

PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	OF LACKAWANNA COUNTY, PA
v.	:	No: <del>2022-cv-2195</del>
CHRIS KELLY et al.,	:	21-CV-2195
Defendants.	:	JURY TRIAL DEMANDED

MAURI B. KELLY  
 LACKAWANNA COUNTY  
 2023 MAR 16 P 1:37  
 RECEIVED  
 CLERK OF COURT  
 MAURI B. KELLY

**PLAINTIFF'S MOTION TO COMPEL COMPLIANCE WITH SUBPOENAS**

COMES NOW, Plaintiff Philip Godlewski ("Godlewski") by and through his counsel Timothy M. Kolman, Esquire, and makes the following Motion:

1. On February 16, 2023, Godlewski served upon Hinton, Haggerty & Cosgrove LLP ("HHC") a Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21. See true and correct copy of HHC Notice attached hereto as Exhibit 1.
2. On February 22, 2023, HHC filed objections to the proposed subpoena. See true and correct copy of HHC Objections attached hereto as Exhibit 2.
3. On February 16, 2023, Godlewski served upon J. Timothy Hinton, Esquire a Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21. See true and correct copy of HHC Notice attached hereto as Exhibit 3.
4. On February 22, 2023, Hinton filed objections to the proposed subpoena. See true and correct copy of HHC Objections attached hereto as Exhibit 4.
5. The Objections filed by HHC and Hinton are legally insufficient reasons for refusal to respond fully to the subpoenas.

6. Godlewski is entitled to serve the subpoenas and to full and complete responses without objections.

**WHEREFORE**, Plaintiff, Philip Godlewski, respectfully requests that the Honorable Court grant his Motion to Compel Compliance with Subpoenas and enter an Order providing the following relief:

- A. Permitting Godlewski to serve the subpoenas upon HHC and Hinton.
- B. Requiring HHC and Hinton to provide full and complete responses without objections to the subpoenas.
- C. Such other relief as the Court may deem just.

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: March 13, 2023

*/s/ Timothy M. Kolman*

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

**COMBINED CERTIFICATE**

I HEREBY CERTIFY that I have, this 13<sup>th</sup> day of March 2023, served a true and correct copy of the foregoing document by email upon the following:

J. Timothy Hinton, Esquire  
timhinton@haggertylaw.net  
Counsel for Defendants

I 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.

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: March 13, 2023

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

---

PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	OF LACKAWANNA COUNTY, PA
	:	
v.	:	No: 2022-cv-2195
	:	
CHRIS KELLY et al.,	:	
Defendants.	:	JURY TRIAL DEMANDED

---

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2023, upon consideration of Plaintiff's Motion for Compel Compliance with Subpoenas, it is hereby ORDERED as follows:

A. A telephone conference shall be held on the \_\_\_\_ day of \_\_\_\_\_ 2023 at \_\_\_\_ o'clock \_\_\_\_ M.

BY THE COURT:

\_\_\_\_\_  
, J.

PHILIP GODLEWSKI, : IN THE COURT OF COMMON PLEAS  
Plaintiff, : OF LACKAWANNA COUNTY, PA  
 :  
v. : No: 2022-cv-2195  
 :  
CHRIS KELLY et al., :  
Defendants. : JURY TRIAL DEMANDED

**PRAECIPE FOR ASSIGNMENT**

TO: Lackawanna County Court Administrator

Please be advised that the Plaintiff has filed a Motion for Protective Order in the above-captioned case.

\_\_\_\_\_ All parties have agreed to submit this matter on briefs  
Without the necessity of oral argument.

\_\_\_\_\_ Please schedule this matter for oral argument.

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

J. Timothy Hinton, PA61981  
Haggerty Hinton & Consgrove LLP  
1401 Monroe Ave., Suite 2  
Dunmore, PA 18509  
(570) 344-9845  
Attorney for Defendants

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: March 13, 2023

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

# **EXHIBIT**

**1**

PHILIP GODLEWSKI, : IN THE COURT OF COMMON PLEAS  
Plaintiff, : OF LACKAWANNA COUNTY, PA  
 :  
v. : No: 2022-cv-2195  
 :  
CHRIS KELLY et al., :  
Defendants. : JURY TRIAL DEMANDED

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Plaintiff Philip Godlweski intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: February 16, 2023

