

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.

MOTION TO MAINTAIN CASE AS A CLASS ACTION
AND APPOINT CLASS COUNSEL

Pursuant to N.H. Super. Ct. Civ. R. 16(b), above-captioned Plaintiffs respectfully move this Court for an order (a) allowing this case to proceed as a class action on behalf of all similarly situated persons; or (b) at a minimum, provisionally certify a class for purposes of Plaintiffs’ Motion for Preliminary Injunction; and (c) appointing the undersigned as class counsel. In support of this motion, Plaintiffs state as follows:

I. INTRODUCTION

1. Through two amendments to the Youth Development Center Claims Administration and Settlement Fund (“Settlement Fund”) Act, RSA 21-M:11-a,¹ which were passed without discussion or debate as eleventh hour amendments to the biennial budget bill, House Bill 2, the State of New Hampshire fundamentally altered the settlement terms it had previously offered to the hundreds of victims of abuse at the Youth Development Center (“YDC”)

¹ Specifically, the two challenged amendments made changes to subsection III and subsection IX(e) of RSA 21-M:11-a.

and related State-operated residential facilities for detained and committed youths.² The settlement offered by the State was not for any fixed amount of compensation for any single victim, or for the class in the aggregate, but rather was a proposal for a bespoke alternative dispute resolution process that would be conducted by an impartial administrator in a “victim-centered” and “trauma informed” manner. The two amendments challenged by this lawsuit, which went into effect only after all the claimants had filed their claims in the Settlement Fund, effectively nullified the impartiality of the administrator and destroyed any sense that the process would be “victim-centered” and “trauma informed.” In doing so, these *post-hoc* amendments breach the State’s pre-existing contractual obligations to the claimants who had filed claims in the Settlement Fund in reliance on the State’s promises and infringe upon their constitutional rights.

2. The named representative Plaintiffs, each of whom is presently a Settlement Fund claimant, filed this putative class action lawsuit seeking equitable relief only. As detailed in Plaintiffs’ Complaint for Declaratory Judgment and Preliminary and Permanent Injunctive Relief (“Complaint”), Plaintiffs seek to enjoin the Governor and the Attorney General from enforcing the illegal amendments. Plaintiffs seek global relief on behalf of the proposed class. It would not make any sense to require claimants in the proposed class to obtain their own individual injunctions one-by-one. If the amendments are illegal and unenforceable as to one Settlement Fund claimant, so they are to all.

3. Because all of the N.H. Super. Ct. Civ. R. 16(a) prerequisites for maintaining a class action are easily satisfied in this case (numerosity, commonality, predominance, typicality, adequacy of representation, adequacy of counsel, and superiority), and because the relief Plaintiffs seek is a single declaration and a single injunction that would apply one and the same for all the

² For simplicity, this Motion refers to both the Youth Development Center and all other State-operated youth residential facilities as the “YDC.” *See also infra* ¶ 16; RSA 21-M:11-a I(m).

claimants in the proposed class, this Court should grant this Motion and allow this case to proceed as a class action.

II. STATEMENT OF FACTS

4. In the interest of judicial economy, Plaintiffs refer to the more thorough factual background set forth in Plaintiffs' Complaint, *see* Compl. ¶¶ 20-78, and Plaintiffs' Motion for Preliminary Injunction, *see* Pls.' Mot. for Prelim. Inj. ¶¶ 1-11. A short refresher follows.

5. In 2017, David Meehan reported to New Hampshire State Police that he had suffered horrific forms of child abuse at the YDC in the late 1990s. *See* Compl. ¶¶ 22-23. In subsequent years, his single case spurred a wide-ranging criminal investigation into child abuse at the YDC. Eleven perpetrators were indicted and, at present, two of them have been convicted on multiple counts of aggravated felonious sexual assault of multiple children. *See id.* ¶ 24.

6. Asserting the State's negligence in allowing widespread child abuse at its juvenile facilities, Mr. Meehan also sought compensation for his personal injuries. In January 2020, he filed a class action in Merrimack County superior court against the State of New Hampshire, seeking to bring claims on behalf of himself and all other similarly situated victims of abuse at the YDC and related State-run juvenile facilities. *See id.* ¶¶ 25-26. When the superior court denied class certification in May 2021, based on a finding of too many individualized issues in the substantive claims of the class, Mr. Meehan's undersigned counsel filed individual complaints on behalf of the several hundred victims who had come forward to that date. *See id.* ¶ 26. As word of mouth of the lawsuits spread, more and more victims of abuse found the courage to come forward and seek justice.

7. By the end of 2022, undersigned counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody LLP, had filed complaints for more than 600 victims of abuse at the YDC and related

facilities. *See* Affidavit of Attorney Tracey B. Scarpello, August 13, 2025 (attached hereto as Exhibit (“Ex.”) 1) (“Scarpello Aff.”) ¶ 3. As of the date of this filing, Rilee & Associates and Nixon Peabody currently represent more than 1,325 YDC abuse victims and have filed approximately 1,500 complaints in superior court. *See id.* ¶ 4.

8. The massive scope and the sensitive nature of the YDC litigation called out for a reasonable alternative to drawn-out, re-traumatizing, costly, and public courtroom litigation. Governor Chris Sununu, Attorney General John Formella, and leadership in the New Hampshire legislature recognized this. In early 2022, the Attorney General, working with the legislature, drafted legislation that would become the Youth Development Center Claims Administration and Settlement Fund (“Settlement Fund”) Act, RSA 21-M:11-a. *See* Compl. ¶ 30. The initial version of the Settlement Fund was not, however, successful in persuading distrustful YDC abuse victims to move their claims from the independent New Hampshire judiciary to the State-created Settlement Fund. The YDC abuse victims were hesitant to trust the Settlement Fund because several aspects of the process were not as “victim-centered” and “trauma informed” as they claimed to be. *See id.* ¶¶ 31, 37.

9. In early 2024, the Attorney General’s office negotiated improvements to the Settlement Fund with the undersigned. *See id.* ¶ 38. Part of the deal reached between the lawyers for the State and the lawyers for the YDC abuse victims was that the latter would publicly declare to the legislature that they supported the amendments to the Settlement Fund Act and would recommend the improved alternative dispute resolution process to the “vast majority” of their clients. *Id.* Undersigned counsel did exactly that, and the improvements to the Settlement Fund Act were signed into law by Governor Chris Sununu on June 14, 2024. *See id.* ¶¶ 39-40. Over the ensuing year (the final deadline to file a Settlement Fund claim was June 30, 2025), the “vast

majority” of undersigned counsel’s eligible clients did indeed file Settlement Fund claims. *See id.* ¶ 41; *see also* Scarpello Aff. ¶¶ 4, 5.

10. The Settlement Fund claims process was designed to operate as a specially tailored form of settlement process that could resolve claims via mutual agreement between the parties or by proceeding to arbitration before the Administrator. *See* Compl. ¶¶ 42-47. Each claimant was required to share information pertinent to their claims with the Attorney General’s designee and the Administrator of the Settlement Fund. If no settlement was reached directly between the claimant and the State, the Administrator would hold a hearing (a/k/a a “resolution proceeding”) to hear the claimant’s live testimony under oath. *Id.* ¶ 45. Applying the valuation guidelines developed by the Attorney General and approved by the legislature’s joint fiscal committee, *see id.* ¶ 36, the Administrator would then issue a final decision with a specific valuation of the claimant’s claim. *See id.* ¶¶ 45-47. The Administrator’s final decision effectively acted as an offer of settlement on behalf of the State that the claimant could either reject (and presumably return to court) or accept as full settlement of his or her claims against the State for abuse at the YDC (or other State-operated juvenile facilities). Because of his central role in the Settlement Fund process, including the authority to render final decisions on claims, the independence and neutrality of the Administrator was a central component of the Settlement Fund from the start. *See id.* ¶¶ 32-36.

11. Almost exactly one year after the improved Settlement Fund went live, New Hampshire officials began to undermine it. *See id.* ¶¶ 69-74. This effort culminated in the eleventh-hour introduction of two amendments to the Settlement Fund Act, both of which passed, without any public comment or debate, on June 27, 2025, and became effective on July 1, 2025, literally a breath after the deadline to file a Settlement Fund claim expired. *See id.* ¶¶ 75-78. These two amendments, which Plaintiffs seek to enjoin on behalf of themselves and the putative class, alter

the very foundation of the Settlement Fund, effectively abrogating the bargain that had been struck between the State and the victims of YDC abuse. *See* Pls.’ Mot. for Prelim. Inj. ¶¶ 2-5, 15-18.

12. The amendment to subsection III of the Settlement Fund Act (a) moves the Settlement Fund Administrator from the judicial branch to the executive branch, (b) allows the Governor (with the consent of the Executive Council) to remove the Administrator at any time and for any reason (deleting previous language that only permitted removal for “good cause”), and then replace the Administrator with a hand-selected executive branch loyalist who would serve “at the pleasure” of the Governor. *See* Compl. ¶ 76. The amendment to subsection IX(e) gives the Attorney General the power, through his designee, to unilaterally reject any of the Administrator’s “final decisions” on claims, effectively converting the Administrator’s “decisions” into recommendations that can be rejected by the Attorney General for any reason. *See id.* ¶ 77.

13. Plaintiffs brought this class action to prevent the Defendants, namely, the Governor and the Attorney General, from implementing or enforcing these two retroactive amendments. The Complaint alleges that the State entered into binding and enforceable agreements with each claimant who filed a claim in the Settlement Fund. *See* Compl. ¶¶ 88-93; Pls.’ Mot. for Prelim. Inj. ¶ 14. These agreements are not settlements of the underlying personal injury claims against the State but are agreements to pause litigation in favor of a bespoke alternative dispute resolution process—i.e., a detailed and “victim-centered,” “trauma informed” settlement process that can conclude in arbitration before the “independent” and “neutral” Settlement Fund Administrator.

14. As alleged in Count I of the Complaint, the two challenged amendments breach the material terms of the State’s agreements with Settlement Fund claimants for which each claimant is entitled to specific performance. *See* Compl. ¶ 87-100; Pls.’ Mot. for Prelim. Inj. ¶¶ 15-17. Similarly, Count II alleges that the retroactive amendments “substantially impair” those

agreements in violation of the New Hampshire and United States Constitutions. *See* Compl. ¶¶ 101-120; Pls.’ Mot. for Prelim. Inj. ¶¶ 18-19. Finally, Count III alleges that the amendments deprive claimants who have not yet obtained final decisions from the Administrator of equal protection under the law. *See* Compl. ¶¶ 121-130; Pls.’ Mot. for Prelim. Inj. ¶ 20.

15. The relief Plaintiffs seek, on their own behalf and on behalf of the proposed class of Settlement Fund claimants, is a declaration confirming the illegality of the two challenged amendments and single injunction preventing both the Governor and the Attorney General from enforcing them.

16. As set forth in the Complaint, but revised slightly here, Plaintiffs request permission to represent the following class of similarly situated individuals:

All individuals (i) who allege that they were abused at the “Youth Development Center,” (ii) who timely filed a “claim” with the Youth Development Center Claims Administration and Settlement Fund (“Settlement Fund”), on or before June 30, 2025, under the version of the Settlement Fund Act, RSA 21-M:11-a (the “Settlement Fund Act”) that was effective at that time, before July 1, 2025, (iii) who agreed to suspend or stay the simultaneous pursuit of any legal claims in court based on the same tortious conduct underlying their Settlement Fund claim, (iv) and who did not receive a final decision from the “administrator” of the Settlement Fund before July 1, 2025, or who received a final decision from the administrator on or after June 1, 2025, and did not have a full thirty days to decide whether to accept or reject the decision before July 1, 2025, and whose awards the Attorney General would have the power, through his designee, to unilaterally reject in the absence of an injunction.

17. For purposes of this class definition, the defined terms “administrator,” “claim,” and “Youth Development Center” or “YDC” have the same meaning as provided in the Settlement Fund Act, RSA 21-M:11-a I(a), (c), and (m).

18. The proposed class far exceeds 1,000 individuals. Undersigned counsel alone represent approximately 1,130 individuals who filed a claim or a notice of claim with the Settlement Fund. *See* Scarpello Aff. ¶ 5. Of those individuals, approximately 190 have accepted

or rejected a final decision from the Administrator or otherwise chosen to withdraw from the Settlement Fund. *See id.* That leaves approximately 940 claimants represented by undersigned counsel who are currently proceeding with Settlement Fund claims and have either not yet received a final decision from the Administrator or have not yet accepted or rejected a final decision from the Administrator. *See id.* On information and belief, there are also several hundred additional claimants in the Settlement Fund represented by other counsel or proceeding *pro se*. After the June 30, 2025, deadline to file a notice of claim, on July 24, 2025, the Administrator issued the 2025 Quarter Two Report for the Settlement Fund. (See Ex. 2, attached hereto.) According to the Administrator's 2025 Quarter Two Report, as of the close of the Settlement Fund filing period, 1,966 claims had been filed in total. *See id.* Of those, 386 claims have been resolved, and 1,530 remain pending. *See id.*

19. Undersigned counsel represent Settlement Fund claimants in every county of the State of New Hampshire. *See Scarpello Aff.* ¶ 6. Additionally, claimants represented by undersigned counsel currently reside in 35 other states and at least two foreign countries, including: Arizona, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Canada, and the United Kingdom. *See id.* ¶ 7. Many of undersigned counsel's claimants are dealing with the predictable outcomes of traumatic childhood abuse and as a result are living on the fringes of society. *See id.* ¶ 8. Some claimants are homeless or housing insecure, others are incarcerated (both in-state and out-of-state), many claimants are disabled and/or unemployed, and nearly all claimants are dealing with mental health challenges and financial insecurity. *See id.*

III. ARGUMENT

A. Legal Standard

20. Class actions have been authorized under New Hampshire common law for over a century, *see Smith v. Bank of New England*, 69 N.H. 254 (1898), and are today governed by Rule 16 of the New Hampshire Superior Court Civil Rules. Rule 16 requires courts to determine whether a case may be “maintained” as a class action “[a]s soon as practicable after the commencement of [the] action.” N.H. Super. Ct. Civ. R. 16(b). The specific prerequisites for maintaining a class action, set forth in Rule 16(a), are as follows:

- (1) The class is so numerous that joinder of all members, whether otherwise required or permitted, is impracticable;
- (2) There are questions of law or fact common to the class which predominate over any questions affecting only individual members;
- (3) The claims or defenses of the representative parties are typical of the claims or defenses of the class;
- (4) The representative parties will fairly and adequately protect the interests of the class;
- (5) A class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- (6) The attorney or non-attorney representative for the representative parties will adequately represent the interests of the class.

21. Because N.H. Super. Ct. R. 16(a) is similar to Rule 23³ of the Federal Rules of Civil Procedure, New Hampshire courts “rely upon federal cases interpreting the federal rule as analytic

³ While New Hampshire Rule 16 is “similar” to Federal Rule 23, the two rules are not identical. The New Hampshire rule is more streamlined than the Federal rule and applies a one-size-fits-all approach to class actions. Federal Rule 23, on the other hand, provides for class actions with distinct purposes. *See* Fed. R. Civ. P. 23(b) (setting requirements specific to three different “types of class actions”). Rule 23(b)(2) class actions involve claims for equitable relief where the primary purpose is to enjoin the defendant’s (often a government agency) conduct toward the entire class, while Rule 23(b)(3) class actions usually involve class actions seeking damages only. In the latter case, Rule 23(b)(3) adds the concepts of “predominance” and “superiority” to the list of prerequisites required of all class actions outlined in Rule 23(a)—“numerosity” of the class, “commonality” of law or facts, “typicality” of the representative’s claims, and “adequacy” of

aids.” *In re Bayview Crematory, LLC*, 155 N.H. 781, 784 (2007) (citing *Cantwell v. J & R Props. Unlimited, Inc.*, 155 N.H. 508, 511 (2007)) (both regarding Superior Court Rule 27-A, the predecessor to Rule 16(a)). The burden rests on the movant to establish each of the class action prerequisites and the movant cannot rest on the allegations in the pleadings alone but must show the suitability of class action treatment through affidavits, documents, or testimony. *See Lawrence v. Philip Morris USA, Inc.*, 164 N.H. 93, 96 (2012) (citing *Cantwell*, 155 N.H. at 512-13). The trial court must employ its discretion, however, to avoid transforming certification proceedings into “protracted mini-trial[s] of substantial portions of the underlying litigation.” *Id.* (quoting *Cantwell*, 155 N.H. at 512).

22. This Court may certify a class “conditionally” or “provisionally,” meaning that the Court can certify the class, subject to amendment or modification before a final decision on the merits. *See* N.H. Super. Ct. R. 16(b) (“An order under this section may be conditional and may be altered or amended before the decision on the merits on the court’s own motion or on motion of the parties.”); *Gomes v. U.S. Dep’t of Homeland Sec., et al.*, No. 20-CV-453-LM, 2020 WL 2113642, at *1-2 (D.N.H. May 4, 2020) (“The court’s provisional determination is made, however, with the understanding that it may be altered or amended before final judgment.”). Provisional certification does not, however, “lower the bar” with respect to establishing the necessary prerequisites. *See Gomes*, 2020 WL 2113642, at *2.

the representatives. A Rule 23(b)(2) class action, however, need not establish “predominance” and “superiority,” but must instead show that “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). New Hampshire Rule 16 does not, on its face, draw these distinctions and requires “predominance” and “superiority” in all class actions.

B. Numerosity

23. “No minimum number of plaintiffs is required to maintain a suit as a class action, but generally if the named plaintiff demonstrates that the potential number of plaintiffs exceeds 40, the first prong of Rule 23(a) [Rule 16(a) under the New Hampshire Rules] has been met.” *Clough v. Revenue Frontier, LLC*, No. 17-CV-411-PB, 2019 WL 2527300, at *3 (D.N.H. June 19, 2019) (quoting *Garcia-Rubiera v. Calderon*, 570 F.3d 443, 460 (1st Cir. 2009)). “The party seeking certification need not establish a precise number of putative class members, as the court may draw ‘reasonable inferences from the facts presented to find the requisite numerosity.’” *Gomes v. U.S. Dep’t of Homeland Sec.*, 561 F. Supp. 3d 93, 99 (D.N.H. 2021) (quoting *McCuin v. Sec’y of Health & Hum. Servs.*, 817 F.2d 161, 167 (1st Cr. 1987)). Further, where, as here, only declaratory and injunctive relief is sought, “plaintiffs need not identify all members of the proposed class, warranting ‘relaxation of the requirement of a rigorous demonstration of numerosity.’” *Id.* (quoting *McCuin*, 817 F.2d at 167).

24. Numerosity is easily established in this case. Plaintiffs’ counsel alone represent more than 1,000 claimants who meet the proposed class definition (individuals who have filed a claim in the Settlement Fund and who have not accepted or rejected a final decision from the Administrator). Based on reporting following the close of the Settlement Fund, there are hundreds of additional claimants in the Settlement Fund not represented by Plaintiffs’ counsel. All told, the class of putative class members is likely to number more than 1,500 individuals. These individuals are not only spread across all ten counties of the state, but across the country. Owing to the sequelae of childhood trauma, many of the proposed class members have limited financial means, are unemployed, disabled, and/or food and housing insecure. Some are homeless; others, incarcerated.

25. It would be extremely difficult for most of the proposed class members to individually file and litigate to a conclusion each of their individual suits against the Defendants, particularly given the limited financial resources of most class members. *See Kenneth R. v. Hassan*, 293 F.R.D. 254, 265 (D.N.H. 2013) (“The size of the class, the asserted disabilities of proposed class members, and geographic diversity, make it highly unlikely that separate actions would follow if class treatment were denied.”) (quotations omitted). Requiring individual actions makes even less sense here, where the Plaintiffs seek declaratory and injunctive relief, not damages.

C. Commonality and Predominance

26. New Hampshire Rule 16(a) combines “the ‘commonality’ requirement in Federal Rule 23(a)(2) and the ‘predominance’ requirement in Federal Rule 23(b)(3).” *Bayview Crematory*, 155 N.H. at 785. The “commonality” piece of that equation sets a “relatively low threshold” that is satisfied if “the proposed class members share at least one significant question of law or fact in common with each other.” *Id.* To satisfy predominance, “the issues common to the proposed class must outweigh the issues that are particular to the individual class members.” *Id.* The purpose behind the predominance requirement “is to promote the economies of time, effort, and expense, and promote uniformity of decision as to persons similarly situated.” *Id.* at 785-86 (quotation omitted). “To achieve these pragmatic goals, the trial court must consider how the case will be tried by identifying the substantive issues that will control the outcome of the case, assessing which issues will predominate, and determining whether those issues are common to the class.” *Id.* at 786.

27. Many common issues of *law* predominate over this proposed class action for declaratory and injunctive relief. Moreover, the *facts* relating to the formation of the underlying

contracts, and the Defendants' breach of each of those contracts (which also rises to the level of constitutional violations) are also nearly identical (and largely undisputed) across the class.

28. With respect to Count I, breach of contract, Plaintiffs allege that each class members' contract was formed in the same way. The State offered, via express language of the Settlement Fund Act, an alternative dispute resolution process to each putative class member. *See* Compl. ¶ 89; RSA 21-M:11-a, VII(d) ("This section constitutes the state's *offer* to resolve completely and finally all of the former YDC resident's claims through the claims process established.") (emphasis added). The State promised that its alternative dispute resolution process would be administered by an "independent" and "neutral" "Administrator." RSA 21-M:11-a, I(a).

29. Again, as expressly provided in the Settlement Fund Act, each claimant in the class accepted the state's offer and formed an agreement by filing a claim. *See* Compl. ¶ 89; RSA 21-M:11-a, VII(d) ("By filing a claim, the claimant agrees that he or she will participate in the claims process, and, if the claimant accepts the administrator's determination on the claim, such acceptance shall be the final and binding settlement of all claims in accordance with subparagraph IX(a), even if the claimant does not receive any payment from the fund."). To remove any doubt as to the State's intention to form a contract with claimants, the statute continues: "The submission of a claim shall constitute an agreement in writing to submit the claim to arbitration as provided in RSA 542:1." RSA 21-M:11-a, VII(d).

30. Offer, acceptance, and a meeting of the minds are established by the plain terms of the Settlement Fund Act, as well as the implementing claims process documents and guidelines (including the claims forms) that were developed by the Attorney General and approved by the Joint Fiscal Committee pursuant to RSA 21-M:11-a, IV(a). *See* Pls.' Mot. for Prelim. Inj. ¶ 3 and

Exhibit A attached thereto. The conduct of each class member accepting the terms offered by the State is established in the definition of the class. *See supra* ¶ 16.

31. By definition, Plaintiffs seek certification of a class of individuals who filed timely claims in the Settlement Fund and thereby accepted the State’s offer. Consideration flowing to the State is established by the plain language of the Settlement Fund Act. Both the claimants and the State received mutual consideration in the form of a settlement and arbitration process that is designed to be less time-consuming, burdensome, and costly than litigation for both sides. *See* Compl. ¶¶ 39-40, 42; *Swanson v. Priest*, 95 N.H. 64, 66 (1948) (“It is fundamental that mutual promises furnish adequate consideration for each other.”).

32. The State additionally obtained consideration in the Settlement Fund Act’s condition that, “[b]y filing a claim, a claimant waives his or her right to simultaneously seek other or additional monetary relief in any forum from the state of New Hampshire or any of its agents or employees, or from any of its political subdivisions or their agents or employees arising out of or relating to any incidents which are would could have been the subject of a claim[.]” RSA 21-M:11-a, VII(e). Further to that point, pursuant to the Act, *all claimants* are required to “execute appropriate agreements or motions to stay any pending proceedings related to claims that are or could have been brought under the settlement fund as a condition to processing claims that are or could have been brought under the settlement fund as a condition to processing claims[.]” *Id.* Again, by definition, *all of the claimants* in the putative class have complied with this condition and have taken steps to stay or suspend their respective individual lawsuits. *See supra* ¶ 16. Additionally, the State gained the ability—applicable to *all claimants* receiving awards—to pay out awards over time in annual installments (over periods as long as up to ten years). *See* RSA 21-M:11-a, XI. Accordingly, there are no individualized issues.

33. Therefore, all facts pertaining to contract formation are established and all that remains for the Court is to apply those facts to New Hampshire law. *See* Pls.’ Mot. for Prelim. Inj. ¶ 14 (arguing that the Settlement Fund Act should be treated as a contract because “the language and circumstances evince a legislative intent to create private rights of a contractual nature enforceable against the State[.]”) (quoting *Opinion of the Justices (Furlough)*, 135 N.H. 625, 630 (1992)). *See also White v. United States*, 175 Fed. Cl. 226, 237 (Mar. 4, 2025) (holding that the September 11th Victim Compensation Fund statute, regulations, and claim form “show the government’s intent to contract if [claimant] accepts the government’s offer”); *Avery v. Comm’r N.H. Dep’t of Corr.*, 173 N.H. 726, 735 (2020) (“[W]e disagree that the legislature would find that agreements settling lawsuits against the State are likely to impose obligations on the government that would constrain future policy decisions or impair public welfare.”).

34. The State’s conduct in breach of its contracts with the putative class is likewise conduct that applies generally across the class without the need to inquire into particularized conduct as to any specific class members. The State breached one and all of its contracts with claimants through its eleventh-hour amendments to the Settlement Fund Act, which gutted essential terms of the bargain that had been struck, and which took effect just one day after the Settlement Fund closed but before the vast majority of Settlement Fund claimants obtained final decisions from the Administrator. *See* Compl. ¶¶ 69-78, 94-98 (describing the legislature’s late introduction of two amendments to the Settlement Fund Act as unexplained amendments to the biennial budget bill (House Bill 2) that were passed without public debate or scrutiny).

35. The facts establishing the breach are beyond dispute as they are a matter of public record—the two challenged amendments to the Settlement Fund Act, which were passed by the New Hampshire legislature and signed into law by Governor Ayotte, are the facts establishing the

breach of putative class's contracts. Whether these amendments constitute a breach of the material terms of each claimant's contract with the State is a common question of law that will apply equally to all members of the class. *See* Pls.' Mot. for Prelim. Inj. ¶¶ 15-17 (arguing that the amendments breach the State's contracts with claimants because they destroy the promised neutrality and independence of the Administrator, they make illusory the promise that the Administrator's proceedings would be akin to "arbitration," and they contravene the promise that the Administrator's decisions would be final and binding upon the State).

