

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*****

PLAINTIFF'S SUPPLEMENT TO EMERGENCY MOTION FOR HEARING

Plaintiff, David Meehan, supplements his Emergency Motion for Hearing as follows:

1. The jury rendered a verdict in David Meehan's case on Friday, May 3, 2024. The Court read the completed Verdict Form to the parties at or around 2:00 p.m.
2. In the hours and days after the jury delivered its verdict, the undersigned received four email communications from jurors indicating significant issues with the jury's misunderstanding of one of the questions posited by the Court in the Verdict Form.
3. The undersigned did not solicit these email communications. 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 communication, and they will not do so pending further instruction from this Court.
4. On Sunday, May 5, 2024, David Meehan provided the Court with notice and redacted copies of these email communications and requested an emergency hearing. Since then,

the undersigned received an additional email communication from a juror, a redacted copy of which is attached as **Exhibit 5**.

5. David Meehan seeks an expedited hearing on the truly extraordinary issues described in the Emergency Motion for Hearing. The continued communications received from the jurors demand the Court's attention. This exigency only increasing as time passes. And, because of this, the normal deadlines for briefing and argument are counterproductive.

6. Given the extraordinary and exigent nature of these issues, David Meehan has not sought the concurrence of Defendants' counsel. *See* N.H. Super. Ct. Civil R. 11(c). Any such attempt would likely be futile. On May 5, 2024, Defendants' counsel, Brandon Chase, wrote to the undersigned to acknowledge the four previous juror communications were "unusual" but declared their receipt did not give rise to an "emergency" in need of the Court's attention on an expedited basis. It is hard to image a more exigent circumstance in the context of a civil action—particularly when the Court has an "imperative duty" to take corrective action to avoid a "miscarriage of justice." *See Vatistas v. Hickens*, 121 N.H. 455, 457 (1981).

7. David Meehan reserves all rights to file and respond to posttrial motions in the ordinary course.

WHEREFORE, Plaintiff David Meehan respectfully requests that the Court (a) promptly convene a hearing as soon as possible, 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 6, 2024

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

/s/ Cyrus F. Rilee, III

Cyrus F. Rilee, III, Esq. (Bar No. 15881)

Laurie B. Rilee, Esq. (Bar No. 15373)

264 South River Road

Bedford, NH 03110

T: 603.232.8234

crilee@rileelaw.com

lrilee@rileelaw.com

GARY ELLIS HICKS

/s/ Gary E. Hicks

Gary E. Hicks, Esq. (Bar No. 1152)

239 Northgate Road

Manchester, NH 03104

T: 603.494.8074

gehicks@comcast.net

/s/ David A. Vicinanza

David A. Vicinanza, Esq. (Bar No. 9403)

W. Daniel Deane, Esq. (Bar No. 18700)

Mark Tyler Knights, Esq. (Bar No. 264904)

Nathan Warecki, Esq. (Bar No. 20503)

S. Amy Spencer, Esq. (Bar No. 266617)

Erin S. Bucksbaum, Esq. (Bar No. 270151)

Allison K. Regan, Esq. (Bar No. 272296)

900 Elm Street, 14th Floor

Manchester, NH 03101

T: 603.628.4000

dvicinanza@nixonpeabody.com

ddeane@nixonpeabody.com

mknights@nixonpeabody.com

nwarecki@nixonpeabody.com

aspencer@nixonpeabody.com

ebucksbaum@nixonpeabody.com

aregan@nixonpeabody.com

CERTIFICATE OF SERVICE

I certify that on this May 6, 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. Vicinanza

David A. Vicinanza, Esq.

EXHIBIT 5

From: [REDACTED]
Subject: Availability
Date: May 6, 2024 at 7:01 AM
To: dvicinanzo@nixonpeabody.com, crilee@rileelaw.com

Also, please know that I am literally 12 minutes door to door from both work and home from the courthouse and have NO problem speaking to anyone involved if necessary.

[REDACTED]
Sent from my iPhone