



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

ESTATE of JOSEPH PATERNO;
AL CLEMENS, member of the Board of Trustees of
Pennsylvania State University;

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 a Subpoena Upon

) Mary Kay Paterno Hort,

) Pursuant to Rule 4009.22 with

) Notice of Intent to Serve a

) Subpoena to Mary Kay Paterno

) Hort to Produce Documents and

) Things for Discovery Pursuant to

) Rule 4009.21

)

) **Filed on Behalf of:**

) National Collegiate Athletic

) Association, Mark Emmert,

) Edward Ray

)

) **Counsel of Record for this**

) **Party:**

) Thomas W. Scott, Esquire

) Killian & Gephart, LLP

) 218 Pine Street

) P.O. Box 886

) Harrisburg, PA 17108-0886

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) PA I.D. Number: 15681

2015 JUN -2 AM 9:00
CENTRE COUNTY, PA
CLERK OF COURT

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

ESTATE of JOSEPH PATERNO;
AL CLEMENS, member of the Board of Trustees of
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and

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Nominal Defendant.

Civil Division

Docket No.: 2013-2082

FILED
2015 JUN -2 AM 9:05
CLERK OF COURT
CENTRE COUNTY, PA

**CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
UPON MARY KAY PATERNO HORT, PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things upon

Mary Kay Paterno Hort, pursuant to Rule 4009.22, Defendants certify that:

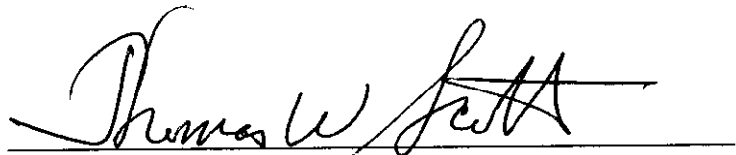
(1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,

(2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,

(3) no objection to the subpoena has been received, and

(4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas W. Scott", is written over a horizontal line.

Thomas W. Scott, Esquire

Attorney I.D. #15681

KILLIAN & GEPHART, LLP

218 Pine Street

P.O. Box 886

Harrisburg, PA 17108-0886

Date: June 2, 2015

Attorneys for Defendants

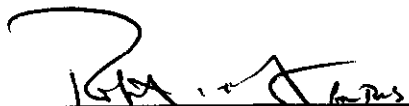
IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO, et al.,)	
)	
Plaintiffs,)	
)	
v.)	
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION)	Civil Division
("NCAA"), et al.,)	
)	Docket No. 2013-
Defendants,)	2082
)	
and)	
PENNSYLVANIA STATE UNIVERSITY,)	
)	
Nominal Defendant.)	

**THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT
TO SERVE A SUBPOENA TO MARY KAY PATERNO-HORT 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: May 12, 2015



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Sarah.Gragert@lw.com

*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: MARY KAY PATERNO-HORT

(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 Exhibit A, attached.

at Killian & Gephart, LLP, 218 Pine St., 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

ADDRESS: 218 P ine St., PO Box 886

Harrisburg, PA 17108-0886

TELEPHONE: (717) 232-1851

SUPREME COURT ID #15681

ATTORNEY FOR: National Collegiate Athletic Association

DATE: _____
Seal of the Court

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

The ESTATE of JOSEPH PATERNO, et al.,)	
Plaintiffs,)	
v.)	
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION)	Civil Division
("NCAA"), et al.,)	
Defendants,)	Docket No. 2013-
and)	2082
PENNSYLVANIA STATE UNIVERSITY,)	
Nominal Defendant.)	

TO: MARY KAY PATERNO-HORT

You are required to complete the following Certificate of Compliance with producing documents or things pursuant to the Subpoena. Send the documents or things, along with this Certificate of Compliance (with your original signature), to the person at whose request the subpoena was issued (see address on the reverse).

Do not send the documents or things, or the Certificate of Compliance, to the Prothonotary's Office.

**Certificate of Compliance with Subpoena to Produce Documents or Things
Pursuant to Rule 4009.23**

I, _____
certify to the best of my knowledge, information and belief that all documents or things required
to be produced pursuant to the subpoena issued on _____ have been produced.

Date: _____

(Signature of Person Served with Subpoena)

EXHIBIT A

DEFINITIONS

1. "You," "your," and "yours" shall mean Mary Kay Paterno-Hort, and all other persons acting on behalf of Mary Kay Paterno-Hort, including but not limited to, attorneys and their associates, investigators, agents, directors, officers, employees, representatives, and others who may have obtained information for or on behalf of Mary Kay Paterno-Hort.
2. The "NCAA" shall mean the National Collegiate Athletic Association.
3. "Defendants" shall mean the NCAA, Mark Emmert, Edward Ray, and the Pennsylvania State University.
4. "Plaintiffs" shall mean each of the individuals identified in the caption above, any representative of those individuals, and any representatives of the Estate of Joseph Paterno.
5. "All" or "any" shall mean "each and every."
6. "And" and "or" shall mean either disjunctively or conjunctively as necessary to bring within the scope of discovery request all responses that might otherwise be construed outside of its scope.
7. "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.

