



IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO; and

) Civil Division

WILLIAM KENNEY and JOSEPH V. ("JAY")

) Docket No. 2013-2082

PATERNO, former football coaches at

Pennsylvania State University,

Plaintiffs,

) **Discovery Motion**

) Filed on Behalf of the Plaintiffs

v.

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION ("NCAA");

) Counsel of Record:

) Thomas J. Weber

) GOLDBERG KATZMAN, P.C.

MARK EMMERT, individually and as President of the NCAA; and

) 4250 Crums Mill Road, Suite 301

) P.O. Box 6991

) Harrisburg, PA 17112

) Telephone: (717) 234-4161

) Email: tjw@goldbergkatzman.com

EDWARD RAY, individually and as former Chairman of the Executive Committee of the NCAA,

) Wick Sollers (admitted *pro hac vice*)

Defendants.

) L. Joseph Loveland (admitted *pro hac vice*)

) Patricia L. Maher (admitted *pro hac vice*)

) Ashley C. Parrish (admitted *pro hac vice*)

) KING & SPALDING LLP

) 1700 Pennsylvania Avenue, NW

) Washington, DC 20006

) Telephone: (202) 737-0500

) Email: wsollers@kslaw.com

) jloveland@kslaw.com

) pmaher@kslaw.com

) aparrish@kslaw.com

)

)

)

1

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO; and)	
	)	Civil Division
WILLIAM KENNEY and JOSEPH V. ("JAY"))	
PATERNO, former football coaches at	)	Docket No. 2013-2082
Pennsylvania State University,)	
Plaintiffs,)	
)	
v.	)	Counsel of Record:
	)	Thomas J. Weber
NATIONAL COLLEGIATE ATHLETIC	)	GOLDBERG KATZMAN, P.C.
ASSOCIATION ("NCAA");	)	4250 Crums Mill Road, Suite 301
	)	P.O. Box 6991
MARK EMMERT, individually and as	)	Harrisburg, PA 17112
President of the NCAA; and	)	Telephone: (717) 234-4161
	)	Email: tjw@goldbergkatzman.com
EDWARD RAY, individually and as former)	
Chairman of the Executive Committee of the	)	Wick Sollers (admitted <i>pro hac vice</i>)
NCAA,	)	L. Joseph Loveland (admitted <i>pro hac vice</i>)
	)	Patricia L. Maher (admitted <i>pro hac vice</i>)
Defendants.	)	Ashley C. Parrish (admitted <i>pro hac vice</i>)
	)	KING & SPALDING LLP
	)	1700 Pennsylvania Avenue, NW
	)	Washington, DC 20006
	)	Telephone: (202) 737-0500
	)	Email: wsollers@kslaw.com
	)	jloveland@kslaw.com
	)	pmaher@kslaw.com
	)	aparrish@kslaw.com
)	
)	

**MOTION TO COMPEL THE PENNSYLVANIA STATE UNIVERSITY
TO PROVIDE A PRIVILEGE LOG TO SUPPORT ITS CLAIMS OF PRIVILEGE**

INTRODUCTION

Plaintiffs respectfully move this Court for an order directing The Pennsylvania State University ("Penn State") to provide a privilege log to support its claims of privilege for all documents responsive to Plaintiffs' First Requests for Production of Documents that it has withheld on grounds of privilege.

FACTUAL AND PROCEDURAL BACKGROUND

1. On July 28, 2014 Plaintiffs served Penn State a request for production of documents. Ex. A, First Request for Production Of Documents By Plaintiff George Scott Paterno As Duly Appointed Representative Of The Estate And Family Of Joseph Paterno To Defendant The Pennsylvania State University. Penn State was a defendant in this action at that time.

2. Penn State served objections and responses to the document requests on August 27, 2014. Ex. B, Penn State's Objections And Responses To The First Requests For Production Of Documents Served By George Scott Paterno As Duly Appointed Representative Of The Estate And Family Of Joseph Paterno. Penn State asserted a General Objection to the requests "to the extent they seek documents protected by the attorney client privilege and/or attorney work product doctrine." *Id.* at 3. Penn State also incorporated by reference its General Objections into its responses to the specific requests.

3. Penn State began producing documents responsive to Plaintiffs' document requests on October 14, 2014 with a production letter that stated "[A] privilege log also will be forthcoming." Ex. C, Oct. 14, 2014 Letter from D. Doblick to counsel for other parties.

4. Penn State made a series of document productions to Plaintiffs over the next several months, continuing into June 2015. Ex. D, June 17, 2015 Letter from W. Sheridan to counsel for other parties (production letter for documents produced by Penn State in response to Request 30 in Plaintiffs' First Requests for Production of Documents).

5. On March 30, 2015, the Court dismissed Count I of the Second Amended Complaint, the only count on which Penn State was named as a party. March 30, 2015 Opinion and Order.

6. Penn State has never provided the promised privilege log.

7. In advance of the January 31, 2017 discovery cutoff, Plaintiffs have communicated with Penn State regarding its failure to provide a log of the responsive documents it has withheld on grounds of privilege.

8. Plaintiffs have endeavored to discuss the lack of a privilege log with counsel for Penn State on several occasions since early December 2016. Counsel for Penn State has responded in writing that it will not provide a privilege log, but has declined Plaintiffs' requests to discuss the matter. Ex. E, Jan. 3, 2017 Email from D. Doblick to P. Maher.

ARGUMENT AND LEGAL AUTHORITY

Under the Pennsylvania law, a party is entitled to take discovery of any matter, not privileged, which is relevant to the subject matter of the pending action. Pa. R. Civ. P. 4003.1. A person or entity to whom the discovery is directed who objects to a request on grounds of privilege has the burden of showing the privilege is properly invoked. Here, Penn State objected to Plaintiffs' discovery requests on grounds of privilege, but has never taken the steps necessary to invoke either the attorney-client privilege or work product protection.

The law is clear that the person or entity invoking a privilege has the burden to "produce sufficient facts to show that the privilege was properly invoked." *Nationwide Mut. Ins. Co. v. Fleming*, 924 A.2d 1259, 1266 (Pa. Super. 2007). Penn State has failed to carry its burden. Because Penn State incorporated its general objections—many of which are not rooted in a privilege claim—into its responses to specific requests, it is impossible for Plaintiffs or the Court to determine the specific requests to which Penn State objects on grounds of privilege, or to know the types and number of responsive documents being withheld, or the specific objection asserted for any such document.

The “Instructions” section in Plaintiffs’ First Requests for Production of Documents to Penn State set forth the information to be provided if Penn State asserted privilege with respect to any responsive documents. Ex. A at 7-8. But Penn State withheld responsive documents without providing any basis for doing so. Consequently, it is impossible to determine whether Penn State has been properly invoked any privilege. *T.M. v. Elwyn, Inc.*, 950 A.2d 1050, 1063 (Pa. Super. 2008) (“[I]t is impossible for this Court to determine whether any privilege applies when [defendant] has failed to identify or describe any such documents that may be protected.”).

Penn State’s counsel contends that it has no obligation to provide a privilege log because it is no longer party to the case. Ex. E, Jan. 3, 2017 Email from D. Doblick to P. Maher. There is no legal basis for this argument, which flies in the face of Penn State’s own express commitment to provide a privilege log. And it is completely at odds with the fact that Penn State continued to produce documents responsive to these requests after Count I was dismissed on March 30, 2015.¹ Just as the obligation to complete production of documents responsive to a properly served discovery request did not disappear, the change in its party status did not affect Penn State’s duty to provide support for its privilege claims. The only way to assess claims of privilege—whether asserted by a party to the action or a non-party subject to a proper request—is for the proponent of the privilege to set forth facts describing the documents withheld and the bases for doing so. *See Red Vision Systems, Inc. v. Nat’l Real Estate Info. Serv., L.P.*, 108 A.3d 54, 70-71 (Pa. Super. 2015) (privilege claims by non-party not properly invoked where claimant generically asserted that responsive documents are protected by attorney-client privilege, but offered insufficient proof that privilege applied to documents in his possession); *Gocial v.*

¹ After the Court dismissed Count I on March 30, 2015, Penn State continued to produce documents responsive to several document requests Plaintiffs had served when Penn State was a party. *See, e.g.*, Ex. D.

