

United States Court of Appeals For the First Circuit

No. 22-1093

SIMON CHAN, Former Employee of Massachusetts Bay Transportation Authority,

Plaintiff - Appellant,

v.

MAURA TRACY HEALEY, Governor of the Commonwealth of Massachusetts; JAMEY TESLER, Secretary & CEO of Massachusetts Department of Transportation; STEVE POFTAK, General Manager of Massachusetts Bay Transportation Authority, MBTA and Vice-chair of the Fiscal Management & Control Board, FMCB; BRIAN SHORTSLEEVE, General Manager of the MBTA and Board Member of the FMCB; VINCE POON, Former Benefit Manager of the MBTA; MASSACHUSETTS BAY TRANSPORTATION AUTHORITY; MASSACHUSETTS DEPARTMENT OF TRANSPORTATION; FISCAL MANAGEMENT AND CONTROL BOARD,

Defendants - Appellees.

Before

Barron, Chief Judge,
Gelpí and Montecalvo, Circuit Judges.

JUDGMENT

Entered: December 11, 2023

Plaintiff-appellant Simon Chan alleges that he was one of fourteen customer call center employees laid off by a state public transportation authority. Chan further alleges that the layoff was an irrational and discriminatory act, and a breach of contract. He filed suit in the United States District Court for the District of Massachusetts against certain government officials and departments. The district court granted a defense motion to dismiss for lack of subject matter jurisdiction and failure to state a claim. Chan filed two unsuccessful motions for reconsideration. This appeal followed. Chan has filed an opening brief. Certain defendants have filed a motion for summary affirmance, while others have filed a responsive brief.

The district court concluded that Chan's complaint did not offer a plausible factual basis for his assertions of age discrimination, national-origin discrimination, retaliation or violation of the Equal Protection clause. See Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009) ("While legal

conclusions can provide the framework of a complaint, they must be supported by factual allegations."). On appeal, Chan has offered no persuasive response to the district court's assessment. Thus, we agree that dismissal of Chan's federal claims was in order.

The district court also held that the state-law breach of contract claim was substantively deficient. However, with Chan's federal claims all dismissed and with the prerequisites of diversity jurisdiction lacking, it perhaps would have been best for the district court to refuse to assume supplemental jurisdiction over the state-law contract claim and to dismiss it without prejudice.

Chan's motion for "Excusable Neglect on Late Filings" is **ALLOWED** in that all of his appellate filings have been taken into consideration. The judgment of the district court, and its denials of motions for reconsideration, are **AFFIRMED**, though the dismissal of Chan's state law contract claim is converted to a dismissal **WITHOUT PREJUDICE**.

SO ORDERED.

By the Court:

Maria R. Hamilton, Clerk

cc:

Simon Wai Chan
Joseph Patrick Lucia
William T. Harrington
Kevin Sean McDermott
Denise A. Brogna

Apdx-I

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:20-cv-11449-DJC

Chan v. Baker et al

Assigned to: Judge Denise J. Casper

Case in other court: USCA - First Circuit, 22-01093

Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 07/30/2020

Date Terminated: 09/15/2021

Jury Demand: Plaintiff

Nature of Suit: 950 Constitutional - State Statute

Jurisdiction: Federal Question

Plaintiff

Simon Chan

Former Employee of Massachusetts Bay Transportation Authority

represented by **Simon Chan**

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Arlington, MA 02474

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PRO SE

V.

Defendant

Charlie Baker

Governor of the Commonwealth of Massachusetts

represented by **Joseph P. Lucia**

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Government Bureau/Trial Division

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ATTORNEY TO BE NOTICED

Defendant

Stephanie Pollack

Secretary & CEO of Massachusetts Department of Transportation

represented by **Joseph P. Lucia**

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

Steve Poftak

General Manager of Massachusetts Bay Transportation Authority, MBTA and Vice-chair of the Fiscal Management & Control Board, FMCB

represented by **Christine A. Maglione**

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TERMINATED: 02/07/2022

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ATTORNEY TO BE NOTICED

Defendant

Brian Shortsleeve

*General Manager of the MBTA and Board
Member of the FMCB*

represented by **William T. Harrington**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Vince Poon

Former Benefit Manager of the MBTA

represented by **Christine A. Maglione**
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TERMINATED: 02/07/2022
ATTORNEY TO BE NOTICED

William T. Harrington
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Defendant

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ATTORNEY TO BE NOTICED

Christine A. Maglione
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William T. Harrington
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ATTORNEY TO BE NOTICED

Defendant

**Massachusetts Department of
Transportation**

represented by **Joseph P. Lucia**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Fiscal Management and Control Board[Email All Attorneys](#)[Email All Attorneys and Additional Recipients](#)

