



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.

) **Docket No.:** 2013-2082  
)  
) **Type of Case:**  
) Declaratory Judgment  
) Injunction Breach of Contract  
) Tortious Interference with  
) Contract  
) Defamation  
) Commercial Disparagement  
) Conspiracy  
) **Type of Pleading:**  
) Dr. Edward J. Ray’s  
) Unopposed Motion to  
) Incorporate by Reference the  
) NCAA and Mark Emmert’s  
) Summary Judgment Brief  
) **Filed on Behalf of:**  
) 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  
)  
)

01/14/14 09:11 AM

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,  
PENNSYLVANIA

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

---

**DR. EDWARD J. RAY’S UNOPPOSED MOTION TO INCORPORATE BY  
REFERENCE THE NCAA AND MARK EMMERT’S SUMMARY  
JUDGMENT BRIEF**

Dr. Edward J. Ray respectfully submits this Unopposed Motion to Incorporate by Reference the National Collegiate Athletic Association (“NCAA”) and Mark Emmert’s Summary Judgment Brief to request the Court’s permission to incorporate the defenses and issues raised by the NCAA and Mark Emmert in their brief in support of summary judgment. In support of this motion, Dr. Ray states as follows:

1. The NCAA and Emmert share mutual defenses with Dr. Ray. In addition, Dr. Ray also possesses arguments in favor of summary judgment that are unique to him.

2. Accordingly, in the interest of judicial economy, Dr. Ray, with Plaintiffs’ assent, respectfully requests that the Court accept a brief on behalf of Dr. Ray that summarily incorporates the arguments and defenses raised by the NCAA

and Emmert in their brief in support of summary judgment, and then separately addresses Dr. Ray's unique defenses. Under this plan, the NCAA and Emmert's brief would raise defenses on behalf of all defendants. This would eliminate the need for redundant arguments and streamline the summary judgment process.

3. By incorporating the arguments and defenses in the NCAA and Emmert's summary judgment brief, Dr. Ray would preserve and not waive arguments made by the NCAA and Emmert. By allowing this motion, the Court would permit incorporation of briefing as an exception to Centre County Local Rule 210.

4. Plaintiffs, the NCAA, and Emmert do not oppose this motion and agree with the relief sought.

June 23, 2017

Respectfully submitted,



Thomas W. Scott  
KILLIAN & GEPHART, LLP  
218 Pine Street  
P.O. Box 886  
Harrisburg, PA 17108-0886  
Telephone: (717) 232-1851  
Email: tscott@killiangephart.com

Michael N. Sheetz, Esquire  
MA I.D. #548776  
Timothy W. Cook, Esquire  
MA I.D. #688688  
Cooley LLP  
500 Boylston, MA 02116-3736

Telephone: (617) 937-2300  
Email: msheetz@cooley.com  
tcook@cooley.com

*Counsel for Dr. Ray*

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, D.C. 20004-1304  
Telephone: (202) 637-2200  
Email: Everett.Johnson@lw.com  
Brian.Kowalski@lw.com  
Sarah.Gragert@lw.com

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I, Thomas W. Scott, hereby certify that I am serving a copy of the foregoing *Motion to Incorporate by Reference the NCAA and Mark Emmert's Summary Judgment Brief* on the following by First Class Mail and email:

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)

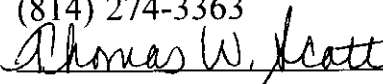
*Counsel for Plaintiffs*

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, D.C. 20004-1304  
Telephone: (202) 637-2200  
Email: [Everett.Johnson@lw.com](mailto:Everett.Johnson@lw.com)  
[Brian.Kowalski@lw.com](mailto:Brian.Kowalski@lw.com)  
[Sarah.Gragert@lw.com](mailto:Sarah.Gragert@lw.com)

*Counsel for Defendants*

*Via Fax & E-mail*

The Honorable John B. Leete  
Senior Judge, Specially Presiding  
Potter County Courthouse, Room 30  
One East Village Street  
Coudersport, PA 16915  
(814) 274-3363

  
Thomas W. Scott