

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

NORFOLK, SS.

DOCKET No. 26H82CV00011

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**LENOX FARMS LIMITED PARTNERSHIP,**

Plaintiff,

v.

**DANY ABOUELKHIER,**

Defendant.

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**DEFENDANT’S MOTION IN LIMINE TO PRECLUDE DISPOSITIVE RELIANCE ON  
CONTESTED “GUEST” CHARACTERIZATION AND NON-FINAL MATERIAL FROM  
PARALLEL PROCEEDINGS  
(With Incorporated Memorandum of Law)**

**INTRODUCTION**

Defendant moves in limine for an order precluding Plaintiff from relying, as a dispositive basis for relief, on (1) the characterization of Defendant as a “guest,” and (2) testimony, statements, or material derived from a separate, pending summary process proceeding.

This motion does not seek wholesale exclusion of background evidence. Rather, it seeks to prevent Plaintiff from using disputed, non-final, and context-dependent material as a substitute for adjudication of the central issue in this case—Defendant’s ability to remain in residential occupancy.

Because the requested injunction would, in practical effect, determine Defendant's ability to remain at the premises, reliance on such material would require the Court to resolve disputed factual issues, make implicit credibility determinations, and treat non-final material as dispositive. That is not permissible at the preliminary injunction stage.

## **MEMORANDUM OF LAW**

### **I. STANDARD FOR MOTION IN LIMINE**

A motion in limine permits the Court to exclude or limit the use of evidence where its proposed use would be improper or would require the Court to engage in impermissible fact-finding at a preliminary stage.

Such relief is particularly appropriate where evidence is offered not merely for context, but as a dispositive basis for relief on a contested and incomplete record.

Here, the issue is not admissibility in the abstract, but the improper use of disputed and non-final material to resolve the central issue without adjudication.

### **II. THE "GUEST" CHARACTERIZATION IS DISPUTED, NON-DISPOSITIVE, AND CANNOT SUPPORT INJUNCTIVE RELIEF**

Plaintiff is expected to rely on the assertion that Defendant is a "guest" to argue that Defendant lacks any right to remain at the premises.

That characterization cannot serve as a dispositive basis for relief.

First, the term "guest" is not legally determinative. A party's rights with respect to residential premises are evaluated based on the totality of the circumstances, not isolated terminology.

Second, the characterization is factually disputed. Its use as a dispositive fact would require the Court to adopt one version of contested facts over another and to make implicit credibility determinations.

Third, reliance on that characterization would effectively resolve the central issue—Defendant’s ability to remain in occupancy—without adjudication.

Accordingly, while the term may appear in the record, it cannot be treated as determinative or used as a substitute for proof.

III. NON-FINAL MATERIAL FROM A PENDING SUMMARY PROCESS ACTION  
CANNOT SUPPORT INJUNCTIVE RELIEF

Plaintiff is expected to rely on testimony, statements, or procedural material from the pending summary process proceeding.

Such material is non-final and cannot be used as a dispositive basis for relief in this action.

The summary process action remains pending, contested, and subject to further factual development and adjudication.

Use of such material here would:

- import unresolved issues from a separate proceeding;
- require reliance on an incomplete and evolving record; and
- effectively elevate preliminary material to dispositive status.

Where the same issues are actively being litigated in a statutory proceeding, those issues must be resolved in that forum—not through reliance on interim material in a parallel action.

Reliance on such material would require the Court to resolve disputed facts and adopt contested characterizations without full adjudication, which is not a permissible basis for injunctive relief.

IV. DISPOSITIVE RELIANCE ON SUCH MATERIAL WOULD REQUIRE IMPERMISSIBLE FACT-FINDING

The injunction sought by Plaintiff would, in practical effect, determine whether Defendant may remain in occupancy of the premises.

To grant such relief based on a contested “guest” characterization or non-final material from a separate proceeding, the Court would necessarily:

- resolve disputed factual issues;
- make implicit credibility determinations; and
- adopt one interpretation of contested evidence over another.

That is not permissible at the preliminary injunction stage.

Where entitlement to relief depends on disputed facts, those facts must be adjudicated—not assumed or selectively adopted.

V. LIMITED EXCLUSION IS NECESSARY TO PREVENT PREJUDICE AND PRESERVE THE PROPER FRAMEWORK

Defendant does not seek to exclude all reference to the underlying facts or proceedings.

Rather, Defendant seeks to preclude Plaintiff from:

- treating the “guest” characterization as legally dispositive; and
- relying on non-final material from the summary process action as a substitute for adjudication.

Without such limitation, Plaintiff would be permitted to collapse disputed issues into a preliminary determination and obtain effectively dispositive relief on an incomplete record.

That would:

- prejudice Defendant;
- circumvent the statutory framework governing possession under G.L. c. 239;

and

- undermine the integrity of the adjudicatory process.

### **CONCLUSION**

Defendant respectfully requests that the Court enter an order:

- precluding Plaintiff from treating the characterization of Defendant as a “guest” as dispositive of Defendant’s legal status;
- precluding Plaintiff from relying on testimony, statements, or material from the pending summary process proceeding as a dispositive basis for determining Defendant’s ability to occupy or remain at the premises; and
- granting such further relief as justice requires.

Respectfully submitted,

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Dated: March 23, 2026

**/s/ Dany Abouelkhier**

Dany Abouelkhier (Pro Se)

## CERTIFICATE OF SERVICE

I hereby certify that on March 23, 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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