Date Filed	#	Docket Text
07/30/2020	<u>1</u>	COMPLAINT against All Defendants, filed by Simon Chan. (Attachments: # <u>1</u> Exhibits, # <u>2</u> Civil Cover Sheet, # <u>3</u> Category Form, # <u>4</u> Proposed Summons as to Charlie Baker, # <u>5</u> Proposed Summons as to Stephanie Pollack, # <u>6</u> Proposed Summons as to Steve Poftak, # <u>7</u> Proposed Summons as to Brian Shortsleeve)(Warnock, Douglas) (Entered: 07/31/2020)
07/30/2020	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Simon Chan. (Attachments: # <u>1</u> Exhibit)(Warnock, Douglas) (Entered: 07/31/2020)
07/31/2020	<u>3</u>	ELECTRONIC NOTICE of Case Assignment. Judge Denise J. Casper assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Jennifer C. Boal. (Finn, Mary) (Entered: 07/31/2020)
08/03/2020	<u>4</u>	AMENDED COMPLAINT against All Defendants filed by Simon Chan.(Currie, Haley) (Entered: 08/03/2020)
08/06/2020	<u>5</u>	Filing fee/payment: \$ 400, receipt number 1BST081245 for <u>1</u> Complaint, (Firmin, Britney) (Entered: 08/06/2020)
08/07/2020	<u>6</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>2</u> Motion for Leave to Proceed in forma pauperis. Motion is denied as moot in light of the filing fee having been paid. (Currie, Haley) (Entered: 08/07/2020)
08/07/2020	<u>7</u>	Summons Issued as to All Defendants. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Currie, Haley) (Entered: 08/07/2020)
09/08/2020	<u>8</u>	MOTION to Amend <u>1</u> Complaint, by Simon Chan. (Attachments: # <u>1</u> Amended Complaint) (Currie, Haley) (Entered: 09/09/2020)
10/20/2020	<u>9</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>8</u> Motion to Amend Complaint. (Currie, Haley) (Entered: 10/20/2020)
10/20/2020	<u>10</u>	AMENDED COMPLAINT against All Defendants, filed by Simon Chan.(Currie, Haley) (Entered: 10/20/2020)
10/27/2020	<u>11</u>	MOTION for Extension of Time of 45 Days to complete services of summonses by Simon Chan. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Receipts)(Currie, Haley) (Entered: 10/27/2020)
11/09/2020	<u>12</u>	NOTICE of Appearance by William T. Harrington on behalf of Massachusetts Bay Transportation Authority (Harrington, William) (Entered: 11/09/2020)
11/09/2020	<u>13</u>	MOTION for Extension of Time to 11/25/2020 to File Answer or Otherwise Respond to <i>Complaint</i> by Massachusetts Bay Transportation Authority.(Harrington, William) (Entered: 11/09/2020)

11/10/2020	<u>14</u>	NOTICE of Appearance by Joseph P. Lucia on behalf of Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack (Lucia, Joseph) (Entered: 11/10/2020)
11/10/2020	<u>15</u>	MOTION for Extension of Time to November 27, 2020 to File Answer or otherwise respond to Plaintiff's (second amended) Verified Complaint by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack.(Lucia, Joseph) (Entered: 11/10/2020)
11/14/2020	<u>16</u>	NOTICE by Massachusetts Bay Transportation Authority that Pro Se Plaintiff Assents to Motion to Enlarge Time to Respond to Complaint (Doc. No. 13) (Harrington, William) (Entered: 11/14/2020)
11/16/2020	<u>17</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered. In light of D. 16, the Court grants <u>13</u> Motion for Extension of Time to Answer re <u>10</u> Amended Complaint Massachusetts Bay Transportation Authority answer due 11/25/2020. (Hourihan, Lisa) (Entered: 11/16/2020)
11/16/2020	<u>18</u>	MOTION to Dismiss by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack.(Lucia, Joseph) (Entered: 11/16/2020)
11/16/2020	<u>19</u>	MEMORANDUM in Support re <u>18</u> MOTION to Dismiss filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack. (Lucia, Joseph) (Entered: 11/16/2020)
11/17/2020	<u>20</u>	NOTICE of Appearance by William T. Harrington on behalf of Vince Poon (Harrington, William) (Entered: 11/17/2020)
11/17/2020	<u>21</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>11</u> Motion for Extension of Time of 45 days <i>nunc pro tunc</i> to 12/11/2020. (Currie, Haley) (Entered: 11/17/2020)
11/18/2020	<u>22</u>	NOTICE of Appearance by William T. Harrington on behalf of Steve Poftak (Harrington, William) (Entered: 11/18/2020)
11/19/2020	<u>23</u>	STIPULATION By Plaintiff and by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon. (Harrington, William) (Entered: 11/19/2020)
12/03/2020	<u>24</u>	NOTICE of Appearance by Christine A. Maglione on behalf of Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon (Maglione, Christine) (Entered: 12/03/2020)
12/03/2020	<u>25</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon.(Harrington, William) (Entered: 12/03/2020)
12/03/2020	<u>26</u>	MEMORANDUM in Support re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon. (Harrington, William) (Entered: 12/03/2020)
12/03/2020	<u>27</u>	AFFIDAVIT in Support re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Kevin S. McDermott filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon. (Attachments: # <u>1</u> Exh. 1 - MCAD Complaint, # <u>2</u> Exh 2 - MCAD Dismissal)(Harrington, William) (Entered: 12/03/2020)
12/03/2020	<u>28</u>	AFFIDAVIT in Support re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Ahmad Barnes filed by Massachusetts Bay Transportation Authority, Steve

