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IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO;)	
	)	Civil Division
and)	
	)	Docket No. 2013-2082
WILLIAM KENNEY and JOSEPH V. ("JAY"))	
PATERNO,	)	CERTIFICATE PREREQUISITE TO
former football coaches at Pennsylvania State	)	SERVICE OF A SUBPOENA
University,	)	PURSUANT TO RULE 4009.22
)	
Plaintiffs,)	
	)	Filed on Behalf of the Plaintiffs
v.)	
)	
NATIONAL COLLEGIATE ATHLETIC	)	Counsel of Record:
ASSOCIATION ("NCAA");	)	Thomas J. Weber
	)	GOLDBERG KATZMAN, P.C.
MARK EMMERT, individually and as	)	4250 Crums Mill Road, Suite 301
President of the NCAA;	)	P.O. Box 6991
	)	Harrisburg, PA 17112
And	)	Telephone: (717) 234-4161
	)	Email: tjw@goldbergekatzman.com
EDWARD RAY, individually and as former)	
Chairman of the	)	Wick Sollers (admitted <i>pro hac vice</i>)
Executive Committee of the NCAA,	)	L. Joseph Loveland (admitted <i>pro hac vice</i>)
	)	Patricia L. Maher (admitted <i>pro hac vice</i>)
Defendants.	)	Ashley C. Parrish (admitted <i>pro hac vice</i>)
	)	KING & SPALDING LLP
	)	1700 Pennsylvania Avenue, NW
	)	Washington, DC 20006
	)	Telephone: (202) 737-0500
)	Email: wsollers@kslaw.com
)	jloveland@kslaw.com
)	pmaher@kslaw.com
)	aparrish@kslaw.com
)	

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IN THE COURT OF COMMON PLEAS OF
CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO, et al. : CIVIL ACTION – LAW
:
Plaintiffs : DOCKET NO.: 2013-2082
:
v. :
:
NATIONAL COLLEGIATE ATHLETIC :
ASSOCIATION (“NCAA”), et al. :
:
Defendants :

**CERTIFICATE PREREQUISITE TO SERVICE
OF A SUBPOENA PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Plaintiffs hereby certify that:

- 1) A Notice of Intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served;
- 2) A copy of the Notice of Intent, including the proposed subpoena, is attached to this certificate as Exhibit “A”;
- 3) No objection to the subpoena has been received; and
- 4) The subpoena which will be served is identical to the subpoena attached to the Notice of Intent.

Date: October 30, 2015



Thomas J. Weber, Esquire
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Wick Sollers, Esquire
L. Joseph Loveland, Esquire
Ashley C. Parrish, Esquire
Patricia L. Maher, Esquire
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Counsel for Plaintiffs

FILED
2015 NOV 2 11:03 AM
CENTRE COUNTY, PA

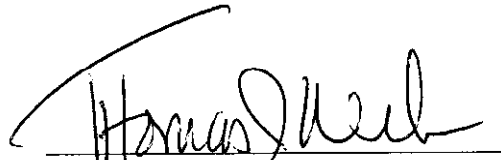
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve A Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 was served this 30th day of October, 2015, by first class mail and e-mail to the following:

Thomas W. Scott, Esq.
Killian & Gephart
218 Pine Street, P.O. Box 886
Harrisburg, PA 17108-0886
tscott@killiangephart.com

Everett C. Johnson, Jr., Esq.
Brian E. Kowalski, Esq.
Sarah Gragert, Esq.
Latham & Watkins LLP
555-11th Street, N.W. Suite 1000
Washington, D.C. 20004-1304
everett.johnson@lw.com
brian.kowalski@lw.com
sarah.gragert@lw.com



Thomas J. Weber, Esquire
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

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L. Joseph Loveland, Esquire
Ashley C. Parrish, Esquire
Patricia L. Maher, Esquire
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500

Counsel for Plaintiffs

EXHIBIT A

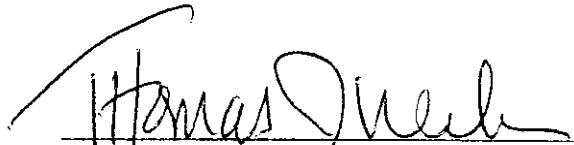
IN THE COURT OF COMMON PLEAS OF
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The ESTATE of JOSEPH PATERNO, et al. : CIVIL ACTION – LAW
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Plaintiffs : DOCKET NO.: 2013-2082
: :
v. : :
: :
NATIONAL COLLEGIATE ATHLETIC : :
ASSOCIATION (“NCAA”), et al. : :
: :
Defendants :

