

**Boston Municipal Court Second Revised¹ Standing Order 11-20:
Court Operations for the Adjudication of Summary Process
Matters During the Continuing COVID-19 State of Emergency**

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 during the COVID-19 State of Emergency. This Order shall repeal and replace BMC Revised Standing Order 11-20.

- I. Summary process cases during the continuing COVID-19 State of Emergency.
 - A. Remote Proceedings: Pursuant to the SJC Fourth Updated Order courthouses remain 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 continue to 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. Summary process jury trials shall proceed in accordance with the separate BMC jury trial standing order.

¹ Standing Order 11-20 was first issued on October 9, 2020. The Order was first 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 and 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.

- B. Filings: Summary process filings shall be filed in hand or by first-class mail to the clerk's office, or, if provided by the court, by utilizing a drop-box provided at the appropriate courthouse. All summons and complaints (S&C) may also be filed by email in pdf format to the court's dedicated email address bmc[division]@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 email address bmc[division]@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. Case Entry, 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 (An Act Providing for a Moratorium on Evictions and Foreclosures During the COVID-19 Emergency), plaintiffs shall not provide a trial date on the summary 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. Affidavit of Compliance: For any residential summary process case that includes a claim based on the nonpayment of rent to be accepted and entered on or after January 25, 2021, the S&C, and any other documentation required under Uniform Summary Process Rule 2(d),³

² A new Summons and Complaint form, that was promulgated on October 19, 2020, states the court will send notice of the first court event.

³ An affidavit regarding the CDC Declaration is no longer required to be filed with the Summons and Complaint. See Section II.D. of this Order.

shall be accompanied by a completed “Affidavit of Compliance with Section 1(a) of Chapter 257 of the Acts of 2020” (Affidavit of Compliance).⁴ As provided in St. 2020, c. 257 § 1(a) (An Act Providing for Eviction Protections During the COVID-19 Pandemic Emergency) any notice to quit served on or after December 31, 2020 must be accompanied by the form developed by the Executive Office of Housing and Economic Development (EOHD) pursuant to St. 2020, c. 257 § 1(a).⁵

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

- D. CDC Affidavit for Executions for Nonpayment of Rent Claims: Any application for an execution in any residential summary process action that includes a claim for nonpayment of rent, shall be accompanied by an affidavit (CDC Affidavit) indicating whether the plaintiff has received a Declaration from the tenant under the Order⁶ issued by the Centers for Disease Control and Prevention (CDC Order).⁷ Any

⁴ The “Affidavit of Compliance with Section 1(a) of Chapter 257 of the Acts of 2020” is a new Trial Court developed form and will be available on the judiciary’s Mass.gov webpage.

⁵ This Attestation Form developed by the Executive Office of Housing and Economic Development, also defined as the “NTQ [Notice to Quit] Accompanying Form” by 400 C.M.R. 6.02, is available at <https://www.mass.gov/info-details/notice-to-quit-attestation-form-and-submission-information>.

⁶ See Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19, 85 Fed. Reg. 55292 (Sept. 4, 2020) as extended by Section 502 of Division N, Title V, Subtitle A of the Consolidated Appropriations Act, 2021.

⁷ A form First Amended Plaintiff Affidavit Concerning the CDC Order is available on the judiciary’s Mass.gov webpage.

execution whose terms indicated it was stayed through December 31, 2020 shall be further stayed until the expiration of the CDC Eviction Moratorium.

- E. Case Priority: Cases will generally be scheduled based on the order in which they were filed.
- F. 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.
- G. Continuances: A motion for a continuance shall be granted in any summary process case where the court determines that the requirements of St. 2020, c. 257 § 2(b) are met. Also, as provided for in St. 2020, c. 257 § 2(b) 1) during such a continuance, the court may consider any meritorious counterclaim and 2) in the event the court determines a continuance is required by St. 2020, c. 257 § 2(b), no judgment shall enter, nor execution shall issue, until a decision on any pending rental assistance application has been made. Additionally, 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, and a bench trial is requested, the case will be continued for a bench trial date no sooner than two weeks after the CMC. All jury trial requests will be scheduled pursuant to the jury trial standing order.
- H. 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 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.
- I. 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 any trial.

III. Expired Executions

- A. Subject to the requirements of the CDC Order, if any court-issued 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 a CDC Affidavit⁸ to the court indicating that the landlord has not received a Declaration from the tenant under the CDC Order as described in Section II.D. The Clerk's office shall issue an Execution under the original terms upon such motion for the statutory 90-day period and may do so administratively. However, if a landlord seeks an Execution for a different amount of money damages, the landlord 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 Section II.H. 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.

This Second Revised Order is effective January 19, 2021 and shall remain in effect until further order of this Court.

⁸ See Section II.D.

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>.



Hon. Roberto Ronquillo, Jr.
Chief Justice of the Boston Municipal Court
Promulgated: January 15, 2021