

**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 FOR LEAVE TO APPEAR REMOTELY
OR, IN THE ALTERNATIVE, FOR BRIEF CONTINUANCE
PURSUANT TO MASS. R. CIV. P. 40(b)
WITH MEMORANDUM OF LAW**

Defendant Sandra Frommer respectfully moves this Court for emergency relief as follows:

1. For leave to appear remotely at the scheduled preliminary injunction hearing;
2. In the alternative, for a brief continuance of not less than fourteen (14) days pursuant to Mass. R. Civ. P. 40(b);
3. For an order that no execution or enforcement issue pending resolution of this motion;
4. For such further relief as necessary to preserve the status quo pending resolution of jurisdictional issues and Defendant's pending rental-assistance application.

This motion is supported by the accompanying Affidavit of Defendant and is filed in good faith to ensure meaningful participation before the Court considers extraordinary equitable relief that may result in immediate and irreversible displacement.

MEMORANDUM OF LAW

I. GOOD CAUSE EXISTS UNDER RULE 40(b)

Mass. R. Civ. P. 40(b) authorizes continuances for good cause shown.

Each of the following grounds independently satisfies Rule 40(b)'s standard; collectively they compel relief:

- Defendant is the sole caregiver of a minor child who is currently ill and cannot be left unattended;
- Plaintiff seeks execution for possession forthwith;
- Jurisdictional objections under Rule 12(b)(5) remain pending;
- A rental-assistance application is pending;
- Defendant is indigent and actively seeking counsel.

Proceeding under these circumstances would risk fundamental unfairness and procedural error.

II. ILLNESS CONSTITUTES GOOD CAUSE

Mass. R. Civ. P. 6(b) authorizes the Court, for cause shown, to enlarge time or grant appropriate relief where circumstances warrant accommodation. The granting of a continuance lies within the sound discretion of the Court and must be exercised in a manner consistent with fairness and orderly adjudication.

The Supreme Judicial Court has repeatedly emphasized that trial courts must exercise discretion carefully and avoid imposing severe procedural consequences where reasonable accommodation is warranted. See *Monahan v. Washburn*, 400 Mass. 126, 127–28 (1987) (recognizing that disproportionate procedural consequences may constitute abuse of discretion).

Here:

- Defendant’s minor child is presently ill;
- Defendant is the child’s sole caregiver;
- The request is timely and made in good faith;
- No prejudice will result from a short continuance.

Proceeding in the face of legitimate medical constraints risks unnecessary prejudice and potential reversible error. A brief continuance of limited duration would preserve judicial resources and ensure that the matter is heard on a complete and orderly record.

At minimum, if the Court declines to continue the matter, Defendant respectfully requests permission to participate remotely so that the hearing may proceed without compromising the health or safety of the minor child.

III. REMOTE APPEARANCE IS THE LEAST DISRUPTIVE REMEDY

Housing Court routinely conducts remote proceedings.

Allowing remote appearance:

- Avoids delay;
- Preserves judicial economy;
- Protects Defendant’s right to participate;
- Causes no prejudice to Plaintiff.

If the Court determines in-person testimony is necessary, a brief continuance is appropriate.

IV. RENTAL ASSISTANCE PENDING – STATUTORY PROTECTIONS

Defendant has a pending RAFT rental-assistance application.

G.L. c. 239 §15(b) mandates that, in eviction proceedings, the Court shall grant a continuance and shall not issue execution during the pendency of such application.

Although this matter is styled as a civil injunction action rather than summary process, Plaintiff seeks relief functionally equivalent to eviction for possession of residential premises.

To the extent Plaintiff seeks to obtain possession through equitable relief, the Court should decline to permit relief that would effectively bypass the procedural safeguards established by the Legislature to prevent displacement during pending rental-assistance review.

At minimum, the pending application strongly supports a continuance to preserve the status quo while statutory assistance is being processed.

V. PENDING RULE 12(b)(5) JURISDICTIONAL DEFECT

Defendant has filed a Motion to Dismiss pursuant to Mass. R. Civ. P. 12(b)(5), challenging:

- Lack of issuance of summons;
- Defective service;
- Lack of personal jurisdiction.

