

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

DAVID MEEHAN

v.

STATE OF NEW HAMPSHIRE,  
DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.

217-2020-CV-00026  
and all consolidated YDC and YDSU cases

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**THIS DOCUMENT PERTAINS TO ALL CONSOLIDATED YDC AND YDSU CASES**

**THIS DOCUMENT DOES NOT PERTAIN TO CONTRACTOR DEFENDANTS**

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**MOTION TO CLARIFY OR TO FURTHER MODIFY THIS COURT'S  
AUGUST 21, 2023 PROTECTIVE ORDER**

NOW COME the State Defendants, who respectfully move to request that this Honorable Court either clarify or modify the Court's *Order Granting Plaintiff's Motion to Compel Compliance with Subpoenas and Incorporated Protective Order* dated August 21, 2023, and expanded to grant equal access to the investigative reports to the State Defendants by margin order dated September 27, 2023. The State Defendants request that the investigative reports which are the subject of the orders may be used in connection with settlement generally, and specifically may be shared confidentially in connection with claims being pursued through the YDC Claims Administration and Settlement Fund.

1. In pertinent part, the protective order states, "The documents produced pursuant to this order shall be used solely for the purpose of litigating these cases." It further provides, "The only persons who may access the documents produced pursuant to this order are (a)

Counsel of record, (b) Attorneys employed by counsel's firms for the purpose of working on these cases, (c) support staff and experts for the purpose of working on these cases."

It further provides, "If counsel includes information that comes only from the documents produced under this order in a written submission to the court, that submission shall be sealed. . ."

2. Some of the Plaintiffs in these cases are electing to pursue resolution of their cases through the YDC Claims Administration and Settlement Fund established by RSA 21-M:11-a ("the Fund"). The records of the Fund are confidential pursuant to that statute.
3. The State Defendants seek to be able to share the produced documents with the Administrator and his support staff and experts.
4. In cases where the claimant is not a plaintiff in the Consolidated YDC and YDSU cases, the State Defendants additionally seek to be able to share any produced documents that pertain to that claimant with his or her attorneys, support staff and experts.
5. It is not clear whether the Court intended that "litigating these cases" should also include efforts to settle these cases, or whether "support staff and experts" is intended to encompass neutral experts such as mediators or the Administrator of the Fund.
6. It seems clear that the spirit of the Court's protective order would not be violated by using the produced documents as described, but the State Defendants nevertheless request either clarification or a modification of the Court's orders in order to be sure they are in compliance.
7. The Criminal Division of the Attorney General's Office has been notified of this request for clarification or modification and has indicated it takes no position.

8. The Plaintiffs' attorneys' position on this request has been inconsistent. They initially indicated that they would work with State Defendants to obtain the requested relief, then complained to the Administrator of the Settlement Fund that they had made the offer of cooperation but that State Defendants had not moved forward, and now have declined to assent to this motion without providing any specific concerns. It is therefore unclear whether there is actually an objection to the relief being requested, or whether the Plaintiffs simply intend to take no position as well.

WHEREFORE, for the reasons set forth in this Motion, the State Defendants respectfully request that this honorable Court:

- A. Clarify or modify the Court's Protective Order to permit the investigative reports produced subject to the order to be used in connection with settlement generally, and specifically to permit them to be shared confidentially in connection with claims being pursued through the YDC Claims Administration and Settlement Fund; and
- B. Grant such further relief as the Court deems just and proper.

Respectfully Submitted,

State of New Hampshire, New Hampshire  
Department of Health and Human Services;  
Department of Youth Development Services;  
Division of Children, Youth, and Families; Division  
of Juvenile Justice Services; and Sununu Youth  
Services Center, a/k/a Youth Development Center  
and Youth Development Services Unit, f/k/a State  
Industrial School and Adolescent Detention Center

By their attorneys,

JOHN M. FORMELLA  
ATTORNEY GENERAL

Date: May 13, 2024

/s/ Samuel Garland  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was sent via the Court's electronic filing system to all parties of record on the date above.

/s/ Brandon F. Chase  
Brandon F. Chase