

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, ss.

SUPERIOR COURT

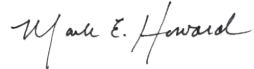
Denied as moot. The court issued an order on the motion to extend on 4/2/25.

Docket No. 217-2020-CV-00026

DAVID MEEHAN,
Plaintiff,

v.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL. ,
Defendants.



Honorable Mark E. Howard
April 2, 2025

CONSOLIDATED WITH CASE NO. 217-2020-CV-00026

JOINT MOTION FOR LEAVE TO FILE SURREPLY TO PLAINTIFF'S REPLY TO CONTRACTOR DEFENDANTS' OBJECTION TO 13 PLAINTIFFS' MOTION REQUESTING EXTENSION OF DEADLINE FOR MOTION TO RECONSIDER

NOW COME Defendants Eckerd Youth Alternatives, Inc., Mount Prospect Academy, Inc., NFI North, Inc., and Orion House, Inc. (collectively "Contractor Defendants") by and through their respective counsel, and pursuant to Superior Court Rule 13A, moves this Honorable Court for leave to file its Surreply to Plaintiffs'¹ Motion requesting that the deadline for potential motions to reconsider be extended by six months. In support thereof, Contractor Defendants state as follows:

1. Presently before the Court is Plaintiff's Motion requesting that the deadline for motions to reconsider be extended to September 10, 2025.
2. On March 19, 2025, Contractor Defendants filed their Objection to Plaintiffs' Motion.

¹ Counsel for Plaintiffs filed its Motion on behalf of John Does #24, 64, 146, 269, 480, 603, 607, 644, 656, 675, 714, 748, and Jane Doe #535.

3. On March 25, 2024, Plaintiffs filed their Reply to Contractor Defendants' Objection.

4. Plaintiffs' Reply to Contractor Defendants' Objection contains a position which is contrary to that taken in a separate pleading in the consolidated cases under Docket No. 217-2020-CV-00026, specifically Objection to the State's Motion to Stay All Trials, filed on March 24, 2025.

5. As such, Contractor Defendants are requesting leave to briefly address these new and seemingly contradictory allegations and positions in a brief surreply.

6. None of the parties to this case will be unduly prejudiced by allowing Contractor Defendants' brief Surreply.

7. A copy of the proposed surreply is attached to this motion as Exhibit A and will be filed separately if the Court permits the pleading to be entered onto the docket.

WHEREFORE, the Contractor Defendants respectfully request that the Court:

- A. Grant this motion allowing leave to file surreply;
- B. Accept Contractor Defendants' Surreply; and
- C. Grant such other relief as the Court deems just.

Respectfully submitted,

ECKERD YOUTH ALTERNATIVES, INC.
By their attorneys,

MORRISON MAHONEY LLP

Date: March 31, 2025

By: /s/ Adam R. Mordecai

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MOUNT PROSPECT ACADEMY, INC.
By their attorneys,

DEVINE, MILLIMET & BRANCH, P.A.

Date: March 31, 2025

/s/ Thomas Quarles

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NFI NORTH, INC.
By Its Attorneys,

ORR & RENO, P.A.

Date: March 31, 2025

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ORION HOUSE, INCORPORATED
By Its Attorneys,

MORRISON MAHONEY, LLP



Date: March 31, 2025

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was this day forwarded to all counsel of record via the Court's ECF system.

/s/ Adam R. Mordecai

Adam R. Mordecai

Exhibit A

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, ss.

SUPERIOR COURT

Docket No. 217-2020-CV-00026

DAVID MEEHAN,
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v.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL. ,
Defendants.

CONSOLIDATED WITH CASE NO. 217-2020-CV-00026

JOINT SURREPLY TO PLAINTIFF'S REPLY TO CONTRACTOR DEFENDANTS'
OBJECTION TO 13 PLAINTIFFS' MOTION REQUESTING EXTENSION OF
DEADLINE FOR MOTION TO RECONSIDER

Pursuant to Rule 13A, Defendants Eckerd Youth Alternatives, Inc., Mount Prospect Academy, Inc., NFI North, Inc., and Orion House, Inc. (collectively "Contractor Defendants") by and through their respective counsel, provide the within Surreply to Plaintiffs'¹ Motion requesting a six-month extension to the reconsideration period. In support thereof, Contractor Defendants state as follows:

1. Presently before the Court is Plaintiffs' Motion requesting that the deadline for motions to reconsider be extended to September 10, 2025.

