

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 Subponas Upon
) Bank of America, N.A.,
) 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
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) Harrisburg, PA 17108-0886
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) PA I.D. Number: 15681

FILED
2016 JAN 28 PM 4:29
DEBBA C. INNEL
PROTHONOTARY
CENTRE COUNTY, PA

**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

COPY

**CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENA UPON
BANK OF AMERICA, N.A., PURSUANT TO RULE 4009.22**

As a prerequisite to service of subpoena for documents and things to Bank of America, N.A., pursuant to Rule 4009.22, Defendants hereby certify that all parties have waived the 20-day notice of intent to serve the subpoena. The subpoena which will be served is identical to the subpoena submitted with this Certificate.



Date: January 28, 2016

Thomas W. Scott (No. 15681)
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DC No. 358446)

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

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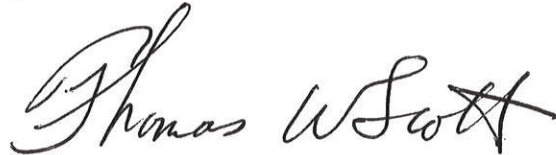
NATIONAL COLLEGIATE ATHLETIC
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*Counsel for Defendants the NCAA, Dr. Emmert,
and Dr. Ray*

CERTIFICATE OF SERVICE

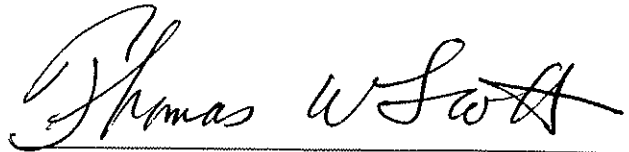
I, Thomas W. Scott, hereby certify that I am serving the foregoing *Certificate Prerequisite*
by First Class Mail and email on the following:

Thomas J. Weber, Esquire
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Counsel for Plaintiffs

Date: January 28, 2016



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Counsel for Defendants

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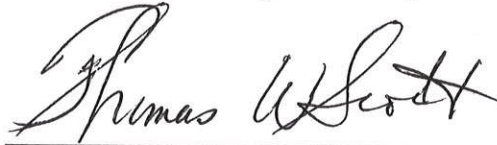
Civil Division

Docket No. 2013-
2082

FILED FOR RECORD
2016 JAN 28 PM 4:2
DEBRA C. JIMEL
PROTHONOTARY
CENTRE COUNTY, PA

**THE NATIONAL ATHLETIC ASSOCIATION'S NOTICE OF INTENT
TO SERVE A SUBPOENA TO BANK OF AMERICA, N.A. 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 28, 2016

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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: Bank of America, N.A. c/o CT Corporation System
(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 AA

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 28, 2016
Seal of the Court

Deputy

EXHIBIT A

DEFINITIONS

1. "You," "your," and "yours" shall refer to Bank of America, N.A., and all other persons acting on behalf of Bank of America, N.A., including but not limited to, its agents, directors, officers, employees, and representatives.
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. "Coach Paterno" shall mean the late former Penn State head football coach, Joseph Paterno.
9. The "Paterno Family" shall refer to the family of Coach Paterno, including but not limited to Coach Paterno, Sue Paterno, George Scott Paterno, Joseph V. ("Jay") Paterno, Jr., David Paterno, Diana Lynne Paterno-Giegerich, and Mary Kay Paterno Hort.

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 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 by 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 Communications with any employee or representative of 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 *Certificate*

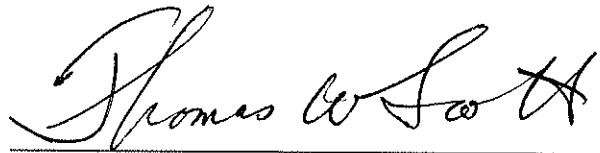
Prerequisite to Service of Subpoena by First Class Mail and email on the following:

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mjensen@kslaw.com
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aparrish@kslaw.com

Counsel for Plaintiffs

Date: January 28, 2016



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Counsel for Defendants