		Poftak, Vince Poon. (Attachments: # <u>1</u> Exh 1 - CBA Excerpts)(Harrington, William) (Entered: 12/03/2020)
12/08/2020	<u>29</u>	NOTICE of Appearance by William T. Harrington on behalf of Brian Shortsleeve (Harrington, William) (Entered: 12/08/2020)
12/09/2020	<u>30</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Brian Shortsleeve. (Harrington, William) (Entered: 12/09/2020)
12/11/2020	<u>31</u>	Opposition to <u>18</u> MOTION to Dismiss by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack filed by Simon Chan. (Currie, Haley) (Entered: 12/11/2020)
12/11/2020	<u>32</u>	MEMORANDUM OF LAW and Facts to Oppose <u>18</u> MOTION to Dismiss by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack filed by Simon Chan. (Attachments: # <u>1</u> Exhibit)(Currie, Haley) (Entered: 12/11/2020)
12/17/2020	<u>33</u>	Opposition MOTION to Object <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM and <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Simon Chan.(Currie, Haley) (Entered: 12/17/2020)
12/17/2020	<u>34</u>	MEMORANDUM in Support re <u>33</u> MOTION to Object <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Simon Chan. (Attachments: # <u>1</u> Exhibits)(Currie, Haley) (Entered: 12/17/2020)
12/30/2020	<u>35</u>	MOTION for Leave to File <i>Reply to Plaintiff's Opposition to Motion to Dismiss</i> by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon, Brian Shortsleeve. (Attachments: # <u>1</u> Proposed Reply to Plaintiff's Opposition to Motion to Dismiss, # <u>2</u> Supplimental Affidavit of Ahmad Barnes, # <u>3</u> Exh. 1 to Suppl. Aff. - 2005 MOU) (Harrington, William) (Entered: 12/30/2020)
01/12/2021	<u>36</u>	<p>ELECTRONIC NOTICE Setting Hearing on Motion <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>18</u> MOTION to Dismiss :</p> <p>This hearing will be conducted by video conference. Counsel of record will receive a video conference invite at the email registered in CM/ECF. If you have technical or compatibility issues with the technology, please notify the session's courtroom deputy as soon as possible.</p> <p>Access to the hearing will be made available to the media and public. In order to gain access to the hearing, you must sign up at the following address:</p> <p>https://forms.mad.uscourts.gov/courtlist.html</p> <p>For questions regarding access to hearings, you may refer to the Court's general orders and public notices available on www.mad.uscourts.gov or contact media@mad.uscourts.gov.</p> <p>Motion Hearing set for 2/11/2021 12:00 PM in Remote Proceeding : Boston before Judge Denise J. Casper. (Hourihan, Lisa) (Entered: 01/12/2021)</p>
01/12/2021	<u>37</u>	Judge Denise J. Casper: Standing Order Regarding Appearance of Counsel Via Telephone or Videoconference (Hourihan, Lisa) (Entered: 01/12/2021)

01/13/2021	<u>38</u>	Plaintiff's MOTION to Oppose Defendant's <u>35</u> MOTION for Leave to File <i>Reply to Plaintiff's Opposition to Motion to Dismiss</i> by Simon Chan. (Attachment: Exhibit 1 removed from this entry and correctly filed with Memorandum) (Currie, Haley). (Entered: 01/13/2021)
01/13/2021	<u>39</u>	MEMORANDUM in Support re <u>38</u> MOTION re <u>35</u> MOTION for Leave to File <i>Reply to Plaintiff's Opposition to Motion to Dismiss</i> filed by Simon Chan. (Attachments: # <u>1</u> Exhibit M-1, # <u>2</u> Exhibit M-2, # <u>3</u> Exhibit M-3)(Currie, Haley) (Entered: 01/13/2021)
02/05/2021	<u>40</u>	MOTION for Leave to file electronically Pro Se by Simon Chan.(Currie, Haley) (Entered: 02/05/2021)
02/08/2021	<u>41</u>	<p>ELECTRONIC NOTICE Resetting Hearing on Motion <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>18</u> MOTION to Dismiss :</p> <p>This hearing will be conducted by video conference. Counsel of record will receive a video conference invite at the email registered in CM/ECF. If you have technical or compatibility issues with the technology, please notify the session's courtroom deputy as soon as possible.</p> <p>Access to the hearing will be made available to the media and public. In order to gain access to the hearing, you must sign up at the following address: https://forms.mad.uscourts.gov/courtlist.html.</p> <p>For questions regarding access to hearings, you may refer to the Court's general orders and public notices available on www.mad.uscourts.gov or contact media@mad.uscourts.gov.</p> <p>Motion Hearing set for 2/11/2021 01:30 PM in Remote Proceeding : Boston before Judge Denise J. Casper. NOTE TIME CHANGE ONLY(Hourihan, Lisa) (Entered: 02/08/2021)</p>
02/11/2021	<u>42</u>	Electronic Clerk's Notes for proceedings held before Judge Denise J. Casper: Motion Hearing held on 2/11/2021 re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon, <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Brian Shortsleeve, <u>18</u> MOTION to Dismiss filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack by videoconference. Court informs counsel that Mr. Chan is a court interpreter and has interpreted in this session on a recent criminal matter. If anyone has an issue, they can notify the Court. Plaintiff not pressing ERISA claim. Arguments. Court takes under advisement <u>18</u> Motion to Dismiss; takes under advisement <u>25</u> Motion to Dismiss for Failure to State a Claim; takes under advisement <u>30</u> Motion to Dismiss for Failure to State a Claim. (Court Reporter: Debra Joyce at joycedebra@gmail.com.) (Attorneys present: Simon Chan pro se. William Harrington, Joseph Lucia and Christine Maglione for the defendants.) (Hourihan, Lisa) (Entered: 02/11/2021)
08/19/2021	<u>43</u>	Transcript of Motion Hearing held on February 11, 2021, before Judge Denise J. Casper. The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Court Reporter Name and Contact Information: Debra Joyce at joycedebra@gmail.com. Redaction Request due 9/9/2021. Redacted Transcript Deadline set for 9/20/2021. Release of Transcript Restriction set for 11/17/2021. (Coppola, Katelyn) (Entered: 08/31/2021)

