

**COMMONWEALTH OF MASSACHUSETTS
HOUSING COURT DEPARTMENT
METRO SOUTH DIVISION**

NORFOLK, SS.

DOCKET No. 24H82SP03575

LENOX FARMS LIMITED PARTNERSHIP,

Plaintiff,

v.

MOHAMED KASSEM, DANNY ABOUELKHIER,

Defendants.

**DEFENDANT DANNY ABOUELKHIER'S MOTION TO DIRECT ENTRY OF FINAL
JUDGMENT PURSUANT TO MASS. R. CIV. P. 58(a)**
(With Incorporated Memorandum of Law)

Defendant Danny Abouelkhier respectfully moves, pursuant to **Mass. R. Civ. P. 58(a)**, that the Court direct the Clerk to enter a final judgment on a separate document forthwith.

I. PROCEDURAL POSTURE

This action was commenced as a summary process action seeking possession based on an alleged unauthorized occupant, as reflected in the Summary Process Summons and Complaint.

A bench trial was held on April 6, 2026. On April 15, 2026, the Court issued its Findings and Order, determining, inter alia, that no tenancy exists and that the Plaintiff's claim for possession is moot.

Summary process is limited to determining the right to possession, and that issue has been fully resolved by the Court's Findings.

Those Findings fully resolve the sole claim for possession in this action. No claims, counterclaims, or issues remain pending for adjudication, and this action has been fully adjudicated and terminated in its entirety as a summary process action.

The Court's transfer of any monetary or related issues to a separate civil action confirms, rather than negates, the finality of this summary process proceeding. Summary process is limited to determining the right to possession. The Court has already resolved that issue by determining that no tenancy exists and that the claim for possession is moot. Any monetary or ancillary matters, to the extent they exist, have been expressly removed from this docket and assigned to a separate civil action. Accordingly, no claims remain pending in this summary process case, and nothing remains to be adjudicated herein. Entry of final judgment is therefore required under Mass. R. Civ. P. 58(a).

The Plaintiff's initiating Summons and Complaint (Exhibit A) identifies the case as 'Cause Other Than Nonpayment' and leaves the money claim blank (\$_____). Because the Court has now found the possession claim moot, the summary process action is terminated, and a judgment of dismissal must enter to reflect the final status of this specific docket.

Any contrary interpretation would result in a disposition on the merits without entry of a final judgment, thereby depriving Defendant of the ability to obtain appellate review, contrary to Mass. R. Civ. P. 58(a) and Mass. R. A. P. 4(a).

II. ABSENCE OF FINAL JUDGMENT

Despite the Court's dispositive Findings, the docket does not reflect entry of a final judgment on a separate document.

The April 15, 2026 Findings and Order constitute a memorandum of decision and do not satisfy the requirement of a final judgment under the Massachusetts Rules of Civil Procedure. Findings of fact and conclusions of law are not a judgment and cannot substitute for the entry of judgment required by Rule 58(a).

Absent entry of judgment, there is no final, appealable disposition, leaving the case in a procedural posture in which dispositive findings exist without an appealable judgment.

III. RULE 58(a) REQUIRES ENTRY OF JUDGMENT

Mass. R. Civ. P. 58(a) mandates that every judgment be set forth on a separate document and entered by the clerk upon direction of the Court.

Where a court has fully adjudicated the claims before it, entry of judgment is required to formalize the disposition of the action. See **Mass. R. A. P. 4(a)** (appeal lies from the entry of judgment). A final judgment is the predicate for appellate jurisdiction.

Where nothing remains to be adjudicated, entry of judgment is not discretionary but a ministerial act required to effectuate the Court's disposition. At this stage, nothing remains for the Court to adjudicate in this action, and there is nothing left to be done except the ministerial entry of judgment.

IV. NECESSITY OF FINAL JUDGMENT FOR APPELLATE REVIEW

The absence of a Rule 58 judgment is presently impairing Defendant's ability to obtain appellate review of orders affecting substantial rights, including:

- the February 17, 2026 use and occupancy order; and
- the striking of Defendant's jury demand.

The Court has issued dispositive Findings resolving the action, yet no final judgment has entered, leaving those Findings operative without an appealable final order. This creates a procedurally indeterminate posture that effectively prevents timely appellate review.

As reflected in the Appeals Court's April 8, 2026 order (Sacks, J.), the absence of a final judgment on the docket renders the matter interlocutory and precludes appellate review. Entry of judgment pursuant to Mass. R. Civ. P. 58(a) is therefore necessary to permit the orderly exercise of appellate jurisdiction.

**V. ENTRY OF JUDGMENT IS REQUIRED NOTWITHSTANDING MOOTNESS OR
TRANSFER**

The obligation to enter judgment under Rule 58(a) is not avoided by a determination that the claim for possession is moot, nor by the transfer of any related issues to another docket.

A finding of mootness is itself a final disposition of the claim and must be reduced to judgment on a separate document. Likewise, the transfer of monetary or ancillary matters does not preserve this summary process action as pending, nor defer entry of judgment here.

Because the Court has resolved the only claim within its summary process jurisdiction, nothing remains to be adjudicated in this action. Under Rule 58(a), entry of judgment is required forthwith and is not discretionary.

Failure to enter judgment leaves the case in a posture where the merits have been decided but no appealable judgment exists, which is inconsistent with Rule 58 and **Mass. R. A. P. 4(a)**.

VI. REQUEST FOR ENTRY OF JUDGMENT FORTHWITH

Because the Court has fully adjudicated this action and no issues remain pending, entry of judgment is required.

Defendant submits herewith a Proposed Final Judgment consistent with the Court's April 15, 2026 Findings and Order resolving the claim for possession in this summary process action.

WHEREFORE, Defendant Danny Abouelkhier respectfully requests that this Court:

Direct the Clerk, pursuant to Mass. R. Civ. P. 58(a), to enter a final judgment on a separate document forthwith, consistent with the Court's April 15, 2026 Findings and Order resolving the claim for possession in this summary process action.

Respectfully submitted,

Danny Abouelkhier

Defendant, Pro Se

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Email: danytaw@yahoo.com

Dated: April 27, 2026

/s/ Dany Abouelkhier

Dany Abouelkhier (Pro Se)

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2026 a copy of the foregoing was served electronically on all counsel of record.

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Respectfully submitted,

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