

STATE OF NEW HAMPSHIRE

ROCKINGHAM, ss.

SUPERIOR COURT

217-2020-CV-00026

David Meehan, et al

v.

N.H. Department of Health and Human Services, et al
(YDC and YDSU Cases)

217-2021-CV-00523 ¹	217-2022-CV-00796	218-2023-CV-00333
217-2021-CV-00549	218-2022-CV-01086	218-2023-CV-00364
217-2021-CV-00559	218-2022-CV-01148	218-2023-CV-00368
217-2022-CV-00055	218-2023-CV-00267	218-2023-CV-00377
217-2022-CV-00060	218-2023-CV-00272	218-2023-CV-00400
217-2022-CV-00119	218-2023-CV-00276	218-2023-CV-00409
217-2022-CV-00147	218-2023-CV-00293	218-2023-CV-00411
217-2022-CV-00175	218-2023-CV-00308	218-2023-CV-00426
217-2022-CV-00356	218-2023-CV-00327	218-2023-CV-00437

**CONTRACTOR DEFENDANT NFI NORTH, INC.’S
SECOND MOTION TO DISMISS (MAY 2023 CASES)**

NOW COMES Defendant NFI North, Inc. (“NFI”) by and through its counsel, Orr & Reno P.A., and files this second motion to dismiss. This motion applies to the complaints of the 27 “Doe” Plaintiffs for which NFI accepted service of process in May 2023. NFI filed its first motion to dismiss on March 20, 2023, against the 25 “Doe” Plaintiffs that had filed contractor defendant claims against it in Rockingham County as of that time. The claims of the 27 Doe

¹ The respective Plaintiffs in these Dockets are John Doe #'s 7, 17, 24, 129, 187, 202, 217, 305, 378, 473, 554, 664, 666, 669, 675, 684, 691, 694, 700, 704, 714, 722, 724, 736, 740, and 749, and Jane Doe #65.

Plaintiffs included in this motion should similarly be dismissed because they are all time-barred and fail to state claims for relief against NFI. NFI further states:

1. These 27 “Doe” Plaintiffs allege that they were abused by NFI staff or other residents during their respective placements at NFI. All those placements occurred between 1991 and 2011. *See* Memorandum of Law Supporting Contractor Defendant NFI North, Inc.’s Second Motion to Dismiss (May 2023 Cases) at Exhibit A (summary of abuse allegations in each docket).²

2. Each complaint³ alleges five causes of action against NFI, which are: breach of a fiduciary duty on various theories (Count VIII); a purported claim for “aiding and abetting” breach of fiduciary duty (Count X); negligent hiring, training and supervision of the Defendants’ employees (Count XI); negligence (Count XII); and civil conspiracy (Count XIV)

3. As is evident from the docket list above, the Complaints and Addenda were all filed in 2021, 2022 or 2023. Given that the placements all occurred sometime between 1991 and 2011, they Complaints were all filed well after the running of the applicable 3-year limitations period set forth in RSA 508:4, I (even as extended by the application of RSA 508:8, where appropriate). *See id.* at §III.A and limitations analysis of each Complaint in Exhibit A thereto. While certain claims of a few of these Plaintiffs may allege conduct that falls within the scope of

² The details and timing of the alleged abuse are being included in a separate Exhibit to the Memorandum of Law Supporting this Motion to be filed under seal because some of these details are subject to a protective order.

³ More precisely, each Doe filed a “Short Form Complaint Supplement to Master Complaint” (“Complaint”) which incorporates the form “Master Complaint” filed in the “lead docket” No. 217-2020-CV-26. Their respect claims against NFI are contained in a nearly identical “Addendum to Short Form Complaint” (“Addendum” or collectively, “Addenda”) filed in each docket referenced in the caption. This latter pleading makes primarily conclusory allegations targeted against the State of New Hampshire Department of Health and Human Services for generalized systemic abuse within the child placement system, as opposed to allegations that relate specifically to the named Plaintiff.

RSA 508:4-g and occurred after the effective date of that statute, that extended limitations statute does not apply because these plaintiffs are pursuing claims against the corporate defendant, NFI, not the individuals who allegedly engaged in the offending conduct. *See id.* at §III.B.2.

4. Accordingly, all the claims against NFI by these 27 Plaintiffs must be dismissed because they are all time barred.

5. The Complaints also fail to allege sufficient facts to support the causes of action pled against NFI warranting dismissal of all the claims for this alternative reason. *See id.* at §IV. A - E.

WHEREFORE, Defendant NFI North, Inc. respectfully requests that the Court:

- A. Dismiss all claims against it in the 27 dockets referenced in the caption;
- B. Award NFI North its reasonable costs and attorneys' fees reasonably prorated among these dockets; and
- C. Grant such other relief as the Court deems just.

Respectfully submitted,

NFI North, Inc.

By its attorneys,

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Dated: May 30, 2023

By: /s/ Lisa Snow Wade
Lisa Snow Wade (Bar no. 5595)
lwade@orr-reno.com

Certificate of Service

I, Lisa Snow Wade hereby certify that on this 30th day of May 2023 a copy of the foregoing document was served on all parties through the Court's electronic filing system.

/s/ Lisa Snow Wade

Lisa Snow Wade (Bar no. 5595)