08/19/2021	<u>44</u>	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/caseinfo/transcripts.htm (Coppola, Katelyn) (Entered: 08/31/2021)
09/08/2021	<u>45</u>	NOTICE of Appearance by Denise A. Brogna on behalf of Massachusetts Bay Transportation Authority (Brogna, Denise) (Entered: 09/08/2021)
09/15/2021	<u>46</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <i>nunc pro tunc</i> <u>15</u> Motion for Extension of Time to Answer re <u>10</u> Amended Complaint Charlie Baker answer due 11/26/2021; Massachusetts Department of Transportation answer due 11/26/2021; Stephanie Pollack answer due 11/26/2021. (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>47</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>33</u> Opposition MOTION to Object <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM and <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Simon Chan. Plaintiff's "opposition memo", D. 33, is DENIED, but the Court considered the substance of this filing in the resolution of the motions to dismiss, D. 18, 25, 30. (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>48</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>35</u> Motion for Leave to File Reply Brief and <u>38</u> Motion Plaintiff's MOTION to Oppose Defendant's <u>35</u> MOTION for Leave to File Reply to Plaintiff's Opposition to Motion to Dismiss by Simon Chan. Having consider the Defendants' motion for leave to file a reply brief, D. 35, and Plaintiff's opposition to same, D. 38, the Court ALLOWS the motion <i>nunc pro tunc</i> and considered D. 35-1 in the resolution of the motions to dismiss, D. 18, 25 and 30. The Court DENIES the "opposition motion," D. 38. (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>49</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>40</u> Motion for leave to electronically file Pro Se. The court grants permission on the condition that the pro se litigant is familiar with the Courts Local Rules. https://www.mad.uscourts.gov/general/rules-home.htm . The CM/ECF system follows and must be used in conjunction with the Federal Rules of Civil & Criminal Procedure, the Local Rules, and any administrative orders and policies of the United States District for the District of Massachusetts. The litigant is directed to complete the registration form accessible at https://forms.mad.uscourts.gov/ecfreg.html . (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>50</u>	Judge Denise J. Casper: ORDER entered. MEMORANDUM AND ORDER - The Court ALLOWS Defendants' motions to dismiss. D. 18, 25, 30.(Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>51</u>	Judge Denise J. Casper: ORDER entered. ORDER DISMISSING CASE(Hourihan, Lisa) (Entered: 09/15/2021)
10/13/2021	<u>52</u>	MOTION for Reconsideration re <u>50</u> Memorandum & ORDER and <u>51</u> Order Dismissing Case by Simon Chan.(Currie, Haley) (Entered: 10/13/2021)
10/22/2021	<u>53</u>	Opposition re <u>52</u> MOTION for Reconsideration re <u>50</u> Memorandum & ORDER, <u>51</u> Order Dismissing Case filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince

		Poon, Brian Shortsleeve. (Brogna, Denise) (Entered: 10/22/2021)
11/01/2021	<u>54</u>	Opposition re <u>52</u> MOTION for Reconsideration re <u>50</u> Memorandum & ORDER, <u>51</u> Order Dismissing Case filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack. (Lucia, Joseph) (Entered: 11/01/2021)
11/04/2021	<u>55</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>52</u> Motion for Reconsideration re <u>52</u> MOTION for Reconsideration re <u>50</u> Memorandum & ORDER, <u>51</u> Order Dismissing Case filed by Simon Chan. Having considered Plaintiff's motion for reconsideration, D. 52, and the opposition to same, D. 53-54, the Court DENIES the motion. (Hourihan, Lisa) (Entered: 11/04/2021)
12/03/2021	<u>56</u>	Plaintiff's Final MOTION for Reconsideration re 55 Order on Motion for Reconsideration by Simon Chan.(Currie, Haley) (Entered: 12/03/2021)
12/13/2021	<u>57</u>	MEMORANDUM in Opposition re <u>56</u> MOTION for Reconsideration re 55 Order on Motion for Reconsideration, filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon, Brian Shortsleeve. (Brogna, Denise) (Entered: 12/13/2021)
12/21/2021	<u>58</u>	Opposition re <u>56</u> MOTION for Reconsideration re 55 Order on Motion for Reconsideration, filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack. (Lucia, Joseph) (Entered: 12/21/2021)
01/04/2022	<u>59</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>56</u> Motion for Reconsideration re <u>56</u> MOTION for Reconsideration re 55 Order on Motion for Reconsideration, filed by Simon Chan. Having considered Plaintiff's further motion for reconsideration, D. 56, and the opposition to same, D. 57-58, the Court DENIES the motion. (Hourihan, Lisa) (Entered: 01/04/2022)
02/02/2022	<u>60</u>	NOTICE OF APPEAL as to 59 Order on Motion for Reconsideration, by Simon Chan NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf. Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf. US District Court Clerk to deliver official record to Court of Appeals by 2/22/2022. (Warnock, Douglas) (Entered: 02/02/2022)
02/02/2022	<u>61</u>	MOTION for Leave to Appeal in forma pauperis by Simon Chan. (Attachments: # <u>1</u> Exhibit) (Warnock, Douglas) (Main Document 61 replaced and Additional attachment(s) added on 2/2/2022: # <u>2</u> AO 240 Form) (Warnock, Douglas). (Entered: 02/02/2022)
02/04/2022	<u>62</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>61</u> Motion for Leave to Appeal in forma pauperis (Hourihan, Lisa) (Entered: 02/04/2022)
02/07/2022	<u>63</u>	USCA Case Number 22-1093 for <u>60</u> Notice of Appeal, filed by Simon Chan. (Paine, Matthew) (Entered: 02/07/2022)
02/07/2022	<u>64</u>	NOTICE of Withdrawal of Appearance by Christine A. Maglione (Maglione, Christine) (Entered: 02/07/2022)
12/11/2023	<u>65</u>	USCA Judgment as to <u>60</u> Notice of Appeal filed by Simon Chan (Paine, Matthew)

The judgment of the district court, and its denials of motions for reconsideration, are AFFIRMED, though the dismissal of Chan's state law contract claim is converted to a dismissal WITHOUT PREJUDICE.

