

ORIGINAL



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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

) George Scott Paterno, Pursuant

) to Rule 4009.22 with Notice of

) Intent to Serve a Subpoena to

) George Scott Paterno 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

) TEL: (717) 232-1851

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) tscott@killiangephart.com

) PA I.D. Number: 15681

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

ESTATE of JOSEPH PATERNO;
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Nominal Defendant.

Civil Division

Docket No.: 2013-2082

**CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
UPON GEORGE SCOTT PATERNO, PURSUANT TO RULE 4009.22**

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

George Scott Paterno, pursuant to Rule 4009.22, Defendants certify that:

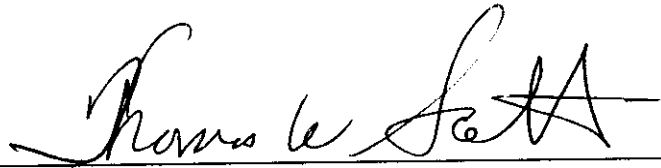
(1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,

(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", 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: May 27, 2015

Attorneys for Defendants

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA

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

Defendant.

Civil Division

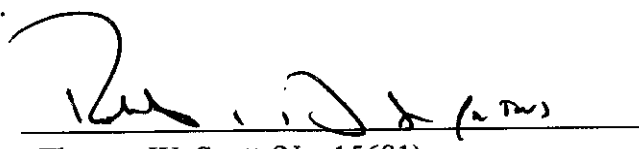
Docket No. 2013-
2082

FILED
MAY 27 4:15:32
CLERK OF COURT

**THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION'S NOTICE OF INTENT
TO SERVE A SUBPOENA TO
GEORGE SCOTT PATERNO 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 6, 2015


Thomas W. Scott (No. 15681)
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No. 500064)

Sarah M. Gragert (admitted *Pro Hac Vice*, DC
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Brian.Kowalski@lw.com

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: GEORGE SCOTT PATERNO

(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 Pine 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

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

Defendant.)
)

Civil Division

Docket No. 2013-
2082

TO: GEORGE SCOTT PATERNO

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 George Scott Paterno, and all other persons acting on behalf of George Scott Paterno, 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 George Scott Paterno.
2. The "NCAA" shall mean the National Collegiate Athletic Association.
3. "Plaintiffs" shall mean each of the individuals identified in the caption above, any representative of those individuals, and any representatives of the Estate and Family of Joseph Paterno.
4. "All" or "any" shall mean "each and every."
5. "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.
6. "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.

7. "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.
8. "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.
9. "Person" shall mean any natural person or any business, legal or governmental entity, or association.
10. "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.
11. "Sandusky" shall mean former Penn State assistant football coach, Gerald Sandusky.
12. "Coach Paterno" shall refer to Joseph Paterno, the decedent represented in this Action by George Scott Paterno in his representative capacity.
13. "FSS" shall mean the firm of Freeh, Sporkin & Sullivan LLP.
14. 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.
15. 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(e) 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. 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.
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 Documents Concerning the Freeh Report.

REQUEST NO. 2:

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

REQUEST NO. 3:

All Documents Concerning the Consent Decree.

REQUEST NO. 4:

All Documents Concerning Mr. Richard Thornburgh or research and preparation for, the drafting of, or the final version of Mr. Thornburgh's February 2013 *Review of the Freeh Report Concerning Joseph Paterno*, including, without limitation, all Communications with Mr. Thornburgh, all Communications regarding the basis for drafting it, compensation, research, drafts, and the final document.

REQUEST NO. 5:

All Documents Concerning King & Spalding's February 2013 *Critique of the Freeh Report: The Rush to Injustice Regarding Joe Paterno*, including, without limitation, all Documents regarding the basis for drafting it, compensation, research, drafts, and the final document.

REQUEST NO. 6:

All Documents Concerning James T. Clemente or the February 2013 *Analysis of the Special Investigative Counsel Report and the Crimes of Gerald A. Sandusky & Education Guide to the Identification and Prevention of Child Sexual Victimization* by James T. Clemente, including all Communications with James T. Clemente.

REQUEST NO. 7:

All Documents Concerning Fred S. Berlin or the February 6, 2013 letter from the National Institute for the Study, Prevention and Treatment of Sexual Trauma to J. Sedwick Sollers, III, including all Communications with Fred S. Berlin.

REQUEST NO. 8:

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

REQUEST NO. 9:

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. 10:

All Communications between or among any of the Plaintiffs (including Coach Paterno) or You, and one or more of the following: Sandusky, Graham Spanier, Tim Curley, Gary Schultz, and former Penn State assistant coach Michael McQueary.

REQUEST NO. 11:

All Communications with the Pennsylvania Attorney General's Office.

REQUEST NO. 12:

All Documents discussing the reputation or popularity of, or public support for, You, any other member of the Paterno family, Coach Paterno, or Plaintiffs Al Clemens, Joseph V. Paterno, or William Kenney, including, without limitation, any public opinion surveys or polls.

