

**TRIAL COURT OF MASSACHUSETTS  
HOUSING COURT DEPARTMENT**

**INTERIM STANDING ORDER 1-23**

**Continuation of Temporary Modifications to Court Operations**

The Chief Justice of the Housing Court, pursuant to the statutory authority under G.L. c. 211B, § 10 and G.L. c. 185C, § 8A, hereby promulgates this Standing Order, which shall be effective June 5, 2023. At that time, this Standing Order shall repeal and replace Third Amended Standing Order 6-20.

Where appropriate, this Order is intended to be consistent with any orders of the Supreme Judicial Court (“SJC”) and the Executive Office of the Trial Court. This Order shall remain in effect until further order of the court.

1. Court business generally. Each Housing Court division shall be open to conduct court business virtually and in person, as set forth in this Order.<sup>1</sup> In cases with one or more self-represented litigants (“SRLs”) where a court is scheduling a videoconference, divisions 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. By no later than September 1, 2023, each division shall endeavor to resume court sittings as established by G.L. c. 185C, § 4.<sup>2</sup>
2. Virtual and In-Person Court Events; Scheduling Generally.
  - i. Unless the court—in extraordinary circumstances and upon motion,<sup>3</sup> request, or on its own initiative—determines otherwise on a case-by-case basis, the following events shall proceed in person:
    - A. mediations and trials in all case types, including all first- and second-tier court events in summary process cases;
    - B. proceedings where an assessment of credibility is necessary, as determined by the Clerk-Magistrate, in consultation with the respective First Justice;
    - C. motions requiring an evidentiary hearing, as determined by the Clerk-Magistrate, in consultation with the respective First Justice; and
    - D. arraignments and contempt proceedings.
  - ii. Unless the court—in extraordinary circumstances and upon motion, request, or on its own initiative—determines otherwise on a case-by-case basis, the following court events shall proceed virtually:
    - A. case management, pre-trial, and status conferences;

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<sup>1</sup> Pleadings and other documents may be filed with the court by mail, by eFiling (where available), or in person. For information on eFiling, visit <https://www.mass.gov/guides/efiling-in-the-housing-court>. Court users may also access each division’s virtual front counter, available at <https://www.mass.gov/info-details/remotevirtual-court-services>, through which court staff will be able to answer questions and assist court users virtually.

<sup>2</sup> For information regarding a division’s locations, contact the respective Clerk’s Office or visit [https://www.mass.gov/orgs/housing-court/locations?\\_page=1](https://www.mass.gov/orgs/housing-court/locations?_page=1).

<sup>3</sup> Such a motion may, for example, be based upon good cause or involve a request(s) for reasonable accommodation. See, e.g., *Adjartey v. Central Division of the Housing Court Department*, 481 Mass. 830 (2019).

- B. emergency motions (*e.g.*, where one party cannot appear because of short notice, including motions to stop the levy on 48-hour eviction notices), as determined by the Clerk-Magistrate, in consultation with the respective First Justice; and
    - C. motions that do not require an evidentiary hearing, as determined by the Clerk-Magistrate, in consultation with the respective First Justice.
  - iii. Each Clerk-Magistrate, in consultation with the respective First Justice, shall determine the process for scheduling and hearing code enforcement cases and any other court events not identified in §§ 2(i) and (ii).
  - iv. The court, upon motion or request, may authorize a participant (attorney, party, or witness) to appear virtually while other participants appear in person, so long as it is consistent with the protection of constitutional rights. A participant who requests to appear virtually for an otherwise in person proceeding shall have no grounds to object to other participants appearing in person.
  - v. Each Clerk-Magistrate, in consultation with the respective First Justice and Chief Housing Specialist, shall coordinate the staggered scheduling of all matters (*e.g.*, 9:00 a.m., 11:00 a.m., 2:00 p.m., etc.), to accommodate the maximum number of cases that may be heard. Each Clerk-Magistrate, in consultation with the respective First Justice and Chief Housing Specialist, shall otherwise have the discretion to maximize the number of sessions the division operates and to group cases in a manner that will promote efficiency.
- 3. Summary Process (Eviction) Cases.
  - i. In General; Housing Specialist Views; Case Entry; Answers.
    - A. All summary process cases shall be scheduled based on the order in which they were filed (*i.e.*, by docket number) and shall proceed as set forth in §§ 3(ii) and (iii) below.
    - B. Inspections and views conducted by the Housing Specialists Department may resume. Housing Specialists shall take all appropriate health and safety precautions when conducting court business, including by traveling in pairs where practicable.
    - C. Consistent with Housing Court Standing Order 1-20, all attorneys shall continue to eFile in summary process cases. While not mandatory for self-represented litigants, they are encouraged to eFile.<sup>4</sup>
    - D. 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>5</sup>