(Entered: 12/12/2023)

01/03/2024	<u>66</u>	MANDATE of USCA as to <u>60</u> Notice of Appeal, filed by Simon Chan. Appeal <u>60</u> Terminated. (Pacho, Arnold) (Entered: 01/04/2024)
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United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:20-cv-11449-DJC

Chan v. Baker et al

Assigned to: Judge Denise J. Casper

Case in other court: USCA - First Circuit, 22-01093

Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 07/30/2020

Date Terminated: 09/15/2021

Jury Demand: Plaintiff

Nature of Suit: 950 Constitutional - State Statute

Jurisdiction: Federal Question

Plaintiff

Simon Chan

Former Employee of Massachusetts Bay Transportation Authority

represented by **Simon Chan**

1203 Symmes Circle

Arlington, MA 02474

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V.

Defendant

Charlie Baker

Governor of the Commonwealth of Massachusetts

represented by **Joseph P. Lucia**

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617-963-2806

Email: joseph.lucia@mass.gov

ATTORNEY TO BE NOTICED

Defendant

Stephanie Pollack

Secretary & CEO of Massachusetts Department of Transportation

represented by **Joseph P. Lucia**

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

Steve Poftak

General Manager of Massachusetts Bay Transportation Authority, MBTA and Vice-chair of the Fiscal Management & Control Board, FMCB

represented by **Christine A. Maglione**

Harrington & Rice, P.C.

738 Main Street

Hingham, MA 02043

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Email: cam@harringtonrice.com

TERMINATED: 02/07/2022

ATTORNEY TO BE NOTICED

William T. Harrington

Harrington & Rice, P.C.
738 Main Street
Hingham, MA 02043
781-385-7230
Fax: 781-740-7207
Email: wth@harringtonrice.com
ATTORNEY TO BE NOTICED

Defendant

Brian Shortsleeve

*General Manager of the MBTA and Board
Member of the FMCB*

represented by **William T. Harrington**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Vince Poon

Former Benefit Manager of the MBTA

represented by **Christine A. Maglione**
(See above for address)
TERMINATED: 02/07/2022
ATTORNEY TO BE NOTICED

William T. Harrington
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**Massachusetts Bay Transportation
Authority**

represented by **Denise A. Brogna**
MBTA Law Department
Ten Park Plaza
Boston, MA 02116
617-429-9236
Email: dbrogna@mbta.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Christine A. Maglione
(See above for address)
TERMINATED: 02/07/2022
ATTORNEY TO BE NOTICED

William T. Harrington
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**Massachusetts Department of
Transportation**

represented by **Joseph P. Lucia**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Fiscal Management and Control Board**Email All Attorneys****Email All Attorneys and Additional Recipients**

Date Filed	#	Docket Text
07/30/2020	<u>1</u>	COMPLAINT against All Defendants, filed by Simon Chan. (Attachments: # <u>1</u> Exhibits, # <u>2</u> Civil Cover Sheet, # <u>3</u> Category Form, # <u>4</u> Proposed Summons as to Charlie Baker, # <u>5</u> Proposed Summons as to Stephanie Pollack, # <u>6</u> Proposed Summons as to Steve Poftak, # <u>7</u> Proposed Summons as to Brian Shortsleeve)(Warnock, Douglas) (Entered: 07/31/2020)
07/30/2020	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Simon Chan. (Attachments: # <u>1</u> Exhibit)(Warnock, Douglas) (Entered: 07/31/2020)
07/31/2020	<u>3</u>	ELECTRONIC NOTICE of Case Assignment. Judge Denise J. Casper assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Jennifer C. Boal. (Finn, Mary) (Entered: 07/31/2020)
08/03/2020	<u>4</u>	AMENDED COMPLAINT against All Defendants filed by Simon Chan.(Currie, Haley) (Entered: 08/03/2020)
08/06/2020	<u>5</u>	Filing fee/payment: \$ 400, receipt number 1BST081245 for <u>1</u> Complaint, (Firmin, Britney) (Entered: 08/06/2020)
08/07/2020	<u>6</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>2</u> Motion for Leave to Proceed in forma pauperis. Motion is denied as moot in light of the filing fee having been paid. (Currie, Haley) (Entered: 08/07/2020)
08/07/2020	<u>7</u>	Summons Issued as to All Defendants. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Currie, Haley) (Entered: 08/07/2020)
09/08/2020	<u>8</u>	MOTION to Amend <u>1</u> Complaint, by Simon Chan. (Attachments: # <u>1</u> Amended Complaint) (Currie, Haley) (Entered: 09/09/2020)
10/20/2020	<u>9</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>8</u> Motion to Amend Complaint. (Currie, Haley) (Entered: 10/20/2020)
10/20/2020	<u>10</u>	AMENDED COMPLAINT against All Defendants, filed by Simon Chan.(Currie, Haley) (Entered: 10/20/2020)
10/27/2020	<u>11</u>	MOTION for Extension of Time of 45 Days to complete services of summonses by Simon Chan. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Receipts)(Currie, Haley) (Entered: 10/27/2020)
11/09/2020	<u>12</u>	NOTICE of Appearance by William T. Harrington on behalf of Massachusetts Bay Transportation Authority (Harrington, William) (Entered: 11/09/2020)
11/09/2020	<u>13</u>	MOTION for Extension of Time to 11/25/2020 to File Answer or Otherwise Respond to Complaint by Massachusetts Bay Transportation Authority.(Harrington, William) (Entered: 11/09/2020)

