

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

FILED FOR RECORD  
2016 JAN 20 PM 4:03  
CENTRE COUNTY, PA

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

) Breach of Contract

) Tortious Interference with Contract

) Defamation

) Commercial Disparagement

) Conspiracy

) **Type of Pleading:**

) Certificate Prerequisite to

) Service of Subpoenas Upon

) Abundance Wealth Counselors,

) Learfield Sports, LLC, and

) Nike, Inc., 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

**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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**CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS UPON  
ABUNDANCE WEALTH COUNSELORS, LEARFIELD SPORTS, LLC,  
AND NIKE, INC., PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoenas for documents and things,  
Defendants certify that:

(1) Notices of Intent to serve subpoenas on (i) Abundance Wealth Counselors,  
(ii) Learfield Sports, LLC, and (iii) Nike, Inc., with a copy of each subpoena attached  
thereto, were mailed to or delivered to each party and the twenty-day advance notice  
period has been waived by all Plaintiffs;

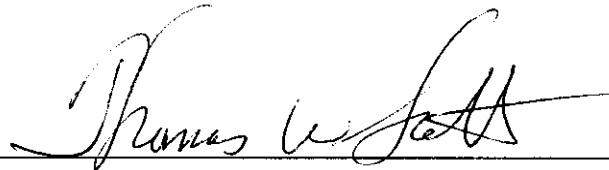
(2) A copy of the Notices of Intent, including the proposed subpoenas, are  
attached to this certificate as Exhibits A, B, and C;

(3) The attorneys for the Plaintiffs have waived the notice period, per the  
Waiver attached hereto as Exhibit D, and no objection was received; and

(4) The subpoenas which will be served are identical to the subpoenas attached

to the Notices of Intent.

Date: January 20, 2016



Thomas W. Scott (No. 15681)  
KILLIAN & GEPHART, LLP  
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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

Email: Everett.Johnson@lw.com

Brian.Kowalski@lw.com

Sarah.Gragert@lw.com

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

Exhibit A

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

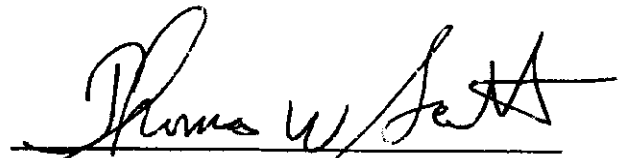
ESTATE of JOSEPH PATERNO, et al.,	)	
	)	
Plaintiffs,	)	Civil Division
	)	
v.	)	
	)	Docket No. 2013-
	)	2082
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,	)	
	)	
Defendants.	)	

---

**THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT  
TO SERVE A SUBPOENA TO ABUNDANCE WEALTH COUNSELORS 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: January 15, 2016



Thomas W. Scott (No. 15681)  
KILLIAN & GEPHART, LLP  
218 Pine Street  
P.O. Box 886  
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No. 977097)  
LATHAM & WATKINS LLP  
555 Eleventh Street NW  
Suite 1000  
Washington, DC 20004-1304  
Telephone: (202) 637-2200

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.	)	Civil Division
	)	
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,	)	Docket No. 2013-
Defendants.	)	2082
	)	

---

TO: **ABUNDANCE WEALTH COUNSELORS**

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: Abundance Wealth Counselors

(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 Attached Exhibit A

at Killian & Gephart, LLP, 218 Pine Street, 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

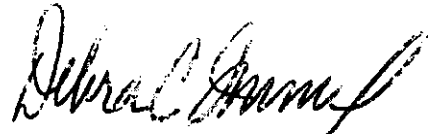
P.O. Box 886, Harrisburg, PA 17108-0886

TELEPHONE: (717) 232-1851

SUPREME COURT ID # 15681

ATTORNEY FOR: National Collegiate Athletic Association

BY THE COURT:



Prothonotary/Clerk, Civil Division

DATE: January 15, 2016

Seal of the Court

Deputy



## **EXHIBIT A**

### **DEFINITIONS**

1. "You," "your," and "yours" shall refer to Abundance Wealth Counselors, and all other persons acting on behalf of Abundance Wealth Counselors, including but not limited to, attorneys and their associates, investigators, agents, directors, officers, employees, representatives, Richard DeFluri, and others who may have obtained information for or on behalf of Abundance Wealth Counselors.
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. "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.
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. "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.
7. "Person" shall mean any natural person or any business, legal or governmental entity, or association.
8. 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.
9. "Coach Paterno" shall mean the late former Penn State head football coach, Joseph Paterno.

