

PHILIP GODLEWSKI,

Plaintiff,

v.

CHRIS KELLY et al.,

Defendants.

MAURICE KELLY  
IN THE COURT OF COMMON PLEAS  
LACKAWANNA COUNTY  
OF LACKAWANNA COUNTY, PA

2024 FEB 15 AM 11:15  
No: 2021-CV-2195

CLERK OF JUDICIAL  
RECORDS CIVIL DIVISION

JURY TRIAL DEMANDED

**PLAINTIFF'S RESPONSE TO DEFENDANTS'**  
**MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff Philip Godlewski ("Godlewski"), by and through his counsel, Kolman Law, PC, and makes the following Response:

1. Admitted.
2. Admitted.
3. Paragraph 3 contains allegations of law to which no responsive pleading is required. To the extent a responsive pleading is required, the allegations of paragraph 3 are admitted in part and denied in part. It is admitted that the article appeared in the Perspective section of the Sunday newspaper. It is denied that the article contained opinions. Rather, the article makes allegations of fact concerning Godlewski's sexual relations with a minor, Godlewski's fitness as a realtor, and Godlewski's participation in the January 6 insurrection.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted. By way of further response, this information is irrelevant as it neither proves nor disproves any element of any claim or defense

8. Admitted. By way of further response, this information is irrelevant as it neither proves nor disproves any element of any claim or defense.

9. Admitted.

10. Admitted.

11. Admitted.

12. Paragraph 12 contains allegations of law to which no responsive pleading is required. To the extent a responsive pleading is required, the allegations of paragraph 12 are admitted in part and denied in part. Admitted in part, denied in part. It is admitted that the focus of the article is Godlewski. It is denied that the focus of the article is the columnist's opinions about the absurdity and harmful affects [sic] of the QAnon movement. Rather, the focus of the article concerns allegations of fact concerning Godlewski's sexual relations with a minor, Godlewski's fitness as a realtor, and Godlewski's participation in the January 6 insurrection.

13. Defendants make no citations to the record which establish these alleged facts. By way of further response, this information is irrelevant as it neither proves nor disproves any element of any claim or defense.

14. Defendants make no citations to the record which establish these alleged facts. By way of further response, this information is irrelevant as it neither proves nor disproves any element of any claim or defense.

15. Defendants make no citations to the record which establish these alleged facts. By way of further response, this information is irrelevant as it neither proves nor disproves any element of any claim or defense.

16. Admitted in part, denied in part. It is admitted that Chris Kelly ("Kelly") referred to Godlewski's criminal charges and conviction for corrupting a minor. It is denied that Kelly is employed by the Scranton Times and an "opinion columnist." Rather, Kelly is employed as a columnist and assistant metro editor. Kelly Dep. 11: 19-21. Kelly classifies himself as an "op-ed columnist" charged with reporting facts, gathering documents, and expressing his opinion about what those facts mean. Kelly Dep. 13:2-6. It is denied that Kelly's position as a columnist relieves him of any ethical responsibility to verify the accuracy of facts he reports. Rather, a reporter writing a news article and a columnist writing an opinion piece have the same responsibility to conduct research and to verify facts. Holeva Dep. 11-12.

17. Admitted in part, denied in part. It is admitted that the article stated that Godlewski pled guilty to a corruption of minors charge in 2011. It is admitted that Godlewski asserts that any allegation that Godlewski had a sexual relationship with a minor victim is false. It denied that Godlewski had a sexual relationship with a minor victim. Rather, Godlewski has never, as an adult, had sexual relations with a minor.

18. Admitted in part, denied in part. It is admitted that the article contains the quoted allegations. It is denied that the quoted allegations are true. The alleged statements of Lackawanna County detectives are inadmissible hearsay. It is denied that Godlewski at any point admitted the allegations let alone in his Answer to Interrogatory 1 of set II. Rather, that interrogatory and answer read as follows:

1. Did you receive a search warrant from the Lackawanna County District Attorney's Office in 2010 that alleged in the affidavit you had sex with a minor female in your car and in homes listed for sale that you had access to as a realtor?

**ANSWER: Yes**

From the plain text, it is apparent that Godlewski answered that he received a search warrant containing various allegations. There is no admission about the veracity of the allegations.

19. Admitted.

20. Admitted.

21. Admitted in part, denied in part. It is admitted that the article contains the stated assertions about QAnon. It is denied that these assertions were stated as opinions but rather as facts.

