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2 **KITSAP COUNTY SUPERIOR COURT**

3 **STATE OF WASHINGTON**

4  
5 IN RE THE MATTER OF THE RESPONSE BY THE  
6 KITSAP COUNTY SUPERIOR COURT TO THE  
7 PANDEMIC OUTBREAK OF THE CORONAVIRUS  
8 DISEASE 2019 (COVID-19)

9 FIRST AMENDED STANDING ORDER  
10 REGARDING APPOINTMENT OF COUNSEL  
11 FOR INDIGENT DEFENDANTS IN  
12 UNLAWFUL DETAINERS (RTC)

13  
14 **I. Purpose**

15 Pursuant to RCW 59.18.640(1), this Court must appoint an attorney for an indigent  
16 defendant in an unlawful detainer proceeding commenced under RCW 59.12, 59.18, 59.20.  
17 Administration and funding for attorney representation is assigned to the Office of Civil  
18 Legal Aid (OCLA). OCLA has entered into a contract with Kitsap Legal Services (KLS) to  
19 make available attorneys to accept appointments to represent indigent tenants against  
20 whom unlawful detainer proceedings have been commenced in accordance with RCW  
21 4.28.020 and the statutes referenced above.

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23 **II. Process for Appointment in Unfiled Proceedings**

24 In any proceeding commenced by service of a summons upon a defendant but not filed  
25 with the Court, and in which the tenant defendant has been screened by the Eviction  
26 Defense Screening Line and/or Kitsap Legal Services indicated on the summons, a  
27 Request for Administrative Appointment of Counsel will be presented electronically to the  
28 Kitsap County Superior Court Administrator. [See Exhibit A]. Such Request shall  
29 indicate the parties, identify the tenant defendant to be represented by the contractor, date  
30 of service of the summons upon the defendant<sup>1</sup>, affirmation that the tenant has been

<sup>1</sup> Filing a request or motion for appointment of counsel does not waive a tenant-defendant's right to subsequently challenge the sufficiency or existence of service.

1 screened and found eligible for appointed counsel under RCW 59.18.640, and the name of  
2 the appointed counsel. Upon receipt and review of the Request, the Court Administrator  
3 (or his/her designee) will sign the Administrative Appointment on behalf of the Superior  
4 Court and file it with the Kitsap County Clerk's Office in a Right to Counsel  
5 Administrative Civil file. An electronic copy will also be forwarded to Kitsap Legal  
6 Services.

7 At the time of serving an unfiled summons and complaint upon a tenant, the plaintiff shall  
8 send the tenant's last known contact information (i.e., address(es), telephone number(s) and, if  
9 available, e-mail address(es)), as well as a copy of the unfiled summons and complaint, to the local  
10 eviction defense provider, Kitsap Legal Services, via e-mail to:

11 [EvictionDefense@KitsapLegalServices.Org](mailto:EvictionDefense@KitsapLegalServices.Org).

12  
13 In the event that the summons and complaint are then filed, the landlord or landlord's  
14 counsel shall affix to the petition either a true copy of the email sent to Kitsap Legal Services or a  
15 sworn affidavit attesting to the same. The affidavit must contain the date on which the email was  
16 sent.

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18 At any subsequent proceeding regarding the summons and complaint, the Court shall  
19 review the file and confirm that the email containing the above-referenced information was sent. If  
20 the file does not contain an affidavit attesting to transmission of the email or a true copy of the  
21 email, the Court shall continue the matter for a period of no less than one week. No fewer than five  
22 (5) court days prior the return date, the plaintiff must file with the Court a copy of the email or a  
23 sworn affidavit attesting to its transmission. Failure to do so shall result in the matter being  
24 continued until such a time that the plaintiff complies with this order.

### 25 26 **III. Records**

27 The Kitsap County Clerk's Office shall keep and, on request, make publicly available the  
28 administrative appointment of counsel records in all unfiled cases stored in the Right to  
29 Counsel Administrative Civil file.