Independence Blue Cross, 827 A.2d 1216, 1219 (Pa. Super. 2003) (third party recipient of document subpoena prepared privilege log at court's request, listing responsive documents in custodian's possession). That is what a privilege log provides.

As this Court is well aware, Penn State has been actively involved in privilege disputes relating to Plaintiffs' document subpoena to non-party Pepper Hamilton since 2014. Those are different issues, and Plaintiffs have made clear to Penn State that this request for a privilege log relates to the document requests served on Penn State in July 2014 for Penn State's own documents and files. Ex. E, Jan. 4, 2017 Email from P. Maher to D. Doblick.


Penn State also contends that it is too late in the case for it to undertake the creation of a privilege log. But that is due to Penn State's own delay in complying with its obligation. Such an explanation provides no basis for withholding responsive documents without providing any support for doing so. Penn State cannot simply "decline" to provide a privilege log. *See* Ex. E, Jan. 3, 2017 Email from D. Doblick to P. Maher. Plaintiffs' follow-up requests were made in an effort to resolve this without the need for a motion, not because it is discretionary with Penn State to provide information to support its privilege claims. If that remains Penn State's position, then Penn State should be required to produce the responsive documents it has withheld because it has not properly invoked any privilege as the basis for withholding such responsive documents.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion, and enter an Order of the form submitted herewith, directing Penn State either to provide a log of all documents responsive to Plaintiffs' First Requests for Production of Documents it has

withheld on grounds of privilege as instructed in Plaintiffs' Requests, or produce the withheld documents to Plaintiffs.

Dated: January 11, 2017

A handwritten signature in black ink, appearing to read "Patricia L. Maher". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Thomas J. Weber
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 201
P.O. Box 6991
Harrisburg, PA 17112

Wick Sollers
L. Joseph Loveland
Ashley C. Parrish
Patricia L. Maher
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006

Counsel for Plaintiffs

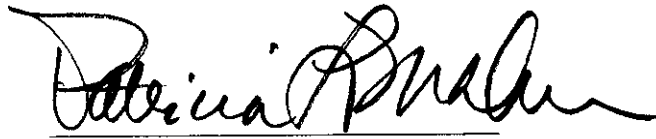
IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO;)	
	)	Civil Division
WILLIAM KENNEY and JOSEPH V. ("JAY"))	
PATERNO, former football coaches at	)	Docket No. 2013-2082
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.)	
)	
)	
)	

STATEMENT OF CONFERENCE PURSUANT TO LOCAL RULE 208.2(e)

Pursuant to Local Rule 208.2(e), the undersigned counsel for movant Plaintiffs hereby certifies that the undersigned made multiple requests to counsel for Penn State to discuss the issue raised in this motion, most recently by email on January 4, 2017. Counsel have had email exchanges regarding the subject matter raised in this motion, in an effort to resolve the issues raised in the Motion Compel Penn State to Provide a Privilege Log to Support Its Claims of Privilege without the need for intervention by the Court. But counsel for Penn State has never agreed to a conference to discuss the issue, and has not responded to the last request for such a discussion by telephone. As a result, counsel for the parties were unable to resolve the issues raised in the motion.

Dated: January 11, 2017

A handwritten signature in black ink, appearing to read "Patricia L. Maher". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Thomas J. Weber
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Wick Sollers
L. Joseph Loveland
Ashley C. Parrish
Patricia L. Maher
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **MOTION TO COMPEL PENNSYLVANIA STATE UNIVERSITY TO PROVIDE A PRIVILEGE LOG TO SUPPORT ITS CLAIMS OF PRIVILEGE** this 11th day of January, 2017 by first class mail and email to the following:

Thomas W. Scott
Killian & Gephart
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886
Email: tscott@killiangephart.com

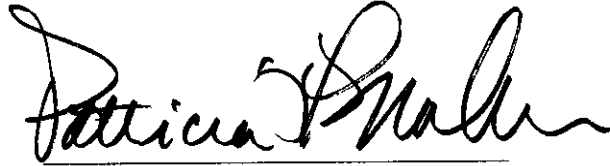
Everett C. Johnson, Jr.
Brian E. Kowalski
Sarah Gragert
Latham & Watkins LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004-1304
Email: everett.johnson@lw.com
brian.kowalski@lw.com
sarah.gragert@lw.com

Daniel I. Booker
Donna M. Doblick
Reed Smith LLP
225 Fifth Avenue
Suite 1200
Pittsburgh, PA 15222
Email: dbooker@reedsmith.com
ddoblick@reedsmith.com

Joseph P. Green
Lee Green & Reiter Inc.
115 East High Street
Lock Drawer 179
Bellefonte, PA 10823-0179
Email: jgreen@lmgrlaw.com

Michael M. Sheetz
Timothy W. Cook

Cooley, LLP
500 Boylston Street, 14th Fl.
Boston, MA 02116-3736
Email: msheetz@cooley.com
tcook@cooley.com

A handwritten signature in black ink, appearing to read "Patricia L. Maher". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Thomas J. Weber
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Wick Sollers
L. Joseph Loveland
Ashley C. Parrish
Patricia L. Maher
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500

Counsel for Plaintiffs

Exhibit A

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

GEORGE SCOTT PATERNO,
as duly appointed representative of the
ESTATE and FAMILY of JOSEPH PATERNO;

RYAN McCOMBIE, ANTHONY LUBRANO,
AL CLEMENS, and ADAM TALIAFERRO, members of the
Board of Trustees of Pennsylvania State University;

PETER BORDI, TERRY ENGELDER, SPENCER NILES,
and JOHN O'DONNELL, members of
the faculty of Pennsylvania State University;

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

ANTHONY ADAMS, GERALD CADOGAN, SHAMAR
FINNEY, JUSTIN KURPEIKIS, RICHARD GARDNER,
JOSH GAINES, PATRICK MAUTI, ANWAR PHILLIPS,
and MICHAEL ROBINSON, former football players of
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,

and

THE PENNSYLVANIA STATE UNIVERSITY,

Defendants.

Civil Division

Docket No. 2013-2082

**FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS BY PLAINTIFF GEORGE
SCOTT PATERNO AS DULY APPOINTED REPRESENTATIVE OF THE ESTATE
AND FAMILY OF JOSEPH PATERNO TO DEFENDANT THE PENNSYLVANIA
STATE UNIVERSITY**

Plaintiff George Scott Paterno, as duly appointed representative of the Estate and Family of Joseph Paterno ("Paterno"), by and through its counsel, hereby requests, pursuant to Pa. R.C.P. No. 4009.11, that Defendant the Pennsylvania State University ("Penn State") respond to this First Request for Production of Documents within thirty (30) days of service, in accordance with the Instructions and Definitions set forth herein, and produce the following documents for inspection and copying at the offices of Goldberg Katzman, P.C., 4250 Crums Mill Road, Suite 301, P.O. Box 6991, Harrisburg, PA 17112.

DEFINITIONS

Notwithstanding any definition set forth below, each word, term, or phrase used in these Requests is intended to have the broadest meaning permitted under Pa. R.C.P. No. 4009.21-27. As used in these Requests, the following terms are to be interpreted in accordance with these definitions:

1. "Penn State" shall refer to employees, administrators, and personnel of The Pennsylvania State University, as well as any attorney, assignee, agent, employee, representative, or any other person acting, authorized to act, or purporting to act on behalf of Penn State.
2. "Plaintiffs" shall refer to Plaintiffs George Scott Paterno, as duly appointed representative of the Estate and Family of Joseph Paterno, Ryan McCombie, Anthony Lubrano, Al Clemens, Adam Taliaferro, Peter Bordi, Terry Engelder, Spencer Niles, John O'Donnell, William Kenny, Joseph V. ("Jay") Paterno, Anthony Adams, Gerald Cadogan, Shamar Finney, Justin Kurpeikis, Richard Gardner, Josh Gaines, Patrick Mauti, Anwar Phillips, and Michael

Robinson, as well as any person acting, authorized to act, or purporting to act on behalf of any of the Plaintiffs.

3. "Communication" means the transmittal of information by any means, and shall mean and be deemed to refer to any writing or oral conversation, including, but not limited to, telephone conversations, conversations in meetings, letters, memoranda, notes, or electronic communications.

