

VERMONT SUPERIOR COURT
Chittenden Unit
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802-863-3467
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 21-CV-00323

**Nancy Kelley, et al v. Franklin County Rehab Center, LLC d/b/a Franklin County
Rehabilitation Center and d/b/a Franklin County Rehabilitation & Adult Care
Center, et al**

ENTRY REGARDING MOTION

Title: Motion to Dismiss Crossclaim (Motion: 30)
Filer: Curtis L. S. Carpenter
Filed Date: January 19, 2026

The motion is DENIED IN PART.

Based on the briefs submitted and the discussion with the parties at the February 20, 2026 status conference, the Motion to Dismiss is **Deferred** until the resolution of Mr. and Ms. Kelley's underlying medical malpractice claims.

The Court finds that the central issue of Franklin County Rehab's motion, whether Dr. Marco owed a duty to defend Franklin County Rehabilitation and a duty to indemnify, as well as Franklin County's other general indemnification claims are best resolved after the jury had determined the nature and extent of liability against Franklin County Rehab.

As indicated at the hearing, this means that Dr. Marco remains a party to the matter and will have limited rights to participate at the trial and may be called as a witness, permitted to put forward expert testimony regarding his role in the initial admission and hoyer chair incident, and allowed to propose specific interrogatories about the underlying medical malpractice incidents to the jury verdict form.

Parties may file, as part of the motion in limine process, any requests to further refine the nature and extent of Dr. Marco's participation or limits on such.

So Ordered.

Electronically signed on 2/20/2026 12:29 PM pursuant to V.R.E.F. 9(d)

A handwritten signature in black ink, appearing to read "D. Richardson", written over a light blue rectangular background.

Daniel Richardson
Superior Court Judge