

FILED
CLALLAM CO CLERK
2021 AUG 26 A 10:17
NIKKI BOTNEN

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLALLAM

STANDING ORDER –)
RIGHT TO COUNSEL FOR INDIGENT)
DEFENDANTS IN UNLAWFUL)
DETAINTER PROCEEDINGS)
_____)

21-2-00001-05
ADMINISTRATIVE ORDER

I. Purpose

- A. Pursuant to Engrossed Second Substitute Senate Bill 5160, Chapter 115, Laws of 2021 (“Senate Bill 5160”), this court must appoint an attorney for an indigent defendant in any unlawful detainer proceeding commenced under RCW 59.12, 59.18 or 59.20, and in those proceedings commenced by service of a summons upon the defendant but not filed with the court. 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 the NORTHWEST JUSTICE PROJECT (“NJP”) to recruit, train, and make available attorneys to accept appointments to represent indigent tenants against whom unlawful detainer proceedings have been commenced as set forth above.

- B. As required by Senate Bill 5160 and as interpreted by the Attorney General of Washington pursuant to a letter issued on July 9, 2021, indigent tenants in all unlawful detainer actions, including but not limited to those involving nonpayment of rent, have a right to counsel notwithstanding that the right-to-counsel plan mandated under Section 8 of Senate Bill 5160 has not yet been implemented in Clallam County by OCLA. Accordingly, unlawful detainer actions involving indigent tenants who have requested counsel will be delayed

until OCLA certifies that the conditions precedent to operationalizing the RTC plan have been met and such certification has been transmitted to this court. PROVIDED, however, that, to the extent Clallam County has a Housing Justice Project (“HJP”) provider or other volunteer lawyer program provider, the court shall determine whether the tenant is indigent and, upon finding that the tenant is indigent, shall continue the case to allow the tenant to access HJP or other *pro bono* services which may include but not be limited to appearance by a HJP or other *pro bono* attorney on behalf of the tenant in the pending case.

II. Process for Appointment in Unfiled Proceedings

In any proceeding commenced by service of a summons upon a defendant but not filed with the court, and in which a defendant has been screened by the Eviction Defense Screening Line indicated on the Summons¹ or a by local qualified legal aid provider, the court designates the COURT ADMINISTRATOR FOR CLALLAM COUNTY SUPERIOR COURT to accept applications for appointment of counsel in unfiled matters. Appointment of counsel shall occur by the filing with the Court Administrator of an application by the local OCLA-contracted provider of eviction defense services or other *pro bono* legal services provider on behalf of the tenant. Such application shall indicate the parties, identify the tenant defendant represented by the legal services provider, 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 Senate Bill 5160, Section 8, and the identity of the OCLA-contracted or other legal services provider. Upon receipt of the application, the Court Administrator (or their designee) will approve the appointment of counsel to represent the tenant defendant in the proceeding.

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

¹ Section 10 of Senate Bill 5160 amends the required form for the unlawful detainer Summons and now includes the number for the Eviction Defense Screening Line.

After the filing of any unlawful detainer action covered by this order, or at any show cause hearing or trial where a tenant defendant appears unrepresented, the court will 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 the entity identified by OCLA to receive referrals for tenant screening and assignment or, where OCLA has not identified an entity to receive referrals for tenant screening and assignment, to the HJP or other volunteer legal services program provider to the extent such services are available, or to the Eviction Defense Screening Line by phone or online portal. The court will inquire whether the defendant requires interpreter services to effectively participate in the proceeding, consult with counsel, or access the Eviction Defense Screening Line. The court will also inquire whether the tenant defendant has a disability that may require accommodation to enable them to effectively participate in the proceeding and RTC eligibility screening.


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 the plaintiff and the plaintiff's attorney, review pleadings, conduct informal discovery, attempt to negotiate a 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 hearing or trial to permit the parties additional time to negotiate a resolution, refer the matter for mediation services through the local Eviction Resolution Pilot Program, or refer the matter for further settlement efforts. In determining whether to continue or refer a matter, the court will consider (a) the availability of rental assistance in nonpayment of rent cases, (b) the likelihood that further mediation services will resolve the matter

without need for a contested hearing, (c) the existence and reasonableness of any repayment plan offered by the plaintiff to the defendant as required by Section 4 of Senate Bill 5160, or (d) 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 earlier of the court's receipt of notification (1) from OCLA that sufficient funding and attorney capacity is available to meet the demand for appointed attorneys in Clallam County, or (2) that Clallam County has a HJP legal services provider who is ready and able to accept appointments. This Order shall continue in effect unless or until neither OCLA nor HJP has sufficient funding and/or attorney capacity to continue accepting appointments, in which case the court's duty to appoint under this Order shall be suspended. In that event, any unlawful detainer action involving an indigent tenant who has requested counsel will be delayed unless such tenant defendant obtains legal counsel through another volunteer lawyer program. Appointments of counsel shall resume upon notification that sufficient funding and attorney capacity has been restored to either OCLA or HJP.

DATED this 26 day of August, 2021.



Brent Basden
Presiding Judge