

MAURI B. KELLY
LACKAWANNA COUNTY

PHILIP GODLEWSKI,
Plaintiff

2022 OCT 28 P 12: 54

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY

v.

CLERK OF JUDICIAL
RECORDS CIVIL DIVISION CIVIL DIVISION



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

: JURY TRIAL DEMANDED
:
:
:
: No.: 2021-CV-2195

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DEFENDANTS' SUPPLEMENTAL 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 Supplemental Brief in Support of Motion for Sanctions as permitted by the Court's letter dated September 21, 2022:

I. ARGUMENT

The Court issued an Order on August 22, 2022 granting Defendants' Motion to Compel Discovery Responses from Plaintiff. (See August 22, 2022 Order attached hereto as **Exhibit "A"**.) Among other things, this Order compelled Plaintiff to respond to discovery without objection and to specifically: (i) produce Plaintiff's filed **individual** federal income tax returns and the returns for any businesses he had an ownership interest in for the years 2016 to present; (ii) produce all of Plaintiff's live videos he streamed or uploaded to any social media site or platform; (iii) produce any documents, including any applications, relating to his purchase of any firearms in 2020 or 2021; and (iv) serve his overdue answers to Defendants' Interrogatories (Set II). Plaintiff's discovery responses were ordered to be served on Defendants by September 11, 2022. Plaintiff has failed to satisfy the Court's August 22, 2022 Order and therefore sanctions are warranted.

(a) Tax Returns

Defendants have requested Plaintiff's individual federal tax returns and the tax returns for any of his businesses from 2016 to the present. Plaintiff's Response to the Motion to Compel pertaining to Defendants' request for his individual tax returns states: "6. Denied. Plaintiff has *since* provided Defendants with his tax returns going back to 2016. He has not filed for 2020 and 2021." (Emphasis added.) This is a false statement. Plaintiff has not produced to Defendants Plaintiff's individual tax returns for 2016, 2017, 2018, or 2019. His response to the motion implies he has filed returns for 2016 through 2019. He merely states he has not filed for 2020 and 2021. He has provided no verified discovery response specifying what years he has filed for. Defendants are entitled to a verified response to the request for tax returns covering the last six (6) tax years.

In terms of business tax returns, Plaintiff has only produced the federal partnership tax return for The Agency Real Estate Group LLC for years 2016, 2017 and 2018; Form 4562 (Depreciation and Appreciation) for The Agency Real Estate Group LLC for 2017, Form 1120S for The Agency Real Estate Group LLC for 2017, Section 1.263(a)-1(f) for The Agency Real Estate Group LLC for 2017, an Application for Automatic Extension to file Business Income Tax along with Schedule C for Phil Godlewski for 2019, and federal tax return for Velocity Abstract LLC for year 2017. Plaintiff has announced to thousands or even millions (in his estimation) of his viewers on social media he has a company called Phil's Silver, Inc., which operated in 2021. He also has a business or endeavor called "Philazon" which is an on-line platform for the sale of merchandise which operated in 2021 and Company 2, LLC. Plaintiff has produced no tax returns for these businesses nor has he advised that he has no business tax returns other than the ones provided for 2016-18.

(b) Plaintiff's Live Videos

Plaintiff is a social media broadcaster who produces live videos seen by millions of

viewers on internet platforms. If you go to Rumble.com and type “Phil Godlewski” in the search space his videos posted there will pop up. He does a new video about once or twice a week. These videos are up-loaded to some publicly-accessible platforms such as Rumble.com and some are accessible only if you pay a fee to Plaintiff or the platform. Also, Plaintiff has the ability to remove his videos from platforms at any time. Plaintiff has stated publicly he keeps a copy of all his videos. His video about his retention of all his videos will be played at the hearing.

Plaintiff’s videos are relevant in this case for numerous reasons. Plaintiff’s primary allegation in this defamation lawsuit is that Defendants defamed him by publishing an article stating he had sex with a 15-year-old girl when he was 25. He claims he pled guilty to corrupting her morals only because he should not have been talking to her or texting her about the suicide of her boyfriend. The videos contain admissions about his relationship with the 15-year-old girl in question, his Q-Anon pronouncements, and his statements about the 2020 election and his belief that the events at the U.S. Capital on January 6th were a “pre-planned set-up.” The videos are also relevant as to Plaintiff’s status as a public figure in this defamation case. Plaintiff has objected to producing the videos stating: “Plaintiff objects to this request because it makes no sense.”, and “Plaintiff objects to this request because it is irrelevant, intrusive overbroad and not reasonably calculated to lead to admissible evidence.” (See **Exhibit “B”** attached hereto.) Plaintiff has already been ordered to produce all his videos by the Court by a deadline of September 11, 2022. Despite the Court’s Order compelling production of Plaintiff’s videos, Plaintiff has failed to produce a copy of his videos.

