

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Case No. 217-2025-CV-00480

Andrew Foley;
Ronald “Chuck” Miles; and
Jane Doe #231

On behalf of themselves and all those similarly situated

v.

The State of New Hampshire;
New Hampshire Governor, Kelly Ayotte, in her official capacity; and
New Hampshire Attorney General, John Formella, in his official capacity.

**AFFIDAVIT OF ATTORNEY JONATHAN D. O’NEIL IN SUPPORT OF
PLAINTIFFS’ MOTION TO RECONSIDER SEPTEMBER 12, 2025 ORDER ON
PRELIMINARY INJUNCTION**

I, Jonathan D. O’Neil, being duly sworn on oath, deposes and states as follows:

1. I am a licensed attorney admitted to practice before the Courts of the State of New Hampshire and an associate with the law firm Nixon Peabody LLP (“Nixon Peabody”). I am fully familiar with the facts and circumstances surrounding this action and the matters stated in this affidavit.
2. I submit this affidavit in support of Plaintiffs’ Motion to Reconsider the September 12, 2025 Order on Plaintiffs’ Motion for Preliminary Injunction.
3. Following the hearing on Plaintiffs’ Motion for Preliminary Injunction, the Attorney General utilized his newfound “veto” power to reject approximately 20% of Administrator Broderick’s then-pending decisions on Settlement Fund claims by claimants represented by Nixon Peabody and Rilee & Associates, P.L.L.C.
4. The claimants whose decisions the Attorney General chose to veto had fully participated in the entire Settlement Fund process as it existed prior to the challenged amendments,

including recounting the abuse they endured at a Resolution Proceeding. The claimants then received a decision which they were told was “final,” in which Administrator Broderick recognized that they had testified credibly and that they deserved compensation from the State for the abuse they suffered as children in the State’s custody. Nevertheless, the Attorney General expressly rejected the Administrator’s decisions on these claims without explanation.

5. Because the Attorney General used his veto power afforded him in the revised Settlement Fund statute, these claimants are now forced to start this grueling and retraumatizing process all over again in Rockingham County Superior Court. Making matters worse, once each of these plaintiffs’ claims returns to Judge Schulman’s docket, they will be moved to the back of the line for trial. *See Meehan v. State of N.H., et al.*, No. 217-2020-CV-00026, Amendment to Case Structuring Order of Aug. 15, 2024 ¶ 5 (Index # 886) (Schulman, J., Dec. 9, 2024), attached hereto as **Exhibit A**.

6. Moreover, it will likely be several years before any returning Settlement Fund plaintiffs’ claims go to trial, thus delaying their ability to obtain justice. To date, only one case has proceeded to trial (David Meehan’s, in the spring of 2024) and only two cases are presently scheduled for trial in Rockingham County Superior Court in 2026. *See Meehan v. State of N.H., et al.*, No. 217-2020-CV-00026, Order Approving Stipulation Regarding Order of Cases for Trial (Index #937) (Schulman, J., Sept. 18, 2025), attached hereto as **Exhibit B**.

7. Judge Schulman also indicated at a recent status conference that a group of at least eighteen plaintiffs who never filed Settlement Fund claims will have priority for trial dates over any returning Settlement Fund claimants. Accordingly, it will likely be several years before any withdrawn Settlement Fund claimants see a trial.


8. Many of our clients will never receive justice. Indeed, 50 of our clients have passed away since the consolidated litigation began in 2021. That number will inevitably increase as a result of the delays caused by Defendants' dismantling of the Settlement Fund. Based on the average settlement amounts in the Settlement Fund, the deaths of 50 victims yielded a savings to the State of approximately \$20 million. Additional delays will mean additional deaths and further savings to the State of funds which should be directed to victims.

9. Absent a functioning Settlement Fund that delivers upon the State's promises to the YDC Settlement Fund claimants, our clients' constitutional rights to "recourse to the laws, for all injuries" and "to obtain right and justice freely," "promptly," and "without delay," N.H. Const. Part I, Art. 14, will be nothing more than another empty promise.

I declare, under penalty of perjury, that the foregoing is true and accurate.

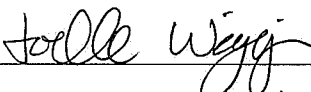
FURTHER AFFIANT SAYETH NAUGHT.

Dated: October 2, 2025



Jonathan D. O'Neil, Esq.

Subscribed and sworn to before me this 2nd day of October, 2025.



Print Name: Joelle Wigg
Notary Public/Justice of the Peace
My Commission Expires: 5/17/25



EXHIBIT A

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

Rockingham, ss.

DAVID MEEHAN

v.

STATE OF NEW HAMPSHIRE,
DIVISION OF HEALTH AND HUMAN SERVICES

217-2020-CV-00026

**(This Order Applies Only To Cases Without Contractor
Defendants That Are Assigned To Judge Schulman)**

Amendment To Case Structing Order Of August 15, 2024

As discussed at the November 15, 2024 status conference:

1. The State Defendants shall file Rule 9 answers or motions to dismiss within 60 days of receipt of the plaintiff's enhanced rule 22 disclosures.

