

**Boston Municipal Court Third Revised<sup>1</sup> Standing Order 11-20:  
Continuation of Temporary Modifications for Summary Process Cases  
After the 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 to temporarily continue the modifications to summary process proceedings put in place during the COVID-19 State of Emergency. This Order shall rescind and replace BMC Second Revised Standing Order 11-20 and shall be effective on August 2, 2021 until further order of the Court.

- I. Virtual and In-person Court Events: Consistent with Joint Standing Order 1-21 of the Boston Municipal Court Department and District Court Department (Joint Standing Order 1-21) summary process matters shall proceed as follows:
- a) summary process hearings, apart from trials, shall be presumptively virtual unless a party requests, and the court orders, that the hearing be conducted in-person; and
  - b) all summary process trials shall be in-person unless a motion for virtual appearance pursuant to Section VII of Joint Standing Order 1-21 has been allowed.

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.

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<sup>1</sup> 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. The second revision of Standing Order 11-20 was issued on January 15, 2021 and was effective January 18, 2021.

- II. Case Management Conferences: The two-tier system shall remain in place until further order of the court.<sup>2</sup> 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) (first tier event), and may occur on any day of the week 14 days after the entry date. 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. The Court may also schedule the trial date (second tier event) at the same time it schedules the case management conference and send notice of the trial date with the notice of the case management conference.
- III. Summons and Complaint: For summary process cases filed subsequent to the October 17, 2020 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 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."<sup>3</sup> The S&C will inform the parties that the court will notify them of the date, time, and manner of the court event. Plaintiffs shall not name any minor as defendants in a summary process S&C.<sup>4</sup>
- IV. 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 S&C and subsequent filings may also be filed 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. When eFiling becomes available for this case type, S&C and subsequent pleadings may be

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<sup>2</sup> See Trial Court Administrative Order 21-2: Trial Court Order Suspending Certain Provisions of Trial Court Rule I: Uniform Summary Process Rules (effective June 15, 2021).

<sup>3</sup> A Summons and Complaint form, promulgated by the Trial Court on October 19, 2020, states the court will send notice of the first court event.

<sup>4</sup> See St. 2020, c. 358, §84.

eFiled at <https://efilema.tylerhost.net/ofswweb> and should no longer be emailed to the court's dedicated email address.

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

- V. Case Priority: Cases will continue to be scheduled generally based on the order in which they were filed.
- VI. Answers: Unless an extension of time is requested and approved, an Answer to a summary process complaint shall be due no later than three business days prior to the date of the CMC.
- VII. Chapter 257 Affidavit of Compliance: In light of the passage of Chapter 20 of the Acts of 2021, 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, plaintiffs shall continue to be required to file a completed "Affidavit of Compliance with Section 1(a) of Chapter 257 of the Acts of 2020" (Affidavit of Compliance), along with any other documentation required under any rule or statute.<sup>5</sup> As provided in St. 2020, c. 257 § 1(a), as amended by St. 2020, c. 20, any notice to quit served on or after December 31, 2020 must be accompanied by the Attestation Form developed by the Executive Office of Housing and Economic Development (EOHD) pursuant to St. 2020, c. 257 § 1(a).<sup>6</sup>
- VIII. Continuances pursuant to Chapter 257 of the Acts of 2020 : 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), as amended by St. 2021, c. 20, are met. Also, as provided for in St. 2020, c. 257 § 2(b) 1) during such a continuance, the court may consider any meritorious

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<sup>5</sup> The "Affidavit of Compliance with Section 1(a) of Chapter 257 of the Acts of 2020" is Trial Court developed form and is available on the judiciary's Mass.gov webpage.

<sup>6</sup> The Attestation Form developed by the Executive Office of Housing and Economic Development is available at <https://www.mass.gov/info-details/notice-to-quit-attestation-form-and-submission-information>.

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 trial is requested, the case will be continued for a trial date no sooner than two weeks after the CMC.

- IX. Defaults and Dismissals: For any summary process case filed after July 1, 2021, failure of a party to appear at any court event, including the first CMC, may result in entry of a default or dismissal of the case.
- X. CDC Affidavit for Executions for Nonpayment of Rent Claims: Until the expiration of the Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19 Order issued by the Centers for Disease Control and Prevention (CDC Order), or any extension of the CDC Order, 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 pursuant to the CDC Order. Any execution whose terms indicated it was stayed through December 31, 2020 shall be further stayed until the expiration of the CDC Eviction Moratorium.
- XI. Expired Executions: Subject to the requirements of the CDC Order while it is in effect, 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. 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.
- XII. Executions upon expiration of the CDC Eviction Moratorium: Executions for possession that were subject to the CDC Order may be levied upon the expiration of the CDC Order, subject to G.L. c. 235, § 23.

XIV. 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.

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

This Third Revised Order is effective August 2, 2021 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>.



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Hon. Roberto Ronquillo, Jr.  
Chief Justice of the Boston Municipal Court  
Promulgated: July 30, 2021