

STATE OF NEW HAMPSHIRE

ROCKINGHAM, ss.

SUPERIOR COURT

CASE NO. 217-2020-CV-00026

DAVID MEEHAN

v.

STATE OF NEW HAMPSHIRE, et al.

*****THIS FILING PERTAINS TO PLAINTIFF MEEHAN'S INDIVIDUAL CASE*****
*****THIS FILING DOES NOT PERTAIN TO CONTRACTOR DEFENDANTS*****

EMERGENCY MOTION FOR HEARING

NOW COMES Plaintiff David Meehan and files this Motion requesting that the Court promptly schedule a hearing to address the following urgent matter:

1. The jury rendered a verdict in David Meehan's case on Friday, May 3, 2024. The Verdict Form was read to the parties at or around 2:00 p.m.
2. The Verdict Form indicated that David Meehan's case is not untimely, that State Defendants are liable for David Meehan's injuries, that David Meehan is entitled to \$18 million in compensatory damages and \$20 million in enhanced compensatory damages (because the jury found State Defendants' conduct to be "wanton, malicious or oppressive"), and that State Defendants are 100% liable for David Meehan's injuries such that liability should not be allocated to any individuals.
3. On the final question of the Verdict Form, Part V, Question 10, the jury indicated that David Meehan had proven one "incident" causing injury.

4. At 6:54 p.m. that same day, David Meehan's attorney, Rus Rilee, received an email from the jury foreperson. A copy of that email is attached hereto as **Exhibit 1**.¹

5. Attorney Rilee did not see the jury foreperson's email until the following morning, Saturday, May 4, 2024.

6. Attorney Rilee did not (and will not) respond to the jury foreperson, but he did share the communication with his co-counsel. After retaining and consulting with outside counsel with expertise in post-trial matters, the Honorable Gary E. Hicks, David Meehan's counsel determined that it was imperative to immediately notify the Court and opposing counsel that a juror had made contact. Accordingly, in the afternoon of May 4, 2024, David Meehan filed a Notice to Court and Request for Hearing. David Meehan's counsel also emailed the Notice to the Clerk of Court and to trial counsel for the State Defendants.

7. The Court rejected the filing as it was styled as a "Notice" when it should have been styled as a "Motion" because the filing included a request for a hearing. Accordingly, David Meehan now files this Motion requesting a hearing.

8. Additionally, since the filing of the Notice on Saturday afternoon, David Meehan's counsel has received additional emails from multiple jurors, as follows:

- a. At 6:46 PM on May 4, 2024, Attorney David Vicinanza received an email from the jury foreperson, a redacted copy of which is attached as **Exhibit 2**.
- b. At 8:14 AM on May 5, 2024, Attorney Rilee received an email from the jury foreperson, a redacted copy of which is attached as **Exhibit 3**.

¹ Exhibit 1, as well as the other emails attached to this Motion as Exhibits 2, 3, and 4, have been redacted to protect the confidentiality of the jurors' identities. David Meehan's counsel will provide unredacted copies of all emails to the Court and counsel for State Defendants at the requested hearing or in subsequent confidential transmissions if necessary.

c. At 10:34 AM on May 5, 2024, Attorney Rilee received a message through his GoDaddy website (which he uses for his legal practice) from juror number 16, a redacted copy of which is attached as **Exhibit 4**.

9. To be clear, David Meehan's counsel did not solicit these messages. Moreover, mindful of the prohibition on communicating with jurors during the period when they may be recalled to the Court, David Meehan's lawyers have not responded to any juror communications, and they will not do so pending instruction from this Court.

10. The Verdict Form's finding of only one "incident" is conclusively against the weight of the evidence and is logically inconsistent with the jury's award of \$38 million in damages. The jurors' subsequent messages further confirm that the jury misunderstood Part V, Question 10 of the Verdict Form.

11. In circumstances such as these, where a critical aspect of the jury's verdict is internally inconsistent, appears to be conclusively against the weight of the evidence, and has seemingly resulted from jury mistake or confusion, this Court not only has broad discretion, but is in fact duty-bound to take corrective action. *See, e.g., Panas v. Harakis*, 129 N.H. 591, 599 (1987); *Vatistas v. Hickens*, 121 N.H. 455, 457 (1981) ("Where it appears that the jury has misconceived its duty, it is the 'imperative duty' of the court to take corrective measures[,] including polling the jury); *Sigel v. Boston & Maine R.R., et. al.*, 107 N.H. 8, 27 (1966) (affirming trial court's corrective action of questioning the jury on its inconsistent verdicts and then directing the jury to reconsider its verdicts where a mistrial and retrial would have imposed heavy burdens on all the parties).