22. Admitted.

23. Admitted.

24. Paragraph 24 contains allegations of law to which no responsive pleading is required.

25. Paragraph 25 contains allegations of law to which no responsive pleading is required. Denied. To the extent a responsive pleading is required, Godlewski can prove by clear and convincing evidence that he did not have a sexual relationship with a minor or that he pleaded guilty to corrupting the minor for acts other than those alleged in the criminal Criminal Complaint. By way of further answer, Godlewski has testified that he did not have sex with a minor. Godlewski Depo. 212: 4-7. Questions of credibility in conflicting oral testimony are the province of the jury and not the province of the Court at summary judgment. See Nanty-Glo v. American Surety Co., 163 A. 523 (Pa. 1932); Penn Center House, Inc. v. Hoffman, 553 A.2d 900 (Pa. 1989).

26. Admitted in part, denied in part. It is admitted that Godlewski made these statements in exasperation to Defendants' counsel's odd insistence on proof, other than oral

testimony, that sexual contact did not occur. It is denied that this opinion of law is a statement of fact. Rather, Godlewski can prove by his oral testimony, if believed by a jury, that he did not have sex with a minor. Godlewski Depo. 212: 4-7. Defendants' counsel has conceded that this case comes down to whether the jury believes Godlewski or Ms. DuBorgel. Godlewski Depo. 252: 12-13.

27. Admitted in part, denied in part. It is admitted that Godlewski made these statements in exasperation to Defendants' counsel's odd insistence on proof, other than oral testimony, that sexual contact did not occur. It is denied that this opinion of law is a statement of fact. Rather, Godlewski can prove by his oral testimony, if believed by a jury, that he did not have sex with a minor. Godlewski Depo. 212: 4-7. Defendants' counsel has conceded that this case comes down to whether the jury believes Godlewski or Ms. DuBorgel. Godlewski Depo. 252: 12-13.

28. Denied. It is denied that Godlewski made any such concession. Rather, Godlewski agreed that the criminal complaint contains certain text and replied, "Anybody could be charged with anything at any time." Godlewski Depo. 228.

29. Admitted in part, denied in part. It is admitted that Godlewski pled guilty to one count of corruption of minors as charged in the Information, which, under the laws of the Commonwealth of Pennsylvania, is the operative charging document. It is denied that Godlewski pled guilty to the conduct charged in the Criminal Complaint as that document was not the operative charging document at the time of the plea.

30. Admitted.

31. Admitted. By way of further response, the information is irrelevant as it does not tend to prove or disprove any material element of a claim or defense.

32. Paragraph 32 contains conclusions of law to which no responsive pleading is required. To the extent a responsive pleading is required, the allegations of paragraph 32 are denied. It is denied that Godlewski is unable to prove that the defamatory statements were false. Rather, Godlewski can proffer his testimony that he did not engage in sexual activity with a minor. If believed by the jury, that is the only proof required.

33. Paragraph 33 contains conclusions of law to which no responsive pleading is required.

34. Paragraph 34 contains conclusions of law to which no responsive pleading is required.

35. Paragraph 35 contains conclusions of law to which no responsive pleading is required.

36. Paragraph 36 contains conclusions of law to which no responsive pleading is required.

37. Paragraph 37 contains conclusions of law to which no responsive pleading is required.

38. Admitted in part, denied in part. It is admitted that Kelly testified concerning his beliefs. It is denied that Kelly's beliefs are relevant as Kelly's beliefs do not tend to prove or disprove any element of any claim or offense. Additionally, Larry Holeva testified that a journalist covering this matter had specific ethical duties to review relevant material. The testimony of Holeva and Kelly indicates that Kelly breached this duty by failing to check the

relevant material as Kelly was determined to push his agenda in reckless disregard of the truth of his allegations.

39. Denied. After reasonable investigation, Godlewski lacks sufficient information to form an opinion or belief as to whether Kelly spoke with a confidential source or the information revealed by that source, as Kelly has declined to identify the source. The allegations of paragraph 39 are, therefore, denied.

40. Admitted.

41. Paragraph 41 contains conclusions of law to which no responsive pleading is required.

42. Paragraph 42 contains conclusions of law to which no responsive pleading is required.

43. Paragraph 43 contains conclusions of law to which no responsive pleading is required.

44. Paragraph 44 contains conclusions of law to which no responsive pleading is required.

45. Paragraph 45 contains conclusions of law to which no responsive pleading is required.

46. Paragraph 46 contains conclusions of law to which no responsive pleading is required.

47. Paragraph 47 contains conclusions of law to which no responsive pleading is required.

48. Paragraph 48 contains conclusions of law to which no responsive pleading is required.

49. Paragraph 49 contains conclusions of law to which no responsive pleading is required.

50. Paragraph 50 contains conclusions of law to which no responsive pleading is required.

51. Admitted in part, denied in part. It is admitted that Godlewski made these statements. It is denied that they are relevant as they tend to neither prove nor disprove any element of any claim or defense.

