

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
SCOTT SMITH, <i>et al.</i> ,)	
)	
Plaintiffs,)	
v.)	Case No. 1:21-cv-10654-DJC
)	
CHELMSFORD GROUP, LLC, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

SUPPLEMENTAL DECLARATION OF BRIAN J. O'DONNELL

I, Brian J. O'Donnell, state that the following facts are true and accurate, based on my personal knowledge, and that I am competent to testify to the truth and accuracy of the same:

1. I have been a member in good standing of the Bar of the Commonwealth since 2018, membership which I obtained following my studies at Boston University School of Law, where I obtained my *juris doctor* degree in 2018.

2. Prior to my employment at the Northeast Justice Center, I served as an attorney at South Coastal Counties Legal Services pursuant to an AmeriCorps Fellowship.

3. Between September of 2019 and August of 2022, I served as a Staff Attorney of the Northeast Justice Center, a civil legal aid organization primarily serving Essex and Northern Middlesex Counties.

4. As a Northeast Justice Center Staff Attorney, I worked as lead counsel for Scott Smith in the above-captioned action from its commencement until March of 2022 and in the related matter docketed at 21-CV-10522-DJC from its commencement until its conclusion.

5. I left the employ of the Northeast Justice Center in August of 2022 but have continued to serve as counsel in the above-captioned litigation on a volunteer basis through the Justice Center.

6. During the course of this litigation, Mr. Smith played an active role in assisting me with prosecuting his claims against the Defendants, efforts which included reviewing and providing feedback for pleadings and other court papers, monitoring events at Chelmsford Commons which could impact the direction of the litigation, preparing for and attending a full-day on-site mediation as well as participating in numerous phone calls as we evaluated and proposed possible settlement options.

7. During the course of this litigation, I maintained time records in the normal course of my duties as a Staff Attorney of the Northeast Justice Center, records which I kept in good faith and which I created both routinely as well as contemporaneously with the conduct described in each record – or within a reasonable time thereafter (“Time Records”).

8. Upon review of the Time Records corresponding to the above-captioned matter, I have determined that I spent no fewer than **55.50 hours** on tasks involving the initiation of the above-captioned action in the Massachusetts Superior Court – tasks which generally included investigating and researching the claims outlined in the Class Action Complaint for Injunctive Relief and Damages (“Complaint”); drafting and serving a demand letter which provided Defendants in the above-captioned action with statutory notice of the same; negotiating a tolling agreement; drafting and serving the Complaint; and negotiating extensions of Defendants’ deadline for responding to the Complaint. Attached hereto as **Exhibit A** is an excerpted copy of said Time Records that pertain to these tasks and that have been redacted to protect confidential attorney work product as well as the content of privileged communications.

9. Upon review of the Time Records corresponding to the above-captioned matter, I have determined that I spent no fewer than **73 hours** on tasks involving procedural matters after Defendants' removal of the Complaint to federal court – tasks which generally included pursuing motion practice which challenged the propriety of the removal; answering Defendants' counterclaims; and engaging with Defendant and the Court in the Rule 16 Scheduling Conference process. Attached hereto as **Exhibit B** is an excerpted copy of said Time Records as they pertain to these tasks.

10. Upon review of the Time Records corresponding to the above-captioned matter, I have determined that I spent no fewer than **65.75 hours** on tasks involving pre-settlement motion practice – tasks which generally included researching legal or factual issues and drafting or revising briefs on motion practice related to Defendants' Motion for Judgment on the Pleadings, Plaintiff's Motion for Class Certification, Plaintiff's Motion to Unseal and the multiple procedural motions concerning the proper sequencing of those Motions. Attached hereto as **Exhibit C** is an excerpted copy of said Time Records as they pertain to these tasks.

11. Upon review of the Time Records corresponding to the above-captioned matter, I have determined that I spent no fewer than **74.25 hours** on tasks involving settlement of the above-captioned litigation – tasks which generally included analyzing data in anticipation of mediation sessions; participating in multiple mediation sessions with Defendants; and evaluating as well as preparing settlement proposals presented during the mediation sessions. Attached hereto as **Exhibit D** is an excerpted copy of said Time Records as they pertain to these tasks.

