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CLERK OF THE COURTS
NORFOLK COUNTY**

COMMONWEALTH OF MASSACHUSETTS

THE TRIAL COURT

SUPERIOR COURT DEPARTMENT

NORFOLK, ss.

Civil Action No. 2182CV01044

K.F., a minor, by his mother and legal guardian SANDRA FERNANDEZ,
By Special Appearance and Reservation of Rights
Petitioner,

v.

MARINA BAY RESIDENCES, LLC,
Plaintiff/Respondents,

v.

CALLAHAN, INC. and CUBE 3 STUDIO, LLC,
Defendants/Respondents.

**EX PARTE EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PROTECTIVE INTERVENTION, WITH REQUEST FOR INSURANCE DISCLOSURE
AND ENFORCEMENT OF MINOR RIGHTS** Filed

Under Special Appearance by Legal Guardian Sandra Fernandez on behalf of K.F., a
Minor

Pursuant to: **Mass. R. Civ. P. 17(c), G.L. c. 231 § 140C½, Standing Order 1-09,** and
the Court's Inherent and Supervisory Authority

NOW COMES Sandra Fernandez, as the legal guardian and mother of K.F., a minor,
and hereby moves this Honorable Court to:

1. Permit immediate protective intervention by K.F., under **Mass. R. Civ. P.
17(c)**, for the limited purpose of asserting protected rights and triggering insurance
disclosures under **Standing Order 1-09 and G.L. c. 231 § 140C½;**

2. Order all named defendants and third-party defendants in the above-captioned matter to disclose, under oath, the existence and scope of any and all insurance policies, including but not limited to primary, excess, umbrella, builder's risk, professional liability, CGL, D&O, and reinsurance coverage, relevant to the claims and parties in this litigation;

3. Enforce immediate docketing of all filings served by the undersigned on July 23 and July 25, 2025, on behalf of K.F., in accordance with **Mass. R. Civ. P. 79(a)** and **9A**, with preservation of original submission dates;

4. Declare all rights preserved, including rights to appeal, intervene, pursue federal action under **42 U.S.C. § 1983 and the Fair Housing Act**, and seek Supreme Judicial Court review under **G.L. c. 211, § 3**.

This filing is made ex parte and under special appearance only, solely to protect K.F.'s statutory and constitutional rights as a minor, without waiver of jurisdictional, intervention, or federal claims.

MEMORANDUM OF LAW IN SUPPORT

I. BACKGROUND AND EMERGENCY POSTURE

K.F. is a minor child with a Certificate of Indigency, whose legal and constitutional rights have been systematically suppressed across multiple dockets arising from the same operative facts — namely, severe water intrusion and construction-related hazards at Meriel Marina Bay, managed by Bozzuto and developed by Marina Bay Residences. As a minor resident and victim of these defects, K.F. is entitled to assert

protective rights in any litigation that implicates the factual basis of his injury, including this construction defect action.

K.F., through his guardian, served a Motion to Intervene on July 23, 2025, pursuant to **Mass. R. Civ. P. 9A**. No opposition has yet been filed, and the clerk's office has withheld docketing of his filings to date — an act that violates **Rule 79(a)**, **Rule 17(c)**, and the Due Process Clause of the **Fourteenth Amendment**.

Meanwhile, Callahan Inc. and its subcontractors are litigating construction liability and insurance-triggering defects in a forum that conceals or ignores the interests of known injured minors.

Immediate relief is necessary to protect K.F.'s standing, enforce statutory rights, and prevent further concealment of insurance coverage.

II. LEGAL GROUNDS

A. Mass. R. Civ. P. 17(c) – Protection of Minors

Under **Rule 17(c)**, a minor may appear only through a guardian or next friend, and the court bears a mandatory duty to protect the minor's interests once on notice. K.F., a minor with statutory and constitutional rights, has invoked this protection through this motion.

B. G.L. c. 231 § 140C½ – Protective Procedures

This statute mandates judicial enforcement of access and participation rights where disability or minority status is involved. K.F.'s minor status and indigency require heightened procedural safeguards.

C. Standing Order 1-09 – Insurance Disclosure

All parties must disclose insurance coverage in any civil action. K.F. is entitled to enforcement of these disclosures, particularly where injury and liability are implicated.

D. Rule 79(a) and Rule 9A – Docketing Obligations

The Clerk is not authorized to withhold filings served under **Rule 9A**. The continued failure to docket K.F.'s intervention materials constitutes procedural obstruction, warranting immediate judicial correction.

E. Federal Rights and Preservation

K.F. retains all rights under:

- **42 U.S.C. § 1983** – Deprivation of constitutional protections;
- **42 U.S.C. § 3617** – Fair Housing Act retaliation and exclusion;
- **42 U.S.C. § 12132** – ADA Title II (public access);
- **U.S. Const. Amend. I, V, XIV** – Access to courts, due process;
- **Massachusetts Declaration of Rights, Articles X, XI, XXVI.**

F. Ex Parte Emergency Relief

Where irreparable harm is imminent, and opposing parties have delayed or obstructed access, **Rule 65** allows ex parte relief. Because K.F. has received no response to his served intervention, and faces procedural extinction through silence and suppression, ex parte protection is legally warranted.

G. TRO Legal Standard – Mass. R. Civ. P. 65

Courts may grant ex parte TROs where immediate and irreparable harm will result before a hearing can be held. K.F. faces imminent loss of rights through procedural extinction, warranting this relief.

III. REQUESTED RELIEF

Petitioner respectfully requests:

1. Immediate entry of protective intervention for K.F., a minor, without prejudice to future amendment or expanded participation;
2. Judicial order directing all defendants and third-party defendants to file verified insurance disclosures within 10 days, pursuant to Standing **Order 1-09**;
3. An order compelling the Clerk to docket all filings served by or on behalf of K.F. since July 23, 2025, including the Motion to Intervene and attached affidavit, and granting injunctive relief as necessary to prevent further suppression or obstruction of K.F.'s filings and participation rights;
4. A declaration preserving all rights, including:
 - No waiver of jurisdiction, venue, or forum;
 - No estoppel regarding pending federal or SJC matters;
 - Full preservation of **Rule 17(c)** and constitutional safeguards.

IV. CONCLUSION

K.F., a minor indigent resident injured by the very defects litigated in this case, cannot be erased from proceedings while his interests are being litigated by others. The Court must now intervene to protect the procedural integrity of this case, enforce its docketing obligations, and ensure transparency regarding insurance exposure, including through issuance of injunctive relief where necessary to prevent further harm to K.F.'s rights as a minor litigant.

This Motion is submitted under special appearance only and does **not** constitute acceptance of the Court's jurisdiction, nor a waiver of any state or federal right.

Nothing herein shall be construed as consent, waiver, estoppel, or submission to jurisdiction, and all constitutional, statutory, and procedural objections are fully preserved.

Respectfully submitted,

Sandra Fernandez

As Legal Guardian and Mother of Minor K.F., *Pro Se*
By Special Appearance and Reservation of Rights

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Date: July 28th, 2025

By: Sandra Fernandez

As Legal Guardian and Mother of Minor K.F., *Pro Se*
By Special Appearance and Reservation of Rights

/s/ Sandra Fernandez

Sandra Fernandez

CERTIFICATE OF SERVICE

I hereby certify that on July 28th, 2025 a copy of the foregoing was served electronically/U.S. mail on all counsel of record.

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By: Sandra Fernandez
As Legal Guardian and Mother of Minor K.F., *Pro Se*
By Special Appearance and Reservation of Rights

/s/ Sandra Fernandez
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