

Docketed 11/14/2025

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

SUPERIOR COURT DEPARTMENT

NORFOLK, ss.

Civil Action No. 2382CV00389

K.F., a Minor, by his Legal Guardian, Sandra Fernandez,
Filed Under Special Appearance and Reservation of Rights,
Movant,

v.

**MARINA BAY RESIDENCES, LLC, BOZZUTO
MANAGEMENT CO., and DELANEY BARRETT,**
Defendants,

**MOTION TO VACATE OMNIBUS PROCEDURAL ORDER NO. 2,
FOR JUDICIAL RECUSAL REVIEW, AND TO STAY ALL CASE-MANAGEMENT
PROCEEDINGS**
(with Incorporated Memorandum of Law)

I. INTRODUCTION

This Motion arises from Omnibus Procedural Order No. 2 (entered October 10, 2025, Docket No. 225), which unlawfully excludes a minor child, K.F., from participation in ongoing proceedings while purporting to coordinate and “streamline” multiple actions now under active appellate review.

The Order, issued without service to the undersigned or the minor, and while multiple motions by the minor have remained pending and unruled upon since July 2025, constitutes a denial of due process, a violation of Mass. R. Civ. P. 17(c), and a direct encroachment upon the jurisdiction of the Massachusetts Appeals Court.

At the same time, this Court has continued to issue rulings in favor of corporate defendants and discharged counsel—most notably attorney Jonathan D. Sweet, who was discharged by his client in February 2025 yet continues to appear and file pleadings in violation of Rule 11 and the Rules of Professional Conduct.

This pattern raises grave concerns of selective adjudication, procedural manipulation, and the appearance of bias.

For these reasons, the undersigned respectfully moves that Omnibus Procedural Order No. 2 be vacated in its entirety, that all “case management” or “coordination” proceedings—including the November 17, 2025 hearing—be stayed pending appellate resolution, and that the matter be referred for administrative review.

II. FACTUAL BACKGROUND

1. On October 10, 2025, this Court entered “Omnibus Procedural Order No. 2,” allowing the parties’ joint request to exclude Sandra Fernandez, and her minor child K.F. from all further consultation or coordination.

The order stated these individuals “are not properly joined and thus lack standing in the pending actions.”

2. The Order was not served on Ms. Fernandez or K.F., though it directly impacts the minor pending motions to intervene and for protective relief.

3. K.F., a minor, filed multiple motions beginning in July 2025, including motions to intervene, to stay proceedings, and for protective orders under Rule 17(c). None of these motions have been ruled upon to date, while numerous motions from corporate defendants have been decided within days.

4. The same Order contemplates “case management” and “potential consolidation” of three distinct cases—each raising different legal questions, parties, and procedural histories—despite two of those cases being under active appeal (Docket Nos. 2382CV00389 and 2582CV00364).

5. In the 2382CV00389 action, attorney Jonathan Sweet, who was discharged by his client on February 10, 2025, filed a motion to sever his own client from a putative class action that was never certified under Mass. R. Civ. P. 23, substituting a “ghost plaintiff” and altering pleadings without authority.

That severance is presently on appeal before the Massachusetts Appeals Court.

6. Meanwhile, multiple insurers—including Zurich and other carrier networks associated with Marina Bay, Callahan, and Cube 3—have opened fraud and compliance investigations into the handling of insurance disclosures in these very dockets.

The undersigned has formally cooperated with those investigations, supplying court filings that suggest systematic misrepresentation of coverage and liability.

7. This Court has, nevertheless, continued to rule on defense motions while ignoring pending motions from the minor creating a pattern of selective adjudication inconsistent with due process and judicial impartiality.

III. LEGAL ARGUMENT

A. The Omnibus Order Violates Rule 17(c) and Due Process

A minor cannot be excluded from proceedings affecting his rights without express judicial findings and appointment of representation.

By declaring that K.F. “lacks standing” without adjudicating his pending motions, the Court effectively denied relief without hearing or record, violating Mass. R. Civ. P. 17

and the constitutional right to be heard.

B. This Court's Order Intrudes on Appellate Jurisdiction

Two of the three related cases (Nos. 2382CV00389 and 2582CV00364) are presently under appeal concerning the validity of the severance and substitution orders.

Once an appeal is docketed, the trial court loses authority over the matters on appeal. See *Commonwealth v. Montanez*, 410 Mass. 290, 294 (1991).

By consolidating or “coordinating” those cases under a new management structure, this Court risks mooting active appeals—a clear jurisdictional overreach.

C. Selective Rulings Demonstrate Procedural Bias

This Court's refusal to act on the minor's motions since July, while issuing rulings for represented corporate litigants, amounts to a constructive denial and a violation of the equal protection and due process clauses of the Massachusetts Declaration of Rights.

