

Docketed 03/19/2026

COMMONWEALTH OF MASSACHUSETTS

THE TRIAL COURT

SUPERIOR COURT DEPARTMENT

NORFOLK, ss.

Civil Action No. 2582CV00364

DANY ABOUELHKIER,
Plaintiff,

v.

MARINA BAY RESIDENCES, LLC, BOZZUTO

MANAGEMENT CO., and DELANEY BARRETT,
Defendants,

NON-PARTY SANDRA FERNANDEZ MOTION TO VACATE VOID JUDGMENT
WITH MEMORANDUM OF LAW AND EXPRESS PRESERVATION OF APPELLATE
AND FEDERAL RIGHTS
Pursuant to Mass. R. Civ. P. 60(b)(4)

SPECIAL APPEARANCE AND EXPRESS NON-WAIVER

I, Sandra Fernandez ("Non party") appears specially and solely for the purpose of contesting jurisdiction and vacating a void judgment.

This Motion does not constitute consent to jurisdiction, does not concede party status, and does not waive any rights presently pending before the Massachusetts Appeals Court or the United States District Court.

This Motion is brought solely to vacate a void judgment entered without jurisdiction and to preserve Movant's constitutional due process rights.

INTRODUCTION

On February 17, 2026, this Court entered dismissal with prejudice and judgment purporting to dispose of claims and counterclaims attributed to Movant.

However, Movant was never properly served with summons or counterclaims pursuant to Mass. R. Civ. P. 4, never voluntarily appeared as a party, and never invoked this Court's jurisdiction.

Accordingly, the judgment is void as to Movant and must be vacated pursuant to Mass. R. Civ. P. 60(b)(4).

Relief under Rule 60(b)(4) is mandatory where judgment is entered without jurisdiction. See *Harris v. Sannella*, 400 Mass. 392, 395 (1987).

FACTUAL BACKGROUND

1. Movant was never served with summons in this action.
2. Movant was never served with counterclaims.
3. Movant never filed claims in this docket.
4. Movant never consented to jurisdiction.
5. Movant consistently objected to jurisdiction and appeared only by special appearance.
6. On February 9, 2026, Movant filed written objections preserving jurisdictional objections.
7. Despite lack of jurisdiction, judgment was entered against Movant.

MEMORANDUM OF LAW

I. Judgment entered without personal jurisdiction is void under Rule 60(b)(4)

Mass. R. Civ. P. 60(b)(4) provides relief where a judgment is void.

A judgment is void if the court lacked personal jurisdiction over the affected party.

See *Harris v. Sannella*, 400 Mass. 392, 395 (1987).

Proper service of process is required to establish personal jurisdiction. See Mass. R. Civ. P. 4. Without proper service, any resulting judgment is void and must be vacated.

See *Farley v. Sprague*, 374 Mass. 419, 424–25 (1978).

II. Lack of service deprives the Court of jurisdiction as a matter of due process

Due process requires notice and opportunity to be heard before judgment may enter.

See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

Massachusetts courts strictly enforce service requirements. Without service, jurisdiction does not exist. See *Shuman v. Stanley Works*, 30 Mass. App. Ct. 951, 952 (1991).

Because Movant was never served, jurisdiction never attached. The resulting judgment is void.

III. Movant never consented to jurisdiction and preserved objections

Jurisdiction may arise through service or voluntary appearance. Movant did neither.

Movant consistently appeared by special appearance solely to object to jurisdiction. Special appearance preserves jurisdictional objections. See Mass. R. Civ. P. 12(b).

Movant's filings did not waive jurisdictional objections.

IV. Rule 41(b) dismissal cannot apply to a non-party

Mass. R. Civ. P. 41(b) permits dismissal only of claims asserted by a party.

Movant never asserted claims.

Therefore, Rule 41(b) cannot apply to Movant.

The Court lacked authority to dismiss claims Movant never filed.

V. Vacatur is mandatory where judgment is void

Relief under Rule 60(b)(4) is not discretionary. If judgment is void, the Court must vacate it. See *Harris v. Sannella*, 400 Mass. 392, 395 (1987).

VI. This Motion does not waive appellate or federal rights

This Motion is filed solely to vacate a void judgment.

It does not concede jurisdiction.

It does not waive Movant's pending Appeals Court proceedings.

It does not waive Movant's federal claims.

Vacatur restores procedural integrity and preserves jurisdictional boundaries.

CONCLUSION

Because Movant was never served and never consented to jurisdiction, the judgment is void.

Relief under Rule 60(b)(4) is mandatory.

WHEREFORE, Movant respectfully requests that this Court:

1. VACATE the February 17, 2026 judgment as void as to Movant;
2. STRIKE any entries purporting to attribute claims or counterclaims to Movant;
3. CONFIRM that Movant is not subject to this Court's jurisdiction;
4. Grant such further relief as justice requires.

Respectfully submitted,

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Date: February 19, 2026

/s/ Sandra Fernandez
Sandra Fernandez

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2026 a copy of the foregoing was served electronically on all counsel of record.

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