36. Whether the State's breaches are material is a mixed question of law and fact, but the answer will be the same for all class members. *See Ellis v. Candia Trailers and Snow Equip., Inc.*, 164 N.H. 457, 467 (2012) ("[F]or a breach of contract to be material, it must 'go to the root' or 'essence' of the agreement between the parties, or be 'one which touches the fundamental purposes of the contract and defeats the object of the parties in entering the contract.'") (quoting 23 *Williston on Contracts* § 63:3, at 438-39 (4th ed.)). The Court's determination of breach will be the same for all claimants in the proposed class.

37. The analysis is similar with respect to Plaintiffs' constitutional claims. Count II, alleging unconstitutional impairment of contracts in violation of Part 1, Article 23 of the State Constitution, and Article I, Section 10 of the United States Constitution, mirrors Count I, asserting again that the State entered valid and binding contracts with all claimants in the putative class. Accordingly, the same common facts and common issues of law will apply to the analysis of contract formation for every claimant in the proposed class. *See* Compl. ¶¶ 103-09. As a matter of statutory interpretation, contract law, and by virtue of the definition of the proposed class, every putative class member accepted the State's offer and entered into an agreement with the State to a

settlement and arbitration process administered by a neutral and independent Administrator when they filed their Settlement Fund claim.

38. The second and third elements of Count II ask whether a retroactive change in the law “substantially impairs” the putative class members’ contractual relationships with the State. *See, e.g., Tuttle v. N.H. Med. Malpractice Joint Underwriting Assoc.*, 159 N.H. 627, 651 (2010). This analysis parallels the analysis as to whether the State breached its contracts with the putative class. The impairment is the same as the breach—the passage of the challenged amendments to the Settlement Fund Act. There are no individualized facts for the Court to address. Rather, the Court must simply determine whether retroactive amendments to the Settlement Fund, which stripped the Administrator of neutrality and independence and annulled the Administrator’s power to issue final decisions binding on the State, “changed the very nature of the contracts.” *Id.* This is a common legal question across the class that is not complicated by the need to analyze individual factual circumstances.

39. Finally, assuming the Court finds that the challenged amendments substantially impaired the contracts of the putative class, the burden will shift to the Defendants to prove that the amendments are “reasonable and necessary to serve an important public purpose.” *Tuttle*, 159 N.H. at 653 (quoting *Opinion (Furlough)*, 135 N.H. at 634). This element looks solely at the State’s conduct and its justification for passing a law that substantially impairs its own contracts. Indeed, because the State is a party to the contracts it has impaired, “heightened review is warranted and courts generally accord minimal deference to legislative acts affecting such contracts.” *Id.* at 654; *see also Opinion (Furlough)*, 135 N.H. at 635 (“When a State itself enters into a contract, it cannot simply walk away from its financial obligations.”). No inquiry into the proposed class members’ individualized circumstances is necessary or appropriate.

40. Much the same is true with Count III, which asserts that the amendments to the Settlement Fund violate the putative class members' equal protection rights under the 14th Amendment of the United States Constitution and Part 1, Articles 2 and 12 of the State Constitution. The analysis of the merits of this claim turns largely on legal, not factual, questions. The first question the Court must answer is whether the amendments to the Settlement Fund split a class of similarly situated people into two separate classes that receive different treatment. By their terms, the amendments create two classes: a favored class of Settlement Fund claimants who obtained a final decision from an independent and neutral Administrator before the amendments took effect, and a disfavored class of claimants who must have their claim decided by an Administrator controlled by the Governor and the Attorney General. Answering this question does not require individualized inquiry.

41. Next, the Court must determine which standard of review applies—strict scrutiny, intermediate scrutiny, or rational basis. *See Cmty. Res. for Justice, Inc. v. City of Manchester*, 154 N.H. 748, 758 (2007). This is a purely legal question. Because the right to a remedy for personal injuries is an “important substantive right,” *Brannigan v. Usitalo*, 134 N.H. 50, 54 (1991); *Opinion of the Justices*, 126 N.H. 554, 566 (1985), the appropriate standard is intermediate scrutiny. *Lennartz v. Oak Point Assocs., P.A.*, 167 N.H. 459, 462-63 (2015); *Cmty. Res.*, 154 N.H. at 758.

42. Finally, the Court must analyze the classification created by the State's legislation under the applicable standard of review. Regardless of which standard of review the Court applies, the analysis turns on the State's purpose in passing the law that created two disparate classes. Again, the inquiry focuses on the State's motivations or reasons, not the individualized circumstances of the putative class members.

43. In summary, the predominant questions the Court must answer in this case are common to the class. Some of the common questions are purely legal and others are mixed questions of law and fact. All the legal questions are common across the class, and the determinative factual questions focus mostly on the State's conduct. The only pertinent factual questions that concern the specific circumstances of the putative class members are answered by the limitations of the class definition—all class members have filed a claim and have stayed their individual lawsuits, but none have yet received and accepted a final decision from the Administrator. The individual circumstances of the claimants in the proposed class will not be determinative. Defendants' Objection to Plaintiffs' Motion for Preliminary Injunction confirms that the primary areas in dispute are all common legal issues across the class. *See generally*, Mem. Law in Support of Obj. to Mot. for Prelim. Inj. at 9-24 (disputing that the statute creates any enforceable contract rights, that the amendments "substantially impair" any private rights, and justifying the amendments based on alleged public interests).

44. Although New Hampshire Rule 16 does not expressly draw distinctions between damages class actions and injunctive relief class actions, *see supra*, footnote 2, applying the Federal Rule 23(b)(2) analysis provides further assurance that class certification is appropriate. Under that rule, a class action should be certified when the plaintiff has established numerosity, commonality, typicality, and adequacy, *see Fed. R. Civ. P. 23(a)*, and that "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2). This requires the party seeking certification to demonstrate: (1) that "the defendant's behavior similarly affected all members of the prospective class," *Gomes*, 561 F. Supp. 3d at 102 (citing 5 James Wm. Moore et al., *Moore's Federal Practice Civil* § 23.43 (2007)); (2)

“that the injury suffered by the prospective class is subject to remedy through injunctive relief,” *id.* (citing *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011)); (3) “that the prospective class seeks predominantly injunctive as opposed to monetary relief,” *id.* (citing *Wal-Mart*, 564 U.S. at 360); and (4) “that the injunctive relief sought by the prospective class is applicable to all prospective class members without requiring substantial individual tailoring,” *id.* (citing *Donovan v. Philip Morris USA, Inc.*, 268 F.R.D. 1, 27 (D. Mass. 2010)).

45. Each of these factors apply here:

- First, the two amendments to the Settlement Fund Act the Plaintiffs seek to enjoin affect all members of the prospective class in the same way—they deprive all of them of the fair and impartial settlement and arbitration process the State had promised to them under the prior version of the Settlement Fund Act. All the putative class members’ contracts are impaired in that same way.
- Second, all the class members seek the same remedies: (a) a declaration that the amendments breach their contracts with the State and infringe their constitutional rights and (b) injunctive relief enjoining the Governor and Attorney General from enforcing the amendments.
- Third, the Plaintiffs, on behalf of all proposed class members, are seeking solely declaratory and injunctive relief.
- Fourth, the injunctive relief requested will apply across the board to the class without any need to tailor individual remedies. “The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared lawful only as to all of the class members or as to none of them. . . . In other words, Rule 23(b)(2) applies only when a single injunction or declaratory judgment would provide relief to each member of the class.” *Wal-Mart*, 564 U.S. at 360; *see also id.* at 361 (noting that the rule was originally designed to help combat racial segregation—“conduct that was remedied by a single classwide order”). That is precisely what the Plaintiffs seek with this class action: a single declaration and injunction barring the enforcement of the illegal and unconstitutional amendments to the Settlement Fund Act for the benefit of all members of the proposed class.

D. Typicality

46. Typicality requires a showing that the class representatives’ claims are typical of the putative class members’ claims. *See Gomes*, 561 F. Supp. 3d at 101. “To be typical, the

representative’s claims must ‘arise from the same event or practice or course of conduct that gives rise to the claims of other class members, and [be] based on the same legal theory.’ *Id.* (quoting *Garcia-Rubiera v. Calderon*, 570 F.3d 443, 460 (1st Cir. 2009)).

47. Here, each of the named Plaintiffs’ claims, “arise out of precisely the same conduct as those of the absent class members, and [they] suffered the same injury[.]” *Id.* The conduct, of course, was the State’s inducement to all putative claimants (including the representative Plaintiffs) to file a claim in the Settlement Fund and its subsequent passage of two retroactive amendments to the Settlement Fund Act that fundamentally altered the process the State had promised to the victims of YDC abuse, depriving the claimants (including the representative Plaintiffs) of the benefit of their bargain with the State—a fair and impartial settlement and arbitration process. All three of the named Plaintiffs, like all proposed class members, filed timely claims in the Settlement Fund, thereby accepting the State’s bargain, before the challenged amendments retroactively changed the deal. *See* Affidavit of Andrew Foley, June 26, 2025 (attached as Compl., Ex. 3) (“First Foley Aff.”) ¶¶ 17-18; Second Affidavit of Andrew Foley, August 12, 2025 (attached hereto as Ex. 3) (“Second Foley Aff.”) ¶¶ 4-5; Affidavit of Ronald C. Miles, June 26, 2025 (attached as Compl., Ex. 4) (“First Miles Aff.”) ¶¶ 13-14; Second Affidavit of Ronald C. Miles, August 12, 2025 (attached hereto as Ex. 4) (“Second Miles Aff.”) ¶¶ 5-7; Affidavit of Jane Doe #231, June 26, 2025 (attached as Compl, Ex. 5) (“First Jane Doe Aff.”) ¶¶ 13-14; Second Affidavit of Jane Doe #231, August 12, 2025 (attached hereto as Ex. 5) (“Second Jane Doe Aff.”) ¶¶ 5-6.

48. The Plaintiffs and all putative class members assert the same legal theories: common law breach of contract, unconstitutional impairment of contract, and infringement of equal protection under the State and Federal constitutions. They all suffered the same injury:

abridgment of their contractual right to a fair and impartial settlement and arbitration process. And they all seek the same remedy: a declaration that the State’s conduct breached their agreements and infringed their constitutional rights, and an injunction preventing the Governor and Attorney General from following through on those breaches and infringements. While “some factual differences may exist between the class members,” including their individual stories of abuse, motivations for filing a Settlement Fund claim, or present financial and health circumstances, the representative Plaintiffs are “typical” of the class “because the [Defendants’] conduct and the [Plaintiffs’] injuries would be the same in all cases.” *Barbara, et al. v. Donald J. Trump, et al.*, No. 25-CV-244-JL-AJ, --- F. Supp. 3d ---, 2025 WL 1904338, at *7 (D.N.H. July 10, 2025). Typicality is readily met where, as here, the class seeks indivisible equitable relief.

E. Adequacy of Representation

49. Rule 16(a)(4) requires that the named Plaintiffs “fairly and adequately protect the interests of the class.” To satisfy this requirement, Plaintiffs “must show that ‘the interests of the representative party will not conflict with the interests of any of the class members[.]’” *Gomes*, 561 F. Supp. 3d at 102 (quoting *Andrews v. Bechtel Power Corp.*, 780 F.2d 124, 130 (1st Cir. 1985)).

50. In this case, the representative Plaintiffs’ interests coincide perfectly with those of the proposed class. None of the three named Plaintiffs seeks personal monetary damages or other individualized relief to the exclusion of other class members. On the contrary, the focus of this litigation is the granting of injunctive relief that will provide the same benefits to all the members of the class—i.e., restoration of the fair and impartial claims process the State originally agreed to provide to all claimants. No conflicts exist that could hinder the named Plaintiffs’ ability to fairly and adequately protect the interests of the class. The Plaintiffs and all class members share a

common interest in obtaining equitable relief that will restore them to the positions in which they all stood on June 30, 2025, the day before the challenged retroactive amendments to the Settlement Fund took effect. *See* Compl. Ex. 3, First Foley Aff. ¶¶ 17-18; Ex. 3, Second Foley Aff. ¶¶ 2-10; Compl. Ex. 4, First Miles Aff. ¶¶ 13-14; Ex. 4, Second Miles Aff. ¶¶ 2-11; Compl. Ex. 5, First Jane Doe #231 Aff. ¶¶ 13-14; Ex. 5, Second Jane Doe Aff. ¶¶ 2-11.

F. Adequacy of Class Counsel

51. Rule 16(a)(6) requires that the attorneys appointed to represent the class also adequately represent the interests of the class. This prerequisite is likewise easily satisfied.

52. Plaintiffs' attorneys have significant and recent experience litigating multi-party public interest cases, including complex class actions seeking equitable relief against the government on behalf of a class of individuals. Indeed, in recent years, attorneys based in the Manchester, New Hampshire office of Nixon Peabody LLP have actively participated in the successful certification of multiple such class actions. *See, e.g., Fitzmorris, et al., v. N.H. Dep't of Health and Hum. Servs. Comm'r*, No. 21-CV-25-PB, 2023 WL 8188770, at *25-28 (D.N.H. Nov. 27, 2023) (certifying class and finding class counsel adequate to represent the class); *Gomes*, 561 F. Supp. 3d at 102-03 (certifying class, finding class counsel adequate, and appointing class counsel pursuant to Fed. R. Civ. P. 23(g)). *See also* Affidavit of Attorney W. Daniel Deane, August 13, 2025 ("Deane Aff.") (attached as Ex. 6) (describing Attorney Deane's background and qualifications as a class action lawyer, summarizing the qualifications of his partners David A. Vicinanza, Mark T. Knights, and Nathan P. Warecki, and describing Nixon Peabody's class action practice generally). Additionally, the aforementioned Nixon Peabody litigators are deeply knowledgeable regarding the widescale YDC litigation generally, as all four have been, for the

past three and ½ years, leading the litigation effort on behalf of Nixon Peabody’s more than 1,300 clients who allege childhood abuse while in State custody. *See id.*

53. Nixon Peabody’s co-counsel in the YDC litigation, Cyrus F. Rilee, III, is even more experienced with the YDC litigation, having filed, in January 2020, the original putative class action against the State on behalf of the first YDC victim to come forward, David Meehan. *See* Affidavit of Cyrus F. Rilee, III, August 12, 2025 (“Rilee Aff.”) (attached as Ex. 7); *David Meehan, et al., v. State of N.H., et al.*, No. 217-2020-CV-00026, Class Action Complaint and Demand for Jury Trial (Jan. 11, 2020) (Index #1). While the Merrimack County superior court (Kissinger, J.) did not grant class certification in that case (based on circumstances patently distinguishable to those present in this action),⁴ Attorney Rilee, unbowed, sought co-counsel to assist him in filing individual actions on behalf of all the victims of abuse in the class seeking representation. Shortly after partnering with Nixon Peabody in late 2021, the two firms began filing hundreds of individual complaints, seeking to preserve the claims of all abuse victims seeking justice. *See id.* The majority of more than 1,300 clients now represented by Rilee & Associates, P.L.L.C. and Nixon Peabody LLP ultimately filed claims in the Settlement Fund and are included within the definition of the putative class proposed in this lawsuit.

⁴ The *Meehan* putative class action is not at all comparable to the present class action. The *Meehan* class action sought to litigate the underlying negligence claims of each YDC victim seeking damages as a single class action on behalf of all victims. Such a class action would have involved adjudicating the claims of hundreds of victims, involving dozens of perpetrators, across decades, and involving different policies and supervisors over time. The superior court denied class certification because “this case concerns different perpetrators and different damages resulting from different injuries incurred via different abuses suffered at different times in a sixty-year period. In the Court’s view, a single class action is too unwieldy given the nature of the allegations and the imprecise putative class.” *Meehan, et al. v. State of New Hampshire*, 217-2020-CV-00026, Order, May 25, 2021 (Index #21). Here, by contrast, the class claims are far more modest. This class action does not seek damages for disparate personal injuries across decades. Rather, it seeks only the equitable enforcement of the State’s agreement with those victims who filed claims in its Settlement Fund (all within the past couple years) on the terms as they existed at the time of the agreement.

54. The attorneys at Nixon Peabody LLP and Rilee & Associates, P.L.L.C. are uniquely qualified to represent the class of abuse victims who seek to enforce the fair and impartial settlement process the State agreed to provide. The resources of their firms are more than adequate to effectively represent the class.

G. Superiority

55. Finally, Plaintiffs must establish that this class action is “superior to other available methods for the fair and efficient adjudication of the controversy.” N.H. Super. Ct. Civ. R. 16(a)(5).

56. Following consideration of the other class action prerequisites, the superiority of a class action in these circumstances is manifest. Indeed, it is apparent why the federal rule, Fed. R. Civ. P. 23, dispatches with the superiority requirement for equitable relief class actions under Rule 23(b)(2). When a class action seeks indivisible equitable relief on behalf of a class of similarly situated individuals—i.e., where each member of the class will receive precisely the same remedy from the equitable relief sought—it is difficult to argue that any other procedural method would be “superior.” It would be a senseless waste of time and judicial resources to force each claimant in the proposed class to file their own independent action seeking redundant injunctive relief against the same Defendants. And consolidation of individual actions for discovery and/or trial would not serve any purpose either.⁵

⁵ As discussed above in the section concerning “predominance,” *see supra* ¶¶ 44-45, the federal rule replaces both “predominance” and “superiority” with a more apt prerequisite for injunctive relief class actions, which asks whether “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). While the New Hampshire rule continues to require “predominance” and “superiority” for injunctive relief class actions, the fact that this case fits perfectly within the (b)(2) federal framework is itself strong evidence that a class action is a “superior” procedural device for a case like this.

57. This case is about the State’s conduct, not the conduct of any individual Settlement Fund claimant in the proposed class. It will be quite easy to establish that each member of the proposed class filed a claim in the Settlement Fund and agreed to stay their related litigation against the State, thereby accepting the State’s offer and agreeing to the Settlement Fund process that was promised prior to the amendments retroactively taking effect on July 1, 2025. The only genuine disputes to be resolved in this case involve the common legal questions that apply equally to each putative class member’s claim—questions regarding formation of contract, breach of contract, unconstitutional impairment of contract, and the application of equal protection guarantees to these circumstances. Separate individualized inquiry of each putative class member’s claim will not help the Court answer those questions. The facts presented by the named Plaintiffs are more than sufficient to provide the Court with all it needs to decide the issues in dispute and provide relief to the class as a whole with a single injunction.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Honorable Court enter an order pursuant to N.H. Super. Ct. R. 16(b):

1. GRANTING this Motion;
2. ALLOWING this case to be maintained as a class action;
3. APPROVING the class as defined in paragraph 13 of this Motion;
4. APPOINTING the named Plaintiffs, Andrew Foley, Ronald “Chuck” Miles, and Jane Doe #231, as class representatives;
5. APPOINTING Nixon Peabody LLP and Rilee & Associates, P.L.L.C. as class counsel; and
6. GRANTING such other and further relief as the Court deems just and proper.

Respectfully submitted,

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

Dated: August 13, 2025

By their attorneys,

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

NIXON PEABODY LLP

/s/ Cyrus F. Rilee, III

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/s/ W. Daniel Deane

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CERTIFICATE OF SERVICE

I certify that on August 13, 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.

EXHIBIT 1

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 TRACEY B. SCARPELLO IN SUPPORT OF
PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION**

I, Tracey B. Scarpello, 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 York and counsel 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 for Class Certification and in support of appointment of Nixon Peabody as class counsel in this matter.
3. As of the end of 2022, Nixon Peabody, along with Rilee & Associates, P.L.L.C. (“Rilee & Associates”), had filed complaints for more than 600 victims of abuse at the YDC and related facilities.
4. As of the date of this filing, Nixon Peabody and Rilee & Associates have filed approximately 1,500 complaints in superior court and represent more than 1,325 YDC abuse victims in total.

5. Nixon Peabody and Rilee & Associates have represented approximately 1,130 individuals who filed a claim or a notice of claim with the Settlement Fund. Of those individuals, approximately 190 have accepted or rejected a final decision from the Administrator or otherwise chosen to withdraw from the Settlement Fund, resulting in approximately 940 claimants represented by Nixon Peabody and Rilee & Associates who are presently proceeding with Settlement Fund claims and have either not yet received a final decision from the Administrator or have not yet accepted or rejected a final decision from the Administrator.

6. Nixon Peabody and Rilee & Associates represent Settlement Fund claimants in each county in the State of New Hampshire.

7. Nixon Peabody and Rilee & Associates also represent many Settlement Fund claimants who currently reside outside the State of New Hampshire, including in Arizona, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Canada, and the United Kingdom.

8. Many of the claimants represented by Nixon Peabody and Rilee & Associates are either homeless, incarcerated (both in-state and out-of-state), disabled, or unemployed. The majority of these claimants live on the fringes of society and are trying to cope with the consequences of the traumatic abuse they experienced as children, including dealing with mental health challenges and financial insecurity.

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

FURTHER AFFIANT SAYETH NAUGHT.

Dated: August 13, 2025

Tracey B. Scarpello
Tracey B. Scarpello, Esq.

Subscribed and sworn to before me this 13 day of August, 2025.

Richard P. Ehlers

Print Name: Richard P. Ehlers

Notary Public/Justice of the Peace

My Commission Expires:

EHLEERS, RICHARD P.
NOTARY PUBLIC OF NEW YORK
REGISTRATION #01EH6242082
QUALIFIED IN ERIE COUNTY
CERTIFICATE FILED ERIE COUNTY
COMMISSION EXPIRES 05-31-27

EXHIBIT 2

New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr.
Administrator

July 24, 2025

Kelly A. Ayotte, Governor
State of New Hampshire
State House
107 North Main Street
Concord, NH 03301

Sherman Packard, Speaker
New Hampshire House of Representatives
State House, Room 311
107 North Main Street
Concord, NH 03301

Sharon Carson, President
New Hampshire Senate
State House, Room 302
107 North Main Street
Concord, NH 03301

Ken Weyler, Chairman
And Members of the New Hampshire Joint
Legislative Fiscal Committee
State House, Room 102
107 North Main Street
Concord, NH 03301

Re: 2025 Quarter Two Report for the YDC Claims Administration and Settlement Fund

Dear Governor Ayotte, President Carson, Speaker Packard, Chairman Weyler and Members of the New Hampshire Joint Legislative Fiscal Committee:

I am forwarding our Quarterly Report for the reporting period of April 1, 2025 through June 30, 2025. It will serve as my tenth and final report as Administrator.

This has been the busiest and most consequential quarter of activity since our claims operation began on January 1, 2023. We received substantially more claim filings this quarter (831) than any previous quarter. This was no doubt due to the statutory June 30, 2025 deadline to file a claim. Many of the new filings have a related Superior Court lawsuit and about half were submitted by Nixon Peabody. The total number of claims filed since we began operation is 1,966. Of that number 1,530 are currently active and pending.

In addition, more than 400 notices of claim have been filed, as a new feature permitted by the 2024 statutory amendments. Those filing a timely Notice of Claim have 60 days to provide a complete Claim with all information the claimant wishes to submit for evaluation and state the amount of compensation sought.

As of June 30, 2025, a total of 386 claims have been resolved in the claims fund process. Resolution of these claims occurred either through direct settlements with the Attorney General's Office or through resolution hearings with me as the Claims Administrator or Diane Nicolosi as Assistant Administrator. Ninety (90) of the 386 were resolved in this quarter alone. Awards range from the lower end (about \$3,000) to the upper end of more than \$1.5 million. Some final decisions result in no award due to ineligibility, for instance. On the whole,

P.O. Box 1930, Concord, NH 03302-1930

Phone: 603-415-2136

www.ydcclaims.nh.gov

email: claims@ydcclaims.nh.gov

the average settlement for all 386 claims is approximately \$545,000.00. For comparison purposes, the Attorney General's Office has resolved two claims outside the YDC Settlement Fund for \$14.5 million and a jury verdict of \$38 million was returned in another claim (the trial court reduced the verdict to \$475,000 and the court's order is now on appeal).

This quarter our resolution process (which involves two hearing teams) resulted in almost 100 decisions being issued. Seventy-five of those decisions involved payouts to claimants over a period of years while a much smaller number were lump sum payments. Two decisions made no awards.

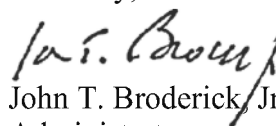
We held hearings this quarter at both the Berlin and Concord prisons as well as at the Hillsborough County House of Corrections in Manchester. Former Commissioner Helen Hanks and her staff, including Corrections Officers, were very helpful. Superintendent Joseph Costanzo and his staff, including Captain Timothy Fitzpatrick, were very accommodating during our first visit in Manchester. We have been gearing up for more hearings at department of corrections facilities.

Because of recent amendments to the claims statute that eliminated my position as an independent Administrator with authority to decide cases as a final arbiter, this is my last Quarterly Report. It has been an honor to serve in my position, as emotionally difficult as it was, and to have worked with my small but extraordinarily dedicated staff of professionals who made our operation a success. I cannot sufficiently express my gratitude to them.

My thanks, too, to the Judicial Branch and its highly skilled professionals who worked closely with us on multiple fronts to advance our efforts – including technology, website, finance, human resources, and security.

Sitting in confidential settings listening to the personal stories from “long ago kids” who were abused in state detention for more than 50 years, as I have done weekly these last two years, and being able to apply the state law and guidelines to make awards, was a privilege and responsibility unlike any I have ever had. I will always be as grateful for that opportunity as I am saddened to leave it. But I am proud of the work we did.

