



**THE TRIAL COURT OF MASSACHUSETTS
HOUSING COURT**

Edward W. Brooke Courthouse
24 New Chardon Street, 6th Floor
Boston, MA 02114

Timothy F. Sullivan
Chief Justice

Benjamin O. Adeyinka
Deputy Court Administrator

December 2, 2021

Elmir Simov
P.O. Box 485
Leominster, Massachusetts 01453

Re: Correspondence dated October 10, 2021 and November 3, 2021

Dear Mr. Simov:

I write in response to your correspondence dated October 10, 2021, and November 3, 2021. In pertinent part, (1) you suggest that summary process (eviction) cases in the Housing Court should include the middle initial or birth year of a party, to avoid a situation where one individual may be mistaken for another with a similar name; and (2) you are concerned about delays in the adjudication of cases, particularly in the Western Division. As Chief Justice of the Housing Court, I take your comments and concerns very seriously, and your letters have been reviewed carefully.

Your first point raises a fair concern. When it comes to the content of a filing, however, the court's role is limited. That is, a case is processed based on information provided by the filer, and the court corrects or clarifies a record only if an issue is brought to its attention and it determines that a correction or clarification is appropriate. Moreover, I am not aware of any authority authorizing me to require a party's middle name or initial, birth year, or date of birth before a filing may be accepted or entered by the court. I note also that except in limited circumstances, the court generally cannot reject filings in a case, regardless of any potential defect. *See, e.g., Gorod v. Tabachnick*, 428 Mass. 1001, 1001 (1998) ("Clerks . . . are ministerial officers of the court when it comes to receiving and filing papers.") (citation omitted); *see also* St. 2020, c. 257, § 1(a), as amended by St. 2021, c. 20 (requiring the court to reject a filing in a specific situation).

To alleviate any concern of mistaken identity in a case filing, it may therefore be prudent and most appropriate for filers—rather than the court—to take steps to determine and use the parties' full legal names, which would include a middle name or initial, when initiating and litigating a case. A filer, however, must be careful not to include in publicly accessible documents any "personal identifying information," as defined by Supreme Judicial Court Rule 1:24, entitled "Protection of personal identifying information in publicly accessible court documents."

With respect to your second point, there have been many operational changes and challenges that have impacted the court since the onset of the COVID-19 pandemic, particularly in the summary process case type. One challenge has been addressing the backlog of cases, of which the pandemic has been a main contributing factor. As you are aware, the court is constrained not only by applicable law (*e.g.*, St. 2020, c. 65; St. 2020, c. 257, as amended by St. 2021, c. 20; etc.), but also by any orders issued by the Supreme Judicial Court and the Executive Office of the Trial Court relative to court operations. In the wake of

the pandemic, the court continues to monitor and work toward addressing the backlog of cases, such as by conducting remote proceedings where appropriate, maintaining a two-tiered system where parties have an opportunity to mediate their case in the first instance, and scheduling matters in a way that maximizes the number of cases that may be heard. Indeed, I sympathize with your desire to have your case(s) resolved as expeditiously as possible, and I am hopeful that there will soon be progress in this regard.

In closing, please be assured that our judges and clerks take their responsibilities most seriously, and they are diligent in performing their duties. I note also that judges have wide latitude generally in the handling and management of cases before them, including by taking matters under advisement, *see, e.g., Eagle Fund, Ltd. v. Sarkans*, 63 Mass. App. Ct. 79, 85 (2005) (noting that “[c]ase management is committed to the discretion of the trial judge”). Finally, it is important to note that I do not possess the authority to interfere with another judge’s discretion, and the Administrative Office of the Housing Court is not statutorily authorized to provide appellate review of findings, rulings, and orders made by judges or clerks of the Court, or to grant relief from decisions of the Court.

Sincerely,

/s/ Timothy F. Sullivan
Timothy F. Sullivan
Chief Justice of the Housing Court