

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

**PLAINTIFF'S MOTION FOR PROTECTIVE ORDER
AND TO QUASH SUBPOENA**

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

1. On June 6, 2023 Defendants served upon Godlewski a Notice of Taking Depositions on Oral Examination Under Pennsylvania R.C.P. 4007.1 ("Deposition Notice") indicating Defendants' intent to take the deposition of Dori Godlewski on Thursday, July 20, 2023 at 10:00 AM. See true and correct copy of Deposition Notice attached hereto as Exhibit 1.
2. Defendants accompanied their Deposition Notice with a Subpoena to Attend and Testify ("Subpoena") directed to Dorothea Godlewski ("Dorothea").
3. Dorothea is Godlewski's former spouse.
4. Dorothea and Godlewski were married on September 21, 2012 over two years after the time of the alleged sexual relationship between Godlewski and then minor BD.
5. Dorothea was not a participant in Godlewski's online activities which are publicly available.
6. Dorothea was not in the real estate business with Godlewski.
7. Dorothea does not possess any direct knowledge concerning the subject matter of this litigation.

MALEIN B. KELLY
 LACKAWANNA COUNTY
 CLERK OF COURT
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8. To the extent that Dorothea may possess information concerning the subject matter of this litigation, that information would be derived exclusively from confidential communications made by Godlewski to Dorothea during the course of their marriage.

9. In Pennsylvania, the privilege against spousal testimony extends after divorce to confidential communications made during the marriage. See Com. v. Chiappini, 556 Pa. 507, 516, 782 A.2d 490, 495 (2001).

10. 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.

11. The deposition of Dorothea is not reasonably calculated to lead to the discovery of admissible evidence as Dorothea's testimony is barred by the common law doctrine of spousal privilege.

12. 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).

13. Defendants seek the deposition of Dorothea in bad faith as Dorothea's testimony is barred by the common law doctrine of spousal privilege.

14. The deposition of Dorothea would cause unreasonable annoyance, embarrassment, oppression, burden and expense to Godlewski.

15. The deposition of Dorothea is beyond the scope of discovery as set forth in Pa.R.C.P. 4003.1.

16. The Court has the power to prohibit depositions "to protect a party or person from unreasonable annoyance, embarrassment, oppression, burden, or expense." Pa.R.C.P. 4012 (a) (1).

17. The interests of justice require that the Court prohibit the deposition of Dorothea Godlewski and quash her subpoena to testify.

18. 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].

19. The Court should stay the deposition of Dorothea 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 to Quash Subpoena and enter an Order providing the following relief:

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

Respectfully submitted,

DATE: July 10, 2023

~~KOLMAN LAW, PC~~


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

COMBINED CERTIFICATE

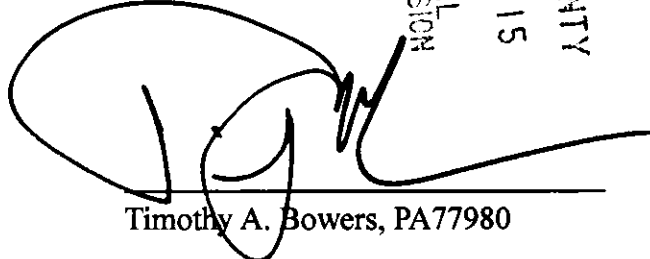
I HEREBY CERTIFY that I have, this 10th day of July 2023, served

a true and correct copy of the foregoing document by hand or by email upon the following:

J. Timothy Hinton, Esquire
Counsel for Defendants

Courtesy copy:
John R. Williams, Esquire
jrwesq@johnwilliamslaw.com
Counsel for Dorothea Godlewski

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

RECEIVED
UNIFIED JUDICIAL SYSTEM
OF PENNSYLVANIA
GENERAL COUNSEL'S OFFICE
PHILADELPHIA
JUL 10 12:15
MURPHY
ACQUAWANA COUNTY

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

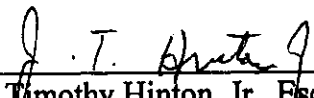
NOTICE IS HEREBY GIVEN, that pursuant to R.C.P. 4007, the above-referenced deponent's deposition will be taken by the undersigned Plaintiffs' counsel before a Standing Commissioner or other person authorized by law to administer oaths on **Thursday, July 20, 2023 at 10:00 a.m. at the Lackawanna Bar Association, 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

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
Attorneys for Defendants,
Chris Kelly, The Scranton Times, L.P.
and Larry Holeva

PHILIP GODLEWSKI,
Plaintiff

v.

CHRIS KELLY, et al.
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: IN THE COURT OF COMMON PLEAS
: OF LACKAWANNA COUNTY
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CERTIFICATE OF SERVICE

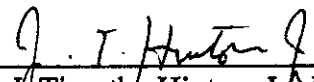
I hereby certify that on this 6th day of June 2023, I caused to be served by electronic mail, a true and correct copy of the foregoing Notice of Deposition upon the following:

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

John R. Williams, Esq.
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
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)



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.