

**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;

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,

Defendants,

and

THE PENNSYLVANIA STATE UNIVERSITY,

Nominal Defendant.

CIVIL DIVISION

Docket No. 2013-2082

**OBJECTIONS TO
SUBPOENA PURSUANT
TO RULE 4009.21**

Filed on Behalf of Defendant:
The Pennsylvania State
University

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DEBRA C. JENSEL
PROTHONOTARY
CENTRE COUNTY, PA
2014 MAR 14 PM 3:53
FILED FOR RECORD

**IN THE COURT OF COMMON PLEAS
OF CENTRE COUNTY, PENNSYLVANIA**

GEORGE SCOTT PATERNO, as duly appointed
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OBJECTIONS TO SUBPOENA PURSUANT TO RULE 4009.21

Pursuant to Rule 4009.21(c) of the Pennsylvania Rules of Civil Procedure, Defendant The Pennsylvania State University ("Penn State" or the "University"), by its counsel, objects to the subpoena proposed by Plaintiff George Scott Paterno as duly appointed representative of the

Estate and “family” of Joseph Paterno (the “Paterno plaintiffs”) that is attached hereto as Exhibit A for the reasons stated herein.

GENERAL OBJECTIONS

The law firm of Freeh Sporkin & Sullivan, LLP (the “Freeh Firm”) was retained by Penn State and a Special Investigative Task Force (the “Task Force”) established by the University’s Board of Trustees in November 2011 as an independent, external legal counsel to conduct an investigation (the “Investigation”) into allegations of sexual abuse on Penn State’s campus and the alleged failure of Penn State personnel to report such sexual abuse to the appropriate police and governmental authorities, as set forth in a report issued in November 2011 by the Thirty Third Statewide Grand Jury of the Commonwealth of Pennsylvania (as amended and supplemented, the “Grand Jury Report”). Freeh Group International Solutions, LLC (the “Freeh Group”) was retained by the Freeh Firm to assist with the engagement.

On or about July 12, 2012, the Freeh Firm issued its report on the results of its Investigation (the “Freeh Report”). Per the University’s direction, the Freeh Report was made public without any advance review by the Task Force, the University’s Board of Trustees (the “Board”), the University’s administration, faculty or staff, or any of their representatives. In August 2012, after it issued the Freeh Report, the Freeh Firm combined with Pepper Hamilton LLP, which acquired the Freeh Group.

Although Penn State directed that the Freeh Report be made public, beyond the public disclosure of that Report, Penn State did not waive, and hereby asserts, the attorney-client privilege, the work product doctrine, the self-examination privilege and all other privileges or immunities from discovery, relating to the Investigation and the Freeh Report. The Requests in the subpoena attached hereto as Exhibit A all seek, to some extent, the production of documents that are protected from discovery by virtue of the attorney-client privilege and the work product doctrine. Thus, except for specific exceptions stated in the Objections to Specific Requests set

forth below, Penn State objects to the production of any documents or other materials in response to the subpoena attached hereto as Exhibit A.

Also, in order to ensure that it obtained any 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. 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.

In addition, 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 production of any documents covered by FERPA and CHRIA.

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.

In addition, 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.

Further, to the extent that the Requests seek all documents that “evidence, reflect, or relate to” various subjects, they are vague, overbroad and unduly burdensome.

Compliance with the subpoena, particularly the efforts required 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, both as to Pepper Hamilton and as to Penn State directly, which would be required to expend very substantial amounts of time and incur very substantial and unwarranted expenses in order to protect its privileges. In addition to the direct burden on Penn State, the University’s engagement letter with the Freeh Firm requires the University to reimburse the Freeh Firm for the time and expenses it incurs responding to a subpoena, such as the subpoena here. The Paterno plaintiffs should not be allowed to impose those costs on Penn State by means of the grossly overbroad and intrusive subpoena they seek to serve.

Further, 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.

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.

Penn State also notes that the requests are temporally unbounded and purport to seek documents and information not relevant to the subject matter of this litigation, namely, the Consent Decree. Accordingly, Penn State objects to the Requests to the extent they purport to request documents created after July 23, 2012.

In addition, 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 on this basis as well.