Sincerely,



John T. Broderick, Jr.
Administrator
New Hampshire Youth Development Center
Claims Administration and Settlement Fund

CC: Michael Kane, Legislative Budget Assistant
John M. Formella, Attorney General
Laura J. Raymond, Assistant Attorney General, Attorney General's Office
Thomas Kaempfer, Deputy Director of Administration, Attorney General's Office

New Hampshire Youth Development Center Claims Administration and Settlement Fund

John T. Broderick, Jr.
Administrator

July 24, 2025

To: Kelly A. Ayotte, Governor, State of New Hampshire
Sharon Carson, President, New Hampshire Senate
Sherman Packard, Speaker, New Hampshire House of Representatives
Ken Weyler, Chairman and Members of the New Hampshire Joint Legislative Fiscal
Committee

Administrator's Quarterly Report for the YDC Claims Administration and Settlement Fund

2025 Quarter Two

The New Hampshire Legislature established the YDC Claims Administration and Settlement Fund under NH RSA 21-M:11-a, for victims of sexual and other abuse at New Hampshire's youth detention center facilities in prior decades to provide an administration process as a trauma-informed, victim-centered alternative to litigation for the efficient and fair resolution of potential claims against the State of New Hampshire.

This Quarterly Report is provided by Administrator Broderick pursuant to his duty under the statute to provide information, in consultation with the Attorney General's Office, about claims filed and anticipated to be filed, as well as administrative costs paid and anticipated.

For information about claims, the statute requires reporting for the following data: the number and nature of claims made and settled, the amounts requested and paid in settlement to date, the claim amounts pending, an estimate of the likely amounts which will be approved and paid. Information about Claims is based on the Administrator's docket at the close of the reporting period.

For information about costs, the statute requires reporting for the following data: costs which have been paid from the Fund, and an estimate of future costs to be paid. Costs from the Fund include payments for resolved claims (including fees and costs of attorneys who represent claimants), costs for claims processing by the Claims Administrator ("CA"), and costs of the Attorney General's Office ("AGO") outside of the ordinary operational expenses of the Department of Justice. Information about CA costs for claims processing is provided by the Claims Administration. Other figures for information about costs are provided by the Department of Justice.

This Report provides information for claims and costs since claims processing began on January 1, 2023, through the end of 2025 Quarter Two on June 30, 2025 (with costs first incurred in late 2022). The format for reporting information about claims is structured to protect the privacy and anonymity of the claimants.

Information about Claims

Section 1 – All Filed Claims through 2025 Q2

Number of & Total Claim Amount for Filed Claims*

Total Number of Filed Claims by End of 2025 Q2: **1,966**

2023 Q1: 38	2024 Q1: 159	2025 Q1: 261
2023 Q2: 54	2024 Q2: 134	2025 Q2: 831
2023 Q3: 88	2024 Q3: 124	
2023 Q4: 79	2024 Q4: 198	

Nature of Abuse in Filed Claims

Total Filed by End of 2025 Q2: **1,966**

Claims filed for both Sexual Abuse and Other Abuse: **1,437**
Claims filed for Sexual Abuse only: **240**
Claims filed for Other Abuse only: **289**

*Total Claim Amount as requested by Claimants and related statistics for Pending and Resolved Claims can be found in Appendix A. Notices of Claim are not included in the Filed Claim count at this point. Individuals who filed a timely Notice of Claim have 60 days to provide a complete Claim. Information on Notice of Claim filings can be found in Appendix A.

Section 2 – Pending Claims at Close of 2025 Q2

Number of Pending Filed Claims

Total Pending at End of 2025 Q2: **1,530**

Under Administrative Review & Processing Stage: **851**
In AGO Evaluation & Position Review Stage: **440**
In a Resolution Proceeding/Outcome Stage: **239**

Nature of Abuse in Pending Filed Claims

Total Pending at End of 2025 Q2: **1,530**

Claims filed for both Sexual Abuse and Other Abuse: **1,095**
Claims filed for Sexual Abuse only: **175**
Claims filed for Other Abuse only: **260**

Section 3 – Resolved Claims at Close of 2025 Q2

Number & Amounts for Claims Resolved with Settlement from the Fund

Total Claims Resolved with Settlement from the Fund through 2025 Q2: **386**

Number of Claims Settled by Agreement with AGO: **160**
Number of Claims Settled following Resolution Proceeding with CA: **204**
Number of Claims Settled with Resolution by AGO and CA: **22**

Actual Settlement Amount for Resolved Claims (without interest): **\$210,431,665.00¹**

Actual Settlement Amount Resolved by Mutual Agreement (AGO): **\$68,387,875.00**

Settlement Amount up to \$500,000.00: **101**

Settlement Amount between \$501,000.00 to \$1,500,000.00: **59**

Settlement Amount between \$1,501,000.00 to \$2,500,000.00: **0**

Actual Settlement Amount of Claims Resolved by AGO and CA: **\$11,533,500.00**

Settlement Amount up to \$500,000.00: **14**

Settlement Amount between \$501,000.00 to \$1,500,000.00: **8**

Settlement Amount between \$1,501,000.00 to \$2,500,000.00: **0**

Actual Settlement Amount Resolved following Resolution Proceeding (CA): **\$130,510,290.00**

Settlement Amount up to \$500,000.00: **111**

Settlement Amount between \$501,000.00 to \$1,500,000.00: **91**

Settlement Amount between \$1,501,000.00 to \$2,500,000.00: **2**

Actual Settlement Amount for Resolved Claims (with interest): **\$221,667,286.21**

- A fiscal year impact table with an estimate of aggregate monies owed in future fiscal periods can be found in Appendix A.

Nature of Claims Resolved with Settlement from the Fund

Total Claims Resolved with Settlement from the Fund through 2025 Q2: **386**

Claims settled of Sexual Abuse and Other Abuse: **308**

Claims settled of Sexual Abuse only: **55**

Claims settled of Other Abuse only: **23**

Section 4 – Other Claims Information

Number & Amounts of Other Claims No Longer Pending under the Fund

Denied/Dismissed for Procedural Reasons: **13**

Withdrawn by Claimant: **37**

Total Amount Represented by Other Claims: **\$54,209,075.00**

¹ Report Note: This Actual Settlement Amount figure represents amounts resolved following a resolution proceeding and by mutual agreement, where the resolved claim amount is progressing to payment processing with the AGO under the *Claims Process for Administration of the YDC Settlement Fund*.

Information about Costs

Approved Claim Payments from the Fund

Payments Made for 352 Claims as of the End of 2025 Q2: **\$136,257,930.33**

CA Costs to the Fund

Total Cumulative Expenditure of CA Costs through 2025 Q2: **\$3,734,508.80**

Cumulative Expenditure through 2025 Q1: **\$3,150,467.45**

2025 Q2 Expenditure to be Invoiced to the Fund: **\$584,041.35**

AGO Costs to the Fund (Special and Outside Expenses Only)

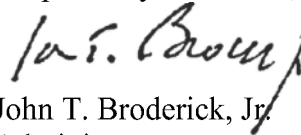
Payments Made as of the End of 2025 Q2: **\$5,414,132.52**

Pending as of the End of 2025 Q2 (to be paid in 2025 Q3): **\$300,000.00**

Informational Note

The June 6, 2025 report of the Audit Division - Office of the Legislative Budget Assistant provides further information on claims processing and costs: [Final Report - Review of Settlement Fund Finances And Operations](#)

Respectfully submitted,



John T. Broderick, Jr.
Administrator

New Hampshire Youth Development Center
Claims Administration and Settlement Fund

CC: Michael Kane
Legislative Budget Assistant
Office of Legislative Budget
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Appendix A

Total Claim Amount for Filed Claims

Total Claim Amount as requested by Claimants in the aggregate for:

- **Total** Filed Claims through 2025 Q2: **\$2,324,864,959.25** requested by claimants
With statutory maximums applied: \$2,157,699,785.25 requested by claimants
- **Resolved** Filed Claims (AGO/CA) through 2025 Q2: **\$432,516,800.00** requested by claimants
Actual Settlement Amount for Resolved Claims (without interest): \$210,431,665.00 awarded
- **Pending** Filed Claims through 2025 Q2: **\$1,838,139,084.25** requested by claimants

Note that the total amount requested (Pending Filed Claims) will decrease as resolution activity continues, and as procedural dismissals take effect for claims that were received after the filing deadline or that are otherwise found to be ineligible for consideration.

Notice of Claim Filings

Per statute, a Notice of Claim form could be filed within the filing period deadline of June 30, 2025. Those filing a timely Notice of Claim then have 60 days to provide a complete Claim with all information the claimant wishes to submit for evaluation and state the amount of compensation sought.

Total Number of Notices of Claim through 2025 Q2: **437**

- Notices of Claim that are pending: **361**
- Notices of Claim that subsequently became full claims: **72**
- Notices of Claim that expired or were withdrawn: **4**

Additional Information on Resolved and Other Claims

- For the 386 *Total Claims Resolved with Settlement*, these do not include 10 denial decisions by CA.
- Of the 160 resolved *Claims Settled by Agreement with AGO* through 2025 Q2, 21 were resolved after 6/30/2024.
- Of the 204 resolved *Claims Settled following Resolution Proceeding with CA* through 2025 Q2, 157 were resolved after 6/30/2024.
- Claims in the category *Claims Settled with Resolution by AGO and CA* were resolved through final decision where the parties agreed on the award amount and submitted open items to the claims administrator for his decision (ex: payout years for agreed upon award; legal fees as portion of award; and/or payout years for legal fees).

Fiscal Year Impact for Claims Resolved with Settlement from the Fund

This fiscal year impact table provides an *estimate* of aggregate monies owed in future fiscal periods based on Resolved Claims through the reporting period. Under the statute in effect prior to July 1, 2025, claims are considered Resolved for payment under the Fund once a claimant both accepts an award (either through claims administrator final decision or mutual agreement with AGO) and claims administration sends an "approve to proceed to payment processing" notification to the claimant and to the AG designee, after reviewing the acceptance for completion. Once Resolved, claims administration takes no further action on a claim and designates it with "closed" status. Payment processing is carried out by the Attorney General's Office.

FY Impact	Through FY24 (through 6/30/2024)	FY25 (as of 6/30/2025)	To be paid in Future FYs* (as of 6/30/2025)	Total
Lump Sum Payments	\$95,627,500.00	\$6,685,175.00	–	\$102,312,675.00
Periodic Payments	–	\$38,863,365.00	\$80,491,246.00	\$119,354,612.00
Total	\$95,627,500.00	\$45,548,540.00	\$80,491,246.00	\$221,667,287.00

*Represents periodic payments pursuant to installment plans due in future Fiscal Years (FY26 through FY34).

EXHIBIT 3

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

SECOND AFFIDAVIT OF ANDREW FOLEY

I, Andrew Foley, being duly sworn on oath, depose and state as follows:

1. I am an adult with personal knowledge and competent to testify to the matters set forth herein.

2. I previously signed an affidavit in support of the Complaint filed in this matter on June 27, 2025. That affidavit remains accurate, and I incorporate it herein, but I submit this second affidavit specifically in support of Plaintiffs’ Motion to Allow Class Action.

3. As stated in my first affidavit, I was physically, sexually, and emotionally abused as a child in custody at the Youth Development Center (“YDC”) in the late 1990s. In 2022, I retained counsel and filed a complaint against the State of New Hampshire alleging that the State was responsible for my abuse. A true and accurate copy of my complaint against the State is attached as **Exhibit A**.

4. Although I was initially skeptical about the YDC Settlement Fund, because I did not believe the State would voluntarily treat me fairly, I eventually decided it might be worth a

try as a quicker and hopefully less painful way to obtain closure on my childhood abuse. I knew that my lawyers had negotiated changes to the Settlement Fund to make it fairer and more “trauma informed” for claimants. I was induced by the State’s assurance that it would be a faster and less traumatic process than litigation and I relied on the State’s promise that my claim would be decided by an impartial and neutral decisionmaker.

5. Based on these understandings, on June 23, 2025, I authorized my lawyers to file a claim in the Settlement Fund. Attached as **Exhibit B** is a true and accurate copy of pertinent portions of my claim submission with the Claims Administrator, including my completed “Claim Form,” “Written Narrative,” and executed “Notice of Filing of Claim and [Partial] Stay,” which indicates my agreement to stay my lawsuit while my Settlement Fund claim is pending. My lawyers submitted my Notice of Claim and [Partial] Stay to the Settlement Fund Administrator and once the Administrator signs it, they will file it with the superior court.

6. I was angered when I learned that the State had betrayed the Settlement Fund claimants by changing the rules after all the claimants had opted into the fund. I believe the State should not only be held accountable for its negligence, but it should also be held to its agreements. The State made agreements with the Settlement Fund claimants that it would provide them with a fair and impartial process that would be “victim centered” and “trauma informed.”

7. I understand that this class action lawsuit was filed to prevent the State from enforcing its changes that undermine the fairness and integrity of the Settlement Fund. Because I strongly believe the State should not be allowed to renege on its promises and obligations, after discussing the matter with my lawyers, I agreed to serve as a representative for this class action. I

want to do my part to force the State to live up to its end of the deal it struck with the victims of abuse at the YDC and related facilities.

8. My attorneys have explained to me my responsibilities as a class representative, and I am willing to undertake those responsibilities. I understand that as a class representative: (a) I have the responsibility to see that the lawyers prosecute the case on behalf of the entire class, not just myself, (b) I may have to testify at a deposition or in a hearing or trial and provide documents and information for use in the case, and (c) the Court must approve any settlement of this case as a class action.

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)

I, Andrew Foley, being first duly sworn, on oath depose and say that the statements contained herein are true and correct to the best of my knowledge, information, and belief.

[Signature]
Andrew Foley

Subscribed and sworn to before me this 12 day of August, 2025.

Wake County, North Carolina
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.
Andrew Foley
Name of Principal(s)
Date [Signature]
Official Signature of Notary Public
Leticia Best Notary Public
Notary's printed or typed name
My Commission Expires December 3, 2027

[Signature]

Print Name: Leticia Best

Notary Public/Justice of the Peace

My Commission Expires: December 3, 2027

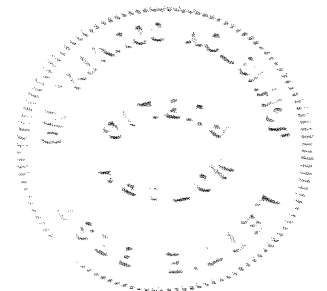


EXHIBIT A

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

CIVIL ACTION NO. 217-2022-CV-00100

JOHN DOE #166

v.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.

**FIRST AMENDED SHORT FORM COMPLAINT SUPPLEMENT TO
MASTER COMPLAINT
(For all Plaintiffs represented by Rilee & Associates, P.L.L.C. and Nixon Peabody LLP)**

Plaintiff John Doe #166 (“Plaintiff”), by and through counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody, LLP, submits this “First Amended Short Form Complaint,” which supplements the Master Complaint filed in the lead docket, *Meehan v. State of N.H., Dep’t of Health and Human Servs.*, Docket No. 217-2020-CV-26, in the Superior Court for Merrimack County, and as may be amended in the future (the “Master Complaint”). Pursuant to the Court’s Orders of February 18, 2022, and July 6, 2022, Plaintiff files this First Amended Short Form Complaint, which, together with the Master Complaint filed on the lead docket in *Meehan*, supersedes and amends Plaintiff’s Complaint, and sets forth a statement of material facts entitling Plaintiff to the relief requested in Counts I through VII of the Master Complaint. To the extent Plaintiff has supplemental claims against State Defendants identified in the Master Complaint and any other defendant, those claims, and the material facts sustaining those claims, are additionally set forth herein.

INCORPORATION BY REFERENCE OF MASTER COMPLAINT

1. The Master Complaint filed in the lead docket, Docket No. 217-2020-CV-26, in the Superior Court for Merrimack County, and as may be amended in the future, is expressly

incorporated by reference to this First Amended Short Form Complaint as if fully set forth herein, except to the extent modified by this First Amended Short Form Complaint.

PARTIES

2. Plaintiff is an individual who is a resident of the State of North Carolina, County of Wake, and a crime victim pursuant to the New Hampshire Victim Bill of Rights, New Hampshire Revised Statutes Annotated (“RSA”) 21-M:8-k. Plaintiff’s identity and date of birth have been filed **under seal** with this Honorable Court.

3. Plaintiff expressly incorporates by reference all Defendants as identified in paragraphs 2 through 8 of the Master Complaint, hereinafter referred to as “State Defendants.”

4. Plaintiff identifies additional Defendants, if indicated below:

X	No additional Defendants.
	Additional Defendant/s, hereinafter referred to as the “Contractor Defendant/s”:

FACTS SPECIFIC TO PLAINTIFF

5. Plaintiff was born in the year: 1981.

6. Plaintiff was taken into the custody and control of the State of New Hampshire as a minor and was, while in the state’s custody and control, placed at facilities and placements as directed by State Defendants in or about the following approximate time period(s): 1995 to 1999.

7. In or about the time period(s) identified in paragraph 6, State Defendants placed Plaintiff in the State Youth Facility (as defined in the Master Complaint).

8. In or about the time period identified in paragraph 6, while Plaintiff was in the custody and control of State Defendants, and while Plaintiff was residing at the State Youth Facility, agents and employees of State Defendants harmed Plaintiff through specific acts of child abuse including, but not limited to, the incidents indicated (below or attached):

State Defendants committed Plaintiff to YDC where he was physically and sexually abused by agents and employees of State Defendants. For example, an individual known to Plaintiff as “Tim Roy” gave Plaintiff a severe beating. While Tim Roy acted alone, several other YDC staff, including an individual known to Plaintiff as “Paul K,” witnessed the beating and did not intervene. Additionally, the head of Spaulding Cottage was "touchy feely" with the juvenile residents under his care, including Plaintiff. While physical contact and wrestling with staff members was normalized, the head of Spaulding was especially touchy with residents and in a more intrusive and sexual way than others. Plaintiff was personally forced to sit on this man’s lap and could feel his erection. This same man also groped Plaintiff and touched his genitals. On another occasion, this man wrestled with Plaintiff and grinded sexually on top of him. All the youth residents of the YDC avoided the head of Spaulding. The staff of the YDC removed the curtains from the showers so that they could observe the juvenile residents showering. The head of Spaulding was one of those observers. YDC staff also encouraged the youth residents to fight one another for the entertainment of the staff. At King Cottage, the staff created a "fight club." Among other things, YDC staff offered contraband (cigarettes, marijuana, food, pornography) to Plaintiff in exchange for punching other youth residents. YDC staff locked Plaintiff in isolation or solitary confinement for extended periods of time without justification on multiple occasions. In the aggregate, Plaintiff spent several months in solitary confinement, during which time he suffered emotional trauma and was denied access to statutorily guaranteed rights. YDC staff also excessively restrained Plaintiff on many occasions, including to the point of losing consciousness or begging to be let go. On one occasion, Plaintiff was essentially waterboarded by a staff member who put Plaintiff in a headlock and then repeatedly forced Plaintiff’s head under water until Plaintiff nearly lost consciousness.

9. In or about the time period identified in paragraph 6, and while Plaintiff remained in the custody and control of State Defendants, State Defendants additionally placed Plaintiff in other, privately operated, congregate care residential facilities or programs, if indicated below:

X	Not applicable (no private placement)
	State Defendants placed Plaintiff at residential facilities operated by the Contractor Defendant/s identified in paragraph 4.

10. In or about the time period identified in paragraph 6, while Plaintiff remained in the custody and control of State Defendants, and while Plaintiff was residing at residential facilities operated by the Contractor Defendant/s following placement by State Defendants, agents and employees of State Defendants and Contractor Defendant/s (collectively, “Defendants”) harmed Plaintiff through specific acts of child abuse including, but not limited to, the incidents indicated below (or attached):

X	Not applicable (no private placement)

CONSOLIDATED CAUSES OF ACTION

11. Plaintiff expressly adopts Counts I through VII of the Master Complaint against State Defendants arising from harm caused to Plaintiff by agents and employees of State Defendants while Plaintiff was in the custody and under the control of State Defendants and residing in the State Youth Facility or any other state-operated residential facility (the “Consolidated Claims”) as alleged in Paragraph 8 of this First Amended Short Form Complaint.

SUPPLEMENTAL CAUSES OF ACTION

12. Additionally, Plaintiff alleges supplemental Counts against State Defendants and Contractor Defendant/s (together, “Defendants”) arising from harm caused to Plaintiff by agents and employees of Defendants while Plaintiff was in the custody and under the control of Defendants and residing in residential facilities privately operated by Contractor Defendant/s (the “Supplemental Claims”) as alleged in paragraph 10 of this First Amended Short Form Complaint, if any indicated below (and in separate attachments):

X	No Supplemental Claims
----------	------------------------

<p>Each of the following Supplemental Claims:</p> <p>Count VIII (Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s)</p> <p>Count IX (Breach of Nondelegable Duty—State Defendants)</p> <p>Count X (Aiding and Abetting Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s)</p> <p>Count XI (Negligent Hiring, Training, Supervision and Retention—State Defendants and Contractor Defendant/s)</p> <p>Count XII (Negligence—State Defendants and Contractor Defendant/s)</p> <p>Count XIII (Negligent Failure to Adopt and Implement Rules—State Defendants)</p> <p>Count XIV (Civil Conspiracy— State Defendants and Contractor Defendant/s)</p>
--

*Any indicated Counts are attached hereto as an addendum to this First Amended Short Form Complaint.

13. In addition to any Counts alleged in paragraph 12, Plaintiff alleges the following additional Supplemental Claims, if any indicated below or in separate attachments:

--

14. To the extent Plaintiff wishes to dismiss, without prejudice, any Consolidated Claims previously alleged in the Master Complaint, or any grounds in support of any Consolidated Claims, they are so indicated (below or attached):

--

WHEREFORE, Plaintiff demands a trial by jury on all issues so triable and prays for all relief as set forth in this First Amended Short Form Complaint, any addendum hereto, and in the Master Complaint filed in the lead docket, *Meehan v. State of N.H., Dep't of Health and Human Servs.*, Docket No. 217-2020-CV-26. Plaintiff further demands a jury viewing of all facilities where Plaintiff was harmed by agents and employees of State Defendants and, if applicable, Contractor Defendant/s. As discovery is ongoing, Plaintiff expressly reserves the right to amend or supplement this First Amended Short Form Complaint.

Respectfully submitted,

JOHN DOE #166

Dated: August 23, 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)
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Bedford, NH 03110
T: 603.232.8234
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lrilee@rileelaw.com

By and through counsel,

NIXON PEABODY LLP

/s/ David A. Vicinanza

David A. Vicinanza, Esq. (Bar No. 9403)
W. Daniel Deane, Esq. (Bar No. 18700)
Mark Tyler Knights, Esq. (Bar No. 264904)
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nwarecki@nixonpeabody.com
ebucksbaum@nixonpeabody.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via the Court's e-filing system on all parties of record on August 23, 2022.

/s/ David A. Vicinanza

EXHIBIT B

NEW HAMPSHIRE YOUTH DEVELOPMENT CENTER CLAIMS
ADMINISTRATION AND SETTLEMENT FUND
John T. Broderick, Jr., Administrator

Claim Details

Claim Number:

Created Date:

*Do you have an Attorney in this matter? Yes No

*Name of Law Firm: **Kristi Livedalen, Esq. (CA # 155207), Nixon Peabody LLP, 300 South Grand Avenue, Suite 4100, Los Angeles, CA 90071 (213) 629-6186, Email: klivedalen@nixonpeabody.com**

IF YOU HAVE AN ATTORNEY FOR THIS CLAIM, PLEASE STOP AND ENSURE THAT YOUR ATTORNEY COMPLETES AND SUBMITS THIS CLAIM FORM FOR YOU. We will only correspond with your attorney if you are represented. Attorney information will be entered at the end of the Claim form in the Reporter section.

*Did you already file a Notice of Claim with us? Yes No

This is NOT a required step in order to file a claim, but you must acknowledge if you sent us such a Notice at any time prior to filing this Claim. A sample Notice of Claim is on the YDCCA website if you need guidance on this document and its purpose.

Claimant Name and Contact Information

*Claimant First Name: **Andrew**

Claimant Middle Name: **Scott**

*Claimant Last Name: **Foley**

*Other Names used by Claimant: Yes No

Claimant Other First Name Used (if any): **Andy**

Claimant Other Middle Name Used (if any):

Claimant Other Last Name Used (if any):

Claimant Nickname Used (if any): **Fofo**

*Claimant Gender: Male Female

***Claimant Date of Birth:** [REDACTED] **1981**
Please enter your date of birth as MM/DD/YYYY

***Claimant Social Security Number:** [REDACTED]

Claimant A-number (also known as a CIS #or Alien Registration number) if you have one:

***Claimant Street Address:** [REDACTED]

Apartment or Unit #:

***Claimant City: Zebulon**

***Claimant State: NC**

***Claimant Zip Code: 27597**

Claimant Email:

Claimant Preferred Contact phone number:

May voicemail messages be left: Yes No

***How do you prefer we communicate with you?** EMAIL MAIL PHONE
Email communication is preferred for efficient processing of your Claim

***Are you currently residing at a department of corrections facility:**
 Yes No

****If yes, which corrections facility:***

***Do you have a Trusted Contact in case we cannot reach you:**
 Yes No

A Trusted Contact is someone that we can communicate with about your claim, if you do not have an attorney. It is not your attorney.

***Trusted Contact First Name:** _____

***Trusted Contact Last Name:** _____

Trusted Contact Address: _____

Trusted Contact Phone: _____

Trusted Contact Email: _____

***Trusted Contact Relationship:** _____

Eligibility for Compensation from the Fund

The next series of questions relate to your eligibility to file a Claim for recovery under the YDC Settlement Fund. You also will need to provide a Statement of Eligibility. It is important to provide any supporting documents for Eligibility, if you have them. There are Instructions available.

Please list the YDC Facility/Facilities where you were committed or detained:

Youth Development Center (“YDC”). (See ASF 004-009).

***When were you in each YDC Facility? Please separately list time frames if multiple facilities:**

YDC: January 4, 1996 to August 9, 1996 and September 6, 1996 to February 2, 1999. (See ASF 004-009).

Provide dates as best you remember

***How old were you when you first arrived at any YDC facility: 14**

***Do you recall cottage(s) or wing(s) that you lived? Yes No**

Name of Wing(s) or Cottage(s): King Cottage, East Cottage, Spaulding Cottage and Stark House. (See ASF 004-009).

