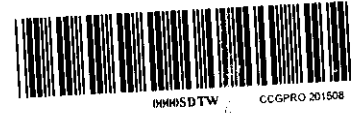


ORIGINAL



IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

ESTATE of JOSEPH PATERNO;

and

WILLIAM KENNEY and JOSEPH V. (“JAY”) PATERNO,
former football coaches at Pennsylvania State University

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (“NCAA”),

MARK EMMERT, individually and as President of the NCAA, and

EDWARD RAY, individually and as former Chairman of the Executive committee of the NCAA,

Defendants,

and

THE PENNSYLVANIA STATE UNIVERSITY,

Nominal Defendant.

) **Docket No.:** 2013-2082

) **Type of Case:**

) Declaratory Judgment Injunction

) Breach of Contract

) Tortious Interference with

) Contract

) Defamation

) Commercial Disparagement

) Conspiracy

) **Type of Pleading:**

) Certificate Prerequisite to

) Service of Subpoena upon Blue

) Line 409 LLC, Pursuant to Rule

) 4009.22

) **Filed on Behalf of:**

) National Collegiate Athletic

) Association, Mark Emmert,

) Edward Ray

) **Counsel of Record for this**

) **Party:**

) Thomas W. Scott, Esquire

) Killian & Gephart, LLP

) 218 Pine Street

) P.O. Box 886

) Harrisburg, PA 17108-0886

) TEL: (717) 232-1851

) FAX: (717) 238-0592

) tscott@killiangephart.com

) PA I.D. Number: 15681

FILED FOR RECORD
2015 NOV 16 AM 9:18
JEREMY R. PAHEL
PROTHONOTARY
CENTRE COUNTY, PA

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

ESTATE of JOSEPH PATERNO;
AL CLEMENS, member of the Board of Trustees of
Pennsylvania State University;

and

WILLIAM KENNEY and JOSEPH V. ("JAY")
PATERNO,
former football coaches at Pennsylvania State
University

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION
("NCAA"),

MARK EMMERT, individually and as President of the
NCAA, and

EDWARD RAY, individually and as former Chairman
of
the Executive committee of the NCAA,

Defendants,

and

THE PENNSYLVANIA STATE UNIVERSITY,

Nominal Defendant.

Civil Division

Docket No.: 2013-2082

FILED FOR RECORD
2015 NOV 16 AM 9:18
DEBRA J. CANNEL
PROthonOTARY
CENTRE COUNTY, PA

**CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
UPON BLUE LINE 409 LLC,
PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things upon

Duquesne Brewing Company, pursuant to Rule 4009.22, Defendants certify that:

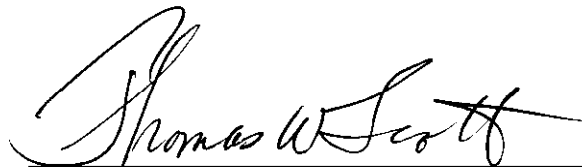
(1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,

(2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,

(3) no objection to the subpoena has been received, and

(4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Respectfully submitted,



Thomas W. Scott, Esquire
Attorney I.D. #15681
KILLIAN & GEPHART, LLP
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886
TEL: (717) 232-1851
tscott@killiangephart.com

Date: November 16, 2015

*Counsel for Defendants the NCAA,
Dr. Emmert, and Dr. Ray*

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

ESTATE of JOSEPH PATERNO, et al.,)	
)	
Plaintiffs,)	Civil Division
)	
v.)	
)	Docket No. 2013-
)	2082
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,)	
)	
Defendants.)	
)	

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT TO SERVE A SUBPOENA TO BLUE LINE 409 LLC TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

The National Collegiate Athletic Association intends to serve a subpoena identical to the one that is attached to this notice. 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: October 26, 2015

Thomas W. Scott (No. 15681)
KILLIAN & GEPHART, LLP
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886
Telephone: (717) 232-1851
Email: tscott@killiangephart.com

Everett C. Johnson, Jr. (admitted *Pro Hac Vice*,
DC No. 358446)
Brian E. Kowalski (admitted *Pro Hac Vice*, DC
No. 500064)
Sarah M. Gragert (admitted *Pro Hac Vice*, DC
No. 977097)
LATHAM & WATKINS LLP
555 Eleventh Street NW
Suite 1000
Washington, DC 20004-1304
Telephone: (202) 637-2200

FILED FOR RECORD
2015 NOV 16 AM 9:19
REGINA M. WELLS
PROCLERK
CENTRE COUNTY, PA

Email: Everett.Johnson@lw.com
Brian.Kowalski@lw.com
Sarah.Gragert@lw.com

*Counsel for Defendants the NCAA, Dr. Emmert,
and Dr. Ray*

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

ESTATE of JOSEPH PATERNO, et al.,
Plaintiffs,
v.
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,
Defendants.

