

PHILIP GODLEWSKI,  
Plaintiff

v.

CHRIS KELLY, et al.  
Defendants.

IN THE COURT OF COMMON PLEAS  
LACKAWANNA COUNTY  
CIVIL DIVISION  
2021 JUN 30 A 11:34  
JURY TRIAL DEMANDED  
CLERK OF JUDICIAL RECORDS CIVIL DIVISION  
2021-CV-2195

**BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO COMPEL  
PLAINTIFF'S DISCOVERY RESPONSES AND DECLARE REQUESTS FOR  
ADMISSIONS TO BE ADMITTED**

Defendants, Chris Kelly, The Scranton Times, L.P. and Larry Holeva (hereinafter referred to collectively as "Defendants"), by and through their attorneys, Haggerty Hinton & Cosgrove LLP, file this Brief.

**I. BACKGROUND**

Plaintiff, Phillip Godlewski, filed this defamation case on May 24, 2021. He alleges the Times-Tribune defamed him in an article published on February 14, 2021 and he is seeking \$5 million in damages. By virtue of him being a patriot reporter and social media influencer with over 75,000 followers, Plaintiff has admitted 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. PLAINTIFF'S COMPLAINT**

Discovery in this case should be guided by the averments in the Complaint. The

Complaint avers as follows:

1. Paragraph 1 – “Mr. Godlewski has always been a producer of property sales . . . and had, until Defendants destroyed it, an excellent reputation of ethics, responsibility, and care for his clients.”
2. Paragraph 39 – “Defendants directly imply that Mr. Godlewski was a willing participant and/or organizer in an ongoing felonies criminal conspiracy to bring down the United States government by force.”
3. Paragraph 42 – “Defendants also accuse Mr. Godlewski of having a sexual relationship with a 15-year-old pursuant to a criminal matter which occurred in 2011.”
4. Paragraph 48 – Mr. Godlewski “never had sex [with] an underage girl.”
5. Paragraph 81 – Mr. Godlewski, according to Defendants, bears some responsibility for the “millions of Americans who have lost parents, siblings, children and friends to the QAnon cult.”
6. Paragraph 82 – Defendants cast “Mr. Godleski as a quasi-cult figure breaking up families.”
7. Paragraph 113 – Defendants’ article “resulted in a loss of his job [as a realtor].”
8. Paragraph 122 – Defendants grievously fractured Plaintiffs standing in the community and “exposing him to public hatred.”

### III. STATEMENT OF THE QUESTIONS INVOLVED

A. Should Plaintiff be compelled to answer Defendants' discovery requests

(Defendants' Request for Production of Documents (Set VIII) and Defendants' Interrogatories (Set VIII)?

Suggested Answer: Yes.

B. Should Defendants Requests for Admissions (Set V and Set VI) be deemed to be admitted by Plaintiff?

Suggested Answer: Yes.

### IV. 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 determining whether a discovery request seeks relevant information, the term "relevant" has greater breadth and flexibility than it does for purposes of admissibility at

trial. George, 814 A.2d at 205-206 (holding that although the documents requested “may not ultimately be admissible at trial or may not prove germane to the matters that will be litigated, we believe the relevancy standard applicable to discovery matters has been met.”); Fitt v. General Motors Corp., 13 Pa. D. & C.4th 336, 338 (Lacka. Cty. 1992). Any doubts regarding relevancy are to be resolved in favor of allowing discovery; Davis v. Starosta, 62 Pa. D. & C.4th 76, 80 (Northampton Cty. 2002), and if there is any conceivable basis upon which a discovery request may be relevant, a motion to compel such discovery should be granted. Klovensky v. Moore, 57 Pa. D. & C.4th 370, 373 (Franklin Cty. 2002); Fitt, supra.

Discovery may be prohibited if it is irrelevant, sought in bad faith, causes unreasonable annoyance, embarrassment, oppression, burden or expense to the responding party, or requires unreasonable investigation by the respondent. See *Pa.R.C.P. 4011*. Litigants should expect that “[a]lmost any discovery request causes some annoyance, embarrassment, oppression, burden or expense.” D.S. v. DePaul Institute, 32 Pa. D. & C.4th 328, 334 (Allegheny Cty 1996).

Consequently, the proper inquiry is whether the party objecting to discovery has established unreasonable annoyance, embarrassment, oppression, burden or expense associated with the discovery request. Merrifield v. Gavern, 10 Pa. D. & C.4th 541, 542 (Lacka. Cty. 1991).

Except in those instances where a party objects to discovery based upon the attorney-client privilege, the party opposing discovery bears the burden of establishing that the requested material is privileged and shielded from discovery. Yadouga v. Cruciani, 66 Pa. D. & C. 4th 164, 168 & n. 1 (Lacka. Co. 2004); Taylor v. Pars Manufacturing Co., 13 Phila. Co. Rptr. 132, 135 (Phila. Co. 1985). All doubts regarding the discoverability of information should be resolved in favor of permitting discovery. McAndrew, supra; Fitt v. General Motors Corp., 13 Pa. D. & C. 4th 336, 338 (Lacka. Co. 1992).


Pa.R.C.P. No. 4014 governs requests for admissions. It permits a party to serve upon another party a written request for the admission of the truth of certain matters relating to statements or opinions of fact or the application of the law to fact. *See* Rule 4014(a). That includes questions regarding the execution, correctness, genuineness, authenticity, signing, delivery, mailing, or receipt of any document described in the request for admissions. The purpose of that discovery tool is to clarify and simplify the issues raised in prior pleadings in order to expedite the litigation process. Unless the party responds to the request within 30 days, the matter is deemed admitted. *See* Rule 4014(b). Plaintiff has failed to answer two sets of requests for admissions and he is well beyond the thirty-day time deadline.

#### V. CONCLUSION

Plaintiff has no excuse for not answering Defendants' discovery in this case. He is seeking \$5 million in damages from Defendants. Plaintiff has not asserted even a word of protest about the discovery requests, nor has he claimed they are improper under the law in any respect. Rather, his attorney has just ignored them. Plaintiff has conducted no depositions. Defendants are seeking to conclude discovery in the next sixty (60) days so they can file a motion to dispose of this lawsuit.

Respectfully submitted,

Date: 6-30-2023

  
\_\_\_\_\_  
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**

**HAURI B. KELLY  
LACKAWANNA COUNTY  
2023 JUN 30 A 11: 34  
CLERK OF JUDICIAL  
RECORDS CIVIL DIVISION**

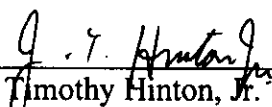
**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_ day of June 2023 I caused to be served by electronic mail, a true and correct copy of the foregoing Brief in Support of Defendants' Motion to Compel Plaintiff's Discovery Responses and Declare Requests for Admissions to be Admitted upon the following:

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

Date: 6-30-2023

Respectfully submitted:

  
\_\_\_\_\_  
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*

MAURI B. KELLY  
LACKAWANNA COUNTY  
2023 JUN 30 A 11:34  
CLERK OF JUDICIAL  
RECORDS CIVIL DIVISION