12. At this time, David Meehan requests a hearing on the issues described herein. Furthermore, David Meehan reserves the right to file any additional appropriate motions as justice may require as counsel obtains further understanding of the applicable facts and law.

WHEREFORE, Plaintiff David Meehan respectfully requests that the Court (a) promptly convene a hearing on Monday, May 6, 2024, to address these matters, and (b) issue any other appropriate relief as justice may require. David Meehan's counsel will bring unredacted copies of the juror communications to the hearing.

Respectfully submitted,

DAVID MEEHAN,

By and through counsel,

NIXON PEABODY LLP

Dated: May 5, 2024

RILEE & ASSOCIATES, P.L.L.C.

/s/ Cyrus F. Rilee, III

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CERTIFICATE OF SERVICE

I certify that on this May 5, 2024, I am serving a copy of this document by electronically sending it through the court's e-filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case.

/s/ David A. Vicinanzo
David A. Vicinanzo, Esq.

EXHIBIT 1

Begin forwarded message:

From: [REDACTED]
Date: May 3, 2024 at 6:54:22 PM EDT
To: crilee@rileelaw.com
Subject: DMeehan

I'm so sorry. I'm absolutely devastated.

We had no idea.

Had we have known that the settlement amount was to be on a per incident basis, I assure you, our outcome would have reflected it.

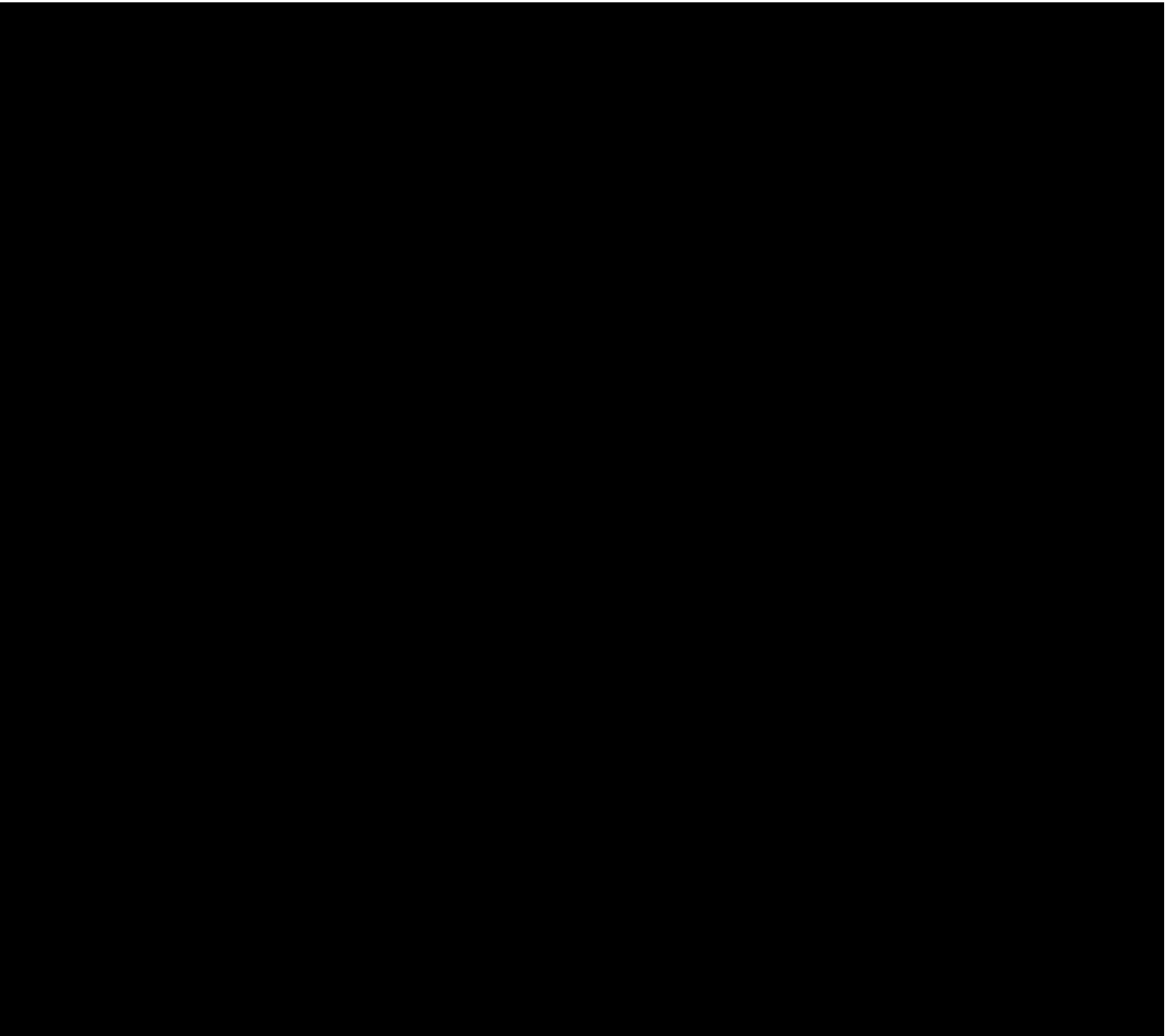
I pray that Mr. Meehan realizes this and is made as whole as he can possibly be within a proper amount of time.

