

KOLMAN LAW P.C.

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MAURI B. KELLY
LACKAWANNA COUNTY

CLERK OF JUDICIAL
RECORDS & CIVIL DIVISION

To: DEFENDANT
You are hereby notified to file a written response to the enclosed **NEW MATTER** within twenty (20) days from service hereof or a judgement may be entered upon you.

/s/Timothy M. Kolman
TIMOTHY M. KOLMAN, ESQ.

Attorneys for Plaintiff

PHILIP GODLEWSKI, : IN THE COURT OF COMMON PLEAS
Plaintiff, : of LACKAWANNA COUNTY, PA
: :
v. : CV-2023-1354
: :
BRIENNA L. DuBORGEL, : CIVIL ACTION - LAW
Defendant. : JURY TRIAL DEMANDED

**PLAINTIFF'S ANSWER WITH NEW MATTER
TO DEFENDANT'S NEW MATTER AND COUNTER-CLAIM [SIC]**

COMES NOW, Plaintiff, Philip Godlewski, by and through his counsel, Kolman Law PC, and makes the following Answer:

DEFENDANT'S ANSWER

1-48. No responsive pleading is required.

DEFENDANT'S NEW MATTER

1. Paragraph 1 contains allegations of law to which no responsive pleading is required.
2. Denied. It is denied that the statements complained of are accurate or substantially true. Instead, they are false, as set forth in Plaintiff's Complaint. The allegations contained in Plaintiff's Complaint of false statements made by Defendant are incorporated herein by reference.
3. Paragraph 3 contains allegations of law to which no responsive pleading is required.

4. Paragraph 4 contains allegations of law to which no responsive pleading is required. To the extent a response is required, it is denied that Plaintiff cannot prove that Defendant acted with actual malice. Rather, Plaintiff can prove that Defendant acted with actual malice.
5. Paragraph 5 contains allegations of law to which no responsive pleading is required.
6. Denied. It is denied that Plaintiff suffered no damage because of the statements complained of. Rather, Plaintiff suffered and continues to suffer harm to reputation, emotional distress, and other harms as alleged in Plaintiff's Complaint.
7. Paragraph 7 contains allegations of law to which no responsive pleading is required.
8. Paragraph 8 contains allegations of law to which no responsive pleading is required.
9. Paragraph 9 contains allegations of law to which no responsive pleading is required.
10. Paragraph 10 contains allegations of law to which no responsive pleading is required.
11. Paragraph 11 contains allegations of law to which no responsive pleading is required.
12. Paragraph 12 contains allegations of law to which no responsive pleading is required.

DEFENDANT'S COUNTER-CLAIM [SIC]

1. Denied. It is denied that plaintiff began pursuing a sexual relationship with Defendant at any time when Defendant was a minor. Rather, Plaintiff never pursued a sexual relationship with Defendant while Defendant was a minor.
2. Denied. After reasonable investigation, Plaintiff is without sufficient information to form an opinion or belief as to the allegation's veracity that Defendant's parents learned anything. That allegation is, therefore, denied. Further, After reasonable investigation, Plaintiff is without sufficient information to form an opinion or belief as to the veracity of the allegation that Defendant provided a statement to police acknowledging her sexual

relationship with Plaintiff since no alleged statement is attached to Defendant's Counterclaim as an exhibit. The allegation of such a statement is therefore denied.

3. Denied. It is denied that Defendant did not lie, embellish, or otherwise make defamatory statements regarding Plaintiff and that Defendant told the truth. Rather, Defendant has consistently made and continues to make false and defamatory statements that Defendant engaged in a sexual relationship with Plaintiff while Defendant was a minor.
4. Denied. It is denied that Plaintiff had a sexual relationship with Defendant while Defendant was a minor and that Plaintiff - in his capacity as a realtor - took Defendant to third-party homes to have sexual relations. Rather, Plaintiff never had any sexual relations in any location with Defendant while Defendant was a minor.
5. Admitted.
6. Admitted in part, denied in part. It is admitted that on or about October 31, 2022, Defendant signed the Affidavit attached to the Counterclaim as Exhibit C. It is denied that the statements contained in the Affidavit are true. Instead, the information contained in the Affidavit is a recitation of the false allegations made by Defendant against Plaintiff.
7. Denied. It is denied that Defendant did not lie, embellish or otherwise make defamatory statements regarding Plaintiff in the Affidavit or that the Affidavit is truthful. Instead, the information in the Affidavit is a recitation of the false allegations made by Defendant against Plaintiff.
8. a) Denied. It is denied that Plaintiff and Defendant had a sexual relationship when Defendant was fifteen (years) of age. Rather, Plaintiff and Defendant had no sexual relationship while Defendant was a minor.

