

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

NORFOLK, SS.

DOCKET No. 26H82CV00011

LENOX FARMS LIMITED PARTNERSHIP,

Plaintiff,

v.

DANY ABOUELKHIER,

Defendant.

**MEMORANDUM OF LAW IN SUPPORT OF LIMITED EMERGENCY MOTION TO
CONTINUE THE JULY 28, 2026 HEARING ON PAPER NO. 28 OR, ALTERNATIVELY,
FOR DETERMINATION ON THE WRITTEN SUBMISSIONS**

**I. THE REQUEST IS NARROW AND DOES NOT ENLARGE THE ISSUES BEFORE
THE COURT.**

This request concerns only the date and manner of submission of Paper No. 28. Dany does not supplement the merits, ask the Court to adjudicate any other pending matter, or consent to any relief beyond Paper No. 28. The request is made without waiving any threshold objection or appellate right previously and timely asserted.

II. THE COURT MAY DETERMINE PAPER NO. 28 WITHOUT ORAL ARGUMENT.

Massachusetts Rule of Civil Procedure 78 permits a court, in the interest of efficient administration, to provide for submission and determination of motions without oral hearing upon written statements of reasons in support and opposition. Paper No. 28 is already before the Court on a written record. Dany does not seek to offer additional testimony or evidence at oral

argument. Determination on the papers is therefore the least disruptive course: it preserves the Court's calendar, avoids delay, and permits a written ruling on the motion as submitted.

III. IF ORAL ARGUMENT IS REQUIRED, THE SWORN AND DOCUMENTED FACTS ESTABLISH GOOD CAUSE FOR A FIXED CONTINUANCE.

Housing Court Standing Order 1-04 requires a written motion setting forth in detail the facts supporting a requested scheduling modification and permits modification for good cause. Dany's affidavit supplies the information that the Court found absent from the earlier request: the exact departure and return dates, destination, relationship to the deceased, nature of the family obligation, and documentary confirmation of travel.

Dany departs on July 26 and returns on August 19. The travel is not a vacation. It is necessary international travel for continuing family obligations following a death. The Court previously stated on the record that vacations are "important" and "really important." (June 9, 2025 Tr. at 60.) The circumstances presented here are materially stronger because the travel arises from necessity, not recreation.

The request is also narrowly bounded. Dany does not seek an indefinite continuance. If oral argument is necessary, he requests the first available date on or after August 20, immediately following his documented return. That fixed alternative minimizes any scheduling impact on the Court and Plaintiff.

IV. EXPEDITED CONSIDERATION IS APPROPRIATE.

The hearing is scheduled for July 28, only days after the filing of this motion. Mass. R. Civ. P. 6(c) ordinarily requires seven days' notice of a written motion but authorizes a different period

by court order for cause shown. The imminence of the hearing, Dany's July 26 departure, and prompt service on Plaintiff establish cause for expedited consideration.

**V. A TIMELY WRITTEN REQUEST CANNOT FAIRLY BE TREATED AS
ABANDONMENT OR FAILURE TO PURSUE PAPER NO. 28.**

Dany is not silently failing to attend. Before the hearing, he filed a written motion, submitted sworn facts and documentary support, and proposed two orderly alternatives: determination on the papers or a short continuance to a date certain. Those actions objectively demonstrate that Paper No. 28 has not been withdrawn or abandoned. The Court should therefore enter a written order providing that Dany's documented nonavailability shall not be treated as abandonment, withdrawal, consent, waiver, or failure to pursue the motion.

**VI. THE LIMITED REQUEST DOES NOT WAIVE PREVIOUSLY PRESERVED
OBJECTIONS.**

A limited scheduling request does not ask the Court to revisit or expand the merits of the case. Dany expressly does not intend this filing as consent to personal jurisdiction, sufficiency of process or service, or any adjudication beyond Paper No. 28. He preserves those matters, and all appellate rights, to the extent they were previously and timely asserted. The Court can grant the scheduling relief requested without deciding or disturbing any threshold objection.

CONCLUSION

The Court should determine Paper No. 28 on the existing written submissions and remove the July 28 oral hearing from the calendar. If the Court concludes that oral argument is required, it should continue the hearing to the first available date on or after August 20, 2026. In either

event, the Court should rule before July 28 and provide that Dany's documented absence will not be treated as abandonment, withdrawal, consent, waiver, or failure to pursue Paper No. 28.

Respectfully submitted,

Dany Abouelkhier

Defendant, Pro Se

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Dated: July 24, 2026

/s/ *Dany Abouelkhier*

Dany Abouelkhier (Pro Se)

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 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*)
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Respectfully submitted,

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/s/ Dany Abouelkhier
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