)
)
) Civil Division
)
) Docket No. 2013-
) 2082
)
)
)

TO: BLUE LINE 409 LLC

You are required to complete the following Certificate of Compliance with producing documents or things pursuant to the Subpoena. Send the documents or things, along with this Certificate of Compliance (with your original signature), to the person at whose request the subpoena was issued (see address on the reverse).

Do not send the documents or things, or the Certificate of Compliance, to the Prothonotary's Office.

Certificate of Compliance with Subpoena to Produce Documents or Things Pursuant to Rule 4009.23

I, _____

certify to the best of my knowledge, information and belief that all documents or things required to be produced pursuant to the subpoena issued on _____ have been produced.

Date: _____

(Signature of Person Served with Subpoena)

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CENTRE

ESTATE OF JOSEPH PATERNO, EL AL

VS

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION (NCAA), ET AL

File No. 2013-2082

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

TO: BLUE LINE 409 LLC, 305 Holly Ridge Drive, State College, PA 16801
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things: See Exhibit A, attached.

at Killian & Gephart, LLP, 218 Pine Street, P.O. Box 886, Harrisburg, PA 17108-0886
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate 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 service, 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 W. Scott, Esquire
Killian & Gephart, LLP
ADDRESS: 218 Pine Street, PO Box 886
Harrisburg, PA 17108-0886

TELEPHONE: (717) 232-1851

SUPREME COURT ID # 15681

ATTORNEY FOR: National Collegiate Athletic Association

BY THE COURT: 

Prothonotary/Clerk, Civil Division

DATE: _____
Seal of the Court

Deputy

EXHIBIT A

DEFINITIONS

1. "You," "your," and "yours" shall refer to Blue Line 409 LLC, and all other persons acting on behalf of Blue Line 409 LLC, including but not limited to, attorneys and their associates, investigators, agents, directors, officers, employees, representatives, and others who may have obtained information for or on behalf of Blue Line 409 LLC.
2. "Plaintiffs" shall mean each of the individuals identified in the caption above, including Jay Paterno and William Kenney, any representative of those individuals, and any representatives of the Estate and Family of Joseph Paterno.
3. "All" or "any" shall mean "each and every."
4. "And" and "or" shall mean either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed outside of its scope.
5. "Document" or "documents" is defined as broadly as possible, and is defined to include originals and copies (including all non-identical copies or photocopies) as well as all draft and final versions of, without limitation: (a) All writings of any kind (including the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise), including, without limitation, correspondence, notes, statements, transcripts, books, diaries, intra-office communications, notations of any sort of conversations or interviews; (b) All graphic representations of any kind, including, without limitation, photographs, charts,

graphs, plans, drawings, videos, and recordings; and (c) All electronically generated and/or stored correspondence, memoranda, communications, data compilations, or records of any sort.

6. "Communication(s)" means any act, action, oral speech, written correspondence, contact, expression of words, thoughts, ideas or transmission or exchange of data or other information to another person, whether orally, person-to-person, in a group, by telephone, letter, personal delivery, telex, facsimile, or any other process, electric, electronic or otherwise.
7. "Concerning" shall mean, without limitation, comprising, containing, embodying, referring to, relating to, regarding, alluding to, responding to, in connection with, commenting on, in response to, about, announcing, explaining, discussing, showing, describing, studying, supporting, reflecting, analyzing, or constituting.
8. "Person" shall mean any natural person or any business, legal or governmental entity, or association.
9. The "NCAA" shall mean the National Collegiate Athletic Association.
10. "Defendants" shall mean the NCAA, Mark Emmert, Edward Ray, and the Pennsylvania State University.
11. "Penn State" shall mean The Pennsylvania State University.
12. The "Paterno Family" shall refer to the family of Joseph Paterno, the decedent represented in this Action by George Scott Paterno, including but not limited to Joseph V. Paterno, Sue Paterno, George Scott Paterno, Joseph V. ("Jay") Paterno, Jr., David Paterno, Diana Lynne Paterno-Giegerich, and Mary Kay Paterno Hort.
13. "FSS" shall mean the firm of Frech, Sporkin & Sullivan LLP.

