

**COMMONWEALTH OF MASSACHUSETTS
HOUSING COURT DEPARTMENT
METRO SOUTH DIVISION**

NORFOLK, SS.

DOCKET No. 26H82CV00011

LENOX FARMS LIMITED PARTNERSHIP,

Plaintiff,

v.

DANY ABOUELKHIER,

Defendant.

**DEFENDANT DANY ABOUELKHIER'S LIMITED APPEARANCE MOTION TO
DISSOLVE INJUNCTION, WITH INCORPORATED MEMORANDUM OF LAW**

Now comes Defendant Dany Abouelkhier, pro se, appearing only for the limited purpose of seeking dissolution of the June 12, 2026 injunction order entered in this docket, and respectfully moves this Court to dissolve the June 12, 2026 Findings and Order.

By filing this motion, Defendant does not answer the complaint, does not generally appear, does not consent to personal jurisdiction, does not concede proper process or service, does not concede ultimate possession, does not concede finality, and does not waive any previously preserved objection to process, service, personal jurisdiction, Rule 65 procedure, security, cross-docket reliance, finality, appealability, or appellate review.

This motion does not ask the Court to determine whether Defendant is ultimately a tenant, guest, licensee, trespasser, occupant, or any other status. This motion raises a narrower procedural issue: whether the June 12, 2026 injunction can stand where it operates as possession-level final or permanent relief without an identified final

judgment, permanent-injunction trial, **Rule 65** consolidation with trial on the merits, Rule 58 judgment, voluntary stipulation, or other completed lawful possession vehicle.

For the reasons stated below, the June 12, 2026 injunction should be dissolved.

MEMORANDUM OF LAW

I. INTRODUCTION

The June 12, 2026 order should be dissolved because it is preliminary in label but final and permanent in practical effect.

The order does not merely preserve the status quo pending final adjudication. It orders Defendant to vacate the premises, prohibits Defendant from reentering, requires removal of Defendant's personal property, and creates a ten-day pathway for Plaintiff to seek judgment for possession and execution.

Those provisions operate as possession-level final relief. Yet the order does not identify a final judgment for possession in this docket or any related docket. It does not identify a permanent injunction entered after trial. It does not state that the preliminary-injunction hearing was consolidated with trial on the merits under **Mass. R. Civ. P. 65**. It does not identify a separate **Rule 58** judgment. It does not identify a voluntary stipulation to vacate. It does not identify the completed statutory or equitable proceeding authorizing possession enforcement.

Defendant does not ask the Court to decide ultimate possession by this motion. Defendant asks the Court to dissolve an injunction that operates as final possession relief without the final procedural source required to support such relief.

II. PROCEDURAL POSTURE RELEVANT TO THIS MOTION

Plaintiff filed this civil injunction action seeking preliminary and permanent injunctive relief concerning 550 Liberty Street, Apartment 905, Braintree, Massachusetts.

Defendant filed written opposition and preserved threshold objections, including objections to process, service, personal jurisdiction, **Rule 65** procedure, security, cross-docket attribution, and reliance on findings from other dockets.

The March 2, 2026 docket entry reflects that both parties appeared for a hearing on Plaintiff's request for preliminary injunction, that no action was taken on Plaintiff's motion, and that all rights were reserved.

The June 1, 2026 event was noticed and docketed as a hearing on Plaintiff's request for preliminary injunction. It was not identified as a final trial, a permanent-injunction trial, or a **Rule 65** consolidation with trial on the merits.

On June 12, 2026, the Court issued the Findings and Order now challenged.

III. GOVERNING PROCEDURAL STANDARD

A preliminary injunction is interlocutory relief whose ordinary purpose is to preserve the status quo pending final adjudication on the merits. See *Packaging Indus. Group, Inc. v. Cheney*, 380 Mass. 609, 616-617 (1980); also see *The Thayer Co. v. Binnall*, 326 Mass. 467, 479 (1950).

A permanent injunction is final equitable relief. It may not issue silently from a preliminary-injunction hearing unless the case has been placed in a final adjudicatory posture, including trial or proper consolidation under **Rule 65**, preservation of trial rights, resolution of threshold objections, and entry of an appropriate final order or judgment.

Mass. R. Civ. P. 65 requires procedural clarity. **Rule 65** permits consolidation of a preliminary-injunction hearing with trial on the merits only where that consolidation is ordered and the required procedural protections are preserved. **Rule 65** also requires specificity and requires security for injunctive relief unless the Court states a lawful basis for dispensing with security.

If the June 12 order is preliminary, it must remain preliminary in effect. If the order is permanent or final in effect, it must satisfy final-adjudication requirements. It cannot be treated as preliminary for procedural purposes but permanent for enforcement purposes.

