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Rockingham Superior Court
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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-00686[1]	**217-2022-CV-00842**	**218-2022-CV-01148**
217-2022-CV-00730	**217-2022-CV-00864**	**218-2023-CV-00043**
217-2022-CV-00743	**217-2022-CV-00905**	**218-2023-CV-00251**
217-2022-CV-00749	**218-2022-CV-00963**	**218-2023-CV-00145**
217-2022-CV-00828	**218-2022-CV-01144**	**218-2023-CV-00107**

CONTRACTOR DEFENDANTS' LIMITED OPPOSITION TO PLAINTIFFS' MOTION TO APPOINT A DISCOVERY MASTER

NOW COME **the Contractor Defendants, Easter Seals New Hampshire, Inc., Dover Children's Home, and New Hampshire Catholic Charities,** who together submit this Limited Opposition to Plaintiffs' Motion to Appoint Referee as Discovery Master in these matters. For the reasons outlined below, Plaintiffs' Motion should be denied relative to the Contractor Defendants.

Whereas the Court may appoint a Discovery Master when discovery disputes threaten to burden the Court, delay a case or prejudice a party to the action, under RSA 498:1, none of these circumstances are present here relative to the Contractor Defendants. At the outset, discovery has not even commenced between Plaintiffs and the Contractor Defendants in these cases.

[1] The respective Plaintiffs in these Dockets are John Doe #'s 86, 402, 433, 440, 452, 544, 550, 581, 616, and 637, and Jane Doe #'s 58, 61, 65, 87, and 95.

Instead, the Contractor Defendants have filed Motions to Dismiss on Statute of Limitations and other grounds which Plaintiffs have yet to oppose. Indeed, the Court's February 13, 2023 Order described the procedural status of the Contractor Defendants' cases and specified what is to occur in the event Plaintiffs oppose the pending Motions to Dismiss based on the "Discovery Rule," which Plaintiffs have already declared they will in these cases:

> If plaintiff claims the benefit the discovery rule, or claims equitable tolling or fraudulent concealment or some other doctrine tolling the limitations period, **the motion to dismiss will be automatically converted to a motion for summary judgment.**
>
> The limitations issue will then be litigated **forthwith** on the merits on summary judgment, without prejudice to later summary judgment motions on the merits. Presumably, the facts related a plaintiff's discovery of his or her injury and the defendant's role in bringing it about, as well as the facts related to plaintiff's exercise of reasonable diligence, are facts already known to the plaintiff.
>
> **Within the time for objection (or supplemental objection), plaintiff must then file a brief statement indicating that he or she intends to rely on the discovery rule (or some other doctrine). Plaintiff will then have thirty days to file an objection supported by such affidavit(s) and exhibits as may be necessary. Defendant will have 30 days to respond.**
>
> **Either party may move to extend these deadlines for the purpose of taking discovery with respect to the limitations issues. However, any deposition of the plaintiff at this early stage of the case will need to be approved by the court in advance, on a defendant's motion**

Procedural Order Relating to Claims Against Non-State Defendants, p. 10-11 (emphases in original).

By this Order, the Court has already addressed what if any discovery will be required at the current Motion to Dismiss phase of the Contractor Defendants' cases, and is in the best position to decide any disputes that may arise about that process. Accordingly, there is no need or reason to appoint a Discovery Master in the Contractor Defendants' cases, or to incur costs attendant to same. See, *New Castle v. Rand* 102 N.H. 16, 21 (1959) & *Vention Med. Advanced*

Components, Inc. v. Pappas, 2015 N.H. Super. LEXIS 7 (Merrimack Superior Court 2015). For these reasons, Plaintiffs' Motion to Appoint Referee as Discovery Master should be denied relative to the Contractor Defendants.

WHEREFORE, the Contractor Defendants respectfully request that the Court deny Plaintiffs' Motion to Appoint Referee as Discovery Master as it relates to the Contractor Defendants, together with such additional relief that justice so requires.

Respectfully submitted,

EASTER SEALS NEW HAMPSHIRE, INC.; DOVER CHILDREN'S HOME; and NEW HAMPSHIRE CATHOLIC CHARITIES

By Their Attorneys,
SULLOWAY & HOLLIS, P.L.L.C.

DATED: April 17, 2023

By: /s Rose Marie Joly, Esq.

Rose Marie Joly, Esq.
Geoffrey M. Gallagher, Esq. #20771
9 Capitol Street
Concord, NH 03301
(603) 223-2800
rjoly@sulloway.com
ggallagher@sulloway.com

CERTIFICATE OF SERVICE

I hereby certify that I state that on April 17, 2023 I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the Court's electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand delivering copies to all other interested parties.

DATED: April 17, 2023

By: /s Rose Marie Joly, Esq.
Rose Marie Joly, Esq.