

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,)

v.)

CIVIL ACTION NO: C-03-491-JD

KELLY AYOTTE, Attorney General of)
New Hampshire, in her official capacity,)

Defendant.)

_____)

MOTION FOR EXTENSION OF TIME FOR SUBMISSION OF PLAINTIFFS' BILL OF COSTS AND APPLICATION FOR ATTORNEYS' FEES AND EXPENSES

The Plaintiffs, through their undersigned counsel, respectfully request the Court to extend the time within which the Plaintiffs shall be required to submit their Bill of Costs pursuant to 28 U.S.C. § 1920, Fed. R. Civ. P. 54(d)(1), and LR 54.1(a); and their application for attorneys' fees and expenses pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 54(d)(2), until sixty days after the conclusion of all proceedings in this action. For the purposes of this motion, the proceedings shall be considered to be concluded at the latest of the following events:

- (a) the conclusion of all proceedings in the district court in this action and the expiration of time established by Fed. R. App. P. 4 for the filing of a Notice of Appeal to the United States Court of Appeals for the First Circuit (Court of Appeals), if such notice is not filed;

(b) the conclusion of all proceedings in the Court of Appeals in this action and the expiration of the time established by Rule 13 of the Supreme Court Rules for the filing of a petition for writ of certiorari with the Supreme Court if such petition is not filed;

(c) the conclusion of any further proceedings before the Supreme Court by denial of petition for writ of certiorari, affirmance, reversal, or otherwise.

As grounds for this motion, the parties state as follows:

1. This Court entered final judgment in this matter on December 29, 2003.
2. On January 4, 2004, this Court granted the parties' joint motion to extend the deadline for submitting a Bill of Costs and attorneys' fees until 60 days after the latest of: the expiration of the deadline for filing a notice of appeal to the Court of Appeals; the conclusion of all proceedings before the Court of Appeals; the conclusion of all proceedings before the Supreme Court of the United States.
3. On January 18, 2006, the Supreme Court ordered the case remanded for further proceedings. The case is now pending before the Court of Appeals on remand and it is unlikely that proceedings on remand will be concluded within 60 days of the Supreme Court's order. Moreover, proceedings on remand will require the expenditure of further attorney time that may be included in Plaintiffs' final fee petition.
4. Therefore, in the interests of judicial economy and the parties' resources, the parties request that the adjudication of Plaintiffs' entitlement to costs and attorneys' fees be postponed until sixty days after the conclusion of this case.

WHEREFORE, the Plaintiffs respectfully request that the Court grant this motion and extend the deadline for filing the application for costs and attorneys' fees and expenses as set forth above.

MEMORANDUM STATEMENT – LR 7.1(a)(2)

The grounds for this motion are stated herein and no separate memorandum is being submitted.

CONCURRENCE STATEMENT – LR 7.1(c)

Counsel for the Defendant does not concur in the relief requested.

Dated: March 15, 2006

Respectfully submitted,

/s/ Martin P. Honigberg

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Portsmouth, and Wayne Goldner, M.D.*

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of March, 2006, the foregoing motion was served by the ECF system on Associate Attorney General Daniel J. Mullen, counsel for the defendant.

/s/ Martin P. Honigberg
Martin P. Honigberg