

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

) Guido D’Elia, 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

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) PA I.D. Number: 15681

FILED FOR RECORD
2016 MAR 22 PM 3:05
RECEIVED
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CENTRE COUNTY, PA

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Brian E. Kowalski (admitted *Pro Hac Vice*, DC
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*Counsel for Defendants the NCAA, Dr. Emmert,
and Dr. Ray*

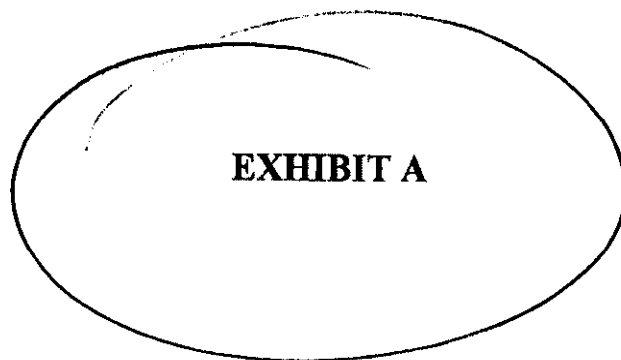


EXHIBIT A

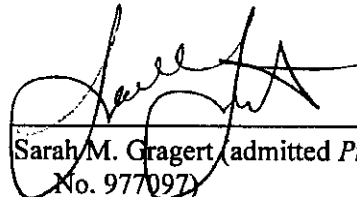
IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

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 GUIDO D'ELIA 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: March 18, 2016



Sarah M. Gragert (admitted *Pro Hac Vice*, DC
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Everett C. Johnson, Jr. (admitted *Pro Hac Vice*,
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*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.)
)

TO: GUIDO D'ELIA

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, ET 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: GUIDO D'ELIA

(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, P.O. Box 886
Harrisburg, PA 17108-0886

TELEPHONE: (717) 232-1851

SUPREME COURT ID # 15681

ATTORNEY FOR: The 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 refer to Guido D'Elia, and all other persons acting on behalf of Guido D'Elia, 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 Guido D'Elia.
2. "All" or "any" shall mean "each and every."
3. "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.
4. "Coach Paterno" shall mean the late former Pennsylvania State University head football coach, Joseph Paterno.
5. "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.
6. 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.
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. "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.
9. "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 the Firm of Freeh, Sporkin & Sullivan LLP.
10. "NCAA" shall mean the National Collegiate Athletic Association.
11. The "Paterno Family" shall refer to the family of Joseph 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.
12. "Person" shall mean any natural person or any business, legal or governmental entity, or association.

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.
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 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.
5. Any Document that cannot be produced in full shall be produced to the fullest extent possible.
6. 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.
7. 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 or Communications Concerning or prepared in the course of any work You performed for or services provided to Coach Paterno or any member of the Paterno family Concerning this litigation, the NCAA, the Freeh Report, the Consent Decree, or branding, licensing, or marketing Coach Paterno's name, image, and likeness.

REQUEST NO. 2:

All contracts or agreements, whether in draft or executed form, between You and any member of the Paterno Family, You and Strategic Marketing Affiliates, Inc., You and Learfield Sports, or You and any entity owned or controlled by any member of the Paterno Family, including D, J. & G Inc. or JVP Properties, LP.

REQUEST NO. 3:

All Documents and Communications Concerning licensing, the ability or potential to license, marketing, or marketability of Coach Paterno's name, likeness, and/or image, including but not limited to marketing projections, analyses, assessments, surveys, or potential licensing and marketing opportunities.

REQUEST NO. 4:

All Documents and Communications Concerning any formal or informal valuation or estimate of possible revenue that could be generated from the licensing and/or marketing of Coach Paterno's name, image, or likeness.

REQUEST NO. 5:

All Communications with any employee or representative of Pennsylvania State University Concerning Coach Paterno from November 1, 2011 to present.

REQUEST NO. 6:

All Communications with President and Chief Executive Officer of Learfield Licensing Partners Bob Bernard, Learfield Sports, and all other persons acting on behalf of Learfield Sports, including but not limited to Strategic Marketing Affiliates, Inc., Concerning Coach Paterno.

REQUEST NO. 7:

All Documents Concerning actual or alleged criminal conduct or university rules violations by Penn State football players from 2001 through November 2011 and/or disciplinary actions considered and/or imposed on Pennsylvania State University football players by any entity (police, campus authorities, coaches, etc.) during the same time frame.

REQUEST NO. 8:

All Documents or Communications Concerning an April 1, 2007 off-campus assault involving Pennsylvania State University football players.

REQUEST NO. 9:

All Documents shared, exhibited at, or prepared for a meeting with Bob Bernard and other persons in or around April 2012 regarding marketing Coach Paterno's name, image, and likeness.

REQUEST NO. 10:

All Communications, and Documents reflecting Communications, with Coach Paterno from 2006 through November 2011 Concerning public relations, media, or branding Concerning Pennsylvania State University football.

CERTIFICATE OF SERVICE

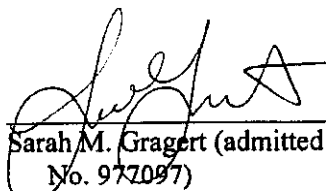
I, Sarah M. Gragert, hereby certify that I am serving the foregoing *National Collegiate Athletic Association's Notice of Intent to Serve a Subpoena to Guido D'Elia* by First Class Mail and email on the following:

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Counsel for Plaintiffs

Date: March 18, 2016



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Email: tscott@killiangephart.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: March 22, 2016



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