

McOmber McOmber & Luber

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May 15, 2025

Via eCourts Only

Honorable Cynthia D. Santomauro, J.S.C.
Superior Court of New Jersey, Essex Vicinage
Chancery Division
495 Dr. Martin Luther King, Jr. Blvd., 3rd Floor
Newark, NJ 07102

RE: *Seton Hall University v. Joseph E. Nyre, Ph.D.*
Docket No. ESX-C-33-25
File No. 14808

Dear Judge Santomauro:

This firm represents Defendant Joseph E. Nyre, Ph.D. (“Dr. Nyre”) with regard to the above-captioned matter. Please accept the following correspondence as a request for a Case Management Conference before Your Honor at the Court’s earliest convenience.

By way of background, on May 7, 2025, this office dispatched an email to counsel for Seton Hall University (the “University”) as follows:

On behalf of the Archdiocese of Newark, Ropes & Gray has requested to interview Dr. Nyre with respect to its review of the prior Seton Hall University investigation conducted by Latham & Watkins, as directed by Cardinal Tobin. Said interview is scheduled to take place on Friday, May 9th, 2025. If, on behalf of Seton Hall, you have any concerns or objections to said interview proceeding, or if you would like to discuss, please let me know and thank you.

See May 7, 2025 email, attached as **Exhibit A**.

Thereafter, based on a phone conversation with counsel for the University on May 8, 2025, we agreed to postpone Dr. Nyre’s aforementioned May 9, 2025 interview, with the understanding that the University’s counsel would be providing a letter setting forth the University’s official position as to the Ropes & Gray interview at issue.

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R. Armen McOmber has been designated by the Supreme Court of New Jersey as a Certified Civil Trial Attorney

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On May 9, 2025, we received correspondence from Thomas P. Scrivo, Esq., asserting the University's position that Dr. Nyre "is subject to a series of binding legal obligations that may be implicated in his potential interview with Ropes & Gray LLP ('Ropes')." A copy of said correspondence is attached hereto as **Exhibit B**. As part of said correspondence, the University makes reference to, and relies upon, the Court's comments during the March 27, 2025 Order to Show Cause hearing as well as the Court's April 4, 2025 Order ("April 4 Order") to assert the position that Dr. Nyre cannot participate in the Ropes & Gray interview. See Exhibit B. Indeed, the University takes the position that "[b]eyond Dr. Nyre's contractual obligations, he is currently enjoined by Court Order from 'disseminating in any manner . . . confidential information of the University to which [Dr. Nyre] had access as a result of his employment with the University.'" See id. at 3. The University concludes that "[t]here is **no exception to that broad prohibition** that would permit Dr. Nyre to answer **any questions at any interview** regarding any matter within the scope of the Ropes review." (Emphasis added.) See id. Relying on a colloquy between the Court and R. Armen McOmber, Esq., of this office during the March 27, 2025 hearing, the University concludes that "it is **unambiguous that Plaintiff is enjoined from providing confidential and privileged information to Ropes** – the only information that could be relevant to their review." (Emphasis added.) See id. at 3.

As part of the April 4 Order granting injunctive relief to the University, the Court makes clear that Dr. Nyre is enjoined "from disseminating, in any manner (except as to Defendant's counsel), any (i) documents, electronic information or other property of the University that Defendant accessed, retrieved, downloaded and/or maintained subsequent to his resignation on July 21, 2023 through the present; and (ii) confidential information or property of the University to which Defendant had access as a result of his employment with the University and failed to return to the University following July 21, 2023." See April 4 Court Order § (c), attached as **Exhibit C**. Accordingly, the April 4 Order clearly addresses the dissemination of confidential information which Dr. Nyre had access to by virtue of his employment with the University; critically, however, there is no language in the April 4 Order that restricts Dr. Nyre from participating in investigations and/or sharing personal, non-privileged recollections.

Accordingly, the University is clearly attempting to weaponize the April 4 Order (and colloquy from the March 27, 2025 hearing herein, for that matter) to muzzle Dr. Nyre from discussing other matters. This position is not only at odds with the plain language of the April 4 Order, as noted above, but also, very odd considering the fact that the Archdiocese of Newark is conducting the interview at issue on behalf of the University. It should also be noted that Cardinal Tobin is Chair of the University's Board of Trustees and President of the Board of Regents.