IV. THE JUNE 12 ORDER IS FINAL IN PRACTICAL EFFECT BUT LACKS FINAL-JUDGMENT PROCEDURE

The June 12 order commands possession-level relief. It requires Defendant to vacate, bars reentry, requires removal of personal property, and authorizes a pathway to judgment for possession and execution after ten days.

Those provisions do not simply maintain the status quo. They alter possession and create final practical consequences.

The order does not identify any of the procedural predicates that would allow final or permanent possession-level relief to issue from this docket. It does not identify:

- a final trial on the merits;
- a **Rule 65** consolidation with trial on the merits;
- a permanent injunction entered after final adjudication;
- a **Rule 58** judgment;
- a final judgment for possession in this docket;
- a final judgment for possession in a related summary-process docket;

- a voluntary stipulation to vacate; or

another completed lawful proceeding authorizing possession enforcement.

Because the order has final practical effect without final procedure, it should be dissolved.

V. THE ORDER DOES NOT IDENTIFY THE LAWFUL POSSESSION VEHICLE REQUIRED FOR ENFORCEMENT

General Laws c. 184, § 18 provides that no person shall attempt to recover possession of land or tenements except through summary process under **G.L. c. 239** or another proceeding authorized by law.

Defendant does not ask the Court to decide ultimate possession in this motion, Defendant asks the Court to identify the lawful procedural vehicle authorizing possession-level enforcement.

If the source is the summary-process docket, the June 12 order does not identify a final executable judgment for possession in that docket.

If the source is a transferred civil docket, the order does not identify a final judgment in that docket.

If the source is this civil injunction docket, the order identifies an injunction order, but not a final trial, permanent injunction after trial, **Rule 65** consolidation with trial on the merits, **Rule 58** judgment, or other final judgment.

If the source is *Dacey v. Burgess*, 491 Mass. 311 (2023), Dacey does not supply the missing vehicle here. Dacey involved enforcement of a voluntary stipulation to vacate. Defendant signed no stipulation to vacate, did not agree to judgment, and preserved opposition and threshold objections. Dacey should not be used to convert a contested

injunction order into possession enforcement where no final judgment or voluntary stipulation is identified.

The order should therefore be dissolved because it does not identify the lawful possession vehicle supporting its final-effect relief.

VI. DACEY AND NAUTICAN DO NOT SUPPORT THE JUNE 12 STRUCTURE

Dacey v. Burgess, 491 Mass. 311 (2023), involved a voluntary stipulation in which the tenant agreed to vacate. Judgment later entered to enforce that agreement. That is not this case. Defendant did not sign an agreement to vacate and did not stipulate to judgment.

Nautican Realty Co. v. Nantucket Shipyard, Inc., 28 Mass. App. Ct. 902 (1989), also does not cure the defect. Nautican involved transfer, consolidation, trial, and a final judgment posture. It did not authorize possession enforcement from a contested injunction order where no final trial, **Rule 65** consolidation, permanent injunction after trial, or final judgment is identified.

Those cases confirm the procedural problem. Where possession is awarded outside ordinary summary process, there must still be an identifiable lawful proceeding and final adjudicatory basis. The June 12 order does not identify one.

VII. THE ORDER CONTAINS MATERIAL FINDINGS AND CHARACTERIZATIONS NOT TIED TO AN IDENTIFIED RECORD SOURCE

Defendant does not assert what the Court relied on internally. Defendant challenges the order on its face.

The order contains material findings and characterizations whose record source is not identified and which do not appear to have been placed before the Court by either party in this civil injunction action. By way of example, the order refers to “over 200

docket entries,” characterizes Defendant’s filings as a “tactic” causing delay and straining Court resources, references a use-and-occupancy figure different from the figure alleged in Plaintiff’s verified complaint, and incorporates adverse litigation-history language from another Superior Court matter.

Defendant does not object to the Court taking notice that related proceedings exist. Defendant objects to possession-level relief being supported by material findings or adverse characterizations not tied to Plaintiff’s verified complaint, affidavits, exhibits, testimony, admissions, or properly noticed material identified with sufficient clarity to permit a meaningful response.

This is a record-integrity and due-process objection, not a merits objection. A defendant cannot fairly know what evidence must be answered, corrected, or challenged where material findings supporting residential displacement are not tied to an identified record source in the case in which the injunction issues.

VIII. DEFENDANT’S DOCKETED THRESHOLD OBJECTIONS WERE NOT WAIVED OR ABANDONED

Defendant filed written opposition and preserved threshold objections before the June 12 order entered.

