

<b>PHILIP GODLEWSKI,</b>	:	<b>IN THE COURT OF COMMON PLEAS</b>
<i>Plaintiff,</i>	:	<b>OF LACKAWANNA COUNTY</b>
	:	
v.	:	<b>CV-2023-1354</b>
	:	
<b>BRIENNA L. DUBORGEL,</b>	:	<b>CIVIL ACTION - LAW</b>
<i>Defendant.</i>	:	<b>JURY TRIAL DEMANDED</b>

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**ORDER**

**AND NOW**, this        day of        , 2024, upon consideration of Plaintiff's Motion to Compel the deposition of Defendant Breanna DuBorgel and any response thereto, it is hereby **ORDERED** that said motion is **GRANTED** as follows:

Plaintiff shall appear for her deposition at a date and time to be selected by counsel for Defendant within ten (10) days of the date of this Order or suffer sanctions upon further application to the Court, including, but not limited to, the preclusion of Defendant Breanna DuBorgel from testifying at trial.

**BY THE COURT:**

\_\_\_\_\_  
**J.**

**KOLMAN LAW, P.C.**  
Timothy M. Kolman, Esquire  
PA ID No. 51982  
414 Hulmeville Avenue  
Pennel, Pennsylvania 19047  
(215) 750-3134  
tkolman@kolmanlaw.com

*Attorney for Plaintiff*

**PHILIP GODLEWSKI,**  
*Plaintiff,*

v.

**BRIENNA L. DUBORGEL,**  
*Defendant.*

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:

**IN THE COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY**

**CV-2023-1354**

**CIVIL ACTION - LAW  
JURY TRIAL DEMANDED**

MAURIE B. KELLY  
LACKAWANNA COUNTY  
CLERK  
JUN -9 P 12:06  
CIVIL DIVISION

**PLAINTIFF'S MOTION TO COMPEL DEPOSITION OF DEFENDANT**

Plaintiff requests this Honorable Court to compel the deposition of Defendant Breanna L DuBorgel and avers as follows.

1. Plaintiff Philip Godlewski ("Godlewski") filed his complaint against the Defendant on or about March 27, 2023.
2. Godlewski contends that Breanna DuBorgel (Defendant) defamed him by testifying, under oath, in an affidavit, that Plaintiff had sex with her numerous times when she was a minor. See complaint 7-9.
3. Godlewski also filed counts for invasion of privacy (false light) and invasion of privacy and publicity to private life.
4. Defendant counterclaimed for defamation, false light, assault, battery, intentional infliction of emotional distress, and negligent infliction of emotional distress.
5. Defendant is a crucial witness in the related case of Godlewski v. Scranton Times, No.2021-CV-2195 also before this court.

6. In that case, Godlewski contends that Scranton Times defamed him when they wrote that he had had sexual relations with a minor (Breanna L DuBorgel).
7. Discovery in that case has been extended for the sole purpose of taking Ms. DuBorgel's deposition.
8. Plaintiff has attempted to get dates for Ms. DuBorgel's deposition before January 14, 2024, when Plaintiff's extension to take Ms. DuBorgel's deposition ends.
9. Plaintiff has every reason to believe that the Defendants in both cases are trying to run Plaintiff out of time because there has been consistent, ongoing delay and obstruction in scheduling Ms. DuBorgel's deposition, which is why the Plaintiff is filing this Motion to Compel.
10. Specifically, in an email dated Wednesday, December 27, 2023, Plaintiff's counsel proposed several dates for Defendant's deposition.
11. The following afternoon, counsel for Defendant responded that she was unavailable on any of the proposed dates and would speak to Defendant and "get back to" Plaintiff's counsel.
12. Despite advising of unavailability, Defendant's counsel did not advise when she would be available, nor did she propose alternative dates.
13. A true and correct copy of the complete e-mail exchange has been attached and incorporated as Exhibit 1.
14. In a follow-up e-mail dated January 3, 2024, counsel for Plaintiff inquired about the status of Defendant's availability and notified Defendant that the appropriate course of action would be assumed for failure to cooperate.
15. Shortly thereafter, the Defendant's counsel responded in an evasive manner, once again without providing alternative dates and only providing availability for depositions in this

instant action. A true and correct copy of said e-mail exchange has been attached and incorporated as Exhibit 2.

