

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS.

SUPERIOR COURT

CASE NO. 217-2020-CV-00026

DAVID MEEHAN

v.

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

In re YDC/YDSU Consolidated Litigation

this motion pertains to more than 5 plaintiffs
*** this motion relates to Contractor Defendants ***

PLAINTIFFS' MOTION FOR CLARIFICATION

NOW COME Plaintiffs¹ by and through undersigned counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody LLP, and moves for clarification concerning the duration of the stay sought through Prayer B of Plaintiffs' May 31, 2024, motion for status conference (Index #789) (the "Motion"), stating in support thereof as follows:

1. Prior to the *Meehan* trial in April 2024, the Court (Schulman, J.) held bi-monthly, global status conferences with all counsel of record in the YDC/YDSU Consolidated Litigation. On May 31, 2024, Plaintiffs moved for another status conference, which was held by the Court on November 15, 2024.

2. The Court has effectively bifurcated the cases in the YDC/YDSU Consolidated Litigation into two tranches: (a) cases filed by plaintiffs arising from placements at State-run facilities only (the "State Only Cases"); and (b) approximately 308 cases filed by plaintiffs arising

¹ Plaintiffs joining in this Motion are identified in the chart attached as **Exhibit A**.

from placements at private- and State-run facilities (the “Hybrid Cases”). Judge Schulman is generally presiding over the State Only Cases. Judge Howard and, in the case of *John Doe #533*, Judge Kennedy, are generally presiding over the Hybrid Cases, *see* Order on State’s Mot. to Reconsid. at 1 (Index #766).²

3. A third tranche of cases were filed by plaintiffs who were never placed at a State-run facility (the “Contractor Only Cases”). Judge Kissinger presides over the Contractor Only Cases, which are partially consolidated together in the Merrimack County Superior Court, *see John Doe #553 v. State*, No. 217-2022-CV-01081, Case Management Order (N.H. Super. Aug. 1, 2024) (Index #97), but are not consolidated with either the State Only Cases or the Hybrid Cases, *see Meehan*, Order (Index #67).

4. The State Only Cases assigned to Judge Schulman are proceeding through a combination of appeals, discovery and trials (including Mr. Gilpatrick’s trial scheduled in March 2025 and Ms. Maunsell’s trial scheduled in May 2025), and claims in the Youth Development Center Claims Administration and Settlement Fund. Plaintiffs do not seek clarification of Judge Schulman’s rulings as to the State Only Cases at this time.

5. The 308 Hybrid Cases are largely stayed as a result of the procedural orders chronicled in the Motion relating to the Contractor Defendants’ motions to dismiss. The Court has, however, issued orders in two Hybrid Cases—*John Doe #402* and *John Doe #533*. In each, the Court granted a motion to dismiss on timeliness grounds filed by Mount Prospect Academy by concluding that, as a matter of law, the discovery rule did not apply to those plaintiffs’ claims based

² As with any rule, there are exceptions. Due to judicial conflicts, Judge Howard now presides over the Contractor Only cases where Spurwink Services, Inc. is named as a defendant. For the same reason, Judge Kissinger now presides over the Hybrid Cases where The Oliverian School, Inc. (f/k/a Pike School, Inc.) is named as a defendant.

on physical abuse. *See John Doe #533 v. State*, No. 217-2022-cv-00831, Order on Mount Prospect Academy’s Mot. to Dismiss (N.H. Super. Aug. 9, 2024) (Kennedy J.) (Index #14); *id.* Order on Pl.’s Mot. to Reconsider (N.H. Super. Nov. 21, 2024) (Index #21); *John Doe #402 v. State*, No. 217-2022-cv-00905, Order on Mount Prospect Academy’s Mot. to Dismiss (N.H. Super. Nov. 27, 2023) (Index #39). There are approximately 120 more “ripe” motions to dismiss which the Court has yet to rule upon. Many of these cases involve claims based on physical abuse.