The Court could proceed with a scheduled hearing. But proceeding with a hearing did not erase Defendant’s docketed opposition, limited appearance, **Rule 12** objections, request for security, and objections to cross-docket attribution or reliance on summary-process findings.

The order’s treatment of Defendant’s filings does not supply proper process, proper service, personal jurisdiction, final-trial procedure, **Rule 65** consolidation, security

findings, or a final executable judgment. At minimum, those threshold issues had to be resolved before final or permanent possession-level relief could issue.

Because the order operates as final or permanent relief without first resolving those threshold procedural objections, it should be dissolved.

IX. RULE 65(c) SECURITY AND RULE 65(d) SPECIFICITY SUPPORT DISSOLUTION

Rule 65(c) requires security for injunctive relief unless the Court properly dispenses with it. Defendant requested security. The order grants mandatory possession-level relief but does not meaningfully address security in relation to the risk created by residential displacement, loss of access, and removal of personal property.

Rule 65(d) requires specificity. The June 12 order describes acts Defendant must perform, but it does not identify the lawful enforcement source: the operative docket, final judgment, statute, rule, stipulation, or proceeding authorizing judgment for possession and execution.

Specificity matters because the order relies on multiple related docket structures while creating a possession-enforcement pathway. Without identification of the enforcement source, the order cannot be reviewed or obeyed with the clarity **Rule 65** requires.

X. PERMANENT-INJUNCTION RELIEF CANNOT ISSUE WITHOUT FINAL-ADJUDICATION PROCEDURE

Plaintiff's complaint requested preliminary and permanent injunctive relief. But a request for permanent relief in a complaint does not transform a preliminary-injunction hearing into a permanent-injunction trial.

A permanent injunction is final relief. It requires a final adjudicatory posture. If Plaintiff seeks permanent possession-level injunctive relief from this docket, the case

must proceed through trial or proper **Rule 65** consolidation, threshold objections must be resolved, and an appropriate final judgment must enter.

The June 1 hearing was not identified as a permanent-injunction trial. The June 12 order does not identify **Rule 65** consolidation. The order does not identify a permanent injunction after final adjudication. The order does not identify a **Rule 58** judgment.

Accordingly, to the extent the June 12 order operates as permanent or final possession-level relief, it should be dissolved.

CONCLUSION

This motion does not ask the Court to decide ultimate possession. It asks the Court to dissolve an injunction that operates as final possession relief without the procedural source that Massachusetts law requires.

The June 12 order is preliminary in form but permanent and final in practical effect. It orders vacancy, bars reentry, requires property removal, and creates a ten-day path to judgment for possession and execution. Yet the order does not identify a final possession judgment, permanent injunction entered after final adjudication, **Rule 65** consolidation with trial on the merits, **Rule 58** judgment, voluntary stipulation, or other completed lawful possession vehicle.

The injunction should therefore be dissolved.

RELIEF REQUESTED

For the foregoing reasons, Defendant respectfully requests that this Court:

1. Dissolve the June 12, 2026 injunction in full;
2. Determine that no permanent or final possession-level injunction may issue from this docket absent final-adjudication procedure, including trial or proper **Rule 65**

consolidation, adjudication of threshold objections, and entry of an appropriate final judgment;

3. Determine that the June 12 order does not identify a final judgment, stipulation, statute, rule, or completed lawful proceeding authorizing possession enforcement;
4. Require Plaintiff, before seeking any possession-level relief from this docket, to identify the operative pleading, final judgment, statute, rule, stipulation, or completed lawful proceeding authorizing that relief;
5. Require Plaintiff, before relying on any material finding supporting injunctive relief, to identify the specific complaint paragraph, exhibit, affidavit, testimony, admission, or properly noticed record source supporting that finding;
6. Clarify that this limited motion does not waive Defendant's objections to process, service, personal jurisdiction, **Rule 65** procedure, security, cross-docket reliance, finality, appealability, or appellate review; and
7. grant such other relief as is just and proper.

Respectfully submitted,

Dany Abouelkhier

Defendant, Pro Se

550 Liberty Street, Unit 905

Braintree, MA 02184

Email: danytaw@yahoo.com

Dated: June 22, 2026

/s/ Dany Abouelkhier

Dany Abouelkhier (Pro Se)

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2026 a copy of the foregoing was served electronically on all counsel of record.

Lisa M. Gouveia, Esq. (*Counsel for Plaintiff Lenox Farms Limited Partnership*)
Email: lgouveia@slglegalgroup.com

Respectfully submitted,

Dany Abouelkhier
550 Liberty street unit 905
Braintree, MA, 02184
(617) 909-7799
danytaw@yahoo.com

/s/ Dany Abouelkhier
Dany Abouelkhier (Pro Se)