14. "Jay Paterno" shall mean Joseph V. ("Jay") Paterno, Jr.
15. "Coach Paterno" shall mean the late former Penn State head football coach, Joseph Paterno.
16. "Sandusky" shall mean former Penn State assistant football coach, Gerald Sandusky.
17. The "Freeh Report" shall mean the July 12, 2012 Report of the Special Investigative Counsel Regarding the Actions of The Pennsylvania State University Related to the Child Sexual Abuse Committed by Gerald A. Sandusky, prepared by FSS.
18. The "Consent Decree" shall mean the July 23, 2012 Binding Consent Decree Imposed by the National Collegiate Athletic Association and Accepted by The Pennsylvania State University.
19. The "Athletics Integrity Agreement" shall mean the August 2012 Athletics Integrity Agreement Between the National Collegiate Athletic Association and the Big Ten Conference, and the Pennsylvania State University.
20. "Second Amended Complaint" shall mean the Second Amended Complaint filed in the above-captioned matter on October 13, 2014.

INSTRUCTIONS

1. In accordance with the Pennsylvania Rules of Civil Procedure, in producing the requested Documents, furnish all Documents in Your actual or constructive possession, custody, or control including, without limitation, those Documents in the custody of any advisors, attorneys, investigators, agents, associates, representatives, and other person(s) or entities acting or purporting to act on Your behalf.
2. Documents shall be produced in the manner in which they are maintained in the ordinary course of business or shall be organized and labeled with a designation of the

request for production to which they respond and produced along with any file folders or other bindings in which such Documents were found.

3. These Requests shall be deemed to be continuing in nature. If at any time additional responsive Documents come into Your possession, custody or control, then the responses to these Requests shall be promptly supplemented.
4. Any Document or portion of any Document withheld from production based on a claim of privilege shall be identified by (1) the type of Document, (2) the general subject matter of the Document, (3) the date of the Document, and (4) such other information as is sufficient to identify the Document including the author of the Document, the addressee(s) and any copyee(s) or other recipients of the Document, and, where not apparent, the relationship of the author and addressee(s) and copyee(s) to each other. The nature of each claim of privilege shall be set forth.
 - a. Notwithstanding the assertion of any objection, any requested Document that contains non-objectionable information responsive to this Request should be produced, but that portion of the Document for which the objection is asserted may be redacted, provided that the redacted portion is identified and described consistently according to the requirements listed herein.
5. Any request for "Communications" shall be construed to include written or tangible Communications, as well as Documents referencing or reflecting oral or person-to-person Communications.
6. The fact that another witness or that a party produces a Document or the availability or production of similar or identical Documents from another source does not relieve You of Your obligation to produce Your copy of the same Document, even if the two

Documents are identical.

7. Any Document that cannot be produced in full shall be produced to the fullest extent possible.
8. Each paragraph, subparagraph, clause and word herein should be construed independently and not by reference to any other paragraph, subparagraph, clause or word herein for purposes of limitation.
9. Except as specifically provided herein, words imparting the singular shall include the plural and vice versa, where appropriate.

REQUESTS FOR PRODUCTION

REQUEST NO. 1:

Your articles of incorporation, certificates of formation, charters, bylaws, operating agreements and other such corporate formation Documents.

REQUEST NO. 2:

Documents sufficient to identify all persons and/or entities having an ownership interest or other financial interest in Your assets or income.

REQUEST NO. 3:

Your financial statements, federal and state income tax returns, and any other statement or record of income You received from January 1, 2006 to the present.

REQUEST NO. 4:

All Documents and Communications Concerning actual or potential business ventures, opportunities, or partnerships.

REQUEST NO. 5:

All Documents and Communications Concerning the actual or contemplated sale of any goods or services from which You, Jay Paterno, Coach Paterno, or Coach Paterno's Estate had a possibility of earning revenue, from January 1, 2006 to present.

REQUEST NO. 6:

All draft and final contracts or agreements that had the possibility of generating revenue or other money for You, Jay Paterno, Coach Paterno, or Coach Paterno's Estate, including, without limitation, licensing contracts and contracts for television appearances, speaking engagements, real estate sales, marketing services, consulting services, or public relations services, from January 1, 2006 to present.

