

Docketed 03/25/2026

**COMMONWEALTH OF MASSACHUSETTS**

**THE TRIAL COURT**

SUPERIOR COURT DEPARTMENT

NORFOLK, ss.

Civil Action No. 2582CV00364

**DANY ABOUELHKIER**, Pro Se,  
By Special Appearance and Reservation of Rights,

Plaintiff,

v.

**MARINA BAY RESIDENCES, LLC, BOZZUTO**  
**MANAGEMENT CO., and DELANEY BARRETT**,  
Defendants,

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**AFFIDAVIT OF DANY ABOUELKHIER**

I, Dany Abouelkhier, hereby depose and state under oath as follows:

1. I am the Plaintiff named in this action. I submit this affidavit solely in support of my Special Appearance and Motion to Vacate Judgment.
2. I submit this affidavit strictly by special appearance and solely to preserve my procedural and appellate rights.
3. This affidavit does not constitute consent to jurisdiction, does not waive my pending appeal, and does not concede the validity of the severance order that created this action.

### **Severance Order Is On Appeal**

4. This action exists solely because of a severance order entered in Norfolk Superior Court Civil Action No. 2382CV00389.

5. I timely appealed that severance order.

6. That appeal remains pending before the Massachusetts Appeals Court.

7. Because the severance order is under appellate review, I have consistently acted to preserve my appellate rights and avoid any procedural waiver or mootness.

### **Repeated Special Appearances and Preservation of Rights**

8. Since creation of this severed action, I have repeatedly filed notices stating that:

- I appear by special appearance,
- I object to jurisdiction,
- I do not waive appellate rights, and
- I do not consent to litigate the merits of this severed action while appellate review is

pending.

9. These filings include, among others:

- Notice of Special Appearance and Reservation of Rights,
- Notice of Appeal,
- Notice of Non-Participation and Reservation of Appellate Rights, and
- Notice of Objection to Entry of Default.

10. These filings were made in good faith solely to preserve appellate jurisdiction and procedural rights.

### **February 9, 2026 Filing Immediately Before Dismissal**

11. On February 9, 2026, before entry of dismissal, I filed a Notice of Non-Participation, Objection to Entry of Default, and Reservation of Appellate Rights.

12. This filing was submitted to the Court and served upon Defendants.

13. In that filing, I expressly informed the Court that:

- I was preserving appellate rights,
- I was appearing by special appearance,
- I was not abandoning my claims, and
- I was not consenting to jurisdiction or merits adjudication.

### **Court's Acknowledgment of Pending Appeal**

14. On January 12, 2026, during proceedings in Civil Action No. 2382CV00389, the Court acknowledged that my appeal of the severance order was pending.

15. During that proceeding, the Court acknowledged that the outcome of the appeal could affect my procedural status and ability to proceed.

### **Plaintiff Did Not Abandon Claims**

16. At no time did I intend to abandon my claims.

17. At all times, my actions were undertaken in good faith to preserve appellate rights and procedural protections.

18. My filings were made openly, transparently, and in good faith.

### **Clarification of Procedural Posture and Excusable Neglect**

19. Any limited non-participation in merits-based litigation activity was undertaken

solely to preserve appellate rights and prevent procedural waiver, and not to delay proceedings or abandon claims.

20. My actions were taken in good faith based on the existence of pending appellate proceedings affecting this severed action.

### **Readiness to Proceed Without Waiving Appeal**

21. If this Court vacates the dismissal and restores this case to active status, I am prepared to proceed in a manner consistent with preservation of my appellate rights and applicable procedural law.

22. Such participation would include procedural matters such as scheduling, case management, and compliance with Court orders, while expressly preserving and not waiving my pending appeal.

23. Any participation would not constitute consent to jurisdiction, would not concede the validity of the severance order, and would not moot or waive the pending appellate proceedings.

### **Prejudice if Vacatur Is Denied**

24. If the dismissal is not vacated, I will suffer severe and irreversible prejudice, including potential claim-preclusive effects, without adjudication of my claims on the merits.

25. Vacatur will restore the procedural status quo and preserve the integrity of the appellate process.

### **This Affidavit Does Not Waive Appeal or Consent to Jurisdiction**

26. This affidavit is submitted solely to support my Motion to Vacate Judgment.

27. This affidavit does not waive my appeal.

28. This affidavit does not concede jurisdiction.

29. This affidavit does not concede the validity of the severance order.
30. This affidavit does not seek adjudication of the merits of any claims at this time.

Signed under the pains and penalties of perjury that the foregoing statements are true and correct to the best of my knowledge.

Signed under oath this 5th day of March , 2026.

**/s/ Dany Abouelkhier**

Dany Abouelkhier (Pro Se)

## CERTIFICATE OF SERVICE

I hereby certify that on March 05, 2026 a copy of the foregoing was served electronically on all counsel of record.

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MARINA BAY RESIDENCES, LLC,  
BY ITS ATTORNEYS,

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By Dany Abouelkhier, Pro Se  
By Special Appearance and Reservation of Rights,

/s/ Dany Abouelkhier  
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