(c) Firearm Purchase

Plaintiff’s counsel served defense counsel with Plaintiff’s response to Defendant’s Request for Production of Documents (Set III) on August 22, 2022. Defendants’ discovery

request, No. 4, sought the production of “any documents evidencing your purchase of any guns, rifles or any firearms in 2020 or 2021 and your application to purchase such firearms.” Plaintiff responded: “Plaintiff objects to this request because it is irrelevant, intrusive, harassing, overbroad and not reasonably calculated to lead to admissible evidence.” First, the Court has already ordered Plaintiff to produce the requested documents without objection. (See Order of Court dated August 22, 2022.) Second, the request is relevant since Plaintiff has asserted the newspaper article at issue jeopardized his safety and caused him to procure firearms for self-protection. (See **Exhibit “C”** which is Phil Godlewski’s Telegram post within days after the news article.) Third, Plaintiff was arrested for false statements in firearm applications he completed in February 2021 and later pled guilty to two more misdemeanors. These events further damaged his reputation.

(d) Answers to Interrogatories (Set II)

Defense counsel served these interrogatories upon Plaintiff’s counsel on April 7, 2022. Plaintiff did not serve answers to them upon defense counsel until October 13, 2022 (after the Court-imposed deadline of September 11, 2022). Apparently, Plaintiff’s counsel emailed the answers to the wrong email address for defense counsel. Defense counsel notified Plaintiff’s counsel of this error on August 24, 2022, and he still failed to serve the answers to interrogatories by the Court’s deadline of September 11, 2022. (See defense counsel’s letter dated August 24, 2022 attached hereto and marked as **Exhibit “D”**.) No verification signed by Plaintiff has been provided for these answers to interrogatories.

(e) Harvard University Diploma or Certificate

Plaintiff has broadcast to millions of his viewers he has a degree from Harvard University and he has many other degrees. In fact, Plaintiff has no college degrees. Defendants served

Plaintiff with a Request for Production (Set III) on March 25, 2022. Request No. 2 stated: "Produce any Diplomas, Certificates and/or transcripts from Harvard Business School concerning any programs or classes Phil Godlewski attended there." Plaintiff's response was: "Plaintiff objects to this request because it is irrelevant, intrusive, overbroad and not reasonably calculated to lead to admissible evidence. By way of further answer and in no way in derogation of the foregoing, Plaintiff cannot find any documents from Harvard Business School." Plaintiff has broadcast videos showing a purported Harvard certificate behind his head on the wall and he states in the video he has a Harvard degree. This video will be shown to the Court at the hearing. The Court has already ordered Plaintiff to respond to this discovery without objection.

II. CONCLUSION

Plaintiff's brazen refusal to comply with a Court Order and provide discovery warrants a dismissal of this case as a sanction.

RESPECTFULLY SUBMITTED,

HAGGERTY HINTON & COSGROVE LLP

Date: Oct. 26, 2022

By: J. T. Hinton Jr.

J. Timothy Hinton, Jr., Esq.

4401 Monroe Ave., Suite 2

Dunmore, PA 18509

(570) 344-9845

timhinton@haggertylaw.net

Attorneys for Defendants,

Chris Kelly, Times Shamrock

Communications, The Scranton Times-

Tribune and Larry Holeva

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

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

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CERTIFICATE OF SERVICE

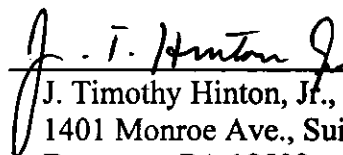
I hereby certify that on this 20th day of October 2022, I caused to be served by electronic mail, a true and correct copy of the foregoing Defendants' Supplemental Brief in Support of Motion for Sanctions upon the following:

Timothy M. Kolman, Esq.
414 Hulmeville Ave.
Penndel, PA 19047
TKolman@kolmanlaw.com
Attorney for Plaintiff

RESPECTFULLY SUBMITTED,

HAGGERTY HINTON & COSGROVE LLP

By:



J. Timothy Hinton, Jr., Esq.
1401 Monroe Ave., Suite 2
Dunmore, PA 18509
(570) 344-9845

timhinton@haggertylaw.net

Attorneys for Defendants,

Chris Kelly, Times Shamrock

*Communications, The Scranton Times-
Tribune and Larry Holeva*

PHILIP GODLEWSKI,
Plaintiff

WJG
8/23/22

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY

v.