Penn State also objects to the issuance of any subpoena that purports to be on behalf of “the family of Joseph Paterno.” As further explained in Penn State’s forthcoming Preliminary Objections to the First Amended Complaint (the “Preliminary Objections”), a decedent’s “family” is not a recognized legal entity with standing to sue. Penn State also objects to the issuance of any subpoena by the Estate of Joseph Paterno (the “Estate”). As further explained in Penn State’s forthcoming Preliminary Objections, the Estate lacks standing to sue Penn State for any alleged breach of the NCAA’s Constitution and/or its Bylaws. More generally, Penn State objects to the issuance of any subpoena by the plaintiffs pending the Court’s resolution of the University’s Preliminary Objections.

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

The above General Objections are incorporated by reference into each of the specific objections set forth below.

OBJECTIONS TO SPECIFIC REQUESTS

Request No. 1:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group, and the NCAA, Emmert, or Ray that relate in any way to Joe Paterno or the Plaintiffs named in this suit.

Objection:

Penn State hereby objects to Request No. 1 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Subject to and without waiving the General Objections, the University states that it does not object to the production of documents that constitute actual communications themselves between the Freeh Firm or the Freeh Group and the NCAA, Emmert or Ray on the subject of this Request. Penn

State, however, maintains the General Objections with respect to the request for documents that “evidence, reflect, or relate” to such communications.

Request No. 2:

Please produce all documents that evidence, reflect, or relate in any way to communications between the Freeh Firm or the Freeh Group and Penn State, including all notes or records of telephone calls, memos, emails, letters, or other forms of communication, relating to the Freeh investigation or the Consent Decree.

Objection:

Penn State hereby objects to Request No. 2 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 3:

Please produce all documents maintained as part of the Client File created by the Freeh Firm pursuant to the engagement letter attached hereto as Exhibit 1.

Objection:

Penn State hereby objects to Request No. 3 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Further, Penn State objects that no “Exhibit 1” was attached to the subpoena attached to the Notice of Intent to Serve a Subpoena to Pepper Hamilton, LLP that was served on the University.

Request No. 4:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and the NCAA, Emmert, or Ray, relating to the Freeh investigation or the Consent Decree.

Objection:

Penn State hereby objects to Request No. 4 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Subject to and without waiving the General Objections, the University states that it does not object to the production of documents that constitute actual communications themselves between the Freeh Firm or the Freeh Group and the NCAA, Emmert or Ray on the subject of this Request. Penn State, however, maintains the General Objections with respect to the request for documents that “evidence, reflect, or relate” to such communications.

Request No. 5:

Please produce all documents that evidence, reflect, or relate in any way to the basis for statements in the Freeh Report that Joe Paterno, among others, “failed to protect against a child sexual predator harming children for over a decade.”

Objection:

Penn State hereby objects to Request No. 5 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 6:

Please produce all documents that evidence, reflect, or relate in any way to the basis for statements in the Freeh Report that the Board of Trustees “did not perform its oversight duties” and “failed in its duties to oversee the President and senior University officials in 1998 and 2001

by not inquiring about important University matters and by not creating an environment where senior University officials felt accountable.”

Objection:

Penn State hereby objects to Request No. 6 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 7:

Please produce all documents that evidence, reflect, or relate in any way to the basis for statements in the Freeh Report that Joe Paterno, among others, concealed Jerry Sandusky’s activities from the Penn State Board of Trustees.

Objection:

Penn State hereby objects to Request No. 7 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 8:

Please produce all documents that evidence, reflect, or relate in any way to whether Joe Paterno concealed critical facts regarding Jerry Sandusky from the authorities, the Penn State Board of Trustees, the Penn State community, and the public at large.

Objection:

Penn State hereby objects to Request No. 8 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 9:

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 sexual predator.

Objection:

Penn State hereby objects to Request No. 9 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 10:

Please produce all documents that evidence, reflect, or relate in any way to the basis for statements in 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."

Objection:

Penn State hereby objects to Request No. 10 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 11:

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

Objection:

Penn State hereby objects to Request No. 11 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 12:

Please produce all documents that evidence, reflect, or relate to descriptions of Timothy Curley as “Joe Paterno’s errand boy,” including but not limited to copies of the interview referenced at note 339 of the Freeh Report.

Objection:

Penn State hereby objects to Request No. 12 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 13:

Please produce all documents that evidence, reflect, or relate in any way to the finding 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.

Objection:

Penn State hereby objects to Request No. 13 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 14:

Please produce all documents that evidence, reflect, or relate to interviews or other communications 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 copies of interviews referenced at note 167 of the Freeh Report.

Objection:

Penn State hereby objects to Request No. 14 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 15:

Please produce all documents that evidence, reflect, or relate in any way 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.

