



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
-) Diana Paterno, 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
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-) tscott@killiangephart.com
-) PA I.D. Number: 15681

FILED 22 MAR 10:42

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA

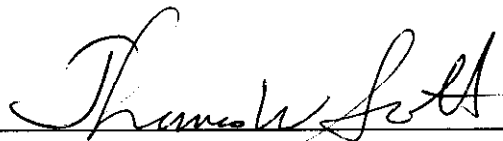
ESTATE of JOSEPH PATERNO, et al.,)	
)	
Plaintiffs,)	Civil Division
)	
v.)	
)	Docket No. 2013-
)	2082
NATIONAL COLLEGIATE ATHLETIC)	
ASSOCIATION, et al.,)	
)	
Defendants.)	

**CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENA UPON
DIANA PATERNO, PURSUANT TO RULE 4009.22**

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

- (1) a notice of intent to serve a subpoena with a copy of the subpoena attached thereto was mailed or emailed to each party,
- (2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate at Exhibit A,
- (3) the attorneys for all Plaintiffs have waived the 20-day notice period,
- (4) the subpoena which will be served is identical to the subpoena submitted with this Certificate.

Date: February 19, 2016



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Sarah.Gragert@lw.com

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



EXHIBIT A

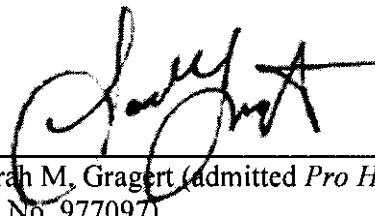
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ESTATE of JOSEPH PATERNO, et al.,)
)
 Plaintiffs,) Civil Division
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) Docket No. 2013-
) 2082
 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,)
)
 Defendants.)

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT TO SERVE A SUBPOENA TO DIANA PATERNO 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: February 8, 2016



Sarah M. Gragert (admitted *Pro Hac Vice*, DC No. 977097)

Brian E. Kowalski (admitted *Pro Hac Vice*, DC No. 500064)

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Counsel for Defendants

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)	2082
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)	
Defendants.)	
)	

TO: DIANA PATERNO

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: DIANA PATERNO

(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

ADDRESS: Killian & Gephart, LLP
218 Pine Street, P.O. 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

Deputy

DATE: _____

Seal of the Court

EXHIBIT A

DEFINITIONS

1. “You,” “your,” and “yours” shall mean Diana Paterno, and all other persons acting on behalf of Diana Paterno, 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 Diana Paterno.

2. The “NCAA” shall mean the National Collegiate Athletic Association.

3. “Defendants” shall mean the NCAA, Mark Emmert, and Edward Ray.

4. “Plaintiffs” shall mean each of the individuals identified in the caption of this matter, any representative of those individuals, and any representatives of the Estate of Joseph Paterno.

5. “All” or “any” shall mean “each and every.”

6. “And” and “or” shall mean either disjunctively or conjunctively as necessary to bring within the scope of discovery request all responses that might otherwise be construed outside of its scope.

7. “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.

8. “Communications(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.

9. “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.

10. “Person” shall mean any natural person or any business, legal or governmental entity, or association.

11. “Sandusky” shall mean former Pennsylvania State University assistant football coach, Gerald Sandusky.

12. “Coach Paterno” shall refer to Joseph Paterno, the decedent represented in this Action by George Scott Paterno, and Joseph Paterno’s Estate.

13. “FSS” shall mean the firm of Freeh, Sporkin & Sullivan LLP.

14. 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.

15. 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.

16. “SMA” shall mean Strategic Marketing Affiliates, Inc., a corporation formerly

based in Indianapolis, Indiana, and all affiliates, subsidiaries, successors, or otherwise related business entities

17. “Learfield” shall mean Learfield Communications, Inc., a corporation headquartered in Jefferson City, Missouri, and all affiliates, subsidiaries, or otherwise related business entities, including, but not limited to, Learfield Sports and Learfield Licensing Partners.