4. "Document" is defined as broadly as possible to include anything stored in any medium, including but not limited to, all written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, of every type and description that is in your possession, control, or custody, or of which you have knowledge, including but not limited to, correspondence; memoranda; transcriptions of any conversation or testimony; tapes; stenographic or hand-written notes; studies; publications; books; diaries; phone records; logs; instant messaging (public and private IM); electronic mail (email), including but not limited to, server-based email, web-based email (i.e. gmail.com, yahoo.com, hotmail.com), dial up email, email attachments, deleted email, and email stored on hard drives or portable media; voicemail; information stored on social media and social networking sites; information created or received with the use of PDAs or smartphones; information stored in a cloud environment; text messages; information stored on removable hard drives, thumb drives, flash drives, CDs, DVDs, disks and other portable media; pamphlets; pictures (drawings and photographs); films; images; microfilms; recordings (including any analog, digital, electromagnetic, optical, phonographic, or other media of audio and/or visual recordings); maps; reports; recommendations; surveys; appraisals; charts; minutes; statistical computations; spreadsheets; telegrams; telex messages; listings of telephone calls; calendars; datebooks; books of account; ledgers; expense records;

accounts payable; accounts receivable; presentations; analyses; computer records, data compilations and/or databases; every draft of each such document; every copy of each such document where the original is not in your possession, custody or control; and every copy of each such document where such copy is not an identical copy of an original, or other copy, or where such copy contains any commentary or notation whatsoever that does not appear on the original or other copy. "Document" includes any electronically stored information ("ESI") and all metadata associated with a document.

5. "Evidence, reflect, or relate to" means in the broadest sense and includes documents and things alluding to, responding to, concerning, connected with, commenting on, in respect of, about, regarding, discussing, evidencing, contradicting, showing, describing, reflecting, analyzing and/or constituting the subject matter of the request.

6. "Person" means any natural person or any business, corporation, public corporation, municipal corporation, state government, local government, agency, partnership, group, association, or other organization, and also includes all of the person's representatives.

7. "Joe Paterno" or "Paterno" shall refer to former Penn State head football coach Joseph ("Joe") V. Paterno.

8. "Jerry Sandusky" or "Sandusky" shall refer to former Penn State assistant football coach Gerald A. Sandusky, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Gerald A. Sandusky.

9. "NCAA" shall refer to Defendant National Collegiate Athletic Association, as well as any attorney, assignee, agent, employee, representative, or any other person acting, authorized to act, or purporting to act on behalf of the NCAA.

10. “Mark Emmert” or “Emmert” shall refer to the President of the NCAA, Defendant Mark Emmert, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Mark Emmert.

11. “Edward Ray” or “Ray” shall refer to the former Chairman of the NCAA’s Executive Committee, Defendant Edward Ray, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Edward Ray.

12. The “Freeh Firm” shall refer to the law firm of Freeh, Sporkin & Sullivan, LLP, and any successor entity, including Pepper Hamilton LLP, as well as current or former attorneys, investigators, or employees, and any person engaged to work with the Freeh Firm on the Freeh investigation, as defined *infra*.

13. The “Freeh Group” shall refer to the Freeh Group International Solutions, LLC, as well as current or former attorneys, investigators, or employees, and any person engaged to work with the Freeh Firm on the Freeh investigation, as defined *infra*.

14. “Pepper Hamilton” shall refer to the law firm of Pepper Hamilton LLP, as well as current or former attorneys, investigators, or employees.

15. The “Freeh investigation” shall refer to the investigation conducted by the Freeh Firm into the alleged failure of certain Penn State personnel to respond to and report certain allegations against Sandusky, pursuant to the engagement letter attached hereto as Exhibit 1.

16. The “Freeh Report” shall refer to the report issued by the Freeh Firm on July 12, 2012, including all footnotes, endnotes, exhibits, drafts, errata sheets, or other documents related to that Report, as well as press conference remarks made by the Freeh Firm concerning the Freeh investigation and Freeh Report.

17. The “NCAA investigation” shall refer to any investigation or evaluation of Penn State undertaken by the NCAA following Defendant Emmert’s assertion of NCAA jurisdiction over matters related to Sandusky and Penn State in November 2011.

18. The “Consent Decree” shall refer to the document titled the “Binding Consent Decree Imposed by the National Collegiate Athletic Association and Accepted by The Pennsylvania State University,” released on July 23, 2012, as well as all footnotes, exhibits, drafts, and other notes related to the Consent Decree.

19. The “NCAA’s Operating Bylaws and Administrative Bylaws,” “Operating Bylaws,” or “Administrative Bylaws,” shall refer to the operating policies, procedures, guidelines, and rules set forth in the 2011-2012 NCAA Division I Manual, First Amended Compl. Ex. A.

20. The “Big Ten Conference” or “Big Ten” shall refer to the Big Ten Athletic Conference as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of the Big Ten Athletic Conference.

21. “Mayer Brown” shall refer to the law firm of Mayer Brown LLP, as counsel for the Big Ten, as well as current or former attorneys, investigators, or employees acting in that capacity.

INSTRUCTIONS

The following instructions are applicable throughout these Requests and are incorporated into each individual Request:

1. These instructions and definitions should be construed to require responses based upon the knowledge of, and information available to, the person to whom these Requests are addressed, as well as all agents, representatives, and, unless privileged, attorneys and accountants,

of that person.

2. These Requests are continuing in character, so as to require that supplemental responses be served promptly if additional or different information is obtained with respect to any Request.

3. No part of a Request should be left unanswered merely because an objection is interposed to another part of the Request. If a partial or incomplete response is provided, the responding party shall state that the response is partial or incomplete.

4. All objections shall be set forth with specificity and shall include a brief statement of the grounds for such objections.

5. Each Request shall be read to be inclusive rather than exclusive. Accordingly, the words "and" as well as "or" shall be construed disjunctively or conjunctively as necessary, in order to bring within the scope of each Request all information that might otherwise be construed to be outside its scope. "Including" shall be construed to mean "including, without any limitation." The word "all" includes "any" and vice versa. The past tense shall include the present tense so as to make the request inclusive rather than exclusive. The singular shall include the plural and vice versa. The masculine includes the feminine and vice versa.

6. Where a claim of privilege is asserted in objecting to any Request or part thereof, and documents or information is not provided on the basis of such assertion:

- A. In asserting the privilege, you shall, in the objection to the Request, or part thereof, identify with specificity the nature of the privilege (including work product) that is being claimed; and
- B. The following information should be provided in the objection, if known or reasonably available, unless divulging such information would cause

disclosure of the allegedly privileged information:

(1) For documents:

- a. the type of document;
- b. the general subject matter of the document;
- c. the date of the document; and such other information as is sufficient to identify the document, including, where appropriate, the author, addressee, custodian, and any other recipient of the document, and where not apparent, the relationship of the author, addressee, custodian, and any other recipient to each other.

7. If, in responding to these Requests, you encounter any ambiguity when construing a Request, instruction, or definition, your response shall set forth the matter deemed ambiguous and the construction used in answering.

8. All documents that are responsive, in whole or in part, to any portion or clause of any paragraph of any Request shall be produced in their entirety.

9. Where any item contains marking(s) not appearing in the original, or drafts are altered from the original, then all such items must be considered as separate documents and identified and produced as such.

10. Unless otherwise specified in a particular Request, the time periods covered by these Requests is January 1, 2011 to May 30, 2013.

DOCUMENT REQUESTS

Request No. 1:

Please produce all documents that evidence, reflect, or relate to Communications between Penn State and the NCAA, Emmert, or Ray, relating to the Freeh investigation or the Consent Decree.

Response:

Request No. 2:

Please produce all documents that evidence, reflect, or relate to Communications between Penn State and the NCAA, Emmert, or Ray that relate in any way to Joe Paterno.

Response:

Request No. 3:

Please produce all documents that evidence, reflect, or relate to the basis for the statement at page 14 of the Freeh Report that Joe Paterno, among others, “failed to protect against a child sexual predator harming children for over a decade.”

Response:

Request No. 4:

Please produce all documents that evidence, reflect, or relate to the basis for the statement at page 14 of the Freeh Report that Joe Paterno, among others, concealed Jerry Sandusky's activities from the Penn State Board of Trustees.