Objection:

Penn State hereby objects to Request No. 15 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 16:

Please produce all documents that evidence, reflect, or relate to services provided by any person who was engaged to work with or for the Freeh Firm or the Freeh Group in connection with the Freeh investigation.

Objection:

Penn State hereby objects to Request No. 16 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 17:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and the Mayer Brown law firm, including all notes or records of telephone calls, emails, letters, or other forms of communication regarding the Freeh investigation or the Consent Decree.

Objection:

Penn State hereby objects to Request No. 17 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Subject to and without waiving the General Objections, the University states that it does not object to the production of documents that constitute actual communications themselves between the Freeh Firm or the Freeh Group and the Mayer Brown law firm on the subject of this Request. Penn State, however, maintains the General Objections with respect to the request for documents that “evidence, reflect, or relate” to such communications.

Request No. 18:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and any athletic governing body, including representatives of the Big Ten Conference, including all notes or records of telephone calls, emails, letters, or other forms of communication regarding the Freeh investigation or the Consent Decree.

Objection:

Penn State hereby objects to Request No. 18 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Subject to and without waiving the General Objections, the University states that it does not object to the production of documents that constitute actual communications themselves between the Freeh Firm or the Freeh Group and any outside athletic governing body, including representatives of the Big Ten Conference, on the subject of this Request. Penn State, however, maintains the General Objections with respect to the request for documents that “evidence, reflect, or relate” to such communications.

Request No. 19:

Please produce all documents that support any conclusions or recommendations for action reached by the Freeh Firm or the Freeh Group as a result of the Freeh investigation,

including all notes or records of telephone calls, memos, emails, letters, or other forms of communication.

Objection:

Penn State hereby objects to Request No. 19 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 20:

Please produce all documents that support any conclusions or recommendations for action reached by the NCAA, Emmert, or Ray as a result of the Freeh investigation, including all notes or records of telephone calls, memos, emails, letters, or other forms of communication.

Objection:

Penn State hereby objects to Request No. 20 on the grounds set forth in the above General Objections, which are hereby incorporated by reference. Penn State further objects to Request No. 20 on the grounds that it calls for speculation as to the bases that the NCAA, Emmert, and/or Ray had for their conclusions and recommendations for action.

Request No. 21:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and the NCAA, Emmert, or Ray regarding any conclusions or recommendations for action reached by the Freeh Firm or the Freeh Group as a result of the Freeh investigation, including all notes or records of telephone calls, memos, mails, letters, or other forms of communication.

Objection:

Penn State hereby objects to Request No. 21 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Subject to and without waiving the General Objections, the University states that it does not object to the production of documents that constitute actual communications themselves between the Freeh Firm or the Freeh Group and the NCAA, Emmert, or Ray on the subject of this Request. Penn State, however, maintains the General Objections with respect to the request for documents that “evidence, reflect, or relate” to such communications.

Request No. 22:

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

Objection:

Penn State hereby objects to Request No. 22 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Request No. 23:

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

Objection:

Penn State hereby objects to Request No. 23 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Subject to and without waiving the General Objections, the University states that it does not object to the production of drafts of the Consent Decree, so long as they were exchanged with the NCAA.

Request No. 24:

Please produce all invoices for services submitted to Penn State or the Penn State Board of Trustees pursuant to the engagement letter attached hereto as Exhibit 1, including all backup and supporting documents.

Objection:

Penn State hereby objects to Request No. 24 on the grounds set forth in the above General Objections, which are hereby incorporated by reference. Penn State further objects that Request No. 24 seeks documents that are not relevant to this lawsuit and are not reasonably calculated to lead to the discovery of admissible evidence.

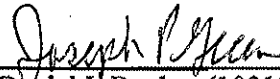
Request No. 25:

Please produce all documents that evidence, reflect, or relate to question or concerns within the Freeh Firm or the Freeh Group about any aspect of the Freeh investigation or the conclusions reached in the Freeh Report.

Objection:

Penn State hereby objects to Request No. 25 on the grounds set forth in the above General Objections, which are hereby incorporated by reference.

