

CLERK'S NOTICE

DOCKET NUMBER
2674CV00007

**Trial Court of Massachusetts
The Superior Court**



CASE NAME:
Julie Rodenbaugh Individually and Personal Rep of the Estate of Frank Rodenbaugh et al vs. Cotton, Aimee

T. George Davis, Clerk of Court
Dukes County

TO:
Marielise Kelly, Esq.
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COURT NAME & ADDRESS
Dukes County Superior Court
81 Main Street
P. O Box 1267
Edgartown, MA 02539

You are hereby notified that on 06/22/2026 the following entry was made on the above referenced docket:

Endorsement on Motion to Stay Proceedings (#7.0): ALLOWED
6/22/26 After review, Defendant's Motion to Stay Proceedings (Docket #7) is ALLOWED as set forth herein. This action for damages arises out of the tragic death of two-year-old Frank Rodenbaugh in March 2025, when he was allegedly left in the defendant's care. The same facts give rise to the criminal indictments for manslaughter and reckless endangerment of a child, which are pending against defendant in this court. See Commonwealth v. Cotton, Case No. 2574CR00015. There is no question that defendant has a valid, core right under the Fifth Amendment of the U.S. Constitution and Art. 12 of the Massachusetts Declaration of Rights not to answer questions in this case, or even to answer the Complaint, because to do so may tend to incriminate her. In a situation where a defendant is facing criminal prosecution and civil claims arising out of the same incident, the defendant faces a conundrum whether to assert h[er] Fifth Amendment privileges in the civil case. M.K. v. D.B., 102 Mass. App. Ct. 183, 190 (2023). As a result, in such situations, the civil action often will at least partially be stayed until the criminal case has concluded. Id. In considering whether to stay a civil case pending a criminal prosecution, the judge's task is to balance any prejudice to the other civil litigants which might result from granting a stay, against the potential harm to the party claiming the privilege if [s]he is compelled to choose between defending the civil action and protecting [her]self from criminal prosecution. U.S. Trust Co. of New York v. Herriott, 10 Mass. App. Ct. 313, 317 (1980). Here, there is no question that defendant could face harm in this case if she invoked her Fifth Amendment rights and an adverse inference could be drawn against her while plaintiffs have not articulated any prejudice from staying the case. Accordingly, a stay is proper and I do stay the case while the criminal case is pending. Notwithstanding the stay, if there is discovery or other evidence that plaintiffs believe they must secure sooner rather than later in order to avoid prejudicing their case, they may move the court for relief from the stay. Before resolution of the criminal case, no discovery shall be taken without prior approval of the court. /s/ Peter B. Krupp

DATE ISSUED

ASSOCIATE JUSTICE/ ASSISTANT CLERK

SESSION PHONE#

06/22/2026

Hon. Peter B Krupp