NOTICE OF INTENT TO SERVE A SUBPOENA
TO PRODUCE DOCUMENTS AND THINGS FOR
DISCOVERY PURSUANT TO RULE 4009.21

Plaintiffs intend to serve a subpoena identical to that attached to this notice upon **The Pennsylvania State University**. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Date: September 28, 2015



Thomas J. Weber, Esquire
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Wick Sollers, Esquire
L. Joseph Loveland, Esquire
Ashley C. Parrish, Esquire
Patricia L. Maher, Esquire
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500

Counsel for Plaintiffs

IN THE COURT OF COMMON PLEAS OF
CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO, et al. : CIVIL ACTION – LAW
:
Plaintiffs : DOCKET NO.: 2013-2082
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v. :
:
NATIONAL COLLEGIATE ATHLETIC :
ASSOCIATION (“NCAA”), et al. :
:
Defendants :

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS
FOR DISCOVERY PURSUANT TO RULE 4009.22**

To: The Pennsylvania State University
c/o Donna M. Doblack, Esq., Reed Smith LLP, 225 Fifth Ave., Suite 1200, Pittsburgh, PA 15222

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: See attached addendum at: King & Spalding LLP, Attn: Wick Sollers, Esquire, 1700 Pennsylvania Avenue, NW, Washington, DC 20006.

You may deliver or mail legible copies of the documents or produce things requested to this subpoena, together with certificates of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its services, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

Name: Thomas J. Weber, Esquire
Address: Goldberg Katzman, P.C., 4250 Crums Mill Road, P.O. Box 6991, Harrisburg, PA 17112
Telephone: 717-234-4161
Supreme Court ID# 58853
Attorney for: Plaintiffs

BY THE COURT:

DATE: _____

Prothonotary/Clerk, Civil Division

Deputy

**IN THE COURT OF COMMON PLEAS OF
CENTRE COUNTY, PENNSYLVANIA**

The ESTATE of JOSEPH PATERNO, et al	:	CIVIL ACTION – LAW
	:	
Plaintiffs	:	DOCKET NO.: 2013-2082
	:	
v.	:	
	:	
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (“NCAA”), et al.	:	
	:	
Defendants	:	

**ADDENDUM TO THE SUBPOENA DUCES TECUM
DIRECTED TO THE PENNSYLVANIA STATE UNIVERSITY**

DEFINITIONS

Notwithstanding any definition set forth below, each word, term, or phrase used in these Requests is intended to have the broadest meaning permitted under Pa. R.C.P. No. 4003.1. As used in these Requests, the following terms are to be interpreted in accordance with these definitions:

1. The time period covered is January 1, 2003 to May 30, 2013.
2. “You,” “your,” “yours,” “Defendant,” and “Penn State” shall refer to Defendant Penn State, to whom these Requests are directed, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of the Penn State.
3. “Communication” means the transmittal of information by any means, and shall mean and be deemed to refer to any writing or oral conversation, including, but not limited to, telephone conversations, conversations in meetings, letters, memoranda, notes, or electronic communications.

4. “Document” is defined as broadly as possible to include anything stored in any medium, including but not limited to, all written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, of every type and description that is in your possession, control, or custody, or of which you have knowledge, including but not limited to, correspondence; memoranda; transcriptions of any conversation or testimony; tapes; stenographic or hand-written notes; studies; publications; books; diaries; phone records; logs; instant messaging (public and private IM); electronic mail (email), including but not limited to, server-based email, web-based email (i.e. gmail.com, yahoo.com, hotmail.com), dial up email, email attachments, deleted email, and email stored on hard drives or portable media; voicemail; information stored on social media and social networking sites; information created or received with the use of PDAs or smartphones; information stored in a cloud environment; text messages; information stored on removable hard drives, thumb drives, flash drives, CDs, DVDs, disks and other portable media; pamphlets; pictures (drawings and photographs); films; images; microfilms; recordings (including any analog, digital, electromagnetic, optical, phonographic, or other media of audio and/or visual recordings); maps; reports; recommendations; surveys; appraisals; charts; minutes; statistical computations; spreadsheets; telegrams; telex messages; listings of telephone calls; calendars; datebooks; books of account; ledgers; expense records; accounts payable; accounts receivable; presentations; analyses; computer records, data compilations and/or databases; every draft of each such document; every copy of each such document where the original is not in your possession, custody or control; and every copy of each such document where such copy is not an identical copy of an original, or other copy, or where such copy contains any commentary or notation whatsoever that does not appear on the original or other copy. “Document” includes any electronically stored information (“ESI”).

