IMPOUNDED CASE

THIS BRIEF CONTAINS NO IMPOUNDED MATERIAL

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

SJC – 13932

BRIDGEWATER STATE HOSPITAL
v.
J.P.

ON APPEAL FROM A DECISION AND ORDER OF THE APPELLATE DIVISION OF THE DISTRICT COURT, WESTERN DIVISION
DOCKET NO: 22-ADMH-46WE

Brief of *Amici Curiae* The Center for Public Representation, The Mental Health Legal Advisors Committee, and The Disability Law Center in Support of the Appellee

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Judicial Court Rule 1:21, amicus curiae **Mental Health Legal Advisors Committee** states that it was established by the General Court in 1973 under the jurisdiction of the Supreme Judicial Court. G. L. c. 221, § 34E. It is not a corporation and issues no stock. It has no parent corporation.

Pursuant to Supreme Judicial Court Rule 1:21, amicus curiae **Center for Public Representation** states that it is a non-profit corporation exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code and is not a publicly held corporation that issues stock. It has no parent corporation.

Pursuant to Supreme Judicial Court Rule 1:21, amicus curiae **Disability Law Center** states that it is a non-profit corporation exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, is not a publicly held corporation that issues stock, and has no parent corporation.

DECLARATIONS OF AMICI

Pursuant to Mass. R. App. P. 17 (c)(5), Amici declare that no party or party's counsel authored this brief in whole or in part; no party or party's counsel contributed money intended to fund preparing or submitting this brief; and no person or entity – other than Amici, its members, or its counsel – contributed money intended to fund preparing or submitting this brief.

INTERESTS OF AMICI

The **Center for Public Representation** (CPR) is a Massachusetts based, national advocacy center dedicated to enforcing and expanding the rights of people with disabilities and others who are in segregated settings. For fifty years, CPR has used legal strategies, advocacy, and policy change to advocate for the rights of individuals with disabilities to exercise choice in all aspects of their lives. Staff of the Center were members of the special District Court Committee that drafted the legislation that is, in part, under review in this appeal. Among the several civil commitment related appeals it has argued in this Court, the Center represented the appellee Kalil in Hashimi v. Kalil, 388 Mass. 607 (1983).

The **Mental Health Legal Advisory Committee** (MHLAC) has a longstanding interest in the correct and consistent application of the state mental health statutes and plays a direct role in protecting the rights of individuals in mental health facilities. MHLAC was established by the General Court in 1973 under the jurisdiction of the Supreme Judicial Court with the explicit "duty… to assist and advise indigent patients and residents in … mental health…facilities of the commonwealth." G. L. c. 221, § 34E. In 1996, MHLAC published an article recounting the problems individuals experienced during involuntary psychiatric admissions, including lack of judicial redress.[1] Several of the personal accounts in

[1] MHLAC, An Unexpected Admission, ADVISOR (Spring 1996).

this article subsequently appeared in the 1997 Boston Globe Spotlight Series on the involuntary admission process. Staff of MHLAC were members of the special District Court Committee that drafted the legislation that is, in part, under review in this appeal.

The **Disability Law Center** (DLC) is a statewide private non-profit legal services organization that is designated as the Protection and Advocacy agency for individuals with disabilities in Massachusetts. DLC represents individuals with disabilities in private and public psychiatric facilities experiencing rights violations, conducts onsite monitoring, and investigates abuse and neglect. See, e.g., 42 U.S.C. § 10801. Appropriate interpretation and implementation of G. L. c. 123 is of great importance to DLC's client community.

Together or separately, CPR, MHLAC, and DLC have litigated or served as amici in numerous cases involving the rights of persons with mental disabilities, including due process violations stemming from their involuntary commitment, forced treatment, or confinement in institutional settings.[2]

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[2] These cases include: S.W. v. Commonwealth, 497 Mass. 597 (2026) & R.D. v. Commonwealth, 497 Mass. 608 (2026) (defendants cannot be automatically subjected to restrictive inpatient confinement when a competency evaluation could safely be conducted on an outpatient basis); In the Matter of J.C.S. (and a companion case), No. 2023-P-1394 (Mass. App. Ct. (2025)) (the right, in guardianship and conservatorship proceedings, to access to counsel, including the rights to choose and retain counsel of one's choice, independent of any determination of one's capacity to do so) (impounded); In the Matter of J.P., 494 Mass. 654 (2024) (G.L. c. 123, §35 commitment statute requires clinical evidence

STATEMENT OF FACTS

Amici adopt Appellee's Statement of Facts.

STATEMENT OF CASE

Amici adopt Appellee's Statement of the Case.