1                   **IV. Process for Appointment at Show Cause or other Court Hearings**

2                   After the filing of any unlawful detainer covered by this rule, or at any show cause hearing or trial  
3                   where a tenant defendant appears unrepresented, the Court will advise the tenant of their right to  
4                   appointed counsel if indigent and inquire whether they wish to assert that right. If the tenant  
5                   defendant requests appointment of counsel, the Court shall refer them to (a) Kitsap Legal Services  
6                   (KLS) and/or, (b) the Eviction Defense Screening Line by phone or online portal. The Court will  
7                   inquire whether the defendant requires interpreter services to effectively participate in the  
8                   proceeding, consult with counsel, or access the Eviction Defense Screening Line. The Court will  
9                   also inquire whether the tenant defendant has a disability that may require accommodation to  
10                  enable them to effectively participate in the proceeding and RTC eligibility screening.  
11

12                  If a tenant defendant is referred for appointment of counsel, the Court will continue the initial  
13                  hearing no less than two weeks to permit the tenant defendant time to be screened for eligibility  
14                  and, if eligible, secure appointment of and consult with their counsel. Sufficient time shall be  
15                  allowed for the appointed counsel to engage with plaintiff and their attorney, review pleadings,  
16                  conduct informal discovery, attempt to negotiate a settlement, develop a defense to the claim for  
17                  writ of restitution, and otherwise ensure fairness of the proceeding. A Request and Order for  
18                  Appointment of Counsel will be presented ex parte to the Court for consideration and approval.  
19                  [See Exhibit B].  
20

21                  After appointment of counsel and upon motion of either party, the Court may further continue the  
22                  show cause hearing or trial to permit the parties additional time to negotiate a resolution, refer the  
23                  matter for mediation services with the local Eviction Resolution Pilot Program, or refer the matter  
24                  for further settlement efforts. In determining whether to continue or refer a matter, the Court will  
25                  consider (a) the availability of rental assistance in nonpayment of rent cases, (b) the likelihood that  
26                  further mediation services will resolve the matter without need for a contested hearing, (c) the  
27                  existence and reasonableness of any repayment plan offered by the plaintiff to the defendant as  
28                  required by RCW 59.18.630, or (d) other circumstances relevant to the determination of whether to  
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1 proceed with the hearing. Nothing in this Order shall prohibit a judicial officer from exercising  
2 his/her independent discretion in the further setting of unlawful detainer matters.

3 **V. Effective Date/Suspension of Duty to Appoint**

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5 This Order shall remain in effect unless or until OCLA advises that insufficient funding and/or  
6 attorney capacity is available to continue accepting appointments, in which case the Court’s duty  
7 to appoint under this Order shall be suspended. Appointments shall resume upon notification from  
8 OCLA that sufficient funding and attorney capacity has been restored; or, upon the identification  
9 and/or availability of other funding to continue the appointment process.

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11 DATED this 8<sup>th</sup> day of March, 2022.

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14 \_\_\_\_\_

15 The Honorable KEVIN D. HULL  
16 Presiding Judge

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3 **Superior Court of Washington**  
4 **For Kitsap County**

5 In re: Application of  
6 \_\_\_\_\_  
7 for Appointment of Counsel in an Unfiled  
Unlawful Detainer Case

Civil Admin No. 2021-

**Request and Order for  
Administrative Appointment of  
Counsel in Unfiled Unlawful Detainer  
Case**

8  
9 **I. Nature of Petition**

10 The undersigned is an attorney employed by or under contract with Kitsap Legal  
11 Services (KLS), a legal aid provider contracted with the Office of Civil Legal Aid (OCLA)  
12 to provide eviction defense services. In accordance with the Standing Order Re:  
Appointment of Counsel of Indigent Defendants in Unlawful Detainer Actions, attorney  
13 seeks appointment of counsel pursuant to RCW 59.18.640(1) in an unlawful detainer  
proceeding. Petitioner has been served a Summons in an unlawful detainer  
proceeding.

