

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT
SJC FAR

APPEALS COURT NO. 24-P-11

ANDRES HIDALGO,

Plaintiff-Appellant,

v.

WATCH CITY CONSTRUCTION CORP. & MAINOR ARIEL ZEPEDA,

Defendants-Appellees

APPELLANT'S APPLICATION FOR FURTHER APPELLATE REVIEW

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I. REQUEST FOR LEAVE TO OBTAIN FURTHER APPELLATE REVIEW

Pursuant to Mass. R. App. P. 27.1, Plaintiff-Appellant Andres Hidalgo ("Hidalgo") respectfully requests that this Court grant leave for further appellate review of the Appeals Court Order dated February 20, 2025 ("Order"). Addendum, 24-29. That Order reduced Hidalgo's requested \$67,361 in attorneys' fees by half -- awarding only \$33,680.65. This court should grant further appellate review for substantial reasons affecting the public interest and the interests of justice.

First, it is an abuse of discretion to use proportionality as the sole basis for reducing a fee award in a civil rights matter, such as a SLAPP motion.

Second, even if proportionality was properly considered, the Appeals Court abused its discretion and committed serious error when reducing Hidalgo's fee based on its alleged disproportionality to a claim for wages that is irrelevant to the outcome of Hidalgo's successful appeal. The focus must instead be on the potential damages, harm and disruption threatened by the retaliatory SLAPP counterclaims that were properly dismissed on appeal.

Third, again assuming that proportionality was a proper basis for reducing an award of fees involving a civil rights claim, its application is inappropriate given that the Appeals Court otherwise found that Hidalgo's lawyers worked a reasonable amount of hours and are seeking

reasonable hourly rates. Proportionality is considered to determine whether the work performed was excessive. But where the hours worked and requested rates were otherwise deemed reasonable by the Appeals Court, proportionality should play no further role.

II. STATEMENT OF PRIOR PROCEEDINGS

On March 17, 2021, Hidalgo filed a six-count civil action in Waltham District Court, seeking recovery based on the Defendants Watch City Construction and Mainor Ariel Zepeda's ("Defendants") refusal to pay Hidalgo for four weeks of employment in 2019. R.A. 7. Hidalgo sought \$3,738.67 in lost wages, which when trebled under the Wage Act, amounts to \$11,216.01. See G.L. c. 149, § 150.

On January 3, 2023, Defendants filed their Verified Answer and Counterclaims, which included counterclaims against Hidalgo for abuse of process and malicious prosecution. R.A. 29.¹ The gravamen of these two counterclaims was that Hidalgo's initial civil action to recover lost wages was allegedly filed maliciously or in bad faith. R.A. 34 ¶¶ 18, 22. Defendants' counterclaims asked the Court to require Hidalgo to pay all of Defendants' attorney's fees relating to their opposition to Hidalgo's claim for wages, as well as costs, interest, and other unbounded claims for other harms and damages. R.A. 34 ¶¶ 21, 23 & Prayer for Relief 2.

¹ A third counterclaim against Hidalgo, a count of negligence with respect to his use of a truck, is not relevant to the issues involved in this appeal.

On April 17, 2023, Hidalgo filed an Anti-SLAPP Special Motion to Dismiss these two counterclaims. On July 7, 2023, the court dismissed the abuse of process and malicious prosecution counterclaims, based on the Anti-SLAPP statute, M.G.L. c. 231 § 59H, R.A. 5. Defendants filed a Motion for Reconsideration on or about October 9, 2023 and on November 8, 2023, the Waltham District Court, without further explanation, granted Defendants' Motion for Reconsideration and reinstated the counterclaims. R.A. 6.

Hidalgo then filed an interlocutory appeal, relating solely to the court's failure to dismiss the counterclaims. The appeal was completely successful. The Appeals Court ordered the dismissal of the abuse of process and malicious prosecution counterclaims, pursuant to the Anti-SLAPP statute. Hidalgo v. Watch City Construction Corp., 105 Mass. App. 148 (2024). The Appeals Court invited Hidalgo to file a petition for attorneys' fees and costs, pursuant to the Anti-SLAPP statute's mandatory fee shifting provision. Id. at 155 n.8; see G.L. c. 231, § 59H, ¶ 5.

Hidalgo timely filed a Petition for Reasonable Attorneys' Fees and Costs, for the amount of \$67,361. Hidalgo arrived at this requested amount using the Lodestar approach. Hidalgo supported the petition with affidavits from his lawyers, contemporaneous time records, and affidavits from other prominent employment lawyers attesting to the reasonableness of the requested billing rates. Defendants did not file an opposition.

In an Order dated February 20, 2025, the Appeals Court determined that the hours worked by Hidalgo's counsel were reasonable. Addendum, at 25. The Court held that "[h]aving reviewed the hours worked, they appear to be reasonable." Id. The Appeals Court acknowledged that Hidalgo's counsel competently pursued the appeal. It wrote, "Nor do we in any way challenge the quality of the work performed." Id. at 28 n.5. The Appeals Court further accepted the billing rates sought by Hidalgo's counsel, noting that the rates were properly certified as market rate in affidavits from other lawyers. Id. at 26, 28 n.5. The Appeals Court acknowledged that the issues involved in the appeal were "fairly complex, and involved the application of a new standard authored by the Supreme Judicial Court while the appeal was pending." Id. at 25. Finally, the Appeals Court recognized the twin benefits of full reimbursement -- to provide incentives to competent counsel to pursue such deserving cases, and to discourage people and entities like Defendants who insist on suing those who are merely exercising their First Amendment right to petition. Id. at 27-28.

Nevertheless, the Appeals Court cut Hidalgo's requested award in half, to \$33,680.65, for the sole reason that an award of \$67,361.25 would be disproportionate to Hidalgo's underlying \$11,000 wage claim. Addendum, at 27. According to the Court, a full award would be "grossly disproportionate to the amount at stake." Id. When

describing the amount "at stake" the Court focused on the \$11,000 wage claim, which was irrelevant to the issues on appeal. The Court failed to consider the potential damages and harm that could have accrued from the two counterclaims that it had dismissed, and which were the subject of the appeal. Id.

Hidalgo is seeking reconsideration of this decision in the Appeals Court. Hidalgo v. Watch City Construction Corp., Mass. App. Ct. No. 24-P-11, Docket No. 16.