Response:

Request No. 5:

Please produce all documents that evidence, reflect, or relate to the statement at page 16 of the Freeh Report that Joe Paterno, among others, "repeatedly concealed critical facts relating to Sandusky's child abuse from the authorities, the Penn State Board of Trustees, the Penn State community, and the public at large."

Response:

Request No. 6:

Please produce all documents that evidence or reflect that, at the time of Jerry Sandusky's resignation from the coaching staff at Penn State, Joe Paterno suspected or believed that Sandusky was a child sexual predator.

Response:

Request No. 7:

Please produce all documents that evidence, reflect, or relate to the basis for statements at page 15 of the Frech Report that “[s]ome coaches, administrators and football program staff members ignored the red flags of Sandusky’s behaviors and no one warned the public about him.”

Response:

Request No. 8:

Please produce all documents that evidence, reflect, or relate to the 2011 grand jury testimony of Joe Paterno.

Response:

Request No. 9:

Please produce all documents that evidence, reflect, or relate to actions by Cynthia Baldwin purporting to act as counsel for Joe Paterno or otherwise acting or purporting to act on his behalf.

Response:

Request No. 10:

Please produce all documents that evidence, reflect, or relate to statement that "A senior Penn State official referred to [Timothy] Curley as 'Joe Paterno's errand boy[,]'" including but not limited to the interview referenced at note 339 of the Freeh Report.

Response:

Request No. 11:

Please produce all documents that evidence, reflect, or relate to the conclusion at page 39 of the Freeh Report that Joe Paterno, among others, was kept informed of an investigation by Penn State Police and/or the Department of Public Welfare into a possible sexual assault by Jerry Sandusky in the Lasch Building in May 1998.

Response:

Request No. 12:

Please produce all documents that evidence, reflect, or relate to statements made by Vicky Triponey regarding Joe Paterno in connection with the Freeh investigation, the Consent Decree, or the subject matters contained therein.

Response:

Request No. 13:

Please produce all documents that evidence, reflect, or relate to the statements or interviews in which the Freeh Firm or the Freeh Group was told that Joe Paterno knew “everything that was going on” at the Penn State football facilities, including but not limited to the three interviews referenced at note 167 of the Freeh Report.

Response:

Request No. 14:

Please produce all drafts of the Freeh Report, including electronic versions of such drafts maintained on any computer.

Response:

Request No. 15:

Please produce all documents that evidence, reflect, or relate to the decision by the Penn State Board of Trustees to terminate Joe Paterno as the head football coach at Penn State, including but not limited to Communication of that decision to Joe Paterno.

Response:

Request No. 16:

Please produce all documents that evidence, reflect, or relate to Communications between Penn State and any athletic governing body, including representatives of the Big Ten Conference, regarding the Freeh investigation or the Consent Decree.

Response:

Request No. 17:

Please produce all documents that evidence, reflect, relate to actions taken by Penn State, including the Board of Trustees or the Special Investigative Task Force, in response to recommendations in the Freeh Report.

Response:

Request No. 18:

Please produce all documents that evidence, reflect, or relate to Communications between Penn State and the NCAA regarding the Consent Decree.

Response:

Request No. 19:

Please produce all drafts of the Consent Decree, including electronic versions of such drafts maintained on any computer.

Response:

Request No. 20:

Please produce all Communications by or among members of the Board of Trustees, the Special Investigative Task Force or members thereof, regarding the Freeh investigation or the Freeh Report.

Response:

Request No. 21:

Please produce all Communications by or among members of the Board of Trustees, the Special Investigative Task Force or members thereof, regarding the Consent Decree.

Response:

Request No. 22:

Please produce all invoices for services submitted by the Freeh Firm or the Freeh Group pursuant to the engagement letter attached hereto as Exhibit 1, including all backup and supporting documents.

Response:

Request No. 23:

Please produce all documents collected in connection with the Freeh investigation that the Freeh Firm turned over to Penn State after the issuance of the Freeh Report.

Response:

Request No. 24:

Please produce all documents added to the database created in connection with the Freeh investigation after the database was turned over to Penn State, that relate to the Consent Decree, the NCAA investigation, or the claims in this action.

Response:

Request No. 25:

Please produce all chain of custody letters sent by Penn State in connection with production of any documents or files from an office of Joe Paterno at Penn State to the Freeh Firm, the Freeh Group, the Attorney General of Pennsylvania, or any other third party.

Response:

Request No. 26:

Please produce all Communications with the Office of Annual Giving that refer to Joe Paterno in any way

Response:

Request No. 27:

Please produce the Financial Summaries from the Penn State Endowment for all scholarships, endowments or other funds established in whole or in part by Joe Paterno or his family, including but not limited to the following:

The Reverend Thomas Bermingham, S.J. Scholarship in the Classics
Paterno Family Endowed Student Enhancement Fund in the Paterno Fellows Program
Coach Bob Phillips Football Scholarship
John Bruno Memorial Football Scholarship
Paterno Family Fund in the Richards Civil War Era Center
Joe and Sue Paterno Family Physical Therapy Endowment
Paterno Libraries Endowment Fund
Joseph V. Paterno Renaissance Scholarship
William Chris James and Gene Lyons Memorial Scholarship
Arts and Humanities Library Collections Endowment in Honor of Sherry Petska and George Middlemas
Paterno Family Liberal Arts Professorship in Literature

Class of 1962 Libraries Endowment

Alma Heinz and August Louis Pohland Scholarship in the School of Architecture and Landscape
Architecture

Suzanne Pohland Paterno Renaissance Scholarship

Art Gladstone Memorial Scholarship

Stan Hamilton Endowed Scholarship

Alma Heinz and August Louis Pohland Graduate Fellowship in the School of Architecture and
Landscape Architecture

Suzanne P. Paterno Diversity Scholarship

George E. Paterno Memorial Scholarship

Florence and Angelo Paterno Graduate Fellowship in the Liberal Arts

Response:

Request No. 28:

Please produce all Communications regarding Joe Paterno made in connection with any
contribution to the Paterno Library.

Response:

Request No. 29:

Please produce all documents that evidence, reflect, or relate to consideration of
renaming the Paterno Library since Joe Paterno's termination as head football coach.

Response:

Request No. 30:

Please produce all documents that evidence, reflect, or relate to the removal of the statue of Joe Paterno from public display on Penn State's campus.

Response:

Request No. 31:

Please produce all documents that Penn State produced to the plaintiffs in *Corman, et al. v. NCAA*, No. 1 M.D. 2013, in response to discovery requests.

Response:

Request No. 32:

Please produce all documents that evidence, reflect, or relate to invitations or honoraria to or for Joe Paterno, from January 1, 2006 through May 30, 2013.

Response:

Request No. 33:

Please produce all communications from the Office of Licensing Programs to Joe Paterno or his representative relating or referring to Joe Paterno, JVP Properties, or D J & G, Inc. from January 1, 2006 to May 30, 2013.

Response:

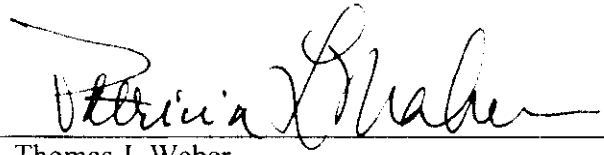
Request No. 34:

Please produce the copies of the interview memos or notes referenced in the Freeh Report as follows:

Endnote 167	Interviews 5-1-12, 12-6-11, 4-11-12
Endnotes 168-169	Interview 7-6-12
Footnote "w"	Interviews 3-9-12, 3-22-12, 12-12-11
Endnote 244	Interview 7-2-12
Endnote 339	Interview 4-12-12
Endnote 340	Interviews 2-6-12, 4-17-12
Endnote 341	Interviews 2-6-12, 4-25-12, 1-24-12, 1-3-12, 2-7-12, 1-23-12, 12-12-11
Endnotes 395-397	Notes 1-3-11
Endnote 398	Interview 2-29-12
Endnote 413	Notes of Interviews 1-15-11
Endnote 536	Interviews 4-16-12, 4-16-12, 3-12-12
Endnote 537	Interviews 3-15-12, 3-13-12
Endnote 538	Interview 5-16-12
Endnote 543	Interviews 4-23-12, 4-18-12
Endnotes 547-48	Interview 11-9-11
Endnote 550	Interviews 5-9-12, 4-16-12, 4-6-12, 4-11-12, 4-18-12
Endnote 551	Interviews 4-6-12, 4-16-12
Endnote 605	Interview 2-1-12

Response:

Dated this 28th day of July, 2014.