**WHEREFORE**, Plaintiff Phillip Godlewski respectfully requests this Honorable Court to enter an order in the form attached, compelling Defendant Breanna DuBorgel to present herself for a deposition within ten days.

Respectfully submitted,

**KOLMAN LAW, P.C.**

By: /s/ Timothy Kolman  
Timothy M. Kolman, Esquire  
PA ID No. 51982  
414 Hulmeville Avenue  
Pennel, Pennsylvania 19047  
(215) 750-3134  
tkolman@kolmanlaw.com  
*Attorney for Plaintiffs*

Dated: January 5, 2024

**CERTIFICATE OF SERVICE**

I, Timothy M. Kolman, Esquire, hereby certify that on this 5<sup>th</sup> day of January 2024, I caused a true and correct copy of the foregoing *Motion to Compel Deposition of Defendant* upon all counsel of record identified below via e-mail.

**MOLLY DEMPSEY CLARK, ESQUIRE**

Fellerman & Ciarimboli Law PC  
436 Biden Street, Suite 100  
Scranton, Pennsylvania 18503  
[mclark@fclawpc.com](mailto:mclark@fclawpc.com)  
*Attorney for Defendant*

HAURI B. KELLY  
LACKAWANNA COUNTY  
7281 JAN -9 P 12:06  
PROSECUTOR GENERAL  
PROBATION DIVISION

Respectfully submitted,

**KOLMAN LAW, P.C.**

By: /s/ Timothy Kolman  
Timothy M. Kolman, Esquire  
PA ID No. 51982  
414 Hulmeville Avenue  
Pennel, Pennsylvania 19047  
(215) 750-3134  
[tkolman@kolmanlaw.com](mailto:tkolman@kolmanlaw.com)  
*Attorney for Plaintiffs*

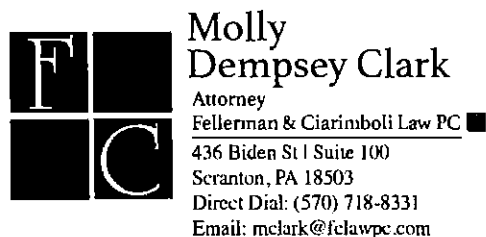
Dated: January 5, 2024

# **EXHIBIT 1**

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**From:** Molly Clark <MClark@fclawpc.com>  
**Sent:** Thursday, December 28, 2023 1:21 PM  
**To:** Timothy Bowers, Esq.  
**Cc:** Tim Hinton; Timothy M. Kolman, Esq.; Sarra Small; Kathleen A. Carrozza; ewski31  
**Subject:** RE: Godlewski v. Kelly

Tim – I am not available on any of the dates provided. I will speak to my client and get back to you.



---

**From:** Timothy Bowers, Esq. <TBowers@KolmanLaw.com>  
**Sent:** Wednesday, December 27, 2023 4:51 PM  
**To:** Molly Clark <MClark@fclawpc.com>  
**Cc:** Tim Hinton <timhinton@haggertylaw.net>; Timothy M. Kolman, Esq. <TKolman@KolmanLaw.com>; Sarra Small <SSmall@KolmanLaw.com>; Kathleen A. Carrozza <KCarrozza@KolmanLaw.com>; ewski31 <ewski31@aol.com>  
**Subject:** Godlewski v. Kelly

Molly:

I hope that your trial went well. I'd like to revisit the issue of taking Ms. DuBorgel's deposition in the Godlewski v. Kelly matter. Opposing counsel, Tim Hinton, has agreed to an extension of our discovery cutoff in that matter for the sole purpose of the deposition.

