.
4. Defendants represented to the Court that the case had been sealed because, at the time, it concerned a minor.
5. A Rule to Show Cause as to why the record should not be unsealed was issued by the Lackawanna Court of Common Pleas pursuant to Commonwealth of Pennsylvania v. Philip Godlewski. The Rule to Show Cause is hereto attached and incorporated as Exhibit 3.

6. Plaintiff responded, pursuant to the Rule to Show cause, opposing the unsealing of the criminal case.
7. Plaintiff filed a Motion and Brief in Opposition to Unsealing the Records. These documents are hereto collectively attached as Exhibit 4.
8. A hearing was held, by Zoom, on May 11, 2022, on whether the records in Commonwealth of Pennsylvania v. Philip Godlewski should be unsealed.
9. Once the hearing began, Timothy Hinton Esquire, attorney for the Defendants, stated that the records in Commonwealth of Pennsylvania v. Philip Godlewski had never, in fact, been sealed, and there was no order to that effect.
10. , Defendants' motion should never have been filed.
11. The Court agreed that there was no order sealing the records of Commonwealth of Pennsylvania v. Philip Godlewski.
12. Defendants could have and should have discovered, with a minimum of due diligence, that the records of Commonwealth of Pennsylvania v. Philip Godlewski were unsealed, and no motion to unseal them was necessary.
13. Defendants' filing to unseal records, which had never been sealed, was in bad faith.
14. The Defendants' conduct was dilatory, as that term is defined by 42 PA.C.S. § 2503(7).
15. Conduct is "dilatory," where the record demonstrates that counsel displayed a lack of diligence that delayed proceedings unnecessarily and caused additional legal work. *See Gertz v. Temple Univ.*, 443 Pa.Super. 177, 661 A.2d 13, 17 n. 2 (1995).

EXHIBIT 1

COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff	:	
	:	
vs.	:	CIVIL ACTION - LAW
	:	
PHILIP GODLEWSKI	:	NO. 2010-CR-2613
	:	
Defendant	:	

.....
MOTION TO INTERVENE AND OBTAIN ACCESS TO SEALED COURT RECORDS

Now comes the Movants, The Scranton Times, L.P., owner of the Times-Tribune newspaper, Larry Holeva and Chris Kelly, by and through their attorneys, Haggerty, Hinton & Cosgrove, LLP, and file this Motion to Intervene and Obtain Access to Sealed Court Records avering as follows:

1. The Criminal Division Clerk of Courts office has advised counsel for Movants that the court file for this case is not subject to public inspection and/or copying.
2. The docket for this case is attached hereto and marked as Exhibit "A" and it contains no reference to any motion to seal the record or an order sealing the record.
3. The above-captioned case concerned criminal charges filed against Philip Godlewski for statutory sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, unlawful contact with a minor, intimidation of witnesses or victims, criminal use of a communication facility, corruption of a minor, and indecent assault involving a minor female in or before 2010.
4. Pennsylvania law provides protection of minor victims of sexual or physical abuse negating the need to seal an entire criminal court case file.
5. 42 Pa. C.S.A. §5988 states: "in a prosecution involving a minor victim of sexual or physical abuse, the name of the minor victim shall not be disclosed by officers or employees of the court to the public, and any records revealing the name of the minor victim shall not be open to public inspection."
6. 42 Pa. C.S.A. §5981 further provides: "In order to promote the best interests of the residents of this Commonwealth who are under 18 years of age, especially those who are material witnesses to or victims of crimes, the General Assembly declares its intent, in this subchapter, to provide , where necessity is shown, procedures which will protect them during their involvement with the criminal justice system. The General Assembly urges the news media to

use significant restraint and caution in revealing the identity or address of children who are victims of or witnesses to crimes or other information that would reveal the name or address of the child victim or witness.”

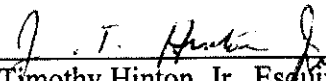
7. The Movants know the name of the minor victim and they have never identified her in the newspaper in connection with Philip Godlewski’s criminal case pursuant to its policies.
8. Philip Godlewski pled guilty to corrupting the morals of the minor.
9. The victim in that case is now approximately 27 years old.
10. The Court’s case file should be accessible to the public except that the name of the minor victim should be shielded from disclosure.
11. Philip Godlewski has now filed a defamation lawsuit (Case No. 2021-cv-2195 in the Court of Common Pleas of Lackawanna County) against Movants claiming he never had a sexual relationship with the minor victim. The Court’s file in Case No. 2010-CR-2613 could lead to the discovery of admissible evidence in Philip Godlewski’s pending defamation case.
12. Third parties such as Movants had no opportunity to object to the sealing of the Court’s file, and since the entire record is sealed, the Movants have no knowledge of the particular reasons why the entire record was sealed, or whether said reasons were determined by the Court to outweigh the public’s presumed right of access to the judicial records.
13. Movants are agreeable to having the minor’s name redacted as per Pennsylvania law in any records released by the Court and Movants agree not to publish the victim’s name in the news media without her consent.
14. Newspapers have standing to challenge protective orders and confidentiality orders in an effort to obtain access to information or judicial proceedings. *Pansy vs. Borough of Stroudsburg, et al.*, 23F.3d 772, at 777 (3rd Cir. 1994).
15. Pennsylvania courts have long recognized the importance of allowing public access to judicial records based upon the First Amendment to the United States Constitution, the common law Right to Access Doctrine, and the Pennsylvania Right to Know Law.
16. Movants’ First Amendment rights and their common law right of access to public judicial records have been denied by the sealing of the entire record in Case No. 2010-CR-2613.
17. Once a document is filed with a court, the public presumptively gains a right of access to it. *Doe v. William Shapiro, Esquire, P.C.*, 852 F. Supp. 1256, 1257 (E.D. Pa. 1994).