***Were you subjected to sexual, physical, and/or other abuse while in a YDC facility? Yes No**

***What information are you providing to affirm your status as a Former YDC Resident:**

****Please select all that apply:***

- | |
|---|
| <input checked="" type="checkbox"/> Your recollection, in your written narrative
<input checked="" type="checkbox"/> Resident File
<input type="checkbox"/> Other Documents |
|---|

***Have you filed any lawsuits against the State, or any persons, organizations or entities related to the sexual or physical abuse you suffered:** Yes No

Provide initial filing date of lawsuit: **01/14/2022**

Provide docket number: **217-2022-CV-00100**

Provide caption name of lawsuit: **John Doe #166 v. State of New Hampshire, Department of Health and Human Services, et al.**

Plaintiff Pseudonym: **John Doe #166**

Provide your court pseudonym if you have one, such as "John Doe #1".

***Have you received any settlements (any money) from the State of New Hampshire, or any other person, organization, or entity related to the sexual or physical abuse you suffered:** Yes No

If you answer Yes, please provide details in your narrative.

Information about the Abuse You Suffered

***Are you making a claim for sexual abuse:** Yes No

Sexual Abuse

The next series of questions asks how many times you were sexually abused by or because of a staff member. For information on the categories and definitions of sexual abuse, please see the YDC Settlement Fund statute and the Guidelines. Your written narrative is the place to provide as much detail as you can for each time you were sexually abused.

Category A – Anal or Genital Rape: Yes No

- ***Please estimate the number of times Category A sexual abuse happened:**

Category B – Oral Rape: Yes No

- ***Please estimate the number of times Category B sexual abuse happened:**

Category C – Intimate Sexual Touching (Masturbation): Yes No

- ***Please estimate the number of times Category C sexual abuse happened: 12+**

Category D – Other Touching (Groping): Yes No

- ***Please estimate the number of times Category D sexual abuse happened:**

Category E – Conduct Creating a Reasonable Apprehension of Sexual Abuse, or Conduct Constituting Indecent Exposure, Lewdness, or Violations of Privacy: Yes No

- ***Please estimate the number of times Category E sexual abuse happened: 200+**

***Does your Claim include incidents of Egregious Sexual Abuse:**

Yes No Don't Recall *If yes, please provide details in your written narrative*

***In what years did the sexual abuse events occur, to the best of your recollection: 1996**

Your written narrative is the place to provide any details that you recall.

***How old you were you when the sexual abuse first occurred: 14**

***Who sexually abused you? Please list any names or nicknames you recall, and what their roles were at the facility: Lou Poulette**

Your written narrative is the place to provide any details that you recall. Examples of roles at the facility include staff member, volunteer, or other resident. You can write 'Don't Recall' if you don't remember.

***Did anyone witness (see or hear) any incident of sexual abuse:**

Yes No Don't Know

List any witnesses to your sexual abuse, if you recall names. **Residents David Meehan, [REDACTED] and [REDACTED] older brother. Some of the abuse took place in plain view of other residents and staff. Staff were or should have been aware of the abuse.**

Include contact information if available:

***Did you tell anyone about any sexual abuse incident:**

Yes No Don't Recall

Person(s) you told about your sexual abuse:

I have discussed some of the abuse with my wife Nadia Haddad Foley, brother Micah Fletcher and manager Mike McCann.

Subject to and without waiving applicable privileges: I have discussed what happened with my lawyers for purposes of seeking legal advice and representation.

I have discussed the abuse with New Hampshire State Police and in a deposition in Case No. 217-2021-CV-00479.

Were you ever threatened, disciplined, or otherwise coerced so that you would not report that you were sexually abused at any time: Yes No

Did the sexual abuse occur during a period of Out-of-Community Confinement ("OOC") that you consider unjustified: Yes No

You have completed the section on Sexual Abuse. Please provide details in your written narrative to the best of your recollection, including for all questions where you answered 'Yes'.

***Are you making a claim for other abuse, for incidents that occurred separately of sexual abuse:** Yes No

Note: Only events of Other Abuse that were separate from the events of sexual abuse (if any) may be claimed in this section.

Other Abuse

This category was formerly named 'Physical Abuse' and still includes physical abuse questions.

The next series of questions asks how many times you were subject to Other Abuse by or because of a staff member. For information on the categories and definitions of Other Abuse, please see the YDC Settlement Fund statute and the Guidelines. Your written narrative is the place to provide details for each time you were subject to Other Abuse.

Category A – Other resulting in permanent or life-threatening bodily injury:

Yes No

- ***Please estimate the number of times Category A other abuse happened: 27+**

Category B – Other resulting in serious bodily injury: Yes No

- ***Please estimate the number of times Category B other abuse happened:**

Category C – Other abuse resulting in bodily injury or intentional infliction of emotional distress: Yes No

- ***Please estimate the number of times Category C other abuse happened: 6**

Category D – Other abuse with no significant injury: reckless conduct; criminal threatening; child endangerment: Yes No

- ***Please estimate the number of times Category D other abuse happened: 61-66**

Category E – Unlawful strip search or unlawful restraint by means of physical, mechanical, or pharmaceutical restraint: Yes No

- ***Please estimate the number of times Category E other abuse happened:**

Category F – Unlawful restraint by means of placement in isolated confinement: Yes No

- **Please estimate the number of times Category F other abuse happened: 290+**

***In what years did the other abuse events occur, to the best of your recollection: 1996-1999**

Your written narrative is the place to provide any details that you recall.

***How old were you when other abuse first occurred: 14**

***Please list any names or nicknames you recall of persons who subjected you to other abuse and what their roles were at the facility: Staff member Tim Roy; a staff member who was Caucasian, muscular and talked about his motorcycle.**

Your written narrative is the place to provide any details that you recall. Examples of roles include staff member, volunteer, or other resident.

***Did you suffer any injury or permanent impairment from the other abuse, you are reporting: Yes No**

Examples could include a black eye, a broken leg, or brain damage. Please provide details in your narrative.

*** Did anyone witness any incident of other abuse: Yes No Don't Know**

List any witnesses to other abuse, including physical abuse, if you recall names. Include contact information if available: **Staff member Paul Kafegelis and resident [REDACTED]. Some of the abuse took place in plain view of other residents and staff. Staff were or should have been aware of the abuse.**

You can give more details about witnesses in your narrative.

***Did you tell anyone about other abuse: Yes No Don't Know**

Person(s) you told about other abuse, including physical abuse:

I have discussed some of the abuse with my wife Nadia Haddad Foley, brother Micah Fletcher and manager Mike McCann.

Subject to and without waiving applicable privileges: I have discussed what happened with my lawyers for purposes of seeking legal advice and representation.

I have discussed the abuse with New Hampshire State Police and in a deposition in Case No. 217-2021-CV-00479.

Were you ever threatened, disciplined, or otherwise coerced so that you would not report that you were subject to other abuse at any time: Yes No

If you answer Yes, please provide details in your narrative.

Did the other abuse occur during a period of Out-of-Community Confinement ("OOC") that you consider unjustified: Yes No

If you answer Yes, please provide details in your narrative.

You have completed the section on Other Abuse. Please provide details in your written narrative to the best of your recollection, including for any questions where you answered 'Yes'.

Additional Information to Support Your Claim

***Do you wish to provide testimony under oath in a live resolution proceeding, or do you prefer to have your Claim decided based solely on the written submissions:**

- Live testimony in a resolution proceeding
 Written Submission only

***Will you be providing a written impact statement with your Claim:** Yes No

To the best of your ability, it will be helpful if you describe the impact that the abuse has had on you, including any extraordinary circumstances or harm that you have suffered.

***Have you received any treatment or services (such as medical treatment, counseling, addiction recovery, religious or spiritual services) because of the abuse you suffered:** Yes No

I received mental health counseling from a military psychiatrist, Mike Camp. I attempted suicide on two occasions. The attempts were caused, at least in part, by the abuse I suffered.

*If you answered 'Yes', please describe the treatment/services, the providers, and dates of treatment/services.
You may also provide records.*

***Do you believe that additional or other treatment or services would be helpful to you:** Yes No

If you answer Yes, please tell us more in your narrative.

Your Claim Amount

To determine the amount of your Claim under the Guidelines, you may either complete the optional Claim Worksheet or you may Estimate the amount of your Claim. If you enter an amount greater than the total cap allowed by statute, then your Claim will be treated as a Claim for that statutory cap.

Did you use the optional Claim Worksheet to calculate your Claim Amount:

Yes No

If 'Yes', please include the Worksheet with the support documents you send us.

***Total Claim Amount: \$2,027,000**

***How much of your Total Claim Amount is for Sexual Abuse: \$1,325,000**

Enter '0' if none.

***How much of your Total Claim Amount is for Other Abuse: \$702,000**

Enter '0' if none.

***If you used the Claim Worksheet, does your Total Claim Amount include aggravating factors from the Worksheet:** Yes No

Verification and Oath

You are required to submit your Claim with a completed and notarized form that confirms (1) you have read and agree to a list of important statements and (2) you have read the information in the Claim and all attachments and submit it under oath upon penalty of perjury.

***Is the Claimant providing a completed and notarized form for Verification and Signature & Oath and Acknowledgement:** Yes No

Attestation

You are required to Attest to who is submitting this Claim for the Claimant. There are three options. Select 'Yes' when you see the correct option. Select 'No' to take you to the next of the three options.

*** Is the Claimant's attorney submitting and signing this Claim on behalf of the Claimant:** Yes No

****If yes:***

*** Individual Attorney Full Name: Kristi Livedalen, Esq.**

Your typed name is your attorney signature on this Claim, in representing the Claimant.

*** Attorney Date Signed:**

*** I affirm as the Claimant's attorney that I assisted in preparing this Claim and my fee affidavit is accurate. I will be providing my fee agreement or engagement letter, and my fee affidavit as attachments.:**

***If no: Is the Claimant submitting and signing this Claim on their own behalf:**

Yes No

***Claimant Name for Attestation:**

By entering your name you are electronically signing this claim form.

***Claimant Attestation Date:**

*** If no, Is the Claimant's Guardian or Conservator submitting and signing this Claim on behalf of the Claimant:** Yes No

*** Claimant's Guardian/Conservator Full Name:**

***Claimant's Guardian/Conservator Date Signed:**

***I, as the Claimant's guardian/conservator, affirm that I assisted in preparing this claim, and court documentation of my appointment will be included with the Claim's supporting documents:**

***Reporter (the reporter is the person submitting the claim):**

***First Name: Kristi**

***Last Name: Livedalen**

***Who is the authorized Reporter of this Claim?:**

Claimant

Claimant's Attorney

Claimant's Guardian/Conservator

YDC Settlement Fund Claim – Written Narrative

NAME: Andrew Foley

DOB: [REDACTED]

I. MY BACKGROUND

A. My Childhood

I had a difficult childhood. My mother got pregnant with me when she was 15 years old. My father was 30 years old. I never met him. My mother was a drug user. I was an outcast and was called “Trailer Trash”. I spent most of my childhood living in shelters, with other family members, and friends of my mother. Before the age of 12, I would be gone for days, and no one would care. At age 12, I left my mother and lived on my own. I resorted to theft for money to pay for food.

B. Who I am Today

When I was released from the Youth Development Center (“YDC”), I had no place to live. Jennifer Veilleux took me in for a few months. I was so traumatized by the abuse that I tried to commit suicide by drinking wine, taking pills, and then crashing a car. My stomach needed to be pumped when I reached the hospital. After this incident, I lived with Stan Watson, a YDC staff member.

I joined the military in January 2000 and have spent time deployed in Germany, Iraq and Kuwait as a gunner. I attempted suicide again while in the military while stationed at Fort Campbell. I was eventually honorably discharged. After the military, I made a career in low voltage systems, specifically fire and life safety, controls and automatization. I am currently a Systems Engineer III and Assistant Vice President at First Citizens Bank. I have an amazing wife. We have two daughters together and I have two stepchildren. Taking care of my family is my reason for living.

C. Things I Want You to Know About Me

While I was detained at YDC, I had a court appearance in which a staff member accompanied me. The judge was mortified by the conditions of my detainment and reprimanded the staff member. The judge specifically objected to the duration of my confinement, the limited services provided me, and my limited contact with the people and resources outside of YDC. This judge eventually emancipated me.

The abuse caused me to have significant issues with people in positions of authority. I was never violent before being detained at YDC but being there forced me to be violent to survive. I still have nightmares about the doors closing behind me.

II. ELIGIBILITY FOR COMPENSATION FROM THE FUND

A. What Led to the State Detaining Me at a YDC Facility

I was detained at YDC on charges of simple assault and burglary. (See ASF 004-009).

B. Documents Supporting Eligibility

In addition to my recollection of being detained at YDC, my resident file provides documentation of my detainment and eligibility for compensation from the settlement fund. (See ASF 004-009).

C. When the State Detained Me at Each Facility

1. Dates

I was detained at YDC from January 4, 1996 to August 9, 1996 and September 6, 1996 to February 2, 1999. (See ASF 004-009).

2. Ages

I was detained at YDC when I was 14-17 years old. (See ASF 004-009).

D. YDC Facilities where I was Abused

1. Names and descriptions of cottage(s) or wing(s)

I was detained in King Cottage, East Cottage, Spaulding Cottage and Stark House. (See ASF 004-009).

2. For each cottage and/or wing, the dates when the State detained me there and for how long

I was detained in King Cottage: (1) January 4, 1996; (2) December 26, 1996 to July 3, 1998; and (3) January 1, 1999 to February 2, 1999. (See ASF 004-009).

I was detained in East Cottage: (1) January 4, 1996 to January 23, 1996; and (2) September 6, 1996 to September 19, 1996. (See ASF 004-009).

I was detained in Spaulding Cottage: (1) January 23, 1996 to August 9, 1996; and (2) September 19, 1996 to December 26, 1996. (See ASF 004-009).

I was detained in Stark House from July 3, 1998 to January 1, 1999. (See ASF 004-009).

Attorney Note: Mr. Foley is still investigating his claims, and fact and expert discovery in his related civil case is in the preliminary stages. Accordingly, he reserves the right to supplement this Claims Packet and his submission to the Claims Administration Office as additional documents, materials, and expert opinions are identified and obtained.

III. DESCRIPTION OF THE ABUSE I SUFFERED

A. Sexual Abuse

1. Description of Abuse (including any physical and/or psychological injuries)

During both my detentions in Spaulding Cottage, I was sexually abused by a staff member named Lou Poulette. Lou was the head of Spaulding Cottage. It was well known that Lou was sexually inappropriate and touchy with residents. While physical contact and wrestling with staff was normalized, Lou touched me in more intrusive ways. On at least 12 occasions, Lou rubbed and ground his penis against me and fondled my genitals and buttocks through my clothes (Category C x 12+). These incidents took place on either the main floor, in the checkroom, or in the recreation room. These incidents all took place when Lou forced me to wrestle with him as way to touch me sexually. During half the incidents, Lou pulled me on his lap, and I could feel his erection as he ground it against me. He also groped my genitals through my clothes. During the other half of the incidents, Lou would force me to the ground while wrestling, then climb on top of me, grinding his erection against me. All the residents knew that Lou was a creep, and we did our best to avoid him. Staff even commented on how creepy and weird Lou was. While Lou never threatened me not to report the abuse, it was implicit that if I reported the abuse, it would only get worse for me.

At YDC, staff removed the curtains from the showers so they could observe residents showering. While some staff observed us in a disinterested manner, Lou leered in a sexual fashion. On at least 200 occasions, Lou leered at me in a sexual fashion while I showered (Category E x 200+). This occurred during both my detentions in Spaulding Cottage. While he watched me, Lou would smile and raise his eyebrows. I recall this made me exceptionally uncomfortable, especially given Lou had sexually abused me as noted above. I was detained with David Meehan, [REDACTED] and [REDACTED] older brother, and they were present for some of these incidents.

2. Witnesses

Some of the abuse took place in plain view of residents and staff whose names I do not recall. Some of the abuse also took place in front of David Meehan, [REDACTED] and [REDACTED] older brother. Staff were or should have been aware of the abuse.

B. Other Abuse

1. Description of Abuse (including any physical and/or psychological injuries)

While detained at YDC, I was subjected to rampant physical abuse.

On one occasion during my longest detention in King Cottage, staff member Tim Roy beat me severely during a struggle outside King Cottage, which was witnessed by several other YDC staff members, including Paul Kafegelis, who did nothing to intervene. Another resident, Jared Blake (who is now deceased) also witnessed the incident. At the time, I was on solitary confinement and was being transported. During the struggle, Tim strangled me, put me in a reverse headlock, smashed my face into a metal railing, then picked me up and carried me before swinging my face down into his knee, nearly breaking my nose and causing severe bleeding. At some point, I lost consciousness (Category A x 1). Tim then carried me into my room and slammed my face into the corner of the floor and the wall. Tim then put his knee into the back of my neck and instructed other staff members to remove everything from my room. He then commanded me to remove my clothes, leaving me naked. I was detained in the cell for 10 days (Category F x 10). After this incident, a male nurse came to evaluate me in my room. Staff were present and intimidated the male nurse and told him my injuries were caused by a fall. I suffered bruised ribs, a strained wrist and a near broken nose.

On another occasion during my longest detention in King Cottage, at night, other residents were banging on doors. I was not. A group of three or four male staff members (who I believe were from East Cottage), came into my room, wrestled me to the floor, dug their knees into my back, and strangled me in a chokehold until I lost consciousness (Category A x 1). I recall waking up on the floor. In no uncertain terms, I was not involved in banging on the doors and there was absolutely no reason to restrain and strangle me.

On another occasion in the pool area, a staff member put me in a headlock, swung me around like a ragdoll and repeatedly forced my head underwater, essentially waterboarding me, until I nearly lost consciousness (Category A x 1). I do not recall the name of this staff member however he was a muscular Caucasian male with blond hair who always talked about his motorcycle. This incident took place in plain view of other staff and residents. Everyone who witnessed the incident pointed at me and laughed at me. It was as if staff assaulted me for everyone's entertainment.

Separate and apart from the incidents outlined above, I was strangled by staff in chokeholds during restraints to the point of either unconsciousness or near unconsciousness on at least 12 occasions (Category A x 12+). These incidents occurred at various locations in both East and King Cottages. Some of these incidents occurred while I was detained in solitary confinement. I recall Tim Roy being involved in some of these incidents.

I was also strangled by staff to the point of either unconsciousness or near unconsciousness on at least 12 other occasions during "play wrestling" (Category A x 12).

These incidents occurred in both East and King Cottages. As discussed, physical contact and wrestling with staff was normalized, however staff often took it too far.

Separate apart from the incidents outlined above, throughout the entirety of my detainment at YDC, I was excessively restrained by staff for no justifiable reason on at least 24 occasions. During these restraints, staff would grab me, pull my arms behind my back, drag me throughout the facility and slam my body and face into walls. On at least six occasions, I suffered black eyes (Category C x 6) and the remaining incidents resulted in severe bruising and soreness, especially in my ribs (Category D x 18).

YDC staff encouraged residents to fight each other for their entertainment, creating a "fight club." Staff offered contraband like food, cigarettes, marijuana and pornography to incentivize me to punch and fight other residents. On at least 36 occasions, I was forced to fight other residents at the behest of staff (Category D x 36). During 12 of these fights, the residents I fought strangled me to the point of unconsciousness. I was bruised and sore after these fights. These incidents always occurred in King Cottage.

While detained at YDC, I subjected to unlawful solitary confinement. Separate and apart from the 10 days that I was detained in solitary confinement after the incident with Tim Roy (discussed above), I was detained in solitary confinement for at least 280 days (Category F x 280+). On five to 10 occasions, I was not provided with bedding or a bed (Category D x 5-10). For two days, I was not provided with clothing and was detained completely naked (Category D x 2). Some of the periods of confinement lasted 10 days, while others lasted several months.

2. Witnesses

The incident of abuse with Tim Roy was witnessed by staff member Paul Kafegelis and resident [REDACTED]. Some of the abuse took place in plain view of other residents and staff. Staff were or should have been aware of the abuse.

IV. ADDITIONAL INFORMATION

A. People I Have Told About the Abuse and What I Told Them:

I have discussed some of the abuse with my wife Nadia Haddad Foley, brother Micah Fletcher and manager Mike McCann.

Subject to and without waiving applicable privileges: I have discussed what happened with my lawyers for purposes of seeking legal advice and representation.

I have discussed the abuse with New Hampshire State Police and in a deposition in Case No. 217-2021-CV-00479.

B. Treatment I Received Because of the Abuse I Suffered

I received mental health counseling from a military psychiatrist, Mike Camp. As discussed, I attempted suicide on two occasions. The attempts were caused, at least in part, by the abuse I suffered.

C. Other Treatment or Services That Would be Helpful to Me

I do not believe I would benefit from additional treatment or services.

**STATE OF NEW HAMPSHIRE
SUPERIOR COURT**

Rockingham, ss

Case No. 217-2022-CV-000100

Your name: John Doe 166

v.

N.H. Department of Health and Human Services, et al.,
(YDC and YDSU cases)

NOTICE OF FILING OF CLAIM AND [PARTIAL] STAY

I, [insert your name] John Doe #166, hereby notify the Court that I have filed a Claim with the Administrator of the YDC Settlement Fund. I understand that the Administrator will complete the Certification on page 2 and that this Notice will be filed with the Court.

I further understand that when this Notice is filed with the Court, my lawsuit will automatically be stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) my lawsuit is not automatically stayed, and I may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim under N.H. RSA 21-M:11-a, and (ii) my lawsuit is not automatically stayed as to, and I may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of me, even if that individual was a state employee at the time. N.H. RSA 21-M:11-a VII(e).

I further understand that if I continue to pursue relief against any such direct, personal individual perpetrator or as to allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim while my case is otherwise stayed as against the State Defendants, that will not preclude the State Defendants from conducting discovery or other litigation activities that duplicate activities conducted or undertaken during the period of the State stay, when and if the State stay is lifted in the event that my Claim is not resolved in the Settlement Fund Claim Process.

Dated: 7/30/25

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

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Respectfully submitted,

JOHN DOE #166

By and through counsel,

NIXON PEABODY LLP

/s/ David Vicinanza

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

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

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CERTIFICATION OF ADMINISTRATOR

I, [name of Administrator] _____, duly appointed Administrator of the YDC Settlement Fund, hereby confirm and advise the Court that I have received a Claim from _____ (“Claimant”) on [date]_____. I further advise the Court, that pursuant to N.H. RSA 21-M:11-a VII(e), upon filing of this Notice, the above captioned lawsuit should be automatically stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) this action should not be automatically stayed, and Claimant may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of the Claim under N.H. RSA 21-M:11-a, and (ii) this action should not be automatically stayed as to, and Claimant may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of Claimant, even if that individual was a state employee at the time.

Signed: _____

Date: _____

EXHIBIT 4

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

SECOND AFFIDAVIT OF RONALD C. MILES

I, Ronald "Chuck" Miles, being duly sworn on oath, depose and state as follows:

1. I am an adult with personal knowledge and competent to testify to the matters set forth herein. My full name is Ronald C. Miles, but people call me "Chuck."
2. I previously signed an affidavit in support of the Complaint filed in this matter on June 27, 2025. That affidavit remains accurate, and I incorporate it herein, but I submit this second affidavit specifically in support of Plaintiffs' Motion to Allow Class Action.
3. As stated in my first affidavit, I was physically, sexually, and emotionally abused by the staff of the Anna Philbrook Center while I was in State custody in or around the late 1970s. In or about 2022, I retained counsel and filed a complaint against the State of New Hampshire alleging that the State was responsible for my abuse. A true and accurate copy of my complaint against the State is attached as **Exhibit A**.

4. As I noted in my first affidavit, I was distrustful when the State announced the first iteration of the Youth Development Center Settlement Fund in or around 2022. I didn't think the State would provide a fair process. I figured the State would try to force me and the others to accept a cheap and quiet settlement. For that reason, I preferred to keep my case in court.

5. However, I understand there is a long line of victims waiting for their day in court, meaning it will probably take several years for my day. Additionally, I have followed along as my lawyers have fought against the State in court while they also negotiated with the State to improve the Settlement Fund. I came to believe, based on the work of my lawyers, and seeing other victims opt into the Settlement Fund, that I might be able to find "closure" through filing a claim in the Settlement Fund and this might be better than waiting for years for a trial. My agreement to give the Settlement Fund a try was premised on the State's assurances that it would treat me fairly, and that it would be "victim friendly" and "trauma informed," as promised in the statute. Of course, I relied on the State's promises in the Settlement Fund statute, including in particular that my claim would be decided by an independent and neutral decisionmaker with no interest in the outcome.

6. My attorneys submitted my claim to the Settlement Fund Claims Administrator on November 6, 2024. Attached as **Exhibit B** is a true and accurate copy of pertinent portions of my claim submission with the Claims Administrator, including my completed "Claim Form," "Written Narrative," and executed "Notice of Filing of Claim and [Partial] Stay," which indicates my agreement to stay my lawsuit while my Settlement Fund claim is pending.

7. Administrator Broderick signed my Notice of Claim and [Partial] Stay and my attorneys filed it with the superior court in December 2024, a true and accurate copy of which is

attached as **Exhibit C**. I understand my case has been stayed since that filing and remains stayed to this date.

8. I recently learned about the State's plan to kill the Settlement Fund by passing a new law that would allow the Governor to replace the former neutral and independent Claims Administrator, John Broderick, a former Chief Justice of the New Hampshire Supreme Court, with a political appointee who will report directly to the Governor. I also understand that under the newly passed law the Attorney General can reject the Administrator's final decision in my case. Therefore, the Administrator would not really be making a decision at all in my case. Instead, all the Administrator can do is make a recommendation that the Attorney General can reject for any reason even if I wanted to accept the decision.

9. As I understand it, the State will effectively decide for itself how much my claim is worth. That is the opposite of a fair process. This change to the Settlement Fund claims process after all the claimants have opted into the Fund proves that the State cannot be trusted. Had I known that the State could change the Settlement Fund in this way, I would have never filed a claim.

10. I understand that this class action lawsuit was filed to prevent the State from enforcing its changes that undermine the fairness and integrity of the Settlement Fund. Because I strongly believe the State should not be allowed to renege on its promises and obligations, after discussing the matter with my lawyers, I agreed to serve as a representative for this class action. I want to do my part to force the State to live up to its end of the deal it struck with the victims of abuse at the Youth Development Center and related facilities, such as the Philbrook Center.

