

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

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER MAINTAINING
STATUS QUO PENDING RULING ON MOTION FOR PRELIMINARY INJUNCTION**

Following Wednesday’s hearing, this Court took Plaintiffs’ Motion for Preliminary Injunction under advisement. However, as the Court is aware, there is a particularly vulnerable subclass of Settlement Fund claimants expected to imminently suffer severe and irreparable harm while a ruling on Plaintiffs’ Motion for Preliminary Injunction is pending. This group of at least 16 claimants fully participated in the pre-amendment claims process, testified at resolution proceedings, and received decisions on their claims from former Administrator John Broderick, but the challenged amendments took effect before those decisions could become truly “final.” This means that the Attorney General can now claw back these 16 or more decisions despite the claimants doing everything that was required of them under their respective dispute resolution contracts with the State. Plaintiffs’ Emergency Motion for Temporary Restraining Order seeks to maintain the status quo and prevent irreparable harm to this subclass—**harm that is likely to occur as early as Thursday, September 4, 2025**—pending the Court’s ruling on Plaintiffs’ Motion for Preliminary Injunction. In further support, Plaintiffs state as follows:

1. As this Court is aware, Plaintiffs’ Motion for Preliminary Injunction seeks to prevent Defendants from enforcing two challenged amendments to the Settlement Fund Act, RSA 21-M:11-a. These amendments change the Settlement Fund in material ways, constituting breach and impairment of contract and violation of equal protection, for the reasons explained in Plaintiffs’ Complaint, Motion for Preliminary Injunction, and Reply to Defendants’ Objection to Preliminary Injunction, (Index ## 1, 8, 22), and at the evidentiary hearings held on August 20 and 27, 2025.

2. Enforcement of the amendments to RSA 21-M:11-a will cause irreparable harm to the entire proposed class of Settlement Fund claimants, as explained extensively in Plaintiffs’ prior filings and at the evidentiary hearing. This Motion for a Temporary Restraining Order is filed on behalf of a narrower subclass of at least 16 claimants¹ who **fully completed** the claims process as it existed before the June 2025 amendments (including by providing live testimony under oath in a resolution proceeding) **and** received a “final” decision on their Settlement Fund claim from Justice Broderick after July 1, 2025 (the effective date of the new amendments), but before Justice Broderick was forced out of his position as Administrator.

3. Because each of these claimants did not receive the Administrator’s decision until after July 1, 2025, Defendants have asserted that the new version of the Settlement Fund Act applies to these 16 decisions, including the amendment to section IX(e) of the Act, which provides that upon expiration of the reconsideration period, “the AG designee and the claimant shall have 30 days to accept or decline the administrator’s decision regarding the claim. If the AG designee and claimant do not **both affirmatively** accept the administrator’s decision, within 30 days after

¹ Undersigned counsel represents 16 claimants in the above-defined subclass. On information and belief, there are additional claimants represented by other law firms or who submitted Settlement Fund claims on their own who also fall into this category.

expiration of the reconsideration period, then the claim shall be withdrawn[.]” RSA 21-M:11-a, IX(e) (July 1, 2025) (emphasis added) (Plts’ Ex. 1). In other words, if the Attorney General does not affirmatively accept any of Justice Broderick’s final slate of decisions in July 2025, any of those decisions not accepted will be “withdrawn,” effectively vetoed by the Attorney General’s inaction. Thus, although Justice Broderick issued his “final” decisions on these claims under the prior claims process, they are nevertheless under threat pursuant to the new amendments challenged by this lawsuit.

4. John Doe #334, who testified at the August 27, 2025 hearing, represents the claimants in this subclass. As he explained to the Court, he completed the claims process and gave testimony under oath to the Administrator in a resolution proceeding conducted on June 18, 2025, before the challenged amendments had passed or become effective. He received a “final” decision from Justice Broderick on July 25, 2025, after the amendments took effect, and he submitted his acceptance of that decision, along with a full waiver and release, on July 31, 2025.

5. Most of the other 15 claimants in the subclass have likewise affirmatively accepted the awards they received from Justice Broderick and nearly all of those who have not yet accepted intend to do so imminently. But under the new statute as amended, for the Administrator’s decisions to become final and binding, **both** the claimant **and** the Attorney General must accept the decision within 30 days after the period for reconsideration (10 days after the decision). As all the decisions in this subclass were issued in late July 2025, the statutory deadline for both parties to agree to the Administrator’s decisions range from September 2 to 8, 2025. *See* Addendum (listing 16 claimants in subclass represented by undersigned counsel with associated deadlines). Counsel for Defendants informed undersigned that the Attorney General intends to communicate that he accepts the only decision with a deadline of September 2, 2025. The next important date is

September 4, 2025, which is the deadline to accept 12 of Justice Broderick’s decisions. John Doe #334’s decision is one of those decisions that must be accepted by September 4, 2025. If the Attorney General does not affirmatively accept the awards on or before these deadlines, Justice Broderick’s decisions resolving these claims will be withdrawn.