Sincerely,

[REDACTED]
Jury Forperson

Sent from my iPhone

EXHIBIT 2



From: [REDACTED]
Date: May 4, 2024 at 6:46:17 PM EDT
To: "Vicinanze, David" <DVicinanzo@nixonpeabody.com>
Subject: DMeehan

[EXTERNAL E-MAIL] Be Aware of Links and Attachments

Dear Mr Vicinanze,

Please forgive me if I'm overstepping my bounds.

My name is [REDACTED] and I was the jury for person for the David Meehan trial.

My guilt kept me awake for the better part of the night last night and after doing a little searching I found your FB page. I'm assuming you're not a big FB guy, so I figured out would email as well.

I just wanted you to know that as a jury, we were unaware of the state law that Mr. Chase referred to as to their payment responsibility. I was literally sickened and brought to tears in fear of the mistake we

made. I still am.

Please know, and PLEASE let Mr. Meehan know that, had we had knowledge that that was the way it was going to work, we would NOT have written it that way.

As, I'm sure, as in all juries, we were initially "all over the map" and fairly argumentative as far as a "number" was concerned, however we all 100% agreed that ultimately the state was responsible.

Job well done sirs.

I pray that the controversy that it seems we created is resolved in a timely manor and that Mr. Meehan and his family will receive the compensation they SO deserve and are able to move on with their lives.

Also that he can get the treatment he needs in order to enjoy the rest of new life.

Sincerely,

A solid black rectangular redaction box covering the signature area.

Sent from my iPhone

EXHIBIT 3



From: [REDACTED]

Date: May 5, 2024 at 8:14:04 AM EDT

To: crilee@rileelaw.com

Subject: DMeehan

I cannot express enough how relived and happy I am to hear that my email was not only read, but that it might be able to hold even the slightest weight moving forward.

Please know that I cried again, but happy tears this morning.

Being “duped” isn’t a pleasant feeling to have.

Feel free to contact me for any questions you may have or input you may need.

Best,

[REDACTED]

Sent from my iPhone

EXHIBIT 4

From: GoDaddy <donotreply@godaddy.com>
Date: May 5, 2024 at 10:34:10 AM EDT
To: crilee@rileelaw.com
Subject: rileelaw.com Contact Us: Form Submission

Name:

[REDACTED]

Phone

[REDACTED]

Email:

[REDACTED]@yahoo.com

Subject:

David Meehan vs State of Nh

Message:

To Russ and legal team, I was juror number 16 on the David Meehan case. I also wanted to echo the thoughts of our foreperson and our verdict. We wrote on our verdict form that there was 1 incident/injury, being complex PTSD, from the result of upwards of 100+ injuries (Sexual, Physical, emotional abuse). We were never informed of a cap being placed per incident of abuse and that is wrong how the question was worded to us. The State is making their own interpretation of the ruling that we made, and that is not right for them to assume our position. We have not been given the opportunity to explain our position on the verdict. David should be entitled to what we awarded him, which was \$38 million dollars. Thank you for listening to my rationale.

This message was submitted from your website contact form:

<https://www.rileelaw.com/contact-us.html>