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

**Exhibit 1**

PHILIP GODLEWSKI, : IN THE COURT OF COMMON PLEAS  
Plaintiff, : OF LACKAWANNA COUNTY, PA  
 :  
v. : No: 2022-cv-2195  
 :  
CHRIS KELLY et al., :  
Defendants. : JURY TRIAL DEMANDED

**OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21**

\_\_\_\_\_ objects to the proposed subpoena that is attached to these  
objections for the following reasons:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Attorney for



PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	OF LACKAWANNA COUNTY, PA
	:	
v.	:	No: 2022-cv-2195
	:	
CHRIS KELLY et al.,	:	
Defendants.	:	JURY TRIAL DEMANDED

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: Haggerty, Hinton & Cosgrove, LLP

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things:

See Exhibit 1 attached hereto for list.

at Kolman Law, PC, 414 Hulmeville Avenue, Penn del, PA 19047.

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

This subpoena was issued at the request of the following person:

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

DATE: \_\_\_\_\_

BY THE COURT:

Seal of the Court

By \_\_\_\_\_  
(Prothonotary)

**EXHIBIT 1 TO**  
**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS**  
**FOR DISCOVERY PURSUANT TO RULE 4009.22**

1. Any and all email communications between BD and any and all members, partners, associates, employees, and/or agents of Haggerty, Hinton & Cosgrove, LLP. These may be initially provided in searchable PDF format. You are advised to maintain the email in native format subject to further discovery.
2. Any and all text messages between BD and any and all members, partners, associates, employees, and/or agents of Haggerty, Hinton & Cosgrove, LLP. These may be delivered in jpg or similar image format. You are advised to maintain the text messages in native format pending further discovery.
3. Any and all drafts of the Affidavit of BD. These may be delivered in native format.
4. Any and all email communications between any and all members, partners, associates, employees, and/or agents of Haggerty, Hinton & Cosgrove, LLP and any other person whatsoever, with the exception of the defendants in this matter, referring and/or relating to BD. These may be initially provided in searchable PDF format. You are advised to maintain the email in native format subject to further discovery.
5. Any and all text messages between any and all members, partners, associates, employees, and/or agents of Haggerty, Hinton & Cosgrove, LLP and any other person whatsoever, with the exception of the defendants in this matter, referring and/or relating to BD. These may be delivered in jpg or similar image format. You are advised to maintain the text messages in native format pending further discovery.
6. Any and all notes, memoranda, or other documents of any description whatsoever, whether maintained electronically or otherwise, referring and/or relating to conversations, interviews, or other communications whatsoever between BD and any and all members, partners, associates, employees, and/or agents of Haggerty, Hinton & Cosgrove, LLP. These may be initially provided in searchable PDF format. You are advised to maintain the email in native format subject to further discovery.
7. Any and all notes, memoranda, or other documents of any description whatsoever, whether maintained electronically or otherwise, referring and/or relating to conversations, interviews, or other communications whatsoever between any and all members, partners, associates, employees, and/or agents of Haggerty, Hinton & Cosgrove, LLP and any other person whatsoever, with the exception of the defendants in this matter, referring and/or relating to BD. These may be initially provided in searchable PDF format. You are advised to maintain the email in native format subject to further discovery.
8. Logs, bills, or other records whatsoever showing the date, time and duration of each and every telephone conversation between BD and any and all members, partners, associates, employees, and/or agents of Haggerty, Hinton & Cosgrove, LLP. These may be initially provided

in searchable PDF format. You are advised to maintain the email in native format subject to further discovery.

**CERTIFICATE OF SERVICE**

I, Timothy M. Kolman, Esquire, hereby certify that on this 16th day of February, 2023, I caused a true and correct copy of *Notice of Intent to Serve Subpoena to Produce Documents and Things* Pursuant to Rule 4009.22, upon the following via e-mail:

**J. Timothy Hinton, Jr. Esquire**  
Happerty, Hinton, & Cosgrove LLP  
1401 Monroe Avenue, Suite 2  
Dunmore, Pennsylvania 18509  
*Attorney for Defendants*

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: February 16, 2023

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

**CERTIFICATE OF COMPLIANCE**

I, Timothy M. Kolman, Esquire, 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/ Timothy M. Kolman, Esq.*

Timothy M. Kolman, Esquire, PA 51982  
414 Hulmeville Avenue  
Pennel, PA 19047  
(215) 750-3134  
*Attorney for Plaintiff.*

# **EXHIBIT**

**2**

PHILIP GODLEWSKI,  
Plaintiff

MAILED 10:00 AM  
LACKAWANNA COUNTY

IN THE COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY

v.