- b) Denied. It is denied that a sexual relationship began between Plaintiff and Defendant while Defendant was a minor. Rather, Plaintiff and Defendant had no sexual relationship while Defendant was a minor.
 - c) Denied. It is denied that Plaintiff bought gifts of jewelry, a hat, or other unspecified items during the first few months of the relationship, as there was no sexual relationship between Plaintiff and Defendant while Defendant was a minor.
 - d) Denied. It is denied that Plaintiff and Defendant had sex while Defendant was in ninth (9th) and tenth (10th) grade at Riverside Highschool (sic). Rather, Plaintiff and Defendant had no sexual relationship while Defendant was a minor.
 - e) Denied. It is denied that Plaintiff threatened to commit suicide if Defendant were to testify against Plaintiff in a criminal proceeding. Rather, Plaintiff at no time communicated to Defendant any intention on the part of Plaintiff to commit suicide.
 - f) Denied. After reasonable investigation, Plaintiff is without sufficient information to form an opinion or belief as to the veracity of Defendant's allegations concerning alleged decisions not to testify. Those averments are therefore denied.
 - g) Denied. It is denied that there was a continuation of a sexual relationship as there was no sexual relationship between Plaintiff and Defendant while Defendant was a minor. Therefore, such a relationship could not and did not continue.
9. Admitted in part, denied in part. It is admitted that Defendant signed the Affidavit attached to the Counterclaim as Exhibit D. It is denied that Plaintiff created the document labeled "Untitled" and attached to the Affidavit as Exhibit A. Rather, Plaintiff did not create this document and had no knowledge or information as to who did other than a mention from Plaintiff's former criminal investigator that one Ciara O'Malley created the document. It

is denied that the second attachment to the Affidavit is a collection of text messages between Plaintiff and Defendant. Rather, it appears that the document purports to set forth the text messages of one "Phil Gadłowski." This person is not the Plaintiff. Further, Plaintiff has no knowledge or information concerning who or by what methods the document was prepared.

10. Denied. It is denied that these text messages indicate any sexual relationship between Plaintiff and Defendant. Rather, it appears that the document purports to set forth the text messages of one "Phil Gadłowski." This person is not the Plaintiff. Further, Plaintiff has no knowledge or information concerning who or by what methods the document was prepared.

11. Denied. It is denied that Plaintiff made any of the communications set forth in the attachment. Rather, it appears that the document purports to set forth the text messages of one "Phil Gadłowski." This person is not the Plaintiff. Further, Plaintiff has no knowledge or information concerning who or by what methods the document was prepared.

12. Denied. It is denied that Defendant did not lie, embellish, or otherwise make defamatory statements regarding Plaintiff and that Defendant told the truth. Rather, Defendant has consistently made and continues to make false and defamatory statements that Defendant engaged in a sexual relationship with Plaintiff while Defendant was a minor.

13. Paragraph 13 contains allegations of law to which no responsive pleading is required. To the extent a response is required, it is denied that Plaintiff published or spoke defamatory falsehoods concerning Defendant. Rather, Plaintiff has only spoken truthfully of Defendant.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Paragraph 18 contains allegations of law to which no responsive pleading is required. To the extent that a response is needed, it is denied that Plaintiff made implied and/or outright defamatory claims about Defendant. Rather, Plaintiff has spoken truthfully about Defendant.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted.

26. Admitted.

27. Denied. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion on what Defendant believes was implied. The allegation is therefore denied.