III. FURTHER FACTS RELEVANT TO THE REQUEST FOR FURTHER APPELLATE REVIEW

Other than the facts contained in section II, no further facts are necessary to consider this petition.

IV. STATEMENT OF POINTS WITH RESPECT TO WHICH FURTHER APPELLATE REVIEW IS SOUGHT

Further appellate review should be granted for substantial reasons affecting the public interest or the interests of justice. M.G.L. c. 211A, § 11; Mass. R. App. P. 27.1. Further appellate review has been granted when it is necessary to address the negative public policy implications of a decision.

The Appeals Court in this case significantly misinterpreted and disregarded binding precedent in two critical ways. First, it ignored the First Circuit's holding that using proportionality as the sole basis for reducing fees in civil rights cases constitutes "an error of law" and "runs directly counter to fundamental precepts

of Massachusetts law.” Diaz v. Jiten Hotel Mgmt., 741 F.3d 170, 178 (1st Cir. 2013).

Second, the Appeals Court misapplied the proportionality analysis by focusing on Hidalgo’s \$11,000 wage claim rather than the estimated \$220,000 in potential damages and harm threatened by the improper SLAPP counterclaims that were actually at issue in the appeal. The Appeals Court demonstrated fundamental error by comparing Hidalgo’s requested fees to the \$11,000 wage claims that were not at issue in the appeal, rather than the estimated \$145,000 in potential damages plus \$75,000 in additional estimated legal fees that Hidalgo avoided through his successful appeal of the SLAPP counterclaims. This error alone warrants review to clarify proper measurement of proportionality.

Finally, the court created an unworkable standard by applying proportionality after already finding both the hours worked and rates charged were reasonable, effectively penalizing efficient and effective representation.

The case presents important issues of first impression regarding how proportionality should be applied in Anti-SLAPP fee awards. While some precedent embraces proportionality in business disputes, there is conflicting precedent rejecting the proportionality analysis in civil rights cases. This case offers the opportunity to reconcile these competing lines of authority and establish clear guidance. The Appeals Court’s decision particularly

conflicts with precedent recognizing that civil rights cannot be valued purely in monetary terms. See Riverside v. Rivera, 477 U.S. 561, 574 (1986); see also Diaz v. Jiten Hotel Mgmt., 741 F.3d 170, 178 (1st Cir. 2013).

Most critically, the Appeals Court's Order creates severe negative public policy implications that warrant consideration. By reducing fees based on the size of the underlying wage claim rather than the harm avoided through the successful appeal, the court has created a two-tiered system of justice where identical SLAPP violations potentially yield very different fee awards based solely on the victim's income level. This approach particularly disadvantages low-wage workers by discouraging attorneys from representing them in Anti-SLAPP matters. The court's decision also threatens to undermine the statute's deterrent purpose - rather than discouraging retaliatory SLAPP suits, it incentivizes defendants to file such counterclaims against low-wage plaintiffs who will struggle to find representation and whose attorneys will be compensated at 50% on the dollar.

V. WHY FURTHER APPELLATE REVIEW IS WARRANTED

A. It Was an Error To Base a Proportionality Analysis On a Claim That Was Not At Issue In The Anti-SLAPP Appeal

The Appeals Court cut Hidalgo's requested \$67,000 for attorneys' fees in half, by reasoning that an award of the full amount would be disproportionate to "the amounts actually at stake." Addendum at 28 n.5. Even if the Appeals

Court properly applied a proportionality analysis (it did not, as is argued below), the court committed clear legal error and abused its discretion, by considering the **wrong claim** for identifying the “amounts at stake.” The Appeals Court incorrectly compared the requested fees to the \$11,000 award sought in Hidalgo’s wage claims, as opposed to the estimated \$220,000 worth of threatened harm posed by Defendants’ claims for abuse of process and malicious prosecution.

When this case began, Hidalgo sued Defendants for non-payment of wages in the amount of \$3,738.67, which if trebled is \$11,216.01. Addendum, at 25. In response, Defendants sued Hidalgo for abuse of process and malicious prosecution. Id. Had Defendants prevailed in these spurious counterclaims, they would have been entitled to recover for emotional distress, loss of time, injury to business and reputation, costs and legal fees incurred in opposing Hidalgo’s wage claims, and interest at 12%. Millennium Equity Holdings, LLC v. Mahlowitz, 456 Mass. 627, 645 (2010); see Defendants’ Verified Answer and Counterclaims, R.A. 34, ¶¶ 21, 23 & Prayers for Relief, ¶¶ 2, 3.

Proportionality is measured based on a reasonable assessment of the value of the claims that the petitioning party opposed. Twin Fires Inv., LLC v. Morgan Stanley Dean Witter & Co., 445 Mass. 411, 431 (2005) (“it was reasonable for the plaintiffs’ counsel to have valued the case as having the potential for a multi-million dollar award and

to have expended effort . . . commensurate with that potential"). Had Defendants prevailed on their two counterclaims at trial, a conservative estimate of the damages and harm that could have accrued includes:

Emotional distress:	\$25,000
Loss of Time:	\$15,000
Loss of Reputation:	\$10,000
Watch City and Zepeda's's Attorneys Fees and Costs for Defending Against the Wage Claims	\$75,000
Interest at 12%:	\$20,000
<u>Total:</u>	<u>\$145,000</u>

In addition, had the SLAPP counterclaims been permitted to go forward, Hidalgo faced the prospect of having his own attorneys work up to an estimated \$75,000 worth of their own time to handle discovery, file for summary judgment and otherwise defend Hidalgo from those retaliatory counterclaims at trial and on appeal.

To avoid these threatened harms, Hidalgo pursued relief from the counterclaims pursuant to the Anti-SLAPP statute, first in the District Court and then at the Appeals Court. While the wage-related claims represented the initiation of litigation, there was nothing about those wage claims before the Appeals Court - the appeal focused exclusively on the SLAPP Act as it applied to Defendants' retaliatory counterclaims. On appeal, this Court reversed, and rightfully ordered the dismissal of the two offending counterclaims. Hidalgo v. Watch City Constr. Corp., 105

Mass. App. 148 (2024). The attorneys' fees sought on appeal related only to the dismissal of the counterclaims.

