



# Allegheny County Court of Common Pleas

*Fill out form and save a copy to email to the Court with your Motion.*

The filename of the form should be the GD number of your case.

## Remote Discovery

### Motion Form

Please fill out this form in its entirety.

**Motions with incomplete/no form WILL NOT BE HEARD** Completed forms MUST accompany ALL Discovery Motions. All parties must be CC'd. Completed forms and accompanying motions must be emailed to:

**civildiscmotions@alleghenycourts.us**

You will be assigned a date and time via email.

**Has this Matter ON or EVER BEEN ON a Trial List?**  Yes  No

If "Yes" then the Motion **MUST** go to Calendar Control Judge

**GD Number:** GD-21-007428

Mike Elk,

**Contested**  **Uncontested**

(If you are unsure select CONTESTED)

Plaintiff(s),

v.

**Motion Title (i.e. Motion to Compel):**

Defendants' Motion to Compel

Zack Lightning Tanner, et al.,

**Plaintiff/Counsel Contact Info\*:**

Louis J. Kroeck IV, Esq.

(412) 712-7605

lou@ljk-law.com

Defendant(s).

**Defendant/Counsel Contact Info\*:**

Ryan Allen Hancock, Esq.

(215) 656-3679

rhancock@wwdlaw.com

**Notes/Additional Party Contact Information\*:**

Joe Pass, Esq.  
Jubelirer, Pass & Intieri, P.C.  
219 Fort Pitt Blvd.  
Pittsburgh, PA 15222  
(412) 281-3850  
jpp@jpilaw.com

**APPROPRIATE SERVICE MUST BE PROVIDED  
ACCORDING TO PROCEDURES LOCATED IN  
THE DISCOVERY SECTION OF THE CIVIL  
DIVISION WEBSITE**

**\*Contact information must include an email address as well as a personal contact number for the party.**

If a party wishes to use their firm contact information on a filing in lieu of personal contact information. Personal contact information MUST be placed in the email to the Court.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

MICHAEL ELK,

Plaintiff,

v.

ZACK LIGHTNING TANNER,  
PITTSBURGH NEWSGUILD,  
NEWSGUILD CWA, JON SCHLEUSS,  
FATIMA HUSSEIN, and STEVE COOK,

Defendants.

CIVIL DIVISION

**ELECTRONICALLY FILED**

Case No. GD-21-007428

Pleading Type:

**DEFENDANTS' MOTION TO COMPEL  
ANSWERS AND RESPONSES TO  
DISCOVERY**

Filed on Behalf of Defendant:  
NewsGuild-CWA, Jon Schleuss, Fatima  
Hussein, and Steve Cook

Counsel of Record for Defendants:

Ryan Allen Hancock, Esq., #92590  
WILLIG, WILLIAMS & DAVIDSON  
1845 Walnut Street, 24<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 656-3679  
rhancock@wwdlaw.com

**Willig, Williams & Davidson**

**By:** Ryan A. Hancock, Esq.

P.A. I.D. # 92590

1845 Walnut Street, 24<sup>th</sup> Floor

Philadelphia, PA 19103

P: (215) 656-3600

E: rhancock@wwdlaw.com

*Counsel for Defendant the NewsGuild-CWA,  
Jon Schleuss, Fatima Hussein and Steve  
Cook*

---

MICHAEL ELK,

Plaintiff,

v.

ZACK LIGHTNING TANNER,  
PITTSBURGH NEWSGUILD,  
NEWSGUILD CWA, JON SCHLEUSS,  
FATIMA HUSSEIN, and STEVE COOK,

Defendants.