28. Admitted.

29. Admitted.

30. Admitted.

31. Admitted.

32. Admitted.

33. Admitted.
34. Admitted.
35. Paragraph 35 contains allegations of law to which no responsive pleading is required.
36. No responsive pleading is required.
37. Denied. It is denied that the statements attributed to Plaintiff are false. Rather, they are true.
38. Denied. It is denied that Plaintiff knew his statements were false. Rather, at that time and subsequent times, Plaintiff believes his statements to be true.
39. Paragraph 39 contains allegations of law to which no responsive pleading is required. To the extent a responsive pleading is required, after reasonable investigation, Plaintiff is without sufficient knowledge or information to form an opinion or belief as to the veracity of the allegations concerning the perceptions and understandings of Plaintiff's viewers. The allegations are therefore denied.
40. Paragraph 40 contains a prayer for relief to which no responsive pleading is required. To the extent a response is needed, it is denied that plaintiff made false or defamatory statements about Defendant. Rather, Plaintiff has spoken truly of Defendant.
41. Paragraph 41 contains allegations of law to which no responsive pleading is required.
42. Paragraph 42 contains allegations of law to which no responsive pleading is required.
43. Paragraph 43 contains allegations of law to which no responsive pleading is required.
44. Denied. After reasonable investigation, Plaintiff is without sufficient knowledge or information to form an opinion or belief as to the veracity of the allegation that Defendant has suffered special harm, irreparable damage to reputation, hatred, contempt, ridicule, and humiliation. Those allegations are therefore denied.

45. Denied. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant's reputation and esteem have been damaged. Those allegations are, therefore, denied.
46. Denied. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant has suffered loss of income and earning capacity. Those allegations are, therefore, denied.
47. Denied. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant has suffered grave mental anguish, humiliation, and loss of enjoyment of life. Those allegations are, therefore, denied.
48. Paragraph 48 contains allegations of law and a prayer for relief to which no responsive pleading is required.
49. No responsive pleading is required.
50. Denied. It is denied that any of the aforementioned statements contained distortions, misrepresentations, misstatements of fact, and omissions of fact designed to cast Defendant in a false light. Instead, the statements spoken are factually true.
51. Paragraph 51 contains allegations of law to which no responsive pleading is required.
52. Paragraph 52 contains allegations of law to which no responsive pleading is required. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant has suffered the aforementioned injuries. Those allegations are therefore denied.
53. No responsive pleading is required.
54. Paragraph 54 contains allegations of law to which no responsive pleading is required.

55. Denied. It is denied that Plaintiff had sexual intercourse with Defendant during Fall 2008 through Spring/Summer 2010 or at any other time when Plaintiff was minor.
56. Denied. It is denied that Plaintiff had a sexual relationship with Defendant while Defendant was a minor. It is denied that Plaintiff, as a coach at Defendant's high school, was in a position of authority over Defendant. Rather, Plaintiff was a boys' baseball coach and was not in any position of authority with Defendant.
57. Denied. It is denied that there were any sexual interactions between Plaintiff and Defendant while Defendant was a minor or that Plaintiff at any time subjected Defendant to offensive and/or harmful bodily contact with Plaintiff.
58. Denied. It is denied that there were any sexual interactions between Plaintiff and Defendant while Defendant was a minor.
59. Denied. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant has suffered the aforementioned injuries. Those allegations are therefore denied.
60. Denied. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant has suffered the aforementioned injuries. Those allegations are, therefore, denied.
61. No responsive pleading is required.
62. Denied. It is denied that Plaintiff had a sexual relationship with Defendant while Defendant was a minor. It is denied that Plaintiff, as a coach at Defendant's high school, was in a position of authority over Defendant. Rather, Plaintiff was a boys' baseball coach and was not in any position of authority with Defendant.

63. Denied. It is denied that there were any sexual interactions between Plaintiff and Defendant while Defendant was a minor.
64. Denied. It is denied that there were any sexual interactions between Plaintiff and Defendant while Defendant was a minor. Further, it is denied that Plaintiff, as a coach at Defendant's high school, was in a position of authority over Defendant. Rather, Plaintiff was a boys' baseball coach and was not in any position of authority with Defendant.
65. It is denied that there was any harmful and/or offensive bodily contact as it is denied that Plaintiff had a sexual relationship with Defendant while Defendant was a minor.
66. Denied. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant has suffered the aforementioned injuries. Those allegations are therefore denied.
67. No responsive pleading is required.
68. Denied. It is denied that there were any sexual interactions between Plaintiff and Defendant while Defendant was a minor.
69. Denied. It is denied that there were any sexual interactions between Plaintiff and Defendant while Defendant was a minor.
70. Denied. It is denied that Plaintiff in any way mentally abused, manipulated, or extorted Defendant.
71. Denied. It is denied that Plaintiff attempted to control any aspect of Defendant's life.
72. Paragraph 72 contains allegations of law to which no responsive pleading is required. To the extent a responsive pleading is required, the allegations of paragraph 72 are denied. Exhibit A purports to be the text messages of one Phil Godlewski rather than the Plaintiff.

