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NORFOLK COUNTY
COMMONWEALTH OF MASSACHUSETTS

THE TRIAL COURT

SUPERIOR COURT DEPARTMENT

NORFOLK, ss.

Civil Action No. 2182CV01044

SANDRA FERNANDEZ, Pro Se
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.

EMERGENCY EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

Filed Under Special Appearance by Sandra Fernandez

Pursuant to **Mass. R. Civ. P. 65, G.L. c. 231 § 140C½**, and the inherent and supervisory authority of this Court, Petitioner Sandra Fernandez, under special appearance only, respectfully moves this Court to issue an emergency ex parte Temporary Restraining Order to prevent irreparable harm and unlawful prejudice. This motion is supported by the following Memorandum of Law, and is filed strictly under protest and without waiver of jurisdictional objections.

I. RELIEF REQUESTED

Sandra Fernandez respectfully requests that this Court:

1. Immediately enjoin, on an ex parte basis:
 - Any default, counterclaim, joinder, or severance involving her in this docket or in any related docket, including Docket No. 2582CV00064;
 - Any clerk refusal to docket filings submitted by her since July 12, 2025;
 - Any procedural manipulation that treats her as a party without proper joinder, notice, or service.
2. Order the immediate docketing of all filings submitted by Sandra Fernandez in compliance with **Mass. R. Civ. P. 79(a) and Rule 9A.**
3. Affirm that this appearance is special only, without jurisdictional submission or waiver of federal, constitutional, statutory, or procedural rights.

II. MEMORANDUM OF LAW

A. Ex Parte Relief Is Justified by Immediate Threat of Irreparable Harm

Sandra Fernandez is not a named party, not served, and never joined under **Mass.**

R. Civ. P. 4 or 20. Yet:

- Her name appears on the Second Amended Complaint, filed without authorization or due process;
- She is being treated as a party for default and counterclaim purposes in a severed docket (2582CV00064), despite never being added to that action;
- Since July 12, 2025, her filings have been systematically withheld from the docket, including emergency motions and statutory claims;
- She faces a looming July 31, 2025 deadline in a docket where she was never served, joined, or allowed to defend.

This constitutes an imminent violation of her rights under:

- **Mass. R. Civ. P. 79(a)** (filings must be docketed);
- **Article XI & XXVI of the Massachusetts Declaration of Rights;**
- **42 U.S.C. § 1983** (due process);
- **Title II of the ADA, Fair Housing Act,** and procedural due process under the

Fourteenth Amendment.

These violations also obstruct her parental and protected federal role as a litigant asserting procedural and class claims. No adequate remedy exists unless this Court immediately intervenes to stop default and ensure access to the judicial process.

B. Standing and Protective Status

Sandra Fernandez is entitled to protective status under **G.L. c. 231 § 140C½**, and cannot be defaulted, joined, or prejudiced without notice, joinder, or a hearing. Her filings on behalf of herself and in related dockets are constitutionally protected activity under:

- **U.S. Const. Amend. I, V, XIV;**
- **Mass. R. Civ. P. 12(a)** and **15** (defense and amendment rights);
- **Standing Order 1-09** (protection of pro se parties and minors).

She has appeared strictly under protest and without jurisdictional waiver.

C. Procedural Violations Require Injunctive Halt

The attempt to treat her as a joined party without service, signature, or joinder motion constitutes:

- A due process violation under both state and federal law;
- A breach of **Mass. R. Civ. P. 11** (unverified attorney representations);
- An abuse of the clerk's ministerial authority under **Rule 79**.

This Court has inherent power to restrain abuse of the docket and clerk's office to prevent structural due process harm.

D. Relief Must Be Issued Without Delay or Estoppel

This Motion does not waive:

- Intervention rights in any related case (including the Callahan case);
- Federal and state constitutional rights;
- Any pending or future filings before the Supreme Judicial Court, federal court, or criminal court;
- Claims under the **ADA, FHA, Section 1983**, or common law doctrines.

On the contrary, this filing preserves all rights and invokes the Court's equity powers to prevent further prejudice.

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. Ms. Fernandez faces imminent loss of rights through procedural extinction, warranting this relief.

III. PRAYER FOR RELIEF

Sandra Fernandez respectfully requests:

1. Immediate entry of an Ex Parte Temporary Restraining Order enjoining:
 - Any default, joinder, counterclaim, or adverse ruling concerning her;
 - Any action or manipulation by the clerk to suppress filings or misrepresent her party status.
2. An order compelling immediate docketing of all prior and current filings under **Mass. R. Civ. P. 79(a)**;

3. A declaration of protective procedural status under **G.L. c. 231 § 140C½**, and no waiver of rights;

4. A hearing date to determine whether a preliminary injunction shall issue.

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

By Special Appearance and Reservation of Rights

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Email: sandreva14@yahoo.com

Date: July 28th, 2025

/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
By Special Appearance and Reservation of Rights

/s/ Sandra Fernandez
Sandra Fernandez