When awarding Hidalgo's reasonable attorneys' fees, the Appeals Court found that the requested hourly rates for Hidalgo's legal team were reasonable, and that those attorneys spent a reasonable amount of hours on this completely successful appeal.² Nevertheless, the Appeals Court cut Hidalgo's requested award in half, to \$33,680.65, on the sole basis that the matter "at stake" involved wage-related damages of \$11,000. Addendum, at 27 & 28 n.5. This was clear error, as the \$11,000 was an irrelevant consideration. The \$11,000 pertained to a claim that was not the subject of this appeal. Moreover, the hours worked by Hidalgo's counsel, for which they sought reimbursement in their petition, was not for work performed on the \$11,000 claim.³

Instead, the proportionality analysis should have focused on the fact that Hidalgo's team seeks \$67,000 for successfully avoiding the consequences of having to defend

² Addendum, at 25 ("Having reviewed the hours worked, they appear to be reasonable"); Addendum, at 28 n.5 ("This award should not be construed as challenging the 'market rates' claimed by plaintiff's counsel . . . Nor do we in any way challenge the quality of the work performed").

³ Hidalgo's successful appeal did nothing to protect or validate the claim for wages. After the Appeal, the wage claims are unaffected, and will rise or fall on the merits, without any influence from the Appeal. His claims for wages were only salient to the Appeal because his civil action was protected petitioning conduct under the SLAPP statute - a determination which is unaffected by the size of the damages sought by Hidalgo.

the two counterclaims that were dismissed as SLAPP claims – an estimated \$145,000 in potential damages, or up to potentially \$220,000 in total threatened harm to Hidalgo's interests.

To be sure, the amount of reasonable attorneys' fees awarded is "largely discretionary," based on consideration of a number of factors. Twin Fires, 445 Mass. at 430. One factor that may be considered is "the amount of damages involved." Id. So, in theory, the potential damages stemming from the abuse of process and malicious prosecution claims might be considered. However, the damages relating to Hidalgo's wage claims are **not involved** in the issues on appeal. The \$11,000 claims do not fall within the Twin Fires list of permissible considerations. The Appeals Court made a clear error of law and fact in holding that the \$11,000 claims were "at stake" in this appeal. Addendum, at 28 n.5. The wage claims were irrelevant to the subject matter of the fee petition.

While this case began with Hidalgo's modest claim for lost hourly wages spanning about a month, Defendants decided to escalate the matter through use of aggressive and retaliatory counterclaims – which were correctly found to be SLAPP claims subject to dismissal. Proportionality should be measured against a reasonable analysis of the potential harms threatened by the retaliatory counterclaims, and not the modest initial claim.

In his petition for fees, Hidalgo properly argued that his request for fees was reasonable, based on the damages and harm avoided due to the dismissal of the counterclaims. Addendum, at 30. The Appeals Court's failure to consider the threatened damages and disruption of the counterclaims, and its focus on the original, modest wage claims, constitutes an error of law and abuse of discretion.

To the extent that proportionality is an appropriate consideration (it is not), this Court should review Hidalgo's \$67,000 request in light of the estimated \$145,000 in potential damages he avoided due to the dismissal of the counterclaims by the Appeals Court. Killeen v. Westban Hotel Venture, LP, 69 Mass. App. 784, 796 (2007) (consider "results the litigation produced").

B. Fees Must Not Be Reduced in Civil Rights Cases Based Solely on 'Proportionality.'

Next, this Court should review the Appeals Court's Order for the independent and alternative reason that proportionality should not be the sole basis for reducing a fee award in civil rights matters. In awarding damages on a chapter 151B claim, the First Circuit held that it is an "error of law for the district court to link the amount of recoverable attorney's fees **solely** to the amount of . . . damages." Joyce v. Dennis, 720 F.3d 12, 31 (1st Cir. 2013).

Fee awards need not be proportionate to the amount of damages where civil rights are at issue, because those

rights cannot be valued in solely monetary terms. Riverside v. Rivera, 477 U.S. 561, 574 (1986). In another case involving c. 151B, the First Circuit held that a defendant's "emphasis on 'proportionality' as determinative of reasonableness runs directly counter to fundamental precepts of Massachusetts law." Diaz v. Jiten Hotel Mgmt., 741 F.3d 170, 178 (1st Cir. 2013). For civil rights matters, "it is an error of law" to link the amount of recoverable attorney's fees solely to the amount of damages. Id. We would not, for example, value the harm to Rosa Parks' civil rights to the nickel that she paid for her bus fare. Likewise, the notional fee petition in the Rosa Parks case should not be limited to a specific ratio to that nickel.

The civil rights of low-income workers are no less important than their higher-paid counterparts. In fact, the relative harm of the same damages may have a far greater impact on a low wage worker and so, if anything, the *in terrorem* effect of retaliatory counterclaims is greater on hourly wage laborer's like Hidalgo.

In this case, the SLAPP statute is designed to vindicate citizens' fundamental First Amendment rights. Hanover v. New Eng. Reg'l Council of Carpenters, 467 Mass. 587, 595 (2014). Hidalgo sought relief in this court solely to validate his right to petition - his civil rights. Therefore, the Court should not have reduced the award

based solely on proportionality to a non-civil rights claim.

The decisions that embrace proportionality tend to involve business disputes and compensation issues, and not civil rights. Twin Fires, 445 Mass. at 430; Linthicum v. Archambault, 379 Mass. 381, 388-389 (1979); Killeen, 69 Mass. App. at 791. These cases are not dispositive here, because business harms can be more directly monetarily measured and compensated in ways that civil rights violations cannot.

The Appeals Court's decision represents an abuse of discretion and is contrary to public policy, because it values the petitioning rights of lower-income people less than those of higher-income people. Under the flawed reasoning of the Appeals Court's decision, if a highly compensated employee was subjected to a one-month wage deprivation as Hidalgo alleged, they would have qualified for a 100% award of attorneys' fees, because their higher amount of lost wages could meet the proportionality standard. It cannot be that the Court intends to incentivize attorneys to work less vigorously on SLAPP appeals for lower-wage workers or for their lawyers to be compensated less for the same work. Thus, the Appeals Court's decision to reduce Hidalgo's fee award for work on a civil rights matter, based solely on proportionality, was another abuse of discretion. We therefore strongly urge

this court to review and reverse the Appeals Court's decision.

