



COMMONWEALTH OF MASSACHUSETTS

LAND COURT

DEPARTMENT OF THE TRIAL COURT

STANDING ORDER NO. 1-04

TIME STANDARDS FOR CASES FILED

IN THE LAND COURT DEPARTMENT

A. General Considerations

To “secure the just, speedy and inexpensive determination of every action,” as required by Mass. R. Civ. P. 1, the Land Court Department (“Court”) hereby adopts these time standards and procedures relating to an individual calendar system as a Standing Order of the Court (“Standing Order” or “Order”), superseding Standing Order 2-88, adopted May 1, 1988. This Order is intended to provide the Court with recognized goals for the management and timely disposition of cases. The Order also preserves some discretion in the judges of the Court to schedule individual cases according to the particular needs of the parties or the public.

An integral part of case management and judicial supervision is an individual calendar system, which the Court hereby adopts as set forth below. Generally within three months from entry date, all appropriate cases will be examined by the judge assigned to the case and appropriate orders may be entered notwithstanding any previously assigned presumptive tracking schedule.

ACCORDINGLY:

1. All miscellaneous, tax foreclosure, registration, confirmation, and contested “S” cases (“Cases”) filed in the Court on or after the effective date of this Order, shall be subject to the provisions of this Standing Order. Cases filed under the Servicemembers Civil Relief Act under chapter 57 of the Acts of 1943, as amended, are not subject to this Standing Order.
2. Cases entered prior to the effective date of this Order shall be incorporated into this Order, when appropriate.
3. The timing for the completion of various steps of litigation will be calculated from
the date of filing of the Complaint, except for original registration and confirmation cases (see E(1) below).
4. At or shortly after the time of filing of the Complaint or other initial pleading, each case (other than tax foreclosure cases) shall be assigned to one of the judges. All tax foreclosure cases shall be assigned to the Recorder.
5. The Court shall schedule case management conferences and pre-trial conferences on its own, or as reasonably requested by the parties, consistent with this Order.

B. Individual Calendar System

In its operation the Court shall use an individual calendar system. The basic elements of the system are: a single judge, assigned to a case from beginning to end, who participates with the lawyers and pro se litigants in the management of the case as it proceeds to resolution.

Ordinarily, the judge assigned to the case will hold all hearings and preside at the trial of the case. In case of an emergency, circumstances may require that another judge handle a hearing if the assigned judge is unavailable. Except in tax foreclosure cases, as soon as practicable after a Complaint is filed and served, the assigned judge shall schedule and conduct a Case Management Conference. At the conference, the case shall be reviewed and, if appropriate, a case-specific tracking order shall be established.

The Court has historically set firm dates for trial, and the Court will continue to do so under this Order. The fact that cases are assigned firm trial dates dictates a strict approach to continuances. When the Court has given the parties an exclusive trial date which the parties themselves have participated in selecting, any change threatens not only to affect all parties to that particular case, but also to leave the judge without a case for trial on that date. Accordingly, no continuances will be given without leave of the Court, for good cause shown. The assent of all parties will not constitute per se good cause.

C. Track Designation

1. At time of filing, all Cases shall be assigned to one of the following tracks: fourteen (14) months to trial (Tax or “T” Track); sixteen (16) months to trial (Fast or “F” Track); or thirty-one (31) months to trial (Average or “A” Track).
2. Initial designation to a particular track shall be determined by the main cause of action indicated by the plaintiff on the civil action cover sheet.
3. For good cause shown, a party may request that a case be assigned to a track other than the track in which the main cause of action falls or to a special accelerated track (the “X” Track). The request shall be made by filing a motion with the Court prior to (or in

exceptional circumstances, after) the Case Management Conference.

4. At any time, the judge to whom the action has been assigned may, at his or her discretion, and after the parties have had a chance to be heard, change the track which governs the case.

5. Parties must first file their cases in the “A”, “F”, or “T” Track. To be considered for reassignment to the “X” Track, any party may file a motion if they wish to be considered for the “X” Track. Such motion shall be filed jointly or contain a certification that the motion has been discussed with all other parties. Once filed with the Court, the case is then sent to the judge assigned to the case for review and a hearing for determination as to whether the case properly may be accommodated in the “X” Track. Because assignment to the “X” Track will require a significantly higher level of judicial resources, “X” Track designation will be made infrequently, and only when the case’s prompt disposition will serve a demonstrated public interest, different in kind from most “F” Track cases. The need for special case management is the touchstone of the “X” Track. Every motion for “X” Track consideration shall include a proposed schedule of events and counsel’s certification that the schedule is realistic.

6. Amendments to the designation or tracking order of a case, or an extension or other modification of any of the tracking order dates, may be ordered by the Court on its own motion, for good reasons and as the interests of justice require, but otherwise may be requested and granted only upon motion and for good cause shown. A motion to amend or modify the tracking order shall be in writing and set forth in detail the facts upon which the moving party relies in support of said motion. Motions to continue a trial are strictly disfavored. Hearings on motions under this paragraph shall only be held if deemed necessary by the assigned or

emergency judge.