12. Upon review of the Time Records corresponding to the above-captioned matter, I have determined that I spent no fewer than **58 hours** on tasks involving the dismissal of the related matter, docketed at 21-CV-10522-DJC, which Defendants filed against Mr. Smith in response to

the above-referenced statutory demand letter (*supra*, ¶ 8) – tasks which generally included researching, briefing and arguing a motion to dismiss. Attached hereto as **Exhibit E** is an excerpted copy of said Time Records as they pertain to these tasks.

I affirm that the foregoing is true and accurate, to the best of my personal knowledge, and do so under the pains and penalties of perjury. Executed this 13th day of January, 2023.

/s/Brian J. O'Donnell
Brian J. O'Donnell

EXHIBIT A

DATE	DESCRIPTION	HOURS
12/3/20	review EH email and Lease Package for CC	1.00
12/8/20	call from XX rent investigation	0.25
12/8/20	return calls from XX, rent/lease investigation	0.25
12/14/20	legal research/review re 93a letters, class action letters	3.75
12/15/20	Outline 93A letter draft, lookup info	1.75
12/18/20	draft 93A letter	3.50
12/19/20	Finish drafting 93A letter, review memos/samples on demand letters	2.25
12/24/20	phone call with XXX re lease investigation/rent	0.25
1/5/21	Legal research and review re MA Consumer protection act, demand letters, liability.	1.00
1/6/21	legal research re 93a litigation, inc. demand letter, damages, procedure, and elements/requirements	1.25
1/6/21	Edit and review main draft, prepare and draft letter for each possible defendant, confirm mailing/entity info	2.25
1/7/21	phone call to client	0.50
1/7/21	final revisions/drafts of demand letters, email to EH re same	0.75
1/8/21	print, collate, prepare for mailing 93A demand letters	0.50
1/8/21	incorporate final EH edits for mailing, final review, convert to PDF 93A demand letters	1.25
1/8/21	draft and send email w. courtesy copy to Atty Kraus	0.25
1/8/21	draft and email client	0.25
1/12/21	phone call with EH re case strategy and phone calls with Atty RK [Kraus] follow up emails with EH, and EH + RK	0.50
1/12/21	draft tolling agreement and send to EH	0.75
1/13/21	review, edit draft tolling	0.75
1/13/21	emails with EH re tolling agreement, strategy	0.25
1/13/21	prep for call, call client, update file	0.75
1/14/21	review, final edits, and prepare for distribution to client and atty. kraus: tolling agreement	0.50
1/14/21	phone call with client	0.25
1/14/21	prepare and draft email to RK	0.50
1/15/21	phone call with Atty Kraus re tolling/possible settlement - 30 minutes prep for call / review case notes and tolling - 30	1.00
1/15/21	begin outlining complaint	1.25
1/20/21	research verifying jurisdiction and venue	0.50

DATE	DESCRIPTION	HOURS
1/20/21	drafting complaint	0.50
1/20/21	drafting Complaint	1.25
1/22/21	finish drafting, editing Complaint send same to EH	4.25
1/25/21	correspondence and 2x calls with EH re Complaint and next steps	0.75
1/26/21	draft2 of complaint, legal research re Money had and received, class actions, and equitable relief	2.25
1/28/21	phone call with EH re extending deadline for Tolling agreement	0.25
1/28/21	reivew atty RK email re extension, consider re same, draft and reply	0.50
1/28/21	updating/editing draft of complaint, research re jurisdiction filing procedure/Rules dicussion with EH re same	2.00
2/19/21	finish complaint draft - email EH re same	1.75
2/24/21	emails w. EH re future negotiations and opp. counsel upcoming call	0.25
2/25/21	phone call with EH re negotiation and litigation strategy	0.50
3/10/21	research re contracts, equitable claims, money had and rec'd	1.25
3/25/21	phone call with Client	0.50
3/25/21	emails w EH re client update	0.25
3/26/21	review OC letter	0.50
3/30/21	phone call with Atty MB [Brown] prep for call, review letter from Atty. MB	1.00
3/30/21	edit Complaint	0.50
3/31/21	prep for call call client	0.75
3/31/21	email EH re complaint finalize and convert	0.75
4/1/21	Review final Cmplt with EH. phone call with EH	0.25
4/1/21	phone call with cl re XXX	0.25
4/1/21	convert to pdf, file, complaint, order summons review stamped copy email OP	1.25
4/5/21	emails with OC re service and scheduling call	0.25
4/7/21	phone call with Opp C. re service, mot to extend/stay prep for call	0.50
4/8/21	correspondence with Opp. C re motions to stay and extend time review/edit motions	2.75
4/8/21	phone call w. client	0.25
4/8/21	phone call with EH re motions	0.25
4/9/21	emails w. OC re stay	0.25

