

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT**

SUPERIOR COURT DEPARTMENT

NORFOLK, ss.

Civil Action No. 2582CV00364

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26 MAY -1 AM 9:14
CLERK OF THE COURTS
NORFOLK COUNTY

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

Plaintiff,

v.

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

MOTION TO CONTINUE HEARING AND MEMORANDUM IN SUPPORT

I. RELIEF REQUESTED

Plaintiff respectfully moves, to continue the hearing scheduled for May 6, 2026 on Plaintiff's Motion to Vacate Dismissal and Judgment. This request is compelled by unforeseen and unavoidable circumstances that render Plaintiff unable to appear, and is made promptly and in good faith.

II. LEGAL STANDARD

Massachusetts trial courts have broad discretion to grant continuances, but that discretion must be exercised consistent with fundamental fairness and the right to be heard. A denial may constitute an abuse of discretion where a party demonstrates legitimate and unavoidable unavailability, diligence in seeking relief, and resulting prejudice if required to proceed. See *Commonwealth v. Gilcrest*, 364 Mass. 272, 276 (1973).

III. GOOD CAUSE: UNFORESEEABLE AND COMPELLED UNAVAILABILITY

Plaintiff has suffered a death in his immediate family. His stepfather, who raised him, has passed away. Plaintiff must travel overseas to be with his family and to take responsibility for funeral arrangements and related matters.

These obligations require Plaintiff's presence abroad for a limited period and were not foreseeable. As a result, Plaintiff is unavailable for the scheduled hearing.

This request arises from a family death and related obligations requiring Plaintiff's temporary absence.

IV. DILIGENCE AND GOOD FAITH

Plaintiff acted promptly upon the occurrence of these events:

- immediately seeking a continuance;
- contacting opposing counsel to request assent; and
- limiting the request to a short continuance necessary to permit participation.

There has been no delay, gamesmanship, or tactical advantage sought.

V. PREJUDICE ANALYSIS

A brief continuance will not prejudice Defendants. The motion at issue is already pending, and a short rescheduling will not alter the posture of the case.

By contrast, denial would materially prejudice Plaintiff by requiring the Court to proceed on Plaintiff's pending Rule 60(b) motion in his unavoidable absence, thereby depriving him of a meaningful opportunity to be heard. Massachusetts courts recognize that proceedings conducted under such circumstances implicate fundamental fairness concerns. See *Commonwealth v. Gilcrest*, 364 Mass. 272, 276 (1973)..

VI. INTERESTS OF JUSTICE

The question before the Court is not one of convenience but of fairness. Proceeding on a dispositive post-judgment motion while a party is unavoidably absent due to a family death raises concerns of fundamental fairness. A short continuance is the least intrusive means to ensure a fair hearing on the merits.

Plaintiff has conferred with counsel regarding this request. Counsel for Marina Bay Residences, LLC has indicated that it does not oppose. Plaintiff has requested assent from counsel for Bozzuto Management Company and Delaney Barrett and has not yet received a response.

VII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court:

- Continue the hearing scheduled for May 6, 2026;
- Reschedule the hearing for a date after Plaintiff's return; and
- Grant such further relief as the Court deems just and appropriate.

Respectfully submitted,

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

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Email: danyhaw@yahoo.com

Date: April 24, 2026

/s/ Dany Abouelkhier

Dany Abouelkhier (Pro Se)

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2026 a copy of the foregoing was served electronically on all counsel of record.

DEFENDANT,
MARINA BAY RESIDENCES, LLC,
BY ITS ATTORNEYS,

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DEFENDANTS,
BOZZUTO MANAGEMENT CO. and
DELANEY BARRETT
BY THEIR ATTORNEYS,

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

/s/ Dany Abouelkhier
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Mary K Hickey

From: Dany Abouelkhier <danytaw@yahoo.com>
Sent: Friday, May 1, 2026 2:22 PM
To: Mary K Hickey
Cc: Kate Carter; ddain@daintorpy.com; gsapire@maynardnexsen.com; jbragdon@gejlaw.com; raujla@maynardnexsen.com; skannan@gejlaw.com; ted@ampslaw.com; dclark@maynardnexsen.com; Sarah McHale
Subject: RE: Abouelkhier v. Marina Bay Residences, LLC et al, Docket No. 2582CV00364
Attachments: 364 MBR 04-24-26 M. TO CONTINUE.pdf

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Good afternoon Mrs. Hickey,

I write regarding the hearing scheduled for May 6, 2026.

A motion to continue has been served on all parties pursuant to Superior Court Rule 9A. The Rule 9A response period has not yet expired and will run after the scheduled hearing date.

I am unable to attend the May 6 hearing. Counsel for Marina Bay Residences has indicated that it does not oppose the requested continuance. I have not received a response from counsel for Bozzuto Management Co. or Delaney Barrett.

Given the timing, I respectfully request that the Court continue the May 6 hearing or otherwise address the request prior to the session.

A copy of the served motion is attached.

Thank you.

Best regards,
Dany Abouelkhier

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