REQUEST NO. 13:

All Communications involving You or Coach Paterno and a public relations or media consultant or specialist.

REQUEST NO. 14:

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

REQUEST NO. 15:

Invitations, contracts, agendas, speeches, awards, or information about payment received for any event in which You, Coach Paterno, Sue 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. 16:

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. 17:

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. 18:

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. 19:

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. 20:

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

REQUEST NO. 21:

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. 22:

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. 23:

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. 24:

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 and contracts for television appearances, from January 1, 2006 to present.

REQUEST NO. 25:

All Communications regarding deliberations or negotiations about, the decision to enter into, the benefits of, or the terms of, any contract or agreement produced in response to Request No. 22.

REQUEST NO. 26:

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. 27:

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

REQUEST NO. 28:

All non-privileged Communications between or among any of You, the Plaintiffs, and/or Coach Paterno Concerning this lawsuit, or any and all facts or circumstances related to the allegations in the Second Amended Complaint, including the Consent Decree, the Freeh Report, the reputation of any Plaintiff (including Coach Paterno), Coach Paterno's termination or departure from Penn State, Sandusky, and Rodney Erickson.

REQUEST NO. 29:

All Communications with Robert McCord, Jake Corman, or their representatives, Concerning this lawsuit, the litigation *Corman v. NCAA*, No. 1 MD 2013, or any and all facts or circumstances related to the allegations in the Second Amended Complaint, including the Consent Decree, the Freeh Report, the reputation of any Plaintiff (including Coach Paterno), Coach Paterno's termination or departure from Penn State, Sandusky, and Rodney Erickson.

REQUEST NO. 30:

All Communications with any current or former Penn State (i) football coach or player, (ii) staff member, (iii) faculty, or (iv) Penn State trustee not party to this lawsuit, Concerning this litigation, the allegations contained in the Second Amended Complaint, the Freeh Report, the Consent Decree, the Athletics Integrity Agreement, Coach Paterno, Sandusky, or Rodney Erickson.

REQUEST NO. 31:

All Communications, commentary, or other content from Facebook, Twitter, an Internet "blog," MySpace, Instagram, or any other social media source created, sent, received, forwarded,

or otherwise transmitted by You Concerning this litigation, the allegations contained in the Second Amended Complaint, the Freeh Report, the Consent Decree, the Athletics Integrity Agreement, Coach Paterno, Sandusky, the NCAA, Edward Ray, Mark Emmert, or Rodney Erickson.

REQUEST NO. 32:

All Documents provided to or received from, and all Communications with, any member or representative of a media outlet.

REQUEST NO. 33:

All text messages You sent or received Concerning this litigation, the allegations contained in the Second Amended Complaint, the Freeh Report, the Consent Decree, the Athletics Integrity Agreement, Sandusky, the NCAA, Edward Ray, Mark Emmert, or Rodney Erickson.

REQUEST NO. 34:

Every public statement You made about the Consent Decree, the Freeh Report, the NCAA, or this litigation.

REQUEST NO. 35:

All Documents that You believe support, confirm, rebut, or contradict any fact or conclusion in the Second Amended Complaint, including all Documents referred to or relied upon in the Second Amended Complaint.

CERTIFICATE OF SERVICE

I, Thomas W. Scott, hereby certify that I am serving *The NCAA's Notice of Intent to Serve a Subpoena to George Scott Paterno* on the following by First Class Mail and email:

Thomas J. Weber
GOLDBERG KATZMAN, P.C.
4250 Crums Mill Road, Suite 301
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Telephone: (717) 234-4161
Email: tjw@goldbergkatzman.com

Wick Sollers
Mark A. Jensen
Ashley C. Parrish
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adial@kslaw.com

Counsel for Plaintiffs

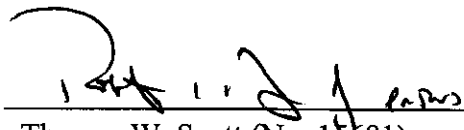
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Counsel for The Pennsylvania State University

Date: May 6, 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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P.O. Box 6991
Harrisburg, PA 17112
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Wick Sollers, Esquire
L. Joseph Loveland, Esquire
Mark A. Jensen, Esquire
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Counsel for Plaintiffs

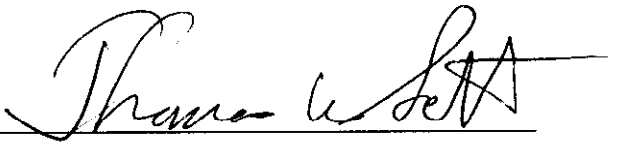
Daniel I. Booker, Esquire
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Telephone: (814) 355-4769
Email: jgreen@lmgrlaw.com

*Counsel for The Pennsylvania State
University*

Dated: May 27, 2015

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

Thomas W. Scott
KILLIAN & GEPHART, LLP
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*Counsel for Defendants the NCAA, Dr.
Emmert, and Dr. Ray*