PHILIP GODLEWSKI

Plaintiff

IN THE COURT
OF COMMON PLEASE
OF LACKAWANNA COUNTY

CIVIL DIVISION

CHRIS KELLY, TIMES SHAMROCK COMMUNICATIONS, SCRANTON TIMES-TRIBUNE, LARRY HOLEVA

JURY TRIAL DEMANDED

Defendants

NO. 2021 CV 2195

MEMORANDUM AND ORDER

Minora, Sr.J.,

DEC 2 0 2023 NOTIFIED

The Court is quite familiar with this defamation action as the parties have presented previously to this Court on multiple discovery matters. The procedural history relevant to the issues today before us are as follows: On April 28, 2023, Defendants, Chris Kelly, The Scranton Times, L.P., and Larry Holeva, pursuant to Rule 4014 of the Pennsylvania Rules of Civil Procedure, Pa.R.C.P. 4014, served upon Plaintiff, Phillip Godlewski, Requests for Admission (Set V). On May 15, 2023, Defendants served upon Plaintiff another Request for Admission (Set VI) and both Interrogatories (Set VIII) and Requests for Production of Documents (Set VIII). On June 19, 2023, counsel for Defendants sent correspondence to counsel for Plaintiff to advise responses to these discovery requests were overdue and a continued failure to respond would result in the presentation of motions to compel. On June 30, 2023, with no responses received, Defendants filed Motions to Compel relative to the Interrogatories and Request for Production and, with respect to the two sets of Requests for Admission, a Motion to Deem Admitted the Requests due to Plaintiff's failure to respond timely to the Requests.

To date, Plaintiff has provided no responses to any of the discovery requests but, in relation to the two sets of Requests for Admission, filed on July 10, 2023, a Motion for Extension of Time to Respond. We will grant Defendants' motions to compel, though we now provide a brief discussion concerning disposition of the motions of each party concerning the Requests for Admission.

In light of Plaintiff's failure to respond to the Requests for Admission, we consider both Defendants' Motion to Deem Admitted and Plaintiff's Motion for Extension of Time in the context of Section (b) of Rule 4014 which reads, in pertinent part, as follows:

The matter is admitted unless, within thirty days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission an answer verified by the party or an objection, signed by the party or by the party's attorney.... Pa. R.C.P. 4014(b).

Further, a party on which a request for admission is served runs the risk the facts as set forth in the request will be conclusively binding on the party if the party chooses not to file an answer or file objections to the request. *Innovate, Inc. v. United Parcel Service, Inc.*, 418 A. 2d 720 (Pa. Super. 1980). Moreover, the mere failure to respond within 30 days to a request for admission is sufficient in and of itself for a matter in a request to be deemed admitted. *Joers v. City of Philadelphia*, 190 A. 3d 797 (Pa. Cmwlth. 2018).

In seeking an extension of time to answer the requests, Plaintiff correctly notes this Court has discretion to permit late responses to requests, see *Thomas v. Elash*, 781 A. 2d 170 (Pa. Super 2001), and that Defendants would suffer no apparent prejudice by allowing Plaintiff to respond now to the requests. However, Plaintiff has not provided an

explanation or excuse for having failed to respond. Additionally, the requests at issue do not appear to have a significant bearing on the ultimate outcome of this action as the requests seem to be in furtherance of the intended purpose of Rule 4014 to expedite the litigation process, see *Brinkley v. Woodland Village Restaurant, Inc.*, 652 A. 2d 865 (Pa. Super. 1995), rather than to ensnare Plaintiff in an admission dispositive of the case. For these reasons, we will deny Plaintiff's request for additional time to answer the requests and instead will grant Defendants' motion to deem the subject requests admitted. An Order incorporating this determination, along with the granting summarily of Defendant's other motions, now follows.

PHILIP GODLEWSKI

: IN THE COURT : OF COMMON PLEASE

Plaintiff

OF LACKAWANNA COUNTY

:

v.

CIVIL DIVISION

CHRIS KELLY, TIMES SHAMROCK COMMUNICATIONS, SCRANTON TIMES-TRIBUNE, LARRY HOLEVA

JURY TRIAL DEMANDED

-TRIBUNE, LARRY HOLEVA

NO. 2021 CV 2195

Defendants

<u>ORDER</u>

AND NOW, this ______ day of December, 2023, consistent with the foregoing Memorandum, it is hereby ORDERED as follows:

- (1) The Motions to Compel relative to Interrogatories (Set VIII) and Requests for Production (Set VIII) filed by Defendants, Chris Kelly. The Scranton Times, L.P., and Larry Holeva, are **GRANTED** and Plaintiff, Phillip Godlewski, is directed to respond, without objection, to the discovery requests within twenty (20) days of the date of this Order;
- (2) Plaintiff's Motion for Extension of Time to Respond relative to Defendants' Requests for Admission (Set V and Set VI) is **DENIED**; and
- (3) Defendants' Motions to Deem Admitted Requests relative to Requests for Admission (Set V and Set VI) are **GRANTED**.

BY THE COURT:

Carmen D. Minora, Senior Judge

cc: Written notice of the entry of the foregoing Order has been provided to each party pursuant to Pa. R.Civ.P. 236 (a)(2) by mailing time-stamped copies to:

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J. Timothy Hinton, Jr., Esquire Haggerty Hinton & Cosgrove timhinton@haggertylaw.net