SUMMARY OF ARGUMENT

Because civil commitments pursuant to G.L. c. 123 pose a "massive" infringement of liberty upon individuals, procedural due process protections throughout the commitment hearing process are required. The protections for respondents include, among others, the right to timely access to trial and the right to request a continuance to prepare a meaningful defense. (pp. 5-7)

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that respondents meet statutory definition of "substance/alcohol use disorder"; judges are equipped to make necessary findings of "likelihood of serious harm" and "least restrictive alternative."); Commonwealth v. A.Z., 493 Mass. 427 (2024) (defendant may not be committed for inpatient G.L. c. 123, § 15(b) evaluation of competency; Massachusetts Gen. Hosp. v. C.R., 484 Mass. 472 (2020) (emergency room detention of five days under G. L. c. 123, § 12(a) not unconstitutional as applied; legislature urged to remedy constitutional issues without delay); Pembroke Hosp. v. D.L., 482 Mass. 346 (2019) (use of word "discharge" in mental health statute interpreted to require respondent to be set "at liberty" upon dismissal of commitment petition; attempt to subvert court's ruling was an "abuse or misuse" of process); In the Matter of N.L., 476 Mass. 632 (2017) (interpreting mental health statute to make mandatory first grant of a continuance sought by respondent for purposes of preparing defense); Newton-Wellesley Hosp. v. Magrini, 451 Mass. 777 (2008) (emergency hearings access for involuntarily committed mental health patients).

Recognizing the potential harms from confinement pending a civil commitment hearing, the Legislature, informed by a report of a judicial Ad Hoc Committee, amended Chapter 123 in 2000 to substantially shorten deadlines for the hearing process. These reforms, with subsequent adjustments in 2002, reduced the period of time one could be held prior to, and after, a petition for commitment was filed. (pp. 7-11)

Chapter 123 also protects the well-established right of the respondent, mandated by the plain language of both G.L. c. 123, §§ 5 and 7(c), to request a continuance in the hearing proceedings. This right is held by the respondent alone, a purposeful reflection of the fundamental liberty interest at stake for that individual and, therefore, the mandatory nature of the timeframes of the civil commitment process. Massachusetts courts have repeatedly pointed to these mandatory timelines when construing the statute. These courts have also consistently reached decisions that preserve both a respondent's right to timely trial and to request a continuance. (pp. 11-14)

Following civil commitment reforms in Massachusetts, courts have continued to uphold mandatory time frames to protect fundamental liberty interests, even as they recognize a respondent's exclusive right to a continuance. Appellant's argument that requesting a continuance effectively waives the right to mandatory deadlines under § 7(c) runs contrary to the plain language of the statute and case law

interpreting it. Following the seminal Hashimi v. Kalil decision, courts have recognized that a request for a continuance does not diminish the liberty interest at stake or remove the mandatory and jurisdictional nature of hearing deadlines, even when public safety concerns exist. (pp. 14-17)

Separate sections of statutes must be interpreted as a whole to promote internal consistency. Thus, courts should seek to read the requirements of mandatory time frames and of respondent's ability to seek a continuance as congruous. Even when Chapter 123 was silent as to the presiding judge's obligation to grant a continuance, this Court found such a request consistent with the plain language of the statute and legislative intent. In the Matter of N.L., 476 Mass. at 636. As this court foresaw in Matter of N.L., to do otherwise would penalize respondents for exercising their statutory right to prepare a meaningful defense. (pp. 18-20)

The discretion of district courts to reschedule a civil commitment hearing upon a request for continuance is limited by legislative history, statutory language, and judicial decisions. Courts have discretion to approve a respondent's request for continuance only as long as is reasonably necessary to protect the individual's right to prepare a meaningful defense. Upon granting a continuance, a court may not authorize further delay over the respondents' objection. The only exception to these general rules is in cases of extraordinary circumstances; in such situations, courts have additional discretion to authorize a brief delay. However, extraordinary

circumstances are narrowly understood and exclude unforeseen events such as weather or illness of counsel. (pp. 20-22)

District Court Standards of Judicial Practice make clear that courts must treat Chapter 123 deadlines as mandatory and jurisdictional. Appellant's argument that district courts can sua sponte extend a commitment hearing over the objection of the respondent when there is "good cause" in unsupported by the Standards, which apply this "good cause" test to situations where a respondent has consented to an extension of time. (pp. 22-25).

Appellant's argument that court congestion constitutes extraordinary circumstances warranting a delay of a hearing is likewise unsupportable. Courts are responsible for docket management, including anticipating case volume, scheduling multiple proceedings, and prioritizing amongst them. In the present matter, there is no evidence in the record of an extraordinary occurrence justifying brief postponement. Instead, the district court's own schedule appears to have limited commitment hearings to Wednesdays, despite experience with case volume coming from Bridgewater State Hospital. Court congestion resulting from administrative scheduling decisions does not constitute the kinds of extraordinary circumstances that would justify a continuance over a respondent's objection, especially given the liberty interests at stake in civil commitment cases. (pp. 25-27)

ARGUMENT

I. Civil commitment constitutes a massive infringement of liberty and respondents are entitled to rigorous procedural due process protections throughout the commitment process, including timely access to trial.

