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**KITSAP COUNTY SUPERIOR COURT
STATE OF WASHINGTON**

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

**SECOND AMENDED STANDING
ADMINISTRATIVE ORDER REGARDING
UNLAWFUL DETAINER ACTIONS AND
THE EVICTION RESOLUTION PILOT
PROGRAM (ERPP)**

EFFECTIVE AUGUST 20, 2021 THROUGH JUNE 30, 2023.¹

THIS ADMINISTRATIVE ORDER is being issued in response to the current pandemic outbreak of the Coronavirus Disease 2019 (COVID-19).² Incorporated by reference are all Kitsap County Superior Court Emergency Orders, Supreme Court Orders related to public health emergency and court operations (**specifically including Order No. 25700-B-639 authorizing the Eviction Resolution Pilot Program in Superior Courts, dated and filed on September 9, 2020**), Revised Code of Washington 59.18, Washington State Department of Health orders, Kitsap County Public Health District orders and directives that may impact Court operations.

WHEREAS, the Court makes the following findings:

- A. Findings from previous ERPP Standing Order(s) are incorporated by reference if consistent with this amended Order. Evictions for non-payment of rent were permitted to resume as of

¹ Per ch. 115, Laws of 2021, Sec. 7(9).
² Hereafter "disease."

1 November 1st, 2021. As a result, the Kitsap County Superior Court anticipates a significant
2 increase in eviction cases and hearings.

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4 **B.** Rental assistance programs are operational in Kitsap County and the Dispute Resolution Center
5 providing ERPP services are operational.

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7 **C.** *Exhibit A* is the ERPP Notice required in Kitsap County.

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9 **D.** The necessity of an effective and meaningful ERPP is key to successful diversion of cases from
10 court. The court recognizes the local agencies providing volunteer legal services, rental
11 assistance and dispute resolution services do not have unlimited human and other resources to
12 handle the continued influx of nonpayment of rent cases requiring ERPP services. The court
13 also recognizes that an effective ERPP requires the local DRC to develop and implement ERPP
14 intake and processing protocols to meet scheduling requirements and expedite processing.

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16 **E.** This court has determined it appropriate to issue this Standing Order pursuant to the Supreme
17 Court General Order and RCW 59.18.660 to establish an Eviction Resolution Pilot Program
18 (ERPP) to divert unlawful detainer cases from the docket and facilitate resolution in both pre-
19 filed and post-filed unlawful detainer cases where the principal issue in controversy is non-
20 payment of rent.

21 **NOW, THEREFORE ORDERED:**

22 **A.** **ERPP Administration.** The court designates that Kitsap County Superior Court Judge
23 Kevin D. Hull will serve as the procedural point person(s) to work with relevant stakeholders
24 on the implementation and ongoing administration of the ERPP and such designation has
25 been provided to the Administrative Office of the Courts.

26
27 **B.** **DRC Notification to of ERPP Filing.** If Kitsap Legal Services is not named as a recipient,
28 as required below, the DRC may electronically forward copies of all ERPP Notice or
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1 Resource forms and/or provide notice of any updated tenant contact information to Kitsap
2 Legal Services upon request.

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4 **C. Landlord/Landlord counsel's Obligations regarding Eviction Resolution.** Prior to
5 serving and/or filing a summons and complaint for nonpayment of rent the landlord or
6 landlord's counsel shall:

- 7 (1) *strictly comply with* the notice, service, and certification requirements of RCW
8 59.18.620-660
9 (2) offer the tenant a reasonable schedule of repayment of any unpaid rent required by RCW
10 59.18.630 (2) through April 30, 2023;
11 (3) provide a legible and complete Kitsap ERPP Notice and Information form and explain
12 any omissions of tenant contact information.in the initial submission to DRC;
13 (4) forward a copy of the Kitsap ERPP Notice to Kitsap Legal Services when submitting
14 notices to the DRC;
15 (5) promptly notify the DRC if payment is received, an agreed repayment plan is entered,
16 and/or the tenant vacates;
17 (6) participate in a collaborative resolution process that brings together landlord and counsel,
18 tenants and counsel, rent assistance programs, and the DRC to facilitate the resolution of
19 the issue of nonpayment of rent, e.g. accessing rental assistance as well as entering
20 reasonable payment plans, if the tenant chooses to participate; and,
21 (7) at the time of filing a summons and complaint, the landlord or landlord's counsel shall
22 file a completed DRC Certificate of ERPP Participation as a separate document with the
23 court.

