MASSACHUSETTS APPEALS COURT

Administrative Order 20-6

Special Procedures Applicable to Motions to Stay a Judgment or Order in a Summary Process Case.

I. Introduction. This administrative order is applicable to motions to stay a judgment pursuant to Mass. R.A.P. 6 (a) filed in the Appeals Court where the underlying proceeding is a summary process case. This administrative order is not applicable to motions to stay a judgment filed in the Appellate Division of either the Boston Municipal Court or the Appellate Division of the District Court.

II. Contents, Filing, and Service of Motion. The content, filing, and service requirements of a motion to stay judgment or order entered in a summary process case are described in Mass. R.A.P. 6 (a), Appeals Court Rule 6.0, and Appeals Court Administrative Order 20-5.

III. Electronic notice. The Appeals Court will send electronic notice to all parties or their counsel of record to the extent possible. A current email address is required for all parties. Additional requirements for electronic notice are described in Appeals Court Rule 13.0 and Appeals Court Rule 31.0.

IV. Record Appendix Required by Massachusetts Appeals Court Rule 6.0 (b).

1. General. Relevant portions of the trial court record shall be filed as a record appendix to the motion to stay, except as stated below.

2. Relevant Documents to Include in Record Appendix. The appendix must include a current copy of the trial court docket and all relevant documents filed in the trial court, including those filed by the other party or parties, as required by Appeals Court Rule 6.0. Relevant documents in a summary process case include, but are not limited to:

(i) the docket entries;

(ii) all relevant court orders, findings and rulings;

(iii) the judgment;

(iv) the motion to stay filed in the trial court;

(v) the notice of appeal; and,

(vi) the written notice from a constable or sheriff that at a specified date and time the eviction will take place ("48-hour notice"), if such a notice has been received.

3. Statement if Submission of a Complete Record Appendix is Impracticable. In any case where a constable or sheriff has given the party a 48-hour notice, the party may state, in the party's motion, that the submission of a motion with a complete record appendix is impracticable. The submission of a complete record appendix is impracticable when the filer does not have

sufficient time prior to the date and time specified in the 48-hour notice to obtain, compile, and submit a complete record appendix. The single justice may waive this required statement where the circumstances indicate that filing a complete record appendix is impracticable.

4. 48-Hour Notice. Whenever a filer states that the submission of a complete record appendix is impracticable, the filer shall provide a copy of the 48-hour notice and copies of any portion of the record they do have to which the party seeks to direct the single justice's particular attention.

5. Consideration of Motion. If a filer states that the submission of a complete record appendix is impracticable and submits a copy of the 48-hour notice, the single justice shall consider the filer's Rule 6 motion notwithstanding the lack of a complete record appendix. In such circumstances, the Appeals Court may obtain the record from the trial court.

V. Administrative Stays.

1. Issuance of Administrative Stay. Upon submission of any motion subject to this administrative order that is accompanied by a 48-hour notice, the single justice may order a temporary administrative stay of the eviction to enable the single justice's review and determination of the motion, and to provide the other parties to the summary process action an opportunity to respond.

2. Copy of Motion and Memorandum to Respondent. At the time of entering any administrative stay pursuant to this administrative order, the Appeals Court shall provide electronic notice to the respondent accompanied by an electronic copy of the filer's motion and supporting materials.

VI. Jurisdiction. This administrative order shall not be construed to extend or limit the Appeals Court single justice's jurisdiction to consider a motion to stay. Specifically, this administrative order shall not be construed as authorizing the single justice with jurisdiction to determine a motion to stay a judgment in a summary process case arising from the District Court or the Boston Municipal Court in the absence of a valid appeal to the Appeals Court following a decision of the Appellate Division of the respective court.

By the Court, Mark V. Green, Chief Justice

/s/ Joseph F. Stanton
Clerk

Entered: November 30, 2020.