

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

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

2013-2082

Plaintiffs

vs.

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

Pennsylvania State University,

Nominal Defendant

FILED FOR RECORD  
2015 AUG 26 PM 3:11  
DEBRA J. JEWELL  
PROthonotary  
CENTRE COUNTY, PA

Leete, S.J.

**OPINION REGARDING MATTERS COMPLAINED OF ON APPEAL**

Non-party Pepper Hamilton, LLP (hereinafter "Pepper Hamilton") and Defendant The Pennsylvania State University (hereinafter "Penn State") filed the appeal in the above-captioned matter on May 19, 2015 from this Court's Opinion and Order entered on May 8, 2015. On August 4, 2015, this Court ordered Pepper Hamilton and Penn State to file a Concise Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b). On August 10, 2015, Pepper Hamilton and Penn State filed a timely statement raising the following issues:

1. The Court erred in granting the motion to enforce the subpoena served on Pepper Hamilton, thereby compelling

Pepper Hamilton to produce documents protected by the attorney-client privilege and/or the work product doctrine, prior to the Superior Court's resolution of the appeal pending in this Court at Case No. 1709 MDA 2014, in which Penn State has challenged the Court's erroneous holdings that: (a) documents sought by Plaintiffs are not protected by the attorney-client privilege and/or the work product doctrine and (b) even if the documents were privileged, the privileges have been waived.

2. The Court erred in holding that: (a) documents sought by Plaintiffs are not protected by the attorney-client privilege and/or the work product doctrine and (b) even if the documents were privileged, the privileges have been waived.
3. The Court erred in holding, in the context of ruling on the motion to enforce the subpoena, that it lacked jurisdiction to consider Appellants' contentions that documents sought by Plaintiffs are protected by the attorney-client privilege and/or the work product doctrine and that this protection has not been waived.
4. The Court erred in holding, in the context of ruling on the motion to enforce the subpoena, that it had already ruled on Appellants' contention that documents sought by Plaintiffs are protected by the work product doctrine and that this protection has not been waived.

Pepper Hamilton, LLP and The Pennsylvania State University's Statement of Errors complained of on Appeal, 8/10/15.

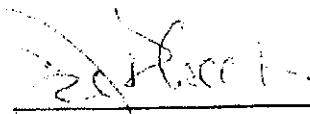
This Court entered Opinions and Orders which were filed to the docket on September 11, 2014, December 5, 2014, and May 8, 2015 and this Court relies on and incorporates these Opinions herein as they addressed the matters complained of on appeal.

This Court hopes this Opinion aids the Honorable Superior Court in this matter.

BY THE COURT:

Date:

8/26/15

  
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John B. Leete, S.J.,  
Specially Presiding