

Docketed 10/15/2025

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 COMPEL RULINGS ON PENDING MOTIONS AND TO
PROTECT MINOR'S RIGHTS WITH INCORPORATED MEMORANDUM OF LAW**

I. INTRODUCTION

The minor, K.F., by and through his legal guardian Sandra Fernandez, respectfully moves this Court on an emergency basis to compel rulings on all pending motions filed on his behalf between July 31 and August 13, 2025 (Papers 197–212) and to issue a protective order preserving his rights pending those rulings.

It has now been more than three months since the last of those motions was filed. No order or denial has issued. Meanwhile, counsel for the defendants and other parties have filed an October 2, 2025 Joint Motion to Revise Omnibus Procedural Order No. 1, acknowledging that the Court's docket conflates three separate cases and that ongoing settlement discussions are proceeding without inclusion of the minor.

Unless this Court acts immediately, the minor's motions will be mooted by procedural manipulation rather than judicial review—contrary to the protections guaranteed under Mass. R. Civ. P. 17(c), 77(d), and fundamental due process.

II. STATEMENT OF FACTS

1. Between July 31 and August 13, 2025, the minor filed multiple motions seeking intervention, protective relief, and a temporary restraining order (Papers 197–212).
2. On August 19 and 20, 2025, the Court entered certain denials (TRO-related) but took no action on the remaining motions. No copies or notices of those denials were ever served on the guardian.
3. Since that date, the docket reflects other procedural activity—including the October 2 Joint Motion and preparations for a November 17 status conference—yet no rulings or hearings concerning the minor.
4. The guardian has repeatedly sought clarification and has received none. The failure to rule now exceeds three months, effectively constituting a refusal to act.

III. ARGUMENT

1. Refusal to Act Constitutes a De Facto Denial Reviewable and Correctable by This Court

Under Mass. R. Civ. P. 60(b)(6) and G.L. c. 231 § 118(1), an unjustified refusal to rule is a reviewable abuse of discretion. Three months of silence on motions affecting a minor is no administrative delay—it is a denial by inaction.

2. The Court Has a Mandatory Duty to Protect Minors Under Rule 17(c)

Mass. R. Civ. P. 17(c) obliges courts to safeguard the interests of minors and incompetents. Where a minor appears through a guardian, the court must ensure that any adjudication or settlement affecting that minor is fair and reviewed on the record. The current failure to rule — while coordinating settlement proceedings — directly violates that duty.

3. Failure to Provide Notice Violates Rule 77(d) and Tolls Appellate Deadlines

Rule 77(d) requires the clerk to serve notice of entry of every order. The Court never served the August 19–20 denials. That failure voids any claim that appeal periods have expired. Without notice, the minor cannot exercise appellate rights.

4. The October 2 Joint Motion Confirms Procedural Confusion and Prejudice

Opposing counsel's Joint Motion admits that the Court "appears to have conflated" three cases and that coordination with the minor is "cumbersome." This is a confession of record that the minor's filings are being overlooked. Judicial intervention is necessary to prevent irreversible harm and loss of standing.

IV. RELIEF REQUESTED

For the foregoing reasons, the minor respectfully requests that this Court:

1. Rule forthwith on all pending motions filed on behalf of K.F. (Papers 197–212);
2. Enter an order staying any settlement, dismissal, or procedural action that may affect the minor until those rulings issue;

3. Direct the clerk to serve written notice of all orders on the guardian pursuant to Rule 77(d); and

4. Grant such other relief as justice and the minor's protection require.

Respectfully submitted,

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

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Braintree, MA 02184

Tel: (617) 806 6566

Email: sandreva14@yahoo.com

Date: October 8th, 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 8th, 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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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