18. “Nike” shall mean Nike, Inc., a corporation headquartered in Beaverton, Oregon, and all affiliates, subsidiaries, or otherwise related business entities.

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(e) 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. Except as otherwise noted, this Request seeks the production of Documents created, used, sent or received during the period from **January 1, 2011** through present.

6. 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.

7. Pursuant to Pennsylvania Rules of Civil Procedure No. 4009.21, 4009.23, and 4009.24, You must fully respond to each Request. Objections to any part of these requests shall be stated in full with a brief statement setting forth the grounds for such objections.

8. 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. However, You do **not** need to produce materials produced in this litigation by the Estate of Joseph Paterno.

9. Any Document that cannot be produced in full shall be produced to the fullest extent possible.

10. 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.

11. Except as specifically provided herein, words imparting the singular shall include the plural and vice versa, where appropriate.

REQUESTS FOR PRODUCTION

REQUEST NO. 1:

All Documents and Communications Concerning actual, potential, or contemplated business partnerships, ventures, agreements, arrangements, or other efforts to monetize, market, or promote Coach Paterno or his name, image, and likeness from January 1, 2006 to present.

RESPONSE:

REQUEST NO. 2:

All draft and final contracts or agreements that had the possibility of generating income or other money for Coach Paterno or his Estate, including, without limitation, licensing contracts and contracts for television appearances, from January 1, 2006 to present.

RESPONSE:

REQUEST NO. 3:

All Communications regarding 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. 4.

RESPONSE:

REQUEST NO. 4:

All Documents Concerning or Communications with SMA, Learfield, or any employee or other representative of SMA or Learfield.

RESPONSE:

REQUEST NO. 5:

All Documents Concerning or Communications with Nike or any employee or other representative of Nike since January 1, 2006.

RESPONSE:

REQUEST NO. 6:

All Documents or Communications Concerning the value of Coach Paterno's assets or financial net worth, or the financial net worth of Coach Paterno's Estate.

RESPONSE:

REQUEST NO. 7:

All Documents Concerning or mentioning D, J, & G Inc. or JVP Properties, LP.

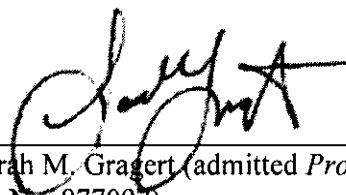
RESPONSE:

REQUEST NO. 8:

All Documents Concerning 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, the reputation of the Paterno name, 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.

RESPONSE:

Date: February 8, 2016



Sarah M. Gragert (admitted *Pro Hac Vice*, DC
No. 977097)

Brian E. Kowalski (admitted *Pro Hac Vice*, DC
No. 500064)

Everett C. Johnson, Jr. (admitted *Pro Hac Vice*,
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Counsel for Defendants

CERTIFICATE OF SERVICE

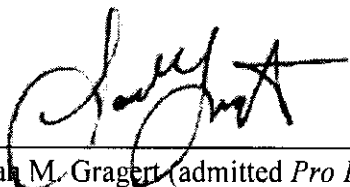
I, Sarah M. Gragert, hereby certify that I am serving the foregoing *Notice of Intent to*

Serve a Subpoena to Diana Paterno 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
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pmaher@kslaw.com
aparrish@kslaw.com

Counsel for Plaintiffs



Sarah M. Gragert (admitted *Pro Hac Vice*, DC No. 977097)

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Telephone: (202) 637-2200
Email: Sarah.gragert@lw.com

Counsel for Defendants

CERTIFICATE OF SERVICE

I, Thomas W. Scott, hereby certify that I am serving the foregoing *Certificate*

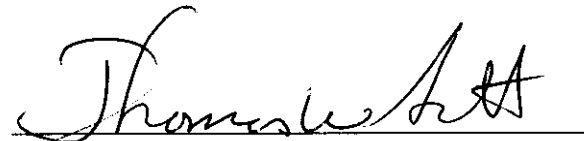
Prerequisite to Service of Subpoena, by First Class Mail and email on the following:

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Counsel for Plaintiffs

Date: February 19, 2016



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Counsel for Defendants