Tim H is available on January 3, 4 (prior to 3PM), 5, 8, 9, or 10. Kindly advise whether any of these dates work for you. We will be pleased to make Mr. G available for you to depose. I am out of the country until January 16, and would prefer to be present. Let me know if you have a date in mind after that for him. We have considerable flexibility on the scheduling.

Kindly note that we are scheduling this deposition in Godlewski v. Kelly and would reserve the right to convene Ms. DuBorgel's deposition separately in Godlewski v. DuBorgel.

Thanks,

TimB

**Timothy Bowers, Esq.**  
p: +1 215-750-3134 | f: +1 215-750-3138  
e: [TBowers@KolmanLaw.com](mailto:TBowers@KolmanLaw.com)  
414 Hulmeville Avenue

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**KOLMAN LAW P.C.**  
COMPLEX LITIGATION SINCE 1991

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# **EXHIBIT**

**2**

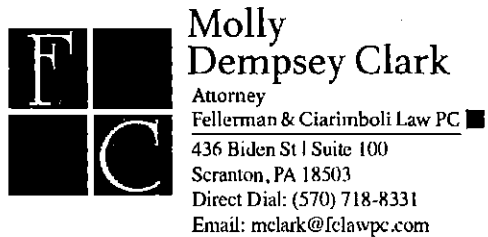
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**From:** Molly Clark <MClark@fclawpc.com>  
**Sent:** Wednesday, January 3, 2024 2:57 PM  
**To:** Sarra Small; Timothy Bowers, Esq.  
**Cc:** Tim Hinton; Timothy M. Kolman, Esq.; Kathleen A. Carrozza  
**Subject:** RE: Godlewski v. Kelly

Hello Sarra. As you can see, I responded that I am not available on the dates you provided, and no additional dates were provided. To recap, however, I was asked Christmas week (the 27<sup>th</sup>) for dates within the next fourteen (14) days – none of which worked with my schedule. My schedule is packed in January already with two (2) arbitrations and three (3) mediations. I understand you were only provided a limited extension to the already extended discovery in the Godlewski v. Kelly case – to which my client is not a party. I am not sure what motions are being threatened, but I do not think the requests to date to depose my non-party client have been remotely reasonable warranting motion practice, let alone to a non-party witness. Haven't the discovery deadline and the extension that was granted long passed? Regardless, I remain unavailable as indicated and am happy to forward my attachments should you require the same.

As far as depositions in the Godlewski v. DuBorgel matter, I am generally available the third week in February.

Thanks,  
Molly



**From:** Sarra Small <SSmall@KolmanLaw.com>  
**Sent:** Wednesday, January 3, 2024 2:28 PM  
**To:** Molly Clark <MClark@fclawpc.com>; Timothy Bowers, Esq. <TBowers@KolmanLaw.com>  
**Cc:** Tim Hinton <timhinton@haggertylaw.net>; Timothy M. Kolman, Esq. <TKolman@KolmanLaw.com>; Kathleen A. Carrozza <KCarrozza@KolmanLaw.com>  
**Subject:** RE: Godlewski v. Kelly

Good afternoon, Ms. Clark.

I am following up on the below email. Kindly advise as soon as possible, otherwise we will be forced to file the appropriate motions.

**Sarra Small | Paralegal**  
p: +1 215-750-3134 | f: +1 215-750-3138  
e: SSmall@KolmanLaw.com  
414 Hulmeville Avenue

Penndel, PA 19047




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**Subject:** RE: Godlewski v. Kelly

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**Molly  
Dempsey Clark**  
Attorney  
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436 Biden St | Suite 100  
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Direct Dial: (570) 718-8331  
Email: [mclark@fclawpc.com](mailto:mclark@fclawpc.com)



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TimB

**Timothy Bowers, Esq.**

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