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

Wick Sollers
L. Joseph Loveland
Ashley C. Parrish
Patricia L. Maher
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500

*Counsel for Plaintiff George Scott Paterno, as duly
appointed representative of the Estate and Family
of Joseph Paterno*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT THE PENNSYLVANIA STATE UNIVERSITY BY PLAINTIFF GEORGE SCOTT PATERNO, AS DULY APPOINTED REPRESENTATIVE OF THE ESTATE AND FAMILY OF JOSEPH PATERNO** was served this 28th day of July, 2014 by first class mail and email to the following:

Daniel I. Booker
Jack B. Cobetto
Donna M. Dobblick
Reed Smith LLP
225 Fifth Avenue
Suite 1200
Pittsburgh, PA 15222
dbooker@reedsmith.com
jcobetto@reedsmith.com
ddobblick@reedsmith.com

Thomas W. Scott
Killian & Gephart
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886
Email: tscott@killiangephart.com

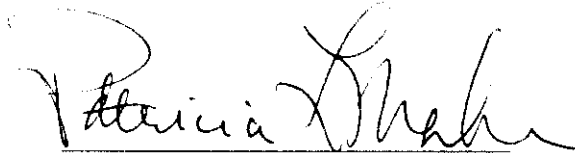
Everett C. Johnson, Jr.
Sarah Gragert
Brian Kowalski
Latham & Watkins LLP
555-11th Street, N.W.
Suite 1000
Washington, D.C. 20004-1304
Email: Everett.Johnson@lw.com
sarah.gragert@lw.com
brian.kowalski@lw.com

Paul V. Kelly
John J. Commisso
Jackson Lewis LLP
75 Park Plaza

Boston, MA 02116

Email: Paul.kelly@Jacksonlewis.com

John.commisso@Jacksonlewis.com

A handwritten signature in black ink, appearing to read "Patricia L. Maher". The signature is fluid and cursive, with the first name "Patricia" being more legible than the last name "Maher".

Thomas J. Weber
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Wick Sollers
L. Joseph Loveland
Ashley C. Parrish
Patricia L. Maher
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006
Telephone: (202) 737-0500

*Counsel for Plaintiff George Scott Paterno, as duly
appointed representative of the Estate and Family
of Joseph Paterno*

Exhibit B

GEORGE SCOTT PATERNO,
is duly appointed representative of the
ESTATE and FAMILY of JOSEPH PATERNO:

RYAN McCOMBIE, ANTHONY LUBRANO,
AL CLEMENS, and ADAM TALIAFERRO, members of the
Board of Trustees of Pennsylvania State University;

PETER BORDI, TERRY ENGELDER, SPENCER NILES,
and JOHN O'DONNELL, members of
the faculty of Pennsylvania State University:

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

ANTHONY ADAMS, GERALD CADOGAN, SHAMAR FINNEY, JUSTIN KURPEIKIS, RICHARD GARDNER, JOSH GAINES, PATRICK MAUTI, ANWAR PHILLIPS, and MICHAEL ROBINSON, former football players of 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,

and

THE PENNSYLVANIA STATE UNIVERSITY.

Defendants.

**PENN STATE'S OBJECTIONS AND RESPONSES TO THE
FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS SERVED
BY GEORGE SCOTT PATERNO AS DULY APPOINTED REPRESENTATIVE
OF THE ESTATE AND FAMILY OF JOSEPH PATERNO**

Pursuant to Rule 4009.12 of the Pennsylvania Rules of Civil Procedure, The Pennsylvania State University ("Penn State" or "the University") submits these objections and responses to the First Requests for Production of Documents (the "Requests") served by plaintiff George Scott Paterno as duly appointed representative of the Estate and Family of Joseph Paterno.¹

**GENERAL OBJECTIONS TO
DEFINITIONS, INSTRUCTIONS, AND DOCUMENT REQUESTS**

1. Penn State objects to the definition of the "Freeh Firm" to the extent it refers to the law firm of Pepper Hamilton LLP as being the "successor" to the law firm of Freeh, Sporkin & Sullivan, LLP.
2. Penn State objects to the definition of the "Freeh investigation" to the extent it describes work different than the work described in the engagement letter with the Freeh Firm. Further, the investigation conducted by the Freeh Firm covered a wide variety of topics, many of which have no relevance to this litigation. Accordingly, Penn State further objects to any Request that uses the defined term "Freeh investigation" as seeking documents that are neither relevant to nor reasonably calculated to lead to the discovery of evidence admissible in this litigation. Penn State further objects to the definition of "Freeh investigation" insofar as the Requests do not contain an "Exhibit 1."

¹ For all those reasons set forth in the Brief in support of Preliminary Objections to the Complaint, Penn State maintains its objection to George Scott Paterno purporting to act on behalf of the unspecified "family" of Joseph Paterno.

3. Penn State objects to the definition of the "Freeh Report" to the extent it includes "press conference remarks made by the Freeh Firm." Further, the Freeh Report covered a wide variety of topics, many of which have no relevance to this litigation. Accordingly, Penn State further objects to any Request that uses the defined term "Freeh Report" as seeking documents that are neither relevant nor reasonably calculated to lead to the discovery of evidence admissible in this litigation.

4. Penn State objects to the definition of the "Consent Decree" to the extent it includes "drafts" thereof and "other notes related to" the consent decree imposed by the NCAA and accepted by Penn State on July 23, 2012, as amended.

5. Penn State objects to the definitions of "Plaintiffs," the "Big Ten Conference," and the "Big Ten" to the extent those definitions include persons "purporting to act on behalf of" those persons or entities.

6. Penn State objects to the Definitions and Instructions to the extent they purport to impose upon Penn State obligations different from or greater than those imposed by the Pennsylvania Rules of Civil Procedure.

7. Penn State objects to the Requests to the extent they purport to require Penn State to search for and/or produce documents that are not within the University's possession, custody, or control.

8. Penn State objects to the Requests to the extent they seek documents protected by the attorney-client privilege and/or the attorney work product doctrine.

9. Penn State objects to the Requests as causing unreasonable annoyance, embarrassment, oppression, burden, and/or expense.

10. Penn State objects to Instruction 8 as confusing and ambiguous.

11. Penn State objects to the time frame set forth in Instruction 10 as overly broad and as seeking documents that are neither relevant to nor reasonably calculated to lead to the discovery of evidence admissible in this litigation. Unless otherwise stated in a response to a specific Request, an agreement by Penn State to produce documents shall mean an agreement to produce documents created between January 1, 2011 and July 23, 2012.

12. As counsel for Penn State previously explained to counsel for the Plaintiffs and the Court, in order to ensure that it obtained all documents and information that might have any conceivable relevance to its investigation, the Freeh Firm collected a vast amount of Electronically Stored Information (“ESI”) and other materials from many individuals and other sources within the University. Only a very small percentage of that ESI and other material have any relevance to the issues discussed in the Freeh Report and only a smaller percentage of that ESI and other material has any relevance to the issues in this litigation. Accordingly, Penn State objects to the production of that ESI and other material on the grounds that it has no relevance whatsoever to any of the issues in this lawsuit and is not reasonably calculated to lead to the discovery of admissible evidence. However, as counsel for the University explained to the Court and to counsel for the Plaintiffs before, during, and after the May 19, 2014 hearing, the University is willing to search the Freeh Firm’s database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply (including but not limited to the attorney-client privilege and the attorney work product doctrine) before producing them to Plaintiffs.

13. In the conduct of its investigation, the Freeh Firm may have gained access to documents and records protected from disclosure and dissemination pursuant to the Family Educational Rights and Privacy Act ("FERPA") and the Criminal History Record Information Act ("CHRIA"). Penn States objects to the production of any documents covered by FERPA or CHRIA.

14. Some of the requested documents may relate to ongoing criminal investigations. Penn State accordingly objects to the production of any such documents without prior notice to and approval from appropriate law enforcement officials.