Civil commitments involve a "massive" infringement of an individual's liberty. See In the Matter of N.L., 476 Mass. 632, 637 (2017) (quoting Newton-Wellesley Hosp. v. Magrini, 451 Mass. 777, 784 (2008)). In light of these restraints on liberty, respondents are entitled to "the procedural protections and formality typical of other civil (and criminal) trials." In the Matter of M.C., 481 Mass. 344 (2019) (quoting Kirk v. Commonwealth, 459 Mass. 67, 72 (2011)). This includes a range of procedural due process protections such as the right to present independent testimony and the right to request funds for an independent medical examination. G. L. c. 123, § 5. See also In the Matter of N.L., 476 Mass. at 635. To effectuate these protections, G. L. c. 123, § 7 affords respondents the exclusive right to request a continuance of otherwise mandatory deadlines. Id. at 635 (citing Sullivan v. Brookline, 435 Mass. 353, 360 (2001)). Indeed, because of the infringement on personal liberty arising from a civil commitment, it should "only be undertaken after the person has the opportunity to prepare a meaningful defense." Id. at 636-637.

Statutory reforms to G. L. c. 123, enacted in 2000, emphasized the importance of timely judicial review as a safeguard against due process violations in the civil commitment context. The Legislature also preserved access to the procedural

protections cited above, reflecting its judgment that timely access to the courts and the ability to prepare a meaningful defense are important and compatible goals. Massachusetts Appellate Courts, including this Court, have interpreted G. L. c. 123 with these critical due process objectives in mind. See, e.g., Pembroke Hosp. v. D.L., 482 Mass. 346, 352 (2019). In light of these legislative aims, the plain meaning of the statute, and courts longstanding interpretation of its provisions, it does not follow that respondents who seek a continuance in order to exercise their right to mount a meaningful defense would, by doing so waive their right to timely judicial review. As this Court has noted, "[i]t is illogical that the Legislature would shorten the period for conducting these hearings and have it inure to the detriment of the individual's due process right to prepare a meaningful defense." In the Matter of N.L., 476 Mass. at 636-637.

A. Massachusetts civil commitment reform sought to remedy the lack of timely access to courts and related due process violations for persons involuntarily admitted under General Laws Chapter 123.

In 2000, the Massachusetts Legislature substantially shortened the time for which an individual could be involuntarily held in a psychiatric facility prior to judicial review. The history of this reform, including numerous statements from legislators, other government officials, and experts, makes clear that the Legislature's driving motivation was the protection of respondents' due process rights. Prior to the 2000 reforms, its civil commitment law made Massachusetts a

national outlier.[3] A person could be held involuntarily for a total of twenty-four days before receiving a judicial hearing.[4] In May 1997, a Boston Globe Spotlight series drew attention to these issues by highlighting how financial incentives motivated private psychiatric hospitals to hold patients involuntarily.[5] The Globe detailed the painful experiences of former psychiatric inpatients, exposing both their painful loss of liberty and the unfairness of existing procedures, including the lack of timely judicial oversight.[6]

On the day the second article of the series was published, a number of legislators publicly "expressed support … for shortening Massachusetts' longest in-the-nation period of emergency involuntary commitment of psychiatric patients."[7] A subsequent Globe story about the legislative response to the series captured comments from key lawmakers:

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[3] Then applicable law, enacted in 1986, allowed a facility to hold an involuntarily confined person for up to ten days before filing a petition for commitment or releasing the individual. G.L. c. 123, § 12 (d), inserted by St. 1986, c. 599, § 38. Once the petition was filed, the individual could be held another fourteen days prior to hearing, unless a delay was requested by the person or her or her counsel. G.L. c. 123, § 7 (c), inserted by St. 1986, c. 599, § 38.

[5] O'Neill & Kong, Locked Wards Open Door to Booming Business, The Boston Globe, May 11, 1997, at A1.

[6] The Globe report indicated that there was little recourse even when an "emergency" hold was transparently improper. Zuckoff, Flawed Law Turns Patients into Prisoners: 'Section 12' Admissions Fuel a Booming Hospital Business, The Boston Globe, May 12, 1997, at A1.

[7] Aucoin & Zuckoff, Reform of Emergency Committals Urged: Lawmakers Push for Patients' Rights After Series Exposes Abuses of Law, The Boston Globe, May 13, 1997, at B1 ("Aucoin & Zuckoff, Reform").

> "Where are people's rights?" asked Senator Therese Murray ... co-chairwoman of the Legislature's Human Services Committee. "They're being trampled. Anyone who is involuntarily committed should have an immediate review." ... Added Senator Cheryl A. Jacques ... chairwoman of the Senate Post Audit Committee ...: "That seems like an excessive amount of time to restrain someone against their will without an impartial review ...." [8]

Similarly, Rep. James H. Fagan, Chair of the House Post Audit Committee, remarked that the series awakened "concerns over the ability we have to interrupt somebody's freedom without sufficient and speedy independent review." [9]

Senate President Thomas F. Birmingham joined the chorus of legislators calling for reform, reportedly observing that: "`The Globe story revealed abuses in the area of basic civil rights and civil liberties that most of us in the Legislature were frankly unaware of…'"[10] Ultimately, both Senate and House leadership called upon legislators to "examine potential benefits of shortening the length of time someone can be held as mentally ill without court review."[11] Prominent members of the executive branch expressed similar concerns about procedural unfairness. Then Commissioner of the Department of Mental Health, Marylou Sudders, urged the

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[8] Id.
[9] Id.
[10] Zuckoff, Top Legislators Back Psychiatric Reform: Finneran, Birmingham Cite Involuntary Commitments, The Boston Globe, May 21, 1997, at A1.
[11] Id.