18. The party seeking to seal any part of a judicial record bears the heavy burden of showing that the material is the kind of information that courts will protect and that disclosure will work "a clearly defined and serious injury" to the party seeking closure; and a party who seeks to seal an *entire* record faces an even heavier burden. Miller vs. Indiana Hospital, 16 F.3d 549, 551 (3rd Cir. 1994).
19. The burden is on the party who seeks to overcome the presumption of access to show that the interest in secrecy outweighs the presumption of access to judicial records. Bank of America Nat. Tr. v. Hotel Rittenhouse, 800 F.2d 339 (3d Cir. 1986), *Supra* at 344.
20. The common law of Pennsylvania and the Pennsylvania Constitution support the principle that there is a presumption that all court proceedings are open to the public. This presumption extends to not only criminal and civil proceedings but also to juvenile dependency proceedings. *See id* (applied in juvenile dependency proceedings); *see also*, Storms v. O'Malley, 2001 PA Super 184, 779 A.2d 548, 569 (Pa. Super. 2001), appeal denied, 570 Pa. 688, 808 A.2d 573 (2002) (applied in civil action); and Commonwealth v. Contakos, 499 Pa. 340, 453 A.2d 578 (1983) (plurality) (criminal case application).
21. There are two methods for analyzing requests for closure of judicial proceedings, each of which begins with a presumption of openness—a constitutional analysis and a common law analysis. *See R.W. v. Hampe*, 426 Pa Super, 305, 626 A.2d 1218 at 1220 n.3 (1993); Storms, 779 A.3d at 569. Under the constitutional approach, which is based on the *First Amendment of the United States Constitution* and Article I, Section 11 of the Pennsylvania Constitution, the party seeking closure may rebut the presumption of openness by showing that closure serves an important governmental interest and there is no less restrictive way to serve that interest. Under the common law approach, the party seeking closure must show that his or her interest in secrecy outweighs the presumption of openness. *See R.W.*, 426 Pa. Super. 305, 626 A.2d 1218 at 1220 n.3; Katz v. Katz, 514 A.2d at 1377, 356 Pa. Super. 461 (1986).
22. The Superior Court has stated generally that the public may be 'excluded, temporarily or permanently, from court proceedings or the records of court proceedings to protect private as well as public interests: to protect trade secrets, or the privacy and reputations [of innocent parties], as well as to guard against risks to national security interests and to minimize the danger of an unfair trial by adverse publicity.' 'These are not necessarily the only situations where public access . . . can properly be denied. A bright line test has yet to be formulated. Meanwhile, the decision as to public access must rest in the sound discretion of the trial court.' Katz, 514 A.2d at 1377-78 (citations omitted).

WHEREFORE, the Movants, The Scranton Times, L.P., Larry Holeva and Chris Kelly respectfully request that the Court unseal the entire record in this case subject to shielding the victim's name.

Respectfully submitted,


HAGGERTY HINTON & COSGROVE LLP



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Atty. I.D. No.: 61981
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Dunmore, PA 18509
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Fax: (570) 343-9731
timhinton@haggertylaw.net
Attorney for Movants, The Scranton Times, L.P.,
Larry Holeva and Chris Kelly

VERIFICATION

I, Joseph Butkiewicz, Managing Editor of the Times-Tribune, verify that the facts made in this Motion are true and correct to the best of my knowledge. I understand that any false statements of fact made in this Motion are subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

By: 
Joseph Butkiewicz

Date: MMCLXXII 2022

~~MAURIE B. KELLY
LACKAWANNA COUNTY
2022 MAY 25 P 2:28
CLERK OF JUDICIAL
RECORDS CIVIL DIVISION~~

CERTIFICATE OF COMPLIANCE

I hereby certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

/s/J. Timothy Hinton, Jr., Esq.
J. TIMOTHY HINTON, ESQ.
PA I.D. 61981

COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff	:	
	:	
vs.	:	CIVIL ACTION - LAW
	:	
PHILIP GODLEWSKI	:	NO. 2010-CR-2613
	:	
Defendant	:	

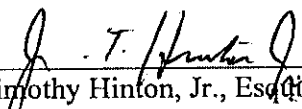
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CERTIFICATE OF SERVICE

And now, this 21st day of March 2022, J. Timothy Hinton, Jr., Esq., of Haggerty Hinton & Cosgrove, LLP, served the foregoing Motion to Obtain Access to Sealed Court Records via email upon the following:

Timothy M. Kolman, Esq.
TKolman@kolmanlaw.com
Attorney for Plaintiff in Case No. 2021-CV-2195

Joseph D'Andrea, Esq.
joe@joedeandrea.com

Mark Powell
 District Attorney of Lackawanna County
LackawannaDA@lackawannacounty.org



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timhinton@haggertylaw.net
 Attorney for Movants, The Scranton Times, L.P.,
 Larry Holeva and Chris Kelly

COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

DOCKET



Docket Number: CP-35-CR-0002613-2010

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

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v.

Philip Godlewski

CASE INFORMATION

<u>Judge Assigned:</u>	<u>Date Filed:</u> 09/28/2010	<u>Initiation Date:</u> 07/10/2010
<u>OTN:</u> L 570598-0	<u>LOTN:</u> L 570598-0	<u>Originating Docket No:</u> MJ-45101-CR-0000134-2010
<u>Initial Issuing Authority:</u> Laura Turlip	<u>Final Issuing Authority:</u> Laura Turlip	
<u>Arresting Agency:</u> Lackawanna County Detective	<u>Arresting Officer:</u> Affiant	
<u>Complaint/Citation No.:</u>	<u>Incident Number:</u> 108397	
<u>Case Local Number Type(s)</u>	<u>Case Local Number(s)</u>	

STATUS INFORMATION

<u>Case Status:</u> Closed	<u>Status Date:</u>	<u>Processing Status:</u>	<u>Arrest Date:</u> 07/10/2010
	07/11/2011	Sentenced/Penalty Imposed	
	03/16/2011	Awaiting Sentencing	
	03/16/2011	Awaiting PSI	
	03/02/2011	Awaiting Trial - GP Withdrawn	
	11/12/2010	Awaiting Sentencing	
	11/08/2010	Awaiting Formal Arraignment	
	11/05/2010	Awaiting Pre-Trial Conference	
	10/26/2010	Awaiting Trial Scheduling	
	09/28/2010	Awaiting Filing of Information	

Complaint Date: 07/07/2010

CALENDAR EVENTS

<u>Case Calendar</u>	<u>Schedule</u>	<u>Start</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>	<u>Time</u>			<u>Status</u>
Arraignment	11/12/2010	9:00 am			Scheduled
Sentencing	04/06/2011	1:30 pm		Judge Vito P. Geroulo	Scheduled

CONFINEMENT INFORMATION

<u>Confinement</u>	<u>Confinement</u>	<u>Destination</u>	<u>Confinement</u>	<u>Still in</u>
<u>Known As Of</u>	<u>Type</u>	<u>Location</u>	<u>Reason</u>	<u>Custody</u>
06/22/2021	County Correctional Facility	Lackawanna County Prison		Yes

DEFENDANT INFORMATION

Date Of Birth: 06/26/1983 City/State/Zip: Scranton, PA 18508

Alias Name

Godlewski, Philip John
Godlewski, Phillip J.