---

:  
:  
: COURT OF COMMON PLEAS  
:  
: ALLEGHENY COUNTY  
:  
: CIVIL DIVISION  
:  
:  
:  
: Case No. GD-21-007428

**DEFENDANT NEWSGUILD CWA, JON SCHLEUSS, FATIMA HUSSEIN, AND STEVE  
COOK'S MOTION TO COMPEL DISCOVERY**

Defendants the NewsGuild-CWA, Jon Schleuss, Fatima Hussein, and Steve Cook, by and through their undersigned counsel, hereby moves this Court to enter an Order pursuant to Pa.R.C.P. 4019 compelling Plaintiff to answer discovery propounded to Plaintiff by Defendants in this matter.

In support of this Motion, Defendants aver the following:

1. The instant Civil Action was commenced by the filing of a Complaint on June 28, 2021.

2. Defendants file a verified Answer to the Plaintiff's Third Amended Complaint on September 19, 2022.

3. On September 19, 2022, Defendants served their First Set of Interrogatories and Request for Documents upon counsel for the Plaintiff.

4. Pursuant to Pa.R.C.P. 4006(a)(2) and Pa.R.C.P. 4009.12 Plaintiff's answers and objections, if any, to said Interrogatories and the Request for Production were due on October 19, 2022.

5. Thereafter, Plaintiff, through his counsel requested an extension to respond – which was granted by the Defendants.

6. Accordingly, the Plaintiff's answers and objections, if any, to said Interrogatories and the Request for Production were due on November 11, 2022.

7. On November 14, 2022, counsel for Plaintiff was notified by counsel for Defendants that Plaintiff's responses to said Interrogatories and Request for Documents were overdue and had not yet been received.

8. On November 15, 2022, Counsel for Plaintiff stated that "They are out for verification. Hope to have them to you very soon."

9. On November 23, 2022, counsel for Plaintiff was again notified by counsel for Defendants that Plaintiff's responses to said Interrogatories and Request for Documents were overdue and had not yet been received.

10. On December 19, 2022, the Plaintiff purported to provide its responses to said Interrogatories and Requests for Documents.

11. The Plaintiff's responses were materially deficient. Accordingly, on January 3, 2023, Defendants sent Plaintiff's counsel a detailed letter explaining the specific categories and responses which were deficient.

12. On January 12, 2023, counsel for Plaintiff and Defendants meet and conferred over the deficient responses and production.

13. On March 16, 2023, counsel for Plaintiff provided supplemental responses and documents to Defendants.

14. The Plaintiffs responses remain deficient. Accordingly, on March 25, 2023, Defendants reached out to Plaintiff's counsel concerning the deficient production.

15. Because the Plaintiff failed to remedy its deficient responses and production, on September 1, 2023, Defendants sent Plaintiff's counsel a detailed letter explaining the specific categories and responses which were deficient. *See* Exhibit A.

16. To date, Plaintiff has still failed to fully respond to the Interrogatories and Request for Documents. Responses and documents that are central to his claims, his alleged damages, and the Defendants potential defenses.

17. Defendants require an Order from this Court pursuant to Pa.R.C.P. 4019(a)(1)(i) compelling Plaintiff to answer said Interrogatories and Request for Documents.

WHEREFORE, Defendants respectfully request that the Court enter an Order compelling Plaintiff to file full and complete answers to Defendants' First Set of Interrogatories and Request for Documents within ten (10) days or suffer the appropriate sanctions to be imposed upon application to the Court.

Respectfully submitted,

s/ Ryan Allen Hancock

Ryan A. Hancock, Esq., PA I.D. #92590  
WILLIG, WILLIAMS & DAVIDSON  
1845 Walnut Street, 24<sup>th</sup> Floor  
Philadelphia, PA 19103  
P: (215) 656-3600  
E: rhancock@wwdlaw.com

*Counsel for The NewsGuild-CWA, Jon Schleuss, Fatima  
Hussein, and Steve Cook*

Dated: September 8, 2023

# EXHIBIT A

---

**Ryan Allen Hancock**

Phone: (215) 656-3679

Fax: (215) 656-3679

rhancock@wwdlaw.com



**Via Email**

September 1, 2023

Louis J. Kroeck, IV, Esq.  
LJK LAW PLLC  
1200 Sarah Street  
Pittsburgh, PA 15203  
lou@ljk-law.com