6. This Court’s analysis in *John Doe #402* and *John Doe #533* is at odds with the decisions of Judge Kissinger in the Contractor Only Cases, *see, e.g., John Doe #553*, Order on Defs.’ Mot. Dismiss, October 18, 2023 (Index #37) (denying Mount Prospect Academy and Pine Haven’s motions to dismiss plaintiff’s claims emanating from physical abuse as untimely because application of the discovery rule could not be resolved, as a matter of law, against Plaintiff), and Judge Schulman in various State Only Cases, including Mr. Gilpatrick’s case, *see, e.g., Gilpatrick v. State*, No. 217-2021-CV-00479, Order on State’s Mot. Dismiss (N.H. Super November 6, 2024) (Index #66) (denying State’s motion to dismiss claims emanating from physical abuse as untimely); *see also John Doe #1 v. State*, No. 217-2021-CV-00483, Order on State’s Mot. Dismiss (N.H. Super November 8, 2024) (Index #35); *John Doe #2 v. State*, No. 217-2021-CV-00517, Order on State’s Mot. Dismiss (N.H. Super November 8, 2024) (Index #24); *John Doe #6 v. State*, No. 217-2021-CV-00521, Order on State’s Mot. Dismiss (N.H. Super November 14, 2024) (Index #25); and *John Doe #58 v. State*, No. 217-2021-CV-00608, Order on State’s Mot. Dismiss (N.H. Super November 8, 2024) (Index #33).

7. In the Motion, Plaintiffs sought a continuation of the “global stay of all deadlines for Contractor Defendants’ responsive pleadings and motions to dismiss until sixty (60) days after the status conference takes place or the Court’s order on same, whichever is later.” (Mot. at 5). The

Court's margin order does not explicitly say whether or not the Court extended the stay as requested in Prayer B. At the November 15 status conference, however, the Court concluded the hearing by stating that a new order on the Hybrid Cases would be forthcoming.

8. The Court has not yet issued a post-November 15 order with respect to the Hybrid Cases.

9. In the interim, on December 23, 2024, Plaintiff John Doe #533 filed his motion for interlocutory appeal of the Court's order granting, in part, Mount Prospect Academy's motion to dismiss and denying Plaintiff John Doe #533's motion for reconsideration. *See John Doe #533, Pl.'s Mot. Interlocutory Appeal (Index #22)*. John Doe #533's interlocutory appeal is intended to resolve the apparent conflict between New Hampshire trial courts relating to the pleading standard, the discovery rule, and, ultimately, the timeliness of claims filed by Plaintiffs who were physically, but not sexually, abused at privately-run facilities operated by Contractor Defendants but did not file their claims after they reached the age of twenty.

10. In Plaintiffs' view, the global stay on deadlines associated with the Hybrid Cases should remain in place until sixty (60) days after at least the Court's anticipated order as to the Hybrid Cases following the Plaintiff's Motion. Based upon recent discussions with Contractor Defendants' counsel, it appears there may be a difference of opinion as to whether that is the case.

WHEREFORE, Plaintiff respectfully request that the Honorable Court:

- A. GRANT this Motion for Clarification;
- B. CLARIFY that the global stay of all deadlines for Contractor Defendants' responsive pleadings and motions to dismiss extends until sixty (60) days after the Court's order on the Motion; and
- C. GRANT any such further relief as justice requires.

Dated: January 15, 2025

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

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on January 15, 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 of record in this matter.

/s/ Allison K. Regan

Allison K. Regan, Esq.

EXHIBIT A

Plaintiff	Case No.
John Doe #7	217-2021-CV-00523
John Doe #11	217-2021-CV-00541
Jane Doe #2	217-2021-CV-00547
John Doe #17	217-2021-CV-00549
John Doe #24	217-2021-CV-00559
John Doe #33	217-2021-CV-00572
John Doe #64	217-2021-CV-00614
John Doe #65	217-2021-CV-00615
John Doe #80	217-2021-CV-00680
John Doe #81	217-2021-CV-00681
John Doe #86	217-2021-CV-00686
John Doe #101	217-2022-CV-00025
John Doe #156	217-2022-CV-00051
John Doe #159	217-2022-CV-00054
John Doe #129	217-2022-CV-00055
John Doe #130	217-2022-CV-00057
John Doe #132	217-2022-CV-00060
John Doe #133	217-2022-CV-00061
John Doe #135	217-2022-CV-00063
John Doe #146	217-2022-CV-00076
John Doe #138	217-2022-CV-00087
John Doe #141	217-2022-CV-00088
John Doe #139	217-2022-CV-00092
John Doe #140	217-2022-CV-00094
John Doe #165	217-2022-CV-00099
John Doe #216	217-2022-CV-00118
John Doe #217	217-2022-CV-00119
John Doe #180	217-2022-CV-00132
John Doe #183	217-2022-CV-00138
John Doe #226	217-2022-CV-00141
John Doe #186	217-2022-CV-00145
John Doe #187	217-2022-CV-00147
John Doe #199	217-2022-CV-00168
John Doe #201	217-2022-CV-00173
John Doe #202	217-2022-CV-00175
John Doe #269	217-2022-CV-00176

