

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,

**MINOR K.F.'S REPLY TO MARINA BAY RESIDENCES, LLC'S OPPOSITION TO
MINOR K.F.'S MOTION TO VACATE VOID JUDGMENT, STRIKE IMPROPER PARTY
ADDITION, AND DISMISS MINOR FROM ACTION**

Minor K.F., by and through his parent solely for the limited purpose previously stated in the underlying motion, respectfully submits this Reply to Marina Bay Residences, LLC's opposition and states as follows:

1. The opposition confirms the central defect rather than curing it.

Defendant's opposition expressly concedes that neither Sandra Fernandez nor minor K.F. ever filed a complaint against the defendants. That concession is dispositive as to K.F. The opposition still identifies no amended complaint naming K.F., no motion to amend allowed under the Rules of Civil Procedure, no summons issued for K.F., no service of process on K.F., no motion by K.F. to intervene, and no voluntary merits appearance by K.F. in this action. See Defendant's Opposition at 1–2. A judgment cannot stand against a minor where defendants cannot identify any rule-based procedural step by which that minor became a party before judgment entered.

2. The opposition applies the wrong legal standard.

K.F.'s motion is not a generic request for discretionary reconsideration. It proceeds under Mass. R. Civ. P. 60(b)(4), which addresses a void judgment. Under Rule 60(b)(4), the issue is validity, not whether the movant presents newly discovered evidence or a change in law. A judgment is either void or it is not. Defendant's opposition never addresses that standard. Instead, it argues only that the Court previously attempted to channel asserted claims into this docket and later dismissed for want of prosecution. That does not answer the threshold question presented by K.F.'s motion whether K.F. was ever properly before the Court such that a binding judgment could enter against him at all.

3. The November 17, 2025 hearing did not supply a valid procedural basis to make K.F. a party to this action.

Defendant's opposition relies on the proposition that, following the November 17, 2025 hearing, the Court directed that any claims of the minor K.F. was allegedly attempting to assert in other matter would be transferred into this docket. Even accepting that description at face value, it does not establish party status as to K.F.

The minor K.F. was never served with process commencing an action in this docket, and neither was served with notice requiring his appearance at the November 17, 2025 hearing as party whose alleged claims would be adjudicated or forcibly transferred into this case. That hearing therefore cannot function as a substitute for an operative complaint, an allowed amendment, issuance of summons, service of process, or any other recognized mechanism by which a litigant, particularly a minor, becomes a party subject to judgment.

At most, the November 17 hearing concerned case management in related matters. Which the minor as stated by the court was not a party. It did not cure the absence of pleading, joinder, process, or notice as to K.F. Nor could a hearing for which K.F. was not properly noticed as a party serve as the basis for later entering judgment against him. A minor is permitted to sue through a next friend; it does not dispense with the fundamental requirement that the minor be brought before the Court through valid procedure. A court-management directive entered after a hearing for which K.F. was not served as a party or to be heard as a non party, cannot supply that missing foundation.

4. The opposition improperly conflates Sandra Fernandez's conduct with K.F.'s status.

Much of the opposition focuses on Sandra Fernandez's prior filings and the Court's characterization of those filings. But Sandra Fernandez's conduct does not answer whether K.F. became a proper party in this docket. The question is not whether Ms. Fernandez filed papers in other Marina Bay matters. The question is whether K.F. ever commenced an action here, was properly joined here, was served here, or was given notice that his alleged claims would be adjudicated in this action. Defendant identifies none of those things.

That distinction matters even more where the person against whom judgment was entered is a minor. The fact that a parent may have filed papers elsewhere does not relieve defendants of the obligation to identify a lawful procedural path by which the minor became a plaintiff in this case.

5. K.F.'s limited jurisdictional objection cannot be converted into a merits appearance.

The opposition suggests that because Fernandez objected, filed notices, or otherwise appeared in a limited way, K.F. may be treated as having submitted to the action. That is incorrect. K.F.'s position, as stated in the motion, is that any appearance was expressly limited to contesting forced inclusion, jurisdiction, and voidness. A limited appearance to challenge whether one is properly before the Court is not the equivalent of filing or prosecuting merits claims. It cannot be transformed into consent to party status or consent to entry of judgment.

6. Rule 41(b) cannot retroactively create plaintiff status.

Defendant relies on the fact that this Court dismissed for want of prosecution after determining that Fernandez took no action in this docket. But dismissal for failure to prosecute presupposes an action by a party properly before the Court. Rule 41(b) authorizes involuntary dismissal of an action for failure to prosecute; it does not retroactively cure the absence of a complaint, valid joinder, process, or service. Thus, even if the Court concluded that filings in other dockets were disruptive, that does not supply the missing procedural basis to enter judgment against K.F. here.

7. The relief sought is narrow and procedural.

K.F. does not seek through this motion to reopen every issue in this litigation, nor to relitigate the broader Marina Bay procedural history as he was never a party to any action. The requested relief is narrow: vacatur of the February 17, 2026 judgment insofar as it purports to apply to K.F., striking of K.F.'s improper party addition to this docket, and dismissal of K.F. from this action without prejudice. That relief follows

directly from the defect defendants' own opposition confirms that no complaint by K.F. was ever filed here and or any other docket in Norfolk superior court and no recognized procedural substitute is identified.

CONCLUSION

Because Defendant's opposition concedes that K.F. never filed a complaint and still fails to identify any valid procedural mechanism by which K.F. became a party before judgment entered, the February 17, 2026 judgment is void as applied to K.F. The Court should therefore:

1. **ALLOW** Minor K.F.'s motion;
2. **VACATE** the February 17, 2026 judgment insofar as it purports to apply to K.F.;
3. **STRIKE** the improper addition of K.F. as a plaintiff in this action; and
4. **DISMISS** K.F. from this action **without prejudice**.

Respectfully submitted,

K.F, a minor, by and through his Next Friend and Parent,
SANDRA FERNÁNDEZ, *PRO SE, By special appearance only*,

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Date: March 18, 2026

/s/ Sandra Fernandez
Sandra Fernandez

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2026 a copy of the foregoing was served electronically on all counsel of record.

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