Additionally, Plaintiff is without knowledge or information concerning the identity of the person who prepared Exhibit A or the methods used in its preparation.

73. Denied. It is denied that Plaintiff in any way sexually, mentally, or emotionally abused a fifteen-sixteen-year-old as Plaintiff at no time engaged in a sexual relationship with Defendant. It is denied that Plaintiff ever threatened to commit suicide.
74. Denied. It is denied that there was anything to "hit Defendant particularly hard" as Plaintiff never engaged in a sexual relationship with Defendant. It is denied that Plaintiff ever threatened to commit suicide.
75. Paragraph 75 contains allegations of law to which no responsive pleading is required. To the extent a response is required, it is denied that Plaintiff ever threatened to commit suicide, much less to influence the testimony of Defendant.
76. Paragraph 76 contains allegations of law to which no responsive pleading is required.
77. Paragraph 77 contains allegations of law to which no responsive pleading is required.
78. Paragraph 78 contains allegations of law to which no responsive pleading is required. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief regarding the allegation's veracity that Defendant has suffered the aforementioned injuries. Those allegations are, therefore, denied.
79. Paragraph 79 contains allegations of law to which no responsive pleading is required. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an opinion or belief as to the allegation's veracity that Defendant has suffered the aforementioned injuries. Those allegations are therefore denied.
80. Paragraph 80 contains allegations of law to which no responsive pleading is required. After reasonable investigation, Plaintiff lacks sufficient knowledge or information to form an

opinion or belief as to the allegation's veracity that Defendant has suffered the aforementioned injuries. Those allegations are therefore denied.

81. No responsive pleading is required.

82. Admitted in part, denied in part. It is admitted that Plaintiff was a boys' baseball coach at Defendant's high school. It is denied that Plaintiff and Defendant had a sexual relationship while Defendant was a minor.

83. Paragraph 83 contains allegations of law to which no responsive pleading is required.

84. Paragraph 84 contains allegations of law to which no responsive pleading is required. To the extent a response is required, the allegations of paragraph 84 are denied. It is denied that Plaintiff admitted on any live stream that he took on somewhat of a role of a grief counselor at Defendant's high school. Rather, Plaintiff at no time held himself out as taking on the role of a grief counselor, nor did Plaintiff at any time serve as a grief counselor. Rather, Plaintiff's sole role at Defendant's high school was that of coach to the boys' junior varsity baseball team. Defendant was not a member of the boys' junior varsity baseball team, and Plaintiff had no contact with Defendant in Plaintiff's capacity as coach to the boys' junior varsity baseball team.

85. Paragraph 85 contains allegations of law to which no responsive pleading is required.

PLAINTIFF'S NEW MATTER

1. Defendant has consented to Plaintiff's actions.
2. Plaintiff has fairly commented about Defendant.
3. Plaintiff's comments about Defendant are privileged.
4. Plaintiff's comments about Defendant are true.
5. Plaintiff's comments about Defendant are about matters of public concern

6. Defendant is estopped from bringing her claims against Plaintiff.
7. Defendant's claims against Plaintiff are barred by the doctrine of laches.
8. Defendant's claims against Plaintiff are barred by the statute of limitations.

Respectfully submitted,

KOLMAN LAW, PC

/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 30th day of JUNE 2023, served a true and correct copy of the foregoing document by email upon the following:

Edward J. Ciarimboli, Esquire
Molly Dempsey Clark, Esquire
Counsel for Defendant

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.

/s/ Timothy M. Kolman
Timothy M. Kolman, PA51982

MAURI B. KELLY
LACKAWANNA COUNTY

2023 JUL -7 P 1:47

CLERK OF JUDICIAL
RECORDS CIVIL DIVISION