

PHILIP GODLEWSKI,

MAURIE B. KELLY  
LACKAWANNA COUNTY COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY, PA  
JUL - 5 A. 10 49  
2021  
CLERK OF JUDICIAL RECORDS CIVIL DIVISION  
2022-cv-2195

v.

CHRIS KELLY et al.,

Defendants. : JURY TRIAL DEMANDED

**PLAINTIFF'S MOTION FOR PROTECTIVE ORDER**

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

1. Defendants have indicated their intention to take the deposition of Godlewski's mother, Marie Godlewski ("Marie"), on July 20, 2023.
2. Marie was not a participant in Godlewski's online activities, which are publicly available.
3. Marie was not in the real estate business with Godlewski.
4. Marie does not possess any direct knowledge concerning the subject matter of this litigation.
5. The Pennsylvania Rules of Civil Procedure limit the scope of discovery to information reasonably calculated to lead to the discovery of admissible evidence. Pa.R.C.P. 4003.1.
6. The deposition of Marie is not reasonably calculated to lead to the discovery of admissible evidence, as Marie does not know the facts and circumstances of this matter.
7. Under the Pennsylvania Rules of Civil Procedure, discovery shall not be permitted when sought in bad faith; creates unreasonable annoyance, embarrassment, oppression, burden, or expense; or is beyond the scope of discovery established by the rules—Pa.R.C.P. 4011 (a), (b), and (c).

**SCANNED  
DR**

8. Defendants seek the deposition of Marie in bad faith and to harass members of Godlewski's family.
9. The deposition of Marie would cause unreasonable annoyance, embarrassment, oppression, burden and expense to Godlewski.
10. The deposition of Marie is beyond the scope of discovery as set forth in Pa.R.C.P. 4003.1.
11. The Court can prohibit depositions "to protect a party or person from unreasonable annoyance, embarrassment, oppression, burden, or expense." Pa.R.C.P. 4012 (a)(1).
12. The interests of justice require that the Court prohibit the deposition of Marie Godlewski and quash her subpoena to testify.
13. The Pennsylvania Rules of Civil Procedure provide that "[t]he court for good cause shown may stay any or all proceedings in the action until disposition of [a motion for protective order]." Pa.R.C.P. 4013.
14. The Court should stay the deposition of Marie pending determination of this Motion in order to prevent undue burden and expense to the parties.

**WHEREFORE**, Plaintiff Philip Godlewski respectfully requests that the Honorable Court grant his Motion for Protective Order and enter an Order providing the following relief:

- A. Prohibiting the deposition of Marie Godlewski.
- B. Such other relief as the Court may deem just.

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: 06/26/2023

*/s/ Timothy M. Kolman*

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

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PHILIP GODLEWSKI,	MAURIE B. KELLY LACKAWANNA COUNTY Clerk of Judicial Records Civil Division	IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY, PA  No: 2022-cv-2195  JURY TRIAL DEMANDED
v.	:	:
CHRIS KELLY et al.,	Defendants.	

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**BRIEF IN SUPPORT OF PLAINTIFF'S  
MOTION FOR PROTECTIVE ORDER**

**QUESTIONS PRESENTED**

- I. **WHETHER THE COURT SHOULD PROHIBIT THE DEPOSITION OF MARIE GODLEWSKI AS HER TESTIMONY IS OUTSIDE THE SCOPE OF PERMISSIBLE DISCOVERY.**

**STATEMENT OF THE CASE**

**1. Procedural history.**

Plaintiff, Philip Godlewski, ("Godlewski") initiated this action by filing a Complaint on May 24, 2021. The Complaint alleged causes of action sounding in defamation, false light invasion of privacy, and intentional interference with contractual relations (present and prospective). Defendants filed an Answer and New Matter on July 6, 2024. Godlewski countered with an Answer to New Matter on July 6, 2021.

Defendants have conducted extensive discovery, sending notice of intent to serve subpoenas to various parties on October 7, 2021; March 30, 2022; April 18, 2022; May 25, 2022; June 16, 2022; June 21, 2022; August 30, 2022; September 14, 2022; October 3, 2022; November 14, 2022; November 17, 2022; and November 18, 2022. Additionally, Defendants have served numerous Interrogatories, Requests for Production of Documents, and Requests

for Admissions upon Godlewski. Four (4) depositions were taken on March 1, 2023, and March 3, 2023, and additional depositions have been scheduled.

On February 23, 2023, Godlewski filed a Motion for Leave to Conduct Discovery Relating to Punitive Damages. Defendants filed a response to this Motion on March 6, 2023. The Court held a hearing on the Motion for April 15, 2023, and has taken the matter under advisement.

On June 6, 2023, Defendants have indicated their intention to take the deposition of Godlewski's mother, Marie Godlewski.

