

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, SS

PALMER DISTRICT COURT
DOCKET NO: 1143 CV 0293

BRIAN JOHNSON
Plaintiff

vs.

PETER FREI
Defendant

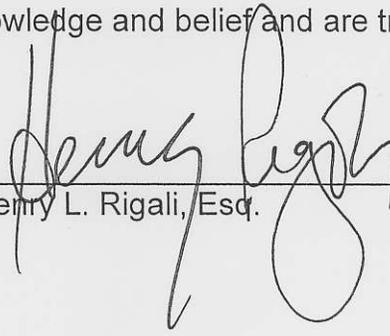
ATTORNEY'S AFFIDAVIT IN SUPPORT OF
MOTION FOR ATTORNEY FEES

Being duly sworn and upon my oath I hereby depose and say:

1. I am the attorney for Peter Frei, duly licensed to practice law in the Commonwealth of Massachusetts since 1974 and in other state and federal jurisdictions, including the U.S. District Court of Massachusetts, the First Circuit Court of Appeals, the U.S. Court of Claims and the United States Supreme Court. I have appeared as trial counsel in civil and criminal matters in Massachusetts and, *pro hac vice*, in numerous state and federal courts for approximately 39 years.
2. I have litigated more than 150 jury trials before state and federal district, superior and federal courts, served approximately 10 years as an assistant district attorney, 4 years as an assistant United States attorney, taught law related subjects at several colleges and universities, including the Western New England School of Law. I am the former co-author and editor-in-chief of the Massachusetts Prosecutors' Handbook.
3. I maintained contemporaneous activity logs, time and billing entries for services rendered in the above captioned matter, including expenses. A print out of those records are attached hereto and incorporated herein as **EXHIBIT 1**. Redactions appearing therein reflect attorney-client communications that are part of my record keeping practices but which are not relevant to the present purpose.
4. This case raised novel and complicated issues of first impression pertaining to civil actions under the Massachusetts Wiretap Law, G.L. c. 272 § 99Q.
5. Likewise this case raised complicated, socially important issues pertaining to the right of private citizens to protect themselves via civil enforcement of the Massachusetts Civil Rights Act, G. L. c. 12 §§ 11H & 11I.

6. There is a lengthy history between the parties. Preparation of the defense for this case and for prosecution of the counter-claims required that I obtain and familiarize myself with litigation involving either the same parties or at least one of the parties and unrelated, third parties. I reviewed numerous court dockets and transcripts.
7. The entries reflected in **EXHIBIT 1** are true and accurate records of the time and expense incurred by my client in conjunction with this case and in my opinion are fair and reasonable.
7. My standards rates are \$235 per hour for time spent out of court and \$295 per hour for time spent in court. I believe these hourly rates to be **lower** than standard rates charged by attorney of equal experience.
8. Expenses reflected in **EXHIBIT 1** are as received by the provider. In my opinion based on 39 years of criminal and civil litigation practice, the expenses incurred by Mr. Frei reflect standards rates and are fair and reasonable.

The above facts are based upon my personal knowledge and belief and are true.



Henry L. Rigali, Esq.