Although a civil action is commenced by filing a complaint under Mass. R. Civ. P. 3, personal jurisdiction over a defendant is obtained only upon issuance and proper service of a summons pursuant to Mass. R. Civ. P. 4. Proper service is a prerequisite to

the Court's authority to bind a party. See *Bowers v. Board of Appeals of Marshfield*, 16 Mass. App. Ct. 29, 33 (1983).

Where personal jurisdiction is challenged, the issue must be resolved before the Court may exercise coercive equitable power. Absent personal jurisdiction, the Court lacks authority to issue binding injunctive relief.

VI. PRELIMINARY INJUNCTION IS AN EXTRAORDINARY REMEDY

Under *Packaging Industries Group, Inc. v. Cheney*, 380 Mass. 609, 617–18 (1980), Plaintiff must establish:

1. Likelihood of success on the merits;
2. Irreparable harm;
3. No adequate remedy at law;
4. Balance of harms in its favor.

Here:

- Plaintiff's alleged harm is monetary;
- Monetary loss is compensable through judgment;
- Adequate legal remedies exist;
- Defendant faces immediate and irreversible loss of housing.

Equity does not intervene where legal remedies are adequate.

Execution "forthwith" would effectively convert preliminary relief into final relief, contrary to the limited purpose of a preliminary injunction, which is to preserve the status quo.

A brief continuance preserves the status quo.

VII. RULE 65 SAFEGUARDS REQUIRE CAREFUL SEQUENCING

Mass. R. Civ. P. 65:

- Requires notice and meaningful opportunity to be heard;
- Requires specific findings (Rule 65(d));
- Authorizes security before injunction issues (Rule 65(c)).

Before depriving a residential occupant of possession, the Court must ensure strict compliance with these safeguards.

A brief continuance ensures proper sequencing and prevents irreversible error.

VIII. BALANCE OF HARMS STRONGLY FAVORS CONTINUANCE

Immediate displacement of a parent and minor child constitutes irreversible harm.

By contrast:

- Plaintiff's harm is economic;
- Economic harm is compensable;
- Plaintiff continues to pursue legal remedies;
- A fourteen-day delay imposes minimal prejudice.

Under *Packaging Industries*, where one party faces irreversible harm and the other faces temporary monetary delay, preservation of the status quo is required.

IX. CONTINUANCE TO SECURE COUNSEL

Defendant is indigent and actively seeking legal representation.

This matter involves:

- Statutory interpretation;
- Jurisdictional analysis;
- Rule 65 compliance;

- Parallel proceedings.

A brief continuance ensures meaningful participation and reduces risk of procedural error.

CONCLUSION

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

1. Permit Defendant to appear remotely;
2. In the alternative, grant a brief continuance of not less than fourteen (14) days pursuant to Rule 40(b);
3. Order that no execution or enforcement issue pending resolution of this motion;
4. Recognize the statutory and equitable considerations arising from the pending rental-assistance application;
5. Resolve jurisdictional objections prior to evidentiary proceedings;
6. Preserve the status quo pending orderly adjudication; and
7. Grant such further relief as justice requires.

Respectfully submitted,

Sandra Frommer
550 Liberty street unit 905
Braintree, MA, 02184
(617) 806-6566
sandrafrommer@gmail.com
Date: March 2, 2026

/s/ Sandra Frommer

Sandra Frommer (Pro Se)

AFFIDAVIT OF SANDRA FROMMER

1. I, Sandra Frommer, declare under the pains and penalties of perjury that the following is true to the best of my knowledge
2. I am currently ill and experiencing symptoms that make in-person court appearance unsafe and impracticable.
3. My minor child is also presently ill and requires my care and supervision.
4. I am the sole caregiver for my minor child and have no available childcare on short notice.
5. I have a pending rental-assistance (RAFT) application in connection with the premises.
6. I am indigent and actively seeking legal representation.
7. I respectfully request either remote participation or a brief continuance so that I may meaningfully participate in the proceedings.
8. This request is made in good faith and not for purposes of delay.

Signed under the pains and penalties of perjury this 2 day of March, 2026.

/s/ Sandra Frommer
Sandra Frommer (Pro Se)

CERTIFICATE OF SERVICE

I hereby certify that on March 2nd, 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,

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/s/ Sandra Frommer
Sandra Frommer (Pro Se)