D. Notification To Parties

While the Court will endeavor to provide notice, the ultimate responsibility for obtaining information from the Court about the track designation of the case and the corresponding tracking order shall rest with each party. Notification shall occur as follows:

1. At or shortly after the time of filing of the Complaint, the plaintiff(s) will be provided with a judge designation and a general Track Assignment and Scheduling Notice (“Track Assignment”), which shall reflect the assigned judge, the assigned track, and the initial presumptive tracking order. All cases filed shall be accompanied by a self-addressed stamped envelope, which shall be used by the Court to mail the Track Assignment to the plaintiff. It is then the responsibility of the plaintiff to mail or deliver the Track Assignment to all parties, which shall be accomplished within ten (10) days after the plaintiff’s receipt of the Track Assignment. The plaintiff has the continuing responsibility as the case progresses to mail or deliver the Track Assignment to all subsequently added parties.

2. It shall be the obligation of the plaintiff to effectuate service of the Complaint on the defendant(s) in a timely fashion so that all parties have adequate time to prepare for the Case Management Conference. Approximately one month prior to the scheduling of the Case Management Conference, a specific date shall be sent by the Court to all parties. The date established for the Case Management Conference does not preclude the earlier filing of a motion, or the marking for earlier hearing of a motion, where appropriate. Discovery and all other aspects of the case may proceed amongst the parties, in accordance with applicable rules and the initial presumptive tracking order, pending the Case Management Conference.

3. All documents and motions filed with the Court within designated time standards under this Order shall contain a certification on the signature page that they are being served within the designated time or by leave of the judge to whom the matter has been assigned.

4. All pleadings and appearances submitted by counsel of record shall be accompanied by counsel's Board of Bar Overseers (BBO) Number. The BBO Number shall appear immediately after counsel's name. It is the responsibility of all counsel of record to ensure that the BBO has their correct and current address.

E. Assignment To Tracks

At filing, all Cases shall be assigned to a track according to the following chart. Assignment to a track indicates the maximum amount of time in which a case should be completed. Some cases may be completed before the maximum time period of the track. All cases transferred to the Court from other courts shall be assigned to a track at the time of transfer.

1. Average ("A") Track

All cases not otherwise assigned to the Fast Track or Tax Track. Original registration and confirmation cases under G. L. c. 185, are included within the "A" Track commencing on the date when the citation issues.

2. Fast ("F") Track

- a. All cases afforded priority by statute, including G. L. c. 40A, §17; c. 40B; and c. 41, §81BB.
- b. Specific performance under G. L. c. 185, §(1)(k).
- c. Partition under G. L. c. 241.

3. Tax (“T”) Track

All cases filed under G. L. c. 60, § 65.

4. Accelerated (“X”) Track

Upon motion and by leave of the assigned judge.

F. Track Assignment and Scheduling Notice

The Court will issue a Track Assignment for each appropriate case, in accordance with the provisions of this Order. A later notice issued by the assigned judge will reflect the specific date for the Case Management Conference. A specific tracking order shall be established at the Case Management Conference. A specific trial date shall be established at the pre-trial conference. The Court may require the parties to file written status reports on or before major milestone dates as set forth below.

The following steps and limitations shall be mandatory except upon special written waiver or modification, for good cause shown and supported by appropriate documentation, granted by the judge to whom the matter has been assigned. Failure to comply with this Order may result in the imposition of any available sanctions, including, but not limited to, the entry of judgments of dismissal or default. Documents filed outside the established time limitations without such a waiver shall not be considered or acted upon by the Court, even if filed by agreement between the parties, unless the Court in its discretion otherwise allows.

The initial presumptive tracking order shall be as follows:

(i) After Designation To Average (“A”) Track:

1. Three months (90 days):

- Service completed on all parties. (If a party who has been served has not timely filed a response to the Complaint, that party shall be defaulted by the Court).
- If service is not made upon any defendant, the action shall be dismissed without prejudice as to that defendant.
- Case Management Conference held (all pro se parties shall appear in person and all other parties shall be represented by counsel with decision-making authority and parties may be defaulted or nonsuited if they do not appear). The Court reserves the right to require all parties to appear at the Case Management Conference. All counsel attending are required to be fully familiar with the case and have complete authority regarding all aspects of the conduct of the litigation. A discovery schedule shall be discussed and implemented. If any party has not received notice of the Case Management Conference by the ninetieth (90th) day following the filing of the Complaint, that party shall request in writing that the Court proceed to schedule the Case Management Conference.
- If not held earlier, an early intervention event shall be held pursuant to Supreme Judicial Court Uniform Rules on Dispute Resolution, Rule 1:18, at which the case may be assigned for alternative dispute resolution screening.

2. Sixteen months (480 days):

- All discovery requests served and answered, and all depositions completed.
- All requests for admissions served and answered.