Legislature to launch a study with "particular attention paid to the length of emergency, involuntary commitments before court review."[12]

In the midst of this public outcry, the judiciary was also moved to action. On May 20, 1997, the Chief Justice of the District Court Department, Samuel E. Zoll, appointed an Ad Hoc Committee to examine the issue.[13] Chaired by District Court Judge Maurice H. Richardson and composed of judges, clinicians, administrators, and attorneys representing hospitals and patient interests, the Committee was charged with considering reforms that would address the abuses exposed by the Globe.[14] After eight meetings in summer and fall of 1997, the Ad Hoc Committee presented its recommendations to the Legislature's Subcommittee on Involuntary Commitment and Mental Health Services in October 1997. The Committee urged the Legislature to condense time frames to protect patient due process rights.[15]

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[12] Aucoin & Zuckoff, Reform.

[13] Majority Report of the Ad Hoc Committee to Review G.L. c. 123, § 12, at 1 (Oct. 21, 1997).

[14] Id. The Committee produced two final reports. The Majority Report was signed by all but the counsel for patient interests. Majority Report of the Ad Hoc Committee to Review G.L. c. 123, § 12 (Oct. 21, 1997). The Minority Report was signed by those three counsel: staff of the Committee for Public Counsel Services, the Mental Health Legal Advisors Committee, and the Center for Public Representation. These Committee members recommended more substantial patient protections, including adjustments to practice to allow for shorter time frames before judicial hearing. Minority Report of the Ad Hoc Committee to Review G.L. c.123, § 12 at 3 (Oct. 21, 1997).

[15] See Majority Report of the Ad Hoc Committee to Review G.L. c. 123, § 12, at 4 (Oct. 21, 1997); S. Goldman, Minority Position (Oct. 21, 1997); Testimony of J.

On August 16, 2000, the Legislature acted on the Committee's recommendations. It shortened the period during which a person could be held under § 12 without a petition from ten to four days and the period within which a commitment hearing must be held once a petition was filed from fourteen to four days. See G. L. c. 123, §§ 7, 12, as amended through St. 2000, c. 249, §§ 1-9. Further modification by the General Court in 2002 resulted in the current 14-day deadline for commencing a hearing on petitions brought pursuant to §§ 15, 16, and 18, or for a subsequent commitment pursuant to § 8(d), unless a delay is requested by the respondent or their counsel. G. L. c. 123, § 7(c), as amended through St. 2002, c. 127, § 7.[16]

B. Chapter 123, §§ 5 and 7(c) set out two important and complementary due process protections for respondents which, when read together, support the proposition that continuance dates requested by respondents and approved by the court should be treated as mandatory deadlines.

As the Supreme Judicial Court has often reiterated, if "the language of a statute is plain and unambiguous, it is conclusive as to legislative intent." Sliney v. Previte, 473 Mass. 283 (2015) (quoting Thurdin v. SEI Boston, LLC, 452 Mass. 436,

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Honig (Oct. 21, 1997); Testimony of S. Schwartz (Oct. 21, 1997); Testimony of R. D. Fleischner (Oct. 21, 1997).

[16] Additional legislative changes in 2004 resulted in the current time frames for other emergency and civil commitment hearings: three days to file a petition and five for the subsequent hearing. G.L. c. 123, § 12, as amended through St. 2004, c. 410, § 2; G.L. c. 123, § 7(c), as amended through St. 2004, c. 410, § 1.

444 (2008)). In Hashimi v. Kalil, the Supreme Judicial Court applied this principle of statutory interpretation to G. L. c. 123, § 7(c), holding that the failure to commence a hearing for civil commitment before the statutorily prescribed deadline at the time, fourteen days, violated state law. 388 Mass. 607, 609 (1983). The Court wrote:

> The language of G. L. c. 123, § 7(c), as amended through St.1978, c. 367, § 71C, is clear and unambiguous: "The hearing *shall* be commenced within fourteen days of the filing of the petition unless a delay is requested by the person or his counsel" (emphasis supplied). … The word "shall" is ordinarily interpreted as having a mandatory or imperative obligation.

Hashimi at 609-610.

This same principle of statutory interpretation applies here. Reading the current language of §§ 5 and 7(c) together, this plain language analysis dictates not only that a person subject to civil commitment has a right to have their commitment hearing commenced within a prescribed timeframe, but also that the timeframes may be extended only if the respondent or their counsel requests a continuance. Appellants do not contest this interpretation of the statute. Appellant Brief at 15-16.

The same plain language mandate applies to petitions seeking civil commitment for treatment, forensic evaluation, and approval of involuntary antipsychotic treatment plans. See G.L. c. 123, § 7(c) ("[t]he hearing on a petition brought for commitment pursuant to …. Section[] 16 …shall be commenced within 14 days of the filing of the petition, unless a delay is requested by the person or his

counsel."); G. L. c. 123, § 8B(c) ("The hearing shall be commenced within fourteen days of the filing of the petition unless a delay is requested by the person or his counsel, provided that the commencement of such hearing shall not be delayed beyond the date of the hearing on the commitment petition if the petition was filed concurrently with a petition for commitment."); G. L. c. 123, § 5 ("The person shall be allowed not less than two days after the appearance of his counsel in which to prepare his case and a hearing shall be conducted forthwith after such period unless counsel requests a delay.").[17] Across all these sections, the only exception to the mandatory timeframe for judicial review is when the respondent or respondent's counsel so requests.