**Re: *Mike Elk v. Zach Tanner et al., GD-21-007428***

Dear Lou:

I am again writing on behalf of Defendants NewsGuild-CWA, Jon Schleuss, Fatima Hussein, and Steve Cook (hereinafter "Defendants" or "NewsGuild-CWA"), regarding Plaintiff Mike Elk's (hereinafter "Plaintiff" or "Elk") continued deficient December 15, 2022 Responses and Objections to Defendants' Request for Production of Documents and Defendants' Interrogatories (collectively "Responses"). As you know, I followed up by letter concerning the deficiencies on January 3, 2023 and we meet and conferred on January 13, 2023. Thereafter, some more information was provided by your client, but his responses remain deficient in many material ways and the Responses to the Interrogatories were never amended as discussed during our meet and confer. Accordingly, if we do not receive fulsome responses to the outstanding discovery requests, I will file a motion to compel by Friday September 8, 2023.

I submit this letter, like my January 3, 2023 letter, setting forth Defendants' initial objections to the Responses, without waiving and explicitly preserving any additional objections not raised here.

**Issues with Specific Categories of Responses to the Interrogatories**

**Interrogatory No. 2.** Defendants requested Plaintiff to "Identify each and every email address, telephone number (cellular and land line), and social media handle that is under your control or that you have used at any time from January 1, 2015 to the present." Plaintiff's response is deficient because Plaintiff failed to identify each of his cell and land line numbers and Tinder handle that he has possessed since January 1, 2015. The Plaintiff has failed to identify all Twitter handles and Instagram handle under his control. Specifically, "SenorTucci," "Union Bureaucrat Fact Check," and "senhorelk". During our January 13, 2023 you stated that an amended response would be



Louis Kroeck  
September 1, 2023  
Page 2

forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 2 accordingly.

**Interrogatory No. 3.** Defendants requested “With respect to the damages that you seek in the Third Amended Complaint, itemize and describe in detail the types and amounts of all damages you are seeking, the manner in which you or others acting on your behalf calculated such damages, and identify all documents which relate to, refer to, or in any manner evidence such damages.” Plaintiff’s response is deficient in several ways. First, it does not identify an itemized list of damages, the type of damages sought, and how Plaintiff has calculated the alleged damages. Second, it appears that Plaintiff is relying on Pa.R.C.P 4006(b) when it states “...please see attached documentation respective of the response to the request for production of documents.” However, Pa.R.C.P. 4006(b) requires a responding party to “specify” which documents are responsive to each request. Plaintiff has only provided a batch of documents (that have not been bates stamped or otherwise marked) without specifying which documents are allegedly responsive to Interrogatory Request No. 3. As a result of Plaintiff’s failure to specify which documents are allegedly responsive to Interrogatory Request No. 3, Defendants are unable to ascertain the Plaintiff’s alleged damages. The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. Please amend your response to Interrogatory No. 3 accordingly.

**Interrogatory No. 6.** Defendants requested Plaintiff to “State each fact which supports, or upon which you rely, for each numbered paragraph contained in your Third Amended Complaint and identify all documents relating to the facts and allegations in each numbered paragraph set forth in your Third Amended Complaint.” Plaintiff’s response is deficient for several reasons. Plaintiff has failed to respond at all, other than to identify the allegations found in the Third Amended Complaint (without identifying which paragraphs are responsive). The information sought is relevant, material and proportional to Plaintiff’s claims and Defendants’ defenses in this action. During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 6 accordingly.

**Interrogatory No. 8.** Defendants requested that Plaintiff “Identify all individuals who you know or believe have knowledge of any of the facts alleged in the Third Amended Complaint or your claims, and with respect to each person identified describe in detail the factual knowledge that each person has, and state how you learned that such person has such knowledge.” Plaintiff’s response is deficient because Plaintiff failed to “describe in detail the factual knowledge that each person has, and state how [he]

Louis Kroeck  
September 1, 2023  
Page 3

learned that such person has such knowledge.” The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. Please amend your response to Interrogatory No. 8 accordingly.

