

Clerk's Notice of Decision  
Document Sent to Parties

on 04/14/2023

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

Granted



Honorable Andrew R. Schulman

April 14, 2023

CASE NO. 217-2020-CV-00026

DAVID MEEHAN, ET AL

v.

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

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217-2022-CV-00905	217-2022-CV-00824	217-2022-CV-00833
217-2022-CV-00706	217-2022-CV-00825	217-2022-CV-00841
217-2022-CV-00714	217-2022-CV-00826	217-2022-CV-00865
217-2022-CV-00730	217-2022-CV-00795	217-2022-CV-01081
217-2022-CV-00732	217-2022-CV-00797	218-2023-CV-00040
217-2022-CV-00822	217-2022-CV-00804	
217-2022-CV-00823	217-2022-CV-00831	

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**ASSENTED-TO MOTION TO EXTEND PLAINTIFFS' DEADLINE  
TO RESPOND TO DEFENDANTS' MOTIONS TO DISMISS**

NOW COMES Plaintiffs by and through undersigned counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody LLP, and submits this motion to extend their deadlines<sup>1</sup> to respond to Defendants Orion House, Incorporated's ("Orion House"), Mount Prospect Academy, Inc. ("Mount Prospect"), and F.L. Chamberlain Center, Inc.'s ("Chamberlain Center") Motions to Dismiss, stating in support as follows:

1. On February 10, 2023, this Court issued a Procedural Order Relating to Non-State Defendants, which set forth a coordinated briefing schedule with respect to anticipated responsive

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<sup>1</sup> See List of Plaintiffs and case numbers appended hereto in **Exhibit A**.

pleadings. That order provides, in part, that where a defendant's motion to dismiss raises an argument that the statute of limitations has run, plaintiff must, within the time for objection, file a brief statement that he or she intends to rely on the discovery rule or other tolling doctrine. Thereafter, the motion to dismiss will be automatically converted to a motion for summary judgment and plaintiff will have thirty days to file an objection supported by affidavits and evidence. *See* Proc. Order, Feb. 10, 2023 (Index #241 (217-2020-CV-00026)).

2. The Court also authorized either party to “move to extend these deadlines for the purpose of taking discovery with respect to the limitations issues.” *See id.* at 10.

3. Prior to this Court's Procedural Order, Attorney DePasquale moved to dismiss John Doe #402's complaint on behalf of Mount Prospect Academy, John Doe #415 and John Doe #480's complaints on behalf of Orion House, and John Doe #526's complaint on behalf of Chamberlain Center. Each Plaintiff filed a “placeholder objection,” (in their respective dockets) preserving their arguments and requesting the Court permit each to submit a supplemental objection following the Court's decision on plaintiff's proposed coordinated briefing schedule, addressed at the January 27, 2023 status conference and motion hearing.

4. In late February and early March, Attorney DePasquale filed 16 additional motions to dismiss in on behalf of either Mount Prospect Academy or Orion House and, in accordance with this Court's Procedural Order, plaintiffs each noticed their intent to rely on the discovery rule and other equitable tolling doctrines in their respective dockets.

5. Presently, the plaintiffs in the above-captioned matters are due to object to their respective motions to dismiss on April 14, 17, or 18. The exact filing dates as to each Plaintiff and each Plaintiff's corresponding deadline to object to the respective motion to dismiss is set forth in

**Exhibit A.**

6. Despite diligent efforts to maintain the present deadlines, Plaintiffs require additional time to file “objection(s) supported by such affidavits and exhibits as may be necessary” as required by the Court’s Procedural Order and request an extension “for the purpose of taking discovery with respect to the limitations issues.” *See* Proc. Order at 10.

7. Of the 19 plaintiffs identified herein, more than half are currently incarcerated, which severely limits undersigned counsel’s ability to coordinate phone calls and meetings with clients. As the statute of limitations issue is to be decided on the merits of summary judgment, *see id.*, these communications and meetings are critical to prepare plaintiffs’ declarations of fact in support of their objections to the pending motions to dismiss.

8. Accordingly, Plaintiffs respectfully request their objection deadlines be extended until **April 24, 2023** to allow Plaintiffs additional time necessary to meet with clients and finalize affidavits, declarations, and expert evidence in support of their objections. *See* Proc. Order at 10. These extensions will also prevent the miscarriage of justice that would occur if plaintiffs were prevented from submitting the evidence outlined herein in support of their objections.

9. Undersigned counsel believes that the parties’ and the court’s interests in efficiency favor maintaining a consistent briefing schedule for this batch of complaints which Orion House, Chamberlain Center, and Mount Prospect Academy seek to dismiss. The requested extensions will also serve that purpose by harmonizing the objection deadlines for all 19 plaintiffs identified herein.

10. Undersigned counsel conferred with Attorney DePasquale who assents to the extensions and relief requested herein.

11. No other parties to this matter are prejudiced by this brief extension and the extension will not result in a continuance of any other court-ordered deadline.

WHEREFORE, Plaintiffs respectfully requests that the Court:

- A. Grant this Motion to Extend Plaintiffs' deadlines to object to the pending motions to dismiss filed by Attorney DePasquale on behalf of Mount Prospect Academy, Orion House, and Chamberlain Center until April 24, 2023; and
- B. Grant such other relief as the Court deems just.

Respectfully submitted,

**PLAINTIFFS**

Dated: April 11, 2023

By and through counsel,

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

**NIXON PEABODY LLP**

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/s/ Allison K. Regan

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**CERTIFICATE OF SERVICE**

I state that on this date, April 11, 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 copies to all other interested parties.

*/s/ Allison K. Regan* \_\_\_\_\_  
Allison K. Regan, Esq.

**EXHIBIT A**

<b>Plaintiff</b>	<b>Civil Action No.</b>	<b>Motion to Dismiss Filed</b>	<b>Notice of Intent to Rely Filed</b>	<b>Plaintiff's Deadline to Object</b>
John Doe #402	217-2022-CV-00905	December 2, 2022	March 15, 2023	April 14, 2023
John Doe #409	217-2022-CV-00706	February 27, 2023	March 19, 2023	April 18, 2023
John Doe #415	217-2022-CV-00714	January 18, 2023	March 15, 2023	April 14, 2023
John Doe #433	217-2022-CV-00730	March 6, 2023	March 16, 2023	April 15, 2023
John Doe #435	217-2022-CV-00732	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #461	217-2022-CV-00822	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #464	217-2022-CV-00823	March 7, 2023	March 17, 2023	April 16, 202
John Doe #465	217-2022-CV-00824	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #466	217-2022-CV-00825	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #468	217-2022-CV-00826	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #471	217-2022-CV-00795	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #480	217-2022-CV-00797	January 18, 2023	March 15, 2023	April 14, 2023
John Doe #526	217-2022-CV-00804	January 20, 2023	March 15, 2023	April 14, 2023
John Doe #533	217-2022-CV-00831	March 7, 2023	March 17, 2023	April 16, 202
John Doe #535	217-2022-CV-00833	March 7, 2023	March 17, 2023	April 16, 202
John Doe #543	217-2022-CV-00841	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #548	217-2022-CV-00865	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #553	217-2022-CV-01081	March 7, 2023	March 17, 2023	April 16, 2023
John Doe #607	218-2023-CV-00040	February 24, 2023	March 6, 2023	April 17, 2023