

LAND COURT TO BEGIN
SINGLE JUDGE CASE ASSIGNMENT
ON JULY 6, 2004

INFORMATION FOR
LAWYERS AND LITIGANTS

On July 6, 2004, the Land Court Department of the Massachusetts Trial Court will inaugurate a system in which a lawsuit will be assigned to a single judge from filing to final disposition. Changes will occur in the way the Land Court schedules hearings.

A. CASES FILED ON OR AFTER JULY 6, 2004

Effective July 6, 2004; Types of Cases Covered

The new “single judge” (or “individual calendar”) assignment system means that, starting Tuesday, July 6, 2004, most cases commenced in the Land Court will be assigned to one of the court’s six judges shortly after the case is filed. All newly-filed Miscellaneous, Registration and Confirmation Cases will be assigned to one of the judges, **except** for Servicemembers Civil Relief Act and “S” (Subsequent to Registration) Cases. All Tax Lien Cases will be assigned, in the first instance, to the Recorder.

How Cases are Assigned to a Judge

Assignments to a particular judge will be made by the court soon after it receives the complaint. **When filing the complaint, please include a stamped self-addressed envelope in which we will send you the judge assignment shortly after your complaint has been filed.** A notice will issue to the plaintiff, identifying the assigned judge and directing service of a copy of this notice on all parties. The case’s docket will identify the assigned judge by his or her initials, which should be used in all further pleadings and communications with the court.

Parties or counsel may not request assignment to a particular judge. If a case concerns the same or closely related matters being litigated in another Land Court case, the court will entertain a motion to consolidate the cases or to assign them to one judge.

How Matters Will Be Scheduled

The new individual calendar system will require changes in the Land Court’s sitting schedule, and in the way many matters are set down for hearing.

Matters Which The Court Will Schedule - Dispositive Motions, Pretrial Conferences, Trials

Hearings on dispositive motions (which for these purposes means those brought under Mass. R. Civ. P. 12 (b) (1), 12 (b) (6), 12 (c) and 56); pretrial conferences; and trials will continue to be set down for dates and times determined by the court. Parties and counsel will still be able to file motions requesting the court to assign dates for these events; if it is appropriate to do so, the court will issue a notice providing the date and time the matter will be heard by the judge to whom the case is assigned. (Trial dates usually will be set at a pretrial conference held by the assigned judge, however.)

Time Standards - Case Management Status Conference

Individual judge case assignment is an important part of the Land Court's expected adoption of time standards for all its cases. Individual judge case assignment will get underway July 6, 2004, however, whether or not the Land Court's new time standards have become effective. Once the Land Court's new standing order on time standards takes effect (probably in September, 2004), case management status conferences will be scheduled by the assigned judge, for all cases subject to the standing order, usually to take place within the first three months after the case begins.

Marking Non-Dispositive Motions To Be Heard By Assigned Judge

Non-dispositive motions will be heard by the judge to whom the case is assigned. Non-dispositive motions (and only non-dispositive motions) may be marked by any party for hearing by the assigned judge. At or after the time the moving party files and serves a non-dispositive motion, the moving party (or any other party) may mark the motion for hearing by the judge to whom the case is assigned, at a date and time when that judge will be available in court to hear non-dispositive motions. (See following paragraph). Motions must be marked by written notice sent to the court and all other parties at least seven (7) days (ten (10) days if service is by mail) in advance of the hearing date. Parties may by written agreement shorten or waive the time for notice of marking of the motion, but only if the sessions clerk for the assigned judge confirms the date and time is available; in most cases, the court will require motion papers be filed at least three court days before hearing.

Determining When The Assigned Judge Will Be Sitting To Hear Non-Dispositive Motions

A list of the dates and times each judge will be available in court to hear non-dispositive motions in his or her assigned cases will be published regularly by the court in Massachusetts Lawyers Weekly, on the court's website: www.mass.gov/courts, and will be available upon request from the Recorder's Office. These dates and times generally will be published at least five weeks in advance. Before marking a motion, parties are strongly encouraged to consult with opposing parties to learn their availability.

Parties should be aware that a number of non-dispositive motions may be marked by others, or scheduled by the court, for hearing by the assigned judge at the same session. Unless the court directs otherwise, these sessions will begin at the designated hour (generally either 10:00 a.m. or 2:00 p.m.), and will continue until all matters are called by the clerk and heard by the judge. Unless the court previously has directed otherwise, all parties on all matters to be heard in a given session must be present when the session is published to begin (generally either 10:00 a.m. or 2:00 p.m.), and all non-dispositive motions must be marked for hearing at the time the session is published to begin. Lists posted in the court on the day of hearing will indicate the courtroom in which each matter will be heard.

