

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA No. 1784-CV-02089-BLS2

JARRETT MCGILLOWAY and LINDA ESTRELLA, on behalf of themselves and all others similarly situated,
Plaintiffs,

v.

SAFETY INSURANCE COMPANY,
Defendant.

CONSOLIDATED WITH

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA No. 2018-01627-BLS2

ADAM ERCOLINI, on behalf of himself and all others similarly situated,
Plaintiff,

vs.

COMMERCE INSURANCE COMPANY,
Defendant.

2022 JUN 10 P 12:50
SUPERIOR COURT
CLERK'S OFFICE

**PLAINTIFF'S MOTION TO AMEND THE OPERATIVE COMPLAINT
AND CONSOLIDATE**

NOW comes Plaintiff, Adam Ercolini ("Ercolini" or "Plaintiff"), and hereby moves, pursuant to Mass.R.Civ.P 15, to amend the operative complaint so as to add class-wide claims for violations of M.G.L. c. 93A, § 2; M.G.L. c. 176D, § 3(9), et seq.; and 940 CMR 3.17. A copy of Plaintiff's proposed *Second Amended Class Action Complaint and Demand for Jury Trial* is incorporated herein and attached hereto as **Exhibit A**.

Furthermore, Plaintiff now seeks to consolidate this action with a second similar pending action against Defendant, Commerce Insurance Company ("Commerce") arising from the same

alleged unlawful conduct under the 2016 Standard Massachusetts Automobile Policy; Seaver and Cubberley, et al. v. Commerce Ins. Co., CA No. SUCV-1984-cv-02741.

Plaintiff has provided a memorandum of law herewith in support of his motion.

WHEREFORE, for the reasons set forth in the attached and incorporated memorandum of law, Plaintiff, respectfully requests that this Honorable Court allow this motion to amend the complaint; and thereafter, file and docket the *[Proposed] Second Amended Complaint*, attached to the memorandum of law as **Exhibit A**; and further, that the Court consolidate this action with the pending matter of: Seaver and Cubberley, et al. v. Commerce Ins. Co., CA No. SUCV-1984-cv-02741.

Respectfully submitted,
Plaintiff, by his Attorney,

DATED: May 9, 2022

/s/ *Michael C. Forrest*

Michael C. Forrest, Esq. (BBO #681401)
mforrest@theforrestlaw.com
Forrest, Mazow, McCullough,
Yasi & Yasi, P.C.
2 Salem Green, Suite 2
Salem, MA 01970
(617) 231-7829

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May 2022, I served a true copy of the foregoing: *Plaintiff's Motion Amend the Operative Complaint and Consolidate, Memorandum in Support of Plaintiff's Motion to Amend the Operative Complaint and Consolidate* along with the proposed *Second Amended Complaint* on all counsel of record via First-Class Mail and electronic mail:

Nelson G. Apjohn, Esq.
Eric P. Magnuson, Esq.
Nutter, McClennen & Fish, LLP
Seaport West, 155 Seaport Boulevard
Boston, MA 02210

napjohn@nutter.com
emagnuson@nutter.com

1st Michael C. Forrest
Michael C. Forrest, Esq.