

Standing Order 11-20 was revised on October 18, 2020, to make clear that service of process of a summary process summons and complaint must be in the manner set forth in Uniform Summary Process Rule 2, and must also be served by email unless an email address is unavailable. It also was revised to provide that a party that fails to attend the case management conference must seek the Court's approval before serving a discovery demand on the opposing party.

**Boston Municipal Court Revised Standing Order 11-20:
Court Operations for the Adjudication of Summary Process
Matters Post-Massachusetts Eviction Moratorium**

As Chief Justice of the Boston Municipal Court Department, I issue the following Standing Order pursuant to my authority under G.L. c. 211, § 10, G.L. c. 218, § 38, and G.L. c. 220, § 5, as well as the Supreme Judicial Court's Fourth Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic (issued September 17, 2020, effective September 17, 2020) (SJC's Fourth Updated Order), for proceedings in summary process cases after the expiration of the statutory Massachusetts Eviction Moratorium.¹

- I. Summary process cases upon expiration of the moratorium on evictions, St. 2020, c. 65.
 - A. Remote Proceedings: Pursuant to the SJC Fourth Updated Order courthouses are now physically open to the public to conduct limited court business. However, pursuant to this Order, clerks must continue to limit the number of persons entering courthouses and must endeavor to conduct business virtually to the extent possible. Accordingly, both pending and new cases filed pursuant to G.L. c. 239 (summary process cases), shall be heard remotely. In cases with one or more self-represented litigants (SRLs) where a court is scheduling a videoconference, courts will recognize the possibility that SRLs may have limited access to the technology needed to conduct videoconferences or limited experience with it, and will either assist the SRL in being able to conduct a videoconference or offer an alternative to videoconferencing for the hearing.
 - B. Filings: Summary process summons and complaints (S&C) shall be filed in hand or by first-class mail to the clerk's office, or, if provided

¹ See St. 2020, c. 65.

by the court, by utilizing the drop-box provided at the appropriate courthouse. All S&C must also be filed by email in pdf format to the court's dedicated civil email address [\[court\]dccivil@jud.state.ma.us](mailto:[court]dccivil@jud.state.ma.us). When eFiling becomes available for this case type, summary process complaints may be eFiled at <https://efilema.tylerhost.net/ofswb>. Any subsequent pleading or motion filed by a litigant after the effective date of this Standing Order may be eFiled (once available) or submitted by email in pdf format to the court's dedicated civil email address [\[court\]dccivil@jud.state.ma.us](mailto:[court]dccivil@jud.state.ma.us). All litigants must provide the court with a telephone number and an email address, if available.

Service of process for S&C shall be made in the manner set forth in Uniform Summary Process Rule 2; S&C must also be served by email unless an email address is unavailable. Service of any subsequent pleading or motion by either party must be made by both first-class mail and email unless an email address is unavailable.

II. Scheduling and Deadlines in Summary Process cases.

- A. Summons and Complaint: For summary process cases filed subsequent to the expiration of St. 2020, c. 65, plaintiffs shall not provide a trial date on the summary process summons and complaint (S&C). For new summary process cases, plaintiffs shall not provide a trial date on the summary process summons and complaint (S&C), but rather should indicate on the S&C that the trial date is "to be determined by the court" or "TBD by the court."² The S&C will inform the parties that the court will notify them of the date, time, and manner of the court event.
- B. Case Management Conference: In both pending and new summary process cases, the court will notify the parties of the date and time of the first court event, which shall be a judicial case management conference (CMC), and may occur on any day of the week. The CMC will allow the court to inform the parties regarding the availability of, and explore the parties' interest in, mediation, the availability of

² A new Summons and Complaint form, that will be promulgated by October 19, 2020, will state that the court will send notice of the first court event.

assistance with housing costs, establish stipulations, narrow the factual and legal issues to be addressed at trial, schedule urgent or dispositive motions so as to minimize delay, and establish discovery deadlines tailored to the specific case.

- C. Affidavit for Non-Payment of Rent Claims: Upon the entry of a new summary process action that includes a claim for non-payment of rent, the plaintiff shall file with the S&C an affidavit indicating whether the plaintiff has received a Declaration from the tenant under the Order³ issued by the Centers for Disease Control and Prevention (CDC Order), effective September 4, 2020. In a pending summary process action that includes a claim for non-payment of rent, the plaintiff shall file said affidavit on or before the date of the first CMC. In all summary process cases, the plaintiff shall also file a subsequent affidavit prior to the entry of judgment or upon request for the issuance of an execution. A form affidavit will be available on the judiciary's Mass.gov webpage.
- D. Case Priority: Generally speaking, cases will be scheduled based on the order in which they were filed.
- E. Answers: Unless an extension of time is requested, an Answer to a summary process complaint shall be due no later than three business days prior to the date of the CMC.
- F. Continuances: If a case is referred to mediation, the case may be continued for a further CMC. The court may also, at the request of the parties or at its discretion, continue any case for any reason if doing so will assist the parties with resolving the dispute. If the case is not referred to mediation or an agreement is not reached, the case will be continued for a bench trial date no sooner than two weeks after the CMC.
- G. Defaults and Dismissals: Failure to appear at the first CMC will not result in entry of a default or dismissal of the case. Instead, the case will be scheduled for a bench trial no sooner than two weeks following the date of the case management conference. Where a party

³ See Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19, 85 Fed. Reg. 55292 (Sept. 4, 2020).

wishes to serve a discovery demand on the opposing party but has failed to appear at the CMC, the party must, by motion, obtain approval of the Court to serve such demand.

- H. Transfers to Housing Court: Pursuant to Uniform Summary Process Rule 4, any request for a transfer of the action under shall be filed in both courts no later than the day before the commencement of the trial.

III. Executions

- A. Subject to the requirements of the CDC Order, if any court COVID-19 Standing Order tolled the issuance of an Execution, and the statutory 90-day expiration date on the Execution has passed, a landlord may file a written request or motion for a new execution. Such written request or motion must include an affidavit⁴ to the court that the landlord has not received a Declaration from the tenant under the CDC Order. The Clerk's office shall issue an Execution under the original terms upon such motion for the statutory 90-day period. However, if a landlord wants an Execution for a different amount of money damages, he or she shall file and serve a motion to amend the underlying judgment and the motion will, together with any opposition, will be heard virtually.

IV. Motions for removal of defaults or vacating dismissals

- A. Where a summary process case has been dismissed or default has entered on or after March 10, 2020, a party may move to vacate the dismissal or default and such motion shall be allowed by the court unless an objection is filed by the opposing party. Pursuant to II (G), above, no default or dismissal shall enter as a result of the failure to appear at the first case management conference.

Any deviation from this Order must be sought from the Chief Justice of the Boston Municipal Court.

⁴ See Section II.C.

This Order is effective October 19, 2020 and shall remain in effect until further order of this Court.

This Standing Order shall be posted on the judiciary's "Court System Response to COVID-19" mass.gov webpage, which is located at <https://www.mass.gov/guides/court-system-response-to-covid-19>.

A handwritten signature in blue ink, appearing to read "Roberto Ronquillo, Jr.", is positioned above a horizontal line.

Hon. Roberto Ronquillo, Jr.
Chief Justice of the Boston Municipal Court
Promulgated: October 18, 2020