

PHILIP GODLEWSKI,

MAURI B. KELLY IN THE COURT OF COMMON PLEAS  
LACKAWANNA COUNTY OF LACKAWANNA COUNTY, PA  
Plaintiff,

v.

CHRIS KELLY et al.,

2023 JUL 10 12:15 21  
No: 2022-cv-2195  
CLERK OF JUDICIAL  
RECORDS CIVIL DIVISION

Defendants. : JURY TRIAL DEMANDED

**BRIEF IN SUPPORT OF PLAINTIFF'S  
MOTION FOR EXTENSION OF TIME  
TO SERVE RESPONSES TO DEFENDANTS'  
REQUEST FOR ADMISSIONS (SET VI)**

QUESTIONS PRESENTED

I. WHETHER THE COURT SHOULD GRANT PLAINTIFF'S REQUEST FOR EXTENSION OF TIME TO SERVE RESPONSES TO DEFENDANTS' REQUEST FOR ADMISSIONS (SET VI).

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, 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, 2002; 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. A total of four 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 May 15, 2023 Defendants served upon Godlewski their sixth set of Requests for Admissions. On the same day, Defendants served upon Godlewski their eighth sets of Interrogatories and Requests for Production of Documents. Defendants have subsequently served Godlewski with their seventh set of Requests for Admissions. Depositions are scheduled in this matter throughout June and July 2023. This matter is not poised for trial or dispositive motions.

2. Statement of Facts.

On or July 9, 2010 Godlewski was charged by Criminal Complaint with various sex offenses. Among the the many charges set forth 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 naessages [sic] and contact with a minor. Godlewski was not charged by Information with any sex offense at all.

Godlewski entered a plea of 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 contains no indication of the 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 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 GRANT PLAINTIFF'S REQUEST FOR EXTENSION OF TIME TO SERVE RESPONSES TO DEFENDANTS' REQUEST FOR ADMISSIONS (SET VI).

The Pennsylvania Rules of Civil Procedure provide that requests for admissions are deemed admitted unless answered "within thirty days after service of the request, or within such shorter or longer time as the court may allow..." Pa.R.C.P. 4014 (b). Rule 4014 (b) permits a court, in its discretion, to extend the time to file responses to requests for admissions. Thomas v. Elash, 781 A.2d 170, 177 (Pa.Super. 2001).

Extensions of time to response to requests for admissions may be granted particularly where there is no showing of prejudice to the party making the requests for admissions. Krepps v. Snyder, 112 A.3d 1246, 1253-54 (Pa.Super. 2015). The Superior Court has held that "[t]he test of prejudice turns on whether a party opposing the withdrawal [of an admission] is rendered less able to obtain the evidence required to prove the matters which had been admitted." Id. citing Estate of Borst v. Edward Stover Sr. Testamentary Trust, 30 A.3d 1207, 1211 (Pa.Super. 2011). The Superior Court extended this standard to the acceptance of *nunc pro tunc* responses. Id.

In Krepps, the party responding to a request for admissions did not serve their responses until nearly a year after the request was served. After the close of discovery, the party who preferred the requests attempted to enforce the deemed admissions through motions for summary judgment and in limine. The trial court declined to deem the matters admitted as, even though served a year late, the adverse party suffered no prejudice as a result. The Superior Court upheld this result.

In the case at bar, Godlewski requests only a modest extension of time to serve responses to Defendants' sixth sets of request for admissions. Defendants continue to serve written discovery with a monthly rhythm that is tediously predictable. Depositions are scheduled in this matter over the next two months. As no order has been entered setting a discovery deadline much less a trial date, Defendants have ample opportunity to conduct additional discovery based on the proposed responses should they require it. As no prejudice will result, the Court should grant this motion.

CONCLUSION

For the foregoing reasons, Plaintiff Philip Godlewski respectfully requests that the Honorable Court grant his Motion for Extension of Time to Serve Responses to Defendants' Request for Admissions (Set VI).

Respectfully submitted,

  
KOLMAN LAW, PC

\_\_\_\_\_  
Timothy A. Bowers, PA77980  
414 Hulmeville Avenue  
Pennel, PA 19047  
(215) 750-3134  
*Attorney for Plaintiff.*


DATE: July 10, 2023

**COMBINED CERTIFICATE**

I HEREBY CERTIFY that I have, this 10th day of July 2023, served a true and correct copy of the foregoing document by hand upon the following:

J. Timothy Hinton, Esquire  
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.



---

Timothy A. Bowers, PA77980

MAURICE B. KELLY  
LACKAWANNA COUNTY  
JUL 10 P 12:15  
CLERK OF JUDICIAL  
RECORDS & COURT DIVISION