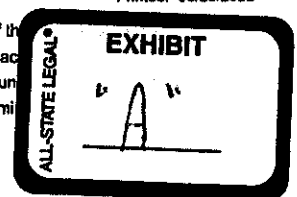
CASE PARTICIPANTS

<u>Participant Type</u>	<u>Name</u>
Defendant	Godlewski, Philip

CPCMS 9082

Printed: 03/28/2022

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COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

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BAIL INFORMATION

Godlewski, Phillip

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
Set	07/10/2010	Monetary		\$250,000.00		

CHARGES

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Dt.</u>	<u>OTN</u>
1	7	M1	18 § 6301 §§ A1	Corruption Of Minors	01/01/2008	L 570598-0
2	2	F1	18 § 3123 §§ A7	IDSJ Person Less Than 16 Yrs Age	01/01/2008	L 570598-0
3	3	F2	18 § 3125 §§ A8	Agg. Ind. Assault - Comp. Less Than 16	01/01/2008	L 570598-0
4	4		18 § 6318 §§ A1	Unlawful Contact With Minor - Sexual Offenses	01/01/2008	L 570598-0
5	5		18 § 4952 §§ A2	Intim Witness/Victim False/Misleading Testimony	01/01/2008	L 570598-0
6	6	F3	18 § 7512 §§ A	Criminal Use Of Communication Facility	01/01/2008	L 570598-0
7	1	F2	18 § 3122.1	Statutory Sexual Assault	01/01/2008	L 570598-0
8	8	M2	18 § 3126 §§ A8	Ind Asslt Person Less 16 Yrs Age	01/01/2008	L 570598-0

DISPOSITION SENTENCING/PENALTIES

Disposition

<u>Case Event</u>	<u>Disposition Date</u>	<u>Final Disposition</u>	
<u>Sequence/Description</u>	<u>Offense Disposition</u>	<u>Grade</u>	<u>Section</u>
<u>Sentencing Judge</u>	<u>Sentence Date</u>	<u>Credit For Time Served</u>	
<u>Sentence/Diversion Program Type</u>	<u>Incarceration/Diversionary Period</u>	<u>Start Date</u>	
<u>Sentence Conditions</u>			
Lower Court Proceeding (generic)			
Lower Court Disposition	09/27/2010	Not Final	
1 / Corruption Of Minors	Waived for Court (Lower Court)	M1	18 § 6301 §§ A1
2 / IDSJ Person Less Than 16 Yrs Age	Waived for Court (Lower Court)	F1	18 § 3123 §§ A7
3 / Agg. Ind. Assault - Comp. Less Than 16	Waived for Court (Lower Court)	F2	18 § 3125 §§ A8
4 / Unlawful Contact With Minor - Sexual Offenses	Waived for Court (Lower Court)		18 § 6318 §§ A1
5 / Intim Witness/Victim False/Misleading Testimony	Waived for Court (Lower Court)		18 § 4952 §§ A2
6 / Criminal Use Of Communication Facility	Waived for Court (Lower Court)	F3	18 § 7512 §§ A
7 / Statutory Sexual Assault	Waived for Court (Lower Court)	F2	18 § 3122.1
8 / Ind Asslt Person Less 16 Yrs Age	Waived for Court (Lower Court)	M2	18 § 3126 §§ A8
Guilty Plea			
Pre-Trial Conference	11/12/2010	Not Final	
1 / Corruption Of Minors	Guilty Plea	M1	18 § 6301 §§ A1
Geroulo, Vito P.	07/11/2011		

CPCMS 9082

Printed: 03/28/2022

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COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

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DISPOSITION SENTENCING/PENALTIES

Disposition

Case Event

Sequence/Description

Sentencing Judge

Sentence/Diversion Program Type

Sentence Conditions

Disposition Date

Offense Disposition

Sentence Date

Incarceration/Diversionary Period

Final Disposition

Grade

Section

Credit For Time Served

Start Date

Confinement

Min of 3.00 Months
Max of 23.00 Months
Other

To refrain from contact with crime victims.

To participate in drug or alcohol screening and treatment programs, including outpatient and inpatient programs.

2 / IDSI Person Less Than 16 Yrs Age Geroulo, Vito P.	Nolle Prossed 07/11/2011	F1	18 § 3123 §§ A7
3 / Agg. Ind. Assault - Comp. Less Than 16 Geroulo, Vito P.	Nolle Prossed 07/11/2011	F2	18 § 3125 §§ A8
4 / Unlawful Contact With Minor - Sexual Offenses Geroulo, Vito P.	Nolle Prossed 07/11/2011		18 § 6318 §§ A1
5 / Intim Witness/Victim False/Misleading Testimony Geroulo, Vito P.	Nolle Prossed 07/11/2011		18 § 4952 §§ A2
6 / Criminal Use Of Communication Facility Geroulo, Vito P.	Nolle Prossed 07/11/2011	F3	18 § 7512 §§ A
7 / Statutory Sexual Assault Geroulo, Vito P.	Nolle Prossed 07/11/2011	F2	18 § 3122.1
8 / Ind Asslt Person Less 16 Yrs Age Geroulo, Vito P.	Nolle Prossed 07/11/2011	M2	18 § 3126 §§ A8

Proceed to Court (GP Withdrawn)

Withdrawal of Guilty Plea	03/02/2011	Not Final	
1 / Corruption Of Minors	Proceed to Court (GP Withdrawn)	M1	18 § 6301 §§ A1
2 / IDSI Person Less Than 16 Yrs Age	Proceed to Court	F1	18 § 3123 §§ A7
3 / Agg. Ind. Assault - Comp. Less Than 16	Proceed to Court	F2	18 § 3125 §§ A8
4 / Unlawful Contact With Minor - Sexual Offenses	Proceed to Court		18 § 6318 §§ A1
5 / Intim Witness/Victim False/Misleading Testimony	Proceed to Court		18 § 4952 §§ A2
6 / Criminal Use Of Communication Facility	Proceed to Court	F3	18 § 7512 §§ A
7 / Statutory Sexual Assault	Proceed to Court	F2	18 § 3122.1
8 / Ind Asslt Person Less 16 Yrs Age	Proceed to Court	M2	18 § 3126 §§ A8

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COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

DOCKET



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CRIMINAL DOCKET

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v.