#### **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 and Communications Concerning Coach Paterno, the Paterno Family or any member or representative of the Paterno Family.

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

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

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

All Communications with any employee or representative of Pennsylvania State University Concerning Coach Paterno.

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

All Documents and Communications Concerning Paul William "Bear" Bryant, Paul William "Bear" Bryant's Estate, or Paul William "Bear" Bryant's assets or finances.

**CERTIFICATE OF SERVICE**

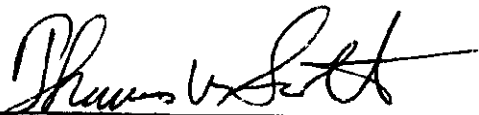
I, Thomas W. Scott, hereby certify that I am serving the foregoing *National Collegiate Athletic Association's Notice of Intent to Serve a Subpoena to Abundance Wealth Counselors* by First Class Mail and email on the following:

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](mailto: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](mailto:wsollers@kslaw.com)  
[jloveland@kslaw.com](mailto:jloveland@kslaw.com)  
[mjensen@kslaw.com](mailto:mjensen@kslaw.com)  
[pmaher@kslaw.com](mailto:pmaher@kslaw.com)  
[aparrish@kslaw.com](mailto:aparrish@kslaw.com)

*Counsel for Plaintiffs*

Date: January 15, 2016



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

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*,  
DC No. 358446)  
LATHAM & WATKINS LLP  
555 Eleventh Street NW  
Suite 1000  
Washington, DC 20004-1304  
Telephone: (202) 637-2200  
Email: Brian.Kowalski@lw.com  
Everett.Johnson@lw.com  
Sarah.Gragert@lw.com

*Counsel for Defendants*

# Exhibit B

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

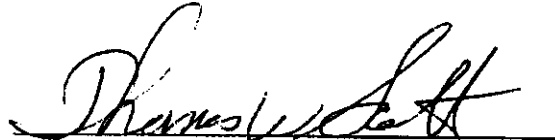
ESTATE of JOSEPH PATERNO, et al.,	)	
	)	
Plaintiffs,	)	Civil Division
	)	
v.	)	
	)	Docket No. 2013-
	)	2082
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,	)	
	)	
Defendants.	)	

---

**THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT  
TO SERVE A SUBPOENA TO LEARFIELD SPORTS, 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: January 15, 2016



Thomas W. Scott (No. 15681)  
KILLIAN & GEPHART, LLP  
218 Pine Street  
P.O. Box 886  
Harrisburg, PA 17108-0886  
Telephone: (717) 232-1851  
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No. 977097)  
LATHAM & WATKINS LLP  
555 Eleventh Street NW  
Suite 1000  
Washington, DC 20004-1304  
Telephone: (202) 637-2200



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,	)	Civil Division
	)	
v.	)	
	)	Docket No. 2013-
	)	2082
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,	)	
	)	
Defendants.	)	

---

TO: LEARFIELD SPORTS, 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

File No. 2013-2082

NATIONAL COLLEGIATE ATHLETIC  
ASSOCIATION (NCAA), ET AL

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

TO: Learfield Sports, LLC c/o CT Corporation Systems

(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 Attached Exhibit A

at Killian & Gephart, LLP, 218 Pine Street, 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, 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

DATE: January 15, 2016

Seal of the Court

Deputy

## **EXHIBIT A**

### **DEFINITIONS**

1. "You," "your," and "yours" shall refer to Learfield Sports, LLC and all other persons acting on behalf of Learfield Sports, LLC, including but not limited to, attorneys and their associates, investigators, agents, directors, officers, employees, representatives, and others, including but not limited to Strategic Marketing Affiliates ("SMA"), who may have obtained information for or on behalf of Learfield Sports, LLC.
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. "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.
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. "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.
7. "Person" shall mean any natural person or any business, legal or governmental entity, or association.
8. 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.
9. "Coach Paterno" shall mean the late former Penn State head football coach, Joseph Paterno.