15. To the extent the Requests seek documents in the possession, custody or control of the University that may "support" or "relate to" an opinion or conclusion expressed by the Freeh Firm, the Requests call for the University to speculate as to the bases of opinions held by others, and are objectionable for that reason as well. However, as counsel for the University explained to the Court and to counsel for the Plaintiffs on prior occasions, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply (including but not limited to the attorney-client privilege and the attorney work product doctrine) before producing them to Plaintiffs.

16. To the extent that the Requests seek all documents that "evidence, reflect, or relate to" various subjects, they are vague, overbroad and unduly burdensome.

17. Complying with the Requests as written, particularly to the extent they ask the University to identify and collect all documents that "evidence, reflect or relate to" various topics

and the efforts required to separate privileged and otherwise protected and confidential documents from non-privileged documents, would be extremely costly, time consuming, and excessively burdensome. The Paterno plaintiffs should not be allowed to impose those costs on Penn State by means of the facially overbroad and intrusive Requests they have served.

18. Many of the documents sought in these Requests are in the public domain, and, as such, are as readily available to the Paterno plaintiffs as they are to Penn State.

19. Penn State further objects to these Requests as invasive of any confidentiality duties that may be owed to other parties, including individual employees, and as intruding upon any privacy interests of such persons.

20. Many of the Requests are so broad that they seek documents and information that are neither relevant to the subject matter of this lawsuit-the NCAA Consent Decree-nor reasonably calculated to lead to the discovery of admissible evidence. Penn State accordingly objects to the Requests on this basis as well.

21. Penn State objects to the production of any documents prior to the entry of an appropriate confidentiality stipulation and protective order in this case.

22. The University's agreement to produce documents in response to any Request should not be construed as meaning that any such responsive documents exist or are within the University's possession, custody, or control.

23. Penn State reserves the right to supplement or modify these objections and responses as appropriate.

24. Penn State incorporates each of these General Objections into its Responses to Document Requests set forth below.

SPECIFIC OBJECTIONS AND RESPONSES TO DOCUMENT REQUESTS

Request No. 1: Please produce all documents that evidence, reflect, or relate to Communications between Penn State and the NCAA, Emmert, or Ray, relating to the Freeh investigation or the Consent Decree.

Response: Subject to and without waiving its General Objections, Penn State will produce documents responsive to this Request.

Request No. 2: Please produce all documents that evidence, reflect, or relate to Communications between Penn State and the NCAA, Emmert, or Ray that relate in any way to Joe Paterno.

Response: Subject to and without waiving its General Objections, Penn State will produce documents responsive to this Request.

Request No. 3: Please produce all documents that evidence, reflect, or relate to the basis for the statement at page 14 of the Freeh Report that Joe Paterno, among others, "failed to protect against a child sexual predator harming children for over a decade."

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 4: Please produce all documents that evidence, reflect, or relate to the basis for the statement at page 14 of the Freeh Report that Joe Paterno, among others, concealed Jerry Sandusky's activities from the Penn State Board of Trustees.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 5: Please produce all documents that evidence, reflect, or relate to the statement at page 16 of the Freeh Report that Joe Paterno, among others, "repeatedly concealed critical facts relating to Sandusky's child abuse from the authorities, the Penn State Board of Trustees, the Penn State community, and the public at large."

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might

apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 6: Please produce all documents that evidence or reflect that, at the time of Jerry Sandusky's resignation from the coaching staff at Penn State, Joe Paterno suspected or believed that Sandusky was a child sexual predator.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated by reference herein. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 7: Please produce all documents that evidence, reflect, or relate to the basis for statements at page 15 of the Freeh Report that "[s]ome coaches, administrators and football program staff members ignored the red flags of Sandusky's behaviors and no one warned the public about him."

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous

and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 8: Please produce all documents that evidence, reflect, or relate to the 2011 grand jury testimony of Joe Paterno.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 9: Please produce all documents that evidence, reflect, or relate to actions by Cynthia Baldwin purporting to act as counsel for Joe Paterno or otherwise acting or purporting to act on his behalf.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 10: Please produce all documents that evidence, reflect, or relate to statement that “A senior Penn State official referred to [Timothy] Curley as ‘Joe Paterno’s errand boy[.]’” including but not limited to the interview referenced at note 339 of the Freeh Report.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm’s database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous

and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 11: Please produce all documents that evidence, reflect, or relate to the conclusion at page 39 of the Freeh Report that Joe Paterno, among others, was kept informed of an investigation by Penn State Police and/or the Department of Public Welfare into a possible sexual assault by Jerry Sandusky in the Lasch Building in May 1998.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to review the materials for relevance, responsiveness, and for any and all privileges and protections that might apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 12: Please produce all documents that evidence, reflect, or relate to statements made by Vicky Truponey regarding Joe Paterno in connection with the Freeh investigation, the Consent Decree, or the subject matters contained therein.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 13: Please produce all documents that evidence, reflect, or relate to the statements or interviews in which the Freeh Firm or the Freeh Group was told that Joe Paterno knew “everything that was going on” at the Penn State football facilities, including but not limited to the three interviews referenced at note 167 of the Freeh Report.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 14: Please produce all drafts of the Freeh Report, including electronic versions of such drafts maintained on any computer.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 15: Please produce all documents that evidence, reflect, or relate to the decision by the Penn State Board of Trustees to terminate Joe Paterno as the head football coach at Penn State, including but not limited to Communication of that decision to Joe Paterno.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 16: Please produce all documents that evidence, reflect, or relate to Communications between Penn State and any athletic governing body, including representatives of the Big Ten Conference, regarding the Freeh investigation or the Consent Decree.

Response: Subject to and without waiving its General Objections, Penn State will produce documents responsive to this Request.

Request No. 17: Please produce all documents that evidence, reflect, relate to actions taken by Penn State, including the Board of Trustees or the Special Investigative Task Force, in response to recommendations in the Freeh Report.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference. Subject to and without waiving its General Objections, Penn State notes that information regarding its implementation of recommendations set forth in the Freeh Report is publicly available on the internet at www.progress.psu.edu.

Request No. 18: Please produce all documents that evidence, reflect, or relate to Communications between Penn State and the NCAA regarding the Consent Decree.

Response: Subject to and without waiving its General Objections, Penn State will produce documents responsive to this Request.

Request No. 19: Please produce all drafts of the Consent Decree, including electronic versions of such drafts maintained on any computer.

Response: Subject to and without waiving its General Objections, Penn State will produce documents responsive to this Request.

Request No. 20: Please produce all Communications by or among members of the Board of Trustees, the Special Investigative Task Force or members thereof, regarding the Freeh investigation or the Freeh Report.

Response: Subject to and without waiving its General Objections, Penn State will produce documents responsive to this Request.

Request No. 21: Please produce all Communications by or among members of the Board of Trustees, the Special Investigative Task Force or members thereof, regarding the Consent Decree.

Response: Subject to and without waiving its General Objections, Penn State will produce documents responsive to this Request.

Request No. 22: Please produce all invoices for services submitted by the Freeh Firm or the Freeh Group pursuant to the engagement letter attached hereto as Exhibit 1, including all backup and supporting documents.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 23: Please produce all documents collected in connection with the Freeh investigation that the Freeh Firm turned over to Penn State after the issuance of the Freeh Report.

Response: Penn State objects to this Request for the reasons set forth in the General Objections, which are incorporated by reference herein. Subject to and without waiving its General Objections, the University is willing to search the Freeh Firm's database using mutually agreed-upon search terms, provided that the results of those searches are not unreasonably voluminous and further provided that counsel for the University has the opportunity to first review the materials for relevance, responsiveness, and for any and all privileges and protections that might

apply, including but not limited to the attorney-client privilege and the attorney work product doctrine.

Request No. 24: Please produce all documents added to the database created in connection with the Freeh investigation after the database was turned over to Penn State, that relate to the Consent Decree, the NCAA investigation, or the claims in this action.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 25: Please produce all chain of custody letters sent by Penn State in connection with production of any documents or files from an office of Joe Paterno at Penn State to the Freeh Firm, the Freeh Group, the Attorney General of Pennsylvania, or any other third party.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 26: Please produce all Communications with the Office of Annual Giving that refer to Joe Paterno in any way.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated by reference herein.

