



ESTATE of JOSEPH PATERNO;
WILLIAM KENNEY and JOSEPH V.
("JAY") PATERNO, former football
Coaches at Pennsylvania State University;
and

: IN THE COURT OF COMMON PLEAS
: OF CENTRE COUNTY, PENNSYLVANIA

v.

: NO. 2082 OF 2013

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

DEBRA C. IMBEL
PROTHONOTARY
CENTRE COUNTY, PA

2017 JUN 27 PM 2:49

MEMORANDUM OPINION AND ORDER

AND NOW, January 23, 2017, upon consideration of Plaintiff's request for a document subpoena to issue to the Pennsylvania State University and after review of the objections of the NCAA, and the briefs filed both in favor and in opposition to the objections, the objections are sustained and the motion for subpoena is denied.

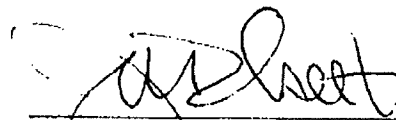
All parties were aware of the discovery deadline of April 29, 2016, as originally established by Order of March 11, 2016. The Court by Order filed on August 16, 2016 permitted additional discovery, very limited in scope and time relative to certain alleged Sandusky victims identified as JD 71 and JD 150.

In the meantime, a motion to compel discovery relative to the repeal of the original consent decree was granted in part by Order filed on September 19, 2016. Essentially, with those limited exceptions, discovery was closed on April 29, 2016.

Apparently plaintiffs were dissatisfied with the NCAA response to the consent decree discovery, but took no final action. While plaintiffs were able to file discovery enforcement proceedings under the Rules of Civil Procedure, they failed to do so and instead choose to obtain this very same information from Penn State University by the above referenced request for a subpoena, filed on December 16, 2016. Plaintiffs mistakenly rely on the revised scheduling Order of December 14, 2016, which did make reference to a discovery cutoff date of January 31, 2017. That Order must be viewed, however, in the overall context of this case. To the Court's knowledge there were no pending discovery issues between the parties before the court as of December 14, 2016, with the exceptions of the separately ordered depositions by written interrogatories pertaining to JD 71 and JD 150. Thus, the interpretation of the December 14, Order by plaintiffs is inconsistent with the Court's thinking which was well known to both plaintiffs and defendants. Plaintiffs now complain that the NCAA did not comply with their requests concerning repeal, and try to use that argument to justify, much belated, further third party discovery.

This will not be permitted as it violates the letter and spirit of the orders of this Court pertaining to discovery.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. B. Leete", written over a horizontal line.

John B. Leete, Senior Judge
Specially Presiding