11/10/2020	<u>14</u>	NOTICE of Appearance by Joseph P. Lucia on behalf of Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack (Lucia, Joseph) (Entered: 11/10/2020)
11/10/2020	<u>15</u>	MOTION for Extension of Time to November 27, 2020 to File Answer or otherwise respond to Plaintiff's (second amended) Verified Complaint by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack.(Lucia, Joseph) (Entered: 11/10/2020)
11/14/2020	<u>16</u>	NOTICE by Massachusetts Bay Transportation Authority that Pro Se Plaintiff Assents to Motion to Enlarge Time to Respond to Complaint (Doc. No. 13) (Harrington, William) (Entered: 11/14/2020)
11/16/2020	<u>17</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered. In light of D. 16, the Court grants <u>13</u> Motion for Extension of Time to Answer re <u>10</u> Amended Complaint Massachusetts Bay Transportation Authority answer due 11/25/2020. (Hourihan, Lisa) (Entered: 11/16/2020)
11/16/2020	<u>18</u>	MOTION to Dismiss by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack.(Lucia, Joseph) (Entered: 11/16/2020)
11/16/2020	<u>19</u>	MEMORANDUM in Support re <u>18</u> MOTION to Dismiss filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack. (Lucia, Joseph) (Entered: 11/16/2020)
11/17/2020	<u>20</u>	NOTICE of Appearance by William T. Harrington on behalf of Vince Poon (Harrington, William) (Entered: 11/17/2020)
11/17/2020	<u>21</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>11</u> Motion for Extension of Time of 45 days <i>nunc pro tunc</i> to 12/11/2020. (Currie, Haley) (Entered: 11/17/2020)
11/18/2020	<u>22</u>	NOTICE of Appearance by William T. Harrington on behalf of Steve Poftak (Harrington, William) (Entered: 11/18/2020)
11/19/2020	<u>23</u>	STIPULATION By Plaintiff and by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon. (Harrington, William) (Entered: 11/19/2020)
12/03/2020	<u>24</u>	NOTICE of Appearance by Christine A. Maglione on behalf of Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon (Maglione, Christine) (Entered: 12/03/2020)
12/03/2020	<u>25</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon.(Harrington, William) (Entered: 12/03/2020)
12/03/2020	<u>26</u>	MEMORANDUM in Support re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon. (Harrington, William) (Entered: 12/03/2020)
12/03/2020	<u>27</u>	AFFIDAVIT in Support re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Kevin S. McDermott filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon. (Attachments: # <u>1</u> Exh. 1 - MCAD Complaint, # <u>2</u> Exh 2 - MCAD Dismissal)(Harrington, William) (Entered: 12/03/2020)
12/03/2020	<u>28</u>	AFFIDAVIT in Support re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Ahmad Barnes filed by Massachusetts Bay Transportation Authority, Steve

		Poftak, Vince Poon. (Attachments: # <u>1</u> Exh 1 - CBA Excerpts)(Harrington, William) (Entered: 12/03/2020)
12/08/2020	<u>29</u>	NOTICE of Appearance by William T. Harrington on behalf of Brian Shortsleeve (Harrington, William) (Entered: 12/08/2020)
12/09/2020	<u>30</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Brian Shortsleeve. (Harrington, William) (Entered: 12/09/2020)
12/11/2020	<u>31</u>	Opposition to <u>18</u> MOTION to Dismiss by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack filed by Simon Chan. (Currie, Haley) (Entered: 12/11/2020)
12/11/2020	<u>32</u>	MEMORANDUM OF LAW and Facts to Oppose <u>18</u> MOTION to Dismiss by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack filed by Simon Chan. (Attachments: # <u>1</u> Exhibit)(Currie, Haley) (Entered: 12/11/2020)
12/17/2020	<u>33</u>	Opposition MOTION to Object <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM and <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Simon Chan.(Currie, Haley) (Entered: 12/17/2020)
12/17/2020	<u>34</u>	MEMORANDUM in Support re <u>33</u> MOTION to Object <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Simon Chan. (Attachments: # <u>1</u> Exhibits)(Currie, Haley) (Entered: 12/17/2020)
12/30/2020	<u>35</u>	MOTION for Leave to File <i>Reply to Plaintiff's Opposition to Motion to Dismiss</i> by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon, Brian Shortsleeve. (Attachments: # <u>1</u> Proposed Reply to Plaintiff's Opposition to Motion to Dismiss, # <u>2</u> Supplimental Affidavit of Ahmad Barnes, # <u>3</u> Exh. 1 to Suppl. Aff. - 2005 MOU) (Harrington, William) (Entered: 12/30/2020)
01/12/2021	<u>36</u>	<p>ELECTRONIC NOTICE Setting Hearing on Motion <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>18</u> MOTION to Dismiss :</p> <p>This hearing will be conducted by video conference. Counsel of record will receive a video conference invite at the email registered in CM/ECF. If you have technical or compatibility issues with the technology, please notify the session's courtroom deputy as soon as possible.</p> <p>Access to the hearing will be made available to the media and public. In order to gain access to the hearing, you must sign up at the following address:</p> <p>https://forms.mad.uscourts.gov/courtlist.html</p> <p>For questions regarding access to hearings, you may refer to the Court's general orders and public notices available on www.mad.uscourts.gov or contact media@mad.uscourts.gov.</p> <p>Motion Hearing set for 2/11/2021 12:00 PM in Remote Proceeding : Boston before Judge Denise J. Casper. (Hourihan, Lisa) (Entered: 01/12/2021)</p>
01/12/2021	<u>37</u>	Judge Denise J. Casper: Standing Order Regarding Appearance of Counsel Via Telephone or Videoconference (Hourihan, Lisa) (Entered: 01/12/2021)

