

District Court Fourth Amended Standing Order 10-20
Court Operations for the Adjudication of Summary Process Cases

This Standing Order shall repeal and replace District Court Third Amended Standing Order 10-20 effective June 20, 2023 and applies to all cases filed on and after that date and shall supersede any rule to the contrary. I hereby ORDER, pursuant to my authority as set forth in G.L. c. 211B, § 10, G.L. c. 218, §§ 38 & 43A, and G.L. c. 220, § 5 that all Summary Process cases filed pursuant to G.L. c. 239, shall be addressed in the following manner:

I. Management of Summary Process Cases Applicable to Cases Filed On and After June 20, 2023:

A. Scheduling Court Events – Generally

1. Hearings, apart from trials, may be either in person or virtual, as ordered by the court unless a motion for virtual appearance pursuant to Section II of Joint Standing Order 2-22 has been allowed. To the extent provisions in Section II of Joint Standing Order 2-22 conflict with this order, the provisions of this standing order shall control.
2. All summary process trials shall be in-person unless a motion for virtual appearance pursuant to Section II of Joint Standing Order 2-22 has been allowed.

In cases with one or more self-represented litigants (SRLs) where a court is scheduling a virtual hearing, the District Court recognizes the possibility that SRLs may have limited access to the technology needed to conduct virtual hearing or limited experience with it and will either assist the SRL in being able to conduct a virtual hearing or offer an alternative to a virtual hearing for the hearing.

B. Filing Cases – Generally

1. Summary process complaints shall be filed in-hand or by first-class mail to the clerk's office. When available, summary process complaints may also be eFiled. In all residential nonpayment cases, the plaintiff must file, together with the summons and complaint, the "Affidavit of Compliance with G.L. c. 186 s. 31" ("Affidavit of Compliance") This Affidavit is available online: <https://courtforms.jud.state.ma.us/publicforms/TC0030>. A clerk's office shall not accept for filing a summary process case that fails to include the Affidavit of Compliance.
2. Plaintiffs shall not provide a trial date on the summary process summons and complaint. When a summary process case is filed, the court will schedule a hearing date in accordance with the procedures set forth in this Standing Order.
3. Parties may sign up for Interactive Text response, which provides text message reminders of upcoming court events in a specific case. A separate form must be filed by each party and will only apply to one specific case. Parties can complete and submit forms online here:

<https://www.mass.gov/forms/civil-court-date-text-reminders>. Text reminders are for the convenience of the parties and will not replace any other notice requirement of this Standing Order or the Uniform Rules of Summary Process.

C. Modified Two-Tier Process

Summary Process cases filed on or after June 20, 2023, shall be scheduled and shall proceed under a modified two-tier process: the first tier will be a Case Management Conference (“CMC”) event and the second tier will be a Trial event.

1. When a summary process case is entered, the Clerk’s Office will schedule a CMC event no sooner than thirty (30) days but no later than sixty (60) days from the entry date.
2. Within seven (7) days of scheduling the CMC event, the Clerk’s Office will send to the plaintiff or the plaintiff’s attorney:
 - a. the “Notice of CMC” event that is addressed to the Plaintiff; and
 - b. the “Notice of CMC” event that is addressed to the Defendant(s).

The Notice of CMC event will inform the parties that the case has been scheduled for a date certain, along with the time, location and whether the event will be in-person or virtual, along with any necessary information and instruction for virtual sessions.

3. The plaintiff or plaintiff’s attorney shall serve on each named Defendant the Notice of the CMC event that is addressed to them. Service shall be made by constable or sheriff no later than fourteen (14) days before the scheduled CMC event and in the same manner as is required for service of a summary process summons and complaint. The return of service for the Notice of the CMC Event must be filed with the court no later than the date of the initial CMC event. The cost of such service may be recovered by agreement of the parties or as normal costs associated with the entry of judgment.
4. The answer to a summary process complaint shall be due no later than three business days prior to the date of the CMC event, unless otherwise ordered by the court.
5. The CMC event will allow the court to explore the parties’ interest in mediation, case resolution and discuss the availability of assistance with housing costs. This event will also provide an opportunity to establish stipulations, narrow the factual and legal issues to be addressed at trial, order continuances, establish discovery deadlines tailored to the specific case, and schedule urgent or dispositive motions.
6. The failure of a party to appear at the CMC shall have the following results:
 - a. The case **shall be dismissed** if the plaintiff fails to appear.
 - b. **A default shall enter** if the defendant fails to appear at the CMC event after notice of the event has been served and a return of service filed with the court.

- c. **A default shall not enter** if a defendant fails to appear at the CMC event and notice of the event has not been served or a return of service has not been filed with the court. The case will be scheduled for a second CMC event for which the plaintiff will be required to serve the defendant in accordance with paragraph (I)(C)(3) above.

When a default enters against a defendant, a plaintiff can thereafter seek a default judgment pursuant to Uniform Summary Process Rule 10(d); the clerk shall review the return of service of the CMC event in the same manner as Uniform Summary Process Rule 10(d)(iii).

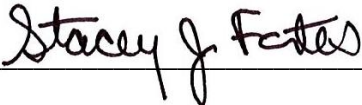
If a party wishes to serve a discovery demand on the opposing party but has failed to appear at the case management conference, the party must, by motion, obtain approval of the Court to serve such demand.

7. If any case is referred to mediation, the case may be continued for a further CMC event. 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 has not been continued, is not referred to mediation, or an agreement is not reached, the case will be continued for a Trial event no sooner than two weeks after the CMC event.
8. Any request for a transfer of the action under Uniform Summary Process Rule 4 shall be filed in both courts no later than the day before the commencement of the trial.

II. Scope of this Order

This Order will remain in effect until a subsequent order issues rescinding this Order. Any other deviation from this Order must be sought from the Chief Justice of the District Court.

This Order shall take effect on June 20, 2023.



Hon. Stacey J. Fortes
Chief Justice of the District Court
Promulgated: June 5, 2023