

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,

EMERGENCY MOTION TO STAY PROCEEDINGS PENDING APPEAL
AND TO COMPEL ASSEMBLY AND TRANSMISSION OF THE RECORD
(with Incorporated Memorandum of Law)

Now comes K.F., a minor, by his legal guardian, Sandra Fernandez, appearing solely under special appearance and expressly not submitting to jurisdiction, and respectfully moves this Court to:

1. Stay all proceedings affecting the minor

including all actions taken pursuant to Omnibus Procedural Orders Nos. 1 and 2, pending resolution of the minor's appeal.

2. Order immediate assembly and transmission of the record

for purposes of the minor's appeal pursuant to Mass. R. App. P. 8 & 9.

3. Correct and complete the docket

to include all filings submitted by or on behalf of the minor but never docketed (including July, August, and November filings), pursuant to Rule 79(a).

This Motion is strictly procedural and seeks no merits rulings.

MEMORANDUM OF LAW

I. A stay is mandatory where appellate jurisdiction has attached

Mass. R. App. P. 6(a) and Mass. R. Civ. P. 62 authorize stays where an appeal concerns the right of a party to participate in the action.

For minors, Rule 17(c) and related case law require heightened protection.

Here:

- The minor's intervention, protective orders, and Rule 23 motions remain unresolved.
- The Court has nonetheless issued structural orders that **exclude him**, which is a "final decision" as to him under Massachusetts law.
- A Notice of Appeal is now filed.
- Proceeding without him would **moot the appeal**, which is prohibited.

Thus, a stay is required.

II. The Superior Court must assemble and transmit the record once appeal is noticed

Mass. R. App. P. 8(a) and 9(a):

- The clerk **shall** assemble the record once a Notice of Appeal is filed.
- Transmission must occur "forthwith" where delay would impair appellate jurisdiction.
- The Superior Court **has no discretion** to refuse or delay assembly.

Because many of K.F.'s filings were never docketed despite compliance, a record correction order is required under:

- Mass. R. Civ. P. 79(a)
- Mass. R. App. P. 8(e)
- Due process principles

III. Failure to rule on a minor's Rule 17(c) and 23 motions is appealable

It is reversible error for a trial court to proceed with litigation while ignoring a minor's pending filings.

Constructive denial is recognized.

Minor litigants receive **special protection**.

Here, the Court's Omnibus Orders:

- Treat the minor as absent
- Exclude him from all scheduling
- Allow counterclaims and class-related restructuring without him

This is a final adjudication of his participation, creating appellate jurisdiction.

IV. The relief requested is procedural and narrow

This Motion:

- Does **not** seek merits rulings
- Does **not** delay discovery between represented parties
- Seeks only to protect appellate rights

PRAYER FOR RELIEF

K.F. respectfully requests:

1. A stay of all proceedings affecting him pending appeal;

2. Immediate assembly and transmission of the full appellate record;
3. Correction of the docket to include all minor-related filings;
4. Any further relief necessary to protect appellate jurisdiction.

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: November 13th, 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 November 13th, 2025 a copy of the foregoing was served electronically on all counsel of record.

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

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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