2. The State Defendants shall also file, within the same 60 days, notices of affirmative defenses.

3. **Individual cases that have not yet been scheduled for trial** shall be stayed when (a) a plaintiff submits a claim to the YDC Claims Administration And Settlement Fund established by RSA 21-M:11-a, and (b) the parties file a notice that they have agreed to a stay. To streamline the process, the parties may continue to file forms generated by the Settlement Fund which are captioned "Notice of Automatic Stay," so long as it is understood that (a) the statute does not create an automatic stay that is binding on the court and (b) the court retains the

ability, and indeed has substantial inherent judicial authority, to control its docket. The court does not cede that authority, but rather exercises it by staying cases that have not yet been scheduled for trial on notice, rather than by motion, pending the plaintiff's participation in the statutory settlement process).

4. Cases that have been scheduled for trial may be stayed, as justice may require, on motion.

5. A plaintiff whose case is stayed will lose his or her current priority on the docket. This is particularly important for plaintiffs whose cases have been scheduled for trial because they will lose both the scheduled trial date and priority for a rescheduled trial.

6. When a case has been stayed, the plaintiff shall file status reports every six months, measured from the date of the stay.

December 9, 2024



Andrew R. Schulman,
Presiding Justice

**Clerk's Notice of Decision
Document Sent to Parties
on 12/09/2024**

EXHIBIT B

Clerk's Notice of Decision
Document Sent to Parties

on 09/19/2025

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

Case No. 217-2020-CV-00026

Approved and So Ordered

DAVID MEEHAN



Honorable Andrew R. Schulman
September 18, 2025

v.

STATE OF NEW HAMPSHIRE, et al.

(IN RE YDC and YDSU CONSOLIDATED LITIGATION)

*** this filing pertains to more than five cases ***
*** this filing DOES NOT pertain to Contractor Defendants ***

STIPULATION REGARDING ORDER OF CASES FOR TRIAL

Pursuant to the Court’s Order of September 4, 2025, Plaintiffs¹ and State Defendants, by and through undersigned counsel, hereby stipulate that the following six cases may be set for jury trial in the second half of 2026. As ordered by the Court, each trial period identifies one case that may be noticed for trial and two “backups” that may be substituted for the noticed case if the noticed case is timely removed from the trial list.

Trial Period 1 (date as yet unspecified):

Noticed case: *Meehan v. State of New Hampshire et al.*, No. 217-2020-cv-00026
Back up 1: *John Doe #1 v. State of New Hampshire, et al.*, No. 217-2021-CV-00483
Back up 2: *John Doe #2 v. State of New Hampshire, et al.*, No. 217-2021-CV-00517

Trial Period 2 (date as yet unspecified):

Noticed case: *John Doe #6 v. State of New Hampshire, et al.*, No. 217-2021-CV-00521
Back up 1: *Jane Doe #4 v. State of New Hampshire, et al.*, No. 217-2021-CV-00576
Back up 2: *John Doe #309 v. State of New Hampshire, et al.*, No. 217-2022-CV-00267

¹ “Plaintiffs” refers to the plaintiffs represented by undersigned counsel at Nixon Peabody and Rilee & Associates in these consolidated proceedings.

The parties have agreed to further meet and confer concerning case structuring deadlines for each of the foregoing cases and hope to submit a joint proposal to the Court once the trial dates have been noticed. Depending on the timing and nature of the Supreme Court's resolution of the issues set forth in the appeal of the *Meehan* case, the parties each reserve their right to seek continuances of the noticed trial dates and related deadlines.

Respectfully submitted,

Dated: September 17, 2025

By and through counsel,

STATE DEFENDANTS

PLAINTIFFS

JOHN M. FORMELLA
ATTORNEY GENERAL

NIXON PEABODY LLP

/s/ James H. Holl

/s/ Mark Tyler Knights

James H. Holl (Bar No. 279633)

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

Attorney

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

Civil Bureau

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

Department of Justice

Nathan Warecki, Esq. (Bar No. 20503)

1 Granite Place South

Briana Matuszko, Esq. (Bar No. 269560)

Concord, NH 03301

Jonathan O'Neil, Esq. (Bar No. 276336)

(603) 271-3658

900 Elm Street, 14th Floor

James.h.holl@doj.nh.gov

Manchester, NH 03101

T: 603-628-4000

dvicinanzo@nixonpeabody.com

ddeane@nixonpeabody.com

mknights@nixonpeabody.com

nwarecki@nixonpeabody.com

bmatuszko@nixonpeabody.com

joneil@nixonpeabody.com

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

CERTIFICATE OF SERVICE

I certify that on September 17, 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/ Mark Tyler Knights
Mark Tyler Knights, Esq.