3. Eighteen months (540 days):
 - Dispositive motions (filed under Mass. R. Civ. P. 12(b)(1); 12(b)(6); 12(c); and 56)(“Dispositive Motions”) filed and served (including supporting memoranda and affidavits).
4. Nineteen months (570 days):
 - Dispositive Motions responses filed.
5. Twenty months (600 days):
 - Dispositive Motions reply briefs filed ten (10) days prior to hearing.
 - Dispositive Motions heard.
6. Twenty-seven months (810 days):
 - Case assigned for pre-trial conference and joint pre-trial memorandum must be filed. Parties not filing a joint pre-trial memorandum may be sanctioned.
7. Twenty-eight months (840 days):
 - Pre-trial conference held (mandatory attendance or party may be sanctioned).
 - Firm trial date, generally within the next three months, set.
8. Thirty-one months (930 days):
 - Trial held.
9. Thirty-three months (990 days):
 - Transcripts filed with the Court and all parties.
10. Thirty-four months (1020 days):

- Post trial briefs filed with the Court within thirty (30) days of receipt of transcript.

(ii) After Designation to Fast (“F”) Track:

1. Three months (90) days:

- Service completed on all parties. (If a party who has been served has not timely filed a response to the Complaint, that party shall be defaulted by the Court).
- If service is not made upon any defendant, the action shall be dismissed without prejudice as to that defendant.
- Case Management Conference held (all pro se parties shall appear in person and all other parties shall be represented by counsel with decision-making authority and parties may be defaulted or nonsuited if they do not appear).
The court reserves the right to require all parties to appear at the Case Management Conference. All counsel attending are required to be fully familiar with the case and have complete authority regarding all aspects of the conduct of the litigation. A discovery schedule shall be discussed and implemented. If any party has not received notice of the Case Management Conference by the ninetieth day following the filing of the Complaint, that party shall request in writing that the Court proceed to schedule the Case Management Conference.
- If not held earlier, an early intervention event shall be held pursuant to Supreme Judicial Court Uniform Rules on Dispute Resolution, Rule 1:18, at

which the case may be assigned for alternative dispute resolution screening.

2. Six months (180 days):
 - All discovery requests served and answered, and all depositions completed.
 - All requests for admissions served and answered.
3. Seven months (210 days):
 - Dispositive Motions filed and served (including supporting memoranda and affidavits).
4. Eight months (240 days):
 - Dispositive Motions responses filed.
5. Nine months (270 days):
 - Dispositive Motions reply briefs filed ten (10) days prior to hearing.
 - Dispositive Motions heard.
6. Thirteen months (390 days):
 - Case assigned for pre-trial conference and a joint pre-trial memorandum must be filed. Parties not filing a joint pre-trial memorandum may be sanctioned.
7. Fourteen months (420 days):
 - Pre-trial conference held (mandatory attendance or party may be sanctioned).
 - Firm trial date, generally within the next two months, set.
8. Sixteen months (480 days):
 - Trial held.
9. Eighteen months (540 days):

- Transcripts filed with the Court and all parties.

10. Nineteen months (570 days):

- Post-trial briefs filed with the Court within thirty (30) days of receipt of transcript.

(iii) After Designation to Tax (“T”) Track:

1. Three months (90 days):

- Title report completed and submitted to Land Court examiner (reference to examiner automatically revoked for failure to submit report with reference assigned to another examiner). Title report should include names and addresses of all interested persons, including condominium trustees.

2. Four months (120 days):

- Title report docketed and reviewed.
- Citation issued or request for additional information sent by the Court to plaintiff’s counsel. (Failure to provide additional information within time specified by the Court may result in dismissal).

3. Five months (150 days):

- Return day. Pleadings closed unless special notice issued.

4. Six months (180 days):

- Military affidavit and motion for general default submitted.
- Request made for additional service.
- Request made for hearing in any contested case.

5. Seven months (210 days):
 - Special notice issued where required.
 - Finding entered after hearing.
6. Eight months (240 days):
 - Return day on special notices. Pleadings close.
7. Nine months (270 days):
 - Military affidavit and motion for general default submitted in cases with completed special notice.
 - Hearing request in contested cases with special notice.
8. Ten months (300 days):
 - If terms of redemption established in Finding are not satisfied, motion for judgment submitted and marked for hearing.
 - Finding entered in any contested case with special notice.
9. Eleven months (330 days):
 - Motion for judgment heard and allowed if finding unsatisfied.
10. Twelve months (360 days):
 - Final judgment entered after allowance of motion for judgment.
11. Thirteen months (390 days):
 - If terms of redemption established in Finding in any contested case with special notice are not satisfied, motion for judgment submitted and marked for hearing.
12. Fourteen months (420 days):

- Motion for judgment heard and allowed if finding unsatisfied in contested case with special notice.
- Final judgment entered after allowance of motion for judgment in contested cases with special notice.

G. Decisions

Trial decisions should be decided within one hundred twenty (120) days from the date cases are taken under advisement.¹

Karyn F. Scheier
Chief Justice
Land Court Department

Effective Date: October 4, 2004

¹Section G shall apply to all cases taken under advisement on or after October 1, 2005.