

COMMONWEALTH OF MASSACHUSETTS

THE TRIAL COURT

SUPERIOR COURT DEPARTMENT

Essex, ss.

Civil Action No.: 2577CV01253

K. F., a minor, by his mother,
SANDRA FERNANDEZ DE VILLAVICENCIO,
and SANDRA FERNANDEZ DE VILLAVICENCIO,
individually
Plaintiffs,

v.

CUBE 3 STUDIO, LLC,
Defendant.

**PLAINTIFFS' EMERGENCY MOTION TO CONTINUE JULY 9, 2026 HEARINGS AND
MEMORANDUM IN SUPPORT**

Plaintiffs Kenzo Fernandez, a minor, by his mother and natural guardian Sandra Fernandez De Villavicencio, and Sandra Fernandez De Villavicencio, individually, respectfully move on an emergency basis to continue the hearings presently scheduled for **July 9, 2026 at 2:00 p.m.**

The July 9 hearings concern Defendant CUBE 3 Studio, LLC's pending dispositive motions. Plaintiffs respectfully request that the hearings be continued to a date after **October 1, 2026**, or to such later date as the Court deems appropriate based on the Court's availability and the medical documentation Plaintiffs seek to submit subject to impoundment.

Plaintiffs seek narrow relief only: a continuance of the July 9 hearings. Plaintiffs do not seek to reopen briefing, enlarge the discovery deadline, modify the full tracking order, or obtain any merits relief through this motion.

I. EMERGENCY BASIS AND GOOD CAUSE

The hearings are scheduled for **July 9, 2026 at 2:00 p.m.**, leaving insufficient time for Plaintiffs to proceed through the ordinary Rule 9A motion process.

Sandra Fernandez De Villavicencio is a Plaintiff individually and is also the mother and natural guardian named in the caption for minor Plaintiff Kenzo Fernandez. She is the adult party whose preparation and participation are required for the scheduled dispositive-motion hearings.

Sandra Fernandez De Villavicencio is presently dealing with an ongoing medical condition and is currently outside Massachusetts while receiving medical follow-up, evaluation, and care.

Plaintiffs seek to submit, subject to a separate Motion to Impound, an official medical certificate dated **June 25, 2026 (Exhibit A)**, a certified English translation (**Exhibit B**), and translator certification (**Exhibit C**). Plaintiffs do not repeat the private medical contents of those materials in full in this public filing. In substance, the certificate documents a current medical limitation affecting Sandra Fernandez De Villavicencio's ability to carry out obligations requiring sustained participation.

Because the medical certificate is dated **June 25, 2026** and refers to an approximate three-month period subject to reevaluation, Plaintiffs respectfully request that the hearings be continued to a date after **October 1, 2026**, or to such later date as the Court determines appropriate.

The emergency timing of this motion is itself related to the same medically documented limitation. Preparing an emergency Superior Court filing required sustained administrative and legal participation, including obtaining the official medical certificate, obtaining a certified English translation and translator certification, preparing the supporting affidavit and impoundment papers, conferring with Defendant's counsel, and arranging service of the emergency filing. The certified English translation and translator certification were completed on **July 7, 2026**. Plaintiffs are filing promptly after obtaining those materials and completing the required emergency conferral and impoundment materials.

Plaintiffs file this motion as soon as reasonably possible under the circumstances. This motion is not filed for delay. It is filed because Sandra Fernandez De Villavicencio is not presently able to properly prepare for and meaningfully participate in dispositive-motion hearings under the current medically documented circumstances.

This motion is supported by the accompanying Affidavit of Sandra Fernandez De Villavicencio. Plaintiffs' separate Motion to Impound seeks impoundment of the medical documentation identified as Exhibits A, B, and C.

II. MEMORANDUM

Massachusetts Rule of Civil Procedure 40(b) provides that continuances shall be granted for good cause.

Good cause exists here. The July 9 hearings concern Defendant's pending dispositive motions. A ruling on those motions may substantially affect, limit, or dispose of Plaintiffs' claims. This is therefore not an ordinary scheduling request; it concerns

Plaintiffs' ability to be heard before the Court considers motions that may determine the case.

The requested continuance is necessary to preserve Plaintiffs' meaningful opportunity to be heard at a meaningful time and in a meaningful manner before dispositive motions are heard.

Plaintiffs respectfully submit that proceeding with dispositive-motion hearings while the adult party whose preparation and participation are required has a physician-documented medical limitation affecting sustained participation would substantially prejudice Plaintiffs' ability to be heard.