11. My attorneys have explained to me my responsibilities as a class representative, and I am willing to undertake those responsibilities. I understand that as a class representative:

(a) I have the responsibility to see that the lawyers prosecute the case on behalf of the entire class, not just myself, (b) I may have to testify at a deposition or in a hearing or trial and provide documents and information for use in the case, and (c) the Court must approve any settlement of this case as a class action.

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF NEW HAMPSHIRE)
COUNTY OF HILLSBOROUGH)

I, Ronald C. Miles, being first duly sworn, on oath depose and say that the statements contained herein are true and correct to the best of my knowledge, information, and belief.


Ronald C. Miles

Subscribed and sworn to before me this 12 day of August, 2025.



Print Name: Joelle Wiggins

Joelle Wiggins
Notary Public/Justice of the Peace

My Commission Expires: 5/17/28



EXHIBIT A

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

CIVIL ACTION NO. 217-2022-CV-00804

JOHN DOE #526

v.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.

**SHORT FORM COMPLAINT SUPPLEMENT TO MASTER COMPLAINT
(For all Plaintiffs represented by Rilee & Associates, P.L.L.C. and Nixon Peabody LLP)**

Plaintiff John Doe #526 (“Plaintiff”), by and through counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody, LLP, submits this “Short Form Complaint,” which supplements the Master Complaint filed in the lead docket, *Meehan v. State of N.H., Dep’t of Health and Human Servs.*, Docket No. 217-2020-CV-26, in the Superior Court for Merrimack County, and as may be amended in the future (the “Master Complaint”). Consistent with this Court’s Order Regarding Consolidation of Claims and Cases, dated July 6, 2022 (the “Consolidation Order”), this Short Form Complaint sets forth a statement of material facts entitling Plaintiff to the relief requested in Counts I through VII of the Master Complaint. To the extent Plaintiff has supplemental claims against the State Defendants identified in the Master Complaint and any other defendant, those claims, and the material facts sustaining those claims, are additionally set forth herein.

INCORPORATION BY REFERENCE OF MASTER COMPLAINT

1. The Master Complaint filed in the lead docket, Docket No. 217-2020-CV-26, in the Superior Court for Merrimack County, and as may be amended in the future, is expressly incorporated by reference to this Short Form Complaint as if fully set forth herein, except to the extent modified by this Short Form Complaint.

PARTIES

2. Plaintiff is an individual who is a resident of the State of Florida, County of Palm Beach, and a crime victim pursuant to the New Hampshire Victim Bill of Rights, New Hampshire Revised Statutes Annotated (“RSA”) 21-M:8-k, and as such, Plaintiff’s identity and date of birth are being filed contemporaneously herewith **under seal** with this Honorable Court.

3. Plaintiff expressly incorporates by reference all Defendants as identified in paragraphs 2 through 8 of the Master Complaint, hereinafter referred to as “State Defendants.”

4. Plaintiff identifies additional Defendants, if indicated below:

	No additional Defendants.
X	<p>Additional Defendant/s, hereinafter referred to as the “Contractor Defendant/s”:</p> <p>Defendant Frederic L. Chamberlain Center, Inc. (a/k/a Chamberlain School) (“Chamberlain”) is a nonprofit corporation incorporated under Massachusetts law with a principal place of business at One Pleasant Street, Middleboro, Massachusetts 02346 that has operated residential and education facilities, including a co-educational therapeutic boarding and day school known by the names Chamberlain School and Chamberlain International School. At all times relevant to this complaint, Chamberlain was paid under contract with the State of New Hampshire to provide, on behalf of the state and as agent of the state, a residential treatment and educational facility and related services to children under the custody and control of the state.</p> <p>Defendant Lakeview Neurorehabilitation Center, Inc. (a/k/a Lakeview Academy) (“Lakeview”) was for-profit corporation incorporated under New Hampshire law for purposes of leasing and operating a health care facility with a principal place of business at P.O. Box 28890, Austin, Texas 78755 and with a New Hampshire office at 244 Highwatch Road, Effingham, New Hampshire 03882. At all times relevant to this complaint, Lakeview was paid under contract with the State of New Hampshire to provide, on behalf of the state and as an agent of the state, residential treatment services for children in state custody, particularly those with brain disorders and developmental disabilities.</p>

Defendant Pine Haven Boys Center (“Pine Haven”) is a nonprofit corporation incorporated under New Hampshire law to provide special education services to children with a principal place of business at 133 River Road, P.O. Box 162, Allenstown (Suncook), New Hampshire 03275. At all times relevant to this complaint, Pine Haven was paid under contract with the State of New Hampshire to provide, on behalf of the state and as an agent of the state, a secure residential placement and related services to children under the custody and control of the state.

FACTS SPECIFIC TO PLAINTIFF

5. Plaintiff was born in the year: 1968.

6. Plaintiff was taken into the custody and control of the State of New Hampshire as a minor and was, while in the state’s custody and control, placed at facilities and placements as directed by State Defendants in or about the following approximate time period(s): 1978; 1981 to 1984.

7. In or about the time period(s) identified in paragraph 6, the State Defendants placed Plaintiff in the State Youth Facility (as defined in the Master Complaint).

8. In or about the time period identified in paragraph 6, while Plaintiff was in the custody and control of State Defendants, and while Plaintiff was residing at the State Youth Facility, agents and employees of State Defendants harmed Plaintiff through specific acts of child abuse including, but not limited to, the incidents indicated (below or attached):

State Defendants sent Plaintiff to several residential treatment placements. First, Plaintiff was sent to the Anna Philbrook Center where he was molested by an individual known to Plaintiff as "Patrick O'Meara." O'Meara raped Plaintiff orally and anally on several occasions. Following Placement at the Philbrook Center, the state sent Plaintiff to the F.L. Chamberlain School, then Lakeview, and finally Pinehaven Boys Center. Plaintiff was abused at all three placements.

9. In or about the time period identified in paragraph 6, and while Plaintiff remained in the custody and control of State Defendants, State Defendants additionally placed Plaintiff in other, privately operated, congregate care residential facilities or programs, if indicated below:

	Not applicable (no private placement)
X	State Defendants placed Plaintiff at residential facilities operated by the Contractor Defendant/s identified in paragraph 4.

10. In or about the time period identified in paragraph 6, while Plaintiff remained in the custody and control of State Defendants, and while Plaintiff was residing at residential facilities operated by the Contractor Defendant/s following placement by State Defendants, agents and employees of State Defendants and Contractor Defendant/s (collectively, “Defendants”) harmed Plaintiff through specific acts of child abuse including, but not limited to, the incidents indicated below (or attached):

	Not applicable (no private placement)
X	While detained at Chamberlain, an individual known to Plaintiff as Susan Fernyack sexually abused Plaintiff on many occasions: forcing Plaintiff to engage in masturbation approximately fifteen to twenty times; forcing plaintiff to engage in oral sex approximately ten to fifteen times; and exposing herself approximately one hundred times. While detained at “Mountainview” or “Lakeview Academy,” a man known to Plaintiff as “Loni Small” sexually abused Plaintiff by groping him. While detained at Pine Haven Boys Center, an individual known to Plaintiff as “Father Louis” or “Brother Louis” sexually assaulted Plaintiff on multiple occasions, placing his fingers in Plaintiff’s anus on several occasions, masturbating in Plaintiff’s presence on several occasions, and placing his penis on Plaintiff’s buttocks and ejaculating on his back on several occasions.

CONSOLIDATED CAUSES OF ACTION

11. Plaintiff expressly adopts Counts I through VII of the Master Complaint against State Defendants arising from harm caused to Plaintiff by agents and employees of State

Defendants while Plaintiff was in the custody and under the control of State Defendants and residing in the State Youth Facility or any other state-operated residential facility (the “Consolidated Claims”) as alleged in Paragraph 8 of this Short Form Complaint.

SUPPLEMENTAL CAUSES OF ACTION

12. Additionally, Plaintiff alleges supplemental Counts against State Defendants and Contractor Defendant/s (together, “Defendants”) arising from harm caused to Plaintiff by agents and employees of Defendants while Plaintiff was in the custody and under the control of Defendants and residing in residential facilities privately operated by Contractor Defendant/s (the “Supplemental Claims”) as alleged in paragraph 10 of this Short Form Complaint, if any indicated below (and in separate attachments):

	No Supplemental Claims
X	Each of the following Supplemental Claims: Count VIII (Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s) Count IX (Breach of Nondelegable Duty—State Defendants) Count X (Aiding and Abetting Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s) Count XI (Negligent Hiring, Training, Supervision and Retention—State Defendants and Contractor Defendant/s) Count XII (Negligence—State Defendants and Contractor Defendant/s) Count XIII (Negligent Failure to Adopt and Implement Rules—State Defendants) Count XIV (Civil Conspiracy— State Defendants and Contractor Defendant/s)

*Any indicated Counts are attached hereto as an addendum to this Short Form Complaint.

13. In addition to any Counts alleged in paragraph 12, Plaintiff alleges the following additional Supplemental Claims, if any indicated below or in separate attachments:

14. To the extent Plaintiff wishes to dismiss, without prejudice, any Consolidated Claims previously alleged in the Master Complaint, or any grounds in support of any Consolidated Claims, they are so indicated (below or attached):

WHEREFORE, Plaintiff demands a trial by jury on all issues so triable and prays for all relief as set forth in this Short Form Complaint, any addendum hereto, and in the Master Complaint filed in the lead docket, *Meehan v. State of N.H., Dep't of Health and Human Servs.*, Docket No. 217-2020-CV-26. Plaintiff further demands a jury viewing of all facilities where Plaintiff was harmed by agents and employees of State Defendants and, if applicable, Contractor Defendant/s. As discovery is ongoing, Plaintiff expressly reserves the right to amend or supplement this Short Form Complaint.

Respectfully Submitted,

JOHN DOE #526

Dated: July 18, 2022

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

/s/ Cyrus F. Rilee, III

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via the Court's e-filing system on all parties of record on July 18, 2022.

/s/ David A. Vicinanza

ADDENDUM TO SHORT FORM COMPLAINT

SUPPLEMENTAL CLAIMS ALLEGED IN PARAGRAPH 12 OF SHORT FORM COMPLAINT

COUNT VIII

(Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s)

1. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the Master Complaint and Plaintiff's Short Form Complaint as though fully and completely set forth herein.

2. Pursuant to the state's *parens patriae* powers, including those set forth in the Child Welfare Acts and their antecedents, State Defendants took custody of and control of Plaintiff as a child and placed Plaintiff at various residential facilities for juveniles, including the residential facilities operated by Contractor Defendant/s. This Count seeks recovery only for harm Plaintiff suffered while placed at the residential facilities of Contractor Defendant/s.

3. At all times relevant to the allegations contained herein, Contractor Defendant/s were privately owned businesses that contracted with and were paid by the State of New Hampshire to provide programs and services on behalf of State Defendants and as agents of State Defendants, to children in the custody and control of State Defendants. In particular, State Defendants hired Contractor Defendant/s to provide congregate care residential facilities for children in state custody, including Plaintiff.

4. At all times relevant to the allegations contained herein, Plaintiff was a minor, and State Defendants and their agents and employees, including Contractor Defendant/s and their agents and employees, were charged with the custody, care, and protection of Plaintiff, and exercised control over Plaintiff to the exclusion of others.

5. A fiduciary relationship arose between State Defendants and Plaintiff by virtue of the state removing Plaintiff, a minor, from the custody, care, and control of Plaintiff's parents or

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guardian, and placing Plaintiff in the custody, care, and control of State Defendants, who thereafter placed Plaintiff with Contractor Defendant/s. When State Defendants accepted custody of Plaintiff, and exercised control over Plaintiff to the exclusion of others, they undertook a fiduciary duty to protect, care for, and educate Plaintiff, and they were required by common law to act at all times in Plaintiff's best interests, including by taking whatever steps necessary to prevent Plaintiff from being harmed.

6. When State Defendants placed Plaintiff with Contractor Defendant/s, and Contractor Defendant/s accepted physical custody of Plaintiff pursuant to their contract with State Defendants and thereafter exercised physical control over Plaintiff to the exclusion of others, they likewise accepted a fiduciary obligation to protect and care for Plaintiff and were required by common law to act at all times in Plaintiff's best interests, including by taking whatever steps necessary to prevent Plaintiff from being harmed.

7. In addition, the state legislature has codified, at least partially, the state's fiduciary obligations to children in its custody. Pursuant to RSA Chapter 169-B:1 and its antecedents, State Defendants and their agents and employees had statutorily imposed duties with respect to Plaintiff and all other minors committed to their custody and control. Among other duties, State Defendants were required to "encourage the wholesome moral, mental, emotional, and physical development of each minor coming within the provisions of this chapter, by providing the protection, care, treatment, counseling, supervision, and rehabilitative resources which such minor needs." Similar duties are likewise echoed in the policy and purpose provisions of RSA 169-C:2, III(a), and RSA 169-D:1. These statutorily pronounced purposes created a fiduciary relationship between State Defendants and all children, including Plaintiff, entrusted to their custody, care, and control.

ADDENDUM TO SHORT FORM COMPLAINT

8. The state's fiduciary duty to children in state custody could not be discharged by transferring physical custody of such children to private residential placements, such as the residential facilities operated by Contractor Defendant/s.

9. Notwithstanding the fiduciary duty State Defendants and Contractor Defendant/s (together, "Defendants") owed to Plaintiff, during the time period that Plaintiff was entrusted to the custody, care, and control of State Defendants, and while Plaintiff was residing in the residential facilities operated and controlled by Contractor Defendant/s, agents and employees of Defendants harmed Plaintiff by the specific acts of child abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint. Moreover, every agent and employee of Defendants had an independent duty to report knowledge of events observed, heard about, or done by the agent or employee relating to the care and safety of children in state custody placed with Contractor Defendant/s. On information and belief, however, the agents and employees of Defendants working at the residential facilities operated by Contractor Defendant/s failed to report or take corrective steps after witnessing or becoming aware of prior abuse of other children in state custody, and/or agents and employees in supervisory positions failed to take adequate corrective action upon receiving such reports, and thereby failed to correct the conditions that lead to Plaintiff's subsequent abuse.

10. Each of the acts of child abuse recounted in paragraph 10 of Plaintiff's Short Form Complaint constitutes an independent breach of each Defendant's fiduciary duty to Plaintiff, and the repeated failures of the agents and employees of Defendants to take corrective action in response to Plaintiff's abuse, and to take corrective action in response to previous acts of abuse against other children, represent additional breaches by agents and employees of Defendants, all of which are imputable to Defendants.

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11. Additionally, those acts of child abuse constitute violations of Plaintiff's state and federal constitutional rights. For example, agents and employees of Defendants violated Plaintiff's substantive due process and equal protection rights under the Fourteenth Amendment to the United States Constitution to not be subjected to sexual abuse and unjustified physical violence; the use of excessive force, bodily injury, and unreasonable restraint; and other abhorrent and unjustified conditions of confinement while in state custody. Defendants' deliberate indifference to the risks of harm to Plaintiff also constitute substantive due process violations, and Defendants' unjustified and excessive punishments of Plaintiff without any due process violated Plaintiff's right to procedural due process. In addition, or in the alternative, Defendants' liberal use of physical violence, excessive force, excessive isolation, and excessive restraints also violated Plaintiff's right under the Eighth Amendment to the United States Constitution to be free from cruel and unusual punishment. As fiduciaries, the acts and omissions of Defendants rising to the level of constitutional violations are by themselves breaches of the fiduciary duty Defendants owed to Plaintiff.

12. Furthermore, during the time Plaintiff was in the custody, care, and control of State Defendants, the state bore a constitutional and statutory duty under New Hampshire law to provide Plaintiff, a school-aged minor, with a constitutionally adequate education. The Equal Protection Clause of the Fourteenth Amendment likewise required that Plaintiff, along with the other minors in state custody, not be denied access to school and that they be afforded equal educational opportunities regardless of race, ethnicity, background, religion, sex, or citizenship.

13. Inasmuch as the state removed Plaintiff from the custody, care, and control of Plaintiff's parents or guardian and placed Plaintiff in an institutional setting, the state obligated itself to ensure that Plaintiff was not deprived of this right to a constitutionally adequate education.

ADDENDUM TO SHORT FORM COMPLAINT

14. But, as a consequence of the specific acts of child abuse alleged paragraph 10 of Plaintiff's Short Form Complaint, Plaintiff was deprived of a constitutionally adequate education. For example, Plaintiff received little or no educational instruction during time periods when agents and employees of Defendants locked Plaintiff in isolation. Even when attending school, the child abuse Plaintiff had suffered caused Plaintiff to struggle with a diminished capacity to concentrate and complete school work. As a consequence of the abuse and confinement, Plaintiff was unable to attend classes and was unable to benefit from what little instruction was made available, resulting in a constitutionally inadequate education.

15. By placing Plaintiff in an institutional setting where Plaintiff was deprived of a constitutionally adequate education, the state treated Plaintiff and the other minors in state custody differently from all other children in the State of New Hampshire with regard to the provision of constitutionally mandated educational services. This differential treatment of children in state custody had no justification nor was it rationally related to any conceivable legitimate state interest.

16. The deprivation of Plaintiff's right to an equal and constitutionally adequate education amounts to a further breach of State Defendants' fiduciary duty to Plaintiff.

17. As a direct and proximate cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant/s as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress

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and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

COUNT IX (Breach of Nondelegable Duty—State Defendants)

18. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the Master Complaint and Plaintiff's Short Form Complaint as though fully and completely set forth herein.

19. In particular, Plaintiff repeats, realleges, and incorporates by reference each and every allegation in Count II of the Master Complaint, including the allegation that State Defendants undertook a nondelegable duty to care for and protect Plaintiff at all times and then breached that duty, but with the limitation that this Count seeks recovery only for harm Plaintiff suffered while residing in the residential facilities of Contractor Defendant/s.

20. State Defendants' nondelegable duty persisted and was not interrupted, satisfied, or discharged by State Defendants' placement of Plaintiff with Contractor Defendant/s.

21. Accordingly, when State Defendants placed Plaintiff with Contractor Defendant/s, and agents and employees of Defendants working at those residential facilities thereafter harmed Plaintiff as alleged in paragraph 10 of Plaintiff's Short Form Complaint, State Defendants breached their nondelegable duty to Plaintiff in all the same ways as alleged in Count II of the Master Complaint. Every agent of State Defendants, including the agents and employees of Contractor Defendant/s, had an independent duty to report knowledge of events observed, heard about, or done by the agent or employee relating to the care and safety of children in state custody placed with Contractor Defendant/s. On information and belief, however, the agents of State Defendants working at the residential facilities operated by Contractor Defendant/s failed to report

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or take corrective steps after witnessing or becoming aware of prior abuse of other children in state custody, and/or agents and employees of State Defendants in supervisory positions failed to take adequate corrective action upon receiving such reports, and thereby failed to correct the conditions that lead to Plaintiff's subsequent abuse.

22. Each of the acts of child abuse recounted in paragraph 10 of Plaintiff's Short Form Complaint constitutes an independent breach of State Defendants' nondelegable duty to Plaintiff, and the repeated failures of the agents and employees of State Defendants to take corrective action in response to Plaintiff's abuse, and to take corrective action in response to previous acts of abuse against other children, represent additional breaches by agents and employees of State Defendants, all of which are imputable to State Defendants.

23. As a direct and proximate cause and result of the foregoing, State Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant/s as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against State Defendants of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

ADDENDUM TO SHORT FORM COMPLAINT

COUNT X

(Aiding and Abetting Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s)

24. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the Master Complaint and Plaintiff's Short Form Complaint as though fully and completely set forth herein.

25. As alleged herein, Defendants owed a fiduciary duty to Plaintiff which they breached when their agents and employees harmed Plaintiff through the acts of child abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint, and by failing to take steps to protect Plaintiff from said acts of child abuse, including by failing to take corrective action in response to previous acts of abuse against other children in state custody. But this Count seeks recovery only for harm Plaintiff suffered while residing in the residential facilities of Contractor Defendant/s.

26. Upon information and belief, Defendants' agents and employees knew and understood that each of them individually, and each of their co-workers or other employees and agents of Defendants, as well as all of them collectively, owed a fiduciary obligation to the minors committed to their custody, care, and control, including Plaintiff.

27. Upon information and belief, Defendants' agents and employees, including individuals in positions of supervisory authority, knew, or in the exercise of reasonable diligence should have known, about at least some of the various forms of abuse and harm suffered by Plaintiff, and by the other minors committed to the custody, care, and control of Defendants, and not only failed to report this information or take other corrective actions, but actively participated in the abuse and/or concealed this information.

28. Upon information and belief, Defendants' agents and employees, including individuals in positions of supervisory authority, acted together in a common plan or design, for the purpose of committing acts of physical, sexual, and emotional abuse and torture, and then acted

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together, in a common plan or design, to unlawfully and deliberately conceal those acts from discovery so that they would evade consequences for those acts and could continue to perpetrate those acts on minors in state custody, including Plaintiff. All of the aforesaid knowledge, constructive knowledge, acts, and omissions of agents and employees of Defendants is imputable to Defendants.

29. As a direct and proximate consequence of the foregoing acts and omissions, Defendants subjected Plaintiff to the harm and abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint. Moreover, Defendants' agents and employees, including individuals in supervisory positions, failed to report or take corrective steps that could have prevented the abuse.

30. As a direct, proximate, and reasonably foreseeable cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant/s as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

COUNT XI
(Negligent Hiring, Training, Supervision, and Retention—State Defendants and Contractor Defendant/s)

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31. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the Master Complaint and Plaintiff's Short Form Complaint as though fully and completely set forth herein.

32. Pursuant to the state's *parens patriae* powers, including those set forth in the Child Welfare Acts and their antecedents, State Defendants took custody of and control of Plaintiff and placed Plaintiff at various residential facilities and placements, including the residential facilities operated by Contractor Defendant/s. This Count seeks recovery only for harm Plaintiff suffered while residing in the residential facilities of Contractor Defendant/s.

33. At all times relevant to the allegations contained herein, Plaintiff was a minor and Defendants and their agents and employees were charged with the custody, care, and protection of Plaintiff, and exercised control over Plaintiff to the exclusion of others.

34. At all times relevant to the allegations contained herein, Defendants owed Plaintiff a duty to exercise reasonable care in the hiring, training, supervision, and retention of their employees and agents, including, *inter alia*, the duty to properly supervise, train, and control the employees and agents working with minors at residential facilities, including the facilities operated by Contractor Defendant/s, and to ensure that programs were in place to provide proper hiring, training, supervision, and retention so that their agents and employees would comply with the protective and rehabilitative duties owed by the state to children in state custody, as required by common law and in RSA 169-B, 169-C, 169-D.

35. Despite and in breach of the aforesaid duties, Defendants, as organizations, agencies, and programs charged under the common law and by statute with the rehabilitation and protection of minors in state custody, were negligent and breached minimum standards of care in failing to take reasonable measures to ensure the proper hiring, training, supervision, and retention of their

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agents and employees to promptly and effectively provide for the safety and welfare of the children in their care. Defendants' negligence includes, but is not limited to, failing to take reasonable measures to properly hire, train, supervise, and retain their workers, failing to report and act on any indicia or precursors of suspected physical, sexual, or emotional abuse, and failing to take affirmative steps to prevent the physical, sexual, and emotional abuse, including the unauthorized strip searches, excessive use of restraints, excessive use of force, and excessive solitary confinement thereby resulting in the abuse experienced by Plaintiff. State Defendants were further negligent in failing to ensure that any contractors it hired to fulfill its custodial obligations to the children in its custody hired appropriate and adequately vetted personnel and provided them with sufficient training, supervision, and oversight.

36. Upon information and belief, multiple employees and agents of Defendants, including those in supervisory positions and those employed by State Defendants with responsibility to oversee Contractor Defendant/s, knew or reasonably should have known of the indicia of abuse and the abusive proclivities of certain employees or agents of Defendants, and knew or reasonably should have known of the foreseeable risk of harm to Plaintiff and other children in Defendants' custody, care, and control. Notwithstanding this actual or constructive knowledge, agents and employees of Defendants not only failed to report this information and/or failed to take adequate corrective action in response to this information, but also actively concealed this information, which resulted in the continued retention of the individual perpetrators as employees or agents of Defendants, and the continued perpetration of abuse upon Plaintiff and other children in the state's custody, care, and control. More than that, agents and employees of Defendants, including those in supervisory positions and those with responsibility to oversee Contractor Defendant/s, tolerated or ignored a general culture of violence, abuse, boundary

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crossing, and disrespect and antipathy toward the children in their custody, creating fertile ground for reasonably foreseeable individual acts of abuse to proliferate, persist, and be left unaddressed, thereby creating a cycle that perpetuated abuse.

37. On further information and belief, when reports of suspected child abuse were made, employees and agents of Defendants, including those in supervisory positions, told the reporters to keep the reports to themselves or otherwise discouraged or prevented reporting of the abuse; consequently, no corrective action was taken and the perpetrators of abuse continued in their employment as agents and employees of Defendants.

38. Additionally, notwithstanding their knowledge of prior abuse of children in the custody of Defendants and the foreseeable risk of future harm to children who remained in the custody of Defendants, including Plaintiff, Defendants failed to adequately supervise and train its agents and employees who were entrusted to care for and protect children in state custody.

39. As a direct, proximate, and reasonably foreseeable cause and result of the negligent hiring, training, and supervision of Defendants, agents and employees of Defendants working at the residential facilities operated by Contractor Defendant/s harmed Plaintiff by the specific acts of child abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint, and Plaintiff suffered deprivations of Plaintiff's constitutional rights as alleged in Counts VIII, IX, and XII. Moreover, agents and employees of Defendants, including individuals in supervisory positions, failed to report or take corrective steps that could have prevented the aforesaid abuse and deprivation of Plaintiff's constitutional rights.

40. As a direct and proximate cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant/s as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating,

ADDENDUM TO SHORT FORM COMPLAINT

and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

COUNT XII

(Negligence—State Defendants and Contractor Defendants)

41. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the Master Complaint and Plaintiff's Short Form Complaint as though fully and completely set forth herein.

42. Pursuant to the state's *parens patriae* powers, including those set forth in the Child Welfare Acts and their antecedents, State Defendants took custody of and control of Plaintiff and placed Plaintiff at various residential facilities and placements, including the residential facilities operated by Contractor Defendant/s. This Count seeks recovery only for harm Plaintiff suffered while residing in the residential facilities of Contractor Defendant/s.