Respectfully submitted,



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Date: March 14, 2014

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*Attorneys for Defendant
The Pennsylvania State University*

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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

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JOSH GAINES, PATRICK MAUTI, ANWAR PHILLIPS,
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Defendants.

and

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Civil Division

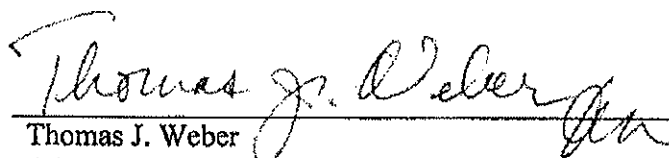
Docket No. 2013-2082

**NOTICE TO DEFENDANTS BY PLAINTIFF GEORGE SCOTT PATERNO AS DULY
APPOINTED REPRESENTATIVE OF THE ESTATE AND FAMILY OF JOSEPH
PATERNO OF INTENT TO SERVE A SUBPOENA TO PEPPER HAMILTON LLP TO
PRODUCE DOCUMENTS PURSUANT TO RULE 4009.21**



Plaintiff George Scott Paterno, as duly appointed representative of the Estate and Family of Joseph Paterno ("Paterno"), by and through the undersigned counsel, 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.

Dated this 25th day of February, 2014.



Thomas J. Weber
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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*

COMMONWEALTH OF PENNSYLVANIA
CENTRE COUNTY
GEORGE SCOTT PATERNO, as duly appointed
representative of the ESTATE and FAMILY of JOSEPH
PATERNO; et al.,

Plaintiff

Court of Common Pleas

Civil Division

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION ("NCAA"); et al.,

Defendant

No. 2013-2082

**Subpoena to Produce Documents or Things
for Discovery Pursuant to Rule 4009.22**

TO: Pepper Hamilton LLP

(Name of Person or Entity)

Within twenty (20) days after the service of this subpoena, you are ordered by the Court to produce the following documents or things: See Exhibit A, attached.

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

(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:

Date: March 18, 2014

Name: Thomas J. Weber

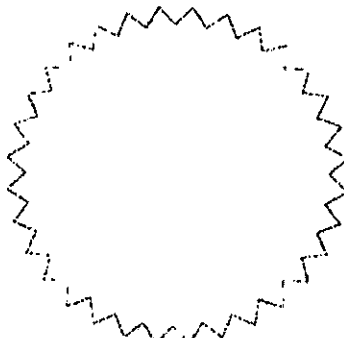
Address: 4250 Crums Mill Road, Suite 301, P.O. Box 6991
Harrisburg, PA 17112

Telephone: (717) 234-4161

Supreme Court ID#: 58853

Attorney for: George Scott Paterno, as duly appointed
representative of the Estate and Family of Joseph Paterni

BY THE COURT:



COMMONWEALTH OF PENNSYLVANIA
CENTRE COUNTY

GEORGE SCOTT PATERNO, as duly appointed
representative of the ESTATE and FAMILY of JOSEPH :
PATERNO; et al., :

Court of Common Pleas

Civil Division

vs. :

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION ("NCAA"); et al., :

No. 2013-2082

TO: Pepper Hamilton LLP

(Person Served with Subpoena)

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, _____
on behalf of Pepper Hamilton LLP
(Person Served with Subpoena)

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 March 18, 2014 have been produced.
(Date of Subpoena)

Date: _____

(Signature of Person Served with Subpoena)

EXHIBIT A

Records and Documents from Pepper Hamilton LLP ("Pepper Hamilton").

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. "You," "your," or "yours," shall refer to the person to whom these requests are addressed, and all of that person's agents, representatives, and attorneys.

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. "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.

8. "Joe Paterno" or "Paterno" shall refer to former Penn State head football coach Joseph ("Joe") V. Paterno, as well as any attorney, assignee, agent, representative, or any other person acting, authorized to act, or purporting to act on behalf of Joe Paterno, or his estate and family.

9. "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.

10. "NCAA" shall refer to Defendant NCAA, 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.

11. "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.

12. "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.

13. 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*.

14. 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*.

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

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. “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 the present.

DOCUMENT REQUESTS

Request No. 1:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group, and the NCAA, Emmert, or Ray that relate in any way to Joe Paterno or the Plaintiffs named in this suit.

Request No. 2:

Please produce all documents that evidence, reflect, or relate in any way to communications between the Freeh Firm or the Freeh Group and Penn State, including all notes or records of telephone calls, memos, emails, letters, or other forms of communication, relating to the Freeh investigation or the Consent Decree.

Request No. 3:

Please produce all documents maintained as part of the Client File created by the Freeh Firm pursuant to the engagement letter attached hereto as Exhibit 1.

Request No. 4:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and the NCAA, Emmert, or Ray, relating to the Freeh investigation or the Consent Decree.

Request No. 5:

Please produce all documents that evidence, reflect, or relate in any way to the basis for statements in the Freeh Report that Joe Paterno, among others, “failed to protect against a child sexual predator harming children for over a decade.”