**C. Proportionality Is Irrelevant Where the Attorneys
Worked a Reasonable Number of Hours and Are
Charging a Reasonable Rate**

Even if proportionality were a proper, sole basis for cutting a fee award in a civil rights case (it is not), it was inappropriately applied by the Appeals Court. Proportionality represents a part of the "reasonable hours worked" analysis. It reflects the idea that attorneys should not put in an excessive, unreasonable amount of hours for a financially modest case.⁴

The Appeals Court, however, has already determined that Hidalgo's legal team expended a reasonable number of hours at a reasonable rate. Addendum at 25 & 28 n.5 ("Having reviewed the hours worked, they appear to be reasonable"). Therefore, the court is not applying proportionality for its intended use, to uncover excessive work and reduce fees accordingly. Having found Hidalgo's legal bills to be otherwise reasonable, it is simply improper to use proportionality as an independent basis for eviscerating a fee award in the civil rights context. Diaz, 741 F.3d at 179 (refusing to reduce an award based on

⁴ Twin Fires, 445 Mass. at 429 (argument of "proportionality" is based on the notion that the plaintiff's counsel should not have worked so much on a modest case); see Anderson v. AB Painting & Sandblasting, Inc., 578 F.3d 542, 546 (7th Cir. 2009) (proportionality analysis may uncover excess hours invested in "simple cases").

proportionality where "Jiten does not suggest that the hours expended were excessive or that the rate charged was too much").

The Appeals Court did not identify any area of Hidalgo's briefing or preparation that was unreasonable. Indeed, the Court's opinion cited many of the same cases that were cited in Hidalgo's briefs. Hidalgo's fee request was, if anything, low with respect to an appeal in which a Reply motion was filed and a new, fairly complex, SJC standard needed to be applied. This was a hard-fought matter, necessitated by Watch City's dogged pursuit of claims precluded by the Anti-SLAPP law. Given that Hidalgo's legal bills have been adjudicated as reasonable, proportionality may not be wielded as an independent scythe. It is thus critical that this court reverse the Appeals Court's decision to reduce Hidalgo's reasonable attorneys' fees by half.

VI. CONCLUSION

For the foregoing reasons, this Court should grant further appellate review of the Appeals Court's Order on attorneys' fees. The Appeals Court's decision contains fundamental errors of law that threaten to undermine both the Anti-SLAPP statute's mandatory fee provision and broader civil rights protections. Therefore, this Court should grant further appellate review and award Hidalgo the full \$67,361 in attorneys' fees for his successful appeal defeating the defendants' retaliatory SLAPP counterclaims.

Only by correcting these errors can the Court ensure that the Anti-SLAPP statute's protections remain equally available to all citizens, regardless of their economic status.

VII. SUPPLEMENTAL REQUEST FOR ATTORNEYS' FEES

Should this Petition for Further Appellate Review be successful, Hidalgo requests an award of attorneys' fees and costs for work performed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE
Pursuant to Rule 16(k) of the
Massachusetts Rules of Appellate Procedure

I, David Belfort, hereby certify that the foregoing brief complies with the rules of court that pertain to the filing of briefs, including, but not limited to:

Mass. R. A. P. 16 (a) (13) (addendum);
Mass. R. A. P. 16 (e) (references to the record);
Mass. R. A. P. 18 (appendix to the briefs);
Mass. R. A. P. 20 (form and length of briefs,
appendices, and other documents); and
Mass. R. A. P. 21 (redaction).

I further certify that the foregoing brief complies with the applicable length limitation in Mass. R. App. P. 27.1 because it is produced in the monospaced font Courier New at size twelve, ten characters per inch, and contains ten or fewer total non-excluded pages, with double-spaced text in the relevant section.

/s/ David Belfort

CERTIFICATE OF SERVICE

Pursuant to Mass. R.A.P. 13(e), I hereby certify, under the penalties of perjury, that on March 12, 2025 I have made service of this Brief and Addendum upon the attorney of record for each party, or if the party has no attorney then I made service directly to the self-represented party, by the electronic filing system on:

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COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

24-P-11

ANDRES HIDALGO

vs.

WATCH CITY CONSTRUCTION CORP. & another.¹

ORDER ON ATTORNEY'S FEES

The plaintiff in this Wage Act suit, having succeeded on appeal in having the defendant's counterclaims dismissed under the anti-SLAPP statute, see Hidalgo v. Watch City Constr. Corp., 105 Mass. App. Ct. 148 (2024), seeks an award of appellate attorney's fees totaling \$67,361.25. A successful litigant of an anti-SLAPP statute motion is entitled to recover its reasonable attorney's fees. See G. L. c. 231, § 59H; McLarnon v. Jokisch, 431 Mass. 343, 350 (2000). The fees awarded must be "reasonable," however, and in the particular circumstances here we do not believe a fee award of \$67,000 would be reasonable. See G. L. c. 231, § 59H. We accordingly award fees at fifty percent of the amount sought, or \$33,680.65.²

¹ Mainor Ariel Zepeda.

² The defendants have not opposed the plaintiff's fee request. We nevertheless have reviewed the request ourselves for reasonableness, prior to ordering payment. See Stowe v. Bologna, 417 Mass. 199, 204 (1994).

The underlying facts are set forth in more detail in our opinion, see Hidalgo, 105 Mass. App. Ct. at 149-150. Relevant here, the plaintiff's suit seeks recovery of four weeks pay as a general laborer at the defendant's landscaping business. The total amount of wages sought is \$3,738.67. Trebled under the Wage Act, the amount is \$11,216.01. The defendant denies that the wages are owed. The defendant filed counterclaims for abuse of process and malicious prosecution, which the plaintiff moved to dismiss under the anti-SLAPP statute. A District Court judge denied the motion, but on appeal we reversed, holding that the claims had to be dismissed. The plaintiff accordingly prevailed on his anti-SLAPP motion, and his appeal succeeded.

The plaintiff's motion adopts the "lodestar" approach to its request for fees, setting forth hours worked, and hourly rates, for five lawyers who worked on the appeal. See Fontaine v. Ebtec Corp., 415 Mass. 309, 324, 326 (1993). Of the five lawyers, only two -- one senior lawyer, and one more junior -- worked a significant amount of time on the appeal; a second senior lawyer contributed a total of fifteen hours, which included the drafting of the reply brief. Having reviewed the hours worked, they appear to be reasonable. The anti-SLAPP statute issues raised by the appeal were fairly complex, and involved the application of a new standard authored by the Supreme Judicial Court while the appeal was pending. See

Bristol Asphalt Co. v Rochester Bituminous Prods., Inc., 493 Mass. 539 (2024).