Philip Godlewski

COMMONWEALTH INFORMATION	ATTORNEY INFORMATION
Name: Patricia Ann Lafferty District Attorney	Name: Joseph R. D'Andrea Private
Supreme Court No: 091456	Supreme Court No: 043105
Phone Number(s): 570-963-6717 (Phone)	Rep. Status: Active
Address: Lackawanna County DA Office 200 N Washington Ave Scranton, PA 18503	Phone Number(s): 570-207-7100 (Phone)
	Address: 320 N Blakely St Dunmore, PA 18512-1906
	Representing: Godlewski, Philip

ENTRIES			
Sequence Number	CP Filed Date	Document Date	Filed By
1	07/10/2010		Turlip, Laura
Bail Set - Godlewski, Philip			
1	09/28/2010		Court of Common Pleas - Lackawanna County
Original Papers Received from Lower Court			
1	10/26/2010		Commonwealth of Pennsylvania
Pre-Trial Conference Notice			
1	11/05/2010		Mazzoni, Robert A.
Waiver of Arraignment Filed			
1	11/08/2010		Commonwealth of Pennsylvania
Information Filed			
1	11/12/2010		Geroulo, Vito P.
Guilty Plea			
2	11/12/2010		Geroulo, Vito P.
Disposition Filed			
1	02/04/2011		D'Andrea, Joseph R.
Motion to Withdraw Plea of Guilty			
1	02/24/2011		D'Andrea, Joseph R.
Waiver of Speedy Trial Rule			

CPCMS 9082

Printed: 03/28/2022

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COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

DOCKET



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CRIMINAL DOCKET

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v.

Philip Godlewski

ENTRIES

Sequence Number	CP Filed Date	Document Date	Filed By
2	03/02/2011		Geroulo, Vito P.
Order Granting Motion to Withdraw Guilty Plea			
3	03/02/2011		Geroulo, Vito P.
Ordered Def Motion to Withdraw Plea of Nolle Contendre is GRANTED			
1	07/11/2011		Geroulo, Vito P.
Order - Sentence/Penalty Imposed			
1	07/13/2011		Court of Common Pleas - Lackawanna County
Penalty Assessed			
2	07/13/2011		Rinaldi, Mary F.
Entry of Civil Judgment			
3	07/13/2011		Lackawanna County Probation Department
Guideline Sentence Form			
1	07/14/2011		Court of Common Pleas - Lackawanna County
Payment Plan Introduction Letter			
1	07/26/2011		Geroulo, Vito P.
Ordered Defendant Participate in Lackawanna County House Arrest Program			
1	10/31/2011		Geroulo, Vito P.
Release of Prisoner			
1	06/10/2013		Court of Common Pleas - Lackawanna County
Penalty Satisfied			
1	08/13/2013		Geroulo, Vito P.
PROBATION TERMINATED			
1	01/14/2016		Kelly, Mauri B.
Praecepto to Satisfy Judgment			

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COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

DOCKET



Docket Number: CP-35-CR-0002613-2010

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Commonwealth of Pennsylvania

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v.

Philip Godlewski

CASE FINANCIAL INFORMATION

Last Payment Date: 06/10/2013

Total of Last Payment: -\$268.50

Godlewski, Phillip Defendant	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	<u>Non Monetary Payments</u>	<u>Total</u>
Costs/Fees					
State Court Costs (Act 204 of 1976)	\$10.75	(\$10.75)	\$0.00	\$0.00	\$0.00
Commonwealth Cost - HB627 (Act 167 of 1992)	\$9.25	(\$9.25)	\$0.00	\$0.00	\$0.00
County Court Cost (Act 204 of 1976)	\$30.00	(\$30.00)	\$0.00	\$0.00	\$0.00
Crime Victims Compensation (Act 96 of 1984)	\$35.00	(\$35.00)	\$0.00	\$0.00	\$0.00
Domestic Violence Compensation (Act 44 of 1988)	\$10.00	(\$10.00)	\$0.00	\$0.00	\$0.00
Victim Witness Service (Act 111 of 1998)	\$25.00	(\$25.00)	\$0.00	\$0.00	\$0.00
Firearm Education and Training Fund	\$5.00	(\$5.00)	\$0.00	\$0.00	\$0.00
Automation Fee (Lackawanna)	\$5.00	(\$5.00)	\$0.00	\$0.00	\$0.00
Costs of Prosecution - CJEA	\$50.00	(\$50.00)	\$0.00	\$0.00	\$0.00
Booking Center Fee (Lackawanna)	\$300.00	(\$300.00)	\$0.00	\$0.00	\$0.00
Judicial Computer Project	\$8.00	(\$8.00)	\$0.00	\$0.00	\$0.00
ATJ	\$3.00	(\$3.00)	\$0.00	\$0.00	\$0.00
CJES	\$2.25	(\$2.25)	\$0.00	\$0.00	\$0.00
JCPS	\$10.25	(\$10.25)	\$0.00	\$0.00	\$0.00
County Costs (Lackawanna)	\$15.00	(\$15.00)	\$0.00	\$0.00	\$0.00
Plea F/M (Lackawanna)	\$120.00	(\$120.00)	\$0.00	\$0.00	\$0.00
OSP (Lackawanna/State) (Act 35 of 1991)	\$650.00	(\$650.00)	\$0.00	\$0.00	\$0.00
OSP (Lackawanna/State) (Act 35 of 1991)	\$650.00	(\$650.00)	\$0.00	\$0.00	\$0.00
Adult Probation Drug Test Fund (Lackawanna)	\$30.00	(\$30.00)	\$0.00	\$0.00	\$0.00
Costs/Fees Totals:	\$1,968.50	(\$1,968.50)	\$0.00	\$0.00	\$0.00
Grand Totals:	\$1,968.50	(\$1,968.50)	\$0.00	\$0.00	\$0.00

** - Indicates assessment is subrogated

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the courts of the Unified Judicial System of the Commonwealth of Pennsylvania nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these reports. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

EXHIBIT 2

COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY
Plaintiff	:	
	:	
vs.	:	CIVIL ACTION - LAW
	:	
PHILIP GODLEWSKI	:	NO. 2010-CR-2613
	:	
Defendant	:	

.....
BRIEF IN SUPPORT OF MOTION TO OBTAIN ACCESS TO SEALED COURT
RECORDS

Now comes the Movants, The Scranton Times, L.P., owner of the Times-Tribune newspaper, Larry Holeva and Chris Kelly, by and through their attorneys, Haggerty, Hinton & Cosgrove, LLP, and files this Brief in Support of the Motion to Obtain Access to Sealed Court Records.