DATE	DESCRIPTION	HOURS
4/22/21	review and compare new proposed motions stay/extension	0.25
4/22/21	draft language for motion and email re same opp. c.	0.50
4/26/21	complete summons, print/scan print, collate, envelope service	0.75
4/26/21	phone call with Opp. C	0.25
TOTAL		55.50

EXHIBIT B

DATE	DESCRIPTION	HOURS
4/22/21	legal research re remand	1.25
4/22/21	research re remand timing/agreement	0.50
5/4/21	research and draft motion to remand remand standards, burdens, case cites	5.00
7/31/21	review joint motion docs, email from OP, review case status	1.50
8/2/21	emails with OP re joint motion and report, review	0.50
8/3/21	correspondence re and filing of status and joint motion to stay	0.50
9/10/21	review court order/docket re atty admission	0.25
10/15/21	reviewed court dockets, case status	0.50
11/12/21	email to Opp C. re next steps in litigation	0.25
11/16/21	Phone call with Opp. Counsel conferencing regarding upcoming remand motion	0.25
11/17/21	email Opp C regarding phone conversation from yesterday	0.25
11/21/21	Drafting and editing Motion for Remand and Memorandum supporting Motion for Remand	2.50
11/21/21	Legal Research re Remand, Amount in Controversy Standards Legal Research re attorney fee analysis for remands	1.50
11/21/21	legal research re atty fees in remand, case precedant	0.50
11/22/21	legal research and drafting regarding attorney fees and final edits on motion and memo for remand calculations for attorney fees	2.75
11/22/21	Draft Declaration of BJO and Time Records Exhibit	0.75
11/22/21	begin drafting of settlement offer	0.50
11/22/21	finish drafting settlement offer and corresponding email	0.50
11/22/21	email re remand, postpone filing of remand motion, filing of remand memorandum	0.50
11/22/21	phone call with EH re motion draft motion to delay pretrial conference and scheduling order	0.75
11/22/21	Draft memorandum of law in support of motion for delay of pretrial conference legal research re same re R16, LR 16, R26	1.25
11/23/21	Email Opp C. re postponement of pretrial conference	0.25
11/24/21	Phone call w. Opp C. re postponement assent	0.25

DATE	DESCRIPTION	HOURS
11/24/21	File Motion to Delay, download Answer and assoc. docs email EH re same	0.50
11/29/21	research re Rule 16, R 26, LR 16	1.00
11/29/21	prepare and draft joint statement for scheduling conference	3.25
11/29/21	emails with Opp C re scheduling conference review Opp C's draft	1.00
11/29/21	edit/second draft/incorporate Opp C's statement into joint statement	2.25
11/30/21	review Defendant's Answer, Defenses, and counterclaims	1.25
11/30/21	update joint statement, email Opp C. re same	1.25
11/30/21	call w. Opp C. to conference re joint statement edit joint statement, email Opp C.	0.75
12/1/21	review court order and notice of cancelling hearing, emails w. EH re same	0.25
12/3/21	Phone calls and emial with Opp C. regarding extenison on opp to remand	0.25
12/3/21	phone call and emails with EH re D's emergency motion for ext.	0.25
12/3/21	review emergency motion for extension and draft opposition	1.00
12/3/21	discuss oppo w. EH, edit oppo	0.25
12/3/21	file opposition re extension re remand	0.25
12/7/21	review Doc 33 and 34 re removal and remand	0.25
12/7/21	Phone call with EH to discuss case strategy (remand related and CC Answer)	0.50
12/7/21	read/review Motion in Opp to remand, Notice of 2nd Basis for Removal	0.50
12/8/21	begin drafting answer to Counterclaims	0.50
12/8/21	Finish first draft of Answer to counterclaims	1.75
12/9/21	Phone call with EH re answer to counterclaims	1.25
12/13/21	prepare second draft of Counterclaim answer and email same to EH	2.25
12/14/21	phone calls with EH re case flow and counterclaim complaint	0.50
12/14/21	finish counterclaim complaint, prep for filing	2.00
12/14/21	file counterclaim answer	0.25
12/14/21	review court order/dockets	0.50
12/21/21	call w. client and LF note re same	0.50
12/22/21	research and draft motion to strike	4.75