The plaintiff's submission spends more time on the second variable -- hourly rate. The senior lawyer, who has twenty-nine years of experience as a labor and employment litigator, claims a "market rate" of \$725 per hour: the junior lawyer, with three years of experience, claims a "market rate" of \$425 per hour. The submission is supported by the affidavits of two other experienced Massachusetts labor and employment lawyers, who affirm that the rates identified are indeed "market rate."

For present purposes we do not question that the rates identified could be appropriate, and awarded -- in another case.³ The plaintiff's submission, however, is in our view a bit myopic in its treatment of the law. The submission presents as if the only issue that should concern us is the hypothetical "lodestar" for the work performed. The lodestar is indeed an important touchstone in evaluating a fee request. See Fontaine, 415 Mass. at 326 (the lodestar method is the "basic measure of a reasonable attorney's fee"). But courts have identified other factors that should be considered as well:

"[T]he nature of the case and the issues presented, the time and labor required, the amount of damages involved, the result obtained, the experience, reputation, and

³ This is more true of the senior lawyer's rate than of the junior lawyer's rate. The junior lawyer's rate may well be high, for her level of experience and the type of work involved.

ability of the attorney, the usual price charged for similar services by other attorneys in the same area, and the amount of awards in similar cases" (emphasis added).

Twin Fires Inv., LLC v. Morgan Stanley Dean Witter & Co., 445 Mass. 411, 429-430 (2005), quoting Linthicum v. Archambault, 379 Mass. 381, 388-389 (1979).

Here one of those factors -- "the amount of damages involved" -- is particularly relevant. As noted above, this is roughly an \$11,000 claim. In our discretion, we do not find it "reasonable" to award legal fees of \$67,000 in prosecuting an appeal regarding two counterclaims raised in response to an \$11,000 claim, and hence we have reduced the award so as to render the fees awarded more commensurate with the type of claim at issue.

We recognize there are countervailing arguments. It is a good thing when experienced and capable lawyers agree to handle claims of this size, and such representation should not be discouraged. See School Comm. of Norton v. Massachusetts Comm'n Against Discrimination, 63 Mass. App. Ct. 839, 854 (2005) (noting the "importance of providing an incentive to attorneys to represent litigants . . . who seek to vindicate . . . rights but whose claim may not result in substantial monetary compensation") (citation omitted). Of course, the Wage Act itself provides for the award of a reasonable attorney's fee to a prevailing plaintiff. G. L. c. 149, § 150. Our award here,

which is still substantial, is intended not to discourage. On the flip side of the coin, the anti-SLAPP statute awards fees to the prevailing party in order to discourage claims that are directed at preventing lawful invocations of the right to petition. See McLarnon, 431 Mass. at 350 ("The purpose of the statute is to reimburse persons for costs and attorney's fees if a judge determines that the statute is applicable and allows their motion to dismiss"). Our substantial award is intended to have that effect as well, while not being grossly disproportionate to the amount at stake.^{4, 5} See Killeen v. Westban Hotel Venture, LP, 69 Mass. App. Ct. 784, 796 (2007) ("[W]hen a fee request appears on its face dramatically disproportionate to the results the litigation produced . . . the judge must focus with precision on the relationship between the time invested and the results achieved"). We award fees of \$33,680.65. Any proceeding to enforce this order shall be commenced in the District Court.

⁴ We note as well that here we address only appellate attorney's fees. The plaintiff may also be seeking fees for his lawyers' work on the anti-SLAPP motion in the district court.

⁵ This award should not be construed as challenging the "market rates" claimed by plaintiff's counsel. We are aware that rates charged by some lawyers, for some kinds of work in the Boston area, will meet or even significantly exceed the rates claimed here. Nor do we in any way challenge the quality of the work performed. However, we do question the reasonableness of awarding attorney's fees that overwhelm the amounts actually at stake, and the case law identifies same as a relevant consideration. See Twin Fires, 445 Mass. at 430.

So ordered.

By the Court (Vuono,
Englander & Hodgens, JJ.⁶),

A handwritten signature in black ink, appearing to read "Sean Connolly". The signature is written in a cursive, flowing style.

Assistant Clerk

Entered: February 20, 2025.

⁶ The panelists are listed in order of seniority.

**COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT**

No. 2024-P-0011

Andres Hidalgo, Appellant

v.

Watch City Construction & Mainor Ariel Zepeda,
Appellees

Pursuant to this Court's Order, Hidalgo v. Watch City Construction Corp., 105 Mass. App. 148, 155 n.8, Appellant Andres Hidalgo ("Hidalgo") hereby moves for an award of reasonable attorneys' fees and costs for work performed in connection with this interlocutory appeal. Hidalgo raises this motion having prevailed on all issues raised in this appeal, which resulted in the dismissal of two counterclaims through the operation of the Anti-SLAPP statute. Hidalgo seeks reasonable fees and costs totaling \$67,361.25.

The requested award is modest, given the costs and disruption, and waste of judicial resources, that would have occurred in the event the retaliatory counterclaims remained in the case for trial. Moreover, this appeal vindicated an important public policy as it will eliminate the chilling effect on the exercise of the right to petition caused by

retaliatory counterclaims, and creates a safe space for other disadvantaged people to stand up for their rights.

I. Because Hidalgo Prevailed On His Anti-SLAPP Special Motion To Dismiss Two Counts, He Is Entitled To An Award Of Reasonable Attorneys' Fees And Costs

The Appeals Court dismissed Appellees' counterclaims of abuse of process and malicious prosecution pursuant to the Anti-SLAPP statute, M.G.L. c. 231 § 59H. According to the Anti-SLAPP statute, "If the court grants such special motion to dismiss, the court **shall** award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters." Id. at ¶ 5 (emphasis added). The fee-shifting provision applies to successful appellate work. Fabre v. Walton, 436 Mass. 517, 525 (2002). This petition sets forth the basis for an award of reasonable attorneys' fees and costs, supported by affidavit.