John Doe #203	217-2022-CV-00177
John Doe #205	217-2022-CV-00181
John Doe #206	217-2022-CV-00183
John Doe #241	217-2022-CV-00201
John Doe #260	217-2022-CV-00231
John Doe #286	217-2022-CV-00238
John Doe #304	217-2022-CV-00258
John Doe #305	217-2022-CV-00260
John Doe #306	217-2022-CV-00262
John Doe #310	217-2022-CV-00269
John Doe #311	217-2022-CV-00270
John Doe #351	217-2022-CV-00275
Jane Doe #32	217-2022-CV-00285
John Doe #330	217-2022-CV-00286
Jane Doe #35	217-2022-CV-00291
John Doe #333	217-2022-CV-00292
John Doe #338	217-2022-CV-00303
John Doe #324	217-2022-CV-00306
John Doe #340	217-2022-CV-00308
John Doe #358	217-2022-CV-00324
John Doe #363	217-2022-CV-00328
John Doe #292	217-2022-CV-00332
John Doe #386	217-2022-CV-00337
John Doe #378	217-2022-CV-00356
John Doe #398	217-2022-CV-00359
John Doe #382	217-2022-CV-00364
John Doe #404	217-2022-CV-00701
John Doe #408	217-2022-CV-00705
John Doe #409	217-2022-CV-00706
John Doe #421	217-2022-CV-00709
John Doe #412	217-2022-CV-00710
John Doe #413	217-2022-CV-00711
John Doe #415	217-2022-CV-00714
John Doe #416	217-2022-CV-00721
John Doe #433	217-2022-CV-00730
John Doe #435	217-2022-CV-00732
Jane Doe #45	217-2022-CV-00734
John Doe #446	217-2022-CV-00737
John Doe #439	217-2022-CV-00741

John Doe #440	217-2022-CV-00743
John Doe #448	217-2022-CV-00744
John Doe #452	217-2022-CV-00749
John Doe #482	217-2022-CV-00763
John Doe #460	217-2022-CV-00779
Jane Doe #52	217-2022-CV-00794
John Doe #471	217-2022-CV-00795
John Doe #473	217-2022-CV-00796
John Doe #480	217-2022-CV-00797
Jane Doe #55	217-2022-CV-00798
John Doe #486	217-2022-CV-00799
John Doe #488	217-2022-CV-00800
John Doe #526	217-2022-CV-00804
John Doe #456	217-2022-CV-00820
John Doe #461	217-2022-CV-00822
John Doe #464	217-2022-CV-00823
John Doe #465	217-2022-CV-00824
John Doe #466	217-2022-CV-00825
John Doe #468	217-2022-CV-00826
Jane Doe #58	217-2022-CV-00828
John Doe #535	217-2022-CV-00833
John Doe #539	217-2022-CV-00837
John Doe #543	217-2022-CV-00841
John Doe #544	217-2022-CV-00842
John Doe #508	217-2022-CV-00849
John Doe #453	217-2022-CV-00857
Jane Doe #61	217-2022-CV-00864
John Doe #548	217-2022-CV-00865
John Doe #402	217-2022-CV-00905
John Doe #444	217-2022-CV-00992
John Doe #549	217-2022-CV-00994
Jane Doe #89	217-2023-CV-00070
John Doe #881	217-2023-CV-00463
John Doe #552	218-2022-CV-01036
John Doe #557	218-2022-CV-01085
John Doe #554	218-2022-CV-01086
John Doe #555	218-2022-CV-01090
John Doe #564	218-2022-CV-01093
John Doe #569	218-2022-CV-01110