REQUEST NO. 7:

All Communications Concerning deliberations or negotiations about, the decision to enter into, the benefits of, or the terms of, any contract or agreement produced in response to Request No. 6.

REQUEST NO. 8:

Documents sufficient to fully demonstrate the monthly and annual sales performance of all merchandise or other goods or services sold in which You, Jay Paterno, Coach Paterno, or Coach Paterno's Estate has a financial interest, including, without limitation, royalty or licensing payments, from January 1, 2006 to present.

REQUEST NO. 9:

All Documents and Communications Concerning naming rights options offered to Jay Paterno, Coach Paterno, or Coach Paterno's Estate from January 1, 2006 to present.

REQUEST NO. 10:

All Documents and Communications Concerning "Paterno Legacy Series" beer or Duquesne Brewing Company.

REQUEST NO. 11:

All Documents and Communications discussing the reputation or popularity of, or public support for, the Paterno name, Coach Paterno, Jay Paterno, any other member of the Paterno Family, or William Kenney.

REQUEST NO. 12:

All Documents Concerning the book, *Paterno Legacy*, or any other potential or draft book, that Concern this litigation, the allegations contained in the Second Amended Complaint, the Freeh Report, FSS, the Consent Decree, the Athletics Integrity Agreement, the NCAA,

Coach Paterno's reputation, Jay Paterno's reputation, Sandusky, the Second Mile, the Sandusky grand jury investigation or Presentment, any person's reaction to the Sandusky scandal (including the media), Graham Spanier, Tim Curley, or Gary Schultz.

REQUEST NO. 13:

All non-privileged Communications between or among any of the Plaintiffs (including Jay Paterno, Coach Paterno, and George Scott Paterno) Concerning this lawsuit, or any and all facts or circumstances related to the allegations in the Second Amended Complaint, including the Consent Decree, the Freeh Report, the reputation of any Plaintiff (including Jay Paterno, Coach Paterno, and George Scott Paterno), Coach Paterno's termination or departure from Penn State, Sandusky, or Rodney Erickson.

REQUEST NO. 14:

All Documents Concerning the Consent Decree, Sandusky, the Freeh Report, the NCAA, or this litigation.

CERTIFICATE OF SERVICE

I, Thomas W. Scott, hereby certify that I am serving the foregoing *National Collegiate Athletic Association's Notice of Intent to Serve a Subpoena to Blue Line 409 LLC* by First Class

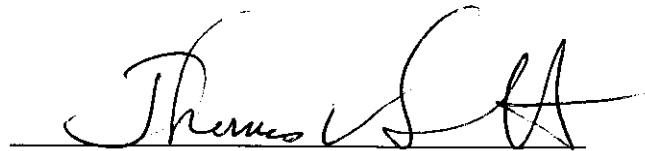
Mail and email on the following:

Thomas J. Weber, Esquire
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112
Telephone: (717) 234-4161
Email: tjw@goldbergkatzman.com

Wick Sollers, Esquire
L. Joseph Loveland, Esquire
Mark A. Jensen, Esquire
Patricia L. Maher, Esquire
Ashley C. Parrish, Esquire
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500
Email: wsollers@kslaw.com
jloveland@kslaw.com
mjensen@kslaw.com
pmaher@kslaw.com
aparrish@kslaw.com

Counsel for Plaintiffs

Date: October 26, 2015

A handwritten signature in black ink, appearing to read "Thomas W. Scott", written over a horizontal line.

Thomas W. Scott (No. 15681)
KILLIAN & GEPHART, LLP
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886
Telephone: (717) 232-1851
Email: tscott@killiangephart.com

Counsel for Defendants

CERTIFICATE OF SERVICE

I, Thomas W. Scott, hereby certify that I am serving *The National Collegiate Athletic Association's Certificate Prerequisite to Service of a Subpoena Upon Blue Line 409 LLC*, Pursuant to Rule 4009.22, by First Class Mail and email to:

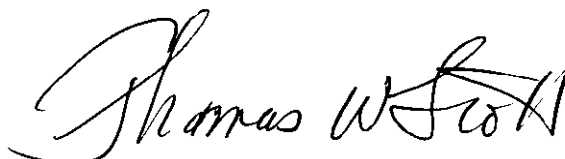
Thomas J. Weber, Esquire
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aparrish@kslaw.com
adial@kslaw.com

Counsel for Plaintiffs

Dated: November 16, 2015



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*Counsel for Defendants the NCAA, Dr.
Emmert, and Dr. Ray*