II. LEGAL STANDARD GOVERNING AWARD OF ATTORNEYS' FEES

While issuing an order for fees in this case is compulsory ("shall"), the amount of such attorneys' fees that is reasonable is a discretionary matter for

the judge. McLarnon v. Jokisch, 431 Mass. 343, 350 (2000) ("The judge has no discretion in deciding whether to award costs and fees.") This discretion is mitigated by required consideration of the statutory purposes of the Anti-SLAPP Act, and the need to incentivize skilled counsel to pursue rights under the statute. Stowe v. Bologna, 417 Mass. 199, 203 (1994) (fee award should "not only consider the plaintiff's financial interests at stake but also the plaintiff's other interests sought to be protected by the statute in question and the public interest in having persons with valid claims represented by competent counsel"). The Anti-SLAPP statute was enacted to preserve citizens' fundamental First Amendment right to petition the government, and prevent the chilling of such rights as the result of retaliatory counterclaims, such as the ones propounded by Appellees. Hanover v. New Eng. Reg'l Council of Carpenters, 467 Mass. 587, 595 (2014). The statute's mandatory requirement to award attorneys' fees conveys the importance of the rights that Hidalgo's appeal has vindicated.

In addition to upholding Hidalgo's right to petition, this appeal is all-the-more significant, as

it was one of the first appellate court decisions to administer the revised standards for applying the SLAPP statute, in light of the Supreme Judicial Court's recent decisions of Bristol Asphalt Co. v. Rochester Bituminous Prods., Inc., 493 Mass. 539 (2024), and its companion case of Columbia Plaza Assoc. v. Northeastern University, 493 Mass. 570 (2024).

A court determining attorneys' fees should begin its inquiry by calculating the presumptively reasonable 'lodestar' amount, which is the attorney's reasonable hours spent on the case multiplied by reasonable hourly fees for that attorney's work. Fontaine v. Ebtec Corp., 415 Mass. 309, 324-326 (1993). "The basic measure of reasonable attorney's fees is a 'fair market rate for the time reasonably spent preparing and litigating a case.'" Stowe, 417 Mass. at 203. The Court, however, must have, and express, special reasons if it refuses to grant fees to the prevailing party. Lewis v. Kendrick, 944 F.2d 949 (1st Cir. 1991).

All reasonable work performed pursuant to reasonable strategies should be compensated, even if not every strategy was successful. Twin Fires Inv.

LLC v. Morgan Stanley Dean Witter & Co., 445 Mass. 411, 430-431 (2005). Work performed on all issues involving the common core of facts of the successful claim as well as any work performed on related legal claims and theories must be included in the lodestar amount, whether or not the party prevailed on these related issues. DiMarzo v. American Mutual Ins. Co., 389 Mass. 85, 106 (1983) (plaintiff's attorney's fees not reduced even though defendant received judgment on one count). In addition, the attorney's time spent preparing and arguing the attorneys' fee petition should be compensated. Commissioner I.N.S. v. Jean, 110 S. Ct. 2316, 2321 (1990).

**III. APPELLANT'S ATTORNEYS' FEES AND COSTS ARE
REASONABLE AND SHOULD BE AWARDED IN FULL**

In this appeal, Hidalgo successfully relied on the expertise of a senior Bennett & Belfort attorney, David E. Belfort, an associate, Nafisa Bohra, and in drafting the briefs and preparing for oral argument, the experienced attorney Robert Mantell who has a deep background in arguing employment cases on appeal, and who has subject matter knowledge having filed an Amicus Brief in the SJC's SLAPP decision of Columbia Plaza Assoc. v. Northeastern University, 493 Mass. 570

(2024). Attorney Belfort's law firm partners Michael Mason and Michaela May also participated, albeit with minimal relative time contribution, in the mock oral arguments in preparation for the argument at the Appeals court and some final review/editing tasks. Associate level attorney, Nafisa Bohra, handled significant behind the scenes preparations, such as research and brief drafting and preparation of the appellate record. Each attorneys' rate and time commitments contributed to Appellant's success on appeal and are supported below.

A. Attorney David E. Belfort (Sr. Partner)

David Belfort is lead counsel in this case and argued the matter at the Appeals Court. He is a founding and managing partner of Bennett & Belfort, P.C. Mr. Belfort graduated from the University of New Hampshire School of Law and was admitted to the Massachusetts Bar in 1996. Mr. Belfort devotes the majority of his practice to employment law and litigation with a focus on wage and hour litigation, discrimination, harassment and retaliation.

Mr. Belfort is a past President of the Massachusetts Employment Lawyers Association, an

organization dedicated to employee-side representation and advocating for workers in Massachusetts. Mr. Belfort co-chaired the Massachusetts Bar Association's Labor and Employment Section Council for two years.

Mr. Belfort is rated AV Preeminent®, the highest available peer-based ranking afforded by Martindale-Hubbell. Based on peer recognition, ethical standards and achievement in the field of employment litigation, Mr. Belfort has been named a Massachusetts and/or New England "Super Lawyer" spanning 2006 through 2023. From 2014 to 2023 Mr. Belfort has received distinction as a Massachusetts "Top 100 Super Lawyer." In 2016 and 2017, Mr. Belfort was honored as a New England "Best Lawyer" in the field of Labor and Employment

Mr. Belfort has handled numerous employment cases before the Massachusetts Commission Against Discrimination and in State and Federal Courts. Notably, Mr. Belfort was co-trial counsel and assisted in the successful appeal of the seminal case of *Haddad v. Wal-Mart Stores, Inc.* 455 Mass 91 (2009), wherein the Supreme Judicial Court (SJC) affirmed a \$2,000,000 jury verdict for gender discrimination and pay bias under M.G.L. 151B. The *Haddad* case remains an important precedent-setting decision that clarifies,

among other issues, the legal standard for punitive and front pay damages.

Mr. Belfort is a frequent volunteer speaker and author on recent developments in employment law and has been published and quoted in various general circulation articles and law journals. His speaking engagements and published articles are listed more fully in Mr. Belfort's on-line law firm biography.

<https://www.bennettandbelfort.com/who-we-are/david-e-belfort/>. Attorney Belfort submits his own sworn affidavit in support of this Petition at **Exhibit 1**.

For the legal work provided to Hidalgo, Mr. Belfort's reasonable hourly billing rate is \$725.00 per hour. This hourly rate for service is comparable to or less than that of employment attorneys in the Boston, Massachusetts region of similar reputation after 29 years of practice, specialized experience and background. Two comprehensive supporting Affidavits attesting to the reasonableness of Attorney Belfort's requested market rate hourly fee accompany the Appellant's Petition for Attorneys' Fees and Costs. Each Affidavit comes from a leading employment attorneys with wage and hour litigation experience in

Eastern Massachusetts with personal, first hand, knowledge of the market for legal fees as follows:

- A. **Exhibit 2**¹ - Affidavit of Philip J. Gordon In Support Of Petition For Attorneys' Fees;
- B. **Exhibit 3** - Affidavit of Attorney Rebecca G. Pontikes.