Plaintiffs are not asking the Court to decide the pending dispositive motions in Sandra Fernandez De Villavicencio's absence. Plaintiffs ask only that the hearings be continued until after the medically documented period, or to such later date as the Court determines appropriate after review of the impounded medical materials.

Plaintiffs recognize that the Court previously allowed a continuance of the April 21, 2026 hearings. This motion is based on a current, physician-documented medical limitation concerning Sandra Fernandez De Villavicencio herself, supported by an official medical certificate, certified English translation, and translator certification. Because the pending hearings concern dispositive motions that may substantially affect, limit, or dispose of Plaintiffs' claims, the requested continuance is necessary to preserve Plaintiffs' meaningful opportunity to be heard.

There is no unfair legal prejudice to Defendant from a continuance of the July 9 hearings. The pending motions have already been briefed. Plaintiffs are not asking to reopen briefing. The case remains in an early procedural posture, and the discovery

deadline is not until **November 1, 2027**. Plaintiffs are not seeking to enlarge the discovery deadline or modify all case-management deadlines at this time.

By contrast, denying the continuance would substantially prejudice Plaintiffs because the pending hearings concern dispositive motions, and Sandra Fernandez De Villavicencio is presently unable to properly prepare for or meaningfully participate in those hearings.

Plaintiffs also respectfully request that Sandra Fernandez De Villavicencio's medically documented inability to appear at the July 9 hearings not be treated as a waiver, abandonment of Plaintiffs' claims, concession of Defendant's pending motions, or failure to prosecute. Plaintiffs have opposed Defendant's dispositive motions and are actively prosecuting this case. If the Court is not inclined to continue the hearings, Plaintiffs respectfully request that Defendant's pending dispositive motions not be allowed as unopposed, waived, or conceded merely on the basis of Sandra Fernandez De Villavicencio's medically documented nonappearance.

The requested continuance is the least disruptive means to protect the Court's schedule, Defendant's pending motions, and Plaintiffs' meaningful opportunity to be heard. Plaintiffs seek only a continued hearing date after **October 1, 2026**, or such other date as the Court deems appropriate. In the alternative, if the Court is not inclined to continue the hearings to a date after October 1, 2026, Plaintiffs respectfully request the shortest continuance the Court deems sufficient to permit review of the impounded medical materials and to preserve Plaintiffs' meaningful opportunity to be heard.

Good cause exists to continue the July 9, 2026 hearings.

III. RULE 9A(d) EMERGENCY CERTIFICATION

Plaintiffs certify that on **July 7, 2026**, they conferred by electronic mail with counsel for Defendant CUBE 3 Studio, LLC regarding this emergency request.

Counsel for CUBE 3 responded that CUBE 3 does not assent to any continuance or other delay in the case. Plaintiffs therefore do not represent this motion as assented or unopposed.

Because the hearings are scheduled for **July 9, 2026 at 2:00 p.m.**, there is insufficient time to proceed through the ordinary Rule 9A motion process. The emergency basis is Sandra Fernandez De Villavicencio's physician-documented medical limitation affecting her ability to prepare for and meaningfully participate in the July 9 dispositive-motion hearings at this time.

Plaintiffs are serving this emergency motion forthwith by electronic mail upon Defendant's counsel.

REQUESTED RELIEF

For the reasons stated above, Plaintiffs respectfully request that the Court:

ALLOW this Emergency Motion;

CONTINUE the hearings presently scheduled for **July 9, 2026 at 2:00 p.m.**;

RESCHEDULE the hearings to a date after **October 1, 2026**, or to such later date as the Court deems appropriate;

DEFER hearing and ruling on Defendant's pending dispositive motions until Plaintiffs have a meaningful opportunity to be heard at a continued hearing;

ORDER that Sandra Fernandez De Villavicencio's medically documented inability to appear at the July 9, 2026 hearings shall not be deemed a waiver, abandonment,

concession, or failure to prosecute, and that Defendant's pending dispositive motions shall not be allowed as unopposed, waived, or conceded merely on the basis of medically documented nonappearance; and

grant such further relief as is just and proper.

Respectfully submitted,

K. F., a minor, by his mother,
SANDRA FERNANDEZ DE VILLAVICENCIO,
and SANDRA FERNANDEZ DE VILLAVICENCIO,
individually

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Date: July 7th, 2026

/s/ Sandra Fernandez De Villavicencio
Sandra Fernandez De Villavicencio (Pro Se)

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2026 a copy of the foregoing was served electronically on all counsel of record.

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By: K. F., a minor, by his mother,
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/s/ Sandra Fernandez De Villavicencio
Sandra Fernandez De Villavicencio (Pro Se)