### **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 Communications with any member(s) or representative(s) of the Paterno Family, including attorneys or agents for any member of the Paterno Family.

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

All Documents Concerning the Paterno Family, any member or representative of the Paterno Family, Coach Paterno, and/or Coach Paterno's name, image, and likeness.

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

All Documents prepared or created in connection with Your work for the Paterno Family or any member or representative of the Paterno Family.

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

All Communications with any employee or representative at Pennsylvania State University Concerning Coach Paterno, and/or his name, image, and likeness.

**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 Learfield Sports, LLC* by First Class Mail and email on the following:

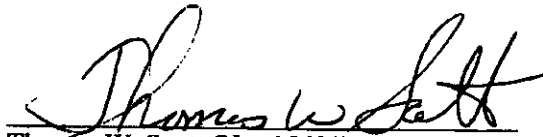
Thomas J. Weber, Esquire  
GOLDBERG KATZMAN, P.C.  
4250 Crums Mill Road, Suite 301  
P.O. Box 6991  
Harrisburg, PA 17112  
Telephone: (717) 234-4161  
Email: tjw@goldbergkatzman.com

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: January 15, 2016



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Telephone: (202) 637-2200  
Email: Brian.Kowalski@lw.com  
Everett.Johnson@lw.com  
Sarah.Gragert@lw.com

*Counsel for Defendants*

# Exhibit C

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

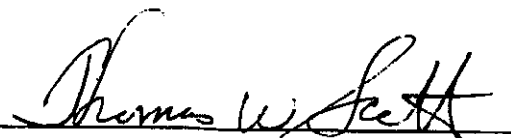
ESTATE of JOSEPH PATERNO, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Division
	)	
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,	)	Docket No. 2013-
Defendants.	)	2082
	)	

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**THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT  
TO SERVE A SUBPOENA TO NIKE, INC. 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: January 15, 2016

  
Thomas W. Scott (No. 15681)  
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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.	)	Civil Division
	)	
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, et al.,	)	Docket No. 2013-
Defendants.	)	2082
	)	

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TO: NIKE, INC.

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

GEORGE SCOTT PATERNO ET AL.

VS

File No. 2013-2082

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION ET AL.

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

TO: Nike, Inc. c/o National Registered Agents, Inc.

(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 Attached Exhibit A

at Killian & Gephart, LLP, 218 Pine Street, 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: January 15, 2016  
Seal of the Court

Deputy

## **EXHIBIT A**

### **DEFINITIONS**

1. "You," "your," and "yours" shall refer to Nike, Inc. and all other persons acting on behalf of Nike, Inc. 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 Nike, Inc.
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. "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.
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. "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.
7. "Person" shall mean any natural person or any business, legal or governmental entity, or association.
8. 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.
9. "Coach Paterno" shall mean the late former Penn State head football coach, Joseph Paterno.

#### **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 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 Concerning actual or contemplated business partnerships, ventures, agreements, or arrangements with Coach Paterno, the Paterno Family or any member or representative of the Paterno Family, including but not limited to draft and executed contracts and/or agreements for endorsements with Coach Paterno or other use of his name, image, and likeness.

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

All Communications with any member(s) or representative(s) of the Paterno Family Concerning any business partnerships, ventures, agreements, or arrangements discussed in Request No. 1.

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

All Documents and Communications Concerning the possible production and sale of a shoe modeled after a shoe worn by Coach Paterno.

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

All Communications with any employee or representative at Pennsylvania State University Concerning Coach Paterno, and/or his name, image, and likeness.

