



IN THE COURT OF COMMON PLEAS
OF CENTRE COUNTY, PENNSYLVANIA

ESTATE of JOSEPH PATERNO;
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.

CIVIL DIVISION
Docket No. 2013-2082
Pepper Hamilton LLP and The
Pennsylvania State University's
Statement of Errors Complained of
on Appeal
Filed on Behalf of: Non-Parties
Pepper Hamilton LLP and The
Pennsylvania State University
Counsel of Record:
Thomas E. Zemaitis (PA 23367)
PEPPER HAMILTON LLP
3000 Two Logan Square
Eighteenth & Arch Streets
Philadelphia, PA 19103-2799
Tel: 215.981.4000
Fax: 215.981.4750
Daniel I. Booker (PA 10319)
Jack B. Cobetto (PA 53444)
Donna M. Doblack (PA 75394)
William J. Sheridan (PA 206718)
REED SMITH LLP
Firm #234
225 Fifth Avenue
Pittsburgh, PA 15222
Tel: 412.288.3131
Fax: 412.288.3063
Michael T. Scott (PA 23882)
REED SMITH LLP
Three Logan Square
Suite 3100
1717 Arch Street
Philadelphia, PA 19103
Tel: 215.851.8100
Fax: 215.851.1420
Joseph P. Green (PA 19238)
LEE GREEN & REITER, INC.

FILED
2015 AUG 10 AM 9:00
JESSICA RAY
CLERK

) 115 East High Street  
) Lock Drawer 179  
) Bellefonte, PA 16823-0179  
) Tel: 814.355.4769  
) Fax: 814.355.5024

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WILLIAM KENNEY and JOSEPH V. (“JAY”)	)	Docket No. 2013-2082
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State University;	)	
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NATIONAL COLLEGIATE ATHLETIC	)	
ASSOCIATION (“NCAA”);	)	
	)	
MARK EMMERT, individually and as President of	)	
the NCAA; and	)	
	)	
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Chairman of the Executive Committee of the NCAA,	)	
Defendants,	)	

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**PEPPER HAMILTON LLP AND THE PENNSYLVANIA STATE UNIVERSITY’S  
CONCISE STATEMENT OF ERRORS COMPLAINED OF ON APPEAL**

In accordance with the Court’s Order entered August 4, 2015,<sup>1</sup> and Pa. R. App. P. 1925(b), Non-Parties Pepper Hamilton LLP (“Pepper Hamilton”) and The Pennsylvania State University (“Penn State,” and, collectively with Pepper Hamilton, “Appellants”), by and through their counsel, hereby submit this concise statement of errors complained of on appeal that individually or cumulatively warrant reversal of the Order and Opinion entered on May 8, 2015 granting Plaintiffs’ Motion for Enforcement of Subpoena Directed to Pepper Hamilton:

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

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<sup>1</sup> Appellants direct the Court’s attention to the briefing schedule issued by the Superior Court in the appeals from this Court’s Order and Opinion entered on May 8, 2015, pursuant to which Appellants’ opening briefs are due to be filed no later than **August 31, 2015**.

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.

Dated: August 10, 2015



Thomas E. Zemaitis (PA 23367)

zemaitist@pepperlaw.com

PEPPER HAMILTON LLP

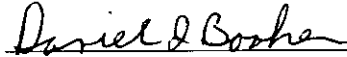
3000 Two Logan Square

Philadelphia, PA 19103-2799

Tel: 215.981.4000

Fax: 215.981.4750

*Counsel for Pepper Hamilton LLP*



Daniel I. Booker (PA 10319)

dbooker@reedsmith.com

Jack B. Cobetto (PA 53444)

jcobetto@reedsmith.com

Donna M. Dobblick (PA 75394)

ddobblick@reedsmith.com

William J. Sheridan (PA 206718)

wsheridan@reedsmith.com

REED SMITH LLP

225 Fifth Avenue

Pittsburgh, PA 15222

Tel: 412.288.3131

Fax: 412.288.3063

Michael T. Scott (PA 23882)

msscott@reedsmith.com

REED SMITH LLP

Three Logan Square

Suite 3100, 1717 Arch Street

Philadelphia, PA 19103

Tel: 215.851.8100

Fax: 215.851.1420

Joseph P. Green (PA 19238)

jgreen@lmgrlaw.com

LEE GREEN & REITER, INC.

115 East High Street

Lock Drawer 179

Bellefonte, PA 16823-0179

Tel: 814.355.4769

Fax: 814.355.5024

*Counsel for The Pennsylvania State University*

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Chairman of the Executive Committee of the NCAA,	)	
Defendants,	)	

**PROOF OF SERVICE**

I, Thomas E. Zemaitis, hereby certify that on August 10, 2015 a true and correct copy of the foregoing Pepper Hamilton LLP and The Pennsylvania State University's Statement of Matters Complained of on Appeal was served via First Class Mail upon the following:

Hon. John B. Leete  
Room 30  
Potter County Courthouse  
1 East Second Street  
Coudersport, PA 16915

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

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

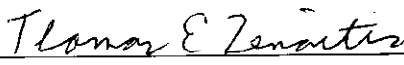
Paul V. Kelly  
John J. Commisso  
Jackson Lewis, PC  
75 Park Plaza  
Boston, MA 02116

*Counsel for Plaintiffs*

Everett C. Johnson, Jr.  
Brian Kowalski  
Lori Alvino McGill  
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*

  
\_\_\_\_\_  
Thomas E. Zemaitis

Dated: August 10, 2015