01/13/2021	<u>38</u>	Plaintiff's MOTION to Oppose Defendant's <u>35</u> MOTION for Leave to File <i>Reply to Plaintiff's Opposition to Motion to Dismiss</i> by Simon Chan. (Attachment: Exhibit 1 removed from this entry and correctly filed with Memorandum) (Currie, Haley). (Entered: 01/13/2021)
01/13/2021	<u>39</u>	MEMORANDUM in Support re <u>38</u> MOTION re <u>35</u> MOTION for Leave to File <i>Reply to Plaintiff's Opposition to Motion to Dismiss</i> filed by Simon Chan. (Attachments: # <u>1</u> Exhibit M-1, # <u>2</u> Exhibit M-2, # <u>3</u> Exhibit M-3)(Currie, Haley) (Entered: 01/13/2021)
02/05/2021	<u>40</u>	MOTION for Leave to file electronically Pro Se by Simon Chan.(Currie, Haley) (Entered: 02/05/2021)
02/08/2021	<u>41</u>	<p>ELECTRONIC NOTICE Resetting Hearing on Motion <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , <u>18</u> MOTION to Dismiss :</p> <p>This hearing will be conducted by video conference. Counsel of record will receive a video conference invite at the email registered in CM/ECF. If you have technical or compatibility issues with the technology, please notify the session's courtroom deputy as soon as possible.</p> <p>Access to the hearing will be made available to the media and public. In order to gain access to the hearing, you must sign up at the following address: https://forms.mad.uscourts.gov/courtlist.html.</p> <p>For questions regarding access to hearings, you may refer to the Court's general orders and public notices available on www.mad.uscourts.gov or contact media@mad.uscourts.gov.</p> <p>Motion Hearing set for 2/11/2021 01:30 PM in Remote Proceeding : Boston before Judge Denise J. Casper. NOTE TIME CHANGE ONLY(Hourihan, Lisa) (Entered: 02/08/2021)</p>
02/11/2021	<u>42</u>	Electronic Clerk's Notes for proceedings held before Judge Denise J. Casper: Motion Hearing held on 2/11/2021 re <u>25</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon, <u>30</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Brian Shortsleeve, <u>18</u> MOTION to Dismiss filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack by videoconference. Court informs counsel that Mr. Chan is a court interpreter and has interpreted in this session on a recent criminal matter. If anyone has an issue, they can notify the Court. Plaintiff not pressing ERISA claim. Arguments. Court takes under advisement <u>18</u> Motion to Dismiss; takes under advisement <u>25</u> Motion to Dismiss for Failure to State a Claim; takes under advisement <u>30</u> Motion to Dismiss for Failure to State a Claim. (Court Reporter: Debra Joyce at joycedebra@gmail.com.) (Attorneys present: Simon Chan pro se. William Harrington, Joseph Lucia and Christine Maglione for the defendants.) (Hourihan, Lisa) (Entered: 02/11/2021)
08/19/2021	<u>43</u>	Transcript of Motion Hearing held on February 11, 2021, before Judge Denise J. Casper. The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Court Reporter Name and Contact Information: Debra Joyce at joycedebra@gmail.com. Redaction Request due 9/9/2021. Redacted Transcript Deadline set for 9/20/2021. Release of Transcript Restriction set for 11/17/2021. (Coppola, Katelyn) (Entered: 08/31/2021)