I. Background

The Court's file of this criminal case is not subject to disclosure according to the Clerk of Courts' office, Criminal Division. The above-captioned case concerned criminal charges filed against Philip Godlewski for statutory sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, unlawful contact with a minor, intimidation of witnesses or victims, criminal use of a communication facility, corruption of a minor, and indecent assault involving a minor female in 2008. The Movants already know the name of the minor victim and they have never identified her in the newspaper in connection with Philip Godlewski's criminal case pursuant to its policies. Philip Godlewski pled guilty to corrupting the morals of the minor. The victim in that case is now approximately 27 years old. Philip Godlewski has now filed a defamation lawsuit (Case No. 2021-cv-2195 in the Court of Common Pleas of Lackawanna County) against Movants claiming he never had a sexual relationship with the minor victim.

The Court's file in Case No. 2010-CR-2613 could lead to the discovery of admissible evidence in Philip Godlewski's pending defamation case. Third parties such as Movants had no opportunity to object to the sealing of the Court's file, and the Movants have no knowledge of the particular reasons why the entire record was sealed, or whether said reasons to outweigh the public's presumed right of access to the judicial records.

II. Issue

Whether the *entire* judicial record in this case should be sealed based on the requisite good cause which outweighs the public's longstanding presumption in favor of public access to the records of the public judicial system?

Suggested Answer: No.

III. Argument

The standard to review a request to seal a judicial record has been fully explained by Lackawanna County Court of Common Pleas Judge Terrence R. Nealon in his Memorandum and Order dated May 8, 2020 in the matter of: Moses Taylor Foundation, on behalf of Moses Taylor Hospital v. Coverys and Proselect Insurance Company, No. 20-CV-1353, in pertinent part as follows:

A request to seal "judicial records is a matter committed to the discretion of the common pleas court." In re Estate of duPont, 606 Pa. 567, 576, 2 A.3d 516, 521 (2010). As the party seeking to seal the record, (said party) bears the burden of establishing that closure is appropriate under the circumstances. Storms ex rel. v. O'Malley, 779 A.2d 548, 568 (Pa. Super. 2001), *app. denied*, 569 Pa. 722, 806 A.2d 862 (2002); Korzakowski v. Hwan, 68 Pa. D. & C. 4th 129, 132-133 (Lacka. Co. 2004). The sealing of a judicial record "is not a *proforma* matter that is automatically performed upon the agreement of the parties, but rather, is permitted only upon analysis and approval by the court." Storms, *supra*, at n.12; Hughes v. Wilkes-Barre Hospital Company, 2018 WL 3795513, at *3 (Lacka. Co. 2018). ...

The right to open judicial proceedings includes "a general right to

inspect and copy public records and documents, including judicial records and documents.” Com.v. Fenstermaker, 515 Pa. 501, 508, 530 A.2d 414,418 (1987) (quoting Nixon v. Warner Communications, Inc., 535 U.S. 589, 597 (1978)). ...

“The existence of a common law right of access to judicial proceedings and inspection of judicial records is beyond dispute.” R. W. v. Hampe, 426 Pa. Super. 305, 310, 626 A.2d 1218, 1220 (1993). “This right preceded the constitution and has been justified on the grounds of both the public’s right to know and the public’s right to open courts.” Com. v. Curley, 189 A.3d 467, 472 (Pa. Super. 2018). “The threshold question in any case involving the common law right of access is ‘whether the documents sought to be disclosed constitute public judicial documents.’” In re 2014 Allegheny County Investigating Grand Jury, 223 A.3d 214, 229 (Pa. 2019) (quoting Com. v. Upshur, 592 Pa. 273, 282, 924 A.2d 642, 647-648 (2007)). “Documents that are filed with the court and, in particular, those that are used by the judge in rendering a decision are clearly considered public judicial documents.” Long, 592 Pa. at 52, 922 A.2d at 898; Curley, 189 A.3d at 473. ...

To justify sealing a judicial record under the common law approach, the party seeking to seal the record must overcome the common law presumption of openness. In re J.B., 39 A.3d 421, 434 (Pa. Super. 2012); R. W., *supra*. The common law standard requires the party requesting closure to establish that the interest in secrecy outweighs the presumption of openness. Milton Hershey School, *supra* at *7; McKown, 79 A.3d at 696; In re M. B., 819 A.2d at 62 n.2. “In deciding whether to grant the motion of the party who seeks to seal records or proceedings under the common law approach, the court engages in a balancing test, weighing on the one hand the factors in favor of access, and, on the other, those against it.” Storms, 779 A.2d at 569; Vaccaro v. Scranton Quincy Hospital Co., 2016 WL 6836985, at *8 (Lacka. Co. 2016). ...

Pennsylvania courts have inherent power to control access to their records and to “deny access when appropriate - - for example, to protect the privacy rights of individuals,” but “‘general concerns for harassment or invasion of privacy’ are not sufficient to support closure.” Milton Hershey School, *supra*, at *5 (quoting Long, 595 Pa. at 64, 922 A.2d at 906 and In re M.B., 819 A.2d at 62). For a party “to show that disclosure would work a serious injury under the common law right to access standard, ‘specificity is essential,’ and ‘broad

allegations of harm, bereft of specific examples or articulated reasoning, are insufficient.” Professional, Inc. v. Progressive Casualty Insurance Company, 2020 WL 502626, at *3 (W.D. Pa. 2020) (quoting In re Avandia Marketing, Sales Practices and Products Liability Litigation, 924 F.3d 662, 673 (3d Cir. 2019)). ...

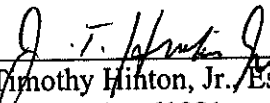
Moses Taylor Foundation, supra.