John Doe #571	218-2022-CV-01124
John Doe #574	218-2022-CV-01125
John Doe #581	218-2022-CV-01144
John Doe #582	218-2022-CV-01145
John Doe #586	218-2022-CV-01147
Jane Doe #65	218-2022-CV-01148
Jane Doe #69	218-2022-CV-01149
John Doe #588	218-2022-CV-01155
Jane Doe #72	218-2023-CV-00011
John Doe #593	218-2023-CV-00013
John Doe #595	218-2023-CV-00015
John Doe #598	218-2023-CV-00016
Jane Doe #74	218-2023-CV-00019
John Doe #603	218-2023-CV-00026
John Doe #608	218-2023-CV-00030
John Doe #611	218-2023-CV-00035
John Doe #604	218-2023-CV-00038
John Doe #607	218-2023-CV-00040
John Doe #614	218-2023-CV-00041
John Doe #616	218-2023-CV-00043
Jane Doe #78	218-2023-CV-00058
John Doe #627	218-2023-CV-00065
John Doe #632	218-2023-CV-00073
John Doe #633	218-2023-CV-00074
John Doe #619	218-2023-CV-00075
Jane Doe #81	218-2023-CV-00076
Jane Doe #82	218-2023-CV-00077
John Doe #635	218-2023-CV-00094
John Doe #644	218-2023-CV-00130
John Doe #640	218-2023-CV-00132
John Doe #643	218-2023-CV-00136
Jane Doe #88	218-2023-CV-00143
Jane Doe #86	218-2023-CV-00144
Jane Doe #87	218-2023-CV-00145
John Doe #647	218-2023-CV-00174
Jane Doe #95	218-2023-CV-00251
John Doe #656	218-2023-CV-00254
John Doe #660	218-2023-CV-00261
John Doe #654	218-2023-CV-00262

John Doe #664	218-2023-CV-00267
Jane Doe #96	218-2023-CV-00270
Jane Doe #97	218-2023-CV-00271
John Doe #669	218-2023-CV-00272
John Doe #666	218-2023-CV-00276
John Doe #676	218-2023-CV-00287
John Doe #673	218-2023-CV-00288
John Doe #674	218-2023-CV-00290
John Doe #675	218-2023-CV-00293
John Doe #684	218-2023-CV-00308
John Doe #689	218-2023-CV-00322
John Doe #690	218-2023-CV-00324
John Doe #691	218-2023-CV-00327
Jane Doe #103	218-2023-CV-00332
John Doe #694	218-2023-CV-00333
Jane Doe #105	218-2023-CV-00363
John Doe #704	218-2023-CV-00364
John Doe #706	218-2023-CV-00367
John Doe #700	218-2023-CV-00368
John Doe #707	218-2023-CV-00369
John Doe #714	218-2023-CV-00377
John Doe #711	218-2023-CV-00382
John Doe #728	218-2023-CV-00388
John Doe #731	218-2023-CV-00390
John Doe #725	218-2023-CV-00399
John Doe #724	218-2023-CV-00400
John Doe #722	218-2023-CV-00409
John Doe #719	218-2023-CV-00410
John Doe #736	218-2023-CV-00411
John Doe #740	218-2023-CV-00426
John Doe #742	218-2023-CV-00434
John Doe #748	218-2023-CV-00435
John Doe #744	218-2023-CV-00436
John Doe #745	218-2023-CV-00438
John Doe #755	218-2023-CV-00450
Jane Doe #114	218-2023-CV-00503
John Doe #770	218-2023-CV-00517
John Doe #771	218-2023-CV-00536
Jane Doe #115	218-2023-CV-00542

John Doe #759	218-2023-CV-00543
Jane Doe #116	218-2023-CV-00544
John Doe #757	218-2023-CV-00546
Jane Doe #119	218-2023-CV-00558
John Doe #777	218-2023-CV-00559
John Doe #775	218-2023-CV-00561
John Doe #785	218-2023-CV-00601
Jane Doe #122	218-2023-CV-00633
John Doe #787	218-2023-CV-00634
John Doe #791	218-2023-CV-00637
John Doe #792	218-2023-CV-00639
John Doe #800	218-2023-CV-00659
John Doe #802	218-2023-CV-00662
Jane Doe #128	218-2023-CV-00719
John Doe #812	218-2023-CV-00743
John Doe #813	218-2023-CV-00745
Jane Doe #130	218-2023-CV-00747
John Doe #811	218-2023-CV-00748
John Doe #818	218-2023-CV-00772
John Doe #820	218-2023-CV-00775
Jane Doe #131	218-2023-CV-00780
Jane Doe #135	218-2023-CV-00797
John Doe #825	218-2023-CV-00798
Jane Doe #137	218-2023-CV-00823
John Doe #840	218-2023-CV-00834
John Doe #838	218-2023-CV-00835
John Doe #841	218-2023-CV-00836
John Doe #843	218-2023-CV-00844
Jane Doe #141	218-2023-CV-00915
John Doe #856	218-2023-CV-00916
John Doe #857	218-2023-CV-00919
John Doe #860	218-2023-CV-00937
John Doe #861	218-2023-CV-00938
John Doe #865	218-2023-CV-00939
John Doe #869	218-2023-CV-00954
John Doe #868	218-2023-CV-00955
Jane Doe #146	218-2023-CV-00956
John Doe #873	218-2023-CV-00979
John Doe #874	218-2023-CV-00980