52. Denied. Defendant has evidence of such harm to reputation as will be set forth in Plaintiff's brief.

53. Paragraph 53 contains conclusions of law to which no responsive pleading is required.

54. Paragraph 54 contains conclusions of law to which no responsive pleading is required.

55. Paragraph 55 contains conclusions of law to which no responsive pleading is required.

56. Admitted.

57. Admitted

58. Admitted. More specifically, Godlewski pled guilty to one count of tampering with records and one count of bad checks.

59. Admitted.



60. Denied. Plaintiff has evidence of such contractual relations as will be set forth in Plaintiff's brief.

61. Paragraph 61 contains conclusions of law to which no responsive pleading is required.

62. Admitted in part, denied in part. It is admitted that the interrogatory and answer read as stated. It is denied that Godlewski has in any way changed his position as to when he engaged or did not engage in sexual activity with DuBorgel. Rather, Godlewski understood the question to refer to alleged intercourse with DuBorgel while DuBorgel was a minor, as intercourse with Godlewski at any other time is not relevant to any claim or defense in this matter.

63. Admitted in part, denied in part. It is admitted that Godlewski admitted to having sexual intercourse with DuBorgel when DuBorgel was of legal age. For the reasons set forth in paragraph 62, it is denied that this was a change in Godlewski's recollection of the facts.

64. Admitted.

65. Admitted in part, denied in part. It is admitted that Godlewski pled guilty to the listed offenses. It is denied that, as a matter of law, these offenses militate a finding that Godlewski is not credible. Such findings are the province of the jury.

66. Admitted. By way of further answer, this information is not relevant to any claim or defense in this matter.

67. Admitted. By way of further answer, Godlewski testified concerning this issue in his deposition. Further, this information is not relevant to any claim or defense in this matter.

68. Admitted

69. Admitted.

70. Admitted.

71. Denied. It is denied that Godlewski offered DuBorgel a bribe. Rather, Godlewski discussed a business opportunity with DuBorgel during their former business dealings. See Proceedings Transcript at 116-127.

72. Admitted in part, denied in part. It is denied that Godlewski offered DuBorgel a bribe. Rather, Godlewski discussed a business opportunity with DuBorgel during their former business dealings. See Proceedings Transcript at 116-127. It is admitted that Godlewski sent the text cited.

73. Admitted.

74. Admitted.

75. Admitted in part, denied in part. It is admitted that Godlewski referred to DuBorgel as "conniving" and a "lunatic." It is denied that Godlewski was in a sexual relationship with DuBorgel while DuBorgel was a minor. Rather, the sexual relationship between Godlewski and DuBorgel occurred when DuBorgel was of legal age.

76. Denied. It is denied that Godlewski has no credibility or that this is an issue before the Court at summary judgment. Rather, Godlewski's credibility is to be determined by the jury at trial.

77. Admitted.

78. Admitted. By way of further response, Godlewski's testimony references the relationship between Godlewski and DuBorgel when DuBorgel was of legal age.

79. Denied. It is denied that Defendants have substantial evidence that Godlewski was in a sexual relationship with DuBorgel while DuBorgel was a minor. Assuming *arguendo* that Defendants have substantial evidence of such a relationship, that is not the relevant standard for summary judgment since Defendants, as the moving parties, have the burden of proving the lack of any genuine issue of material fact.

WHEREFORE, Plaintiff Philip Godlewski respectfully requests that the Honorable Court deny Defendants' Fourth Motion for Summary Judgment.

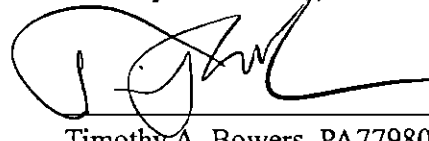
Respectfully submitted,

**KOLMAN LAW, PC**

*Timothy M. Kolman*

DATE: February 15, 2024

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Timothy M. Kolman, PA51982



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*Attorneys for Plaintiff.*

**COMBINED CERTIFICATE** MAURI B. KELLY  
LACKAWANNA COUNTY

I HEREBY CERTIFY that I have, this 15th day of February 2024, served a true and correct copy of the foregoing document by email upon the following:

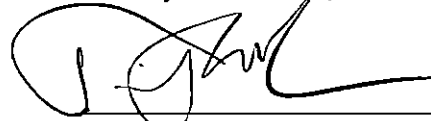
J. Timothy Hinton, Esquire  
timhinton@haggertylaw.net  
Counsel for Defendants

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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 M. Kolman*

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Timothy M. Kolman, PA51982



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Timothy A. Bowers, PA77980