

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT
Case No. 217-2020-CV-00026

DAVID MEEHAN

v.

STATE OF NEW HAMPSHIRE, et al.

(IN RE YDC and YDSU CONSOLIDATED LITIGATION)

*** this motion pertains to more than five cases ***
*** this motion pertains to Contractor Defendants ***

**THE 12 PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO EXTEND
RECONSIDERATION DEADLINE IN CONNECTION WITH COURT'S RULINGS ON
CONTRACTOR DEFENDANTS' MOTIONS TO DISMISS**

The 12 Plaintiffs,¹ by their counsel, submit this reply in support of their motion for a six-month extension of the deadline for filing motions to reconsider regarding the Court's recent orders on the motions to dismiss filed by various Contractor Defendants in the YDC/YDSU Consolidated Litigation.

1. The 12 Plaintiffs requested an extension of time to file motions to reconsider to ensure that if either, or both, of the two pending appeals identified in their motion for an extension affect the validity of the Court's February 27 and 28, 2025, dismissal orders, they can move to reconsider those orders at the appropriate time. *See Ball v. Roman Catholic Bishop of Manchester*, No. 2024-0606 (N.H.) (addressing whether an institutional defendant sued for claims arising from sexual assault is entitled to constitutional protection against the retrospective application of the 2020 amendment to RSA 508:4-g); *John Doe #533 v. State*, No. 2025-0092 (N.H.), *accepted* Feb. 28, 2025) (addressing the application of the discovery rule to Contractor Defendant Mount

¹ The 12 Plaintiffs who join this reply are listed in **Exhibit A** to their motion.

Prospect Academy Inc. in connection with physical-abuse claims and sexual-abuse claims that are not otherwise timely under RSA 508:4-g).

2. The Contractor Defendants do not dispute the 12 Plaintiffs' description of the issues in the *Ball* and *John Doe #533* appeals. (*Compare* Mot. ¶¶ 7–8 with Resp. ¶¶ 7–8.) Nor do they dispute that those appeals could affect the outcome of the 12 Plaintiffs' cases. (*Compare* Mot. ¶¶ 7–8 with Resp. ¶¶ 7–8.) Instead, the Contractor Defendants claim “there is no guarantee” that the appeals will result in decisions requiring this Court to reconsider the dismissal orders. (Resp. ¶ 8.)

3. In doing so, the Contractor Defendants miss the point of the 12 Plaintiffs' request to extend the reconsideration deadline. Contrary to the Contractor Defendants' assertions, the 12 Plaintiffs are not “[y]ing] in wait” for new case law. (Resp. ¶ 8.) None of the subject orders are currently appealable because live claims remain against the State Defendants in each of those cases, and the Court declined to designate any of the subject orders as “final” under Civil Rule 46(c). Therefore, the motion does not seek to stay the litigation. Rather, it seeks to preserve the 12 Plaintiffs' ability to move for reconsideration with respect to their claims against the Contractor Defendants as their cases otherwise move through the queue against the State Defendants.

4. To the extent the 10-day reconsideration deadline set forth in Civil Rule 12(e) is material to this motion, *see* N.H. Super. Ct. R. 12(e) (motion to reconsider must be filed “within 10 days of the date on the written Notice of the order or decision”); *Carleton v. Balagur*, 162 N.H. 501, 506 (suggesting that, under the Supreme Court's analogous Rule 22, reconsideration would not have been untimely if defendants had simply “filed for leave to submit a motion for reconsideration after the deadline”), good cause otherwise exists for an extension of the reconsideration deadline, *see* N.H. Super. Ct. R. 1(d) (superior court “may waive the application of any rule” for “[g]ood cause . . . and as justice may require”). Here, the subject orders are

interlocutory, and the disposition of the *Ball* and *John Doe #533* appeals after the 10-day reconsideration deadline undoubtedly will influence the arguments that will be made on reconsideration. Rather than undertaking the costly and time-consuming process of appealing those orders, then seeking reconsideration when the appeals are decided, the 12 Plaintiffs can move to reconsider them in a summary motion attaching the relevant decision or decisions of the New Hampshire Supreme Court.

5. The Contractor Defendants appear to suggest that the 12 Plaintiffs should appeal the orders in question now. (Resp. ¶ 7.) But if this Court had wanted the parties to engage in a piecemeal appellate process, rather than waiting until the cases have concluded to pursue appeals, then the Court would have designated the orders as “final,” rather than interlocutory, under New Hampshire Superior Court Rule 46(c). *See* N.H. Super. Ct. R. 46(c). The Court did not do so here, even though it has done so in other, similar cases, such as *John Doe #533*.

6. Because the subject orders are interlocutory, none of the orders at issue are “final,” and none of the cases have yet been scheduled for trial on the remaining claims against the State Defendants, the proposed extension of the reconsideration deadline will not affect any other court-ordered deadline, prejudice any party, or substantially delay the administration of justice. The Contractor Defendants’ arguments to the contrary are based on the mistaken, unsupported premise that extending the reconsideration deadline will “set back the litigation” as a whole. (Resp. ¶ 5.) It will not.

WHEREFORE, Plaintiffs respectfully request that the Honorable Court:

- A. GRANT the 12 Plaintiffs’ motion;
- B. CLARIFY that the Court’s recent orders in these 12 Plaintiffs’ cases are not “final” for the purpose of Civil Rule 46(c);

C. EXTEND the reconsideration deadline under Civil Rule 12(e) in each of the 12 Plaintiffs' cases for a period of six months, to September 10, 2025; and

D. GRANT any further relief the Court deems just.

Respectfully submitted,

THE 12 PLAINTIFFS

Dated: March 25, 2025

By and through counsel,

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

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CERTIFICATE OF SERVICE

I certify that on March 25, 2025, 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 e-filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case.

/s/ Nathan P. Warecki

Nathan P. Warecki, Esq.