

FELLERMAN & CIARIMBOLI LAW, P.C.  
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MAURI B. KELLY  
LACKAWANNA COUNTY

2024 JAN 30 P 1:29

CLERK OF JUDICIAL  
RECORDS CIVIL DIVISION

Gregory E. Felleman, Esquire  
Attorney I.D. #81568  
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Edward J. Ciarimboli, Esquire  
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Attorney ID# 89367  
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PHILIP GODLEWSKI  
  
PLAINTIFF,  
  
V.  
  
BRIENNA L. DUBORGEL  
  
DEFENDANT.

IN THE COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY  
  
CIVIL ACTION - LAW  
  
JURY TRIAL DEMANDED  
  
NO.: CV-2023-1354

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

AND NOW COMES the Defendant, Brienna L. DuBorgel ("Defendant"), by and through her legal counsel, Felleman and Ciarimboli Law PC, to hereby submit this Response to Plaintiff's Motion to Compel Deposition of Defendant and in support thereof, avers as follows:

1. Admitted.
2. Admitted, however, Defendant denies that the referenced contentions are true.
3. Admitted, however, Defendant denies that the referenced claims have basis in fact.
4. Admitted.

n

5. Defendant's Counsel is without sufficient information to comment on whether Defendant is a crucial witness in another matter before this Court to which Defendant is not a party.
6. Admitted upon information and belief, however, Plaintiff did have sex with Defendant when she was a minor.
7. Defendant is without sufficient information to comment on the reasoning behind any alleged discovery extension in another matter before this Court to which Defendant is not a party. By way of further response, Plaintiff only contacted Defendant's counsel for the first time about scheduling Defendant's deposition in the related case Godlewski v. Scranton Times on December 5, 2023 asking for Defendant's deposition on December 26, 27, 28, or 29, 2023. Counsel for Defendant responded that these dates did not work with her schedule due to a two-week trial commitment. A true and correct copy of that email string is attached hereto as Exhibit A. Counsel for Plaintiff reached out again on December 27, 2023 suggesting dates in early January which were also not workable due to two arbitrations already scheduled. A true and correct copy of that email string is attached as Exhibit B. Non-incidentally, Defendant has been asking for dates for the deposition of Plaintiff since November 1, 2023 and no dates have been provided. See Exhibit A. Finally, it is improper for Plaintiff to file a Motion to Compel the Defendant's deposition in this case which he intends to take in a companion case where Defendant is not a party. Indeed, counsel for Plaintiff just issued a subpoena for Defendant's deposition to occur on January 25, 2024 in said companion case. A true and correct copy of that letter and

subpoena – served three (3) days before the deposition is attached hereto.

Given the nature of the very sensitive claims here, it would seem one deposition in this case would be appropriate and Defendant is prepared to sit for her deposition at a date and time that is convenient for all parties – as opposed to a unilateral date chosen by Plaintiff. This is especially true here where Plaintiff has refused to provide dates for his deposition requested as early as November 2023.

8. Admitted in part. Defendant admits Plaintiff attempted to obtain Defendant's deposition prior to January 14, 2024, but is without sufficient information to comment on deposition deadlines in another matter before this Court to which Defendant is not a party. See Exhibits A-C. In the meantime, those were requests in the related case, not the case captioned here.
9. Denied. Plaintiff's accusations are without merit and unjustified given the circumstances of Plaintiff's request and defense counsel's response. As stated in the email strings attached hereto, Defendant's counsel had trial commitments, and arbitration and a mediation followed by a trial prompting counsel to indicate she was unavailable. To put this further into perspective, counsel for Defendant was attached for a two-week trial in Lehigh County starting on December 18, 2023. This trial was followed by a mediation on January 9<sup>th</sup>, 2024; an arbitration on January 15<sup>th</sup>, 2024 and a second two-week trial set to commence on January 29, 2024. Plaintiff is completely unjustified in accusing defense counsel of trying to "run Plaintiff out of time" because she was unable to immediately forego prior attachments to partake in a deposition in a case to which her client (Defendant)

is not a party. Candidly, it was Plaintiff who waited until the eve of the discovery deadline in a related case to even request Defendant's deposition. Defendant cannot imagine how that fault lies anywhere other than with the Plaintiff.