Hourly rates of up to \$1000 per hour for partners were awarded in Arkansas Teacher Retirement System v. State Street Bank and Trust Co., 513 F. Supp. 3d 202, 211 (D. Mass. 2021). Judge Salinger recently awarded fees at a rate of \$1140 per hour, in a case involving a non-competition agreement. FTI, LLC v. Duffy, Memorandum and Order on Post-Trial Motions, C.A. No. 1684CV3176, Suffolk, ss., Salinger, J., June 22, 2022, at 16. Jonathan Feigenbaum, Esq., and employee benefits lawyer, establishes that he charges fees at the rate of \$900 per hour. **Exhibit 8**. Therefore, Mr. Belfort's requested rate is extremely reasonable and well within the market rate for a lawyer of his experience and reputation.

Mr. Belfort has expended 34.05 hours of work in this case relating to the appeal briefs, preparation

¹ The Affidavits of Attorneys Philip Gordon, Esq. (Exhibit 2 dated August 11, 2023) and Rebecca Pontikes, Esq. (Exhibit 3 dated July, 2023) were originally filed in support of Plaintiff's petition for fees in the District Court after Plaintiff/Appellant's SLAPP motion was allowed but it was later reversed on reconsideration. Those affidavits attest to the hourly rates sought here on appeal as to Attorneys Belfort and Bohra, whom have both kept their hourly rates the same, some 17 months later.

for oral argument, oral argument at the Appeals Court and drafting this Fee Petition (Attorney Bohra is on leave at the moment). The work conducted by Mr. Belfort is set forth in great detail in his law firm's attached billing statements. **Exhibit 4.** This itemization was generated from daily timesheets, was entered contemporaneously into our law firm billing database (software is Tabs by STI), and is an accurate and detailed reflection of Mr. Belfort's hours committed to this case.

As of the filing of this Petition for legal fees relating to the appeal, and through the drafting of this petition and supporting affidavits, Mr. Belfort worked 34.05 hours in total relative to the Appeal effort. The total hours multiplied at a rate of \$725/hr, yields a total for Mr. Belfort's work of \$24,686.24 ($34.05 \times \$725 = \$24,686.25$). Given the work required to be expended in this case to appeal Appellee's improper SLAPP counter-claims and the overwhelmingly favorable decision that was secured relating thereto, the Appellant requests that the Court award fees in the amount of \$24,686.25 relative to Mr. Belfort's work in this matter.

B. Attorney Nafisa Bohra (Associate)

Nafisa Bohra is an associate at Bennett & Belfort, P.C.² She is a 2021 graduate of the University of Minnesota Law School and was admitted to the Massachusetts Bar in 2021. Ms. Bohra has practiced exclusively business and employment law for the past three years. She currently devotes the majority of her practice at Bennett & Belfort PC to employment law, including Wage and Hour litigation, discrimination, non competition and other matters. She has worked on many employment cases pending at the Massachusetts Commission Against Discrimination and in State and Federal courts. Given that Attorney Bohra is on leave from the firm, Attorney Belfort submits a sworn affidavit in support of Attorney Bohra's time and reasonable hourly rate at **Exhibit 1**.

For Hidalgo's appeal, Ms. Bohra has provided significant research and drafting along with compiling the record and filing the briefs, among other services. In the above titled proceeding, a reasonable hourly billing rate for Ms. Bohra, an

² Attorney Bohra is on parental leave from Bennett & Belfort PC at this time – her work on the case ended after submission of the Appellant's briefs and prior to oral argument.

associate, is \$425.00 an hour. This hourly rate is less than the reasonable market rate for comparable employment attorneys in the Boston, Massachusetts, region of similar years of experience and background. See Tuli v. Brigham & Women's Hospital, Memorandum and Order Re: Attorney's Fees, C.A. No. 07 cv 12338, (D. Mass. June 8, 2009) (Judge Gertner awarded fees for a four-year associate at the rate of \$495 an hour in 2005). Two comprehensive Affidavits in support of the reasonableness of Attorney Bohra's requested hourly rate accompany the Appellant's Petition for Attorneys' Fees and Costs as follows:

- A. **Exhibit 2** - Affidavit of Philip J. Gordon In Support Of Petition For Attorneys' Fees;
- B. **Exhibit 3** - Affidavit of Attorney Rebecca G. Pontikes.

Ms. Bohra worked a total of 65.90 hours relating to the appeal of the allowance of the Anti-SLAPP Motion, for which an award is sought herein. Ms. Bohra's fee application is supported by contemporaneous data as to her hourly task records, using the office billing system (Tabs by STI). Her time records were maintained on a regular basis and in the usual course of Bennett & Belfort's business and

aggregated using the firm's billing software. **Exhibit 4.**

As to the Appeal, Ms. Bohra worked 65.90 hours, which multiplied at a rate of \$425/hr, yields a total billable time for her work of \$28,007.50. Given the work expended and the favorable decision on Appellant's motion, the Appellant requests that the Court award fees in the amount of \$28,007.50 relative to Ms. Bohra's work in this matter to date.

C. Robert Mantell (Sr. Partner)

Attorney Robert Mantell assisted with Brief drafting and preparation for oral argument because of his extensive experience on appeals in employment cases and his direct involvement with writing an amicus brief in the Columbia Plaza Assoc. v. Northeastern University, 493 Mass. 570 (2024) case, that clarified the standard for SLAPP cases. Mr. Mantell was one of the primary brief-writers with respect to the Principal Brief and was the primary brief-writer for the Reply Brief. Mr. Mantell's affidavit in support of his request for attorneys' fees is attached as **Exhibit 5.**

Mr. Mantell is extremely well respected and experienced. He has practiced employment law for thirty-two years. He was listed as one of the top 100 rated lawyers in the Massachusetts Super Lawyers, in 2021, 2022, 2023 and 2024, and was listed as a Super Lawyer for twenty years. He has an "AV Preeminent" Peer Review rating from Martindale-Hubbel. He was twice elected President of the Massachusetts Employment Lawyers Association, and has been involved with many of the most important employment law to come out of the Massachusetts appellate courts. He was named as one of the few "Go To" employment lawyers selected by the Massachusetts Lawyers Weekly.