MAURI B. KELLY
LACKAWANNA COUNTY CIVIL DIVISION

CHRIS KELLY, TIMES SHAMROCK COMMUNICATIONS, THE SCRANTON TIMES-TRIBUNE, LARRY FLORENCE
Defendants. A:10:03 JURY TRIAL DEMANDED
CLERK OF JUDICIAL RECORDS CIVIL DIVISION
No.: 2021-CV-2195

ORDER

AND NOW this 22nd day of August 2022, upon consideration of Defendants' Motion to Compel Plaintiff's Discovery Responses, and any response thereto, it is hereby ORDERED that Defendants' Motion to Compel Discovery is GRANTED. Within twenty (20) days from the date of this Order, Plaintiff shall serve Defendants with a full and complete answers without objections to:

- 1) Defendants' Request for Production of Documents (Set I), Nos. 2, 3 and 6,
- 2) a signature Verification by Plaintiff for Plaintiff's December 9, 2021 Supplemental Discovery Responses;
- 3) Defendants' Requests for Production of Documents (Set II, III and IV); and
- 4) Defendants' Interrogatories (Set II) Directed to Plaintiff.

If Plaintiff fails to comply with this Order, he may be subject to sanctions upon motion of Defendants and Order of Court.

BY THE COURT:

[Signature]

S. J.



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

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PLAINTIFF'S RESPONSE TO DEFENDANT'S REQUEST FOR PRODUCTION OF DOCUMENTS (SET II)

Plaintiff, by and through undersigned counsel, responds to Defendant's Request for Production of Documents as follows:

GENERAL OBJECTIONS

1. Plaintiff objects to each document request that is overly broad, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.
2. Plaintiff objects to the Request to the extent that it seeks information that may be protected by the attorney-client privilege, the work-product doctrine, the joint defense privilege, or any other privilege.
3. Plaintiff objects to the Request to the extent that it may not reasonably be expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of Defendant.
4. Plaintiff's answers to this Request are given without prejudice to Plaintiff's right to produce evidence of any subsequently discovered facts. The failure of Plaintiff to object to any production request on a particular ground may not be construed as a waiver of his right to object on any additional ground(s).

DOCUMENTS REQUESTED

1. Produce all of Phil Godlewski's live videos streamed or uploaded or uploaded to any social media outlet or platform including but not limited to You tube, DLive, Telegram, Rumble, etc., identifying each video by the date of the live

Answer: Plaintiff objects to this request because it makes no sense.



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

.....

PLAINTIFF'S RESPONSE TO DEFENDANT'S REQUEST FOR PRODUCTION OF DOCUMENTS (SET III)

Plaintiff, by and through undersigned counsel, responds to Defendants' Request for Production of Documents (Set III) as follows:

GENERAL OBJECTIONS

1. Plaintiff objects to each document request that is overly broad, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.
2. Plaintiff objects to the Request to the extent that it seeks information that may be protected by the attorney-client privilege, the work-product doctrine, the joint defense privilege or any other privilege.
3. Plaintiff objects to the Request to the extent that it may not reasonably be expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of Defendant.
4. Plaintiff's answers to this Request are given without prejudice to Plaintiff's right to produce evidence of any subsequently discovered facts. The failure of Plaintiff to object to any production request on a particular ground may not be construed as a waiver of his right to object on any additional ground(s).

DOCUMENTS REQUESTED

1. Produce all of Phil Godlewski's live videos streamed or uploaded to any social media outlet or platform including but not limited to: You tube, DLive, Telegram, Rumble, etc., identifying each video by the date of the live from January 1, 2020 to the present. (Plaintiff represented on DLive on or about August 21, 2021 that he saves and maintains every live he has ever done and stores them in his safe.)

Answer: Plaintiff objects to this request because it is irrelevant, intrusive overbroad and not reasonably calculated to lead to admissible evidence.

2. Produce any Diplomas, Certificates and/or transcripts from Harvard Business School concerning any programs or classes Phil Godlewski attended there.

Answer: Plaintiff objects to this request because it is irrelevant, intrusive, overbroad and not reasonably calculated to lead to admissible evidence. By way of further answer and in no way in derogation of the foregoing, Plaintiff cannot find any documents from Harvard Business School.

3. Produce any Diplomas, Certificates and/or transcripts from Regent University School of Law concerning any programs or classes Phil Godlewski attended there.