10. Admitted. The emails speak for themselves.

11. Admitted. The emails speak for themselves.

12. Admitted. The emails speak for themselves.

13. Admitted. The emails speak for themselves.

14. Admitted. The emails speak for themselves.

15. Denied as stated. The emails speak for themselves. By way of further response, Plaintiff completely ignores the fact that he is currently moving for a deposition in a case which is separate and apart from the case where he actually sought Defendant's deposition. This is not fair and/or appropriate. While it is true Plaintiff requested Defendant's deposition in the companion case the Plaintiff has against the Scranton Times, those cases have not been consolidated for discovery purposes or any purpose for that matter. They are indeed wholly separate as far as deadlines and dockets are concerned. Plaintiff has never to Defendant's knowledge even requested her deposition in the instant case, and there are no deadlines in place in the instant case. This cannot be overstated. Indeed, it was Defendant who asked for Plaintiff's deposition in the instant case, and Plaintiff who has yet to provide dates for a deposition. To file a Motion to Compel a dep[osition that was never even requested and otherwise demand that deposition take place in ten (10) days when there are no deadlines in place is disingenuous. It is not the fault of Defendant and/or her counsel that Plaintiff

failed to request and/or subpoena her for deposition until the eve of discovery in a wholly separate case. Finally, Defendant is more than willing to schedule depositions and otherwise agree to appropriate deadlines in the instant matter.

WHEREFORE, Defendant respectfully requests that this Court deny the Motion to Compel Deposition and enter an Order with appropriate deadlines in this case so as to give the parties ample opportunity to schedule depositions in this case at dates and times that are mutually agreeable to all parties.

Respectfully submitted,

**FELLERMAN & CIARIMBOLI LAW, PC**



By: \_\_\_\_\_  
EDWARD J. CIARIMBOLI, ESQUIRE  
MOLLY DEMPSEY CLARK, ESQUIRE  
*Attorneys for the Defendant*

Date: January 23, 2024

# Exhibit "A"

**From:** Molly Clark  
**To:** [Quinn Karam](#); [Tara Leslie](#)  
**Subject:** FW: Godlewski v. DuBorgel  
**Date:** Monday, January 22, 2024 12:10:00 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)


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**From:** Molly Clark  
**Sent:** Wednesday, December 6, 2023 11:12 AM  
**To:** Timothy Bowers, Esq. <[TBowers@KolmanLaw.com](mailto:TBowers@KolmanLaw.com)>  
**Cc:** Tim Hinton <[timhinton@haggertylaw.net](mailto:timhinton@haggertylaw.net)>; Timothy M. Kolman, Esq. <[TKolman@KolmanLaw.com](mailto:TKolman@KolmanLaw.com)>; Kathleen A. Carrozza <[KCarrozza@KolmanLaw.com](mailto:KCarrozza@KolmanLaw.com)>; Sarra Small <[SSmall@KolmanLaw.com](mailto:SSmall@KolmanLaw.com)>; ewski31 <[ewski31@aol.com](mailto:ewski31@aol.com)>  
**Subject:** RE: Godlewski v. DuBorgel

Hello Tim. Thank you for the email. Yes, I will be representing Brie at any depositions. Unfortunately, I am attached for a 2 week trial beginning on 12/18/23 in Lehigh County. Therefore, none of the below dates work for me. Additionally, I had previously asked for dates for Phil's deposition in the above matter and have yet to receive any suggested dates. I will be happy to produce Brie once you produce Phil as requested.

Sincerely,  
Molly



**Molly  
Dempsey Clark**  
Attorney  
Fellerman & Ciarimboli Law PC   
436 Biden St | Suite 100  
Scranton, PA 18503  
Direct Dial: (570) 718-8331  
Email: [mclark@fclawpc.com](mailto:mclark@fclawpc.com)



CONNECT WITH ME

**From:** Timothy Bowers, Esq. <[TBowers@KolmanLaw.com](mailto:TBowers@KolmanLaw.com)>  
**Sent:** Tuesday, December 5, 2023 3:31 PM  
**To:** Molly Clark <[MClark@fclawpc.com](mailto:MClark@fclawpc.com)>  
**Cc:** Tim Hinton <[timhinton@haggertylaw.net](mailto:timhinton@haggertylaw.net)>; Timothy M. Kolman, Esq. <[TKolman@KolmanLaw.com](mailto:TKolman@KolmanLaw.com)>; Kathleen A. Carrozza <[KCarrozza@KolmanLaw.com](mailto:KCarrozza@KolmanLaw.com)>; Sarra Small <[SSmall@KolmanLaw.com](mailto:SSmall@KolmanLaw.com)>; ewski31 <[ewski31@aol.com](mailto:ewski31@aol.com)>

**Subject:** Godlewski v. DuBorgel

Molly:

I hope you are well. We would like to take Ms. DuBorgel's deposition in the companion matter, Godlewski v. Kelly. We anticipate that you would like to be present. Attorney Hinton has indicated that he is available on December 26, 27, 28, 29. We need one day and the deposition would take place at the Lackawanna County Bar Association's facility.

