COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT

**{{ courts[0].address.county }} , ss {{ courts[0] }}**

{{ docket\_numbers[0] }}

Docket No.

**{{ other\_parties }}**

Plaintiff(s),

vs.

**{{ comma\_and\_list(all\_signers) }},**

Defendant(s).

**Motion to Dismiss for Non-Essential Eviction**

The Defendant asks the Court to dismiss this case under Massachusetts Rules of Civil Procedure R. 41 because it was improperly filed in violation of the Moratorium on Eviction and Foreclosures Under the Covid-19 Emergency, Chapter 65 of the Acts of 2020 §3(b).

In support of this motion the defendant states:

1. The Moratorium on Eviction and Foreclosures Under the Covid-19 Emergency was in effect when the Plaintiff filed this case. See, Chapter 65 of the Acts of 2020 §6.
2. The plaintiff alleged in their Affidavit for Cause as it relates to Chapter 65 of the Acts of 2020 that, “This summary process action is essential under the eviction moratorium legislation and therefore requires the court's immediate attention.”
3. However, this case does not concern an essential eviction. There is no:

(a) criminal activity that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public; or (b) lease violations that may impact the health or safety of other residents, health care workers, emergency personnel, persons lawfully on the subject property or the general public.

Chapter 65 of the Acts of 2020 §1.

As such, this eviction is non-essential and must be dismissed.

**Clerk**: Please schedule this motion for a hearing as soon as possible.

Signed under the pains and penalties of perjury:

{% for signer in all\_signers %}

{{ showifdef(signer.attr\_name('signature'), '\n\n\n\n') }}

{{ signer }}

{% if who\_proxy\_sign\_for|length > 0 and signer in who\_proxy\_sign\_for -%}

Signed by {{ users[0] }} with {{ signer }}'s permission

{% endif -%}

{{ users[0].address.block() }}

{% if signer.phone\_numbers() -%}

{{ signer.phone\_numbers() }}

{% endif -%}

{% if defined(signer.instanceName + '.email') and signer.email -%}

{{ signer.email }}

{% endif -%}

{% if defined(signer.instanceName + '.other\_contact\_method') and signer.other\_contact\_method -%}

{{ signer.other\_contact\_method }}

{% endif -%}

{% endfor %}

{%p if ready\_to\_serve %}

**Certificate of Service**

I certify I sent a true copy of this Motion to Dismiss to the Plaintiff, my landlord, or my landlord’s lawyer by {{ service\_method }} on this date: {{ service\_date }}.

{{ showifdef('users[0].signature') }}

{%p else %}

**Certificate of Service**

I certify I sent a true copy of this Motion to Dismiss to the Plaintiff, my landlord, or my landlord’s lawyer by [ ] e-mail at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or [ ] regular first class mail postage pre-paid on this date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Tenant

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tenant’s Name (print)

{%p endif %}