

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

NORFOLK, SS.

DOCKET No. 26H82CV00012

LENOX FARMS LIMITED PARTNERSHIP,

Plaintiff,

v.

SANDRA FROMMER,

Defendant.

**DEFENDANT’S EMERGENCY MOTION TO DISMISS FOR LACK OF PERSONAL
JURISDICTION AND TO VACATE THE MARCH 17, 2026 PRELIMINARY
INJUNCTION, OR, IN THE ALTERNATIVE, TO DISSOLVE OR MODIFY THE
INJUNCTION, AND FOR STAY OF ENFORCEMENT PURSUANT TO MASS. R. CIV.
P. 62(c)**

INTRODUCTION

Defendant Sandra Frommer respectfully moves this Court for relief from the March 17, 2026 order allowing Plaintiff’s application for a preliminary injunction.

This motion does not seek reconsideration of discretionary findings. Rather, it presents threshold jurisdictional defects and structural legal errors that must be addressed before any coercive order may stand.

Although styled as a preliminary injunction, the order operates in substance as an immediate and complete dispossession of Defendant from her residence. It was entered without proper service of process, on a materially disputed factual record, and in a manner that effectively resolves possession outside the statutory framework governing residential eviction.

The order further grants, in practical effect, the ultimate relief sought without trial—an outcome Massachusetts courts caution against in preliminary injunction practice.

For these reasons, dismissal is warranted for lack of personal jurisdiction, and the resulting order must be vacated. At minimum, the injunction should be dissolved or modified, and enforcement stayed pending further proceedings and appellate review.

MEMORANDUM OF LAW

I. DISMISSAL IS WARRANTED FOR LACK OF PERSONAL JURISDICTION

A civil action may be commenced by filing a complaint, but a court obtains personal jurisdiction over a defendant only upon issuance and proper service of a summons in accordance with Mass. R. Civ. P. 4.

Here, no summons was issued by the Clerk and no summons was served on Defendant. Defendant received only a notice of hearing and complaint. A notice of hearing does not constitute a summons and does not satisfy Rule 4.

Even if such notice were sufficient to permit appearance at a Rule 65 hearing, it does not confer full personal jurisdiction to impose coercive, exclusionary relief equivalent to dispossession.

Defendant contests the sufficiency and accuracy of the purported constable service. Defendant did not receive service and has no knowledge of any constable effecting service in this matter. The record does not establish that service was completed in a manner reasonably calculated to provide formal notice of the commencement of this action.

Where jurisdiction depends on disputed service of process, the Court should not impose coercive injunctive relief without first resolving that issue on a proper evidentiary record.

A court may not exercise personal jurisdiction over a defendant absent proper service of process. See *Bowers v. Board of Appeals of Marshfield*, 16 Mass. App. Ct. 29, 33 (1983).

Accordingly, dismissal is appropriate pursuant to Mass. R. Civ. P. 12(b)(2) and 12(b)(5), or, at minimum, the Court should defer ruling on any request for injunctive relief pending resolution of the service issue.

II. THE MARCH 17, 2026 ORDER MUST BE VACATED

An order entered without personal jurisdiction is void and must be vacated. Mass. R. Civ. P. 60(b)(4).

Because no summons was issued or properly served, the Court lacked authority to enter a coercive order against Defendant. The March 17, 2026 preliminary injunction therefore cannot stand as a matter of law.

III. THE COURT IMPROPERLY RESOLVED DISPUTED FACTUAL ISSUES AND MISAPPLIED THE PRELIMINARY INJUNCTION STANDARD

The Court concluded that Defendant presented no evidence of tenancy and had no right to occupy the premises. That determination resolves contested factual issues that cannot properly be decided at the preliminary injunction stage.

A preliminary injunction is intended to preserve the status quo, not to adjudicate disputed rights. See *Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609, 616–17 (1980).

Defendant will present evidence that she made payments associated with occupancy, received keys and access to the premises from management, and resided in the unit with the knowledge and acquiescence of the Plaintiff over an extended period. At minimum, these facts create a genuine dispute as to Defendant's status.

On a disputed record, the Court cannot properly conclude that Plaintiff has demonstrated a likelihood of success on the merits. The presence of conflicting evidence regarding Defendant's occupancy status precludes such a determination at the preliminary stage.

The purpose of a preliminary injunction is to preserve the status quo pending final adjudication. Here, the order does the opposite. It alters the status quo by removing Defendant from possession before any trial or full evidentiary hearing.

The entry of such relief on a disputed record constitutes an abuse of discretion.

While real property is often described as unique, the harm alleged here is the loss of use and occupancy payments, which is economic in nature and compensable. The existence of an adequate legal remedy weighs strongly against injunctive relief.

IV. THE COURT IMPROPERLY RELIED ON NON-PRECLUSIVE PROCEEDINGS

The order relies on findings from a separate summary process case and the denial of Defendant's motion to intervene in that action. Such rulings are not final adjudications of tenancy or possession and have no preclusive effect in this action.

