

MAURI B. KELLY
 CLERK OF JUDICIAL RECORDS CIVIL DIVISION
 2022 SEP 16 10:42 AM
 COMMON PLEAS

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

DEFENDANTS' BRIEF IN SUPPORT OF MOTION FOR SANCTIONS

Defendants, Chris Kelly, Times Shamrock Communications, The Scranton Times-Tribune and Larry Holeva ("Defendants"), by and through their attorneys, Haggerty Hinton & Cosgrove LLP, files the following Brief in Support of Motion for Sanctions:

I. BACKGROUND

Plaintiff, Phillip Godlewski, filed this defamation case on May 24, 2021. He alleges Defendants defamed him in an article published on February 14, 2021 and he seeks \$5 Million in damages. By virtue of him being a patriot reporter and social media influencer with over 75,000 followers, Plaintiff claims in the Complaint he is a public figure.

The article in question discusses Plaintiff's criminal history and states "Lackawanna County detectives said Godlewski had sex with the [minor] girl in cars and homes he had access to as a real estate agent." Further, the article noted he pled guilty to corruption of a minor and admitted to having a sexual relationship with a 15-year-old girl. "Godlewski, 28 at the time, was sentenced to three to 23 months, with the first three months to be served under house arrest and the balance as probation." Plaintiff now claims in this lawsuit he never had sex with the fifteen-year-old girl and Defendants defamed him by stating such.

II. ISSUES

- (1) Should Defendants' Motion for Sanctions be granted?

Suggested Answer: Yes.

III. ARGUMENT

The purpose of the Pennsylvania "discovery rules is to prevent surprise and unfairness and to allow a fair trial on the merits." Dominick v. Hanson, 2000 PA Super 158, 753 A.2d 824, 826 (Pa.Super. 2000). To that end, Pa.R.C.P. 4003.1 provides that "as a general rule, discovery is liberally allowed with respect to any matter, not privileged, which is relevant to the cause being tried." George v. Schirra, 2002 PA Super 395, 814 A.2d 202, 204 (Pa.Super. 2002). Berg v. Nationwide Mutual Insurance Company, Inc., 2012 PA Super 88, 44 A.3d 1164, 1178 n. 8 (Pa. Super. 2012). Any limitations or restrictions upon discovery should be construed narrowly. Ferguson v. Ghigiarelli, 2012 WL 5376702, at * 4 (Lacka. Co. 2012); McAndrew v. Donegal Mutual Insurance Company, 56 Pa. D. & C. 4th 1, 7 (Lacka. Co. 2002), affirmed without opinion at 855 A.2d 144 (Pa. Super 2004). The party objecting to the production of documents generally bears the burden of establishing that the information or document sought is not discoverable and that the objections should be sustained. McAndrew v. Donegal Mut. Ins. Co., 56 Pa. D. & C.4th 1, 2002 Pa. Dist. & Cnty. Dec. LEXIS 215 (2002), affirmed without opinion by 855 A.2d 144. In this matter, the Court has already ordered Plaintiff to provide the discovery at issue without objection.

42 Pa. C.S.A. §2503(7) permits a party to request a reasonable counsel fee against another party for "dilatatory, obdurate or vexatious conduct during the pendency of a matter."

Pa. R.C.P. 4019 permits the Court, upon motion, to make an appropriate order for sanctions

if a party fails to serve answers to interrogatories or fails to produce documents requested under Rule 4009 or fails to “obey an order of court respecting discovery.”

IV. CONCLUSION

Plaintiff’s case should be dismissed and Defendants should be awarded \$1,000 to be paid by Plaintiff as a reasonable counsel fee due to his improper conduct in failing to provide Court-ordered discovery.

RESPECTFULLY SUBMITTED,

HAGGERTY HINTON & COSGROVE LLP

Date: 9.15.2022

By: 

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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., ESQUIRE
PA I.D. 61981

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SHERIFF, PHILADELPHIA COUNTY
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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of September 2022, I caused to be served by First-Class mail, postage prepaid, a true and correct copy of the foregoing Defendants' Brief in Support of Motion for Sanctions upon the following:

Timothy M. Kolman, Esq.
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Attorney for Plaintiff

RESPECTFULLY SUBMITTED,

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