

Clerk's Notice of Decision
Document Sent to Parties

on 04/18/2023

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

4-18-2023 The relief requested in
paragraph 8 is GRANTED. March 30, 2023
is the operative date.

Civil Action No. 217-2020-cv-00026

David Meehan

v.

State of New Hampshire,
Department Of Health And Human Services, et al.



Honorable Andrew R. Schulman
April 18, 2023

**DEFENDANT EASTER SEALS OF NEW HAMPSHIRE, INC.'S MOTION TO
RECONSIDER**

NOW COMES Defendant, Easter Seals of New Hampshire, Inc. ("Easter Seals"), by and through its counsel, Sulloway & Hollis, P.L.L.C., and respectfully requests that the Court reconsider its Clarifying Order dated March 21, 2023. In support hereof, Easter Seals states as follows:

1. On March 21, 2023, the Court clarified its prior Order dated February 10, 2023, which provided:

Contractor Defendants' Deadline Extended to 4/28/23 If Served Prior to 3/3/23:
The court accepts the plaintiff's proposal to extend the contractor defendants' deadline for filing either Answers or dispositive motions by April 28, 2023. Contractor defendants who are served, or who accept service, on or after *March 30, 2023* shall have the 30 days provided by Superior Court Rule 9(a) to file an Answer or dispositive motion. The court will take a liberal approach to motions filed by contractor defendants to extend the 30-day deadline.

(Emphasis added.) *See* Docket No.: 217-2020-CV-00026, Index #241.

2. On March 16, 2023, Easter Seals filed a Motion for Clarification of that Order because it referenced two different service deadlines: March 3 and 30, 2023.

3. By Order dated March 22, 2023, the Court clarified that it intended to order that Contractor Defendants who are served, or who accept service, on or after March 3, 2023, shall have 30 days to file an Answer or dispositive motion, consistent with Superior Court Rule 9(a).

4. Easter Seals respectfully requests that the Court reconsider its ruling, and that the Court order that March 30, 2023 (rather than March 3, 2023) be the operative service date after which Answers or other dispositive motions shall be filed within 30 days. Easter Seals submits this request because otherwise, for complaints served on or *after* March 3, 2023, Answers or other dispositive motions would be due *sooner than* the April 28, 2023 deadline established for Complaints served before March 3, 2023. On the other hand, if the operative service deadline is March 30, 2023, those complaints served thereafter would be due *after* April 28, 2023 (30 days from service).

5. Easter Seals respectfully suggests that it would be paradoxical that accepting service on a later date would result in an earlier responsive pleading deadline (e.g., accepting service on March 4, 2023 would result in a responsive pleading deadline of April 5)) than would accepting service on an earlier date (e.g., accepting service on March 2, 2023 would result in a responsive pleading deadline of April 28, 2023).

6. Treating March 30, 2023 as the operative service deadline after which Answers or other dispositive motions shall be due in 30 days appears to be more consistent with the intent of the Court's initial Order.

7. Furthermore, if March 3, 2023 remains the operative date, it is likely that Easter Seals will have to file motions to extend the Answer or responsive pleading deadline for those Complaints it has accepted on or after March 3, 2023. Easter Seals suspects that similarly situated Contractor Defendants may also have to engage in motion practice to extend their

Answer or dispositive motion deadlines. Should the Court reconsider and amend its Order to make March 30, 2023 the operative date, it is likely that the parties will be able to avoid much, if not all, of that motion practice.

8. Given the sheer number of cases impacted by this Order, choosing March 30, 2023 as the operative date would be consistent with the interests of judicial economy.

9. Undersigned counsel has contacted counsel for the Plaintiffs, who take no position with respect to the relief requested in this motion.

WHEREFORE, Easter Seals respectfully requests that this Honorable Court:

- A. Reconsider its March 22, 2023 Order on the Motion for Clarification of Procedural Order Relating to Claims against Non-State Defendants dated February 10, 2023; and
- B. Grant such other and further relief as the Court deems just and appropriate.

Respectfully submitted,

EASTER SEALS NEW HAMPSHIRE, INC.

By Its Attorneys,
SULLOWAY & HOLLIS, P.L.L.C.

DATED: March 23, 2023

By: /s/ Rose Marie Joly, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that I state that on March 23, 2023 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 electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand delivering copies to all other interested parties.

DATED: March 23, 2023

By: /s/ Rose Marie Joly, Esq.
Rose Marie Joly, Esq. #11397