43. At all times relevant to the allegations contained herein, Plaintiff was a minor and Defendants and their agents and employees were charged with the custody, care, and protection of Plaintiff, over whom they exercised control to the exclusion of others.

44. By taking custody and control of Plaintiff, a minor, and by accepting the obligation to care for and protect Plaintiff in place of Plaintiff's parents, family, or legal guardian, whom the

ADDENDUM TO SHORT FORM COMPLAINT

state physically separated from Plaintiff and effectively barred from ensuring Plaintiff's care and protection, Defendants entered into a special relationship with Plaintiff.

45. The special relationship between Plaintiff and Defendants created a duty of care owed to Plaintiff, including, but not limited to, a duty of reasonable supervision and a duty to protect Plaintiff from reasonably foreseeable harm.

46. Defendants and their agents and employees also owed Plaintiff duties arising under statutory law, including, but not limited to, the duties set forth in the Child Welfare Acts and the duty to report instances of suspected child abuse or neglect pursuant to RSA 169-C:29.

47. During the time period that Plaintiff was committed to the custody, care, and control of Defendants, and specifically during the time period State Defendants had placed Plaintiff in the residential facilities operated by Contractor Defendant/s, agents and employees of Defendants harmed Plaintiff by the specific acts of child abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint. Moreover, the agents and employees of Defendants working at the residential facilities operated by Contractor Defendant/s or with oversight responsibilities, including those in supervisory positions, failed to report or take corrective steps that could have prevented the abuse suffered by Plaintiff despite actual or constructive knowledge of prior abuse of other children in state custody at the facilities operated by Contractor Defendant/s.

48. The harm Plaintiff suffered was reasonably foreseeable and preventable. Upon information and belief, agents and employees of Defendants, including those in supervisory positions and those with responsibility to oversee Contractor Defendant/s, knew or reasonably should have known of at least some of the various forms of abuse and harm suffered by minors placed in the custody and control of Contractor Defendant/s, including Plaintiff, and not only failed to report this information or take adequate corrective action in response to this information, but

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actively participated in the abuse and/or concealed this information and thereby failed to correct the conditions that lead to Plaintiff's subsequent abuse. More than that, Defendants, including agents and employees in supervisory positions and those with responsibility to oversee Contractor Defendant/s, tolerated or ignored a general culture of violence, abuse, boundary crossing, and disrespect and antipathy toward the children in their custody, creating fertile ground for reasonably foreseeable individual acts of abuse to proliferate, persist, and be left unaddressed, thereby creating a cycle that perpetuated abuse. All of the aforesaid knowledge, constructive knowledge, acts, and omissions of agents and employees of Defendants is imputable to Defendants.

49. Inasmuch as the harm suffered by Plaintiff was reasonably foreseeable and preventable, both State Defendants and Contractor Defendant/s breached their duties owed to Plaintiff. Moreover, Defendants also breached statutory duties owed to Plaintiff, including, but not limited to, the duty to report suspected instances of child abuse or neglect.

50. The acts of child abuse Plaintiff suffered while residing in the facilities of Contractor Defendant/s also constitute violations of Plaintiff's state and federal constitutional rights. For example, Defendants violated Plaintiff's substantive due process and equal protection rights under the Fourteenth Amendment to the United States Constitution to not be subjected to sexual abuse and unjustified physical violence, the use of excessive force and unreasonable restraint, and other abhorrent and unjustified conditions of confinement while in the custody of the state. Defendants' deliberate indifference to the risks of harm to Plaintiff also constitute a substantive due process violation, and Defendants' unjustified and excessive punishments of Plaintiff without any due process violated Plaintiff's right to procedural due process. In addition, or in the alternative, Defendants' liberal use of physical violence, excessive force, excessive isolation, and excessive restraints also violated Plaintiff's right under the Eighth Amendment to

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the United States Constitution to be free from cruel and unusual punishment. Inasmuch as these constitutional violations were reasonably foreseeable and preventable, but Defendants failed to take corrective steps to prevent or stop these constitutional violations from occurring and reoccurring, these constitutional violations also constitute breaches of the special duty of care Defendants owed to Plaintiff.

51. Furthermore, as set forth in Count VIII, during the time Plaintiff was in the custody, care, and control of State Defendants, the state bore a constitutional and statutory duty under New Hampshire law to provide Plaintiff, a school-aged minor, with a constitutionally adequate education. The Equal Protection Clause of the Fourteenth Amendment likewise required that Plaintiff, along with the other minors in state custody, not be denied access to school and that they be afforded equal educational opportunities regardless of race, ethnicity, background, religion, sex, or citizenship.

52. Inasmuch as the state removed Plaintiff from the custody, care, and control of Plaintiff's parents or guardian and placed Plaintiff in an institutional setting, the state obligated itself to ensure that Plaintiff was not deprived of this right to a constitutionally adequate education.

53. But, as a consequence of the specific acts of child abuse that occurred after State Defendants placed Plaintiff with Contractor Defendant/s, as alleged paragraph 10 of Plaintiff's Short Form Complaint, Plaintiff was deprived of a constitutionally adequate education. For example, Plaintiff received little or no educational instruction during time periods when agents and employees of Defendants locked Plaintiff in isolation. Even when attending school, the child abuse Plaintiff had suffered caused Plaintiff to struggle with a diminished capacity to concentrate and complete school work. As a consequence of the abuse and confinement, Plaintiff was unable

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to attend classes and was unable to benefit from what little instruction was made available, resulting in a constitutionally inadequate education.

54. By placing Plaintiff in an institutional setting where Plaintiff was deprived of a constitutionally adequate education, the state treated Plaintiff and the other children in state custody differently from all other children in the State of New Hampshire with regard to the provision of constitutionally mandated educational services. This differential treatment of children committed to state custody had no justification nor was it rationally related to any conceivable legitimate state interest.

55. As this deprivation of Plaintiff's right to an equal and constitutionally adequate education was reasonably foreseeable, it amounts to a further breach of the special duty of care Defendants owed to Plaintiff.

56. As a direct, proximate, and reasonably foreseeable cause and result of Defendants' negligent supervision, negligent failure to protect, negligent failure to report instances of child abuse or neglect, and negligent violation of Plaintiff's constitutional rights, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant/s as recounted above, and Plaintiff suffered substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory

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damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

COUNT XIII

(Negligent Failure to Adopt and Implement Rules—State Defendants)

57. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the Master Complaint and Plaintiff's Short Form Complaint as though fully and completely set forth herein.

58. Pursuant to the State of New Hampshire's *parens patriae* powers and associated protective and rehabilitative duties, as required by common law, and as codified in Chapters 169-B, 169-C, 169-D, and 621 of the RSA, the purpose of taking custody of minors and placing them in a residential facility, such as the residential facility operated by Contractor Defendant/s, is to protect and rehabilitate the child and to give the child the opportunity to become a productive citizen of the state. This imposes a duty on the state to adopt and implement reasonable rules governing the safety, protection, proper care, supervision, treatment, education, confinement, or discipline of the children committed to its custody and control, and to prevent harm to them, including at its residential facilities, such as the State Youth Facility, and at other residential facilities and placements with which the state contracts, including the facilities of Contractor Defendant/s. For like reasons, the state also bears a duty to adopt and implement reasonable rules governing the training, supervision, hiring, retention, and discipline of agents and employees hired to work at its residential facilities, including at privately operated residential facilities, such as the facilities operated by Contractor Defendant/s. This Count seeks recovery only for harm Plaintiff suffered while residing in the residential facilities of Contractor Defendant/s.

59. State Defendants knew or reasonably should have known that the failure to promulgate, adopt, and enforce reasonable rules or policies and procedures governing (a) the

ADDENDUM TO SHORT FORM COMPLAINT

safety, proper care, supervision, treatment, education, confinement, and discipline of the juveniles committed to State Defendant's custody, care, and control and (b) the training, supervision, hiring, retention, and discipline of agents and employees working at State Defendants' residential facilities, as well as at other residential facilities and placements, would put the minors in the state's custody at foreseeable risk of harm. It was reasonably foreseeable, if not likely, that without such reasonable rules or policies and procedures in place, and reasonably enforced by State Defendants, State Defendants and their contractors would employ personnel not qualified or suited to the job of caring for and supervising vulnerable juveniles, and that unqualified, untrained, unsupervised, and unregulated personnel would abuse their position of authority and trust to the great harm of the children entrusted to their care.

60. Notwithstanding the reasonably foreseeable harm to children, State Defendants breached the aforementioned common law and statutory duties by negligently failing to promulgate, adopt, or enforce such reasonable rules or policies and procedures governing (a) the safety, proper care, supervision, treatment, education, confinement, and discipline of the children placed in State Defendants' custody, care, and control, whom State Defendants placed in privately operated residential facilities, and (b) the training, supervision, hiring, retention, and discipline of agents and employees of State Defendants entrusted with the care, custody, and control of minors placed in privately operated residential facilities, including the facilities operated by Contractor Defendant/s.

61. As a direct and proximate consequence of the negligent failure to promulgate, adopt, or enforce reasonable rules or policies and procedures, at all times relevant to the allegations contained herein, there were insufficient or unreasonable rules or policies and procedures in place at the various residential facilities used by State Defendants, including at privately operated

ADDENDUM TO SHORT FORM COMPLAINT

residential facilities such as the facilities operated by the Contractor Defendant/s, to ensure the safety of minors placed at such facilities and for the prevention of and, if necessary, reporting of abuse or neglect of the minors placed at such facilities. In fact, the lack of reasonable rules or policies and procedures governing the residential facilities used by State Defendants communicated a *laissez-faire* attitude that the supervisors, employees, and agents of State Defendants working at these residential facilities were free to behave as they pleased without fear of discovery or consequences.

62. As a direct, proximate, and reasonably foreseeable cause and result of State Defendants' negligent failure to promulgate, adopt, or enforce reasonable rules or policies and procedures during the time period that Plaintiff was committed to the custody, care, and control of Defendants, and specifically during the time period State Defendants placed Plaintiff in the residential facilities operated by Contractor Defendant/s, agents and employees of Defendants harmed Plaintiff by the specific acts of child abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint. Plaintiff was also deprived of Plaintiff's constitutional rights as alleged in Counts VIII, IX, and XII. Moreover, none of Defendants' agents or employees reported the abuse or took any corrective action to stop it.

63. As a direct, proximate, and reasonably foreseeable cause and result of the foregoing, State Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant/s as recounted above, and Plaintiff suffered substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays

ADDENDUM TO SHORT FORM COMPLAINT

for an award of all actual damages against State Defendants, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

COUNT XIV

(Civil Conspiracy—State Defendants and Contractor Defendant/s)

64. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the Master Complaint and Plaintiff's Short Form Complaint as though fully and completely set forth herein.

65. During the time when Plaintiff was in state custody, and State Defendants placed Plaintiff in the residential facilities operated by Contractor Defendant/s, agents and employees of Defendants, including individuals with supervisory authority, knowingly agreed with one another and others known and unknown, either explicitly or tacitly, on a common plan or design to perpetrate systemic child abuse at the facilities of Contractor Defendant/s, including through the physical, sexual, and emotional abuse of the minors committed to the custody and control of Defendants. This Count seeks recovery only for harm Plaintiff suffered while residing in the residential facilities of Contractor Defendant/s.

66. In particular, agents and employees of Defendants, including those in supervisory positions, knowingly agreed, either explicitly or tacitly, to a course of action through which they would target minors placed with Contractor Defendant/s, including Plaintiff, for the purpose of committing intentional acts of child abuse as previously alleged herein, as well as for the purpose of concealing those acts of abuse, to the benefit of and protection of the individual co-conspirators and as well as their employers, State Defendants and Contractor Defendant/s.

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67. Defendants, acting through their agents and employees, then acted together, in furtherance of their common plan or design, to unlawfully and deliberately target minors, including Plaintiff, placed with Contractor Defendant/s, knowingly carrying out acts of child abuse as previously alleged herein, including the specific acts of child abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint.

68. Defendants, acting through their agents and employees, including persons in positions with supervisory authority, further knowingly agreed with one another and others known and unknown, either explicitly or tacitly, on a common plan or design to conceal those unlawful acts from discovery. They did so for the purpose of protecting the individual co-conspirators as well as their employers, State Defendants and Contractor Defendant/s.

69. The purpose or object of the conspiracy was the perpetuation of systemic physical, mental, and sexual abuse of minors who were committed to the custody, care, and control of Defendants, through the abuse itself and also through its concealment. In particular, the co-conspirators acted in furtherance of the same specific unlawful purposes recited in paragraph 125 of the Master Complaint.

70. The foregoing unlawful purposes of the conspiracy were accomplished and preserved through various unlawful manners and means, some of which Plaintiff directly experienced and some of which were experienced by other minors who were victims of the same conspiracy, as well as by other employees and agents of Defendants. In particular, those unlawful manners and means included the same unlawful manner and means recited in paragraph 126 of the Master Complaint.

71. Employees and agents of Defendants, including individuals in positions with supervisory authority, and others known and unknown, knowingly committed numerous overt acts

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in furtherance of their common plans and designs to perpetrate systemic child abuse and conceal child abuse, including, *inter alia*, threatening, assaulting, and falsely imprisoning the minor victims of the conspiracy, as well as covering up and failing to report instances of known child abuse on myriad occasions. Additionally, employees and agents of Defendants, including persons in positions with supervisory authority, and others known and unknown, used threats and intimidation to silence their co-workers and subordinates who had observed abuse, violations of rules or protocols, and other forms of misconduct or malfeasance.

72. As a direct and proximate cause and result of the above-alleged unlawful conspiracy, systemic child abuse thrived throughout the time Plaintiff was in the custody, care, and control of Defendants at the facilities operated by Contractor Defendant/s, and Plaintiff, a minor, was subjected to the specific acts of child abuse alleged in paragraph 10 of Plaintiff's Short Form Complaint.

73. As a direct, proximate, and reasonably foreseeable cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant/s as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to sustain all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

EXHIBIT B

NEW HAMPSHIRE YOUTH DEVELOPMENT CENTER CLAIMS
ADMINISTRATION AND SETTLEMENT FUND
John T. Broderick, Jr., Administrator

Claim Details

Claim Number:

Created Date:

***Do you have an Attorney in this matter?** Yes No

***Name of Law Firm:** Nixon Peabody LLP

IF YOU HAVE AN ATTORNEY FOR THIS CLAIM, PLEASE STOP AND ENSURE THAT YOUR ATTORNEY COMPLETES AND SUBMITS THIS CLAIM FORM FOR YOU. We will only correspond with your attorney if you are represented. Attorney information will be entered at the end of the Claim form in the Reporter section.

***Did you already file a Notice of Claim with us?** Yes No

This is NOT a required step in order to file a claim, but you must acknowledge if you sent us such a Notice at any time prior to filing this Claim. A sample Notice of Claim is on the YDCCA website if you need guidance on this document and its purpose.

Claimant Name and Contact Information

***Claimant First Name:** Ronald

Claimant Middle Name: Charles

***Claimant Last Name:** Miles

***Other Names used by Claimant:** Yes No

Claimant Other First Name Used (if any): Chuck, Charlie

Claimant Other Middle Name Used (if any):

Claimant Other Last Name Used (if any):

Claimant Nickname Used (if any):

***Claimant Gender:** Male Female

***Claimant Date of Birth:** ██████████1968

Please enter your date of birth as MM/DD/YYYY

***Claimant Social Security Number:** ████████████████████

Claimant A-number (also known as a CIS #or Alien Registration number) if you have one:

***Claimant Street Address:** [REDACTED]

Apartment or Unit #:

***Claimant City: Palm Beach Gardens**

***Claimant State: FL**

***Claimant Zip Code: 33410**

Claimant Email:

Claimant Preferred Contact phone number:

May voicemail messages be left: Yes No

***How do you prefer we communicate with you?** EMAIL MAIL PHONE

Email communication is preferred for efficient processing of your Claim

***Are you currently residing at a department of corrections facility:** Yes No

**If yes, which corrections facility:*

***Do you have a Trusted Contact in case we cannot reach you:** Yes No

A Trusted Contact is someone that we can communicate with about your claim, if you do not have an attorney. It is not your attorney.

*Trusted Contact First Name:

*Trusted Contact Last Name:

Trusted Contact Address:

Trusted Contact Phone:

Trusted Contact Email:

*Trusted Contact Relationship:

Eligibility for Compensation from the Fund

The next series of questions relate to your eligibility to file a Claim for recovery under the YDC Settlement Fund. You also will need to provide a Statement of Eligibility. It is important to provide any supporting documents for Eligibility, if you have them. There are Instructions available.

Please list the YDC Facility/Facilities where you were committed or detained:

Philbrook

***When were you in each YDC Facility? Please separately list time frames if multiple facilities:**

Provide dates as best you remember

The State sent me to Philbrook in approximately 1978.

***How old were you when you first arrived at any YDC facility: 9 or 10**

***Do you recall cottage(s) or wing(s) that you lived?** Yes No

Name of Wing(s) or Cottage(s): N/A

***Were you subjected to sexual, physical, and/or other abuse while in a YDC facility?** Yes No

***What information are you providing to affirm your status as a Former YDC Resident:**

****Please select all that apply:***

- Your recollection, in your written narrative
- Resident File
- Other Documents

***Have you filed any lawsuits against the State, or any persons, organizations or entities related to the sexual or physical abuse you suffered:** Yes No

Provide initial filing date of lawsuit: July 18, 2022

Provide docket number: 217-2022-CV-00804

Provide caption name of lawsuit: John Doe #526 v. State of New Hampshire, Department of Health and Human Services, et al.

Plaintiff Pseudonym: John Doe #526

Provide your court pseudonym if you have one, such as "John Doe #1".

***Have you received any settlements (any money) from the State of New Hampshire, or any other person, organization, or entity related to the sexual or physical abuse you suffered:** Yes No

If you answer Yes, please provide details in your narrative.

Information about the Abuse You Suffered

***Are you making a claim for sexual abuse:** Yes No

Sexual Abuse

The next series of questions asks how many times you were sexually abused by or because of a staff member. For information on the categories and definitions of sexual abuse, please see the YDC Settlement Fund statute and the Guidelines. Your written narrative is the place to provide as much detail as you can for each time you were sexually abused.

Category A – Anal or Genital Rape: Yes No

- *Please estimate the number of times Category A sexual abuse happened: **30**

Category B – Oral Rape: Yes No

- *Please estimate the number of times Category B sexual abuse happened:

Category C – Intimate Sexual Touching (Masturbation): Yes No

- *Please estimate the number of times Category C sexual abuse happened: **30**

Category D – Other Touching (Groping): Yes No

- *Please estimate the number of times Category D sexual abuse happened:

Category E – Conduct Creating a Reasonable Apprehension of Sexual Abuse, or Conduct Constituting Indecent Exposure, Lewdness, or Violations of Privacy:

Yes No

- *Please estimate the number of times Category E sexual abuse happened:

***Does your Claim include incidents of Egregious Sexual Abuse:**

Yes No Don't Recall

If yes, please provide details in your written narrative

***Were you subjected to other sexual abuse distinct from the events you have already identified in the prior categories:** Yes No Don't Know

Other Sexual Abuse has a definition under the statute and Guidelines. Please apply that definition to the best of your ability and provide detail in your written narrative.

***How many times were subjected to other sexual abuse, to the best of your recollection:**
N/A

Other forms of sexual abuse should be described in your written narrative.

***In what years did the sexual abuse events occur, to the best of your recollection:** 1978

Your written narrative is the place to provide any details that you recall.

***How old you were you when the sexual abuse first occurred: 9 or 10**

***Who sexually abused you? Please list any names or nicknames you recall, and what their roles were at the facility: Patrick O'Mara**

Your written narrative is the place to provide any details that you recall. Examples of roles at the facility include staff member, volunteer, or other resident. You can write 'Don't Recall' if you don't remember.

***Did anyone witness (see or hear) any incident of sexual abuse:**

Yes No Don't Know

List any witnesses to your sexual abuse, if you recall names. Include contact information if available:

Other residents, who were also abused by O'Mara: Michael Regan, Clifford Doyle, Robert Champney, Christopher Merchant, and Kurt.

***Did you tell anyone about any sexual abuse incident: Yes No Don't Recall**

Person(s) you told about your sexual abuse: **I had conversations about this abuse with the other residents. I told a teacher named Lisa Grogan at Philbrook who told me I "just needed to behave and do what they say." Sometime after I left state custody I went to NH DHHS and met with Sylvia Gayle who refused to hear me out or treat me because she said the statute of limitations was up and the state had no responsibility for the abuse.**

Were you ever threatened, disciplined, or otherwise coerced so that you would not report that you were sexually abused at any time: Yes No

Did the sexual abuse occur during a period of Out-of-Community Confinement ("OOC") that you consider unjustified: Yes No

You have completed the section on Sexual Abuse. Please provide details in your written narrative to the best of your recollection, including for all questions where you answered 'Yes'.

***Are you making a claim for other abuse, for incidents that occurred separately of sexual abuse:** Yes No

Note: Only events of Other Abuse that were separate from the events of sexual abuse (if any) may be claimed in this section.

Other Abuse

This category was formerly named ‘Physical Abuse’ and still includes physical abuse questions.

The next series of questions asks how many times you were subject to Other Abuse by or because of a staff member. For information on the categories and definitions of Other Abuse, please see the YDC Settlement Fund statute and the Guidelines. Your written narrative is the place to provide details for each time you were subject to Other Abuse.

Category A – Other resulting in permanent or life-threatening bodily injury: Yes No

- *Please estimate the number of times Category A other abuse happened: **42**

Category B – Other resulting in serious bodily injury: Yes No

- *Please estimate the number of times Category B other abuse happened:

Category C – Other abuse resulting in bodily injury or intentional infliction of emotional distress: Yes No

- *Please estimate the number of times Category C other abuse happened:

Category D – Other abuse with no significant injury: reckless conduct; criminal threatening; child endangerment: Yes No

- *Please estimate the number of times Category D other abuse happened:

Category E – Unlawful strip search or unlawful restraint by means of physical, mechanical, or pharmaceutical restraint: Yes No

- *Please estimate the number of times Category E other abuse happened: **10**

Category F – Unlawful restraint by means of placement in isolated confinement: Yes No

- *Please estimate the number of times Category F other abuse happened: **10**

***In what years did the other abuse events occur, to the best of your recollection: 1978**

Your written narrative is the place to provide any details that you recall.

***How old were you when other abuse first occurred: 9 or 10**

***Please list any names or nicknames you recall of persons who subjected you to other abuse and what their roles were at the facility: Patrick O’Mara**

Your written narrative is the place to provide any details that you recall. Examples of roles include staff member, volunteer, or other resident.

***Did you suffer any injury or permanent impairment from the other abuse, you are reporting:** Yes No

Examples could include a black eye, a broken leg, or brain damage. Please provide details in your narrative.

***Did anyone witness any incident of other abuse:** Yes No Don't Know

List any witnesses to other abuse, including physical abuse, if you recall names. Include contact information if available: **Other residents I identified in the sexual abuse section, and other staff members. At least two staff members restrained me at the same time.**

You can give more details about witnesses in your narrative.

***Did you tell anyone about other abuse:** Yes No Don't Know

Person(s) you told about other abuse, including physical abuse: **Later in life I told my family, I told Lisa Grogan while I was at Philbrook.**

Were you ever threatened, disciplined, or otherwise coerced so that you would not report that you were subject to other abuse at any time: Yes No

If you answer Yes, please provide details in your narrative.

Did the other abuse occur during a period of Out-of-Community Confinement ("OOC") that you consider unjustified: Yes No

If you answer Yes, please provide details in your narrative.

You have completed the section on Other Abuse. Please provide details in your written narrative to the best of your recollection, including for any questions where you answered 'Yes'.

Additional Information to Support Your Claim

***Do you wish to provide testimony under oath in a live resolution proceeding, or do you prefer to have your Claim decided based solely on the written submissions:**

Live testimony in a resolution proceeding

Written Submission only

***Will you be providing a written impact statement with your Claim:** Yes No

To the best of your ability, it will be helpful if you describe the impact that the abuse has had on you, including any extraordinary circumstances or harm that you have suffered.

***Have you received any treatment or services (such as medical treatment, counseling, addiction recovery, religious or spiritual services) because of the abuse you suffered:** Yes No

I have met with therapists after my time in state custody. I have been diagnosed with anxiety, depression, and post-traumatic stress disorder due to the abuse I suffered at Philbrook.

If you answered 'Yes', please describe the treatment/services, the providers, and dates of treatment/services. You may also provide records.

***Do you believe that additional or other treatment or services would be helpful to you:** Yes No

I believe I would benefit from additional mental health services. I continue to struggle daily due to the abuse I endured at Philbrook.

If you answer Yes, please tell us more in your narrative.

Your Claim Amount

To determine the amount of your Claim under the Guidelines, you may either complete the optional Claim Worksheet or you may Estimate the amount of your Claim. If you enter an amount greater than the total cap allowed by statute, then your Claim will be treated as a Claim for that statutory cap.

Did you use the optional Claim Worksheet to calculate your Claim Amount: Yes No

If 'Yes', please include the Worksheet with the support documents you send us.

***Total Claim Amount: \$3,193,000**

***How much of your Total Claim Amount is for Sexual Abuse: \$2,575,000**

Enter 'o' if none.

***How much of your Total Claim Amount is for Other Abuse: \$618,000**

Enter 'o' if none.

***If you used the Claim Worksheet, does your Total Claim Amount include aggravating factors from the Worksheet:** Yes No

Verification and Oath

You are required to submit your Claim with a completed and notarized form that confirms (1) you have read and agree to a list of important statements and (2) you have read the information in the Claim and all attachments and submit it under oath upon penalty of perjury.

***Is the Claimant providing a completed and notarized form for Verification and Signature & Oath and Acknowledgement:** Yes No

Attestation

You are required to Attest to who is submitting this Claim for the Claimant. There are three options. Select 'Yes' when you see the correct option. Select 'No' to take you to the next of the three options.