**Interrogatory No. 9.** Defendants requested that Plaintiff “Identify every individual associated with the New York Times that you have communicated with regarding the lawsuit and the allegations contained in your Third Amended Complaint and state the contents of each communication.” In response, Plaintiff failed to respond to the interrogatory other than to assert a specific objection that the information sought is protected by the 1<sup>st</sup> Amendment of the U.S. Constitution. Plaintiff’s response is deficient. The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. This is a case in which Plaintiff is attempting to vindicate his own rights rather the rights of the public and, moreover, a Plaintiff may not use the 1<sup>st</sup> Amendment simultaneously as a sword and shield. Because the Plaintiff has brought forth a lawsuit, Plaintiff waives his privilege where his sources have information that goes to the heart of the defense. *See Anderson v. Nixon*, 444 F. Supp. 1195, 1199-200 (D.C. Cir. 1978); *see also Riley v. Chester*, 612 F.2d 708, 716 (3d. Cir. 1979). During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 9 accordingly.

**Interrogatory No. 10.** Defendants requested that Plaintiff “Identify the techniques Plaintiff used in the investigation as well as the sources (including but not limited to those identified in ¶ 24) that were contacted by you. For each source contacted by you in the investigation, identify each communication and state the contents of such communications.” In response, Plaintiff failed to respond to the interrogatory other than to assert a specific objection that the information sought was protected by the 1<sup>st</sup> Amendment of the U.S. Constitution. Plaintiff’s response is deficient. The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. This is a case in which Plaintiff is attempting to vindicate his own rights rather the rights of the public and, moreover, a Plaintiff may not use the 1<sup>st</sup> Amendment simultaneously as a sword and shield. Because the Plaintiff has brought forth a lawsuit, Plaintiff waives his privilege where his sources have information that goes to the heart of the Defendants’ defense. *See Anderson v. Nixon*, 444 F. Supp. 1195, 1199-200(D.C. Cir. 1978); *see also Riley v. Chester*, 612 F.2d 708, 716 (3d. Cir. 1979). During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 10 accordingly.

Louis Kroeck  
September 1, 2023  
Page 4

**Interrogatory No. 11.** Defendants requested that Plaintiff “Identify and describe in detail all agreements that you contend were interfered with by the Defendants.” In response, Plaintiff fails to respond to the request and baldly asserts that he won’t respond because of “journalist integrity” and “an invasion of his right to privacy of confidentiality in revealing his sources.” No such valid objection exists under the Pennsylvania Rules of Civil Procedure for “journalist integrity.” Further, the information sought is relevant, material and proportional to Plaintiff’s claims and Defendants’ defenses in this action. This is a case in which Plaintiff is attempting to vindicate his own rights rather the rights of the public and, moreover, a Plaintiff may not use the 1<sup>st</sup> Amendment simultaneously as a sword and shield. Because the Plaintiff has brought forth a lawsuit, Plaintiff waives his privilege where his sources have information that goes to the heart of the defense. *See Anderson v. Nixon*, 444 F. Supp. 1195, 1199-200(D.C. Cir. 1978); *see also Riley v. Chester*, 612 F.2d 708, 716 (3d. Cir. 1979). During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 11 accordingly.

**Interrogatory No. 12.** Defendants requested that Plaintiff “Identify all the facts that support your allegation that Jon Schleuss and Steve Cook had the ability to bind the “Pittsburgh Newsguild” as alleged in ¶ 37 of the Third Amended Complaint.” Plaintiff’s response is deficient in that it fails to identify *any* facts or allegations that purport to bind Jon Schleuss or Steve Cook’s action to the Pittsburgh Newsguild and instead, inexplicably cites the definition of “bind” of the Meriam Webster Online Dictionary. The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 12 accordingly.

