

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

NORFOLK, ss.

Civil Action No.: 26H82CV00041

SANDRA FROMMER,
Plaintiff, Pro Se

v.

UDR, INC.;
LENOX FARMS LIMITED PARTNERSHIP;
UDR NYL DEALS GP LLC; and
ERIKA MERRITT,
Defendants.

**PLAINTIFF'S SPECIAL APPEARANCE AND MOTION TO RETRANSFER ACTION
TO SUFFOLK SUPERIOR COURT AND MOTION TO STAY PROCEEDINGS, WITH
INCORPORATED MEMORANDUM OF LAW AND SUPPORTING AFFIDAVIT**

Plaintiff Sandra Frommer ("Plaintiff"), appearing specially and solely to contest the transfer of this action and to preserve jurisdictional and appellate rights, respectfully moves this Court for an Order:

1. Retransferring this action to Suffolk County Superior Court pursuant to G.L. c. 185C, §20;
2. Staying all proceedings in this Court pending determination of this Motion and any appellate review pursuant to G.L. c. 231, §118;
3. Ordering Defendants to produce proof of service supporting their February 2, 2026 Notice of Transfer; and
4. Granting such further relief as justice requires.

This Motion is supported by the following Memorandum of Law and Affidavit.

SPECIAL APPEARANCE AND PRESERVATION OF JURISDICTIONAL OBJECTION

Plaintiff appears specially and solely to contest the transfer and does not consent to the jurisdiction of the Housing Court over the merits of this action. Nothing in this Motion or any participation necessary to obtain relief shall constitute a waiver of Plaintiff's right to insist that this action proceed in Superior Court or to seek appellate review pursuant to G.L. c. 231, §118.

Plaintiff respectfully seeks judicial review of the transfer pursuant to G.L. c. 185C, §20 and preservation of jurisdictional and appellate rights.

INTRODUCTION

This action is a civil action invoking the general jurisdiction of Suffolk County Superior Court pursuant to G.L. c. 212, §3 and asserting civil claims including fraud, business torts, and related civil causes of action. Superior Court is the traditional and proper forum for such civil claims.

Plaintiff properly invoked Superior Court jurisdiction by filing her Complaint on November 6, 2025 and demanding trial by jury pursuant to Article 15 of the Massachusetts Declaration of Rights and Mass. R. Civ. P. 38.

Superior Court exercised jurisdiction by accepting Plaintiff's Complaint, allowing Plaintiff's Affidavit of Indigency, accepting Defendants' Answer, and permitting litigation to proceed.

The Appeals Court vacated a prior transfer and restored Superior Court jurisdiction. Plaintiff relied on Superior Court jurisdiction following Appeals Court remand, and litigation proceeded, including discovery and pending motion practice.

On February 2, 2026, Defendants filed a second Notice of Transfer pursuant to G.L. c. 185C, §20. Although Defendants certified service, Plaintiff did not receive the Notice of Transfer by email, mail, or hand delivery and first learned of the transfer on February 6, 2026 by reviewing the Superior Court docket.

Plaintiff now seeks judicial review of this administrative transfer and preservation of jurisdictional and appellate rights.

PROCEDURAL HISTORY

1. Plaintiff filed this action in Suffolk Superior Court on November 6, 2025.
2. Plaintiff invoked Superior Court jurisdiction pursuant to G.L. c. 212, §3 and demanded trial by jury pursuant to Article 15 and Mass. R. Civ. P. 38.
3. Superior Court allowed Plaintiff's Affidavit of Indigency.
4. Defendants filed a Notice of Transfer on November 19, 2025.
5. On November 24, 2025, the Appeals Court vacated that transfer and remanded the case to Superior Court.
6. The Appeals Court's vacatur restored Superior Court jurisdiction and judicial supervision.
7. Plaintiff relied on Superior Court jurisdiction following Appeals Court remand.
8. On December 5, 2025, Defendants filed their Answer in Superior Court.
9. Litigation proceeded in Superior Court, including discovery and pending Rule 9A motion practice.
10. This case was transferred after Appeals Court remand and after Defendants participated in litigation in Superior Court.
11. On February 2, 2026, Defendants filed a second Notice of Transfer.

12. The Notice of Transfer contained a Certificate of Service.
13. Plaintiff did not receive the Notice of Transfer by email, mail, or hand delivery.
14. Plaintiff first learned of the transfer on February 6, 2026 by reviewing the Superior Court docket.
15. Housing Court opened this case on February 12, 2026.
16. Plaintiff promptly files this Motion and has not litigated the merits in Housing Court.

MEMORANDUM OF LAW

I. The Court Must Retransfer the Action to Maintain Continuity of Jurisdiction and Adhere to the Appeals Court Mandate.

This action was transferred to the Housing Court after the Appeals Court previously vacated a transfer and restored Superior Court jurisdiction. Retransfer is necessary to preserve the continuity of jurisdiction ordered by the appellate mandate and to ensure the orderly administration of justice.

The Defendants' second attempt at transfer is an improper end-run around the Appeals Court's prior ruling.

