

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Michael Bennett and
Karyn Bennett

v.

Case No. 1:25-cv-260-PB-AJ
Opinion No. 2026 DNH 007

Patriot Carriers, LLC, et al.

MEMORANDUM AND ORDER

Michael and Karyn Bennett have brought negligence and loss-of-consortium claims against Patriot Carriers, LLC, Outdoor Living Supply, LLC, and Outdoor Living Supply Holdings, LLC, among others. [Doc. 1-1 at 8-17, 23-25](#). These three defendants have filed motions to dismiss pursuant to Federal Rule of Procedure 12(b)(6), alleging that the Bennetts' claims are barred by New Hampshire Revised Statutes Annotated (RSA) § 281-A:8. [Doc. 7](#); [Doc. 16](#). I deny the defendants' motions on the ground that they are premature.

Section 281-A:8 prevents an employee from suing their employer for injuries covered by the employer's workers' compensation insurance. [RSA § 281-A:8\(I\)](#). It extends the same limitation to the employee's spouse. [Id.](#) [§ 281-A:8\(II\)](#). The defendants thus allege that the Bennetts are barred from bringing their claims because Michael was injured in the scope of his

employment by the defendants and received workers' compensation benefits for his injuries.

As I have explained, “[w]hether an entity is an employer within the meaning of § 281-A:8 is a question of fact on which the defendant bears the burden of proof.” [Dumais v. United States](#), 2023 DNH 101, 2023 WL 5237904, at *3 (D.N.H. Aug. 15, 2023) (citation omitted). And because the defendants bear the burden of proof on this affirmative defense, they cannot prevail on a motion to dismiss reliant on it unless there is “no doubt that the plaintiff’s claim is barred by the raised defense.” [Monsarrat v. Newman](#), 28 F.4th 314, 318 (1st Cir. 2022) (citation modified).

Here, even considering all the additional materials submitted by the defendants in support of their motions, I cannot conclude that they are with “no doubt” entitled to the benefit of § 281:A:8. [Id.](#) Accordingly, their motions to dismiss ([Doc. 7](#) and [Doc. 16](#)) are denied.

SO ORDERED.

/s/ Paul J. Barbadoro
Paul J. Barbadoro
United States District Judge

January 21, 2026

cc: Counsel of Record