Kindly let me know whether you wish to attend, on which dates you are available, and whether you will accept service of a subpoena on behalf of Ms. 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  
Penndel, PA 19047



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# Exhibit “B”

**From:** [Molly Clark](#)  
**To:** [Quinn Karam](#); [Tara Leslie](#)  
**Subject:** FW: Godlewski v. Kelly  
**Date:** Monday, January 22, 2024 12:11:27 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)

---

**From:** Molly Clark  
**Sent:** Thursday, December 28, 2023 1:21 PM  
**To:** Timothy Bowers, Esq. <[TBowers@KolmanLaw.com](mailto:TBowers@KolmanLaw.com)>  
**Cc:** Tim Hinton <[timhinton@haggertylaw.net](mailto:timhinton@haggertylaw.net)>; Timothy M. Kolman, Esq. <[TKolman@KolmanLaw.com](mailto:TKolman@KolmanLaw.com)>; Sarra Small <[SSmall@KolmanLaw.com](mailto:SSmall@KolmanLaw.com)>; Kathleen A. Carrozza <[KCarrozza@KolmanLaw.com](mailto:KCarrozza@KolmanLaw.com)>; ewski31 <[ewski31@aol.com](mailto:ewski31@aol.com)>  
**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.



**Molly  
Dempsey Clark**  
Attorney  
Fellerman & Ciarimboli Law PC  
436 Biden St | Suite 100  
Scranton, PA 18503  
Direct Dial: (570) 718-8331  
Email: [mclark@fclawpc.com](mailto:mclark@fclawpc.com)



CONNECT WITH ME

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

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# Exhibit "C"



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

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Fax: (215) 750-3138  
[Client\\_Care@KolmanLaw.com](mailto:Client_Care@KolmanLaw.com)

January 16, 2024

**Sent Via Courier Service & E-Mail (mclark@fclawpc.com)**

Ms. Molly Clark, Esquire  
FELLERMAN & CIARIMBOLI LAW P.C.  
436 Biden Street, Suite 100  
Scranton, Pennsylvania 18503

**RE: Godlewski V. Scranton Times, Et Al –  
Lackawanna County Court of Common Pleas 2022-cv-2195**

Dear Molly,

Enclosed for service upon your client, Brienna DuBorgel, please find a Subpoena to Attend and Testify in connection with the above referenced matter. Ms. DuBorgel's deposition is scheduled for January 25, 2024, at 11:00 A.M. The deposition will take place at the Lackawanna County Bar Association, which is located at 233 Penn Avenue, Scranton, Pennsylvania 18503.

Respectfully submitted,

KOLMAN LAW P.C.

*Tim Kolman*

Timothy M. Kolman, Esquire

cc: J. Timothy Hinton, Esquire (*via e-mail*)

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LACKAWANNA

Philip Godlewski

File No. 2022-cv-2195

VS

Scranton Times, et al

SUBPOENA TO ATTEND AND TESTIFY

TO: Brienna DuBorgel c/o Felferman & Ciarimboli Law P.C.  
436 Biden Street, Suite 100  
Scranton, Pennsylvania 18503

1. You are ordered by the Court to come to Lackawanna County Bar Association, located at  
233 Penn Avenue, Scranton, Pennsylvania 18503.

(Specify Courtroom or other place)

At Scranton, Lackawanna County, Pennsylvania, on 1/25/2024  
At 11 o'clock, A M., to testify on behalf of Philip Godlewski, in a videotaped deposition.

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: Timothy M. Kolman, Esquire  
Address: 414 Hulmeville Avenue  
Penndel, Pennsylvania 19047  
Telephone: (215) 750-3134  
Supreme Court I.D. # 51982

BY THE COURT:

*Mauri B. Kelly*

Mauri B. Kelly  
Clerk of Judicial Records, Civil Division

JAN 12 2024

DATE: \_\_\_\_\_

(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. 234.1. If a subpoena for production of documents, records or things is desired, complete paragraph 2.