**CERTIFICATE OF SERVICE**

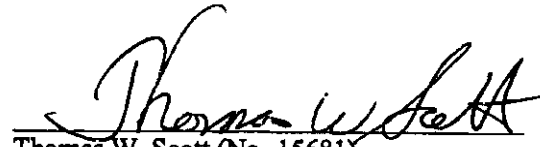
I, Thomas W. Scott, hereby certify that I am serving the foregoing *National Collegiate Athletic Association's Notice of Intent to Serve a Subpoena to Nike, Inc.* by First Class Mail and email on the following:

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](mailto: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](mailto:wsollers@kslaw.com)  
[jloveland@kslaw.com](mailto:jloveland@kslaw.com)  
[mjensen@kslaw.com](mailto:mjensen@kslaw.com)  
[pmaher@kslaw.com](mailto:pmaher@kslaw.com)  
[aparrish@kslaw.com](mailto:aparrish@kslaw.com)

*Counsel for Plaintiffs*

Date: January 15, 2016



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No. 977097)  
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No. 500064)  
Everett C. Johnson, Jr. (admitted *Pro Hac Vice*,  
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Email: Brian.Kowalski@lw.com  
Everett.Johnson@lw.com  
Sarah.Gragert@lw.com

*Counsel for Defendants*

# Exhibit D

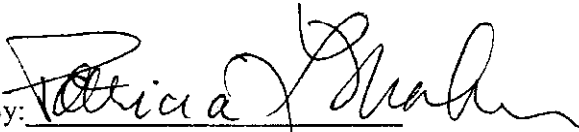
IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

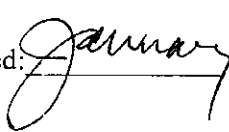
The ESTATE of JOSEPH PATERNO, et al	:	CIVIL ACTION – LAW
	:	
Plaintiffs	:	DOCKET NO.: 2013-2082
	:	
v.	:	
	:	
NATIONAL COLLEGIATE ATHLETIC	:	
ASSOCIATION ("NCAA"), et al.	:	
	:	
Defendants	:	

**WAIVER**

A Notice of Intent to serve subpoenas on the following entities, with a copy of each subpoena attached thereto, was emailed to Plaintiffs on January 15, 2016, and **Plaintiffs have waived the twenty-day waiting period for each:**

1. Abundance Wealth Counselors
2. Learfield Sports, LLC
3. Nike, Inc.

By:   
Patricia L. Maher, Esquire  
Wick Sollers, Esquire  
L. Joseph Loveland, Esquire  
Mark A. Jensen, Esquire  
Ashley C. Parrish, Esquire  
KING & SPALDING LLP  
1700 Pennsylvania Avenue, NW  
Washington, DC 20006

Dated:  18, 2016

**CERTIFICATE OF SERVICE**

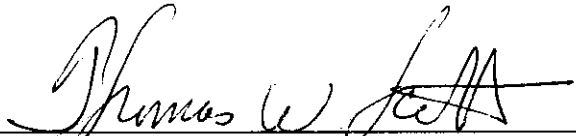
I, Thomas W. Scott, hereby certify that I am serving the foregoing *Certificate Prerequisite to Service of Subpoenas Upon Abundance Wealth Counselors, Learfield Sports, LLC, and Nike, Inc., Pursuant to Rule 4009.22* by First Class Mail and email on the following:

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](mailto: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  
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Telephone: (202) 737-0500  
Email: [wsollers@kslaw.com](mailto:wsollers@kslaw.com)  
[jloveland@kslaw.com](mailto:jloveland@kslaw.com)  
[mjensen@kslaw.com](mailto:mjensen@kslaw.com)  
[pmaher@kslaw.com](mailto:pmaher@kslaw.com)  
[aparrish@kslaw.com](mailto:aparrish@kslaw.com)

*Counsel for Plaintiffs*

Date: January 20, 2016

  
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*Vice*, DC No. 358446)  
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Telephone: (202) 637-2200  
Email: Brian.Kowalski@lw.com  
Everett.Johnson@lw.com  
Sarah.Gragert@lw.com

*Counsel for Defendants*