IV. Conclusion

Therefore, given the strong presumption in favor of the public’s right of access to judicial records, the Movants, The Scranton Times, L.P., owner of the Times-Tribune newspaper, Larry Holeva and Chris Kelly, respectfully request the Court unseal the entire record in this case. The Movants have no objection to the victim’s name being redacted and replaced with initials. Certainly, the Court does not want to seal all records concerning criminal cases where the victim is a minor. There are other lesser means to protect the privacy of victims.

Respectfully submitted,

HAGGERTY HINTON & COSGROVE LLP



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Dunmore, PA 18509
(570) 344-9845
Fax: (570) 343-9731
timhinton@haggertylaw.net
Attorney for Movants, The Scranton Times, L.P.,
Larry Holeva and Chris Kelly

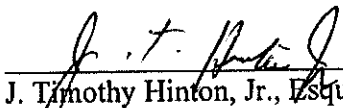
CERTIFICATE OF SERVICE

And now, this 29th day of March 2022, J. Timothy Hinton, Jr., Esq., of Haggerty Hinton & Cosgrove, LLP, served the foregoing Brief in Support of Motion to Obtain Access to Sealed Court Records via email upon the following:

Timothy M. Kolman, Esq.
TKolman@kolmanlaw.com
Attorney for Plaintiff in Case No. 2021-CV-2195

Joseph D'Andrea, Esq.
joe@joedeandrea.com

Mark Powell
District Attorney of Lackawanna County
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Attorney for Movants, The Scranton Times, L.P.,
Larry Holeva and Chris Kelly

CERTIFICATE OF COMPLIANCE

I hereby certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

/s/J. Timothy Hinton, Jr., Esq.
J. TIMOTHY HINTON, JR., ESQ.
PA I.D. 61981

EXHIBIT 3

IN THE COURT OF COMMON PLEAS FOR LACKAWANNA COUNTY
PENNSYLVANIA

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

LARRY HOLEVA
149 Penn Avenue,
Scranton,
PA 18503.

Defendants

No: 2021-CV-2195

RULE TO SHOW CAUSE

AND NOW, this _____ day of _____, 2022, upon consideration of the attached Motion for Sanctions Against Defendants. and Tim Hinton, Esq, it is hereby

ORDERED that:

1. A Rule is issued upon the Respondent(s) (Attorney Hinton and Defendant Scranton Times) to show cause why the relief requested should not be granted;
2. On or before the _____ day of _____, 2012 Respondents may file a response to the motion;
3. Upon filing of a response, the motion shall be decided under Pa.R.C.P. No. 206.7
4. Notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:

J

EXHIBIT 4

IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
Plaintiff	:	CIVIL ACTION-LAW
	:	
vs.	:	NO. 2010-CR-2613
	:	
PHILIP GODLEWSKI	:	
	:	
Defendant	:	

.....

BRIEF IN OPPOSITION TO MOTION TO OBTAIN ACCESS TO SEALED COURT RECORDS

Now comes the Respondent, Philip Godlewski, who, by and through his attorneys Kolman Law P.C., files this Brief in Opposition to the Motion to Obtain Access to Sealed Court Records.

I. Background

Movants' motives in requesting the unsealing of judicial records of a minor victim are motivated solely by the defamation complaint brought in this Court by Philip Godlewski (hereinafter referred to as 'Respondent' or 'Mr. Godlewski') against the Scranton Times-Tribune, Chris Kelly et al. on May 24, 2021. (21-CV-2195).

Chris Kelly, who describes himself as a 'muckraking journalist' recklessly and maliciously, published an article on February 14, 2021, stating that in 2011, Mr. Godlewski had sex with a 15-year-old girl, the minor victim in this case. If Mr. Kelly had 'muckraked' more carefully, he would have learned this never happened.

Mr. Godlewski was prosecuted by the Commonwealth in 2010, pursuant to the caption and docket number above. Movants attempt to slur Mr. Godlewski and prejudice the Court

against him by reciting the list of charges brought by the Commonwealth. All of these were non-prossed except the charge of Corruption of a Minor.

The Commonwealth investigated the case against Mr. Godlewski for two years. During that time, Mr. Godlewski could not work. The Commonwealth found no evidence supporting any of the charges recited by Movants. Mr. Godlewski would have tried this case to verdict but was persuaded by his lawyer and family to plead to the misdemeanor of corruption of a minor so he could get back to work, earn a living, and continue with his life.

Despite being a newspaper, there is, in this case, no public interest supporting Movants petition to obtain access to sealed records. Movants are acting in their self-interest, desperate to find some evidence that Mr. Godlewski had sex with a 15-year-old girl in 2011. Since that never happened, there is no evidence to find. The Commonwealth did not find it either. Movants' petition to unseal judicial records is a last resort, a frantic hope that something in the sealed records from 2011 will show that the Respondent did have sex with a 15-year-old girl.

Lost in all of this are the interests of the 'victim' herself. Movants state that they know the victim's name. Movants state that the victim is now 27 years old. Apparently, their argument is that because Movants know the victim's identity and because she is now 27 years old, there is no reason to keep her records sealed.

In effect, Movants are asking the Court to set a new rule where, after a certain amount of time, when the victim is grown up, she loses the anonymity, protection, and privacy granted to her when she was a minor. Movants request the Court to change Pennsylvania law, not because of compelling public interest, but because they need to 'defend' themselves in a defamation action.

Movants allege that they raise this argument now because they had 'no opportunity to object to the sealing of the Court's file, and the Movants have no knowledge of the particular reasons why the entire record was sealed.' The Movants, however, know very well why the Court sealed the file. It was to protect the 15-year-old victim's privacy in what, on the surface, appeared to be a case of involuntary deviate sexual intercourse, statutory sexual assault, and aggravated indecent assault. The victim's right to privacy does not suddenly dissolve because it was none of these things. The Court sealed the record because that is what it always does in cases like these.

Movants would have this Court put their need to protect themselves from a defamation suit above a minor victim's right to privacy and anonymity. Notably missing in this calculation is the victim herself. Movants never contacted her, despite knowing her privacy rights were at stake. Movants, thereby, decided that whatever rights of the minor victim, they were not significant enough to allow her to state her position to the Court.

II. Argument

A. Framing the Issue

Movants, in their brief, this put the following question before the Court.

