

Clerk's Notice of Decision
Document Sent to Parties

on 12/30/2022

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

CASE NO. 217-2020-CV-00026

Granted



Honorable Andrew R. Schulman
December 29, 2022

DAVID MEEHAN

v.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.
(IN RE YDC and YDSU CONSOLIDATED LITIGATION)

MOTION TO EXTEND TIME FOR SERVICE
ON DEFENDANT MOUNT PROSPECT ACADEMY

NOW COMES Plaintiffs¹, by and through undersigned counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody LLP, and respectfully request an extension of the time to complete service upon Defendant Mount Prospect Academy (“MPA”), stating in support thereof as follows:

1. These civil actions arise from a vast and long-ranging pattern of horrific abuse permitted and perpetrated by the State of New Hampshire, Department of Health and Human Services; Department of Youth Development Service; Division of Children, Youth and Families; Division of Juvenile Justice Services; Sununu Youth Services Center; and Youth Development Services Unit (collectively referred to as the “State Defendants”), along with their employees and agents.

2. Since or around the time of the filing of these actions, undersigned counsel has filed approximately 642 civil actions against the State Defendants and certain employees and agents (the “YDC Cases”). The burdens of effecting service in each of the YDC Cases within

¹ See List of Plaintiffs and case numbers appended hereto as **Appendix A**.

the court-ordered deadlines for service cannot be overstated. The number of services of process to be effected in the YDC Cases is in the thousands and involves immense coordination between more than a dozen attorneys, along with process servers and court personnel.

3. Plaintiffs' John Doe ## 409, 433, 435, 461, 464, 465, 466, 468, 471, 473, 533, and 535 each filed a Short Form Complaint ("SFC") utilizing pseudonyms, and a corresponding sealed addendum to the Short Form Complaint ("SFC Addendum"), which provides the Plaintiffs' name and date of birth.

4. Following the filing of the civil action by Plaintiff John Doe #409, the Court issued a Summons directing that service be completed by December 30, 2022, and to electronically file proofs of service with the Court by January 20, 2023. This Plaintiff requests an additional 60 days to complete service upon Defendant MPA, and for filing proof of service – or until February 28, 2023 and March 21, 2023, respectively.

5. Following the filing of the civil actions by Plaintiffs John Doe #433 and John Doe #435, the Court issued Summonses directing that service be completed by December 31, 2022, and to electronically file proofs of service with the Court by January 21, 2023. These Plaintiffs request an additional 60 days to complete service upon Defendant MPA, and for filing proofs of service – or until March 1, 2023 and March 22, 2023, respectively.

6. Following the filing of the civil actions by Plaintiffs John Doe #471 and John Doe #473, the Court issued Summonses directing that service be completed by January 6, 2023, and to electronically file proofs of service with the Court by January 27, 2023. These Plaintiffs request an additional 60 days to complete service upon Defendant MPA, and for filing proofs of service – or until March 7, 2023 and March 28, 2023, respectively.

7. Following the filing of the civil actions by Plaintiffs John Doe #461, John Doe #464, John Doe #465, John Doe #466, John Doe #468, John Doe #533, and John Doe #535, the Court issued Summonses directing that service be completed by January 7, 2023, and to electronically file proofs of service with the Court by January 28, 2023. These Plaintiffs request an additional 60 days to complete service upon Defendant MPA, and for filing proofs of service – or until March 8, 2023 and March 29, 2023, respectively.

8. Civil Rule 4 directs that Plaintiff “will cause the Summons together with a copy of the Complaint to be served on defendant no later than the court-ordered deadline for service, service to be made as specified in RSA 510, or as otherwise allowed by law.” Proof of such service is to be filed with the Court “within 21 days of the court-ordered deadline for service.”

9. Earlier this month, plaintiffs provided counsel for MPA, who entered an appearance in JD #402, with courtesy copies of Plaintiffs’ SFC’s, among other plaintiffs’ SFC’s, at his request.

10. Thereafter, Plaintiffs began process of effecting service upon Defendant MPA, by requesting counsel for MPA accept service. In response, counsel for MPA did not indicate whether he will accept service on behalf of MPA, and instead requested undersigned counsel provide Plaintiffs’ names and dates of birth to aid MPA in its decision to accept service or be served conventionally. As of the filing of this motion, undersigned counsel provided counsel for MPA with copies of Plaintiffs’ sealed SFC Addendums containing the requested information.

11. As of the date of this filing, discussions between undersigned counsel and counsel for MPA regarding acceptance of service remain ongoing.

12. In light of the recent and upcoming holidays, corresponding staffing shortages, and to allow the parties to continue their discussions regarding MPA’s ability to accept service of

these complaints, or, in the event MPA declines to accept service of these complaints, to allow Plaintiffs to effect proper conventional service in these cases, Plaintiffs seek an extension of the deadlines by which to complete service upon Defendant MPA.

13. The extension of time for services and filing proofs of service will result in no prejudice to MPA, the State Defendants, or other named Defendants, and will not result in the continuance of any other court-ordered deadline.

14. Should the court grant this motion, Plaintiffs will file a request for new Summons (Form NHJB-4008-Se) in each of their respective cases.

15. Although no service has yet been made in these civil actions upon Defendant MPA, Plaintiffs requested counsel for MPA's assent to the relief requested in this motion. As of the filing of this motion, counsel for MPA has not responded.

WHEREFORE, Plaintiffs respectfully request that the Honorable Court:

- A. EXTEND the deadlines to complete service upon Defendant MPA by an additional 60 days, as outlined above;
- B. EXTEND the deadline to file proofs of service as outlined above; and
- C. GRANT any such further relief as justice requires.

Respectfully submitted,

PLAINTIFFS (APPENDIX A)

By and through counsel,

NIXON PEABODY LLP

Dated: December 28, 2022

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

/s/ Allison K. Regan
Allison K. Regan, Esq. (Bar No. 272296)
David A. Vicinanza, Esq. (Bar No. 9403)
W. Daniel Deane, Esq. (Bar No. 18700)
Mark Tyler Knights, Esq. (Bar No. 264904)
Kierstan Schultz, Esq. (Bar No. 20682)

crilee@rileelaw.com
lrilee@rileelaw.com

Nathan Warecki, Esq. (Bar No. 20503)
Erin S. Bucksbaum, Esq. (Bar No. 270151)
900 Elm Street, 14th Floor
Manchester, NH 03101
T: 603-628-4000
dvicinanzo@nixonpeabody.com
ddeane@nixonpeabody.com
mknights@nixonpeabody.com
kschultz@nixonpeabody.com
nwarecki@nixonpeabody.com
ebucksbaum@nixonpeabody.com
aregan@nixonpeabody.com

CERTIFICATE OF SERVICE

I state that on this date, December 28, 2022, 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 Regan _____
Allison Regan, Esq.

APPENDIX A

John Doe #409 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00706
John Doe #433 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00730
John Doe #435 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00732
John Doe #461 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00822
John Doe #464 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00823
John Doe #465 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00824
John Doe #466 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00825
John Doe #468 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00826
John Doe #471 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00795
John Doe #473 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00796
John Doe #533 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00831
John Doe #535 v. State of New Hampshire, DHHS, et al., Case No. 217-2022-CV-00833