The court may require rescheduling of a marked non-dispositive motion hearing for a variety of reasons, including the complexity of the matter, the likely length of hearing, and the prior scheduling of too many other matters at the marked time. Absent prior order or approval of the court, no non-dispositive motion will be heard if marked for a date and time not published by the court as available for hearings by the judge to whom the case is assigned. Parties who are unable to schedule non-dispositive motions at the published times may contact the assigned judge's sessions clerk for assistance. (See list of sessions clerks at end).

The court may order that a marked motion be taken off the list, may order that a motion not marked be set down for hearing, and, in appropriate cases, may act on a filed motion on the papers without hearing.

Ex-Parte and Other Emergency Matters

Whenever possible, motions, in cases filed on and after July 6, 2004, will be heard by the judge to whom the case is assigned. If that judge is not available to deal with an emergency motion, including ex-parte applications for restraining orders and attachments, endorsement of memoranda of lis pendens, or short orders of notice, another judge will be available to act. When ex-parte applications are made (particularly at the time the case is filed), the chances are great that the applications will be dealt with initially by a judge other than the one to whom the case will be assigned. Counsel seeking ex-parte or emergency orders in a case previously filed are encouraged to contact the court to learn if and when the judge assigned to the case might be available.

B. CASES FILED BEFORE JULY 6, 2004

How Matters Will Be Scheduled

Cases filed before July 6, 2004 will not be subject to the Land Court's single judge assignment system. In general, these cases will continue to be handled and eventually assigned to a particular judge as before, with the following notable exceptions:

**Non-Dispositive Motions May Be Marked Only
For Tuesdays and Thursdays at 10:00 a.m.**

Starting July 6, 2004, the (now daily) 10:00 a.m. motion session will be held only at 10:00 a.m. on Tuesdays and Thursdays (except holidays). Non-dispositive motions in cases filed before July 6, 2004 may continue to be marked for hearing as before, with seven (7) days notice (ten (10) if by mail), but only for Tuesday and Thursday mornings at 10:00.

However, as has been true for some time, where the case - even though pending before July 6, 2004 - is one which already has been assigned by the court to a particular judge for a substantive motion or trial, the court may require that non-dispositive motions be marked for hearing when that judge is sitting. The court will furnish parties in these cases with either a set date and time for hearing, or a list of dates and times when the assigned judge will be available to hear the non-dispositive motion.

Matters Now Will Be Heard at Various Times Throughout Each Day

Trials, pretrial conferences and hearings on dispositive motions will continue to be set down by the court for a designated date and time. Parties should be aware, however, that the times at which these matters will be scheduled by the court will occur throughout the day. This will be true for all cases, whether or not filed before July 6, 2004.

**C. "S"CASES AND SERVICEMEMBERS CIVIL RELIEF ACT CASES
-WHENEVER FILED - NOT ASSIGNED TO A PARTICULAR JUDGE**

Cases under G.L. c. 185 subsequent to registration ("S" cases) or under the Servicemembers (formerly Soldiers' and Sailors') Civil Relief Act ordinarily will not be assigned to a particular judge, even though started on or after July 6, 2004. Non-dispositive motions in these cases may be marked for hearing in the same manner as non-dispositive motions in all Miscellaneous cases begun before July 6, 2004. They may be marked by any party for hearing by any judge sitting Tuesday or Thursday at 10:00 a.m. in Courtroom 1. In appropriate circumstances, ordinarily where these cases become contested substantively, the court may decide to assign an "S" case or Servicemembers Civil Relief Act case to a particular judge.

D. TAX LIEN CASES

Unless in a particular case the court orders otherwise, all Tax Lien Cases, whether filed before, on, or after July 6, 2004, will continue to be heard largely by the Recorder, and all motions may be marked by any party for hearing, but only at one of two weekly tax sessions. Starting July 6, 2004, tax sessions will only be held Tuesdays and Thursdays at 2:00 p.m. No regular tax sessions will be held on Wednesday after July 1, 2004. All tax case motions will be marked by a party for hearing as before, with at least seven (7) days prior notice (ten (10) days if

served by mail).

E. EFFECTIVE DATE

Unless otherwise specified, these changes go into effect July 6, 2004, and apply to motions to be heard on and after that date.

F. SESSIONS CLERKS FOR EACH JUDGE

Sessions Clerk for Chief Justice Scheier (KFS) and Judge Trombly (CWT):

Frank Richmond 617-788-7408 richmond_f@jud.state.ma.us

Sessions Clerk for Judge Lombardi (LJL) and Judge Piper (GHP):

Rielle Kolsky 617-788-7509 rielle.kolsky@jud.state.ma.us

Sessions Clerk for Judge Sands (AHS) and Judge Long (KCL):

Scott Smith 617-788-7509 scott.smith@jud.state.ma.us

Dated: June 22, 2004