***Is the Claimant's attorney submitting and signing this Claim on behalf of the Claimant:** Yes No

***If yes:**

***Individual Attorney Full Name: Kristi Livedalen**

Your typed name is your attorney signature on this Claim, in representing the Claimant.

***Attorney Date Signed:**

*I affirm as the Claimant's attorney that I assisted in preparing this Claim and my fee affidavit is accurate. I will be providing my fee agreement or engagement letter, and my fee affidavit as attachments.:

***If no, Is the Claimant submitting and signing this Claim on their own behalf:** Yes No

***Claimant Name for Attestation:**

By entering your name you are electronically signing this claim form.

***Claimant Attestation Date:**

***If no, Is the Claimant's Guardian or Conservator submitting and signing this Claim on behalf of the Claimant:** Yes No

***Claimant's Guardian/Conservator Full Name:**

***Claimant's Guardian/Conservator Date Signed:**

***I, as the Claimant's guardian/conservator, affirm that I assisted in preparing this**

claim, and court documentation of my appointment will be included with the Claim's supporting documents:

***Reporter(the reporter is the person submitting the claim):**

*First Name: Kristi

*Last Name: Livedalen

*Who is the authorized Reporter of this Claim?:

Claimant

Claimant's Attorney

Claimant's Guardian/Conservator

YDC Settlement Fund Claim – Written Narrative

NAME: Ronald C. Miles

DOB: [REDACTED] 1968

I. MY BACKGROUND

A. My Childhood

My parents raised me in a loving home until I was about 10 years old. My family and I moved from Florida to New Hampshire when I was 9 or 10 years old to get better medical treatments for my sister, who was chronically ill. During the spring of my fifth-grade year, officials at my school wrongly determined that I was the aggressor in an incident with another student. I was defending myself against another student who attacked me with a large rock and a glass bottle during recess. As a result of this incident, the courts sent me to the Philbrook Center (“Philbrook”) for an evaluation. Philbrook staff determined that I was “emotionally disturbed.” They removed me from my parents’ peaceful home and sent me on an eight-year-long descent through cruel and abusive state-ordered placements.

The State first detained me at Philbrook, where I was physically, sexually, and verbally abused for three months. A staff member named Patrick O’Mara orally and anally raped me and numerous other residents at Philbrook, leading us to attempt an escape through the sewer system at the school. Philbrook staff members tackled me, restrained me, and strangled me. The State then sent me to Pine Haven Boys Center, the Chamberlain Center, and Lakeview Academy, where staff members continued to assault, abuse, and rape me for years.

B. Who I am Today

I have worked hard to get my life on track as an adult and have been successful. I am hardworking and self-sufficient. I own my own business and provide for myself and my family. However, even now, at age 55, I still am still haunted by the abuse I suffered at Philbrook and have nightmares about what Patrick O’Mara did to me. I am emotionally aware and work hard every day to remain level-headed and not let the abuse I suffered as a child impact my daily life, but some days are harder than others. I am sickened by what the state has been allowed to get away with and am thrilled to see people finally be brought to justice and the state being held accountable for the heinous abuse it allowed for decades.

C. Things I Want You to Know About Me

The abuse at Philbrook profoundly impacted my life. My counselors have diagnosed me with anxiety and post-traumatic stress disorder. I have also struggled with severe depressive episodes and addiction disorder. Ironically, these conditions prevented me from understanding that the abuse I endured in state custody caused or exacerbated them. The shame of disclosure, combined with these conditions, prevented me from discussing or disclosing the abuse to others throughout my adult life. I feel so much

anger – towards the state, YDC, O'Mara, and even family. I did not receive any education after the fifth grade until state juvenile officials finally sent me to Winnacunnet High School when I was 17. The trauma I experienced continues to affect me deeply. I have attempted to commit suicide multiple times. I constantly struggle to navigate life with the weight of these memories and the ongoing impact of the abuse I endured.

II. ELIGIBILITY FOR COMPENSATION FROM THE FUND

A. What Led to the State Detaining Me at a YDC Facility

I was detained at Philbrook because I got in trouble related to an incident at school.

B. Documents Supporting Eligibility

Attorney Note: The State has not yet produced the resident file for Mr. Miles' time in State custody. Therefore, at this point, we have no reason to disbelieve his recollection regarding the timing of his detainment. Mr. Miles reserves the right to supplement this Claims Packet if and when his resident file is received from the State.

C. When the State Detained Me at Each Facility

1. Dates

Approximately 1978

2. Ages

9 or 10 years old.

D. YDC Facility where I was Abused

1. Names and descriptions of cottage(s) or wing(s)

I don't remember if I was in a particular wing.

2. For each cottage and/or wing, the dates when the State detained me there and for how long

Philbrook in 1978 for approximately three-to-four months.

III. DESCRIPTION OF THE ABUSE I SUFFERED

A. Sexual Abuse

Attorney Note: Mr. Miles is still in the process of investigating his claims, and fact and expert discovery in his related civil case is in the preliminary stages. Accordingly, Mr. Miles reserves the right to supplement this Claims Packet and his submission to the

Claims Administration Office as additional documents, materials, and expert opinions are identified and obtained.

1. Description of Abuse (including any physical and/or psychological injuries)

Patrick O'Mara was one of the first staff members I met at Philbrook. O'Mara was a big, tall, hairy man who appeared to weigh over 350 pounds. He was nice to me at first and told me, "Everything would be ok." He began sexually assaulting me when the staff took me to a place called Camp Knotty Pine for an overnight trip. Other staff members came on this camping trip in addition to O'Mara, and they were drinking alcohol, becoming intoxicated. I believe their names were Connie Francia, "Russ," and "Lisa." These other staff members eventually fell asleep or passed out drunk, and then O'Mara forced me to sleep in his tent. He groped my penis and fondled me on this trip. (Category C).

After this trip, O'Mara started coming into my cell in the middle of the night. He used his fingers to penetrate my anus. Then, he took the same hand and put it over my mouth to keep me from screaming as he inserted his penis into my anus. I could smell and taste the feces from my anus on O'Mara's hand when he covered my mouth. (Category A). Sometimes, he removed his penis and masturbated himself until he ejaculated on my back and buttocks. When he ejaculated on my back, he rubbed the semen into my skin. (Category C). Other times, O'Mara ejaculated into my anus. I remember the semen running out of my anus. (Category A). I don't think I could yet ejaculate at that time, as I was only 9 or 10 years old. Still, O'Mara masturbated me until my penis was raw and painful. (Category C). O'Mara sexually assaulted and raped me approximately 30 times during the 3-4 months I was confined at Philbrook. He tried to normalize his sexual abuse by calling what he did to me a "massage."

2. Witnesses

O'Mara sexually abused other residents named [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] while they were detained with me at Philbrook. We spoke to each other about the abuse we each endured. O'Mara seemed to pick a different victim every day. I remember [REDACTED] asking me if O'Mara gave me massages too.

Together, these other residents and I attempted to escape from Philbrook and O'Mara's abuse through the sewer tunnel under the school. Unfortunately for us, the drainage system did not leave the properly and we were trapped. O'Mara himself found us and brought us back to Philbrook. When he found us, he told us we had better keep our mouths shut.

B. Other Abuse

1. Description of Abuse (including any physical and/or psychological injuries)

After O'Mara raped me, he sat on my stomach. I was a small 10-year-old boy, and he appeared to be a 350-pound adult man. O'Mara threatened me as he crushed my body until I could barely breathe. O'Mara also held his hand over my face while he raped me, making it difficult to breathe. He did this approximately 30 times during my detainment at Philbrook. (Category A).

When O'Mara raped and sexually assaulted me, I was very confused about what he did to me and had emotional breakdowns once the abusive episodes were over. Staff members sometimes asked me what was wrong during these outbursts, but I could only cry and ask, "Why is this happening to me?" The staff responded by restraining me and throwing me into a padded cell. At least 10 times, they drugged me with Thorazine to incapacitate me when I became upset. I woke up days later with O'Mara standing over me telling me to calm down, that I needed to control myself or I would never get out of there. I had no idea what he had done to me in that time. (Category D).

Other Philbrook staff members violently restrained me and beat me. Approximately a dozen times, they tackled me face down on the ground and sat on top of me until I couldn't breathe. During restraints, the staff said things to me like, "Do you want more?" I understood this to mean that the only way to get the pain to stop was to stop fighting back and just take the pain they inflicted. (Category A).

At Philbrook when I would be sent to school, I was locked in a closet with Lisa Grogan the entire time and not allowed in a classroom. I was kept in solitary the whole time.

2. Witnesses

O'Mara sexually abused other residents named [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] while they were detained with me at Philbrook. We spoke to each other about the abuse we each endured. O'Mara seemed to pick a different victim every day.

IV. ADDITIONAL INFORMATION

A. People I Have Told About the Abuse and What I Told Them

I went to public school at Hampton Junior School for a brief period after I was detained at Philbrook. I reported O'Mara's sexual abuse to a teacher named Lisa Grogan. She responded that I just needed to behave and "do what they say." Grogan did nothing to protect me or get justice for me.

Sometime after I left state custody, I went to NHDHHS and met with Sylvia Gayle who responded to me with no compassion or care and simply handed me a pamphlet. She

told me she couldn't help with counseling, or help me with anything, because the statute of limitations was up and the state had no responsibility for the abuse I suffered.

Later in my life I tried to tell people, but no one believed me. As a part of my recovery and therapy, I have told my family about what O'Mara did to me.

B. Treatment I Received Because of the Abuse I Suffered

I have received treatment throughout my life after leaving state custody. Therapists have diagnosed me with anxiety, depression, and post-traumatic stress disorder due to childhood sexual abuse suffered at Philbrook.

C. Other Treatment or Services That Would be Helpful to Me

I believe I would benefit from additional mental health services. I continue to struggle daily due to the abuse I endured at Philbrook.

D. Threats and/or Disciplinary Action to Deter Reporting

O'Mara threatened me to make sure I did not tell anyone what he did. He told me he would never let me leave Philbrook if I reported him and that I would never see my parents again. He told me he would send me to YDC if I reported him. I was just 10 years old at the time and I believed him.

**STATE OF NEW HAMPSHIRE
SUPERIOR COURT**

Rockingham, ss

Case No. 217-2022-CV-00804

Your name: John Doe #526

v.

N.H. Department of Health and Human Services, et al.,
(YDC and YDSU cases)

NOTICE OF FILING OF CLAIM AND [PARTIAL] STAY

I, [insert your name] John Doe #526, hereby notify the Court that I have filed a Claim with the Administrator of the YDC Settlement Fund. I understand that the Administrator will complete the Certification on page 2 and that this Notice will be filed with the Court.

I further understand that when this Notice is filed with the Court, my lawsuit will automatically be stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) my lawsuit is not automatically stayed, and I may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim under N.H. RSA 21-M:11-a, and (ii) my lawsuit is not automatically stayed as to, and I may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of me, even if that individual was a state employee at the time. N.H. RSA 21-M:11-a VII(e).

I further understand that if I continue to pursue relief against any such direct, personal individual perpetrator or as to allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim while my case is otherwise stayed as against the State Defendants, that will not preclude the State Defendants from conducting discovery or other litigation activities that duplicate activities conducted or undertaken during the period of the State stay, when and if the State stay is lifted in the event that my Claim is not resolved in the Settlement Fund Claim Process.

Dated: 11/6/2024

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)

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crilee@rileelaw.com

lrilee@rileelaw.com

Respectfully submitted,

JOHN DOE #526

By and through counsel,

NIXON PEABODY LLP

/s/ David Vicinanza

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

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

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

Nathan Warecki, Esq. (Bar No. 20503)

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ebucksbaum@nixonpeabody.com

aregan@nixonpeabody.com

CERTIFICATION OF ADMINISTRATOR

I, [name of Administrator] _____, duly appointed Administrator of the YDC Settlement Fund, hereby confirm and advise the Court that I have received a Claim from _____ (“Claimant”) on [date]_____. I further advise the Court, that pursuant to N.H. RSA 21-M:11-a VII(e), upon filing of this Notice, the above captioned lawsuit should be automatically stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) this action should not be automatically stayed, and Claimant may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of the Claim under N.H. RSA 21-M:11-a, and (ii) this action should not be automatically stayed as to, and Claimant may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of Claimant, even if that individual was a state employee at the time.

Signed: _____

Date: _____

EXHIBIT C

**STATE OF NEW HAMPSHIRE
SUPERIOR COURT**

Rockingham, ss

Case No. 217-2022-CV-00804

Your name: John Doe #526

v.

N.H. Department of Health and Human Services, et al.,
(YDC and YDSU cases)

NOTICE OF FILING OF CLAIM AND [PARTIAL] STAY

I, [insert your name] John Doe #526, hereby notify the Court that I have filed a Claim with the Administrator of the YDC Settlement Fund. I understand that the Administrator will complete the Certification on page 2 and that this Notice will be filed with the Court.

I further understand that when this Notice is filed with the Court, my lawsuit will automatically be stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the "State Defendants"), except that (i) my lawsuit is not automatically stayed, and I may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim under N.H. RSA 21-M:11-a, and (ii) my lawsuit is not automatically stayed as to, and I may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of me, even if that individual was a state employee at the time. N.H. RSA 21-M:11-a VII(e).

I further understand that if I continue to pursue relief against any such direct, personal individual perpetrator or as to allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim while my case is otherwise stayed as against the State Defendants, that will not preclude the State Defendants from conducting discovery or other litigation activities that duplicate activities conducted or undertaken during the period of the State stay, when and if the State stay is lifted in the event that my Claim is not resolved in the Settlement Fund Claim Process.

Dated: 11/6/2024

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)

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Respectfully submitted,

JOHN DOE #526

By and through counsel,

NIXON PEABODY LLP

/s/ David Vicinanzo

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

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

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ebucksbaum@nixonpeabody.com

aregan@nixonpeabody.com

CERTIFICATION OF ADMINISTRATOR

I, [name of Administrator] John T. Broderick, Jr., duly appointed Administrator of the YDC Settlement Fund, hereby confirm and advise the Court that I have received a Claim from John Doe #526 (“Claimant”) on [date] 11/8/2024. I further advise the Court, that pursuant to N.H. RSA 21-M:11-a VII(e), upon filing of this Notice, the above captioned lawsuit should be automatically stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) this action should not be automatically stayed, and Claimant may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of the Claim under N.H. RSA 21-M:11-a, and (ii) this action should not be automatically stayed as to, and Claimant may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of Claimant, even if that individual was a state employee at the time.

Signed:

John T. Broderick, Jr.

Date:

11/22/2024

EXHIBIT 5

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

SECOND AFFIDAVIT OF JANE DOE #231

I, Jane Doe #231, being duly sworn on oath, depose and state as follows:

1. I am an adult with personal knowledge and competent to testify to the matters set forth herein.
2. I previously signed an affidavit in support of the Complaint filed in this matter on June 27, 2025. That affidavit remains accurate, and I incorporate it herein, but I submit this second affidavit specifically in support of Plaintiffs' Motion to Allow Class Action.
3. As stated in my first affidavit, I was physically, sexually, and emotionally abused as a child in custody at the Youth Development Center ("YDC") in the 1980s. In 2024, I retained counsel and filed a complaint against the State of New Hampshire alleging that the State was responsible for my abuse. A true and accurate copy of my complaint against the State is attached as **Exhibit A**.
4. I was suspicious of the Settlement Fund at first. I didn't think that the Administrator would believe me, and I was not ready to disclose the full extent of my abuse to a stranger. But I was promised that the Administrator was neutral and impartial, and that the claims process was designed to be as comfortable and trauma informed as possible. I was also promised that I could

maintain my confidentiality, which is extremely important to me. Based on these promises, I decided to give the Settlement Fund a try.

5. In April 2025, I authorized my lawyers to file a claim in the Settlement Fund. Attached as **Exhibit B** is a true and accurate copy of pertinent portions of my claim submission with the Claims Administrator, including my completed “Claim Form,” “Written Narrative,” and executed “Notice of Filing of Claim and [Partial] Stay,” which indicates my agreement to stay my lawsuit while my Settlement Fund claim is pending.

6. When I filed my Settlement Fund claim, I also understood that in order to pursue that claim I would need to stay my lawsuit in court and I authorized my lawyers to do that as well. Attached as **Exhibit C** is a true and accurate copy of the “Notice of Filing Claim and [Partial] Stay” my lawyers filed with the Claims Administrator.

7. When I found out about the State’s plan to remove Administrator Broderick and replace him with someone who works for the State and isn’t neutral, I felt betrayed. I had an agreement with the State about what my Settlement Fund claim process would look like, and after I signed and submitted all the paperwork and stayed my lawsuit, they changed the rules. Given the way this State has treated me, I shouldn’t be surprised.

8. The State’s decision to break its promises about the neutrality of the process also makes me afraid that next they’ll take away my confidentiality, because they seem to think they can change the rules however they want. What’s stopping them?

9. I understand that my lawyers filed this class action lawsuit to prevent the State from enforcing changes to the Settlement Fund that take away the neutrality I was promised. After discussions with my lawyers, I agreed to serve as a representative for this class action. I want the State to give me and other YDC abuse victims the fair process we were promised.

10. My attorneys have explained to me my responsibilities as a class representative, and I am willing to undertake those responsibilities. I understand that as a class representative: (a) I have the responsibility to see that the lawyers prosecute the case on behalf of the entire class, not just myself, (b) I may have to testify at a deposition or in a hearing or trial and provide documents and information for use in the case, and (c) the Court must approve any settlement of this case as a class action.

FURTHER AFFIANT SAYETH NAUGHT.

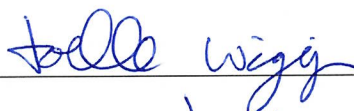
STATE OF NEW HAMPSHIRE)
COUNTY OF HILLSBOROUGH)

I, Jane Doe #231, being first duly sworn, on oath depose and say that the statements contained herein are true and correct to the best of my knowledge, information, and belief.



Jane Doe #231

Subscribed and sworn to before me this 12 day of August, 2025.



Print Name: Joelle Wiggan

Notary Public/Justice of the Peace

My Commission Expires: 5/17/28

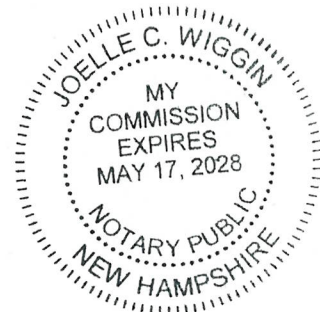


EXHIBIT A

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

CIVIL ACTION NO. 218-2024-CV-01371

JANE DOE #231

v.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.

FOR CONSOLIDATION WITH CASE NO. 217-2020-CV-00026

SHORT FORM COMPLAINT SUPPLEMENT TO MASTER COMPLAINT
(For all Plaintiffs represented by Rilee & Associates, P.L.L.C. and Nixon Peabody LLP)

Plaintiff Jane Doe #231 (“Plaintiff”), by and through counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody LLP, submits this “Short Form Complaint,” which supplements the Master Complaint filed in the lead docket, *Meehan v. State of N.H., Dep’t of Health and Human Servs.*, Docket No. 217-2020-CV-26, in the Superior Court for Rockingham County, and as may be amended in the future (the “Master Complaint”). Consistent with this Court’s Order Regarding Consolidation of Claims and Cases, dated July 6, 2022 (the “Consolidation Order”), this Short Form Complaint sets forth a statement of material facts entitling Plaintiff to the relief requested in Counts I through VII of the Master Complaint. To the extent Plaintiff has supplemental claims against the State Defendants identified in the Master Complaint and any other defendant, those claims, and the material facts sustaining those claims, are additionally set forth herein.

INCORPORATION BY REFERENCE OF MASTER COMPLAINT

1. The Master Complaint filed in the lead docket, Docket No. 217-2020-CV-26, in the Superior Court for Rockingham County, and as may be amended in the future, is expressly

incorporated by reference to this Short Form Complaint as if fully set forth herein, except to the extent modified by this Short Form Complaint.

PARTIES

2. Plaintiff is an individual who is a resident of the State of New Hampshire, County of Hillsborough, and a crime victim pursuant to the New Hampshire Victim Bill of Rights, New Hampshire Revised Statutes Annotated (“RSA”) 21-M:8-k and, as such, Plaintiff’s identity and date of birth are being filed contemporaneously herewith **under seal** with this Honorable Court.

3. Plaintiff expressly incorporates by reference all Defendants as identified in paragraphs 2 through 8 of the Master Complaint, hereinafter referred to as “State Defendants.”

4. Plaintiff identifies additional Defendants, if indicated below:

X	No additional Defendants.
	Additional Defendant/s, hereinafter referred to as the “Contractor Defendant/s”:

FACTS SPECIFIC TO PLAINTIFF

5. Plaintiff was born in the year: 1967.

6. Plaintiff was taken into the custody and control of the State of New Hampshire as a minor and was, while in the state’s custody and control, placed at facilities and placements as directed by State Defendants in or about the following approximate time period(s): 1983 to 1985.

7. In or about the time period(s) identified in paragraph 6, the State Defendants placed Plaintiff in the State Youth Facility (as defined in the Master Complaint).

8. In or about the time period identified in paragraph 6, while Plaintiff was in the custody and control of State Defendants, and while Plaintiff was residing at the State Youth Facility, agents and employees of State Defendants harmed Plaintiff through specific acts of child abuse including, but not limited to, the incidents indicated (below or attached):

Plaintiff's parents raised her in Manchester, New Hampshire, until they separated when she was six years old. Her mother was unable to handle Plaintiff and so her father raised her. Plaintiff's father physically abused Plaintiff and, on occasion, made Plaintiff sit in a corner and sometimes did not feed her. Plaintiff was sexually abused by both her father and her maternal uncle. As a result of the physical and sexual abuse, Plaintiff would run away from home.

When Plaintiff was approximately 14 or 15 years old, the State took Plaintiff into custody and placed her with a foster family in Manchester, New Hampshire, for approximately six months. The foster family's son sexually abused Plaintiff and, when she had the opportunity, she ran away. The State then sent Plaintiff to multiple placements, including a juvenile residential facility in Vermont and a group home known to Plaintiff as St. Patrick's.

In or about 1984, the State placed Plaintiff at YDC and staff assigned her to Cox cottage. When she first arrived, YDC staff placed Plaintiff in out of community confinement for three days. YDC staff did not allow Plaintiff access to a bathroom and made Plaintiff wait when she needed a toilet, forcing Plaintiff to urinate in her pants. On one occasion, there was a fire drill and Plaintiff asked a staff member whether he would let her out of her room. The YDC staff member replied, "You can burn with the building; no one is going to miss you."

YDC staff placed Plaintiff in out of community confinement after a physical altercation with other YDC residents in Spaulding. Two other residents, known to Plaintiff as Sherry and Tristan, confronted Plaintiff and tried to take Plaintiff's possessions. When Plaintiff tried to fend them off, YDC staff stood by and watched. As a result of this altercation, Plaintiff suffered a black eye, bloody nose, and swollen lip. YDC staff told Plaintiff to "shut up and stop being a baby," locked her in her room, and refused to allow Plaintiff to call home.

A YDC staff member known to Plaintiff as Coach Mac physically and sexually abused Plaintiff. Coach Mac kicked Plaintiff's buttocks. Later, he patted her buttocks while stating, "good game" and "nice *ss." Coach Mac then progressed to rubbing Plaintiff's buttocks and her leg. Coach Mac told Plaintiff that she would get additional privileges if she didn't report the abuse.

On one occasion, Coach Mac and Plaintiff were alone in a shed. Coach Mac touched Plaintiff's buttocks and then put his hand inside her shirt and touched Plaintiff's breast. When Coach Mac tried to put his hand inside her pants, Plaintiff told him to stop. Coach Mac promised Plaintiff that, if she allowed him to touch her, he would get her a furlough. Coach Mac also told

Plaintiff that if she told anyone about him and the abuse, he would lose his job and Plaintiff would be at fault. Plaintiff tried to tell another YDC staff member that Plaintiff did not want to go to the gym, but the YDC staff ignored Plaintiff's plea. On one occasion, Coach Mac pinned Plaintiff to the wall in the gym, put his hands in her pants, and rubbed her vagina. Another YDC staff member interrupted the assault and Coach Mac stated, "This one needs to be talked to." Coach Mac sexually assaulted Plaintiff in this manner multiple times, whenever he was alone with her. Plaintiff reported the sexual assault incident in the gym to another YDC staff member known to Plaintiff as Mrs. K. A short time after making the report, YDC staff moved Plaintiff to Saunders cottage and Plaintiff had no further contact with Coach Mac.

Plaintiff ran away from YDC staff and, when Plaintiff, was caught, the State returned her to YDC and staff assigned her to Cox cottage. YDC staff at Cox bribed Plaintiff with cigarettes in exchange for signing up to do chores. YDC staff strip-searched Plaintiff and placed her in solitary confinement on multiple occasions.

YDC staff placed Plaintiff in out of community confinement on multiple occasions. On one occasion, staff locked Plaintiff in her room for 18 hours. Staff peered at Plaintiff through a window in the door and watched while Plaintiff used the toilet in her room. YDC staff wore keys on a belt and, to this day, the sound of keys triggers Plaintiff's PTSD.

On at least two occasions, Plaintiff's stepfather tried to visit her at YDC. Both times, YDC staff turned him away. Plaintiff screamed for her stepfather to come back and get her released. As a result, YDC staff placed Plaintiff on suicide watch.

On multiple occasions, YDC staff refused or forgot to bring Plaintiff her meals or give Plaintiff sufficient access to a toilet. Often, YDC staff withheld Plaintiff's mail and sometimes tore up Plaintiff's mail in front of her.

As a result of the abuse Plaintiff suffered as a child in State custody, she has conversion disorder, PTSD, and depression, has lived on the streets, and has had a very difficult life. Plaintiff has trust issues, struggles with intimacy, cannot function in crowds, and suffers with anxiety.

9. In or about the time period identified in paragraph 6, and while Plaintiff remained in the custody and control of State Defendants, State Defendants additionally placed Plaintiff in other, privately operated, congregate care residential facilities or programs, if indicated below:

X	Not applicable (no private placement)
	State Defendants placed Plaintiff at residential facilities operated by the Contractor Defendant/s identified in paragraph 4.