**Interrogatory No. 13.** Defendants requested that Plaintiff “Identify all of the differences between what you publicly disclosed in your September 22, 2020 Payday Reporting News, LLC article and The NewsGuild-CWA’s December 5, 2020 membership letter.” Plaintiff’s response is deficient as Plaintiff has failed to identify the differences between the September 22, 2020 article and the December 5, 2020 membership letter. The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. Please amend your response to Interrogatory No. 13 accordingly.

**Interrogatory No. 15.** Defendants requested that Plaintiff “Identify each and every communication which you contend to be confidential that you have had with any other individual, other than your attorney, regarding the lawsuit and the allegations contained

Louis Kroeck  
September 1, 2023  
Page 5

in your Third Amended Complaint. Identify each individual with whom you have had a communication, and describe in detail the content of each such communication.” Plaintiff’s response is deficient because he failed to respond to the interrogatory. In attempt to respond, Plaintiff stated “see answer to Plaintiff’s Interrogatory hereinabove at No. 7,” which is also deficient.” The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. It has not been provided to date. Please amend your response to Interrogatory No. 15 accordingly.

**Interrogatory No. 16.** Defendants request that Plaintiff “Identify each and every grant or other funding source of any character that you were unable to secure, as set forth in the allegations contained in your Third Amended Complaint. Identify all documents related to each grant or other funding source (including but not limited to applications, correspondence, submissions of any character, decisions, and denials), as well as each person with whom you communicated with regarding the grants or other funding source.” Plaintiff’s response is deficient as it failed to “identify all documents related to each grant or other funding source (including but not limited to applications, correspondence, submissions of any character, decisions, and denials), as well as each person with whom you communicated with regarding the grants or other funding source.” The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date.. Please amend your response to Interrogatory No. 16 accordingly.

**Interrogatory No. 20.** Defendants requested that Plaintiff “Identify any and all information and documents (including but not limited to expert reports, investigations, and electronic searches of any character) that Zach Tanner registered the domain name “mikeelk.com,” as alleged in ¶112 of your Third Amended Complaint. Identify each person who compiled or was the source of the information or document.” Plaintiff’s response is deficient as it fails to identify the information and documents with specificity in violation of Pa.R.C.P. 4006(b). The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 20 accordingly.

**Interrogatory No. 24.** Defendants requested Plaintiff to “Identify each and every ‘confidentiality agreement’ that you contend was entered into by The NewsGuild-CWA,

Louis Kroeck  
September 1, 2023  
Page 6

and each communication that you had with any person regarding the terms of each confidentiality agreement. State in detail and with specificity your understanding of the terms of each confidentiality agreement.” Plaintiff’s response is deficient as it fails to respond to the request with specificity and in full. The information sought is relevant, material, and proportional to Plaintiff’s claims and Defendants’ defenses in this action. During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 24 accordingly.

**Interrogatory No. 27.** Defendants requested Plaintiff to provide information identifying any “...lawsuit or civil or criminal proceeding (including administrative proceedings by a government agency), identify the nature of the lawsuits or proceedings, the claims or charges made in the lawsuits or proceedings, the name and address of your attorney (if any), and the disposition or current status of each lawsuit or proceeding” for “you or any business entity owned by you in whole or in part.” The information sought is relevant, material and proportional to Plaintiff’s claims and Defendants’ defenses in this action. During our January 13, 2023 you stated that an amended response would be forthcoming. It has not been provided to date. Please amend your response to Interrogatory No. 27 accordingly.

### **Issues with Specific Categories of Responses to the Request for Production of Documents**

Review of the Plaintiff’s Documents Responses reveals that they are not bates stamped or do not otherwise correspond to a specific response. Accordingly, at this time, Defendants are unable to determine if the Plaintiff’s response to each specific request has been fully responded to or responded to at all. Accordingly, Defendants request that the Plaintiff bates stamp or otherwise mark its production and identify which documents are responsive to each request.

