

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, ss.

SUPERIOR COURT

Docket No. 217-2020-CV-00026

DAVID MEEHAN,
Plaintiff,

v.

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

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

**JOINT OBJECTION OF CONTRACTOR DEFENDANTS TO 13 PLAINTIFFS’
MOTION TO EXTEND RECONSIDERATION DEADLINE IN CONNECTION WITH
COURT’S RULINGS ON CONTRACTOR DEFENDANTS’ MOTION TO DISMISS**

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 object to 13 Plaintiffs’¹ Motion requesting that the deadline for potential motions to reconsider be extended by six months. In further support thereof, Contractor Defendants state as follows:

1. On February 27 and 28, 2025, the Court issued orders in the 13 Plaintiffs’ cases, ruling on the various Contractor Defendants’ Motions to Dismiss. In some cases for these Plaintiffs, the Court dismissed all claims against a Contractor Defendant. In others, a limited set of claims against Contractor Defendants remain. Plaintiffs evidently plan to seek reconsideration of those decisions in all 13 cases. Plaintiffs evidently intend to argue that this Court erred in its

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.

application of the discovery rule, its characterization of strip searches relative to the definition of “sexual assault” under the law, and its refusal to allow retroactive application of 508:4-g (2020) to Plaintiffs’ claims.

2. Ordinarily, motions to reconsider are due on or before ten (10) days following the date on the written Notice of the order. NH Super. Ct. Civil R. 12(e). Given that the Court’s decisions were issued on February 27 and 28, the deadline for filing Motions to Reconsider was March 10, 2025. Rather than file motions meeting that deadline, on March 10, 2025, Plaintiffs filed their Motion requesting a *six-month* extension of the reconsideration deadline. Plaintiffs have asked to be allowed until September 10, 2025 to be allowed to seek reconsideration of this Courts’ various Orders. This level of extension would be excessive, unjust, and prejudicial to Contractor Defendants.

3. While the Court had previously issued a stay in the Rockingham County consolidated cases under this docket number, there is disagreement as to the extent to which that stay remains in force. That stay has not, for instance, precluded this Court from taking action on the pending motions to dismiss and it should not dictate that a months’ long extension of the reconsideration deadline is warranted. Even if still in force to some degree, that stay does not create an assumption that a six-month extension is reasonable.

4. Courts have a legitimate interest in the enforcement of certain deadlines, “both to manage a pending case and to retain the credibility of these deadlines in future cases.” State v. Knight, 161 NH 338, 341 (2011) (quoting United States v. Trobee, 551 F.3d 835, 838 (8th Cir. 2009)). Given its decision on the motions to dismiss at issue here, it seems reasonable to assume that additional orders on pending motions to dismiss will be forthcoming. Granting the Plaintiffs’ the excessive extension they have requested here would set expectations for those other cases and

pave the way for further extension beyond the September, 2025 deadline now requested by Plaintiffs. Granting the overlong extension requested in this cases is likely to have a ripple effect on other consolidated cases in this litigation where this period may become the standard for Plaintiffs to file their Motions, and perhaps longer timeframes for greater than 13 pleadings coming due.

5. This unreasonable extension for 13 Plaintiffs (of the hundreds in Rockingham County) to file Motions to Reconsider the Court's Orders could significantly set back the litigation trajectory and would unfairly keep the Contractor Defendants – several of whom have been granted full dismissals – bound to this case for what is likely to be nearly another full year (assuming the Court takes some time after reconsideration briefing is completed to issue a decision). That is unfair and prejudicial to the Defendants. If the Plaintiffs wanted to seek reconsideration, they should have done so by the applicable deadline (and if they had desired a brief extension to that deadline, counsel for the Contractor Defendants would have happily granted something reasonable as a professional courtesy). Plaintiffs, as with any similarly-situated litigants, had a choice to make when the Court issued its decisions in these case if unhappy with the result: timely move for reconsideration or appeal to the Supreme Court (or seek an interlocutory appeal in those cases with partial dismissals). The approach taken instead by Plaintiffs is not contemplated by the Court Rules and will hardly lead to prompt resolution of these or any of the many cases involving Contractor Defendants.

6. Additionally, in proposing a September 10, 2025 deadline for filing, Plaintiffs heavily overestimate the time required to draft and file their Motions to Reconsider. In a Motion to Reconsider, Plaintiffs are required to state *with particular clarity* points of law or fact that the court has overlooked or misapprehended, and such Motions shall not exceed 10 pages. NH Super.

Civ. Ct. R. 12(e). Court Rules require that Plaintiffs be limited to the length and substance of each Motion to Reconsider. To do so would not require a six-month extension.

7. Moreover, in their present Motion, Plaintiffs do not conceal the fact that they seek to delay the filing of Motions to Reconsider to await possible new case law to aid their positions on the respective issues: Resolution of John Doe #533's appeal concerning the discovery rule, and that of *Ball v. Roman Catholic Bishop of Manchester* regarding retroactive application of the 2020 amendment to 508:4-g. The Court is not required to wait for the resolution of other cases to proceed in the present cases. This Court has already rendered its decisions based upon its interpretation of existing case law and authorities. The Plaintiffs are free to appeal those decisions and perhaps would have an avenue through the appellate process to introduce new authorities that may have a bearing on these cases. Entering what amounts to a stay of the reconsideration period to await that possible new authority is not warranted or appropriate here, particularly given that there is very little likelihood that those other appeals will be resolved by this coming September.

8. Furthermore, there is no guarantee that these appeals will provide Plaintiffs the ammunition they seek for their Motions to Reconsider. Plaintiffs essentially request Court permission to "lie in wait" for possible differences in case law concerning these two issues. Based on the current state of the law as it exists today, this Court properly ruled that the present Plaintiffs' complaints were deficient as stated in the Orders on respective Motions to Dismiss.

9. Plaintiffs should not be allowed to delay this litigation in the interests of hoping for new case law to support their claims. John Doe #533 is unlikely to be the last John/Jane Doe Plaintiff to seek appeal to the New Hampshire Court. To grant permission for these Plaintiffs to delay filing their Motions to Reconsider may, again, create an unnecessary ripple effect in this litigation where waiting for appellate resolutions may become the standard. Granting Plaintiffs'

Motion would be unfairly prejudicial for Contractor Defendants for the reasons mentioned above and would unnecessarily stall resolution of *these* cases.

10. Additionally, should the Court deny any portion of a Plaintiff's Motion to Reconsider, Plaintiff may still later appeal that decision. Their right to seek redress from dismissal of their claims against Contractor Defendants is not forever foreclosed.

11. Lastly, Plaintiffs did not make an attempt to obtain concurrence in the relief sought in accordance with Rule 11(c) of the Superior Court. As such, Contractor Defendants did not have the opportunity to discuss a more reasonable extension with Plaintiffs' counsel.

WHEREFORE, the Contractor Defendants respectfully request that the Court:

- A. Deny 13 Plaintiffs' Motion to Extend Reconsideration Deadline in Connection With Court's Rulings on Contractor Defendants' Motions to Dismiss; and
- B. Grant such other relief as the Court deems just.

Respectfully submitted,

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By their attorneys,

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Date: March 19, 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