Accordingly, Dr. Nyre requests a Case Management Conference with Your Honor prior to engaging in any motion practice on the foregoing issues.

I thank Your Honor for the Court's courtesies and attention to this matter.

Respectfully submitted,
/s/ **Austin B. Tobin, Esq.**

Encs.

cc: All Counsel of Record (*via eCourts only*)

EXHIBIT A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Armen McOmber <ram@njlegal.com>

Sent: Wednesday, May 7, 2025 12:29 PM

To: Thomas P. Scrivo <tscrivo@oslaw.com>; MDEE@OSLAW.COM; Austin B. Tobin <abt@njlegal.com>; Matthew A. Luber <mal@njlegal.com>; Jeffery P. Rankel <jpr@njlegal.com>

Subject: Nyre/Seton Hall- RCAN Ropes & Gray Interview

Tom and Mike-

On behalf of the Archdiocese of Newark, Ropes & Gray has requested to interview Dr. Nyre with respect to its review of the prior Seton Hall University investigation conducted by Latham & Watkins, as directed by Cardinal Tobin. Said interview is scheduled to take place on Friday, May 9th, 2025. If, on behalf of Seton Hall, you have any concerns or objections to said interview proceeding, or if you would like to discuss, please let me know and thank you.

Armen

EXHIBIT B

O'TOOLE SCRIVO

A LIMITED LIABILITY COMPANY

THOMAS P. SCRIVO

tscrivo@oslaw.com

May 9, 2025

VIA EMAIL

R. Armen McOmber, Esq.
McOmber, McOmber & Luber, P.C.
54 Shrewsbury Avenue
Red Bank, New Jersey 07701

Re: Ropes & Gray LLP's Interview with Dr. Nyre

Dear Armen:

As requested, this letter details Seton Hall University's ("Seton Hall") position that your client, Dr. Joseph E. Nyre, is subject to a series of binding legal obligations that may be implicated in his potential interview with Ropes & Gray LLP ("Ropes"). As has been reported, Ropes was retained by the Archdiocese to conduct a review of the 2019 investigation and report of Latham & Watkins LLP ("Latham Report") regarding the former Archbishop, Theodore McCarrick. The Latham Report and the findings and recommendations relating thereto are privileged and confidential. To be clear, Seton Hall has not waived its privilege as to such information for purposes of the Ropes review or otherwise. The only information that Dr. Nyre may have that would be relevant to the Ropes review was obtained by virtue of his former employment as President of the University. Dr. Nyre is prohibited from disclosing any such information by contract and Court Order.

As a reminder, in Dr. Nyre's employment agreements dated February 20, 2019 and June 3, 2021, Dr. Nyre agreed that he would not "disclose to any person any Confidential Information of the University or of any of its Affiliates." Those obligations survived Dr. Nyre's resignation by their own terms and through Dr. Nyre's Separation Agreement dated September 1, 2023, which incorporated them. Under those agreements, "Confidential Information" includes virtually all information Dr. Nyre learned as a result of his employment with Seton Hall and certainly any information that could be relevant to the Ropes review. As the Court put it on the record in *Seton Hall University v. Joseph E. Nyre, Ph.D, et al.*, ESX-C-33-25 (the "Chancery Action"), Confidential Information is defined as being "extremely broad based" and encompassing "basically everything [Dr. Nyre] ever . . . came into possession of . . . during the course of his employment" with Seton Hall. (March 27, 2025 Order to Show Cause, Tr. 70:23-71:4).

R. Armen McOmber, Esq.

May 9, 2025

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Beyond Dr. Nyre's contractual obligations, he is currently enjoined by Court Order from "disseminating in any manner . . . confidential information of the University to which [Dr. Nyre] had access as a result of his employment with the University." There is no exception to that broad prohibition that would permit Dr. Nyre to answer any questions at an interview regarding any matter within the scope of the Ropes review.