Request No. 6:

Please produce all documents that evidence, reflect, or relate in any way to the basis for statements in the Freeh Report that the Board of Trustees “did not perform its oversight duties” and “failed in its duties to oversee the President and senior University officials in 1998 and 2001 by not inquiring about important University matters and by not creating an environment where senior University officials felt accountable.”

Request No. 7:

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

Request No. 8:

Please produce all documents that evidence, reflect, or relate in any way to whether Joe Paterno concealed critical facts regarding Jerry Sandusky from the authorities, the Penn State Board of Trustees, the Penn State community, and the public at large.

Request No. 9:

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 sexual predator.

Request No. 10:

Please produce all documents that evidence, reflect, or relate in any way to the basis for statements in 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."

Request No. 11:

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

Request No. 12:

Please produce all documents that evidence, reflect, or relate to descriptions of Timothy Curley as "Joe Paterno's errand boy," including but not limited to copies of the interview referenced at note 339 of the Freeh Report.

Request No. 13:

Please produce all documents that evidence, reflect, or relate in any way to the finding 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.

Request No. 14:

Please produce all documents that evidence, reflect, or relate to interviews or other communications 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 copies of interviews referenced at note 167 of the Freeh Report.

Request No. 15:

Please produce all documents that evidence, reflect, or relate in any way 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.

Request No. 16:

Please produce all documents that evidence, reflect, or relate to services provided by any person who was engaged to work with or for the Freeh Firm or the Freeh Group in connection with the Freeh investigation.

Request No. 17:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and the Mayer Brown law firm, including all notes or records of telephone calls, emails, letters, or other forms of communication regarding the Freeh investigation or the Consent Decree.

Request No. 18:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and any athletic governing body, including representatives of the Big Ten Conference, including all notes or records of telephone calls, emails, letters, or other forms of communication regarding the Freeh investigation or the Consent Decree.

Request No. 19:

Please produce all documents that support any conclusions or recommendations for action reached by the Freeh Firm or the Freeh Group as a result of the Freeh investigation, including all notes or records of telephone calls, memos, emails, letters, or other forms of communication.

Request No. 20:

Please produce all documents that support any conclusions or recommendations for action reached by the NCAA, Emmert, or Ray as a result of the Freeh investigation, including all notes or records of telephone calls, memos, emails, letters, or other forms of communication.

Request No. 21:

Please produce all documents that evidence, reflect, or relate to communications between the Freeh Firm or the Freeh Group and the NCAA, Emmert, or Ray regarding any conclusions or recommendations for action reached by the Freeh Firm or the Freeh Group as a result of the

Freeh investigation, including all notes or records of telephone calls, memos, emails, letters, or other forms of communication.

Request No. 22:

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

Request No. 23:

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

Request No. 24:

Please produce all invoices for services submitted to Penn State or the Penn State Board of Trustees pursuant to the engagement letter attached hereto as Exhibit 1, including all backup and supporting documents.

Request No. 25:

Please produce all documents that evidence, reflect, or relate to question or concerns within the Freeh Firm or the Freeh Group about any aspect of the Freeh investigation or the conclusions reached in the Freeh Report.

CERTIFICATE OF SERVICE

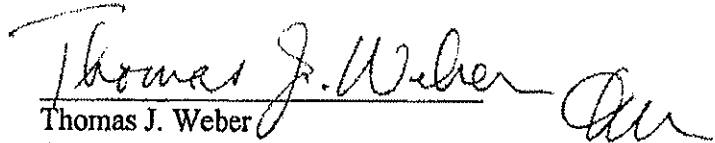
I HEREBY CERTIFY that a true and correct copy of the foregoing NOTICE TO DEFENDANTS BY PLAINTIFF GEORGE SCOTT PATERNO AS DULY APPOINTED REPRESENTATIVE OF THE ESTATE AND FAMILY OF JOSEPH PATERNO OF INTENT TO SERVE A SUBPOENA TO PEPPER HAMILTON LLP TO PRODUCE DOCUMENTS PURSUANT TO RULE 4009.21 was served this 25th day of February, 2014 by first class mail and email to the following:

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

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this 14th day of March, 2014, a true and correct copy of the foregoing was served upon the following counsel via first class United States mail, postage prepaid:

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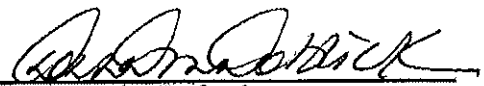
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