Massachusetts courts have consistently emphasized the importance of mandatory deadlines in civil commitment cases because of the liberty interests at stake. See, e.g., In the Matter of M.C., 481 Mass. at 339 (reiterating rule from Hashimi that the language of § 7(c) creates a mandatory timeframe for holding the hearing); In the Matter of E.C., 479 Mass. 113, 122 n.8 (2018) (finding that § 7(c) imposes strict limits on the period during which a petition may be pending before a hearing must be conducted); In Re G.P., 2019 WL 993335(Mass. App. Div. (2019))

[17] Section 5 further states that this requirement applies "[w]henever the provisions of this chapter require that a hearing be conducted in any court for the commitment or further retention of a person to a facility or to the Bridgewater state hospital or for medical treatment including treatment with antipsychotic medication." G.L. c. 123, § 5.

(finding that § 7(c) five-day time frame is to be strictly construed, and exceeding it deprives the court of jurisdiction over the commitment); In the Matter of J.H., 2024 WL 7045424 (Mass. App. Div. 2024) (finding that timeframes of §§ 5 and 7(c) are mandatory). At the same time, this Court's decisions recognized respondent's exclusive right to request an exception to those jurisdictional deadlines where necessary to mount a meaningful defense. See In the Matter of N.L., 476 Mass. at 632. Amici are aware of no decision concluding that these two distinct due process rights within G.L. c. 123 cannot co-exist. Rather, both are critical to protecting the due process rights of individuals subject to civil commitment petitions.

The trial court's postponement in the instant case, well beyond the continuance date agreed to by respondent, is inconsistent with a plain language analysis of §§ 5 and 7 for two reasons. First, it would create an exception to mandatory hearing deadlines for judicial review where none currently exists in statute–something Appellants acknowledge runs contrary to rules of statutory interpretation. Appellant Brief at 16. Second, it would pit two important due process protections (mandatory hearing deadlines and the respondent's right to request a continuance) against one another in a way that contravenes the statute's purpose and legislative history.

C. Following Massachusetts' civil commitment reform, courts have balanced the public safety and due process considerations contemplated by Chapter 123 and consistently found mandatory deadlines necessary to ensure due process.

Massachusetts appellate courts have consistently found that both due process protections contained in §§ 5 and 7(c) – the right to a prompt hearing and adequate time to prepare a defense – must be strictly construed given the magnitude of liberty interests at stake and the constitutional bases for protecting respondents' due process rights. In Hashimi, this Court cautioned that civil commitment imposes a restraint on liberty and "compels the conclusion that the time limit on the holding of the hearing goes to the essence of the public duty." 388 Mass. at 609-610. In In the Matter of N.L., this Court held that individuals should only be deprived of liberty "after the person has the opportunity to prepare a meaningful defense." 476 Mass. at 637.

This conclusion is buttressed by the fact that, even when Chapter 123 is silent as to the presiding judge's obligation to grant a continuance, this Court inferred such a right from the plain language of the statute and legislative intent. See In the Matter of N.L., 476 Mass. at 636.[18] The same analysis, applied here, should foreclose any

[18] In Matter of N.L., the Court cites the fundamental right to prepare one's defense when articulating the relationship between the respondent's mandatory right to a continuance and the authority of the judge:

> Although the statute is silent as to whether the presiding judge must grant such a "request," we conclude that the plain language as well as the legislative intent of the statute require that the grant of a requested first

conclusion that a continuance–once granted–results in a waiver of due process requirements for timely judicial review. Such a holding would unduly prejudice respondents for exercising their protective statutory and constitutional rights. See U.S. v. Goodwin, 457 U.S. 368, 372 (1982) ("For while an individual certainly may be penalized for violating the law, he just as certainly may not be punished for exercising a protected statutory or constitutional right.").

This Court found that § 7(c) imposes "strict limits on the time during which a petition may be pending before a hearing must be conducted, and any violation of those limits would risk running afoul of due process protections." In the Matter of E.C., 479 Mass. at 122 n.8.[19] Appellants acknowledge this body of caselaw in their briefing and agree that this Court's decision in Hashimi v. Kalil found the 14-day deadline in G. L. c. 123, § 7(c) to be jurisdictional in nature, requiring dismissal of that case despite any potential for public safety concerns.[20] Appellant's Brief at 15.

> continuance be mandatory where a denial thereof is reasonably likely to prejudice a person's ability to prepare a meaningful defense.

476 Mass. at 636.

[19] See also In the Matter of R.R., 2018 Mass. App. Div. 125 (W. Dt.) (finding five-day commitment timeline mandatory and jurisdictional, appellate court cites the SJC's position in In the Matter of E.C. that laws in derogation of liberty, such as G.L. c. 123, § 7, must be strictly construed to comply with due process).