Furthermore, retransfer protects the Plaintiff's constitutional right to a jury trial, which is "held sacred" under Article 15 of the Massachusetts Declaration of Rights and Mass. R. Civ. P. 38(a). *Cort v. Majors*, 92 Mass. App. Ct. 151 (2017). As the parties did not stipulate to a reduced jury, continuity must be maintained to avoid procedural disputes regarding the twelve-person jury demand properly invoked in Superior Court.

Further, **Mass. R. Civ. P. 48** provides that (absent stipulation) the civil jury is twelve; any reduction requires the parties' stipulation. Retransfer avoids any procedural dispute or impairment of the already-invoked jury posture and preserves continuity of the jury demand as invoked in Superior Court.

Superior Court was actively exercising adjudicatory authority over this case, including accepting pleadings, permitting discovery, and supervising ongoing motion practice following the Appeals Court's remand. The Appeals Court's remand restored Superior Court jurisdiction and returned the case to the posture of an actively litigated civil action in that forum. The Defendants' second transfer, occurring after appellate remand and active exercise of Superior Court jurisdiction, disrupts the continuity of jurisdiction established by appellate mandate and warrants careful judicial review.

II. The Defendants Failed to Properly Serve the Notice of Transfer, Violating Due Process and Mass. R. Civ. P. 5.

Mass. R. Civ. P. 5 mandates that all written filings be served upon all parties. Defendants certified service of the February 2, 2026 Notice of Transfer, yet Plaintiff did not receive it via email, mail, or hand delivery.

Given that the parties had established a pattern of email service, the sudden failure of service discovered only by Plaintiff's manual review of the docket prejudiced the Plaintiff.

Plaintiff respectfully requests that the Court order Defendants to produce concrete proof of service.

III. The Nature of the Claims Warrants Retransfer to the Superior Court to Avoid Fragmentation.

This action asserts complex civil claims including fraud and business torts, invoking Superior Court's general jurisdiction pursuant to G.L. c. 212, §3. These claims extend far beyond the narrow summary-possession or housing-code enforcement focus of the Housing Court.

Retransfer also preserves continuity of jurisdiction following Appeals Court remand and ensures that adjudication proceeds within the forum where jurisdiction was properly invoked and exercised. This preserves orderly judicial administration and appellate supervision of the case.

IV. A Stay is Necessary to Preserve Appellate Rights Pursuant to G.L. c. 231, §118.

Pursuant to G.L. c. 231, § 118, and the guidance in *Papp v. Westborough Gardens LLC*, 493 Mass. 1018 (2023), Plaintiff moves for a stay of proceedings. A stay is required to preserve this Court's jurisdiction and ensure that the Plaintiff's right to orderly appellate review is not rendered moot before the Appeals Court can act on this interlocutory transfer issue.

A stay is additionally necessary to prevent parallel proceedings in related Housing Court litigation involving the same property from creating jurisdictional conflict, mootness, or fragmentation of appellate review while the propriety of this transfer is under judicial and appellate consideration. Without a stay, proceedings in this Court or related Housing Court matters could materially affect the Superior Court action and impair Plaintiff's ability to obtain meaningful appellate review of the transfer order.

WHEREFORE

Plaintiff respectfully requests that this Court:

1. Retransfer this action to Suffolk Superior Court;
2. Stay proceedings pending determination of this Motion and any appellate review;
3. Order Defendants to produce proof of service supporting the February 2, 2026 Notice of Transfer; and
4. Grant such further relief as justice requires.
5. Issue a written judicial order resolving this jurisdictional motion to permit appellate review pursuant to G.L. c. 231, §118.

Respectfully submitted,

SANDRA FROMMER, Pro Se Plaintiff

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Braintree, Massachusetts 02184

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(617) 806-6566

February 13, 2026

/s/ Sandra Frommer
Sandra's Frommer

AFFIDAVIT OF SANDRA FROMMER

I, Sandra Frommer, state under penalty of perjury:

1. I am the Plaintiff.
2. I filed this action in Superior Court on November 6, 2025.
3. The Appeals Court vacated a prior transfer and restored Superior Court jurisdiction.
4. Defendants filed their Answer in Superior Court.
5. Litigation proceeded in Superior Court.
6. On February 2, 2026, Defendants filed a Notice of Transfer.
7. The Notice included a Certificate of Service.
8. I did not receive the Notice by email.
9. I did not receive the Notice by mail.
10. I did not receive the Notice by hand delivery.
11. I first learned of the transfer on February 6, 2026 by reviewing the docket.
12. Defendants previously served pleadings by email.

Signed under penalty of perjury,

/s/ Sandra Frommer
Sandra's Frommer

Date: February 13, 2026

CERTIFICATE OF SERVICE

I hereby certify that on February 13 , 2026 a copy of the foregoing was served electronically on all counsel of record.

Lisa M. Gouveia, Esq. (*Counsel for Defendants*)
Email: lgouveia@slglegalgroup.com

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Respectfully submitted,

SANDRA FROMMER, Pro Se Plaintiff

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/s/ Sandra Frommer
Sandra's Frommer