24 **D. DRC Scheduling and Certification of ERPP.**

25 (1) The DRC has 14 days after receipt of the correct Kitsap ERPP Notice to engage the tenant
26 in the eviction resolution program. Unless otherwise agreed, if the tenant responds, DRC
27 shall, at the request of the landlord, within 7 calendar days, begin to schedule the meet and
28 confer and/or mediation session for the landlord and the tenant (and their respective counsel).
29 This session shall be set to occur at the next available set mediation date [currently,
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1 Tuesdays] after 21 calendar days of commencement of scheduling, consistent with the DRC
2 scheduling capacity. However, if all parties agree, the mediation may be set to occur within
3 21 calendar days consistent with the DRC scheduling capacity.

4 (2) If landlord has not complied with Section 5 C § 1-4 of this order, DRC shall reject and
5 request resubmission for any deficient ERPP notice.

6 (3) The parties may agree to extend the timeframe for scheduling the facilitated negotiation
7 session (meet and confer/mediation).

8 (4) The local DRC shall implement necessary processes to meet all anticipated scheduling.

9 (5) Should a tenant not engage in the first 14 business days, after the landlord has
10 issued/served the ERPP notice and the 14-day notice to pay or vacate to tenant, to DRC, and
11 to KLS. DRC Certification that the landlord has satisfied the requirements under RCW
12 59.18.620-660 and this Standing Order, or under protest as noted below, shall issue upon the
13 timely request of the Landlord.

14 (6) If a landlord files a nonpayment of rent unlawful detainer case without DRC certification,
15 this court may address whether the landlord complied with the ERPP and all conditions
16 precedent to filing. Should the court find that the landlord was entitled to DRC certification
17 notwithstanding DRC's failure to certify, the court may proceed with the show cause hearing
18 or trial. The court will not hear any nonpayment of rent landlord/tenant unlawful detainer
19 cases where the tenant has engaged with the DRC, any sooner than 28, days from the date on
20 which the parties are provided confirmation of their entry into the ERPP.

21 (7) The DRC may add any relevant language to the certificate to assist the court in evaluating
22 the matter, including but not limited to deviations from requirements of this Standing Order,
23 incorrect or missing contact information, the availability of rent assistance, parties declined
24 assistance, tenant engagement, representation, a protest, and if dispute resolution services
25 were conducted.

26 **E. Initial Hearing Procedures for Unlawful Detainer Cases.**

27 (1) The Right to Counsel Program has been implemented in Kitsap County. At the first
28 hearing, the court will advise the tenant of their right to appointed counsel if indigent and
29 inquire whether they wish to assert that right. If so, the court shall refer the tenant to Kitsap
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1 Legal Services (KLS) and/or the Eviction Defense Hotline for eligibility screening unless
2 counsel has previously been appointed for the tenant. If a tenant is referred for screening, the
3 court will continue the initial hearing as determined by the court to allow the litigant to
4 receive assistance from assigned counsel within appropriate timeframes as allowed by law
5 and/or court rule.

6 (2) At the first hearing, the court shall determine:

7 (a) whether the landlord has complied with the notice, service, participation, and
8 certification filing requirements of RCW 59.18.660; and

9 (b) whether the DRC Certificate of ERPP Participation complies with this Standing
10 Order and RCW 59.18.620-660 and/or RCW 59.20; and

11 (c) whether a show cause hearing will proceed.

12 (d) If the tenant fails to appear at the first hearing, and the court finds the landlord has
13 demonstrated compliance with the applicable law, the court may issue an order of
14 default at the request of the landlord;

15 (e) Sanctions available for the landlord's noncompliance with notice, service, or
16 certification filing requirements include but are not limited to awarding attorney's fees
17 and costs, granting a continuance, and any other relief as allowed by law and/or court
18 rule;

19 (3) In non-payment of rent cases where a DRC Certificate of ERPP Participation was issued
20 along with an agreement between the parties, the court reserves its ability to enforce such
21 agreements, including those that reached agreement on matters addressed by the rental
22 agreement beyond nonpayment of rent, provided such agreements comply with RCW 59.18
23 and/or RCW 59.20. The court further reserves any lawful discretion to require the parties to
24 return to the DRC to seek further resolution attempts.

25 F. Nothing within this order shall be construed to restrain the Court's ability to exercise lawful
26 discretion. All parties, litigants, attorneys, and agencies referenced within this order shall
27 comply with all requirements as expressed within this standing order.
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1 **G. Superseding Effect.** This order supersedes all prior standing orders issued with respect to
2 the practice and procedure relating to the pilot Eviction Resolution Pilot Program.

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4 DATED this 6th day of December, 2022.

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7
8 KEVIN D. HULL
9 Presiding Judge, Kitsap County Superior Court