5. “Evidence, reflect, or relate to” means in the broadest sense and includes documents and things alluding to, responding to, concerning, connected with, commenting on, in respect of, about, regarding, discussing, evidencing, contradicting, showing, describing, reflecting, analyzing and/or constituting the subject matter of the request.

6. “Penn State” shall refer to employees, administrators, and personnel of The Pennsylvania State University, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Penn State.

7. “Joe Paterno” or “Paterno” shall refer to former Penn State head football coach Joseph (“Joe”) V. Paterno, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Joe Paterno, or his estate and family.

8. “Jerry Sandusky” or “Sandusky” shall refer to former Penn State assistant football coach Gerald A. Sandusky, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Gerald A. Sandusky.

9. “NCAA” shall refer to Defendant National Collegiate Athletic Association, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of the NCAA.

10. The “Freeh Firm” refers to the law firm of Freeh, Sporkin & Sullivan, LLP (and any successor entity), as well as attorneys, investigators, or employees that aided or worked with the Freeh Firm on the Freeh investigation, as defined *infra*, including the Freeh Group International Solutions (“FGIS”).

11. The “Freeh investigation” shall refer to the investigation conducted by the Freeh Firm into the alleged failure of certain Penn State personnel to respond to and report certain allegations against Sandusky.

12. The “Freeh Report” shall refer to the report issued by the Freeh Firm on July 12, 2012, including all footnotes, exhibits, drafts, or other notes related to that Report.

13. The “NCAA investigation” shall refer to any investigation or evaluation of Penn State undertaken by the NCAA following Defendant Emmert’s assertion of NCAA jurisdiction over matters related to Sandusky and Penn State in November 2011.

14. The “Consent Decree” shall refer to the document titled the “Binding Consent Decree Imposed by the National Collegiate Athletic Association and Accepted by The Pennsylvania State University,” released on July 23, 2012, as well as all footnotes, exhibits, drafts, and other notes related to the Consent Decree.

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DOCUMENT REQUESTS

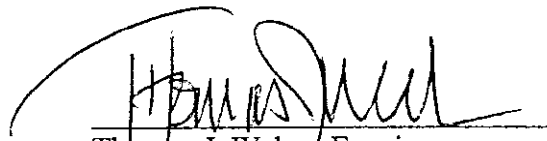
1. All documents that evidence, reflect or relate to proposals made to Penn State to license or otherwise use the name, image or likeness of former head football coach Joe Paterno, whether or not the proposal was approved by Penn State.
2. All documents that evidence, reflect or relate to licenses or other authorization by Penn State for use of the name, image or likeness of former head football coach Joe Paterno.
3. All documents that evidence, reflect or relate to revenue collected by Penn State that is attributable in any way to a license or other use of the name, image or likeness of former head football coach Joe Paterno.
4. All documents that evidence, reflect or relate to donations to Penn State in honor of former head football coach Joe Paterno, including any funds or endowments established in his honor.
5. All documents that evidence, reflect or relate to donations to Penn State in memory of former head coach Joe Paterno following his death in January, 2012, including any funds or endowments established in his memory.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve A Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 was served this 28th day of September, 2015, by first class mail and e-mail to the following:

Thomas W. Scott, Esq.
Killian & Gephart
218 Pine Street, P.O. Box 886
Harrisburg, PA 17108-0886
tscott@killiangephart.com

Everett C. Johnson, Jr., Esq.
Brian E. Kowalski, Esq.
Sarah Gragert, Esq.
Latham & Watkins LLP
555-11th Street, N.W. Suite 1000
Washington, D.C. 20004-1304
everett.johnson@lw.com
brian.kowalski@lw.com
sarah.gragert@lw.com



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Counsel for Plaintiffs