2021 FEB 22

CIVIL DIVISION

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

CLERK OF SUPERIOR COURT  
JURY TRIAL DEMANDED

No.: 2021-CV-2195


**OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21**

Haggerty Hinton & Cosgrove LLP objects to the proposed subpoena directed to the firm that is attached to these objections for the following reasons:

The subpoena requests documents, materials and information protected by the Attorney Work Product Privilege. See Levy v. Senate of Pa. (Levy III), 94 A.3d 430 (Pa. Cmwlth, 2014). Certain documents, materials and information are protected from disclosure by Pa.R.C.P. No. 4003.3. Also, the matters requested by Numbers 6 and 8 of the Subpoena are additionally protected by to Attorney-Client Privilege. Without waiving these objections, Haggerty Hinton & Cosgrove LLP shall provide Plaintiff's counsel with any text messages or documents the firm sent to Brienna DuBorgel or that the firm received from Brienna DuBorgel in response to the proposed subpoena, except for limited redactions to text messages or documents sent by Attorney Hinton that are subject to the Attorney Work Product Privilege or are non-discoverable under Pa. P.C.P. 4003.3. Haggerty Hinton & Cosgrove LLP shall provide all texts and documents in unredacted form that Brienna DuBorgel sent to Attorney Hinton or anybody at the firm.

Respectfully submitted:

Date: 2-22-2023

  
\_\_\_\_\_  
J. Timothy Hinton, Jr.  
Haggerty Hinton & Cosgrove LLP  
PA I.D. No. 61981

1401 Monroe Ave., Suite 2  
Dunmore, PA 18509  
Attorneys for Defendants,  
Chris Kelly, The Scranton Times, L.P. and  
Larry Holeva



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

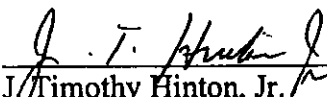
**CERTIFICATE OF SERVICE**

I, **J. Timothy Hinton, Jr., Esquire**, certify that on this 22<sup>nd</sup> day of February 2023, I caused a true and correct copy of the foregoing Objections to Subpoena Pursuant to Rule 4009.21 to be served upon the following parties via electronic mail:

Timothy M. Kolman, Esq.  
414 Hulmeville Ave.  
Penndel, PA 19047  
[TKolman@kolmanlaw.com](mailto:TKolman@kolmanlaw.com)  
*Attorney for Plaintiff*

Respectfully submitted:

Date: 2-22-2023

  
\_\_\_\_\_  
J. Timothy Hinton, Jr.  
**Haggerty Hinton & Cosgrove LLP**  
PA I.D. No. 61981  
1401 Monroe Ave., Suite 2  
Dunmore, PA 18509  
Attorneys for Defendants,  
Chris Kelly, The Scranton Times, L.P. and  
Larry Holeva

# **EXHIBIT**

**3**

PHILIP GODLEWSKI, : IN THE COURT OF COMMON PLEAS  
Plaintiff, : OF LACKAWANNA COUNTY, PA  
 :  
v. : No: 2022-cv-2195  
 :  
CHRIS KELLY et al., :  
Defendants. : JURY TRIAL DEMANDED

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Plaintiff Philip Godlweski intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: February 16, 2023

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

PHILIP GODLEWSKI, : IN THE COURT OF COMMON PLEAS  
Plaintiff, : OF LACKAWANNA COUNTY, PA  
 :  
v. : No: 2022-cv-2195  
 :  
CHRIS KELLY et al., :  
Defendants. : JURY TRIAL DEMANDED

**OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21**

\_\_\_\_\_ objects to the proposed subpoena that is attached to these  
objections for the following reasons:

DATE: \_\_\_\_\_

\_\_\_\_\_  
Attorney for

PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
	:	OF LACKAWANNA COUNTY, PA
Plaintiff,	:	
	:	
v.	:	No: 2022-cv-2195
	:	
CHRIS KELLY et al.,	:	
	:	
Defendants.	:	JURY TRIAL DEMANDED

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.22**

TO: **J. Timothy Hinton, Jr., Esquire**

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things:

See Exhibit 1 attached hereto for list.

at Kolman Law, PC, 414 Hulmeville Avenue, Penndel, PA 19047.