The selective silence toward pro se and minor filings, contrasted with rapid rulings for institutional parties, undermines the integrity of the judicial process.

D. Continuing to Manage the Case While Appeals Are Pending Constitutes Ultra Vires Action

The Superior Court's role at this stage is limited to assembling the record and transmitting files to the Appeals Court under Mass. R.A.P. 9(a).

Any further “coordination” or “case management” while jurisdiction is in question is ultra vires and void.

E. Insurer Investigations Heighten the Need for Judicial Caution

Insurers have opened investigations into potential fraudulent nondisclosure by parties in these very dockets. Any judicial endorsement of “streamlining” or settlement

while those investigations are pending risks contaminating evidence and creating conflicts between civil and insurance proceedings.

F. The Minor's Rights Cannot Be "Streamlined Away"

If this Court proceeds to "case manage" or "streamline" these dockets while refusing to rule on the minor's pending motions, it will further entrench a constitutional violation.

Rule 17(c) places an affirmative duty on the Court to safeguard minors' rights—not to ignore them.

G. The Appearance of "Docket Cleanup" to Cure Prior Judicial Irregularities Invites Appellate Scrutiny

Omnibus Order No. 2 appears designed to "clean up" the record of prior procedural errors committed under Judge Leighton by retroactively coordinating and reassigning matters that are already under appellate consideration.

Such efforts—however administrative in appearance—constitute substantive interference with pending appeals and will be presented to the Massachusetts Appeals Court, the Supreme Judicial Court, and the Chief Justice of the Trial Court for review.

IV. REQUESTED RELIEF

For these reasons, Movant K.F., by his mother and legal guardian, respectfully requests that this Honorable Court:

1. VACATE Omnibus Procedural Order No. 2 (Docket No. 225) in its entirety;
2. STAY all further case-management or "streamlining" proceedings, including the November 17, 2025 hearing, pending appellate review;
3. COMPEL the immediate assembly and transmission of the complete case record to the Appeals Court;

4. RULE on all pending motions by or on behalf of the minor before any further docket coordination occurs; and

5. REFER these matters for administrative review by the Chief Justice of the Superior Court and the Judicial Conduct Commission.

V. CONCLUSION

The Court's October 10, 2025 Omnibus Order unlawfully excludes a minor, exceeds its jurisdiction, and risks mooted active appeals.

Until the Appeals Court resolves those questions, any further trial-level coordination is beyond this Court's lawful authority and must cease.

Failure to vacate or stay the Order will result in immediate petitions for appellate and administrative relief.

Respectfully submitted,

K.F., a Minor, by his Legal Guardian, Sandra Fernandez,
Filed Under Special Appearance and Reservation of Rights,
Movant,

550 Liberty St. Unit 905
Braintree, MA 02184

Tel: (617) 806 6566

Email: sandreva14@yahoo.com

Date: October 23rd, 2025

By: Sandra Fernandez
On Behalf of K.F., a Minor, as his Legal Guardian, Pro Se,
Filed Under Special Appearance Only

/s/ Sandra Fernandez
Sandra Fernandez

CERTIFICATE OF SERVICE

I hereby certify that on October 23rd, 2025 a copy of the foregoing was served electronically on all counsel of record.

DEFENDANT,
MARINA BAY RESIDENCES, LLC,
BY ITS ATTORNEYS,

Daniel P. Dain, BBO# 632411
Kate Moran Carter, BBO# 663202
Dain, Torpy, Le Ray, Wiest & Garner, P.C.
ddain@daintorpy.com
kcarter@daintorpy.com

Gregory P. Sapire (*Pro Hac Vice*)
Raj Aujla (*Pro Hac Vice*)
Maynard Nexsen P.C.
gsapire@maynardnexsen.com
raujla@maynardnexsen.com

DEFENDANTS,
BOZZUTO MANAGEMENT CO. and DELANEY BARRETT
BY THEIR ATTORNEYS,
Ted Papadopoulos, BBO# 671506
AMPS Law, P.C.
ted@ampslaw.com.

James Bragdon (*Pro Hac Vice*)
Gallagher Evelius & Jones LLP
Sangita Kannan (*Pro Hac Vice*)
jbragdon@gejlaw.com
skannan@gejlaw.com

SUBSTITUTED PLAINTIFF,
BETH MATERNA BY HER ATTORNEY
Jonathan D. Sweet, Esq.
Keches Law Group P.C.
jsweet@kecheslaw.com

PRO SE LITIGANT
Dany Abouelkhier
danyaw@yahoo.com

PRO SE LITIGANT

By: Sandra Fernandez, Legal Guardian of K.F., a Minor
Filed Under Special Appearance and Reservation of All Rights,
Petitioner,

/s/ Sandra Fernandez
Sandra Fernandez