8. "Communications(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.
9. "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.
10. "Person" shall mean any natural person or any business, legal or governmental entity, or association.
11. "Penn State" shall refer to employees, administrators, and personnel of The Pennsylvania State University, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Penn State.
12. "Sandusky" shall mean former Penn State assistant football coach, Gerald Sandusky.
13. "Coach Paterno" shall refer to Joseph Paterno, the decedent represented in this Action by George Scott Paterno, and Joseph Paterno's Estate.

14. "FSS" shall mean the firm of Freeh, Sporkin & Sullivan LLP.
15. The "Freeh Report" shall mean the July 12, 2012 Report of the Special Investigative Counsel Regarding the Actions of The Pennsylvania State University Related to the Child Sexual Abuse Committed by Gerald A. Sandusky, prepared by FSS.
16. The "Consent Decree" shall mean the July 23, 2012 Binding Consent Decree Imposed by the National Collegiate Athletic Association and Accepted by The Pennsylvania State University.

INSTRUCTIONS

1. In accordance with the Pennsylvania Rules of Civil Procedure, in producing the requested Documents, furnish all Documents in Your actual or constructive possession, custody, or control including, without limitation, those Documents in the custody of any advisors, attorneys, investigators, agents, associates, representatives, and other person(s) or entities acting or purporting to act on Your behalf.
2. Documents shall be produced in the manner in which they are maintained in the ordinary course of business or shall be organized and labeled with a designation of the request for production to which they respond and produced along with any file folders or other bindings in which such Documents were found.
3. These Requests shall be deemed to be continuing in nature. If at any time additional responsive Documents come into Your possession, custody or control, then the responses to these Requests shall be promptly supplemented.
4. Any Document or portion of any Document withheld from production based on a claim of privilege shall be identified by (1) the type of Document, (2) the general subject matter of the Document, (3) the date of the Document, and (4) such other information

as is sufficient to identify the Document including the author of the Document, the addressee(s) and any copyee(s) or other recipients of the Document, and, where not apparent, the relationship of the author and addressee(s) and copyee(s) to each other. The nature of each claim of privilege shall be set forth.

- a. Notwithstanding the assertion of any objection, any requested Document that contains non-objectionable information responsive to this Request should be produced, but that portion of the Document for which the objection is asserted may be redacted, provided that the redacted portion is identified and described consistently according to the requirements listed herein.
5. Except as otherwise noted, this Request seeks the production of Documents created, used, sent or received during the period from January 1, 2011 through present.
6. 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.
7. Pursuant to Pennsylvania Rules of Civil Procedure No. 4009.21, 4009.23, and 4009.24, You must fully respond to each Request. Objections to any part of these requests shall be stated in full with a brief statement setting forth the grounds for such objections.
8. The fact that another witness or that a party produces a Document or the availability or production of similar or identical Documents from another source does not relieve You of Your obligation to produce Your copy of the same Document, even if the two Documents are identical. However, You do not need to produce materials produced in this litigation by George Scott Paterno, in his capacity as representative of the Estate of Joseph Paterno.

9. Any Document that cannot be produced in full shall be produced to the fullest extent possible.
10. 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.
11. Except as specifically provided herein, words imparting the singular shall include the plural and vice versa, where appropriate.

REQUESTS FOR PRODUCTION

REQUEST NO. 1:

All Communications Concerning the value of Coach Paterno's assets, financial net worth, or the financial net worth of Coach Paterno's Estate.

REQUEST NO. 2:

Documents sufficient to identify all sources of income, revenue or other money earned by Coach Paterno or the Estate from January 1, 2006 to present.

REQUEST NO. 3:

Coach Paterno's pay-stubs, federal and state income tax returns, and any statement or record of other income received from 2006 to the present.

REQUEST NO. 4:

All Documents Concerning the transfer of assets to or from Coach Paterno or his Estate since January 1, 2006.

REQUEST NO. 5:

Documents sufficient to identify all investments and their monthly and annual values made by or in Coach Paterno's name or the name of his Estate since January 1, 2006.

REQUEST NO. 6:

Documents sufficient to identify all corporate entities and business partnerships in which Coach Paterno or his Estate has a partial or whole ownership or beneficial interest at any point between January 1, 2006 and the present.

REQUEST NO. 7:

All Documents Concerning the actual or contemplated sale of any goods from which Coach Paterno or his Estate had a possibility of earning money or did earn money, from January 1, 2006 to present.

REQUEST NO. 8:

All draft and final contracts or agreements that had the possibility of generating income or other money for Coach Paterno or his Estate, including, without limitation, licensing contracts, royalty agreements, and contracts for television appearances, from January 1, 2006 to present.

REQUEST NO. 9:

All Communications Concerning any contract or agreement produced in response to Request No. 11, including, without limitation, deliberations or negotiations about, the decision to enter into, the benefits of, or the terms of such contracts or agreements.