Whether the *entire* judicial record, in this case, should be sealed based on the requisite good cause which outweighs the public's long-standing presumption in favor of public access to the records of the public judicial system?

In the question, Movants imply that they do not need the *entire* judicial record unsealed but give the Court no direction as to what part of the judicial record they are requesting. Second, the requisite good cause that Movants mention but do not elaborate on is the protection of minors in a sexual assault case. Third, Movants' use 'public interest' as the lodestar for determining

whether the judicial records should be unsealed, but 'public interest' is not the basis for Movants' motion.

B. Movants' Failure to Apply the Law to the Facts of This Case.

Movants' argument is no more than a wholesale quote from *Moses Taylor Foundation's case, on behalf of Moses Taylor Hospital v. Co. v. Coverys and Proselect Ins. Co.*, No. 20-CV-1353. There is little question that the Court gave an erudite summation of Pennsylvania law on the sealing of judicial records. Movants, however, never apply the legal principles of that opinion to the facts of this case. Movants proffer no argument whatsoever, and, as such, their brief is woefully deficient.

C. The Legal Considerations in a Determination to Unseal Judicial Records

A court's consideration in deciding a motion to intervene to seek unsealing of judicial records, was discussed by the Commonwealth court in *Milton Hershey School v. Pennsylvania Human Relations Commission*, 226 A.3d 117 (Pa.Com. 2020). The Court stated in relevant part;

There is no dispute that "[o]ur courts have recognized a constitutional right of public access to judicial proceedings" under both the United States and Pennsylvania Constitutions, as well as an independent common law basis for such access. *Pa. ChildCare, LLC*, 887 A.2d at 312 (internal quotations and citations omitted). Thus, there is a "mandate for open and public judicial proceedings in both the criminal and civil settings." *Id.* The right to open and public judicial proceedings includes "a general right to inspect and copy public records and documents, including judicial records and documents." *Fenstermaker*, 530 A.2d at 418 (quoting *Nixon v. Warner Comm'ns, Inc.*, 435 U.S. 589, 602, 98 S.Ct. 1306, 55 L.Ed.2d 570 (1978)). **These rights are "not absolute, as the public may ... be excluded from such proceedings *127 or records to protect public or private interests."** *duPont*, 2 A.3d at

519 (internal quotations and citations omitted); *see also Fenstermaker*, 530 A.2d at 420 (stating "the common law right to inspect documents ... has not been held to be absolute," but there is a presumption of openness). Pennsylvania courts have "recognized in many contexts that our courts have an inherent power to control access to their records and proceedings and may deny access when appropriate—for example, to protect the privacy rights of individuals." *In re M.B.*, 819 A.2d at 62. Importantly, "general concerns for harassment or invasion of privacy" are not sufficient to support closure. *Commonwealth v. Long*, 592 Pa. 42, 922 A.2d 892, 906 (2007). Emphasis added

Id. at 126-127.

The Court continued at 127-128.

In reviewing public access to judicial records, there are two methods of analysis: a constitutional analysis and a common law analysis. *In re M.B.*, 819 A.2d at 62 n.2. "[T]here is [an] overlap between *128 the common law and the constitutional inquiries, since both rights of access seek to foster the fairness and the appearance of fairness of the ... justice system." *Long*, 922 A.2d at 897. The inquiry begins with a presumption of openness. In addressing the constitutional right of access, courts have "adopted the 'experience and logic' test." *Id.* at 900-01. The experience test "considers whether there has been a 'tradition of accessibility,'" and the logic test considers "whether public access plays a significant positive role in the functioning of the particular process in question." *Id.* at 900 (quoting *Press-Enterprise II*, 478 U.S. at 8, 106 S.Ct. 2735). "In conducting the 'logic' inquiry, [the Court] must balance two competing concerns – the value of openness ... that enhances the fairness and perception of fairness in the ...

justice system versus the ... privacy concerns” involved. *Id.* at 903. “If the right asserted is grounded in both experience and logic, then a right of access to the proceedings in question exists.” *Id.* It is then the burden of the party seeking closure to “rebut the presumption of openness by showing that closure serves an important governmental interest and there is no less restrictive way to serve that interest.” *In re M.B.*, 819 A.2d at 63 n.2.

The common law approach requires “the party seeking closure [to] show that [the] interest in secrecy outweighs the presumption of openness.” *Id.* “Where the presumption of openness attached to a public judicial document is outweighed by circumstances warranting closure of the document to public inspection, access to the document may be denied.” *Fenstermaker*, 530 A.2d at 420. Thus, under the common law approach, “the public may be ‘excluded, temporarily or permanently, from court proceedings or the records of court proceedings to protect private as well as public interests[, including]: ... the privacy and reputations [of innocent parties]’ ” *Katz*, 514 A.2d at 1377 (quoting *In re Nat’l Broad. Co.*, 653 F.2d 609, 613 (D.C. Cir. 1981)) (first alteration added).

Access to judicial records may be limited by other principles as well, such as statutory or regulatory provisions or court rules. **For example, access to “files and records of the court in a proceeding under” the Juvenile Act is limited, and those materials are disclosable to the public under only very limited circumstances. Section 6307 of the Juvenile Act, 42 Pa. C.S. § 6307.** Similarly, this Court is bound by the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania (Public Access Policy) adopted by the Pennsylvania Supreme Court. The Public Access Policy recognizes the importance of the

public's access to the courts, but also acknowledges that court filings may contain "extensive amounts of personal data concerning individuals' finances, unique identifiers, medical history, and so on" and the need for courts to consider "issues regarding the need for openness and transparency and the concern for personal privacy and security." *Explanatory Report of the Public Access Policy* at 1-2. Sections 7 and 8 of the Public Access Policy address how to file "Confidential Information" and "Confidential Documents" with the Court, as such information and documents are not subject to access by the public. Notably, both sections reflect that they are "not applicable to cases that are sealed," meaning that none of the relevant redactions or special filing of forms apply to sealed cases as those cases are not accessible to the public. *See* Section 7.0(A) and *Commentary*, *129 and Section 8.0(A) and *Commentary* of the *Public Access Policy*. Emphasis added.