14 **II. Basis for Indigency**

15 The tenant represented by the undersigned attorney is indigent and meets the standard  
16 for indigency under RCW 59.18.640(2) because:

17 1.1 The tenant represented by the undersigned was screened by the  Eviction  
Defense Screening Line or  Kitsap Legal Services, and:

18  Is a recipient of Temporary assistance for needy families, aged,  
19 blind, or disabled assistance benefits, medical care services under  
RCW 74.09.035, pregnant women assistance benefits, poverty-  
20 related veterans' benefits, food stamps or food stamp benefits  
transferred electronically, refugee resettlement benefits, Medicaid,  
21 or supplemental security income;

22 OR,

23  Has an annual household income of 200 percent or less of the  
federal poverty guideline after taxes.

1 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
2 knowledge.

3 DATED this \_\_\_ day of \_\_\_\_\_, 202\_\_.

4 \_\_\_\_\_  
5 [ ] Attorney for Kitsap Legal Services WSBA #  
6 [ ] Contracted/Conflict Attorney for KLS WSBA #

7 **ADMINISTRATIVE APPOINTMENT OF COUNSEL**

8 1. In accordance with the Standing Order Re: Appointment of Counsel of Indigent  
9 Defendants in Unlawful Detainer Actions, the Kitsap County Superior Court has  
10 delegated authority to the Superior Court Administrator to receive, review, and  
11 sign requests for appointment of counsel in unlawful detainer cases that have  
12 been commenced through service of a summons without filing of the Complaint  
13 with the Superior Court.

14 2. Pursuant to RCW 59.18.640(1), Kitsap Legal Services or an attorney contracted  
15 with Kitsap Legal Services, has requested that an attorney be appointed to  
16 represent *[insert tenant name]* in an unlawful detainer case that has been  
17 commenced through service of a summons.

18 3. The following KLS/Contract attorney is hereby appointed to represent the tenant  
19 applicant in the above referenced unlawful detainer case:

20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 (address and phone).

24 4. Upon filing of a complaint for unlawful detainer with the Superior Court, the  
appointed attorney shall file a notice of appearance and continue to represent the  
tenant applicant through the duration of the case.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Frank A. Maiocco Jr., Court Administrator  
Kitsap County Superior Court

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4 **Superior Court of Washington**  
5 **For Kitsap County**

No.

6 \_\_\_\_\_  
7 Plaintiff

**Motion and Order for  
Appointment of Counsel  
RCW 59.18.640(1)**

v.

8 \_\_\_\_\_  
9 Defendant

10 **I. Nature of Motion**

11 Defendant requests appointment of counsel pursuant to RCW 59.18.640(1).

12 **II. Basis for Indigency**

13 Defendant is indigent and meets the standard for indigency under RCW 59.18.640(2)  
14 because:

15 2.1 Defendant was screened by  the Eviction Defense Screening Line or  Kitsap  
Legal Services, and:

16  Is a recipient of temporary assistance for needy families, aged,  
17 blind, or disabled assistance benefits, medical care services under  
18 RCW 74.09.035, pregnant women assistance benefits, poverty-  
related veterans' benefits, food stamps or food stamp benefits  
19 transferred electronically, refugee resettlement benefits, Medicaid,  
or supplemental security income;

20 OR

21  Has an annual household income of 200 percent or less of the  
federal poverty guideline after taxes.

22 **III. Order**

23 Based on the representations in Sec. II above, the court orders:

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3.1  The Request for Appointment of Counsel is granted, and  
 The following KLS/Contract Attorney is appointed to provide representation to the Defendant pursuant to RCW 59.18.640(1):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(address and phone).

3.2  The Request for Appointment of Counsel is denied because:

The Court finds that the Defendant does not meet the indigency standard set for in RCW 59.18.640(1), or

The court finds that the Defendant is otherwise ineligible for appointed counsel in this case because:

\_\_\_\_\_  
\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**Judge/Commissioner**

Presented by:

\_\_\_\_\_  
Signature of Party or Lawyer/WSBA No.

\_\_\_\_\_  
Print or Type Name                      Date