Answer: Plaintiff objects to this request because it is irrelevant, intrusive, overbroad and not reasonably calculated to lead to admissible evidence. By way of further answer and in no way in derogation of the foregoing, Plaintiff took an online course and has no diplomas, certificates or transcripts in his possession.

4. Produce any documents evidencing your purchase of any guns, rifles or any firearms in 2020 or 2021.

Answer: Plaintiff objects to this request because it is irrelevant, intrusive, harassing, overbroad and not reasonably calculated to lead to admissible evidence.

Phil Godlewski

My friends

I am in the process of interviewing several Law Firms regarding my Libel case against the Times Shamrock Communications Co. This company, as I've learned, has annual revenue over \$99,000,000.

Throughout the last couple days, I have researched and interviewed with multiple attorneys, both inside and outside of my home State of Pennsylvania. Tomorrow is my call with Lin Wood.

I have been advised to NOT continue my Livestream broadcasts until a definitive legal path is planned. Every attorney I've spoke with so far has told me my case is a slam dunk, and worth multi millions of dollars.

My legal costs could be astronomical. I have a few offers for Contingency Fee Agreements, but I'm unsure as to what path I'll end up choosing just yet.

Please be patient with me. I am not going anywhere, but I have been advised to halt the Livestreams for multiple reasons: 1.) the strength of my legal case, and 2.) the safety of my family.

My employer has also received dozens of emails, calls, and threats. I was almost fired from my job yesterday.

Things are very, very shakey right now, at best. I am very carefully navigating the waters. I purchased an AR-15 today, as well as a handgun for my wife, both for home/personal protection. I've never owned a weapon until now.

I will NOT be leaving Telegram. I will continue to post in the private announcements page, as well as contribute and read the public chat. As I mentioned before, I do have a private identity from my Anon years, which I will NOT reveal at this time. When and if the time is right, I may. But not now.

I am sorry to have to temporarily discontinue the Livestreams. Once Donald Trump returns to office, and my beliefs and topics are all proven true (it's coming, very soon), I will be back with a vengeance, regardless of the legal proceedings. At that point, I will no longer be the target. Instead, I'll be the prophet.

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Me

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ST 0476

EXHIBIT

"C"

tabbler

**HAGGERTY
HINTON &
COSGROVE LLP**
ATTORNEYS AT LAW

Telephone 570-344-9845 • Fax 570-343-9731 • 1401 Monroe Ave., Suite 2, Dunmore, PA 18509 • hhc@haggertylaw.net

Joseph O. Haggerty, Jr.
J. Timothy Hinton, Jr.*
Michael F. Cosgrove
Matthew E. Haggerty - Of Counsel

August 24, 2022

VIA E-MAIL TKolman@kolmanlaw.com

Timothy M. Kolman, Esq.
414 Hulmeville Ave.
Penn del, PA 19047

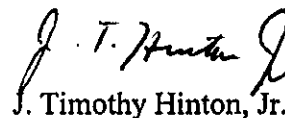
Re: Philip Godlewski vs. Chris Kelly,
et al.
No. 2021-CV-2195

Dear Attorney Kolman:

I am in receipt of your Response to Defendant's Motion to Compel where you indicate in answer number 29 that you never received service of Defendants' Interrogatories (Set II) until our Motion to Compel was served on August 5, 2022. Exhibit 1 attached to your response shows your office sent your Responses to Interrogatories (Set II) to my attention on April 7, 2022. However, as shown on your exhibit, your April 7, 2022 email was sent to a wrong email address of timothyhinton@haggertylaw.net. My email address is timhinton@haggertylaw.net. Therefore I never received the alleged email of April 7, 2022 with your Responses to Interrogatories (Set II). To date, we still do not have Plaintiff's Response to Interrogatories (Set II). Please send your response immediately along with Phillip Godlewski's individual federal tax returns since 2016. No individual tax returns have been provided to date.

Thank you.

Very truly yours,


J. Timothy Hinton, Jr.

JTH:jls
Encls.

*Certified Civil Trial Advocate By National Board Of Trial Advocacy,
A Pennsylvania Supreme Court Accredited Agency



hhc@haggertylaw.net

From: hhc@haggertylaw.net
Sent: Wednesday, August 24, 2022 11:49 AM
To: TKolman@kolmanlaw.com
Subject: Godlewski v. Kelly, et al.
Attachments: Kolman ltr Aug. 24.pdf

Dear Attorney Kolman:

Please see the attached correspondence from Attorney Hinton.

Thank you.

Jennifer Smolley

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