Mr. Mantell was uniquely qualified to assist Bennett & Belfort, and lead counsel David Belfort, Esq., in this matter involving the SLAPP statute. Mr. Mantell wrote one of the amicus briefs filed in the case of Columbia Plaza Assoc. v. Northeastern University, 493 Mass. 570 (2024), which advocated for the elimination of the so-called Blanchard test - a position that the SJC ultimately adopted. Bristol Asphalt Co., 493 Mass. 539 (2024). Mr. Mantell has litigated cases involving the SLAPP statute, and filed another successful amicus brief involving the SLAPP

statute in the case of Rosario v. Caring Bees Healthcare, 97 Mass. App. 1122 (2020). Mr. Mantell has written an article on the topic of retaliatory counterclaims and he served as a speaker on the subject of the SLAPP statute at the Boston Bar Association and MELA. He is currently scheduled to speak on that topic in February 2025 at the MCLE's 24th Annual Business Litigation Conference.

Mr. Belfort and Mr. Mantell have worked together many times in the past, including as co-counsel in the successful trial and appeal of Daprato v. MWRA, 482 Mass. 375 (2019) and on the appeal of Haddad v. Wal-Mart Stores, Inc., 415 Mass. 91 (2009). Mr. Mantell and Mr. Belfort collaborate well and efficiently together.

The time that Mr. Mantell spent working on this case was extremely reasonable, given the parameters of this case. He spent just 6.25 hours drafting and editing the Principal Brief and 5.75 hours preparing the Reply Brief. **Exhibits 5** and **Exhibit 6**. Mr. Mantell also spent 1.5 hours helping David Belfort, Esq. prepare for oral argument during a mock argument session. Id. The time spent was efficient and economical. The work was more than competent, as

shown by the fact that many of the cases cited in Hidalgo's briefs were also cited in this Court's decision. Mr. Mantell requests that his time be compensated at \$800 per hour. Two comprehensive affidavits support his requested rate. Attorney Mantell submits the following supporting Affidavits:

A. **Exhibit 7** - Affidavit of Philip J. Gordon In Support Of Petition For Attorneys' Fees;

B. **Exhibit 8** - Affidavit of Jonathan Feigenbaum.

During the pendency of this case, Mr. Mantell kept contemporaneous time records, a copy of which are attached. See Exhibit 6. The breakdown of Mr. Mantell's time committed to the appeal of this case are as follows:

Date	Description of Work	Time Spent
4/1/24	Draft and revise appellate brief	6.25
5/8/24	Suggest ideas for Reply Brief	.5
5/8/24	Draft Reply Brief	2.15
5/9/24	Draft Reply Brief	3.1
10/7/24	Participate in moot court	1.0
10/8/24	Prepare Oral Argument	.5
12/29/24	Prepare fee petition affidavit	1.5
	Total	15

Mr. Mantell spent a total of 15 hours working on this appeal, which at \$800, represents a modest requested fee award of \$12,000.

D. Michael C. May (Partner)

Michaela May is a partner of Bennett & Belfort. She has been representing workers in employment matters for 15 years. She is the current President of the Massachusetts Employment Lawyers Association, was named among Massachusetts Lawyers Weekly's Top Women of the Law in 2024, and has been named a Massachusetts Super Lawyer annually since 2020. Attorney May has practiced before the Massachusetts Supreme Judicial Court, the Massachusetts Appeals Court, and the U.S. Court of Appeals for the First Circuit, and has served as both trial and appellate counsel.

During the pendency of this case, Ms. May kept contemporaneous time records, a copy of which are attached. **Exhibit 4.** Attorney May spent a total of 1.3 hours working on this appeal, which at \$650, represents a requested fee award of \$845. Ms. May's affidavit supporting her requested fee is attached.

Exhibit 9

E. Michael Mason

Attorney Mason is the Managing Partner at Bennett & Belfort, where he has practiced since 2005. Attorney Mason's practice focuses primarily on employment litigation, where he serves as lead counsel. He is a longstanding member of the Massachusetts Employment Lawyers Association and Boston Bar Association. Attorney Mason recently authored the "Pregnancy Discrimination: Plaintiff's Perspective" chapter of MCLE's Employment Discrimination in Massachusetts practice manual, and he has served as a presenter at MCLE's "Employment Law Basics" continuing legal education course. Attorney Mason has been recognized in various annual publications, including New England Super Lawyers and Boston Magazine. Attached is the supporting Affidavit of Michael Mason at **Exhibit 10**.

During the pendency of this case, Mr. Mason kept contemporaneous time records, a copy of which are attached at Exhibit 4. See **Exhibit 4**. Mr. Mason spent a total of 2.7 hours working on this appeal, which at \$675, represents a requested fee award of \$1,822.50.

IV. CONCLUSION

Based on the foregoing, and the accompanying supporting affidavits that attest to the reasonableness, market rate, quality and scope of the services provided, Appellant petitions this Court to award his reasonable attorney fees and expenses in the amount of **\$67,361.25**, as reflected above and summarized in the following itemized table:

<u>Attorney / Expense Source</u>	<u>Time (Hours)</u>	<u>Hourly Rate</u>	<u>Fee/cost (hrly rate x hrs)</u>
David E. Belfort	34.05	\$725	\$24,686.25
Nafisa Bohra	65.90	\$425	\$28,007.50
Robert Mantell	15	\$800	\$12,000.00
Michael L. Mason	2.7	\$675	\$1,822.50
Michaela C. May	1.3	\$650	\$845.00
TOTAL			\$67,361.25

Respectfully submitted,
Andres Hidalgo,
By his attorneys,

/s/ David E. Belfort

Dated: January 8, 2025

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CERTIFICATE OF SERVICE

I, David E. Belfort, Counsel to the Appellant, do herewith certify that I served a true copy of the foregoing document on this date, via email and via e-filing on 1.8.25, upon all counsel of record at the following address:

Elliott M. Loew
emlpc@comcast.net
Law Office of Elliott M. Loew, P.C.
343 Washington Street, Suite 200
Newton, Massachusetts 02458
(617) 969-2660

Dated: 1.8.25

/s/ David E. Belfort

David E. Belfort