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<sup>4</sup> In keeping with digitization efforts, all attorneys practicing in the Housing Court are enrolled in eDelivery. The court expects to soon offer eDelivery as an option for self-represented litigants. For more information on eDelivery, visit <https://www.mass.gov/info-details/learn-about-edelivery-in-the-trial-court>.

<sup>5</sup> A modified summary process summons and complaint (S&C) has been promulgated by the court for temporary use. Prior versions of the S&C may continue to be used, subject to the requirements of this Order. Court users are encouraged to exchange prior versions of the S&C with the newly modified one, free of charge. S&Cs may be purchased online at <https://govhub.com/ma/housingcourt>, but require at least 3-5 days for processing and mailing. Plaintiffs shall not name any minors as defendants in a summary process case. *See* St. 2020, c. 358.

- E. To comply with St. 2022, c. 107, the court shall not accept for filing a summary process case for nonpayment of rent without the court-promulgated Affidavit of Compliance with G.L. c. 186, § 31, which is available on the court’s website.
- F. Answers in pending and new summary process cases shall be filed and served no later than three (3) business days before the date of the initial first-tier court event. An Answer that is filed and served in accordance with this Order shall be deemed timely. An Answer that is not filed and served in accordance with this Order shall be left to judicial discretion and determination.
- G. The party of whom timely discovery is demanded shall respond no later than ten days after receipt of the request.

ii. Cases Filed on or after June 5, 2023; Modified Two-Tier Process.<sup>6</sup>

- A. Summary process cases filed on or after June 5, 2023, shall be scheduled, and shall proceed, under a modified two-tier process, as set forth below.
- B. The Clerk’s Office shall schedule cases for a first-tier court event no sooner than thirty days, but no later than sixty days, after the case is entered.
- C. By no later than seven calendar days after accepting the case, the Clerk’s Office shall send the plaintiff or plaintiff’s attorney (1) a written notice of the first-tier court event, informing the parties that the case has been scheduled for a date certain, along with the time, location, and method (*e.g.*, in person or videoconference); (2) an information sheet setting forth a list of resources that may be available to assist the parties in resolving their case;<sup>7</sup> and (3) instructions for serving the court notice and information sheet on all defendants.
- D. The plaintiff or plaintiff’s attorney shall serve on each named defendant a copy of the notice of the first-tier court event, as well as the information sheet. Service shall be made by constable or sheriff no later than fourteen days before the initial first-tier court event and in the same manner as is required for service of a summary process summons and complaint. The plaintiff or plaintiff’s attorney shall file with the court such constable’s or sheriff’s return of service no later than the date of the initial first-tier court event. The cost of such service may be recovered by agreement (through mediation) or as normal costs associated with the entry of judgment.
- E. The purpose of the first-tier court event will be for the parties, with the assistance of a Housing Specialist, to (1) determine the “status” of the case; (2) explore the availability of assistance with housing costs and other available resources and programs (*e.g.*, Lawyer for the Day Program, Tenancy Preservation Program, etc.); (3) discuss whether a continuance is

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<sup>6</sup> An overview of resources that may be available in summary process (eviction) cases is available in multiple languages at <https://www.mass.gov/info-details/housing-court-call-of-the-list-speech>.

<sup>7</sup> Information as to certain resources available by division for landlords and tenants is available on the court’s website at <https://www.mass.gov/guides/housing-court-resources>. The court continues to encourage plaintiffs to explore any such resources in the first instance before the filing of a summary process action.

appropriate; and (4) attempt to reach a resolution of the matter through mediation.