D. This Court Should Apply the Same Standard for Disclosure As Outlined In the Juvenile Act, 42 Pa. C.S. § 6307.

The Juvenile Act strictly protects the confidentiality of juvenile offenders. The documents concerning them are not accessible to the public. The putative victim, in this case, was a juvenile, and the specific matters involved in the Commonwealth's prosecution were intensely personal. The Court, quite rightly, sealed the record. They did so because, in applying the common law approach, as referenced *supra*, it determined that the interest of secrecy outweighed the presumption of openness. It did so to protect the victim's identity, just as it would do in a rape case. The Court understood that the juvenile could be humiliated, embarrassed, ashamed, and psychologically compromised if the judicial records were available to the public for inspection. The Court was rightfully protective of the victim's privacy.

Movants fail to explain how any of the Court's considerations in 2010 have changed. The victim does not lose the right to privacy because she grows up. Courts do not become obligated to unseal judicial records because the victim is now an adult.

It is a frustrated hamstrung Defendant and not the 'public' that moves to access these records. However, the public and private interests weigh in favor of keeping them sealed.

III. Conclusion

Respondent requests that, for the reasons set forth above, the entire judicial record, in this case, remain sealed.

Respectfully submitted

KOLMAN LAW, P.C.

/s/ Timothy M. Kolman

Timothy M. Kolman, Esquire

414 Hulmeville Ave

Pennel, PA 19047

(215) 750-3134

Attorneys for Plaintiff

Dated: May 6, 2022

IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
Plaintiff	:	CIVIL ACTION-LAW
	:	
vs.	:	NO. 2010-CR-2613
	:	
PHILIP GODLEWSKI	:	
	:	
Defendant	:	

.....

MOTION IN OPPOSITION TO OBTAIN ACCESS TO SEALED COURT RECORDS

Now comes the Respondent, Philip Godlewski, who, by and through his attorneys Kolman Law P.C., respondents *seriatim* him to the Motion to intervene filed by Movants in the above-captioned matter.

Respondent's Response to Movants Motion to Obtain Access to Sealed Court Records

1. Respondent has no knowledge regarding the truth or falsity of this statement but does not deny it.
2. Admitted.
3. Admitted. By way of further answer, all charges except one were non-prossed.
4. Denied as a conclusion of law. The Court's decision to seal a criminal court case is a case-by-case determination, weighing the factors set forth in Respondent's Memorandum of Law In Opposition to Obtaining Access to Sealed Court Records.
5. Admitted. By way of further answer, however, the Court, in its sole discretion, on a case-by-case basis, may determine what the appropriate level of protection for that minor victim might be.
6. Admitted. By way of further answer, however, Movants are not acting in the best interests of the residents of the Commonwealth but in their own interests.

7. Admitted. By way of further answer, Respondent challenges the relevance of this statement in respect of Movants' motion to unseal court records.
8. Admitted.
9. Admitted. By way of further answer, Respondent challenges the relevance of this statement in respect of Movants' motion to unseal court records.
10. Denied as a conclusion of law and fact.
11. Admitted that Respondent filed a defamation lawsuit. Denied that unsealing the record would lead to the discovery of admissible evidence.
12. Admitted that Movants were not present in the courthouse when the Court ordered the records sealed. By way of further answer, in 2010, Movants would not have challenged the Court's order because they had not yet been sued. Notably, if the Movants were so concerned about public access, they would have filed to open the case before.
13. The minor's name is not dispositive of the reasons for unsealing the judicial record.
14. Denied as a conclusion of law to which no responsive pleading is required. By way of further answer, movants are not moving this Court as a newspaper in the public interest but in their own interest as a defendant's in a defamation action.
15. Denied as a conclusion of law to which no responsive pleading is required.
16. Denied. In this case, Movants' First Amendment Rights do not trump the right to privacy of the minor victim.
17. Denied as a conclusion of law.
18. Denied as a conclusion of law. By way of further answer, the so-called 'heavy burden' referred to by Movants has already been overcome by the Court in its decision to seal the judicial records.
19. Admitted only as a general right. Denied as to the case at bar.

20. Admitted only as a general rule. Criminal cases involving juveniles are not open to the public.

21. Admitted as to the law.

22. Admitted as to the law.

Respondent's Motion in Opposition to Movants Motion to Open Sealed Court Records.

Respondent incorporates herein the argument set forth his Memorandum of Law in Opposition to Movants Motion To Open Sealed Court Records as if set forth at length.

Wherefore, Respondent requests that, for the reasons set forth above, the entire judicial record, in this case, remain sealed.

Respectfully submitted

KOLMAN LAW, P.C.

/s/ Timothy M. Kolman

Timothy M. Kolman, Esquire

414 Hulmeville Ave

Pennel, PA 19047

(215) 750-3134

Attorneys for Plaintiff

Dated: May 6, 2022

16. Although disposition of claims under either section generally requires an evidentiary hearing, no hearing is necessary where the facts are undisputed. *See Kulp v. Hrivnak*, 765 A.2d 796, 800 (Pa.Super.2000).

WHEREFORE, the Plaintiff respectfully requests this Court to compensate the Plaintiff for or legal fees expended in the response to Defendants' frivolous motion including, but not limited to the time in court on May 11, 2022.

Respectfully submitted:

/s/ Tim Kolman

KOLMAN LAW P.C.
Timothy M. Kolman, Esquire,
Attorneys for Plaintiff

KOLMAN LAW, P.C.
Timothy M. Kolman, Esquire (PA I.D. 51982)
414 Hulmeville Avenue
Penn del, PA 19047
(215) 750-3134

Attorney for Plaintiff
Philip Godlewski

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 ACTION
: No.: 2021-CV-2195
:
:
: JURY TRIAL DEMANDED
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:
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:
:
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CERTIFICATE OF SERVICE

I hereby certify that on this 23th day of May 2022, I caused to be served via electronic mail service, true and correct copies of Plaintiff's Motion for Sanctions Against Defendants for Violations of 42 PA.C.S. Section 2503(7), (9), Plaintiff's Brief in Support of his Motion for Sanctions Against Defendants for Violations of 42 PA.C.S. Section 2503(7), (9), and Rule to Show to counsel of record J. Timothy Hinton, Esquire.

Respectfully Submitted,

KOLMAN LAW, P.C.

/s/ Timothy M. Kolman
Timothy M. Kolman, Esquire
414 Hulmeville Ave
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(215) 750-3134
Attorney for Plaintiff

Dated: May 23, 2022