

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Planned Parenthood of Northern New
England, Concord Feminist Health Center,
Feminist Health Center of Portsmouth,
and Wayne Goldner, M.D.

Plaintiffs-Appellees,

v.

Kelly Ayotte, Attorney General of New
Hampshire, in her official capacity,

Defendant-Appellant.

No. 03-491-JD

OBJECTION TO PLAINTIFFS' MOTION FOR BRIEFING SCHEDULE

Defendant, through counsel, the Attorney General's Office, respectfully objects to Plaintiffs' July 27, 2007 Motion for Briefing Schedule on the Matter of Attorneys' Fees, Expenses and Costs, to the extent that it does not limit initial submissions and briefing to threshold issues of liability. *See Defendant's Motion for Briefing Schedule On Threshold Liability*, filed concurrently herewith and incorporated by reference herein.

As stated in Defendant's July 10, 2007 *Reply to Plaintiffs' Response to Motion to Dismiss as Moot*, Defendant seeks to dispute the existence of liability for fees and costs. In its July 20, 2007 remand order, the Court of Appeals expressly recognized Defendant's objection on the merits to fees and costs and, on that understanding, granted Plaintiffs' remand motion. *See Exhibit B to Plaintiffs' Motion for Briefing Schedule*. Defendant seeks the opportunity to brief the issue of liability as a threshold matter and believes that,

without an accompanying order limiting the scope of initial submissions and briefing, granting Plaintiffs' motion would result in protracted and possibly unnecessary litigation.

Defendant has not filed a separate memorandum as the grounds for this objection are set forth herein and in the accompanying *Defendant's Motion for Briefing Schedule On Threshold Liability*. LR 7.1(a)(2).

Although Defendant has made a good faith attempt to obtain concurrence in the relief sought, Plaintiffs do not concur.

WHEREFORE, Defendant respectfully requests that the Court:

- A. Deny *Plaintiffs' Motion for Briefing Schedule* to the extent that it would not limit initial submissions and briefing to threshold liability for fees and costs;
- B. Grant *Defendant's Motion for Briefing Schedule On Threshold Liability* or otherwise set a briefing schedule limiting initial submissions and briefing to threshold liability and deferring submissions and briefing on evaluation; and
- C. Grant such other relief deemed just and appropriate.

Respectfully submitted,

KELLY A. AYOTTE
ATTORNEY GENERAL

By and through her counsel

Date: August 2, 2007

By: [/s/]Maureen D. Smith
Maureen D. Smith, Bar # 4857
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Defendant's Objection to Plaintiffs' Motion for Briefing Schedule* was served this day upon counsel of record through the Court's ECF system.

By: [/s/]Maureen D. Smith
Maureen D. Smith