

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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

**PLAINTIFF’S ASSENTED-TO MOTION FOR  
FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

Pursuant to Fed. R. Civ. P. 23, Plaintiff Scott Smith – on behalf of himself and the members of the Rule 23(b)(2) Class and Rule 23(b)(3) Class conditionally certified by the Court’s September 23, 2022 Preliminary Approval Order (“Settlement Classes”) – requests that the Court finally certify for settlement purposes the Settlement Classes, approve the Class Action Settlement Agreement and Release (“Settlement”), Doc. No. 96-2, which the Court preliminarily approved in said Order, and enter a final order and judgment – a proposed form of which is attached hereto as **Exhibit 1** – so as to put an end to this nearly 2-year-old litigation.

On September 23, 2022, the Court entered a Preliminary Approval Order, Doc. No. 99, which, among other things:

- conditionally certified the Settlement Classes proposed by Mr. Smith as satisfying the requirements of Fed. R. Civ. P. 23(a), Fed. R. Civ. 23(b)(2) and Fed. R. Civ. P. 23(b)(3), Doc. No. 99 at ¶ 22;
- preliminarily approved the Settlement proposed by Mr. Smith as satisfying the requirements of Fed. R. Civ. P. 23(e), Doc. No. 99 at ¶ 24;

- approved Mr. Smith’s proposed plan to provide notice of the Settlement to the members of the Settlement Classes (“Notice Plan”) as satisfying the requirements of Fed. R. Civ. P. 23(c) as well as Constitutional Due Process, Doc. No. 99 at ¶ 25;
- appointed Atticus Administration, LLC (“Atticus”) as the Settlement Administrator and ordered Atticus to implement the approved Notice Plan, Doc. No. 99 at ¶¶ 23, 25(E); and
- conditionally designated the undersigned to serve as counsel for the Settlement Classes (“Class Counsel”) and Mr. Smith to serve as the representative of the Settlement Classes, Doc. No. 99 at ¶ 22.

Following the Court’s issuance of the Preliminary Approval Order, Atticus duly executed the Notice Plan and provided notice of the Settlement to members of the Settlement Classes, as contemplated by the Order. Following the Court’s issuance of the Preliminary Approval Order, Class Counsel and Mr. Smith took the additional step of publicizing and organizing a public meeting, which was attended by members of the Settlement Classes and at which Class Counsel made a presentation concerning the proposed Settlement as well as answered all questions posed by those in attendance. Following the Court’s issuance of the Preliminary Approval Order, no member of the Settlement Classes has submitted an objection to the Settlement and only one member – of the more than 500 members who received notice of the Settlement – has requested exclusion therefrom.

Mr. Smith thus submits that no reason exists to disturb the findings of the September 23, 2022 Preliminary Approval Order and, based on the foregoing as well as the Memorandum of Law and **Exhibits 2-4** filed herewith, respectfully requests that the Court finalize those findings and

conclude this litigation by entering the proposed final order and judgment, filed herewith as

**Exhibit 1.**

Respectfully submitted,  
SCOTT SMITH,  
By his attorneys,

This 19th day of January, 2023

/s/ Ethan R. Horowitz

/s/ Brian J. O'Donnell

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 19, 2023, the foregoing Motion and the exhibits referenced therein were electronically filed with the Clerk of the Court through the CM/ECF system, which will send notification of such filing to registered participants, including counsel for the Defendants.

/s/ Ethan R. Horowitz

Dated: January 19, 2023

Ethan R. Horowitz  
BBO # 674669

**CERTIFICATE OF RULE 7.1(A) COMPLIANCE**

I hereby certify that the parties to the above-captioned litigation, through counsel, conferred in good faith concerning the relief sought in the instant Motion and counsel for Defendants assented to such relief.

/s/ Ethan R. Horowitz

Dated: January 19, 2023

Ethan R. Horowitz  
BBO # 674669