6. The claimants in this subclass fully performed all their obligations under the prior version of the statute: they paused their court cases, submitted extensive pre-hearing materials in which they were required to describe their abuse in detail, and then painfully recited those details to the Administrator and his staff at a live hearing. Even the victim-centered and trauma informed approach adopted by Justice Broderick was arduous and emotionally taxing, but these claimants were willing to subject themselves to such a process because they had faith that the Administrator would fairly and impartially hear their claims and issue final decisions, as Defendants had promised. Most claimants would not have submitted a Settlement Fund claim if they knew that these promises of fairness, neutrality, and finality were hollow. Indeed, John Doe #334 testified that he never would have participated in the Settlement Fund had he known that at the end of the process the State could decide to take back the offer of settlement rendered by the Administrator. Further, John Doe #334 explained to the Court that taking away the decision he had already accepted would be “a slap in the face” and would completely destroy the profound sense of healing and closure he felt at what he believed to be the conclusion of the claims process.

7. Through enforcement of the challenged amendments—particularly the amendment to RSA 21-M:11-a, IX(e), which enables the Attorney General to veto the Administrator’s decisions—Defendants are poised to needlessly revictimize these 16 claimants by taking away their opportunity to accept a fair decision from the former Administrator, even after these claimants already fully performed their contractual obligations. This subclass of claimants are particularly at

risk given that they have already gone through the ordeal of a resolution proceeding and have been repeatedly and unambiguously promised (first by Defendants to entice them into participating in the Settlement Fund, and then by the Administrator at the resolution proceeding itself to reassure them that the process would be fair) that their claims would be decided by a disinterested, neutral arbitrator who would issue a final decision. Therefore, while all members of the class are entitled to the benefit of having an impartial administrator neutrally render final decisions on their claims, this subclass of claimants has even more to lose. The Court must intervene to prevent such injustice, particularly while Plaintiffs' Motion for Preliminary Injunction remains pending.

8. Since the early days of this lawsuit, undersigned counsel has been in discussions with Defense counsel regarding the special circumstances of this subclass. The parties have been proceeding in good faith under a standstill arrangement, where the Attorney General has agreed not to affirmatively reject any awards pending completion of the hearing on the Motion for Preliminary Injunction. That hearing, however, is now complete and the motion is now pending the Court's consideration. More importantly, the statutory deadlines are now looming and if those deadlines pass without affirmative action, Justice Broderick's final decisions will be automatically withdrawn by operation of Section IX(e) of the Settlement Fund Act, as amended in June 2025.

9. Defense counsel has indicated that while the Attorney General remains open to the concept of extending the deadlines by agreement, the Attorney General believes that he is powerless to extend statutory deadlines. Additionally, the Administrator position is presently vacant, therefore there is no Administrator who could approve any extension. Accordingly, it is no longer possible to avoid irreparable harm to the subclass by agreement of the parties. Only a temporary restraining order issued by this Court can prevent irreparable harm during the pendency of the Court's consideration of Plaintiffs' Motion for Preliminary Injunction.

10. Therefore, Plaintiffs respectfully request a narrow order from this Court temporarily restraining Defendants from enforcing the amendment to Section IX(e) of the Settlement Fund Act as to the above-defined subclass of claimants pending the Court's decision on Plaintiffs' Motion for Preliminary Injunction. **To be clear, Plaintiffs do not request, at least through this Motion, that the Court order the Attorney General to affirmatively accept these decisions. Rather, Plaintiffs simply seek an order preserving the present status quo by temporarily staying the statutory deadlines as to the claimants in this subclass until this Court issues an order on Plaintiffs' Motion for Preliminary Injunction.**

11. Pursuant to Rule 48(a) of the New Hampshire Superior Court Civil Rules, undersigned counsel certifies that Defendants have accepted service in this case and will receive electronic notice of this filing and thus will be informed of Plaintiffs' request for a temporary restraining order.

WHEREFORE, Plaintiffs respectfully request that this Court issue an Order:

- A. GRANTING Plaintiffs' Motion and ENTER an order restraining Defendants from enforcing the challenged amendment to RSA 21-M:11-a, IX(e) as to the members of the subclass defined above in Paragraph 2 (including, at a minimum, the 16 claimants represented by undersigned counsel and identified in the attached Addendum) until the Court issues a ruling on Plaintiffs' Motion for Preliminary Injunction;
- B. STAYING all statutory deadlines pertaining to this subclass requiring that both parties affirmatively accept the Administrator's decisions on or before the dates indicated in the Addendum, effective until the date the Court issues a decision on Plaintiffs' Motion for Preliminary Injunction; and
- C. GRANT such further relief as this Court deems just, equitable and proper.

Respectfully submitted,

Dated: August 29, 2025

**PLAINTIFFS ANDREW FOLEY,
RONALD “CHUCK” MILES, and
JANE DOE #231
(on behalf of themselves and all those
similarly situated)**

By their attorneys,

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

/s/ Cyrus F. Rilee, III

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CERTIFICATE OF SERVICE

I certify that on August 29, 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/ W. Daniel Deane

W. Daniel Deane, Esq.

ADDENDUM

Claimant	Claim No.	AG/client acceptance due date
Jane Doe #29	3486	9/2
John Doe #157	3349	9/4
John Doe #334	3468	9/4
John Doe #167	3383	9/4
John Doe #404	3407	9/4
John Doe #869	3400	9/4
John Doe #314	3465	9/4
John Doe #633	3456	9/4
John Doe #398	3125	9/4
John Doe #983	3477	9/4
John Doe #464	3384	9/4
John Doe #485	3352	9/4
John Doe #50	3471	9/4
John Doe #376	3375	9/8
Jane Doe #9	3459	9/8
Jane Doe #121	3475	9/8