

Docketed 06/24/2026

**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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**PLAINTIFF DANY ABOUELKHIER'S LIMITED REPLY, BY SPECIAL APPEARANCE  
AND EXPRESS RESERVATION OF RIGHTS, IN SUPPORT OF MOTION TO STAY  
RULE 69 DISCOVERY PENDING RESOLUTION OF MOTION TO VACATE  
JUDGMENT (#46)**

Plaintiff Dany Abouelkhier submits this Limited Reply solely in response to Marina Bay Residences, LLC's Opposition to Plaintiff's Motion to Stay Rule 69 Discovery.

This Reply is submitted by special appearance and for a limited protective purpose only. Plaintiff does not accept, consent to, submit to, acquiesce in, or waive any objection to the severed docket, the severance order, the February 17, 2026 judgment, Marina Bay's asserted enforcement posture, or any issue pending in or arising from Civil Action No. 2382CV00389.

Nothing in this Reply shall be construed as participation on the merits, consent to jurisdiction, acceptance of the severed proceeding, waiver of appellate rights, waiver of post-judgment rights, waiver of jurisdictional or procedural objections, waiver of objections to

severance, or concession that Marina Bay holds a valid, final, enforceable judgment supporting Rule 69 enforcement discovery.

**I. MARINA BAY’S OPPOSITION ADDRESSES THE WRONG PROCEDURAL QUESTION**

Marina Bay argues that Rule 69 discovery may proceed while an appeal is pending. That is not the issue presented by Plaintiff’s motion.

Plaintiff does not argue that the notice of appeal, by itself, automatically bars Rule 69 discovery. Plaintiff also does not ask the Court to decide the merits of the underlying counterclaim, the severance order, the February 17, 2026 judgment, or any issue pending on appeal.

The narrow question is whether the Court should compel Rule 69 enforcement discovery before deciding Plaintiff’s already-pending Motion to Vacate Judgment (#46), where that motion directly challenges the judgment on which Marina Bay’s requested enforcement discovery depends.

**II. RULE 62(b), NOT RULE 62(d), GOVERNS THE SEQUENCING ISSUE PRESENTED HERE**

Marina Bay’s opposition relies principally on *A.W. Farrell Associates, LLP v. Haddon* and *Finnegan v. VBenx Corp.* to argue that Rule 69 discovery may proceed during an appeal. Those authorities concern Rule 69 discovery in the context of a pending appeal and do not control the separate discretionary issue presented here under Mass. R. Civ. P. 62(b).

Mass. R. Civ. P. 62(b) expressly recognizes that enforcement proceedings may be deferred while a Rule 60 motion is pending. Plaintiff asks only that the Court exercise that discretion here.

Rule 69 discovery is discovery in aid of enforcement of a judgment. Marina Bay seeks that discovery because it asserts enforcement rights under the February 17, 2026 judgment. Plaintiff's Motion #46 seeks relief from that same judgment.

Accordingly, this is not merely an appeal-stay issue. It is a Rule 62(b) sequencing issue. Marina Bay's cited cases do not hold that the Court lacks discretion to decide a pending Rule 60 motion before compelling Rule 69 enforcement discovery based on the same challenged judgment.

### **III. DECIDING MOTION #46 FIRST IS THE CLEANEST AND LEAST PREJUDICIAL PROCEDURE**

Motion #46 presents a substantial Rule 60 challenge to the judgment Marina Bay invokes as the basis for Rule 69 discovery. Plaintiff does not ask the Court to adjudicate the merits of Motion #46 in this discovery reply; he asks only that the Court decide that pending threshold motion before requiring enforcement discovery.

If Motion #46 is allowed in whole or in part, the need, scope, timing, or propriety of enforcement discovery may materially change. Resolving Motion #46 first therefore promotes judicial economy and may avoid unnecessary motion practice and enforcement proceedings.

A temporary stay pending decision on Motion #46 would not adjudicate the merits of Marina Bay's position. It would simply allow the Court to determine the pending Rule 60 motion before requiring further enforcement proceedings based on the challenged judgment.

