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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  
) Duquesne Brewing Company,  
) 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 -9 AM 11: 08  
REGINA G. JUREK  
PROthonARY  
CENTRE COUNTY, PA

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 -9 AM 11:08  
RECEIVED  
REGISTRAR CLERK  
CENTRE COUNTY, PA

**CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA  
UPON DUQUESNE BREWING COMPANY,  
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:

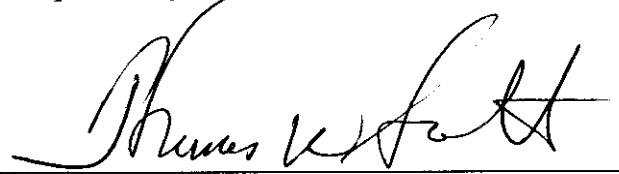
(1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,

(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,



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Thomas W. Scott, Esquire  
Attorney I.D. #15681  
KILLIAN & GEPHART, LLP  
218 Pine Street  
P.O. Box 886  
Harrisburg, PA 17108-0886

Date: November 9, 2015

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

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

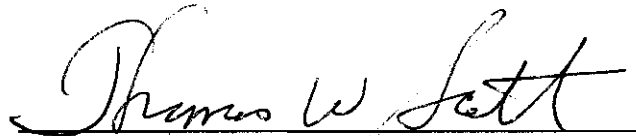
ESTATE of JOSEPH PATERNO, et al., )  
 )  
 Plaintiffs, ) Civil Division  
 )  
 v. )  
 ) Docket No. 2013-  
 ) 2082  
 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al., )  
 )  
 Defendants. )  
 )

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**THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT  
TO SERVE A SUBPOENA TO DUQUESNE BREWING COMPANY 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 19, 2015



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

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CENTRE

GEORGE SCOTT PATERNO ET AL.

VS

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION ET AL.

File No. 2013-2082

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

TO: DUQUESNE BREWING COMPANY

(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 St., PO 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, 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

**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. )  
 )

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**TO: DUQUESNE BREWING COMPANY**

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)

## EXHIBIT A

### DEFINITIONS

1. "You," "your," and "yours" shall refer to Duquesne Brewing Company, and all other persons acting on behalf of Duquesne Brewing Company, 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 Duquesne Brewing Company.
2. "Plaintiffs" shall mean each of the individuals identified in the caption above, 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 "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.
10. "FSS" shall mean the firm of Freeh, Sporkin & Sullivan LLP.
11. "Coach Paterno" shall mean the late former Penn State head football coach, Joseph Paterno.
12. "Sandusky" shall mean former Penn State assistant football coach, Gerald Sandusky.
13. 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.

14. 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.

### **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:**

All Communications with any member(s) or representative(s) of the Paterno Family or William Kenney.

### **REQUEST NO. 2:**

All Communications with Blue Line 409 LLC or any owner, officer, employee, agent, or representative thereof.

### **REQUEST NO. 3:**

All Documents Concerning actual or contemplated business partnerships, ventures, or arrangements with the Paterno Family, any member or representative of the Paterno Family, or Blue Line 409 LLC, including but not limited to contracts and/or agreements, whether in draft or executed form.

### **REQUEST NO. 4:**

All Documents and Communications Concerning the Paterno Legacy Series beer.

### **REQUEST NO. 5:**

All Documents and Communications Concerning marketing or marketability of the Paterno Legacy Series beer or the Paterno name, including but not limited to marketing projections, analyses, assessments, or surveys.

### **REQUEST NO. 6:**

All Documents and Communications Concerning projected or anticipated sales of the Paterno Legacy Series beer, including but not limited to sales forecasts, analyses, projections, or assessments.

### **REQUEST NO. 7:**

All Documents Concerning actual sales of and revenue generated from the Paterno Legacy Series beer, including sales of related merchandise.

**REQUEST NO. 8:**

All Documents and Communications Concerning profits or proceeds from sales of the Paterno Legacy Series beer, including sales of related merchandise.

**REQUEST NO. 9:**

All Documents and Communications Concerning the design of the can for the Paterno Legacy Series beer.

**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 Duquesne Brewing Company* by

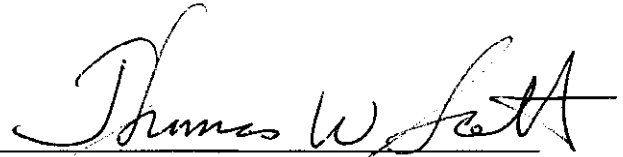
First Class Mail and email on the following:

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P.O. Box 6991  
Harrisburg, PA 17112  
Telephone: (717) 234-4161  
Email: [tjw@goldbergekatzman.com](mailto:tjw@goldbergekatzman.com)

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L. Joseph Loveland, Esquire  
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*Counsel for Plaintiffs*

Date: October 19, 2015



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

*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 Pursuant to Rule 4009.22*, by First Class Mail and email to:

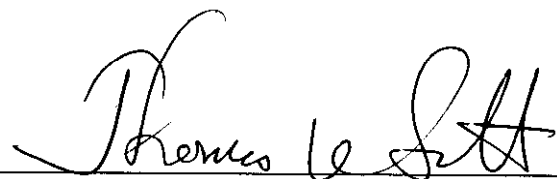
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Email: [tjw@goldbergkatzman.com](mailto:tjw@goldbergkatzman.com)

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Patricia L. Maher, Esquire  
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[jloveland@kslaw.com](mailto:jloveland@kslaw.com)  
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*Counsel for Plaintiffs*

Dated: November 9, 2015



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