2. On March 19, 2025, Contractor Defendants filed their Objection to Plaintiffs' Motion, highlighting, in part, that Plaintiffs are seeking to delay the conclusion of these matters in the hopes that new case law will rescue their now-dismissed claims.

¹ Counsel for Plaintiffs filed its Motion on behalf of John Does ##24, 64, 146, 269, 480, 603, 607, 644, 656, 675, 714, 748, and Jane Doe #535.

3. In their March 25, 2024 Reply to Contractor Defendants’ Objection, the Plaintiffs argued, in part, that it is wasteful to proceed in the referenced John and Jane Doe cases in light of the pending appeals with the New Hampshire Supreme Court (*Ball v. Roman Catholic Bishop of Manchester*, No. 2024-0606 (NH) and *John Doe #533 v. State*, No. 2025-00932 (NH)). Reply ¶ 4.

4. Plaintiffs argue that extending the reconsideration period as requested would preserve the Plaintiffs’ ability to request reconsideration of the Court’s Orders if these pending appeals are resolved in a way that benefits their cases. Reply ¶ 3; Motion ¶ 6. In Paragraph 6 of their Motion, Plaintiffs explicitly state that “justice and matters of judicial economy call for an extension of [the March 10, 2025 Motion to Reconsider deadline] by at least six months – to September 10, 2025. This is because two of the three issues triangulated in the Court’s orders are currently on appeal at the New Hampshire Supreme Court and all parties would be aided in seeking reconsideration and/or interlocutory appeal of these cases with applicable appellate opinions in-hand.” Motion ¶ 6 (emphasis added). Further, Plaintiffs admit that “disposition of the *Ball* and *John Doe #533* appeals [...] undoubtedly will influence the arguments that will be made on reconsideration,” in addition to calling the interlocutory appellate process “costly” and “time-consuming.” Reply ¶ 4.

5. This request to essentially stay these proceedings by six months (or likely more, as it is not at all certain that the cited appeals will be resolved by September) is, however, inconsistent with the position taken by Plaintiffs in connection with the State’s motion to stay trials in these consolidated Meehan cases.

6. A copy of the Plaintiffs’ objection to the State’s motion to stay is attached for the Court’s convenience as Exhibit A. In their objection, Plaintiffs argue, contrary to their current position in connection with the dismissal of these contractor defendant cases, that:

the State’s stated purpose for its proposed stay – avoiding wasteful retrials that might become necessary if the Court applies erroneous jury instructions regarding the meaning of the term “single incident” as applied to the sovereign immunity cap in RSA 541-B:14, I – is “pretextual” and was already considered and rejected by this Court. *See* August 2024 CSO at 5 (“While it would be preferable to have precedential New Hampshire Supreme Court rulings on [several important disputes of law], the lack of such rules is not grounds to delay these cases[.]”).

Objection to the State’s Motion to Stay All Trials ¶ 9 (Ex. A).

7. In their Reply pertaining to Contractor Defendants’ Objection to Plaintiffs’ Motion, Plaintiffs argue the exact opposite and that proceedings should be delayed to wait for the appellate process to provide new law, likely in hopes that Plaintiffs would have ammunition in their claims against Contractor Defendants. In their Objection to the State’s Motion, however, Plaintiffs argue that a delay of proceedings on such a basis is “pretextual” and should not serve as a basis to delay those cases.

8. Plaintiffs’ conflicting positions cannot be reconciled. If a delay of the proceedings to await appellate action is “pretextual” and inappropriate in one part of these consolidated cases, it should be viewed similarly here. Defendants ask that the Court take note of the Plaintiffs’ differing and incompatible positions and refuse to extend the reconsideration deadline as requested.

WHEREFORE, the Contractor Defendants again respectfully request that the Court:

- A. Deny 13 Plaintiffs’ Motion to Extend Reconsideration Deadline; and
- B. Grant such other relief as the Court deems just.

Respectfully submitted,

ECKERD YOUTH ALTERNATIVES, INC.
By their attorneys,

MORRISON MAHONEY LLP

Date: March 31, 2025

By: /s/ Adam R. Mordecai

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/s/ Adam R. Mordecai

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