By treating those rulings as dispositive, the Court improperly collapsed separate proceedings into a merits determination here.

V. THE ORDER FUNCTIONS AS FINAL RELIEF

Although styled as a preliminary injunction, the order bars Defendant from entering,

residing in, or remaining at her residence. In practical effect, it grants the ultimate relief sought in the complaint and leaves nothing further to adjudicate as to possession.

Where an order operates as final relief in substance, it must be subjected to heightened scrutiny. Because the order was entered without proper jurisdiction and on a disputed record, it cannot stand.

VI. THE ORDER IMPROPERLY BYPASSES G.L. c. 239

Massachusetts law provides a comprehensive statutory scheme for resolving disputes over possession of residential property through summary process under G.L. c. 239.

While equitable relief may be available in limited circumstances, it cannot be used to resolve disputed possessory rights without full adjudication. Here, the Court used Rule 65 to effectuate a practical eviction despite the existence of disputed facts concerning Defendant's right to occupy the premises.

VII. PLAINTIFF FAILED TO ESTABLISH IRREPARABLE HARM AND THE BALANCE OF HARMS FAVORS DEFENDANT

To obtain a preliminary injunction, a party must demonstrate irreparable harm. See *Packaging Industries Group, Inc. v. Cheney*, 380 Mass. at 616–17.

The alleged harm here—loss of use of the premises and unpaid occupancy—is economic in nature and compensable through monetary remedies. Such harm does not constitute irreparable harm warranting extraordinary equitable relief.

The balance of harms strongly favors Defendant. Plaintiff's alleged injury is the temporary inability to use or re-let the premises, which is purely economic and compensable. Plaintiff is a large, publicly traded entity with the financial capacity to absorb any temporary loss. By contrast, Defendant faces the immediate loss of her

residence and displacement of her minor child, whose education depends on stable housing and reliable internet access. This harm is immediate, irreparable, and cannot be remedied by monetary damages.

Where one party faces economic harm and the other faces loss of housing, the balance weighs decisively against injunctive relief.

VIII. STAY IS REQUIRED UNDER RULE 62(c)

Under Mass. R. Civ. P. 62(c), the Court may stay enforcement of an injunction pending further proceedings and appeal.

Defendant faces immediate and irreparable harm, including loss of housing and disruption of her minor child's education. The legal issues presented are substantial, and enforcement would impair meaningful appellate review. The balance of equities strongly favors preserving the status quo.

IX. ALTERNATIVE RELIEF: SECURITY UNDER RULE 65(c)

If the injunction is not vacated, the Court should require Plaintiff to post security sufficient to protect Defendant from wrongful dispossession. Plaintiff is a sophisticated publicly traded real estate entity, while Defendant is indigent. The allocation of risk strongly supports the imposition of security.

The record now reflects material factual disputes regarding Defendant's occupancy status, including evidence of payment, delivery of possession, and ongoing recognition by management. These disputed facts cannot be resolved on a preliminary injunction record and preclude the entry of exclusionary relief at this stage. I can provide the court with more than 100 exhibits of proofs of my authorized occupancy by management and

maintenance, including witness testimony of tenants (affidavits as well) at any moment requested.

Related, earlier-filed action, Suffolk Superior Court Docket No. 2584CV03086, now appearing as Housing Court Docket No. 26H82CV00041, arises from the same underlying dispute. In the Superior Court docket (2584CV03086), the action was filed on November 6, 2025, with an Affidavit of Indigency allowed, service of process completed and returned, a defendants' Answer filed on December 5, 2025, and additional filings by Defendant, including a Notice of Procedural Status, Request for Clarification, and Reservation of Rights, as well as transfer-related appellate proceedings under G.L. c. 231, § 118. By contrast, in the Housing Court docket (26H82CV00041), the same action is presented with a file date of February 12, 2026, identified only as a "Civil Case Transfer," and the docket reflects entries such as "Civil Complaint filed" and "Entire Case Scanned," without reflecting on its face the prior indigency allowance, completed service, filed answer, Defendant's prior procedural filings, or the Appeals Court activity associated with the transfer. As a result, the transferred action appears as a newly initiated matter rather than a continuation of an already served, answered, and actively litigated case. This material difference in how the two dockets present the same action underscores the lack of clarity as to the procedural posture of the earlier-filed case and supports maintaining the status quo and avoiding enforcement of exclusionary relief entered in this later-filed proceeding.

CONCLUSION

For all of the foregoing reasons, the March 17, 2026 order cannot stand as a matter of law. Defendant respectfully requests that this Court:

- dismiss the action for lack of personal jurisdiction;
- vacate the March 17, 2026 order;
- alternatively dissolve or modify the injunction;
- stay enforcement pending further proceedings and appeal; and
- grant such further relief as justice requires.

Respectfully submitted,

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Date: March 23, 2026

/s/ Sandra Frommer

Sandra Frommer (Pro Se)

CERTIFICATE OF SERVICE

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

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Respectfully submitted,

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