DATE	DESCRIPTION	HOURS
12/27/21	Draft v2 of Motion to strike research and draft memo in support correspondence w. Opp C	5.25
12/27/21	phone call with EH, final edits, file Motion to Strike and Memo	0.50
12/28/21	emails and phone call with Opp C. re scheduling conference	0.50
1/4/22	correspondence with opp c. review stip for ext of time re mot to strike	0.50
1/6/22	redraft jt statement plana nd concise statement, email EH re same	2.50
1/7/22	phone call with Ethan re 16.1 statement Update, review, and send statement to Opp C.	1.00
1/9/22	review EH email re jury demands	0.25
1/11/22	review court notice of rescheduling	0.25
1/11/22	review Amended Complaint law, strategy	1.25
1/20/22	review/update joint statement review rescheduling notice email OP	0.50
1/24/22	emails w. OP, review jt statement for submission	0.75
1/25/22	phone call with EH re Smith motion practice, upcoming hearing, appeal	0.50
1/28/22	prep for upcoming hearing	2.25
1/31/22	prep for hearing	4.75
2/1/22	review court orders/docket entries	0.25
2/3/22	rec'd call back from client - consult w. client	0.25

TOTAL	73.00
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EXHIBIT C

DATE	DESCRIPTION	HOURS
2/10/22	email w. EH re class cert amaterials, review docs	0.50
2/23/22	review class cert docs	1.50
2/25/22	review and edit Motion/memo for class cert, draft supporting decls.	3.00
2/25/22	consult w. client, discuss decl. and class cert	0.25
2/28/22	review declarations, client communication, correspondence with EH	1.25
3/2/22	email Opp C. re meet and confer for upcoming motions	0.25
3/3/22	phone call and email to client	0.25
3/9/22	correspondence with OP. C.	0.25
3/10/22	correspondence re unsealing w. Opp C.	0.50
3/11/22	review motion/memo for class cert, email EH re same	1.25
3/12/22	review/research cases re unsealing, review EH notes,	1.75
3/14/22	draft, edit Motion and memo to unseal email to EH re same	3.75
3/15/22	meet and confer w. opp c.	0.25
3/15/22	phone call w. EH re motions	0.25
3/16/22	edit, revise, and redraft motiona and memo re unsealing. review same and send to EH	2.75
3/16/22	review motion and memo with EH, edit and update docs	1.75
3/17/22	emails re client correspdence and doc with EH, emails re case motions	0.75
3/18/22	final review, edit, prep for filing, file motion to unseal	1.75
3/19/22	work on 12(c) oppo. outline, review Blake decision and statute. review Ds' Mot and memo	3.75
3/21/22	phone call w Opp C, meet and confer. phone calls with EH re same	0.50
3/21/22	review oppo memo to Mot sanctions, emer mot ext deadline. email EH re same	0.75
3/21/22	drafting and research for 12(c) oppo	2.75
3/22/22	phone call with client, update LF	0.50
3/22/22	phone calls and emails with EH re case/motion strategy	0.75
3/22/22	draft/research 12(c) oppo	4.50
3/22/22	edit/revise 12(c) oppo, email EH with draft	1.00
3/23/22	2x phone calls with Ethan, review filing by Opp C. (mot for leave re reply)	1.00
3/23/22	Review docket and filings, prep 7.1 and other filing errors made by Opp. C. email to EH re same	0.50