Crystallizing the point, at the Chancery Action Order to Show Cause Hearing, you specifically asked the Court about a potential interview by Ropes and the Court confirmed that the restrictions imposed by the (at the time) Temporary Restraining Order would apply:

THE COURT: ...I would not be preventing [Dr. Nyre] from speaking to someone, as long as he's not revealing confidential documents or information. All right?

MR. McOMBER: I mean, they're -- they're -- I'll give you an example. They're -
- the cardinal has ordered an independent investigation into an independent investigation.

[...]

MR. McOMBER: Right. So he may want -- I mean, Dr. Nyre may want to provide information for that investigation. I mean, there's nothing wrong with that.

THE COURT: Well, I don't agree with that. I don't agree with that. If legally -- if there is something -- just because there's an investigation doesn't necessarily mean, unless there's a court order, that somebody could provide attorney/client privileged documents to Cardinal Tobin's investigatory panel. That doesn't mean he can just do that, feel free to give --

MR. McOMBER: Can he be interviewed, Judge?

THE COURT: I -- I did not say that I was going to limit him from being interviewed.

MR. McOMBER: Okay.

THE COURT: At some future time, that may change. It's unlikely.

MR. McOMBER: I understand.

THE COURT: But certainly, he is not permitted -- there's nothing different -- just because now Cardinal Tobin has this panel, is investigating, means that suddenly there's no attorney/client privilege that attaches to certain documents? That would never be the case.

[February 21, 2025 Order to Show Cause Hearing, Tr. 36:3-37:8 (emphasis added)].

As you know, after briefing and further argument, the Court entered an Order on April 4, 2025, continuing the temporary restraints the Court entered on February 21, 2025. Given the foregoing

R. Armen McOmber, Esq.

May 9, 2025

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colloquy with the Court, it is unambiguous that Plaintiff is enjoined from providing confidential and privileged information to Ropes – the only information that could be relevant to their review.

Seton Hall reserves all rights under the applicable agreements between it and Dr. Nyre, the April 4, 2025 Restraining Order that remains in effect, and the law.

Should you have any questions about this correspondence, please feel free to contact us.

Very Truly Yours,

O'TOOLE SCRIVO, LLC

/s/ Thomas P. Scrivo

Thomas P. Scrivo

EXHIBIT C

O'TOOLE SCRIVO, LLC

Thomas P. Scrivo (029101989)

Laura V. Studwell (042161986)

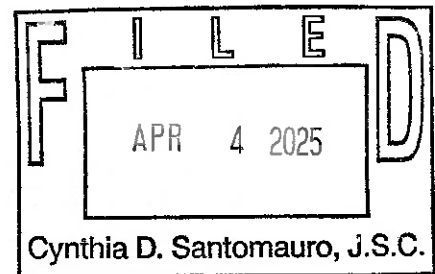
Nicole M. DeMuro (041642011)

14 Village Park Road

Cedar Grove, New Jersey 07009

(973) 239-5700

Attorneys for Plaintiff, Seton Hall University



SETON HALL UNIVERSITY,

Plaintiff,

v.

JOSEPH E. NYRE, Ph.D. and JOHN
DOES 1-10, fictitiously named individuals,

Defendants.

SUPERIOR COURT OF NEW JERSEY
ESSEX COUNTY
CHANCERY DIVISION
GENERAL EQUITY PART

Docket No. ESX-C-33-25

Civil Action

**ORDER GRANTING
INJUNCTIVE RELIEF**

THIS MATTER, having come before the Court on March 27, 2025 upon the application of O'Toole Scrivo, LLC, attorneys for Plaintiff, Seton Hall University (the "University"), for the entry of an Order granting injunctive relief against Defendant, Joseph E. Nyre, Ph.D. ("Defendant"), and the Court having previously entered the University's Order to Show Cause With Temporary Restraints on February 21, 2025, restraining and enjoining Defendant:

- a) From destroying or deleting; i) any confidential documents or information that Defendant accessed, retrieved, downloaded and/or maintained from the University, including information located in electronic files, "Cloud" based services, thumb drives, flash drives (or other forms of removable data storage devices), share files, hard drives, laptop computers and cellular telephones, until further Order; and ii) all electronic mail, text messages, voice recordings, or other documents or data which in any way refer or relate to, or reflect, communications between Defendant and Dustin Racioppi, POLITICO or any other individual or entity (excluding counsel for Defendant), concerning any confidential University information for the period July 21, 2023 through the present;
- b) From accessing any electronic files, "Cloud" based services, thumb drives, flash drives (or other forms of removable data storage devices) share files, hard drives, laptop

computers, iPads, recordings and cellular telephones that contain any University data unlawfully accessed, retrieved, downloaded or maintained by Defendant, or communications relating thereto, until further Order. This does not prohibit the Defendant from accessing his own laptop computer, iPad, cellular phones, and other electronic devices; and

- c) From disseminating, in any manner (except as to Defendant's counsel), any i) documents, electronic information or other property of the University that Defendant accessed, retrieved, downloaded and/or maintained subsequent to his resignation on July 21, 2023 through the present; and ii) confidential information or property of the University to which Defendant had access as a result of his employment with the University and failed to return to the University following July 21, 2023;

and it appearing from the University's submissions that Defendant, the former President of the University, unlawfully accessed, retrieved, downloaded and/or maintained confidential information belonging exclusively to the University (including but not limited to privileged attorney-client communications and work product, internal reports and recommendations) in violation of his Separation Agreement, Employment Agreement and the University's policies; and it further appearing that certain of the confidential documents accessed and/or downloaded by Defendants were then referenced in and attached to an article published in POLITICO; and it further appearing that, absent the requested relief, there is a significant likelihood that Defendant shall continue to unlawfully access, retrieve, download, maintain and disclose the University's confidential data and documents to the media and other sources, thereby causing serious reputational and other irreparable harm to both the University and those individuals referenced in such documents and data; and the Court having considered the ~~Verified Complaint, Certifications~~ *submissions of both parties*

~~of Paul Fisher and Matthew Borowick, Brief in Support of Order to Show Cause, and Reply Brief~~

~~in Further Support of Order to Show Cause, submitted in support of the University's application,~~

and the arguments of counsel, and for good cause shown,

IT IS on this 4th day of April, 2025,

* For the reasons stated on the record

ORDERED that the restraints entered by the Court on February 21, 2025 shall continue in full force and effect until further Order of the Court, enjoining Defendant as follows:

- a) From destroying or deleting; i) any confidential documents or information that Defendant accessed, retrieved, downloaded and/or maintained from the University, including information located in electronic files, "Cloud" based services, thumb drives, flash drives (or other forms of removable data storage devices), share files, hard drives, laptop computers and cellular telephones, until further Order; and ii) all electronic mail, text messages, voice recordings, or other documents or data which in any way refer or relate to, or reflect, communications between Defendant and Dustin Racioppi, POLITICO or any other individual or entity (excluding counsel for Defendant), concerning any confidential University information for the period July 21, 2023 through the present;
- b) From accessing any electronic files, "Cloud" based services, thumb drives, flash drives (or other forms of removable data storage devices) share files, hard drives, laptop computers, iPads, recordings and cellular telephones that contain any University data unlawfully accessed, retrieved, downloaded or maintained by Defendant, or communications relating thereto, until further Order. This does not prohibit the Defendant from accessing his own laptop computer, iPad, cellular phones, and other electronic devices; and
- c) From disseminating, in any manner (except as to Defendant's counsel), any i) documents, electronic information or other property of the University that Defendant accessed, retrieved, downloaded and/or maintained subsequent to his resignation on July 21, 2023 through the present; and ii) confidential information or property of the University to which Defendant had access as a result of his employment with the University and failed to return to the University following July 21, 2023.

~~IT IS FURTHER ORDERED that, in the event the Court finds that the Certification submitted by Defendant in opposition to the University's Order to Show Cause is false, sanctions may be imposed.~~

This Order shall be deemed served upon all parties upon its uploading to eCourts

Hon. Cynthia D. Santomauro, J.S.C.

Cynthia D. Santomauro

Opposed