08/19/2021	<u>44</u>	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/caseinfo/transcripts.htm (Coppola, Katelyn) (Entered: 08/31/2021)
09/08/2021	<u>45</u>	NOTICE of Appearance by Denise A. Brogna on behalf of Massachusetts Bay Transportation Authority (Brogna, Denise) (Entered: 09/08/2021)
09/15/2021	<u>46</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <i>nunc pro tunc</i> <u>15</u> Motion for Extension of Time to Answer re <u>10</u> Amended Complaint Charlie Baker answer due 11/26/2021; Massachusetts Department of Transportation answer due 11/26/2021; Stephanie Pollack answer due 11/26/2021. (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>47</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>33</u> Opposition MOTION to Object 25 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM and 30 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Simon Chan. Plaintiff's "opposition memo", D. 33, is DENIED, but the Court considered the substance of this filing in the resolution of the motions to dismiss, D. 18, 25, 30. (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>48</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>35</u> Motion for Leave to File Reply Brief and <u>38</u> Motion Plaintiff's MOTION to Oppose Defendant's 35 MOTION for Leave to File Reply to Plaintiff's Opposition to Motion to Dismiss by Simon Chan. Having consider the Defendants' motion for leave to file a reply brief, D. 35, and Plaintiff's opposition to same, D. 38, the Court ALLOWS the motion <i>nunc pro tunc</i> and considered D. 35-1 in the resolution of the motions to dismiss, D. 18, 25 and 30. The Court DENIES the "opposition motion," D. 38. (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>49</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>40</u> Motion for leave to electronically file Pro Se. The court grants permission on the condition that the pro se litigant is familiar with the Courts Local Rules. https://www.mad.uscourts.gov/general/rules-home.htm . The CM/ECF system follows and must be used in conjunction with the Federal Rules of Civil & Criminal Procedure, the Local Rules, and any administrative orders and policies of the United States District for the District of Massachusetts. The litigant is directed to complete the registration form accessible at https://forms.mad.uscourts.gov/ecfreg.html . (Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>50</u>	Judge Denise J. Casper: ORDER entered. MEMORANDUM AND ORDER - The Court ALLOWS Defendants' motions to dismiss. D. 18, 25, 30.(Hourihan, Lisa) (Entered: 09/15/2021)
09/15/2021	<u>51</u>	Judge Denise J. Casper: ORDER entered. ORDER DISMISSING CASE(Hourihan, Lisa) (Entered: 09/15/2021)
10/13/2021	<u>52</u>	MOTION for Reconsideration re <u>50</u> Memorandum & ORDER and <u>51</u> Order Dismissing Case by Simon Chan.(Currie, Haley) (Entered: 10/13/2021)
10/22/2021	<u>53</u>	Opposition re <u>52</u> MOTION for Reconsideration re <u>50</u> Memorandum & ORDER, <u>51</u> Order Dismissing Case filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince

		Poon, Brian Shortsleeve. (Brogna, Denise) (Entered: 10/22/2021)
11/01/2021	<u>54</u>	Opposition re <u>52</u> MOTION for Reconsideration re <u>50</u> Memorandum & ORDER, <u>51</u> Order Dismissing Case filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack. (Lucia, Joseph) (Entered: 11/01/2021)
11/04/2021	<u>55</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>52</u> Motion for Reconsideration re <u>52</u> MOTION for Reconsideration re <u>50</u> Memorandum & ORDER, <u>51</u> Order Dismissing Case filed by Simon Chan. Having considered Plaintiff's motion for reconsideration, D. 52, and the opposition to same, D. 53-54, the Court DENIES the motion. (Hourihan, Lisa) (Entered: 11/04/2021)
12/03/2021	<u>56</u>	Plaintiff's Final MOTION for Reconsideration re 55 Order on Motion for Reconsideration by Simon Chan.(Currie, Haley) (Entered: 12/03/2021)
12/13/2021	<u>57</u>	MEMORANDUM in Opposition re <u>56</u> MOTION for Reconsideration re 55 Order on Motion for Reconsideration, filed by Massachusetts Bay Transportation Authority, Steve Poftak, Vince Poon, Brian Shortsleeve. (Brogna, Denise) (Entered: 12/13/2021)
12/21/2021	<u>58</u>	Opposition re <u>56</u> MOTION for Reconsideration re 55 Order on Motion for Reconsideration, filed by Charlie Baker, Massachusetts Department of Transportation, Stephanie Pollack. (Lucia, Joseph) (Entered: 12/21/2021)
01/04/2022	<u>59</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered re: <u>56</u> Motion for Reconsideration re <u>56</u> MOTION for Reconsideration re 55 Order on Motion for Reconsideration, filed by Simon Chan. Having considered Plaintiff's further motion for reconsideration, D. 56, and the opposition to same, D. 57-58, the Court DENIES the motion. (Hourihan, Lisa) (Entered: 01/04/2022)
02/02/2022	<u>60</u>	NOTICE OF APPEAL as to 59 Order on Motion for Reconsideration, by Simon Chan NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf. Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf. US District Court Clerk to deliver official record to Court of Appeals by 2/22/2022. (Warnock, Douglas) (Entered: 02/02/2022)
02/02/2022	<u>61</u>	MOTION for Leave to Appeal in forma pauperis by Simon Chan. (Attachments: # <u>1</u> Exhibit) (Warnock, Douglas) (Main Document 61 replaced and Additional attachment(s) added on 2/2/2022: # <u>2</u> AO 240 Form) (Warnock, Douglas). (Entered: 02/02/2022)
02/04/2022	<u>62</u>	Judge Denise J. Casper: ELECTRONIC ORDER entered granting <u>61</u> Motion for Leave to Appeal in forma pauperis (Hourihan, Lisa) (Entered: 02/04/2022)
02/07/2022	<u>63</u>	USCA Case Number 22-1093 for <u>60</u> Notice of Appeal, filed by Simon Chan. (Paine, Matthew) (Entered: 02/07/2022)
02/07/2022	<u>64</u>	NOTICE of Withdrawal of Appearance by Christine A. Maglione (Maglione, Christine) (Entered: 02/07/2022)
12/11/2023	<u>65</u>	USCA Judgment as to <u>60</u> Notice of Appeal filed by Simon Chan (Paine, Matthew)

The judgment of the district court, and its denials of motions for reconsideration, are AFFIRMED, though the dismissal of Chan's state law contract claim is converted to a dismissal WITHOUT PREJUDICE.

(Entered: 12/12/2023)

01/03/2024	<u>66</u>	MANDATE of USCA as to <u>60</u> Notice of Appeal, filed by Simon Chan. Appeal <u>60</u> Terminated. (Pacho, Arnold) (Entered: 01/04/2024)
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