[20] Other courts balancing public safety and due process protections for respondents have reached similar conclusions. See Commonwealth v. Parra, 445 Mass. 262, 263, 266-267 (2005) (dismissing sexually dangerous person after the Commonwealth failed to meet the sixty-day deadline, established by G.L. c. 123A, § 13(a), a "statutory scheme [that] exists to protect the public 'from harm by

It is difficult to reconcile Appellant's acknowledgment of the mandatory and jurisdictional nature of certain Chapter 123 hearing deadlines, and the statutory right of respondents to seek continuances of those deadlines, with its position here. Appellants effectively urge this Court to ignore the stated aims of the Legislature, as well as decades of case law interpreting the statute and its emphasis on protecting the liberty interests of respondents. Instead, they would have this Court declare that due process protections animating G. L. c. 123, § 7(c) are waived once respondents seek additional time to prepare a meaningful defense. Similarly, Appellants argue that Hashimi, and other appellate court decisions emphasizing the importance of timely hearings, are irrelevant once the 14-day mandatory time limit has passed. Appellant's Brief at 17-18. This position is unreasonable given the Court's prior holdings which also balance interests of public safety but are uncompromising in their defense of due process.

In affirming the Appellate Division's decision to dismiss Kalil's commitment hearing for jurisdictional reasons, this Court observed that the mandatory deadlines attached to civil commitment hearings were necessary because of the statute's authorization of "restraint on liberty." Hashimi, 388 Mass. at 609-610. Convening the hearing even one day beyond the mandatory 14-day deadline was sufficient to

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persons likely to be sexually dangerous' by striking a balance between the public interest and a defendant's substantive due process rights.")

justify the respondent's motion to dismiss. Id. at 608. This analysis of the statute and the implications for respondents' due process rights in the civil commitment process remain important today. While the facts in Hashimi did not require this Court to directly opine on deadlines reset at the request of respondents, its holding makes clear that the personal liberty interests of those subject to commitment petitions are significant and warrant strict adherence to deadlines set throughout the commitment process, not simply in the first two weeks after a petition is filed.

D. Statutory interpretations which subvert respondents' right to prepare a meaningful defense and depart from the principles of timely judicial review risk violating due process.

The fundamental reason for reforming Chapter 123 and shortening its hearing deadlines was to protect the respondent's liberty interest by "minimizing the length of time for which he or she could be involuntarily committed prior to judicial review." In the Matter of N.L., 476 Mass. at 636. At the same time, the near absolute right to seek a delay protects a respondent's due process right to prepare an adequate defense. Id. at 637-638 ("The grant of a first request for a continuance pursuant to G. L. c. 123, § 7(c) or 8B(c), is mandatory where a denial thereof is reasonably likely to prejudice a person's ability to prepare a meaningful defense.") To interpret these rights as mutually exclusive would contravene both the intent of the Legislature and the past holdings of this Court.

This Court has held that separate sections of statutes must be interpreted "as a whole, to produce internal consistency." Malloch v. Hanover, 472 Mass. 783, 791 (2015) (citing Roberts v. Enterprise Rent–A–Car Co. of Boston, 438 Mass. 187, 194 (2002)). Without the assurance that an agreed upon continuance date will be honored, respondents cannot freely exercise their right to mount a meaningful defense, including the presentation of independent expert testimony as allowed by § 5. To achieve internal consistency within Chapter 123, and to avoid the perverse outcome this Court foresaw in Matter of N.L., where respondents could be penalized for exercising their rights under the statute, the continuance date approved by the court should establish a mandatory deadline, just like the mandatory nature of deadlines under § 7(c). As in the case with § 7(c), any further postponements of the new date should be contingent on approval of the respondent.

The Appellant's argument puts two critical and well-established due process protections within the Massachusetts civil commitment statute in conflict, creating an untenable choice for respondents – proceed in keeping with existing deadlines for judicial review or request the time necessary to mount a meaningful defense and forfeit the right to a timely commitment hearing.[21]

[21] In the context of a criminal case – in which the Legislature has not proactively imposed strict statutory timelines and due process requirements, Appellant's argument is also inapposite. The Commonwealth has imposed a rule that a "defendant shall be tried within twelve months after the return day." Mass. R. Crim. P. 36(b)(1)(c); see also Mass. R. Crim. P. 2(b)(15) (defining "return date").

II. District courts' exercise of discretion in continuing civil commitment proceedings under Chapter 123 is cabined by judicial interpretations of the statute, existing standards of judicial practice, and due process requirements.

Taken together, legislative history, statutory construction, and appellate court decisions have made clear that G. L. c. 123, § 7 must be strictly construed to ensure respondents timely access to judicial review of a commitment petition, and to protect the right to request an extension of those deadlines in order mount a meaningful defense. While courts are called upon to exercise their discretion in approving the length of respondent's request for continuance, subsequent delays in commitment proceedings should be strictly limited to extraordinary circumstances consistent with the purpose and plain meaning of the statute and respondents' due process rights.

A. Any continuance of mandatory commitment deadlines should be limited to the time reasonably necessary to prepare a meaningful defense and subject to the consent of the respondent.