**2. Statement of Facts.**

On July 9, 2010, Godlewski was charged by Criminal Complaint with various sex offenses. Among the many charges outlined in the Criminal Complaint was Offense 7, Corruption of Minors, Pa.C.S.A. § 6301 (a)(1) asserting that Godlewski "did corrupt the morals of the victim, Brienna DuBorgel, a minor under the said the age of 18 years, by engaging in acts of sexual intercourse..."

By Information docketed on November 16, 2010, the Commonwealth charged Godlewski with a single count of corruption of minors, alleging that Godlewski "did repeatedly have inappropriate text messages [sic] and contact with a minor. Godlewski was not charged by Information with any sex offense at all.

Godlewski pleaded guilty to the single count charged in the Information. Paragraph 16 of the Guilty Plea Colloquy indicates that the elements of the crime charged were, "Being of the age of 18 or older, by an act corrupts or tend [sic] to corrupt the morals of a minor." Paragraph 17 of the Guilty Plea Colloquy does not indicate what the District Attorney indicates Godlewski did on the day of the crime charged.

On February 14, 2021, the Scranton Times-Tribune published a column about Godlewski entitled "Chris Kelly: QAnon Realtor sells rabbit holes on YouTube." The column asserts, "In 2011, the former Riverside High School baseball coach pleaded guilty to corruption of minors and admitted to having a sexual relationship with a 15-year-old girl." While it is true that Godlewski pleaded guilty to the corruption of minors, Godlewski never made any admission that Godlewski had a sexual relationship with a 15-year-old girl.

The column further asserts, "Lackawanna County detectives said Godlweski had sex with the girl in cars and homes he had access to as a real estate agent." While those allegations existed in the original Criminal Complaint, Godlewski was not ultimately so-charged by Information, nor did Godlewski plead to such a charge or admit the veracity of such a charge.

Marie Godlewski was not a participant in any of the events or transactions which underlie this case.

### **ARGUMENT**

#### **I. THE COURT SHOULD PROHIBIT THE DEPOSITION OF MARIE GODLEWSKI AS HER TESTIMONY IS OUTSIDE THE SCOPE OF PERMISSIBLE DISCOVERY.**

The Pennsylvania Rules of Civil Procedure limit the scope of discovery to information reasonably calculated to lead to the discovery of admissible evidence. Pa.R.C.P. 4003.1. Further, discovery shall not be permitted when sought in bad faith; creates unreasonable annoyance, embarrassment, oppression, burden, or expense; or is beyond the scope of discovery established by the rules. Pa.R.C.P. 4011 (a), (b), and (c). The Court can prohibit depositions "to protect a party or person from unreasonable annoyance, embarrassment, oppression, burden, or expense." Pa.R.C.P. 4012 (a)(1). Finally, "[t]he court for good cause

shown may stay any or all proceedings in the action until disposition of [a motion for protective order]." Pa.R.C.P. 4013.

The deposition of Marie is not reasonably calculated to lead to the discovery of admissible evidence as Marie was not a participant in any of the underlying events. Defendants seek the deposition of Dorothea in bad faith on a mere fishing expedition calculated to harass Godlewski's family members.

The deposition of Dorothea would cause unreasonable annoyance, embarrassment, oppression, burden, and expense to Godlewski as the only possible purpose of the deposition is to cause needless expense as Defendants fish for information. Accordingly, the Court should prohibit the deposition of Marie.

Given the robust nature of the spousal communications privilege, the interests of justice required that the Court stay the taking of Marie's deposition pending disposition of this motion.

**WHEREFORE**, Plaintiff Philip Godlewski respectfully requests that the Honorable Court grant his Motion for Protective Order and enter an Order providing the following relief:

- A. Prohibiting the deposition of Marie Godlewski and quashing the subpoena directed to Dorothea Godlewski, and
- B. Such other relief as the Court may deem just.

Respectfully submitted,

**KOLMAN LAW, PC**

DATE: 06/26/2023

/s/ Timothy M. Kolman

Timothy M. Kolman, PA51982

414 Hulmeville Avenue

Penndel, PA 19047

(215) 750-3134

*Attorney for Plaintiff.*

**COMBINED CERTIFICATE**

I HEREBY CERTIFY that I have, this 23<sup>rd</sup> day of June 2023, served a true and correct copy of the foregoing document by email upon the following:

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

/s/ Timothy M. Kolman

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

DATE: 06/26/2023

HAURIB. KELLY  
LACKAWANNA COUNTY  
2023 JUL -5 A 10:14  
CLERK OF JUDICIAL  
RECORDS CIVIL DIVISION

PHILIP GODLEWSKI,  
Plaintiff

v.

CHRIS KELLY, et al.  
Defendants.

