

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

BLAINE FRANKLIN SHAW, *et al.*,

Plaintiffs,

v.

ERIK SMITH in his official capacity as the
Superintendent of the Kansas Highway Patrol,
et al.,

Defendants.

Case No. 19-1343-KHV-GEB

MARK ERICH, *et al.*,

Plaintiffs,

v.

ERIK SMITH, *KHP Superintendent,*

Defendant.

Case No. 20-1067-KHV-GEB

**PLAINTIFFS' AMENDED MOTION FOR ATTORNEYS' FEES AND NON-TAXABLE
COSTS**

As the prevailing parties, Plaintiffs Blaine Shaw, Samuel Shaw, Joshua Bosire, Mark Erich, and Shawna Maloney hereby move for recovery of reasonable attorneys' fees and non-taxable litigation expenses pursuant to 42 U.S.C. § 1988(b), Federal Rule of Civil Procedure 54(d), and D. Kan. Rule 54.2. In support of this motion, Plaintiffs state as follows:

1. On December 19, 2019, Plaintiffs Blaine and Samuel Shaw filed Case No. 19-cv-1343. (Doc. #1.) On January 30, 2020, the Shaws and Joshua Bosire filed an amended complaint. (Doc. #7.) That case was later consolidated with Case No. 20-cv-1067, filed by Plaintiffs Mark

Erich and Shawna Maloney. (Doc. #84.) All Plaintiffs asserted claims pursuant to 42 U.S.C. § 1983. (Doc. #290 at 2–3, 39–40.)

2. In January 2023, the parties agreed to settle Samuel Shaw’s damages claims, and the Court entered a consent judgment accordingly. (Doc. #366.) Mr. Shaw continued to pursue his claims for prospective injunctive and declaratory relief.

3. On February 6-8, 2023, a jury trial on Blaine Shaw’s damages claims took place. (Doc. #248, 431, 435.) On April 24-27, 2023, a jury trial on Mr. Bosire’s damages claims took place. (Doc. #486, 489, 492, 498.) Both juries found in favor of Messrs. Shaw and Bosire. (Doc. #438, Doc. #499.)

4. On May 1-26, 2023, the Court held a bench trial on all Plaintiffs’ claims for injunctive and declaratory relief. (Doc. #501, 503, 507, 509, 511, 517, 522, 534.)

5. On July 21, 2023, the Court issued a Memorandum and Order in this case, finding that Plaintiffs succeeded on the merits of their claims and were entitled to declaratory and injunctive relief. (Doc. #539.)

6. On November 20, 2023, the Court issued a permanent injunction against Defendant and the KHP. (Doc. #582.) The following day, the Court entered judgment for Plaintiffs on all claims but one. (Doc. #583.)

7. Plaintiffs are the prevailing parties and thus entitled to fees and costs under 42 U.S.C. § 1988(b).

8. Plaintiffs’ counsel consulted with opposing counsel pursuant to Local Rule 54.2(a) on November 30, 2023, at which time Plaintiffs stated that they intend to seek fees and costs in this case. Opposing counsel agreed to review Plaintiffs’ fee petition and supporting documentation as it becomes available and all parties agreed to continue consultation regarding this Motion.

9. Plaintiffs originally filed their Motion for Attorneys' Fees and Nontaxable Costs on December 5, 2023. Doc. # 584. Since that time, Plaintiffs continued their efforts to review billing records, determine taxability of individual costs, reduce duplication, and exercise reasonable billing judgment.

10. In their original Motion, Doc. # 584, Plaintiffs requested \$3,067,341.24 in attorneys' fees and \$438,838.38 in costs. Since then, Plaintiffs identified some redundancies and agreed to reduce their hourly rates for some timekeepers in an exercise of billing judgment. Plaintiffs' requested fees and costs are now significantly lower than they were when Plaintiffs originally filed their Motion.

11. Plaintiffs therefore wish to amend their previously filed Motion to reflect the updated amounts they seek. Plaintiffs now request attorneys' fees in the amount of **\$2,647,782.80** and non-taxable costs in the amount of **\$363,148.28**.

12. A more fulsome discussion of the grounds justifying the requested fees and expenses are set out in Plaintiffs' memorandum of points and authorities with attached evidence in support of this motion, which shall be filed contemporaneously with this Amended Motion.

CONCLUSION

For the foregoing reasons, and for the reasons stated in Plaintiffs' forthcoming memorandum in support, Plaintiffs respectfully request the Court award them approximately **\$2,647,782.80** in attorneys' fees and **\$363,148.28** in nontaxable costs.

Dated: March 4, 2024

Respectfully submitted by,

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF KANSAS**
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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of March 2024, a copy of the foregoing was filed and served via the Court's electronic filing system on all counsel of record.

s/ Sharon Brett

Attorney for Plaintiffs