DATE	DESCRIPTION	HOURS
3/23/22	Research re LR 7.1, FRCP 16, standing and general orders re both, sanctions	1.75
3/23/22	Legal research re R. 16, sanctions, email to EH re same	1.00
3/24/22	phone call with DL at MAGO, re records, submit request phone call with Chelmsford TC re records, email request 2x phone calls w. Suffolk Superior Clerk investigation/research of repeal of rent control phone calls/emails with EH re same investigation	2.25
3/24/22	review draft of Oppo filing re motion for leave to file reply	0.25
3/28/22	CPI-U research and calculations, review mastler lease rent terms	0.75
3/29/22	Legal research regarding 12c opposition: 93A injury, canons of stat construction,	7.75
3/29/22	12c discussion w. EH	0.25
3/30/22	12c related research, review, editing, phone calls with EH	5.25
3/31/22	multiplicity of lawsuits research, phone call re same and 12c with EH	1.25
3/31/22	read/review final 12c oppo filings	0.50
4/4/22	Review Oppo to Mot to Unseal Follow up corrrespondence with EH. LVM for Opp C	0.75
4/4/22	phone call with MB [Brown], phone call with EH, follow up emails w. MB	0.50
4/5/22	review mot unseal reply, emails w. EH	0.50
4/6/22	draft joint motion, email opp c re same	0.75
4/7/22	emails w. Opp C. and EH re mot for leave file reply, update + file same	0.50
4/27/22	review pleadings re rent change, email EH re same	0.75
4/29/22	phone call with client, email to EH	0.75
5/17/22	phone calls with EH re upcoming hearing strategy	1.50
5/18/22	2x calls with EH re hearing	0.50
5/19/22	PCs with EH re hearing prep	0.25

TOTAL	65.75
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EXHIBIT D

DATE	DESCRIPTION	HOURS
5/20/22	call w. client	0.25
5/20/22	3x calls w. EH re mediation and litigation strategy email re same update file	1.00
6/6/22	emails w. Opp C re mediation	0.25
6/10/22	emails w. Opp C re mediation response	0.25
6/13/22	correspondence with EH re mediation - .25 email from Opp C and review jt motion - .5 PCs w. client and EH, follow up emails to EH and client - .75	1.50
6/15/22	PC w. Ethan re mediation - .25 Review Motion to stay - .25	0.50
6/16/22	Correspondence w. EH and CL re mediation scheduling	0.25
6/21/22	corr. w. EH and CL re selecting mediation date	0.25
6/22/22	review rent roll, disc. mediation w. EH	0.75
6/23/22	PC w. EH re mediation and case strategy - .5 hrs email cl - .25 hrs enroll for CLEAR vaccine ID - .25 hrs mediation prep - .5 hrs	1.50
6/24/22	emails w. EH - .25hrs corr. w. CL - .25 hrs mediation prep / numbers calculations - 1.25hrs PC w. EH - .25hrs	2.00
6/27/22	2x PC w. EH	0.50
6/28/22	review JM mediation agmt doc send same to CL	0.25
7/7/22	PC w. EH re case - .25 review joint motion stay - .5 emails re same .25	1.00
7/8/22	review docs Def's sent to mediator - .25 PCs w. EH (3x) - .5 hrs email client - .25 review settlement options, calculations, 1hr review case facts/docs in prep for mediation - .5hrs	2.50
7/11/22	mediation pre-meeting w. JAMS via Zoom - .75 hrs prepare for negotiation, review numbers, draft possible settlements - 5 hrs pcs w. EH (3x) - .5 hrs	6.25