The extension of mandatory hearing deadlines under G. L. c. 123 may only be asserted by the respondent or respondent's counsel, and those requests for continuance should last "only as long as is reasonably necessary to protect the

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"A defendant who is not brought to trial within one year of the return date "is presumptively entitled to dismissal of the charges unless the Commonwealth justifies the delay." Commonwealth v. Larace, 496 Mass. 644, 653 (2025) (citations omitted). However, this Court has held that "time can be excluded under rule 36 based on a defendant's acquiescence only where the defendant has agreed to or failed to object to a continuance or other delay." Id. at 654. Thus, a pretrial criminal defendant's requests for a continuance do not eliminate their due process right to a speedy trial but merely tolls the speedy trial clock.

individual's right to prepare a meaningful defense." In the Matter of N.L., 476 Mass. at 637. In so holding, this Court made clear that lower court decisions regarding the length of a continuance should be "solely" based on the needs of the respondent and their interest in avoiding prolonged involuntary confinement without judicial review. Id.

A respondent's request for continuance, once granted, does not obviate the need to commence the civil commitment hearing in a timely way. Nor does it authorize further delay of those proceedings by the district court over the respondent's objection. Appellate courts have made clear that even unforeseen events like significant weather or illness of counsel cannot justify delay of civil commitment proceedings, absent extraordinary circumstances. See In the Matter of Molina, 2007 Mass. App. Div. 21, 22 & n.1 (N. Dist.) ("The plain language of the statute limited the judge's discretion . . . . [D]ismissal is the appropriate remedy for any violation of the . . . deadline, absent extraordinary circumstances that would justify a very brief delay."); see also Commonwealth v. Parra, 445 Mass. 262, 267 n.6 (2005) ("There may be extraordinary circumstances that would excuse brief violations" of statutory filing deadline for seeking sexually dangerous person commitment).

B. District Court Standards of Judicial Practice describe deadlines under Chapter 123 as both mandatory and jurisdictional.

In 1979, the District Court Committee on Mental Health developed judicial standards for civil commitment proceedings. As the Committee noted, "…these sensitive and often complex cases present for judges and other personnel in the context of a sometimes hectic community court system in which the Court's time and attention are in demand by a great number of litigants …."[22] These Standards have been revised over time to comply with changes in the law, including decisions by this Court, but they continue to represent "a qualitative judgment as to best practices in each of the various aspects of the civil commitment procedure."[23]

Although demands on district courts' time and docket remain an important concern, Standards of Judicial Practice 3:00 through 3.08 expect strict adherence to mandatory timelines in Chapter 123.[24] For instance, Section 3:04 titled "Time limits for hearing" states as follows:

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[22] Promulgation of Standards of Judicial Practice, Civil Commitment and Authorization of Medical Treatment for Mental Illness, District Court Administrative Regulation No. 4-79 (amended April 4, 2019), available at: https://www.mass.gov/administrative-regulation/promulgation-of-standards-of-judicial-practice-civil-commitment-and-authorization-of-medical-treatment-for-mental-illness.

[23] Id.

[24] Standards of Judicial Practice: Civil Commitment and Authorization of Medical Treatment for Mental Illness: Standard 3, available at https://www.mass.gov/info-details/standards-of-judicial-practice-civil-commitment-and-authorization-of-medical-treatment-for-mental-illness-standard-3.

> For an initial commitment petition under G. L. c. 123, §§ 7 & 8, the hearing must be commenced within five days after the date of filing, unless a continuance is granted at the request of the respondent or respondent's counsel. G. L. c. 123, § 7(c). For a subsequent recommitment petition under G. L. c. 123, §§ 7 & 8, the hearing must be commenced within 14 days after the date of filing, unless a continuance is granted at the request of the respondent or respondent's counsel.[25]

The Standard's commentary makes clear that forensic petitions filed under G. L. c. 123, § 16, as in the instant case, also must be commenced within fourteen days after the date of filing "unless a continuance is granted at the request of the respondent or respondent's counsel."[26] G. L. c. 123, § 16.

To comply with these Standards, a court must do more than simply call a case off the list for the day. To "commence" a hearing requires that "a witness is sworn or some evidence taken."[27] Commentary on Standard 3:04 also states unequivocally that a petition for commitment "must be dismissed if the hearing is not commenced within the 5-day or 14-day period."[28] The Standards describe hearing schedules which–if adopted by the District Court–can ensure compliance with these statutory

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[25] Id. at 3:04.
[26] Id. at Commentary to 3:04; see also G. L. c. 123, § 7(c).
[27] Id. at 3:04 (citing Melrose-Wakefield Hosp. v. H.S., 2010 Mass. App. Div. 247, 250 (N. Dist.)).
[28] Id. at Commentary to 3:04 (citing Hashimi, 388 Mass. at 609); Matter of Molina, 2007 Mass. App. Div. at 22; Myers v. Saccone, 1999 Mass. App. Div. 305 (Boston Mun. Ct.)).

deadlines, making clear that the responsibility to manage civil commitment dockets consistent with the statutory timeframes, lies squarely with the courts.[29]