John Doe #878	218-2023-CV-01011
Jane Doe #151	218-2023-CV-01018
Jane Doe #152	218-2023-CV-01059
John Doe #890	218-2023-CV-01061
John Doe #892	218-2023-CV-01063
John Doe #900	218-2023-CV-01085
John Doe #901	218-2023-CV-01086
John Doe #905	218-2023-CV-01087
John Doe #896	218-2023-CV-01111
Jane Doe #156	218-2023-CV-01157
John Doe #907	218-2023-CV-01158
Jane Doe #139	218-2023-CV-01163
John Doe #848	218-2023-CV-01164
John Doe #851	218-2023-CV-01167
Jane Doe #158	218-2023-CV-01192
John Doe #805	218-2023-CV-01204
John Doe #852	218-2023-CV-01205
John Doe #931	218-2023-CV-01206
Jane Doe #161	218-2023-CV-01215
Jane Doe #162	218-2023-CV-01216
John Doe #928	218-2023-CV-01241
Jane Doe #166	218-2023-CV-01245
John Doe #946	218-2023-CV-01256
John Doe #938	218-2023-CV-01285
John Doe #941	218-2023-CV-01288
John Doe #947	218-2023-CV-01291
John Doe #943	218-2023-CV-01332
John Doe #945	218-2023-CV-01334
John Doe #968	218-2023-CV-01410
John Doe #952	218-2023-CV-01446
John Doe #956	218-2023-CV-01449
John Doe #984	218-2023-CV-01452
John Doe #985	218-2023-CV-01462
John Doe #987	218-2023-CV-01470
John Doe #988	218-2023-CV-01471
John Doe #989	218-2023-CV-01488
Jane Doe #175	218-2023-CV-01491
John Doe #978	218-2023-CV-01494
John Doe #980	218-2023-CV-01496

John Doe #969	218-2023-CV-01515
John Doe #973	218-2023-CV-01518
John Doe #990	218-2023-CV-01545
John Doe #1003	218-2024-CV-00033
Jane Doe #181	218-2024-CV-00085
John Doe #1018	218-2024-CV-00138
Jane Doe #184	218-2024-CV-00147
Jane Doe #191	218-2024-CV-00170
John Doe #1022	218-2024-CV-00175
Jane Doe #192	218-2024-CV-00178
John Doe #1024	218-2024-CV-00180
John Doe #1027	218-2024-CV-00227
John Doe #1030	218-2024-CV-00230
John Doe #1006	218-2024-CV-00234
Jane Doe #197	218-2024-CV-00252
Jane Doe #198	218-2024-CV-00257
John Doe #1052	218-2024-CV-00317
John Doe #957	218-2024-CV-00424
Jane Doe #203	218-2024-CV-00432
Jane Doe #205	218-2024-CV-00442
John Doe #1065	218-2024-CV-00471
John Doe #1067	218-2024-CV-00473
John Doe #1071	218-2024-CV-00481
John Doe #1072	218-2024-CV-00493
John Doe #1074	218-2024-CV-00495
John Doe #1076	218-2024-CV-00502
John Doe #1077	218-2024-CV-00511
John Doe #1079	218-2024-CV-00513
Jane Doe #140	218-2024-CV-00518
John Doe #1081	218-2024-CV-00524
John Doe #1083	218-2024-CV-00529
Jane Doe #211	218-2024-CV-00633
John Doe #1088	218-2024-CV-00634
Jane Doe #213	218-2024-CV-00748
John Doe #1112	218-2024-CV-00764
John Doe #1120	218-2024-CV-00788
Jane Doe #221	218-2024-CV-01041