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

This subpoena was issued at the request of the following person:

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

DATE: \_\_\_\_\_

BY THE COURT:

Seal of the Court

By \_\_\_\_\_  
(Prothonotary)

**EXHIBIT 1 TO**  
**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS**  
**FOR DISCOVERY PURSUANT TO RULE 4009.22**

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2. Any and all text messages between BD and you. These may be delivered in jpg or similar image format. You are advised to maintain the text messages in native format pending further discovery.
3. Any and all drafts of the Affidavit of BD. These may be delivered in native format.
4. Any and all email communications between you and any other person whatsoever, with the exception of the defendants in this matter, referring and/or relating to BD. These may be initially provided in searchable PDF format. You are advised to maintain the email in native format subject to further discovery.
5. Any and all text messages between you and any other person whatsoever, with the exception of the defendants in this matter, referring and/or relating to BD. These may be delivered in jpg or similar image format. You are advised to maintain the text messages in native format pending further discovery.
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8. Logs, bills, or other records whatsoever showing the date, time and duration of each and every telephone conversation between BD and you. These may be initially provided in searchable PDF format. You are advised to maintain the email in native format subject to further discovery.

**CERTIFICATE OF SERVICE**

I, Timothy M. Kolman, Esquire, hereby certify that on this 16th day of February, 2023, I caused a true and correct copy of *Notice of Intent to Serve Subpoena to Produce Documents and Things* Pursuant to Rule 4009.22, upon the following via e-mail:

**J. Timothy Hinton, Jr. Esquire**  
Happerty, Hinton, & Cosgrove LLP  
1401 Monroe Avenue, Suite 2  
Dunmore, Pennsylvania 18509  
*Attorney for Defendants*

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: February 16, 2023

/s/ Timothy M. Kolman  
Timothy M. Kolman, PA51982  
414 Hulmeville Avenue  
Penn del, PA 19047  
(215) 750-3134  
*Attorney for Plaintiff.*

**CERTIFICATE OF COMPLIANCE**

I, Timothy M. Kolman, Esquire, 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/ Timothy M. Kolman, Esq.

Timothy M. Kolman, Esquire, PA 51982

414 Hulmeville Avenue

Pennel, PA 19047

(215) 750-3134

*Attorney for Plaintiff.*



# **EXHIBIT**

**4**

PHILIP GODLEWSKI,  
Plaintiff

IN THE COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY

v.

2023 FEB 22 A.F.I.  
CIVIL DIVISION

CHRIS KELLY, TIMES SHAMROCK COMMUNICATIONS, THE SCRANTON TIMES-TRIBUNE, LARRY HOLEVA  
Defendants. : No.: 2021-CV-2195


**OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21**

J. Timothy Hinton, Jr. objects to the proposed subpoena directed to him that is attached to these objections for the following reasons:

The subpoena requests documents, materials and information protected by the Attorney Work Product Privilege. See Levy v. Senate of Pa. (Levy III), 94 A.3d 430 (Pa. Cmwlth, 2014). Certain documents, materials and information are protected from disclosure by Pa.R.C.P. No. 4003.3. Also, the matters requested by Numbers 6 and 8 of the Subpoena are additionally protected by to Attorney-Client Privilege. Without waiving these objections, Attorney Hinton shall provide Plaintiff's counsel with any text messages or documents he sent to Brienna DuBorgel or that he received from Brienna DuBorgel in response to the proposed subpoena, except for limited redactions to text messages or documents sent by Attorney Hinton that are subject to the Attorney Work Product Privilege or are non-discoverable under Pa. P.C.P. 4003.3. Attorney Hinton shall provide all texts and documents in unredacted form that Brienna DuBorgel sent to Attorney Hinton.

Respectfully submitted:

Date: 2-22-2023

  
J. Timothy Hinton, Jr.  
Haggerty Hinton & Cosgrove LLP  
PA I.D. No. 61981  
1401 Monroe Ave., Suite 2  
Dunmore, PA 18509

Attorneys for Defendants,  
Chris Kelly, The Scranton Times, L.P. 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**