Relying on the same set of Standards of Judicial Practice, Appellants argue that district courts can sua sponte extend a scheduled commitment hearing over the objection of the appellee/respondent, whenever there is "good cause" to do so. However, Standard 3:06 directs courts to apply the good cause standard *when reviewing continuances consented to by the respondent or their counsel*.[30] This guidance operates as an additional safeguard to ensure any further postponement is limited to "the minimum amount of time necessary…" and rescheduled "for the earliest possible date."[31] Commentary on Standard 3:06 further clarifies that continuances of this kind should be focused on benefiting the respondent's interests and not for the convenience of the court or the petitioner.[32]

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[29] Id. at Commentary to 3:04.
[30] Id. at 3:06 (emphasis added).
[31] Id. at 3:06.
[32] Id. at Commentary to 3:06 ("Aside from emergencies beyond the parties' control, some discretionary continuances may be in the respondent's best interests – for example, if time is needed to gather additional information or investigate a less restrictive placement, or if a respondent's rapidly improving condition suggests that a short continuance might result in withdrawal of the petition. However, given the important liberty interests involved, the court should grant a continuance only when there is good cause, even if requested or agreed to by the respondent or respondent's counsel.")

C. Routine court congestion can never be a valid basis for continuance of a civil commitment hearing over respondent's objections.

Contrary to Appellant's assertions, court congestion, particularly congestion which can be anticipated and mitigated by court scheduling procedures, can never constitute the kind of "extraordinary circumstance," such as a state of emergency at the state or federal court level, that might warrant a brief delay in commitment proceedings. See In the Matter of Molina, 2007 Mass. App. Div. 21, 22 & n.1 (N. Dist.) (concluding that continuance beyond the commitment hearing deadline prescribed by G. L. c. 123, § 7(c) was not authorized and dismissal was required "…absent extraordinary circumstances that would justify a very brief delay."). Similarly, court congestion cannot satisfy even the "good cause" standard argued for by Appellants, given the due process implications for respondents and this Court's admonishment to "minimizing the length of time for which he or she could be involuntarily committed prior to judicial review." Matter of N.L., 476 Mass. at 636. Not only is Appellant's "good cause" standard improperly low, it is also incompatible with the Courts' narrowly defined reservation of such continuances to "extraordinary circumstances." Courts bear responsibility for docket management, which includes scheduling matters and determining which cases should be prioritized for hearing on a particular court date. In doing so, courts must ensure that requisite statutory timelines and Standards of Judicial Practice are met.

With respect to Chapter 123 proceedings for individuals facing civil commitment or the imposition of involuntary treatment plans, including those from Bridgewater State Hospital, the Brockton District Court has chosen to schedule all hearings on Wednesdays.[33] This practice, known to Amici based on direct observation of court sessions and reports from BSH patients and attorneys, is also evidenced by the dates set in the instant case, all of which were scheduled on a Wednesday.[34] In Amici's experience, this kind of administrative practice, when adopted without flexibility in response to case volume and timeframes, increases the likelihood that time sensitive cases go unheard by the end of the day.

While each court must determine how to manage its volume of cases and the related responsibilities of, and strain on, court personnel, court congestion created by administrative decisions does not constitute extraordinary circumstances that justify continuance over respondent's objection.

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[33] The Worcester District Court also handles a high volume of Chapter 123 cases due to its jurisdiction over the Worcester Recovery Center and Hospital and other private psychiatric facilities. It too block schedules Chapter 123 or "Mental Health" proceedings on Wednesdays. See Worcester District Court, Public Access to District Court Events in the Worcester Division, available at https://www.mass.gov/info-details/public-access-to-district-court-events-in-the-worcester-division.

[34] The first scheduled hearing of the commitment petition in this matter occurred on Wednesday, October 9, 2019. The original continued date based on respondent's exercise of his due process rights was Wednesday, November 13, 2019. The case was advanced to Wednesday, November 6, 2019, when the continuance at issue was ordered. Ultimately, respondent's commitment proceedings took place and the court's commitment order issued on Wednesday, November 20, 2019.

CONCLUSION

For the reasons above and given the importance of the certified question for similarly situated individuals subjected to civil commitment petitions in Massachusetts, Amici urge this Court to affirm the Appellate Division's decision.

Respectfully Submitted
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Dated: October 23, 2026

CERTIFICATE OF COMPLIANCE

I, Kathryn L. Rucker hereby certify that the foregoing brief complies with the rules of court that pertain to the filing of briefs amicus curiae including, but not limited to, Mass. R. A. P. 17 (brief of an amicus curiae) and Mass. R. A. P. 20 (form and length of briefs, appendices, and other documents). As required by Mass. R. A. P. 17(c)(9), I certify that the foregoing brief complies with the applicable length limitation in Mass. R. A. P. 20 because it is produced in proportionally spaced 14-point font (Times New Roman), contains 6,207 non-excluded words and was produced using Microsoft word processing software.

/s/ Kathryn L. Rucker
Kathryn L. Rucker

CERTIFICATE OF SERVICE

I, Kathryn L. Rucker, hereby certify that on this 23rd day of October 2026, I caused the foregoing Motion for Leave to Access Redacted Briefs and Record Appendices to be served, through the electronic filing system where registered and/or via email, upon the following attorneys of record in this matter:

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