Despite the failure of Plaintiff to bates stamp or otherwise mark its production, it is clear that the Plaintiff’s Documents Responses isn’t fulsome or otherwise complete:

1. Plaintiff failed to provide the attachments to the e-mail communications located at pages 184-188.
2. Plaintiff failed to provide all relevant text exchanges on pages 194-195 and pages, 214-216 (which are the same documents identified in pages 184-188), 233-235.

Louis Kroeck  
September 1, 2023  
Page 7

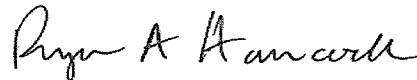
3. Plaintiff failed to provide the underlying data and communications with regard to the alleged reduction of donations. Plaintiff has identified three grant officers but not the underlying communications, the alleged rejection of the grants, and the reasons behind the grants.
4. Plaintiff failed to provide the individual video files for the alleged incidents on September 25, 2020.
5. Plaintiff failed to provide the underlying data for the calculations found on page 138.
6. Plaintiff failed to include the complete communications with Kim Lyons as referenced on page 198.
7. Plaintiff failed to include the complete communications with Mike Jones as referenced on page 198.
8. Plaintiff failed to include the complete Tinder communications as referenced on page 198.
9. Plaintiff failed to provide his executed WBNG authorization card.
10. Plaintiff has failed to provide his complete communication with Amanda Reed, Moriah Balingit, or any communication with Ben Smith.
11. Plaintiff has failed to provide any medical documentation related to his alleged injuries.

### Conclusion

To reiterate, this letter is non-exhaustive, based on our immediate review, and focuses only on the most pressing discovery issues. Should you not amend your responses, we will move forward with a motion to compel.

Thank you for your immediate attention to this matter.

Respectfully,



Ryan Allen Hancock

\_\_\_\_\_  
MICHAEL ELK,

Plaintiff,

v.

ZACK LIGHTNING TANNER,  
PITTSBURGH NEWSGUILD,  
NEWSGUILD CWA, JON SCHLEUSS,  
FATIMA HUSSEIN, and STEVE COOK,

Defendants.  
\_\_\_\_\_

:  
: COURT OF COMMON PLEAS  
: ALLEGHENY COUNTY  
: CIVIL DIVISION  
:  
:  
: Case No. GD-21-007428  
:  
:  
:  
:  
:  
:  
:

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, upon consideration of the Defendants' Motion to Compel Discovery, it is hereby ORDERED that said Motion is GRANTED.

Plaintiff shall answer fully comply with discovery within ten (10) days of the date of this Order or appropriate sanctions shall be imposed upon Plaintiff following application to the Court.

BY THE COURT:

\_\_\_\_\_  
Phillip A Ignelzi, Judge

**CERTIFICATE OF SERVICE**

I, Ryan Allen Hancock hereby certify that on Friday September 8, 2023, a true and correct copy of the foregoing Defendants' Motion to Compel was served via Electronic Mail upon the counsel of record in this matter, as follows:

Louis J. Kroeck, IV, Esq.  
LJK LAW PLLC  
1200 Sarah Street  
Pittsburgh, PA 15203  
lou@ljk-law.com  
*Attorney for Plaintiff*

Joseph J. Pass, Esq.  
Jubelirer, Pass & Intrieri, P.C.  
219 Fort Pitt Blvd  
Pittsburgh, PA 15222  
jjp@jpilaw.com

*Attorney for Zack Lightning Tanner  
And Pittsburgh NewsGuild*

*s/ Ryan Allen Hancock*  
Ryan Allen Hancock



**CERTIFICATE OF COMPLIANCE**

I hereby further certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania that requires filing confidential information and documents separately from non-confidential information and documents.

*s/ Ryan Allen Hancock*  
Ryan Allen Hancock