Request No. 27: Please produce the Financial Summaries from the Penn State Endowment for all scholarships, endowments or other funds established in whole or in part by Joe Paterno or his family, including but not limited to the following:

The Reverend Thomas Bermingham, S.J. Scholarship in the Classics
Paterno Family Endowed Student Enhancement Fund in the Paterno Fellows Program
Coach Bob Phillips Football Scholarship
John Bruno Memorial Football Scholarship
Paterno Family Fund in the Richards Civil War Era Center
Joe and Sue Paterno Family Physical Therapy Endowment
Paterno Libraries Endowment Fund
Joseph V. Paterno Renaissance Scholarship
William Chris James and Gene Lyons Memorial Scholarship
Arts and Humanities Library Collections Endowment in Honor of Sherry Petska and George Middlemas
Paterno Family Liberal Arts Professorship in Literature
Class of 1962 Libraries Endowment
Alma Heinz and August Louis Pohland Scholarship in the School of Architecture and Landscape Architecture
Suzanne Pohland Paterno Renaissance Scholarship
Art Gladstone Memorial Scholarship
Stan Hamilton Endowed Scholarship
Alma Heinz and August Louis Pohland Graduate Fellowship in the School of Architecture and Landscape Architecture
Suzanne P. Paterno Diversity Scholarship
George E. Paterno Memorial Scholarship
Florence and Angelo Paterno Graduate Fellowship in the Liberal Arts

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 28: Please produce all Communications regarding Joe Paterno made in connection with any contribution to the Paterno Library.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 29: Please produce all documents that evidence, reflect, or relate to consideration of renaming the Paterno Library since Joe Paterno's termination as head football coach.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 30: Please produce all documents that evidence, reflect, or relate to the removal of the statue of Joe Paterno from public display on Penn State's campus.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 31: Please produce all documents that Penn State produced to the plaintiffs in *Corman, et al. v. NCAA*, No. 1 M.D. 2013, in response to discovery requests.

Response: Subject to and without waiving its General Objections, Penn State will produce the documents it produced to the plaintiffs in the *Corman* litigation in response to discovery requests that could reasonably be construed as being relevant to the claims and defenses in this litigation.

Request No. 32: Please produce all documents that evidence, reflect, or relate to invitations or honoraria to or for Joe Paterno, from January 1, 2006 through May 30, 2013.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 33: Please produce all communications from the Office of Licensing Programs to Joe Paterno or his representative relating or referring to Joe Paterno, JVP Properties, or D J & G, Inc. from January 1, 2006 to May 30, 2013.

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference.

Request No. 34: Please produce the copies of the interview memos or notes referenced in the Freeh Report as follows:

Endnote 167	Interviews 5-1-12, 12-6-11, 4-11-12
Endnotes 168-169	Interview 7-6-12
Footnote "w"	Interviews 3-9-12, 3-22-12, 12-12-11
Endnote 244	Interview 7-2-12
Endnote 339	Interview 4-12-12
Endnote 340	Interviews 2-6-12, 4-17-12
Endnote 341	Interviews 2-6-12, 4-25-12, 1-24-12, 1-3-12, 2-7-12, 1-23-12, 12-12-11
Endnotes 395-397	Notes 1-3-11
Endnote 398	Interview 2-29-12
Endnote 413	Notes of Interviews 1-15-11
Endnote 536	Interviews 4-16-12, 4-16-12, 3-12-12
Endnote 537	Interviews 3-15-12, 3-13-12
Endnote 538	Interview 5-16-12
Endnote 543	Interviews 4-23-12, 4-18-12
Endnotes 547-48	Interview 11-9-11
Endnote 550	Interviews 5-9-12, 4-16-12, 4-6-12, 4-11-12, 4-18-12
Endnote 551	Interviews 4-6-12, 4-16-12
Endnote 605	Interview 2-1-12

Response: Penn State objects to this Request for the reasons set forth in its General Objections, which are incorporated herein by reference, including but not limited to the objection to producing documents protected by the attorney-client privilege and/or the attorney work product doctrine.

Dated this 27th day of August, 2014.

Respectfully submitted,



Daniel I. Booker (10319)
dbooker@reedsmith.com
Jack B. Cobetto (53444)
jcobetto@reedsmith.com
Donna M. Doblick (75394)
ddoblick@reedsmith.com
William J. Sheridan (206718)
wsheridan@reedsmith.com
REED SMITH LLP
225 Fifth Avenue
Pittsburgh, PA 15222
(412) 288-3131
(412) 288-3063 (fax)

Michael T. Scott (23882)
mscott@reedsmith.com
REED SMITH LLP
Three Logan Square
Suite 3100
1717 Arch Street
Philadelphia, PA 19103
(215) 851-8100
(215) 851-1420 (fax)

Joseph P. Green (19238)
jgreen@lmgrlaw.com
LEE GREEN & REITER INC.
115 East High Street
Lock Drawer 179
Bellefonte, PA 16823-0179
(814) 355-4769
(814) 355-5024 (fax)
Attorneys for
The Pennsylvania State University

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing PENN STATE'S OBJECTIONS AND RESPONSES TO THE FIRST REQUEST FOR PRODUCTION OF DOCUMENTS SERVED BY GEORGE SCOTT PATERNO, AS DULY APPOINTED REPRESENTATIVE OF THE ESTATE AND FAMILY OF JOSEPH PATERNO was served this 27th day of August, 2014 by first class mail and email to the following:

Thomas J. Weber
Goldberg Katzman, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Joseph Sedwick Sollers, III
Patricia L. Maher
L. Joseph Loveland
Mark A. Jensen
Ashley C. Parrish
Samuel Evan Doran
King & Spalding, LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006

Paul V. Kelly
John J. Commisso
Jackson Lewis, PC
75 Park Plaza
Boston, MA 02116

Counsel for Plaintiffs

Everett C. Johnson, Jr.
Brian Kowalski
Sarah M. Gragert
Katherine Schettig
Latham & Watkins LLP
555 Eleventh Street NW, Suite 1100
Washington, DC 20004-1304

Thomas W. Scott
Killian & Gephart, LLP
218 Pine Street, P.O. Box 886
Harrisburg, PA 17108-0886

Counsel for NCAA, Mark Emmert and Edward Ray

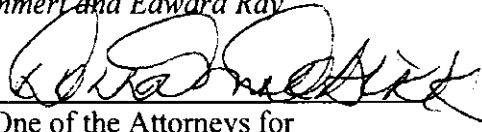

One of the Attorneys for
The Pennsylvania State University

Exhibit C

ReedSmith

Donna M. Doblick
Direct Phone: +1 412 288 7274
Email: ddoblick@reedsmith.com

Reed Smith LLP
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222-2716
+1 412 288 3131
Fax +1 412 288 3063
reedsmith.com

October 14, 2014

VIA UPS OVERNIGHT DELIVERY

Thomas J. Weber
Goldberg Katzman, P.C.
4250 Crums Mill Road
Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Paul V. Kelly
John J. Commisso
Jackson Lewis, PC
75 Park Plaza
Boston, MA 02116

Thomas W. Scott
Killian & Gephart, LLP
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886

Joseph Sedwick Sollers, III
Patricia L. Maher
L. Joseph Loveland
Mark A. Jensen
Ashley C. Parrish
Samuel Evan Doran
King & Spalding, LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006

Everett C. Johnson, Jr.
Brian Kowalski
Sarah M. Gragert
Katherine Schettig
Latham & Watkins LLP
555 Eleventh Street NW
Suite 1100
Washington, DC 20004-1304

**Re: George Scott Paterno, et al. v. NCAA, et al.
Case No. 2013-2082**

Counsel:

Enclosed please find a CD containing documents Batesstamped PSUPAT000007 through PSUPAT000831. These are responsive to Plaintiffs' first set of requests for the production of documents directed toward Penn State. We will roll out additional responsive documents as we review them. You can expect a further production later this week. A privilege log also will be forthcoming.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Donna M. Doblick

Donna M. Doblick

DMD/hh
Enclosure

cc: (all w/enc.)
Daniel I. Booker, Esq.
Jack B. Cobetto, Esq.
Michael T. Scott, Esq.
William J. Sheridan, Esq.
Frank T. Guadagnino, Esq.
Joseph P. Green, Esq.