DATE	DESCRIPTION	HOURS
7/12/22	review documents submitted by Defs to mediator - .75 hrs corr. w. EH re same, .25 corr. w. client, .25 review mediation brief, edits, email re same - 1.75 hrs PCs with EH re case strategy, mediation, client comms - .75	3.75
7/13/22	PC w. EH re case strategy, data, settlement	0.75
7/14/22	analyze "step" models, perform calcs, prep for mediation	2.75
7/15/22	perform damage and interest calculations 1.75 review and circulate signed JAMS confidentiality agmt -.25 follow up cal with EH - .25 calc values splitting dmgs from injunctive relief value - .5 PCs with Client - .75 2x PCs with EH before and following client call, -.5	4.00
7/19/22	draft proposed settlement & calcs regarding same - 3.25 hrs PC w EH - .25	3.50
7/20/22	emails w. EH re mediation prep/strategy/scheduling - .25 prepare proposed settlement - 2 hrs prepare internal memo re medi strategy, inc. atty fee calcs - 2 hrs PC w. client - .25 hrs	4.50
7/21/22	PC w. EH prior to meeting w. J. Kaplan - .5 hrs meeting w. J. Kaplan and EH - 1.25 hrs Follow up call with EH - .25	2.00
7/22/22	update memo and draft proosal - .5 hrs Calc new proposals, updates docs reflecting same - 1.5 hrs 2x PCs w EH - .5 hrs review settlement proposal draft, edit - .5 hrs	3.00
7/25/22	attend mediation - 8 hrs corr. w. EH prior to mediation - .25hr final review of proposal & mediation prep - 1.25hrs PC w. EH after mediation - .25 hrs	9.75
7/26/22	PC w. EH - .25 Review data provided by OP, calculate new mediation settlement strucutres - 2.5 hrs	2.75

DATE	DESCRIPTION	HOURS
7/27/22	corr. w. OP - .25 hrs draft and revise proposed jt mot stip. protection order - 1.25 hrs PCs w. EH - .5 hrs PC w. Client - 1 hr	3.00
7/28/22	PC w. EH re stipulation - .25 2x PC w. EH re mediation strategy - 1.25 hrs draft status reports - .75 hrs PCs w. client, 1) LVM, 2) discussion w. client - .75 hrs	3.00
7/29/22	mediation - 3.5 hrs follow up call w. EH - .25 hrs update proposed status report - .25 hrs internal memo re mediation - .25hrs	4.25
8/1/22	review outline from OP re mediation settlement + J. Kaplan's comments - .5 hrs corr. w. EH re same - .5	1.00
8/4/22	call w client	0.25
8/5/22	Mediation - 3.25 hours file review, and update re mediation - .5 hrs PC w. EH re mediation - .25 hrs review circulated terms and email EH re same - .25 PC w. client - .5	4.75
8/24/22	review proposed settlement agreement, in-line suggestions	1.50
8/29/22	review updated proposed settlement agmnt and email EH re same	0.75
TOTAL		74.25

EXHIBIT E

DATE	DESCRIPTION	HOURS
4/21/21	begin outlining MTD and memo	2.50
4/22/21	legal research re SMJ, aggregation, AIC	2.25
4/24/21	draft motion and memorandum re SMJ MTD	8.25
4/26/21	finish drafting MTD and memo, email EH re same	3.50
4/27/21	legal research re second draft of MTD+memo, second draft	3.25
4/28/21	legal research re loss of use, prejudgment interest legal research re other values incl. in AiC for SMJ	1.50
4/28/21	edit/draft MTD and memo	2.00
4/29/21	research, edit, draft final MTD and memo in support	2.25
4/29/21	final read through and filing motion and memo, downloading court stamp copy of same	0.50
5/11/21	review Opposition to MTD	0.50
5/21/21	emails re damages with EH	0.25
5/27/21	review reply brief materials, print cases	1.00
6/2/21	review cases cited in motion and opposition, outline responses, prep drafting	2.25
6/5/21	draft reply brief, research re brief, review cited cases	5.25
6/7/21	finish drafting/editing brief email draft to EH	2.50
6/11/21	work on reply brief	1.25
6/14/21	Reply brief	2.75
6/15/21	draft motion for leave	1.50
6/15/21	email OC	0.25
6/16/21	update/edit motion for leave, reply brief file same	1.75
6/29/21	Motion hearing prep	5.50
6/30/21	prep for MTD and Motion for Reply hearing: prep argument, review filings, review case law, etc.	6.25
6/30/21	attend motion hearing	0.50
7/1/21	review letter submitted by opp counsel to court, discuss same with EH	0.50

TOTAL	58.00
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