By contrast, compelling Rule 69 discovery before deciding Motion #46 would require enforcement proceedings to move forward on a judgment the Court has not yet decided whether to vacate. That sequencing risks unnecessary enforcement proceedings and potential inefficiency if Motion #46 alters the judgment or enforcement posture.

#### **IV. PLAINTIFF'S POSITION IS LIMITED, PROTECTIVE, TIMELY, AND NON-WAIVING**

Plaintiff has not appeared generally, accepted the severed docket, conceded the judgment, or agreed to Marina Bay's enforcement premise.

Plaintiff has instead filed limited protective papers to preserve objections and seek a ruling on sequencing. That position is grounded in Rule 62(b) and is not a refusal to participate by default.

Marina Bay's untimeliness argument does not defeat the requested relief. Plaintiff's request is tied to MBR's effort to compel Rule 69 enforcement discovery while Motion #46 remains pending. Plaintiff sought judicial sequencing once MBR sought compulsion based on the contested judgment.

Plaintiff therefore respectfully requests that the Court deny Marina Bay's request for fees and costs.

#### **V. REQUESTED RELIEF**

Plaintiff respectfully requests that the Court stay Rule 69 discovery, including written discovery, document production, deposition obligations, and related enforcement deadlines, until after the Court resolves Motion #46.

##### **In the alternative, Plaintiff requests that the Court:**

- Defer any Rule 69 deposition until after Motion #46 is decided;
- Extend any Rule 69 written-discovery deadlines until after Motion #46 is decided;
- Deny Marina Bay's request for fees and costs; and
- State expressly that any discovery compliance later ordered by the Court is compelled and shall not be construed as acceptance of the severed docket, consent to jurisdiction, waiver of

appellate rights, waiver of post-judgment rights, waiver of objections to severance, or concession concerning the February 17, 2026 judgment.

**CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Court stay or defer Rule 69 discovery pending resolution of Plaintiff's Motion to Vacate Judgment (#46), or, in the alternative, enter the protective sequencing relief set forth above.

Respectfully submitted,

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

550 Liberty St., Unit 905

Braintree, MA 02184

Tel: (617) 909-7799

Email: danytao@yahoo.com

Date: June 23, 2026

**/s/ Dany Abouelkhier**

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

**CERTIFICATE OF SERVICE**

I hereby certify that on June 23, 2026 a copy of the foregoing was served electronically on all counsel of record.

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

Daniel P. Dain, BBO# 632411  
Kate Moran Carter, BBO# 663202  
Dain, Torpy, Le Ray, Wiest & Garner, P.C.  
175 Federal Street, Suite 1500  
Boston, MA 02110  
ddain@daintorpy.com  
kcarter@daintorpy.com  
P: (617) 542-4800  
F: (617) 542-4808

Gregory P. Sapire (*Pro Hac Vice*)  
Raj Aujla (*Pro Hac Vice*)  
Maynard Nexsen P.C.  
2500 Bee Caves Rd., Bldg. 1, Ste. 150  
Austin, TX 78746  
gsapire@maynardnexsen.com  
raujla@maynardnexsen.com  
P: (512) 969-6540  
F: (512) 359-7996

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

Ted Papadopoulos, BBO# 671506  
AMPS Law, P.C.  
  
304 Cambridge Road, Suite 440  
Woburn, MA 01801  
ted@ampslaw.com  
  
P: (781) 756-6600  
F: (888) 756-6680

James Bragdon (*Pro Hac Vice*)  
Sangita Kannan (*Pro Hac Vice*)  
Gallagher Evelius & Jones LLP  
218 N. Charles Street, Suite 400  
Baltimore, MD 21201  
jbragdon@gejlaw.com  
skannan@gejlaw.com  
P: (410) 727-7702  
F: (410) 468-2786

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

**/s/ Dany Abouelkhier**  
Dany Abouelkhier (Pro Se)