: IN THE COURT OF COMMON PLEAS  
: OF LACKAWANNA COUNTY

: CIVIL DIVISION

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

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**NOTICE OF TAKING DEPOSITIONS ON ORAL EXAMINATION**  
**UNDER PENNSYLVANIA R.C.P. 4007.1**

DEPONENT: Dori Godlewski

NOTICE IS HEREBY GIVEN, that pursuant to R.C.P. 4007, the above-referenced deponent's deposition will be taken by the undersigned Plaintiffs' counsel before a Standing Commissioner or other person authorized by law to administer oaths on **Thursday, July 20, 2023 at 10:00 a.m. at the Lackawanna Bar Association, 233 Penn Avenue, Scranton, PA 18503.** YOU ARE NOTIFIED that we reserve the right to record the deposition by stenographic means or by utilizing digital audio recording equipment or any other alternative methods of capture. The subject matter of the deposition will be to inquire into the facts and circumstances surrounding the claims and defenses which are the subject matter of the above-captioned lawsuit.

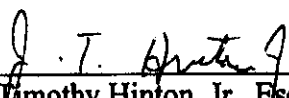
The information to be inquired into is relevant to the subject matter involved in this action and is not privileged. The deposition will not violate any of the restrictions of Pa. R.C.P. No. 4011.

**Exhibit 1**



RESPECTFULLY SUBMITTED,

BY:

  
\_\_\_\_\_  
J. Timothy Hinton, Jr., Esq.  
HAGGERTY HINTON & COSGROVE LLP  
1401 Monroe Ave., Suite 2  
Dunmore, PA 18509  
Ph: (570) 344-9845  
Fax: (570) 343-9731  
[timhinton@haggertylaw.net](mailto:timhinton@haggertylaw.net)  
Attorneys for Defendants,  
*Chris Kelly, The Scranton Times, L.P.*  
*and Larry Holeva*

PHILIP GODLEWSKI,  
Plaintiff

v.

CHRIS KELLY, et al.  
Defendants.

: IN THE COURT OF COMMON PLEAS  
: OF LACKAWANNA COUNTY

: CIVIL DIVISION

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

.....  
**CERTIFICATE OF SERVICE**

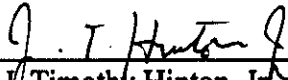
I hereby certify that on this 2<sup>nd</sup> day of June 2023, I caused to be served by electronic mail, a true and correct copy of the foregoing Notice of Deposition upon the following:

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

John R. Williams, Esq.  
[jrwesq@johnwilliamsllaw.com](mailto:jrwesq@johnwilliamsllaw.com)

RESPECTFULLY SUBMITTED,

HAGGERTY HINTON & COSGROVE LLP

By:   
Timothy Hinton, Jr., Esq.  
401 Monroe Ave., Suite 2  
Dunmore, PA 18509  
(570) 344-9845  
[timhinton@haggertylaw.net](mailto:timhinton@haggertylaw.net)  
Attorneys for Defendants,  
*Chris Kelly, Times Shamrock  
Communications, The Scranton Times-  
Tribune and Larry Holeva*

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LACKAWANNA

Philip Godlewski  
vs.  
Chris Kelly, et al.

File No. 2021-CV-2195

**SUBPOENA TO ATTEND AND TESTIFY**

TO: Dorothea Godlewski  
\_\_\_\_\_  
\_\_\_\_\_

1. You are ordered by the Court to come to Lackawanna Bar Association,  
233 Penn Avenue Scranton, PA 18503  
(Specify Courtroom or other place)  
at Scranton, Lackawanna County, Pennsylvania, on 7/20/2023  
at 10, o'clock, A. M., to testify on behalf of Chris Kelly, et al.

in the above case, and to remain until excused.

2. And bring with you the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you fail to attend or produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

REQUESTED BY A PARTY/ATTORNEY IN COMPLIANCE WITH Pa. R.C.P. No. 234.2(a):

Name: J. Timothy Hinton, Jr., Esq.  
Address: 1401 Monroe Avenue, Suite 2  
Dunmore, PA 18509  
Telephone: (570) 344-9845  
Supreme Court ID # 61981

BY THE COURT:  
Mauri B. Kelly  
Mauri B. Kelly  
Clerk of Judicial Records, Civil Division

DATE: 6/6/2023  
(Seal of the Court)

**Exhibit 2**

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with Pa. R.C.P. No. 234.1 If a subpoena for production of documents, records or things is desired, complete paragraph 2.

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PHILIP GODLEWSKI,	:	IN THE COURT OF COMMON PLEAS
Plaintiff,	:	OF LACKAWANNA COUNTY, PA
	:	
v.	:	No. <del>2022-01-2195</del>
	:	21-CU-2195
CHRIS KELLY et al.,	:	
Defendants.	:	JURY TRIAL DEMANDED

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**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2023, upon consideration of Plaintiff's Motion for Protective Order, it is hereby ORDERED as follows:

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

B. The deposition of Marie Godlewski in this matter is stayed pending further order of this Court.

BY THE COURT:

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