10. In or about the time period identified in paragraph 6, while Plaintiff remained in the custody and control of State Defendants, and while Plaintiff was residing at residential facilities operated by the Contractor Defendant/s following placement by State Defendants, agents and employees of State Defendants and Contractor Defendant/s (collectively, “Defendants”) harmed Plaintiff through specific acts of child abuse including, but not limited to, the incidents indicated below (or attached):

X	Not applicable (no private placement)

CONSOLIDATED CAUSES OF ACTION

11. Plaintiff expressly adopts Counts I through VII of the Master Complaint against State Defendants arising from harm caused to Plaintiff by agents and employees of State Defendants while Plaintiff was in the custody and under the control of State Defendants and residing in the State Youth Facility or any other state-operated residential facility (the “Consolidated Claims”) as alleged in Paragraph 8 of this Short Form Complaint.

SUPPLEMENTAL CAUSES OF ACTION

12. Additionally, Plaintiff alleges supplemental Counts against State Defendants and Contractor Defendant/s (together, “Defendants”) arising from harm caused to Plaintiff by agents and employees of Defendants while Plaintiff was in the custody and under the control of Defendants and residing in residential facilities privately operated by Contractor Defendant/s (the “Supplemental Claims”) as alleged in paragraph 10 of this Short Form Complaint, if any indicated below (and in separate attachments):

X	No Supplemental Claims
	Count VIII (Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s) Count IX (Breach of Nondelegable Duty—State Defendants) Count X (Aiding and Abetting Breach of Fiduciary Duty—State Defendants and Contractor Defendant/s) Count XI (Negligent Hiring, Training, Supervision and Retention—State Defendants and Contractor Defendant/s) Count XII (Negligence—State Defendants and Contractor Defendant/s) Count XIII (Negligent Failure to Adopt and Implement Rules—State Defendants) Count XIV (Civil Conspiracy— State Defendants and Contractor Defendant/s)

*Any indicated Counts are attached hereto as an addendum to this Short Form Complaint.

13. In addition to any Counts alleged in paragraph 12, Plaintiff alleges the following additional Supplemental Claims, if any indicated below or in separate attachments:

14. To the extent Plaintiff wishes to dismiss, without prejudice, any Consolidated Claims previously alleged in the Master Complaint, or any grounds in support of any Consolidated Claims, they are so indicated (below or attached):

WHEREFORE, Plaintiff demands a trial by jury on all issues so triable and prays for all relief as set forth in this Short Form Complaint, any addendum hereto, and in the Master Complaint filed in the lead docket, *Meehan v. State of N.H., Dep't of Health and Human Servs.*, Docket No. 217-2020-CV-26. Plaintiff further demands a jury viewing of all facilities where Plaintiff was harmed by agents and employees of State Defendants and, if applicable, Contractor Defendant/s. As discovery is ongoing, Plaintiff expressly reserves the right to amend or supplement this Short Form Complaint.

Respectfully submitted,

JANE DOE #231

Dated: November 21, 2024

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)

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By and through counsel,

NIXON PEABODY LLP

/s/ David A. Vicinanza

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

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

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

Nathan Warecki, Esq. (Bar No. 20503)

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aregan@nixonpeabody.com

joneil@nixonpeabody.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via the Court's e-filing system on all parties of record on November 21, 2024.

/s/ David A. Vicinanza

EXHIBIT B

FILED SEPARATELY UNDER SEAL

EXHIBIT C

**STATE OF NEW HAMPSHIRE
SUPERIOR COURT**

Rockingham, ss

Case No. 218-2024-CV-01371

Your name: Jane Doe #231

v.

N.H. Department of Health and Human Services, et al.,
(YDC and YDSU cases)

NOTICE OF FILING OF CLAIM AND [PARTIAL] STAY

I, [insert your name] Jane Doe #231, hereby notify the Court that I have filed a Claim with the Administrator of the YDC Settlement Fund. I understand that the Administrator will complete the Certification on page 2 and that this Notice will be filed with the Court.

I further understand that when this Notice is filed with the Court, my lawsuit will automatically be stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) my lawsuit is not automatically stayed, and I may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of my Claim under N.H. RSA 21-M:11-a, and (ii) my lawsuit is not automatically stayed as to, and I may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of me, even if that individual was a state employee at the time. N.H. RSA 21-M:11-a VII(e).

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Dated: 4/29/25

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)

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Bedford, NH 03110

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crilee@rileelaw.com

lrilee@rileelaw.com

Respectfully submitted,

JANE DOE #231

By and through counsel,

NIXON PEABODY LLP

/s/ David Vicinanza

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

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

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nwarecki@nixonpeabody.com

ebucksbaum@nixonpeabody.com

aregan@nixonpeabody.com

CERTIFICATION OF ADMINISTRATOR

I, [name of Administrator] John T. Broderick, Jr., duly appointed Administrator of the YDC Settlement Fund, hereby confirm and advise the Court that I have received a Claim from Jane Doe #231 (“Claimant”) on [date] 5/1/2025. I further advise the Court, that pursuant to N.H. RSA 21-M:11-a VII(e), upon filing of this Notice, the above captioned lawsuit should be automatically stayed as to the State of New Hampshire, any of its agents or employees, any of its political subdivisions, including the Department of Health and Human Services, and the agents and employees of all such political subdivisions (the “State Defendants”), except that (i) this action should not be automatically stayed, and Claimant may continue to pursue relief against the State Defendants, as to any and all allegations, claims, and incidents of abuse which are not and could not have been the subject of the Claim under N.H. RSA 21-M:11-a, and (ii) this action should not be automatically stayed as to, and Claimant may continue to pursue relief against, any individual whose direct and personal actions constituted sexual abuse or physical abuse of Claimant, even if that individual was a state employee at the time.

Signed:

John T. Broderick, Jr.

Date:

6/4/2025

EXHIBIT 6

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 W. DANIEL DEANE ON BEHALF OF PROPOSED
CLASS COUNSEL NIXON PEABODY LLP**

I, W. Daniel Deane, being duly sworn on oath, depose and state as follows:

1. I am a licensed attorney and a partner with the law firm Nixon Peabody LLP (“Nixon Peabody”). Nixon Peabody is an international law firm with approximately 600 lawyers and offices in 16 cities in the United States, Europe, and Asia. My primary office location is 900 Elm Street, Manchester, New Hampshire, 03101-2031.

2. I am submitting this declaration on behalf of myself and Nixon Peabody in support of Plaintiffs’ Motion for Class Certification and in support of appointment of Nixon Peabody as class counsel in this matter.

3. I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

My Background and Relevant Experience

4. I am a member in good standing and admitted to practice law in the states of Connecticut, Maine, New Hampshire, New York, the Commonwealth of Massachusetts, and the

District of Columbia (inactive status). I am also a member in good standing and admitted to practice before the following federal courts: the United States Supreme Court, the United States Court of Appeals for the First, Fourth, and Ninth Circuits, and the United States District Court for the Districts of Maine, Massachusetts, New Hampshire, and the Western District of New York.

5. I have been practicing law as a litigator for more than 22 years, including almost 20 years in private practice at Nixon Peabody and Arnold & Porter LLP, and three years clerking for two federal judges, the Honorable Jeffrey R. Howard of the United States Court of Appeals for the First Circuit, and the Honorable Joseph A. DiClerio, Jr. of the United States District Court for the District of New Hampshire. Currently I am a partner with Nixon Peabody with a litigation practice that focuses on complex civil litigation, including class action and aggregate/mass action litigation. In addition to my legal practice, I am also a leader of Nixon Peabody's class action and aggregate litigation team, which is comprised of more than 30 lawyers who have considerable experience managing class action and aggregate litigation across the country.

6. My practice has been comprised of various kinds of class actions and mass or consolidated actions involving a variety of claims, including consumer protection claims, unfair and deceptive trade practice claims, mass torts, personal injury, franchising litigation, and securities class actions. I would estimate that, over the past seventeen years, the majority of my litigation practice has involved cases brought at least initially as class actions or that otherwise involved the consolidation or aggregation of claims of multiple plaintiffs against multiple defendants.

7. While much of my class action and aggregate litigation practice has focused on defense of such claims, in recent years I have gained significant relevant experience representing plaintiffs in aggregate and mass actions, including three aggregate litigations that involve claims on behalf of a class of persons seeking relief against governmental entities:

- I, along with several of my colleagues at Nixon Peabody, including partners **David A. Vicinanza**, **Mark T. Knights**, and **Nathan Warecki**, and our co-counsel at Rilee & Associates, P.L.L.C., **Cyrus Rilee**, are currently representing approximately 1,400 individuals who allege that they suffered personal injuries stemming from child abuse (physical, sexual, and/or psychological) they endured while they were children in State custody in a variety of juvenile residential facilities, including the Youth Development Center and other State-operated and privately-operated congregate care facilities. Nixon Peabody and Rilee & Associates have filed (or are in the process of filing) individual complaints in New Hampshire superior court for each of these individuals. These complaints seek compensatory and other damages from the State of New Hampshire alleging that the Department of Health and Human Services (“NHDHHS”) breached its fiduciary duty and/or was negligent in its care and treatment of the children in its custody over a period of decades. More than 1,000 of those cases have been consolidated for pre-trial and discovery purposes in the Rockingham County Superior Court under the case caption, *Meehan v. State of N.H. Dep’t of Health & Human Servs.*, 217-2020-CV-00026 (Rockingham County (N.H.) Super. Ct.). Most of the plaintiffs in these cases filed claims in the Youth Development Center Claims Administration and Settlement Fund and are members of the putative class proposed by this class action.
- I, along with several of my colleagues at Nixon Peabody, including partner **Mark T. Knights**, are currently co-class counsel representing named plaintiffs and a class of persons who, like the representative plaintiffs in this class action, brought claims against NHDHHS. These plaintiffs are disabled individuals who are enrolled in New Hampshire’s Choices for Independence (“CFI”) Waiver program, a Medicaid program administered by NHDHHS. Seeking declaratory and injunctive relief, these plaintiffs filed a class action in federal court alleging that NHDHHS’s deficient operation of the CFI Waiver program has caused them to be deprived of necessary medical services in violation of the Medicaid Act, the Americans with Disabilities Act, and the Rehabilitation Act. Judge Paul J. Barbadoro, United States District Judge for the District of New Hampshire, issued an order on November 27, 2023, certifying the class and approving Nixon Peabody and its co-counsel as class counsel. *See Fitzmorris, et al. v. N.H. Dep’t of Health & Human Servs.*, No. 21-CV-25-PB, 2023 WL 8188770, at *27-28 (D.N.H. Nov. 27, 2023).
- I, along with several of my colleagues at Nixon Peabody, including partners **David A. Vicinanza** and **Nathan P. Warecki**, and co-counsel at the American Civil Liberties Union of New Hampshire, were class counsel in the 28 U.S.C. § 2241 habeas corpus class action *Gomes v. U.S. Dep’t of Homeland Sec., et al.*, 20-cv-453-LM (D.N.H.), which succeeded in obtaining temporary injunctive relief on behalf of a class of civil immigration detainees housed at the Strafford County House of Corrections. By order dated March 5, 2021, Chief Judge Landya McCafferty granted petitioner’s motion to certify the class and approved Nixon Peabody’s appointment as class counsel. *See Gomes v. U.S. Dep’t of Homeland Sec.*, 561 F. Supp. 3d 93, 102-03 (D.N.H. 2021).

8. A representative sampling of some of my other class action and aggregate litigation experience includes:

- Representing the University of Rochester in defense of a putative class action in the United States District Court for the Western District of New York brought by students seeking recovery of tuition and fees based on the closure of the university in the midst of the spring 2020 semester due to the outbreak of the COVID-19 pandemic. *See Carstairs v. University of Rochester*, Civil Action No. 20-cv-06690-CJS (W.D.N.Y.).
- Represented Planet Fitness and multiple Planet Fitness franchisees in defense of two national putative class actions brought by Planet Fitness members seeking damages based the closure of Planet Fitness gyms during the initial outbreak of the COVID-19 pandemic. The United States District Court for the Northern District of Illinois granted Planet Fitness’ motion to dismiss for improper venue and failure to join an indispensable party. *See Memorandum Opinion and Order, Williams, et al. v. Planet Fitness, Inc., et al.*, Case No. 20-cv-3335 (N.D. Ill.) (March 26, 2021).
- Represented Planet Fitness in defense of a state-wide putative class action in New Jersey alleging consumer protection claims based on alleged statutory violations involving the Planet Fitness membership agreement and membership terms. The United State District Court for the District of New Jersey granted Planet Fitness’ motion to dismiss. *See Opinion, Truglio v. Planet Fitness, Inc., et al.*, Civil Action No. 15-7959 (FLW) (D.N.J.) (Dec. 21, 2018).
- Defended a number of business clients across a variety of industries defending against putative class actions brought in federal district courts seeking damages under the Telephone Consumer Protection Act. *See, e.g., Sandoe v. Boston Scientific Corp.*, Civil Action No. 18-11826-NMG (D. Mass.); *Steward v. Planet Fitness, Inc.*, Case No. 19-cv-80091-MARRA (S.D. Fla.); *Cunningham v. Laboratory Corp. of Am. Holdings*, Case No. 18-cv-00224-NCT-LPA (M.D.N.C.); *Smith, et al. v. First Niagara Bank, N.A.*, Case No. 16-cv-06027-CJS-JWF (W.D.N.Y.); *Vogt, et al. v. Amergy Solar, Inc.*, Case No. 16-cv-12189-DPW (D. Mass.); *Safont v. Sterling Jewelers Inc.*, Case No. 15-cv-04224-RRM-SMG (E.D.N.Y.).
- Represented KeyBank, N.A. in defense of a consumer protection class action in the United States District Court for the Northern District of California. The United States Court of Appeals for the Ninth Circuit, sitting *en banc*, affirmed dismissal of the class action. *See Kilgore v. KeyBank, Nat’l Ass’n*, 718 F.3d 1052 (9th Cir. 2013).
- Represented Key Equipment Finance in the defense of a putative national class action concerning “forced placed insurance” in lease agreements for certain equipment. The United States Court of Appeals for the Tenth Circuit affirmed

the dismissal of that putative class action. *See Anapoell v. Am. Express Bus. Finance Corp.*, Case No. 08-4114, 2009 WL 766532 (10th Cir. Mar. 24, 2009).

- Represented Merrimack-based GT Solar International, Inc. in consolidated securities class actions in the District of New Hampshire. *See Braun v. GT Solar Int'l, Inc.*, Civil Action No. 8-cv-00312-JL (D.N.H.).

Qualifications of Other Nixon Peabody Attorneys

9. **David A. Vicinanza** is a partner in Nixon Peabody's Manchester office and is admitted to practice in this Court, among others. Attorney Vicinanza began his legal career in private practice at the international law firm Chadbourne & Parke LLP (now Norton Rose Fulbright). For over thirteen years, he served as a United States Attorney and Advisor to the U.S. Attorney General, Acting U.S. Attorney for the District of New Jersey, Special Assistant U.S. Attorney in Massachusetts, and First Assistant U.S. Attorney for the District of New Hampshire. In those positions, Vicinanza led large teams of attorneys, agents, and analysts in a variety of criminal prosecutions and personally brought more than two dozen cases to trial, and supervised hundreds of others. In 2001, Vicinanza joined Nixon Peabody LLP as a partner and served as the national Practice Group Leader for its Government Investigations and White Collar practice group for more than a decade. Over the course of his career, Vicinanza has represented both companies and individuals in a variety of complex criminal and civil matters across the United States. Since 2021, Vicinanza has been Nixon Peabody's lead attorney spearheading the Youth Development Center consolidated litigation, including serving as first chair in the landmark trial in David Meehan's case, *Meehan v. State of New Hampshire*, No. 217-2020-cv-00026 (N.H. Super.), which resulted in a \$38 million verdict.

10. **Mark T. Knights** is a partner in Nixon Peabody's Manchester office and is admitted to practice in this Court, among others. Attorney Knights has extensive experience in class action and aggregate litigation. In addition to the matters noted above, he has served as counsel to the

defendants in *In re: Bank of America Home Affordable Modification Program (HAMP) Contract Litig.*, 1:10-md-02193-RWZ (D. Mass.), a federal multidistrict litigation consolidating numerous putative class actions against Bank of America, and was counsel to defendants in multiple other putative class actions, including but not limited to *Lass v. Bank of America, N.A. et al.*, No. 1:11-cv-10570-NMG (D. Mass.); *Wulf v. Bank of America, N.A. et al.*, 2:10-cv-05176-MAM (E.D. Pa.); *Burkett v. Bank of America, N.A. et al.*, 1:10-cv-00068-HSO-JMR (S.D. Miss.); and *Manson v. GMAC Mortgage, LLC et al.*, 1:09-cv-10168-RGS (D. Mass.). He recently served as lead counsel to one of the defendants in *In re: National Prescription Opiate Litig.*, 1:17-md-2804 (N.D. Ohio), a federal multidistrict litigation consolidating over 2,500 lawsuits against opioid manufacturers, distributors, and pharmacies. Before joining Nixon Peabody, Attorney Knights practiced at Goodwin Procter LLP and clerked for Judge Mary Beck Briscoe of the United States Court of Appeals for the Tenth Circuit, and Judge Joseph N. Laplante of the United States District Court for the District of New Hampshire. Attorney Knights is also one of the lead lawyers in the Youth Development Center consolidated litigation.

11. **Nathan P. Warecki** is a partner in Nixon Peabody's Manchester office and is admitted to practice in this Court, among others. He has extensive experience in class action and aggregate litigation. Attorney Warecki began his legal career in 2013, joining Nixon Peabody LLP in 2016 as an associate in the Complex Commercial Disputes practice group. In 2024, Attorney Warecki was elected to Nixon Peabody LLP's partnership. Since 2016, Attorney Warecki has first- and second-chair experience in several jury trial trials, bench trials, and arbitrations, and has litigated cases in various state and federal courts throughout the United States. Attorney Warecki was appointed class counsel in the aforementioned, *Gomes v. U.S. Dep't of Homeland Sec., et al.*, 20-CV-453-LM (D.N.H.). Attorney Warecki also successfully represented multiple plaintiffs in

aggregate litigation, including more than fifty noncitizens seeking relief from expeditious removal in extraordinary circumstances, *see Devitri v. Cronin*, 289 F. Supp. 3d 287, 289-90 (D. Mass. 2018), *appeal dismissed as moot* No. 18-1281 (1st Cir.); three children affected by the child separation practice at the Southwest Border, *see K.O. v. Sessions*, 436 F. Supp. 3d 442 (D. Mass. 2020) (transferring constitutional and statutory tort claims to another district), *K.O. v. U.S. Immigr. & Customs Enft*, 468 F. Supp. 3d 350, 355 (D.D.C. 2020), *aff'd sub nom. K.O. by & through E.O. v. Sessions*, No. 20- 5255, 2022 WL 3023645 (D.C. Cir. July 29, 2022) (dismissing constitutional and statutory tort claims as a matter of law and denying motion to amend to add Federal Tort Claims Act claims in that forum), *K.O. v. United States*, No. 4:20-12015-TSH (D. Mass.) (ECF Nos. 125, 126, 128) (approving terms of settlement of plaintiffs' FTCA claims earlier this year); and groups of amici in cases involving interpretation of the U.N. Convention Against Torture, *see H.H. v. Garland*, 52 F.4th 8 (1st Cir. 2022); and another involving whether opposition to gangs constitutes "political opinion" for asylum purposes, *see Lopez Martinez v. Bondi*, No 25-1225 (1st Cir.) (pending). Attorney Warecki is also one of the lead lawyers in the Youth Development Center consolidated litigation as well as the related cases pending in Merrimack County Superior Court.

Nixon Peabody's Class Action Practice Generally

12. Nixon Peabody's class action and aggregate litigation team of more than 30 litigators has successfully represented a variety of organizations in thousands of class actions involving hundreds of millions of potential class members with well over \$1 trillion of collective amounts at issue. Nixon Peabody lawyers have decades of experience representing clients at every level of the judicial system, in international forums, and arbitration and mediation. Nixon Peabody regularly serves as national counsel and national coordinating counsel for class or mass actions filed simultaneously or successively in multiple courts and jurisdictions.

13. The nine litigators (four partners, two counsel, three associates) in Nixon Peabody's Manchester, New Hampshire, office have ample experience litigating before the state and federal courts of New Hampshire and are well versed in local practice and procedure.

The Pursuit of This Class Action

14. As a result of the experience identified above, both myself personally, and my colleagues at Nixon Peabody, including Attorneys Vicinanza, Knights, and Warecki, have considerable experience and relevant knowledge concerning the procedural and substantive requirements of class actions and complex consolidated litigation. Among other things, I understand the duties that class counsel owes to each class member and I believe my colleagues understand these duties as well. We can also draw on the wealth of experience and expertise of the class action lawyers in other Nixon Peabody offices.

15. I will supervise all Nixon Peabody attorneys and staff working on this putative class action.

16. Nixon Peabody attorneys, paralegals, and support staff have invested tens of thousands of hours in the investigation and prosecution of the Youth Development Center litigation, including the consolidated cases in Rockingham County superior court and the related cases in Merrimack County superior court. This includes identifying, investigating, and pursuing potential claims, conducting substantive and extensive interviews with various class members, retaining and working with expert witnesses, preparing an initial complaint and other pleadings, preparing for and defending depositions, taking depositions, and engaging in voluminous discovery and document review, filing claims in the Settlement Fund and assisting clients through the Settlement Fund claims process, and developing the theories and drafting the pleadings for this class action.

17. If appointed as class counsel, Nixon Peabody and I will devote the legal and financial resources necessary to help secure the relief sought for each class member.

18. For the reasons detailed above, I believe that my partners, Attorneys Vicinanza, Knights, and Warecki, and I, are qualified and capable of representing the class in this matter. Accordingly, I believe that Nixon Peabody should be appointed as class counsel.

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF NEW HAMPSHIRE)
COUNTY OF HILLSBOROUGH)

I, W. Daniel Deane, being first duly sworn, on oath depose and say that the statements contained herein are true and correct to the best of my knowledge, information, and belief.

W. Daniel Deane
W. Daniel Deane

Subscribed and sworn to before me this 13th day of August, 2025.

Cheryl L. Noonan

Print Name: Cheryl L. Noonan

Notary Public/~~Justice of the Peace~~

My Commission Expires: February 26, 2030



EXHIBIT 7

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 CYRUS F. RILEE, III, ON BEHALF OF PROPOSED CLASS
COUNSEL RILEE & ASSOCIATES, P.L.L.C.**

I, Cyrus F. Rilee, III, being duly sworn on oath, depose and state as follows:

1. I am a licensed attorney and a partner with the law firm Rilee & Associates, P.L.L.C. ("Rilee & Associates").
2. I am submitting this declaration on behalf of myself and Rilee & Associates in support of Plaintiffs' Motion for Class Certification and in support of appointment of Rilee & Associates as class counsel in this matter.
3. I have personal knowledge of the facts set forth in this declaration and could testify competently to them if called upon to do so.

My Background and Relevant Experience

4. I am a member in good standing and admitted to practice law in the State of New Hampshire, the United States District Court for the District of New Hampshire, and the United States Court of Appeals for the First Circuit.

5. I have been a plaintiffs' lawyer in New Hampshire for over 20 years and have owned and managed Rilee & Associates for over 15 years. I have developed a specialty in representing crime victims in civil tort actions involving claims of child physical and sexual abuse in high-profile, complex, multi-party claims against private corporations and governmental agencies.

6. My experience in this area includes representation of, *inter alia*:

- Multiple infants/toddlers (*L.G., et al., v. Circle of Learning Daycare Center, T.C. and D.C. v. State of New Hampshire, et al.*)
- Multiple teenagers (*A.Y., et al. v. Town of Newmarket, et al.*)
- Estates of murdered children (*Estate of Brielle Gage v. State of New Hampshire, et al.*; *Estate of Sadence Willott v. State of New Hampshire, et al.*)
- Adults who were sexually abused as children (*Patrisso v. SAU #59, 2010 D.N.H. 002, 2010 U.S. Dist. LEXIS 593; Michaud v. McAnaney, 2007 D.N.H. 118, 2007 U.S. Dist. LEXIS 71890; David Meehan, et al. v. State of New Hampshire, et al.*)

7. In *Meehan*, I filed the original class-action lawsuit and represented over 350 plaintiffs on my own prior to partnering with Nixon Peabody LLP to assist in what is now the largest mass tort case in the history of New Hampshire, and one of the largest governmental child abuse cases in the history of the United States.

8. As a result of the experience identified above, I have considerable experience and relevant knowledge concerning the procedural and substantive requirements of class actions and complex consolidated litigation. Among other things, I understand the duties that class counsel owes to each class member.

9. Myself and Rilee & Associates have invested thousands of hours in the investigation and prosecution of the Youth Development Center litigation, including the consolidated cases in Rockingham County superior court and the related cases in Merrimack County superior court. This includes identifying, investigating, and pursuing potential claims, conducting substantive and extensive interviews with various class members, retaining and working with expert witnesses, preparing an initial complaint and other pleadings, preparing for and defending depositions, taking depositions, and engaging in voluminous discovery and document review, filing claims in the Settlement Fund and assisting clients through the Settlement Fund claims process, and developing the theories and drafting the pleadings for this class action.

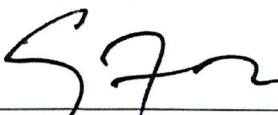
10. If appointed as class counsel, Rilee & Associates will continue to work with Nixon Peabody LLP to devote the legal and financial resources necessary to help secure the relief sought for each class member.

11. For the reasons detailed above, I believe that I am qualified and capable of representing the class in this matter. Accordingly, I believe that Rilee & Associates should be appointed as class counsel together with co-counsel Nixon Peabody LLP.

FURTHER AFFIANT SAYETH NAUGHT.

STATE OF NEW HAMPSHIRE)
COUNTY OF HILLSBOROUGH)

I, Cyrus F. Rilee, III, being first duly sworn, on oath depose and say that the statements contained herein are true and correct to the best of my knowledge, information, and belief.



Cyrus F. Rilee, III

Subscribed and sworn to before me this 12 day of August, 2025.



Jennifer Dickinson

Print Name: Jennifer Dickinson

Notary Public/Justice of the Peace

My Commission Expires: 4/9/2030