

AUG 27 2021

LISA A. HENDERSON
SAN JUAN COUNTY, WASHINGTON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF SAN JUAN

IMPLEMENTATION OF THE RIGHT TO
COUNSEL IN UNLAWFUL DETAINER
PROCEEDINGS IN SAN JUAN COUNTY

) No. 21-2-05001-28
)
) STANDING ORDER FOR
) APPOINTMENT OF
) COUNSEL FOR INDIGENT
) DEFENDANTS IN
) UNLAWFUL DETAINERS

I. Purpose

Pursuant to Ch. 115, Laws of 2021 (Senate Bill 5160), this Court must appoint an attorney for an indigent defendant in an unlawful detainer proceeding commenced under RCW Chs. 59.12, 59.18, 59.20. Administration and funding for attorney representation is assigned to the Office of Civil Legal Aid (OCLA), which has until April 22, 2022 to fully implement the right to counsel (RTC) program statewide. OCLA has entered into contracts with **Skagit Legal Aid and the Northwest Justice Project** to recruit, train, and make available attorneys to accept appointments in San Juan County to represent indigent tenants against whom unlawful detainer proceedings have been commenced in accordance with RCW 4.28.020 and the statutes referenced above.

II. Process for Appointment in Unfiled Proceedings

In any proceeding commenced by service of a summons upon a defendant but not yet filed with the Court, and in which a tenant defendant has been screened by the Eviction Defense Screening Line indicated on the Summons¹ or by Skagit Legal Aid, the Court will accept ex parte petitions/motions for appointment of counsel based on the following process. Skagit Legal Aid or the Northwest Justice Project shall file the motion/petition for

¹ Sec. 10, ch. 115, laws of 2021 amends the required form for the unlawful detainer Summons and now includes the number for the Eviction Defense Screening Line.
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appointment of counsel with the San Juan County Clerk's Office under the general civil cause number reserved for miscellaneous civil orders.² Such motion/petition shall identify the tenant defendant, the date of service of the summons upon the defendant, affirmation that the tenant has been screened and found eligible for appointed counsel under the standards in sec. 8, ch. 115, laws of 2021, and the identity of the OCLA-contracted attorney to be appointed. Upon receipt of a complete motion/petition, the Clerk's Office will present the motion/petition and proposed order appointing counsel to the Presiding Judge for consideration. If entered, the order appointing counsel also will be filed under the general civil cause number for miscellaneous civil orders.

III. Process for Appointment at Show Cause or other Court Hearings

(A) After the filing of any unlawful detainer covered by this rule, or at any show cause hearing or trial where a tenant defendant appears unrepresented, the Court will:

1. Advise the tenant of their right to appointed counsel if indigent and inquire whether they wish to assert that right. If the tenant defendant requests appointment of counsel, the Court shall refer them to (a) Skagit Legal Aid (phone number 360-230-8100) and (b) the Eviction Defense Screening Line by phone (1-855-657-8387) or online portal;
2. Inquire whether the defendant requires interpreter services to effectively participate in the proceeding, consult with counsel, or access the Eviction Defense Screening Line; and
3. Inquire whether the tenant defendant has a disability that may require accommodation to enable them to effectively participate in RTC eligibility screening.

(B) If a tenant defendant is referred for appointment of counsel, the Court will continue the initial hearing for not less than one week to permit the tenant defendant time to be screened for eligibility and, if eligible, secure appointment of and consult with their counsel. Sufficient time shall be allowed for the appointed counsel to engage with plaintiff and their attorney, review pleadings, conduct informal discovery, attempt to negotiate a

² If the unlawful detainer proceeding ultimately is filed, the action will be assigned its own unique civil cause number.
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settlement, develop a defense to the claim for writ of restitution, and otherwise ensure fairness of the proceeding,

After appointment of counsel and upon motion of either party, the Court may further continue the show cause or trial to permit the parties additional time to negotiate a resolution or refer the matter for mediation services including with the Dispute Resolution Center that administers the local Eviction Resolution Pilot Program.

(C) If a tenant defendant appears unrepresented after requesting the appointment of counsel and receiving a continuance of a previously set hearing, the Court will inquire if the tenant defendant contacted and was screened for eligibility.

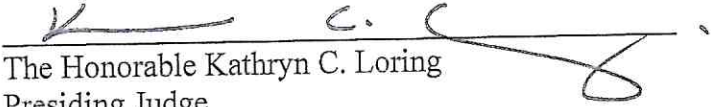
1. If the tenant failed to be screened for eligibility either by (a) Skagit Legal Aid or (b) the Eviction Defense Screening Line by phone or online portal, the Court shall immediately refer the tenant defendant to the San Juan County Public Defender Screener to conduct an eligibility screening using a screening form provided by Skagit Legal Aid/OCLA. If the San Juan County Public Defender Screener is not available for consultation with a 15-30 minute continuance, the Court will conduct an inquiry into indigency on the record using the same screening form. If the tenant defendant is found to be eligible for appointed counsel under the standards in sec. 8, ch. 115, laws of 2021, the Court shall enter an order appointing counsel.
2. If a tenant defendant was found ineligible for services by (a) the entity identified by OCLA to receive referrals for tenant screening and assignment or (b) the Eviction Defense Screening Line or (c) by the San Juan County Public Defender Screener or the Court after a previously continued hearing, the Court shall exercise its discretion whether to proceed with the hearing, including to consider any defenses raised by the tenant, or to order a further continuance for any reason. In determining whether to continue or refer a matter, the Court will consider factors appropriate under the law, including the following non-exclusive considerations:
 - (1) the availability of rental assistance in nonpayment of rent cases and whether the tenant has applied for the same;
 - (2) the likelihood that further settlement negotiations will resolve the matter without need for a contested hearing; and

(3) other circumstances relevant to the determination of whether to proceed with the hearing.

IV. Effective Date/Suspension of Duty to Appoint

This Order shall take effect upon the Court's receipt of notification from OCLA that sufficient funding and attorney capacity is available to meet the demand for appointed attorneys in San Juan County and shall continue in effect unless or until OCLA advises that insufficient funding and/or attorney capacity is available to continue accepting appointments, in which case the Court's duty to appoint under this Order shall be suspended. Appointments shall resume upon notification from OCLA that sufficient funding and attorney capacity has been restored.

DATED this 27th day of August, 2021.


The Honorable Kathryn C. Loring
Presiding Judge