

STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

Rockingham, ss.

DAVID MEEHAN

v.

STATE OF NEW HAMPSHIRE,  
DIVISION OF HEALTH AND HUMAN SERVICES

217-2020-CV-00026

**(This Order Applies Only To The Individual Meehan case.)**

ORDER ON POST-VERDICT MOTIONS

(Granting A New Trial and Approving An Interlocutory Appeal)

I. The Motion For Reconsideration / New Trial

Docket document 872, e.g. the plaintiff's motion for reconsideration of the court's orders of October 31, 2024, November 1, 2024 and November 4, 2024 is GRANTED IN PART AS FOLLOWS:

**The plaintiff's last minute, alternative request for a new trial *de novo* on all issues submitted to the first jury, including (a) the factual disputes relating to limitations, (b) liability, (c) damages for such particular "incidents" as liability may be found, (d) enhanced compensatory damages, (e) apportionment of damages among possible joint tortfeasors (e.g. Debendetto), and (f) the total number of "incidents" for which liability may be found, is GRANTED.**

**A new trial is hereby ORDERED.**

**All other relief requested in the motion for reconsideration is DENIED.**

In its Order of May 22, 2024 (docket document 777) the court explained why plaintiff is entitled to a new trial

pursuant to RSA 526:1. The court reaffirmed this ruling in all of its subsequent post-verdict motions. In essence, the jury's award of \$38 million in compensatory and enhanced compensatory damages cannot be reconciled with its finding that the award is based on a single incident. No purpose would be served by restating what has already been said.

## II. The Motion For Interlocutory Appeal

Docket document 874, plaintiff's motion to approve interlocutory appeal is also GRANTED. In this judge's view, now that a new trial has been ordered, an interlocutory appeal is not merely appropriate but necessary. Had plaintiffs not requested an interlocutory appeal, this judge would have *sua sponte* transferred similar questions. Here's why:

-The resolution of the proposed appeal turns largely on a question of first impression involving the contested interpretation of a New Hampshire statute, RSA 541-B:14, I. That statute creates a "single incident" damages cap for tort claims against the State and its agents. The parties dispute the meaning of the term "single incident." Under plaintiff's reading of the statute, a jury could find liability over 200 "single incidents." While this court reads the statute somewhat differently than the plaintiff, it nonetheless believes that a jury could find liability for more than 100 incidents. The State Defendants serially proffered two alternative

interpretations of the statute (compare Order of May 22, 2024 at pp. 15-27 with Order of November 1, 2024 at pp. 3-4, both discussing the State Defendant's oral arguments on the issue). Under either interpretation urged by the State Defendants, there could only be liability for a single "incident" in this case.

-The question of what constitutes a "single incident" within the meaning of RSA 541-B:14, I has never been addressed, even obliquely by the New Hampshire Supreme Court. This court relied on the persuasive value of national caselaw decided in other jurisdictions under similar statutes. However, the national case is sparse and incapable of providing clear guidance under the New Hampshire statute.

-The meaning of the statutory term "single incident" is important, both to this case and to over 1,200 other pending consolidated cases arising from alleged historical abuses at the Youth Development Center. In this case, the plaintiff testified that he was anally raped and forced to perform fellatio, on many different occasions spread out over several years, some occasions separated by furloughs from the facility, at various locations, at least one of which was off campus, sometimes by force and once at gun point, by several different individual tortfeasors. While many of the consolidated cases may not have the same complexity, the question of how many "incidents" have been alleged or proven will be a common theme.

-The answer to what constitutes an "incident" will thus inform settlement discussions and jury trials in a large number of cases.

-This is a legal issue that will have to be resolved by the New Hampshire Supreme Court unless the Legislature first clarifies the statute. It is an issue that is best addressed sooner, rather than later.

-Accepting the interlocutory appeal is the quickest way to get this important issue before the Supreme Court.

December 9, 2024



Andrew R. Schulman,  
Presiding Justice

**Clerk's Notice of Decision  
Document Sent to Parties  
on 12/10/2024**