- F. Agreed-to continuances shall be reduced to writing and signed by all parties, with a copy given to each party by the conclusion of the court event and entered on the docket. Such writing shall include the date, time, and method of the next court event. No further or separate notice of the next court event shall be necessary from the court to the parties. The parties may file and serve a motion for further action or dismissal of the matter, at any time during such a continuance. In that instance, the court shall schedule the matter within 30 days of filing and send the parties notice thereof.
- G. If, at any time, the parties do not agree to participate in mediation, or if they do not agree to a resolution or continuance of their case, the case shall be scheduled for a second-tier court event, which shall be trial. In that instance, such trial shall be scheduled for a date 2 weeks later and, before the conclusion of the court event, the parties shall be given written notice of the date, time, and location of the trial. The Clerk's Office shall docket such trial information, with a further notation that the parties were given notice. No further or separate notice of the next court event shall be necessary from the court to the parties.
- H. Default shall not enter if the plaintiff or plaintiff's attorney has not complied with § 3(ii)(D) by filing with the court a completed constable's or sheriff's return of service for the notice of the first-tier court event. Otherwise, defaults and dismissal may enter, as appropriate, if a party does not (or if both parties do not) appear after notice.<sup>8</sup>

iii. Cases Filed Before June 5, 2023.

- A. Cases that are filed before June 5, 2023, and that have already been scheduled for a first-tier court event shall proceed as scheduled. Any subsequent court event(s) in those cases (*e.g.*, continuances, second-tier trial, etc.) shall be subject to the procedures set forth in § 3(ii). Defaults and dismissal may enter, as appropriate, if a party does not (or if both parties do not) appear after notice.
- B. Cases that are filed before June 5, 2023, and that have not been scheduled shall proceed under the procedures set forth in § 3(ii).

iv. Removal of Defaults & Dismissals based on Returned Mail.

- A. In a case filed before June 5, 2023, and where default or dismissal has not already entered, no default or dismissal shall enter at either the first-tier (mediation) or the second-tier (trial) if the court's notice of court event was returned to the court by the U.S. Post Office and the party did not receive in-hand notice of the court date (*e.g.*, at a prior court event). Any such returned mail shall be docketed.

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<sup>8</sup> Parties are strongly encouraged to sign up for Interactive Text Response (ITR), a notification system offered by the court as a courtesy. ITR (a/k/a eReminder) provides text message reminders of upcoming court events in a specific, pending case. ITR information is available at <https://www.mass.gov/forms/ereminder-court-date-notification-system>.

- B. In a case filed before June 5, 2023, and where default or dismissal has already entered, motions to vacate such default or dismissal on the grounds that notice of the court event was not received by the party shall be allowed administratively without a hearing, as long as the Clerk-Magistrate (or designee) confirms that (1) the notice of court event was returned to the court by the U.S. Post Office; (2) the returned mail containing the notice of court event is docketed in the file, (3) the docket does not include a party's return of supplementary service of the notice, and (4) the party did not receive in-hand notice of the court date (*e.g.*, at a prior court event). Any execution issued on such a default judgment shall be recalled.
  - C. No execution shall issue after a default judgment if the Clerk-Magistrate (or designee) confirms that (1) the notice of court event was returned to the court by the U.S. Post Office, (2) the returned mail containing the notice of court event is docketed in the file, (3) the docket does not include a party's return of supplementary service of the notice, and (4) the party did not receive in-hand notice of the court date (*e.g.*, at a prior court event). The Clerk-Magistrate (or designee) shall vacate the underlying default administratively without a hearing.
  - D. If a default or dismissal is administratively vacated based on the returned mail of the court notice, the Clerk's Office shall schedule the matter, and the matter shall proceed, under the procedures set forth in § 3(ii).
4. Agreements for Judgment. In any case (regardless of case type) where the parties reach an Agreement for Judgment and there is at least one self-represented party, the parties shall present such Agreement to a judge, Clerk-Magistrate, Assistant Clerk-Magistrate, or a Housing Specialist for endorsement. No Agreement for Judgment shall be entered as a court order unless a judge, Clerk-Magistrate, or Assistant Clerk is satisfied that the parties understand the terms of such agreement, that its terms are fair and reasonable, and that it was entered into voluntarily.
5. Jury Trials. Jury trials shall be scheduled and held in accordance with any guidance and procedures established by the SJC and the Executive Office of the Trial Court.

SO ORDERED.

/s/ Diana H. Horan  
Chief Justice of the Housing Court

Last Updated: April 3, 2023  
Effective: June 5, 2023