

District Court Standing Order 10-20
Court Operations for the Adjudication of Summary Process Cases Under the Exigent Circumstances Created by COVID-19

In light of public health concerns regarding the COVID-19 (coronavirus) pandemic, and the anticipated expiration of the moratorium on evictions and foreclosures under St. 2020, c. 65, 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 and, consistent with the Supreme Judicial Court Fourth Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic (SJC Fourth Updated Order), that all Summary Process cases filed pursuant to G.L. c. 239, shall be addressed in the following manner:

I. Virtual Management of Summary Process Cases upon Expiration of the Moratorium on Evictions, St. 2020, c. 65

Pursuant to the SJC Fourth Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic, and District Court Standing Order 9-20, courthouses are now physically open to the public to conduct limited court business. However, pursuant to those Orders, 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), will be heard remotely. In cases with one or more self-represented litigants (SRLs) where a court is scheduling a videoconference, the District Court recognizes 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.

Any pleading or motion, including a summary process complaint, filed by a litigant after the effective date of this Standing Order must be e-filed at <https://efilema.tylerhost.net/ofswweb>, or submitted by email in pdf format to the court's dedicated civil email address [court]dccivil@jud.state.ma.us. Service of any pleading or motion must be made by first-class mail pursuant to Uniform Summary Process Rule 2, and must also be served by email unless an email address is unavailable. An exception to the electronic filing requirements will be made only if the filer informs the court that s/he lacks the technology necessary to e-file or email the document. In such cases, the filing may be accomplished either by mail or by utilizing the drop-box provided at the appropriate courthouse. All litigants must provide the court with a telephone number and an email address, if available.

II. Scheduling and Deadlines in Summary Process Cases

1. 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), but rather should indicate on the S&C that the trial date is "to be determined by the court" or

“TBD by the court. The S&C will inform the parties that the court will notify them of the date, time, and manner of the court event.”¹

2. Upon the entry of a new summary process action that includes a claim for non-payment of rent, the plaintiff shall file with the summons and complaint an affidavit, as promulgated by the court, indicating whether the plaintiff has received a declaration from the tenant under the order issued by the Centers for Disease Control and Prevention, effective September 4, 2020, (“CDC Order”). 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 case management conference. In all such cases, the plaintiff shall file a subsequent affidavit prior to the entry of judgment. The affidavit, as promulgated by the court, will be available on the court’s website.

3. 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. The case management conference will allow the court to explore the parties’ interest in mediation, the availability of assistance with housing costs, and the requirements of the CDC Order. The conference will also provide an opportunity to 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.

4. Answer to a summary process complaint shall be due no later than three business days prior to the date of the case management conference, unless otherwise ordered by the court.

5. If the case is referred to mediation, the case may be continued for a further case management conference. 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 case management conference.

6. Failure to appear at the case management conference will not result in entry of a default or dismissal of the case. Instead, the case will be scheduled for a trial no sooner than two weeks following the date of the case management conference.

7. 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.

8. In all summary process cases that include a claim for non-payment of rent, the plaintiff shall again file an affidavit prior to the entry of judgment, and with any request for the reissuance of an execution, indicating whether the plaintiff has received a declaration from the tenant under the Order. *See* ¶ 2.

¹ The Executive Office of the Trial Court will promulgate a Summons consistent with this requirement.

III. Executions

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 must include the affidavit to the court that the landlord has not received a declaration from the tenant under the CDC Order. *See* II(2). The Clerk's office will issue an execution upon such request for a 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, together with any opposition, will be heard virtually.

IV. Motions for Removal of Defaults or Vacating Dismissals

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(6), above, no default or dismissal shall enter as a result of the failure to appear at a case management conference.

V. 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 October 19, 2020.

/s/ Paul C. Dawley

Hon. Paul C. Dawley
Chief Justice of the District Court
Promulgated: October 5, 2020