REQUEST NO. 10:

Documents sufficient to fully demonstrate the monthly and annual sales performance of all merchandise or other goods sold from which Coach Paterno or his Estate has a financial interest, including, without limitation, royalty or licensing payments from January 1, 2006 to present.

REQUEST NO. 11:

All Documents Concerning any naming rights options offered to Coach Paterno or his Estate from January 1, 2006 to present.

REQUEST NO. 12:

All Communications with Maureen Riedel or any other current or former employee of Penn State University regarding Coach Paterno or licensing.

REQUEST NO. 13:

All Documents Concerning D, J, & G Inc. or JVP Properties, LP.

REQUEST NO. 14:

All Documents Concerning the Paterno Program. *See, e.g.,* JVPE_NCAA_0000001 attached as Exhibit B.

REQUEST NO. 15:

All Documents Concerning, or Communications with, the Collegiate Licensing Company.

REQUEST NO. 16:

All email and correspondence sent or received on behalf of Coach Paterno.

REQUEST NO. 17:

All Documents Concerning any books or articles contemplated, drafted, or published by Coach Paterno, his Estate, or any other member of the Paterno family, including You.

REQUEST NO. 18:

Invitations, contracts, agendas, speeches, awards, or information about payment received for any event in which You, Coach Paterno, or any other member of the Paterno family was invited to speak or attend as a celebrity guest or honoree from 2008 to present.

REQUEST NO. 19:

All Communications Concerning negotiations or discussions with Penn State regarding Coach Paterno's salary, employment benefits, title, job responsibilities, or contract from January 1, 2006 to present.

REQUEST NO. 20:

Any other Documents Concerning the claim of financial or pecuniary loss from January 1, 2006 to the present brought on behalf of the Estate of Coach Paterno.

REQUEST NO. 21:

All Documents Concerning the damages the Estate of Coach Paterno is seeking in this action from the Defendants, including, without limitation, all Documents Concerning the Estate of Coach Paterno's claims for "substantial injuries, economic loss, opportunity loss, reputational damage, emotional distress, and other damages."

REQUEST NO. 22:

All Documents Concerning the Freeh Report.

REQUEST NO. 23:

All Documents Concerning, and Communications with, Louis Freeh, FSS, Pepper Hamilton LLP, or FSS' current or former principals, representatives and/or employees.

REQUEST NO. 24:

All Documents Concerning the Consent Decree.

REQUEST NO. 25:

All Documents from January 1, 1996 to present Concerning Sandusky's retirement, interaction or involvement with children, sexual abuse, and/or Penn State privileges and benefits.

REQUEST NO. 26:

From January 1, 2000 to present, All Documents Concerning Sandusky or The Second Mile.

EXHIBIT B

OK 8/5/08

August 4, 2008

Dear Paterno Program Licensee:

We are updating our systems and would like to gather your most current contact information. Please complete the following information at your earliest convenience and return to the above address.

Primary Contact:
Secondary Contact
Address:
Email:
Phone:
Fax:
Web Address:

In addition, please submit a finished sample of your Paterno products that you are currently producing to our office by September 15, 2008 for our review. If you are no longer manufacturing Paterno Program items, please send us written confirmation by September 15, 2008.

If you have any questions, please contact me directly. Thank you in advance.

Sincerely,

Maureen E. Riedel
Director, Trademark Licensing

/rs

Cc: Coach Paterno

CERTIFICATE OF SERVICE

I, Robert J. Daniels, hereby certify that I am serving *NCAA's Notice of Intent to Serve a*

Subpoena to Mary Kay Paterno-Hort on the following by First Class Mail and email:

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Harrisburg, PA 17112
Telephone: (717) 234-4161
Email: tjw@goldbergkatzman.com

Wick Sollers, Esquire
L. Joseph Loveland, Esquire
Mark A. Jensen, Esquire
Patricia L. Maher, Esquire
Ashley C. Parrish, Esquire
KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
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Counsel for Plaintiffs

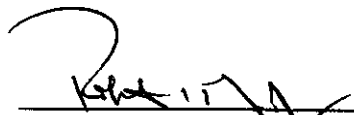
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Donna M. Doblick, Esquire
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*Counsel for The Pennsylvania State
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Date: May 12, 2015



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Brian.Kowalski@lw.com
Sarah.Gragert@lw.com

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

CERTIFICATE OF SERVICE

I, Thomas W. Scott, hereby certify that I am serving *The National Collegiate Athletic Association's Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22*, by First Class Mail and email to:

Thomas J. Weber, Esquire
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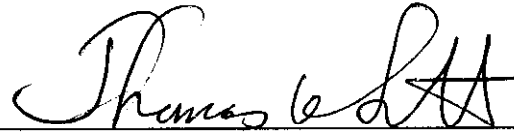
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*Counsel for The Pennsylvania State
University*

Dated: June 2, 2015

A handwritten signature in black ink, appearing to read "Thomas W. Scott", written over a horizontal line.

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