Exhibit D

ReedSmith

William J. Sheridan
Direct Phone: +1 412 288 3156
Email: wsheridan@reedsmith.com

Reed Smith LLP
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222-2716
+1 412 288 3131
Fax +1 412 288 3063
reedsmith.com

June 17, 2015

VIA E-MAIL

Thomas J. Weber
Goldberg Katzman, P.C.
4250 Crums Mill Road, Suite 301
P.O. Box 6991
Harrisburg, PA 17112

Everett C. Johnson, Jr.
Brian Kowalski
Sarah M. Gragert
Latham & Watkins LLP
555 Eleventh Street NW, Suite 1100
Washington, DC 20004-1304

Joseph Sedwick Sollers, III
Ashley C. Parrish
Patricia L. Maher
L. Joseph Loveland
Mark A. Jensen
Samuel Evan Doran
King & Spalding, LLP
1700 Pennsylvania Avenue, NW
Washington, DC 20006

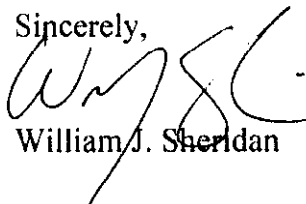
Thomas W. Scott
Killian & Gephart, LLP
218 Pine Street
P.O. Box 886
Harrisburg, PA 17108-0886

**Re: Estate of Joseph Paterno, et al. v. NCAA, et al.
Court of Common Pleas for Centre County, Case No. 2013-2082**

Counsel,

Penn State has produced today via FTP site documents labeled PSUPAT0127081 - PSUPAT0127974. You should have received a link to the production and instructions for accessing it.

Sincerely,



William J. Sheridan

Exhibit E

Maher, Trish

From: Maher, Trish
Sent: Wednesday, January 04, 2017 10:14 AM
To: Doblick, Donna M.
Cc: Daniel I. Booker; Scott, Michael T.
Subject: RE: Paterno v NCAA - Superior Court briefing, etc.

Donna,

We are following up Plaintiffs' First Request for Production of Documents that was served on July 28, 2014. Penn State's response included objections on grounds of attorney-client and work product privileges. We discussed Penn State's relevance objections to several requests in conferences with you and reached compromises on a few of them. Penn State made a series of document productions to plaintiffs beginning on October 14, 2014, with a production letter stated that "[A] privilege log also will be forthcoming." Penn State continued to produce responsive documents well after the court dismissed Count I—the only count to which Penn State was a party—on March 30, 2015.

We are not seeking to treat Penn State as a party after it has been dismissed, nor are we pursuing a new discovery request. Penn State clearly recognized that its dismissal as a party did not extinguish its obligation to produce documents responsive to requests it had received months earlier. It also did not extinguish its commitment to provide a log of responsive documents that it has withheld on grounds of privilege.

To be clear, the document requests to Penn State are not the same as the requests in the subpoena to Pepper Hamilton. I am not certain what advice to Judge Leete and the Superior Court you are referring to in your message below, but the issues before the Superior Court relate to the privilege claims asserted with respect to the document requests in the subpoena to Pepper Hamilton not the document requests to Penn State.

It would be helpful if we could discuss this by phone as I have requested several times. As you know, we are facing a discovery cutoff of January 31, and we want to see if we can sort this out rather than raising it with the Court. Please let me know if we can do so this week.

Thanks,

Trish

-----Original Message-----

From: Doblick, Donna M. [mailto:DDoblick@ReedSmith.com]
Sent: Tuesday, January 03, 2017 9:41 AM
To: Maher, Trish
Cc: Daniel I. Booker; Scott, Michael T.
Subject: RE: Paterno v NCAA - Superior Court briefing, etc.

Trish:

I've done some looking into this and can't find any authority for the notion that a party that is dismissed from a case retains discovery obligations.

The university has been out of this case since Mr. Clemens voluntarily dismissed the last remaining claims against it in July 2015 (and I note that his dismissal was in no way conditioned on the University continuing to act as if it were a party).

Second, as I understand Judge Leete's orders, other than the few issues remaining with the "victim" discovery, fact discovery in this case closed many, many months ago.

And, third, to the extent you're looking for a privilege log of the searches we ran against the Freeh database long ago, we all agreed (and so advised both Judge Leete and the Superior Court) that no issues remain with respect to that population of documents.

For all of these reasons, the University respectfully declines your request to undertake the not-inconsiderable effort of generating and producing a privilege log at this very late stage of the case.

Donna

Sent with Good (www.good.com)

From: Maher, Trish
Sent: Thursday, December 29, 2016 12:03:46 PM
To: Doblick, Donna M.
Subject: RE: Paterno v NCAA - Superior Court briefing, etc.

Donna,

Please let me know when we can discuss.

Thanks,

Trish

-----Original Message-----
From: Doblick, Donna M. [mailto:DDoblick@ReedSmith.com]
Sent: Thursday, December 22, 2016 2:29 PM
To: Maher, Trish; Zemaitis, Thomas
Cc: Parrish, Ashley; Kathryn Peters
Subject: RE: Paterno v NCAA - Superior Court briefing, etc.

Yes, I haven't forgotten. I'll turn to that just as soon as I get the brief on file.

-----Original Message-----
From: Maher, Trish [mailto:PMaher@KSLAW.com]
Sent: Thursday, December 22, 2016 2:23 PM
To: Doblick, Donna M.; Zemaitis, Thomas
Cc: Parrish, Ashley; Kathryn Peters
Subject: RE: Paterno v NCAA - Superior Court briefing, etc.

Donna,

Just a reminder that we still waiting for your response regarding Penn State's privilege log(s) on requests to Penn State, separate from privilege issues related to subpoena to Pepper Hamilton. I know you are still finishing your brief for the Superior Court, but please let us know about the privilege logs when that is done.

Thanks,

Trish

-----Original Message-----

From: Doblick, Donna M. [mailto:DDoblick@ReedSmith.com]
Sent: Tuesday, December 13, 2016 1:19 PM
To: Maher, Trish; Zemaitis, Thomas
Cc: Parrish, Ashley; Kathryn Peters
Subject: RE: Paterno v NCAA - Superior Court briefing, etc.

Trish: sorry for the delay in getting back to you. No problem re: the mutual extension.

Let me research the privilege log issue when I'm back in the office tomorrow. My (admittedly vague) recollection is we terminated all discovery-related issues, including the generation of a log, when we were dismissed from the case. But let me double check tomorrow.

Sent with Good (www.good.com<<http://www.good.com>>)

From: Maher, Trish
Sent: Tuesday, December 13, 2016 11:38:44 AM
To: Doblick, Donna M.; Zemaitis, Thomas
Cc: Parrish, Ashley; Kathryn Peters
Subject: Paterno v NCAA - Superior Court briefing, etc.

Donna,

Just following up on the voice mail message I left yesterday. We would like to know if you have any objection to an extension of two weeks on the date for reply briefs in the Superior Court – from December 28, 2016 until January 11, 2017? I have talked with Tom Zemaitis who told me that he does not object, but will do what you want to do on scheduling. As you know, our filings are simultaneous under the Superior Court's order, so we would like to represent that all parties agree to the requested extension. Please let me know your position so we can advise the court in our application.

On a separate issue, I want to follow up on an outstanding discovery item. We do not appear to have received a privilege log in connection with Penn State's response to plaintiffs' document requests to Penn State. We realize that other privilege issues have taken precedence, but your letter of October 14, 2014 indicated that a privilege log would be forthcoming. Would you please let us know when we can expect that privilege log?

Thanks,

Trish

Trish Maher | King & Spalding LLP
1700 Pennsylvania Ave., N.W. | Washington, D.C. 20006
pmaher@kslaw.com<<mailto:pmaher@kslaw.com>> | 202-626-5504

King & Spalding Confidentiality Notice:

This message is being sent by or on behalf of a lawyer. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of the message.

* * *

This E-mail, along with any attachments, is considered confidential and may well be legally privileged. If you have received it in error, you are on notice of its status. Please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. Thank you for your cooperation.

Disclaimer Version RS.US.201.407.01