



Northwest Justice Project

1814 Cornwall
Bellingham, WA 98225
Tel. 1-360-734-8680
Fax. 1-206-299-3025

Toll Free 1-800-562-8836
www.nwjustice.org

César E. Torres
Executive Director

June 17, 2021

Submitted via email to: lisaw@co.skagit.wa.us

Presiding Judge Laura Riquelme
Skagit County Superior Court
205 W. Kincaid St.
Mount Vernon, WA 98273

Re: Proposed Changes to Local Rule 8 and New Standing Order to Establish
Eviction Resolution Program

Dear Judge Riquelme:

We appreciate the opportunity to provide comment on the proposed Local Rule 8 amendments and proposed standing order creating an Eviction Resolution Program (ERP). We support both of these proposals.

The Covid-19 pandemic has substantially changed the landscape regarding landlord-tenant law. The eviction moratorium clearly prevented widespread homelessness and saved many lives in the process. As we come out of this unprecedented, severe situation, we must ensure that our most vulnerable populations do not again bear the brunt of the impact. We must endeavor to reach resolutions that recognize the ongoing struggles that low-income individuals, as well as landlords, are experiencing because of the pandemic.

HB 1236 and SB 5160 substantially changed the landlord-tenant relationship and unlawful detainer process in Washington. Federal regulations provide an additional overlay that did not previously exist. The manner in which unlawful detainer proceedings are processed by the Court must acknowledge and adapt to these changes.

The amendments to Local Rule 8 that were proposed by Skagit Legal Aid are a firm, positive step in this direction. We strongly believe that it is essential that tenants be afforded the opportunity to consult with local attorneys at the very earliest opportunity to receive guidance about accessing rental assistance and help with negotiating with their landlords. The changes to Local Rule 8 will allow tenants in Skagit County to access legal counsel. The proposed rule will also bring greater clarity and inform the court on issues crucial to determining eviction actions. It will ensure that the Court can easily ascertain what rules are applicable to the situation. Landlords will be required to explicitly plead an exception to new “just cause” protections provided by HB 1236. This will permit the Court and tenants to

know the exact legal basis for the action. It will require the landlord to disclose whether they receive federally supported funding, which invokes an additional set of rules. The proposed rule also requires housing subsidy programs to be identified, because receipt of those subsidies invokes yet another set of rules. Providing this basic information to the Court and the opposing party at the inception of the case will greatly aid the judicial process.

There are a couple of matters that the proposed amendments to Local Rule 8 do not address and that we would suggest the Court consider, if not in the local rule, then via standing orders:

- Orders of Limited Dissemination. RCW 59.18.367 provides for the entry of orders of limited dissemination for “good cause,” among other reasons. We suggest that if ever there was a good cause for nonpayment of rent it is the pandemic. The governor’s moratorium affirmatively recognized the health risk associated with a large number of Washington tenants becoming homeless. We suggest that the Court advise all parties by court rule that the Court will consider the question of the entry of an order of limited dissemination in all situations in which a writ of restitution is issued involving non-payment of rent. This question should be considered automatically in all such situations and should not require one of the parties to raise the issue independently.
- Stays of Proceedings while Rental Assistance Applications Are Pending. The Rental Assistance programs are having a tremendous positive impact on preventing homelessness and distributing funds to landlords who have also struggled through the pandemic. Processing applications is not a quick or easy task. Agencies administering these funds are swamped with applications, resulting in delays in processing. We ask that the court automatically stay or continue any unlawful detainer proceeding while an application for rental assistance is pending. We ask that the Court proactively ensure that eligible tenants are in fact able to access the rental assistance programs and forestall homelessness by automatically issuing stays pending final action on rental assistance applications.

We also support the establishment of an Eviction Resolution Program (ERP) of the nature set forth in Skagit Legal Aid’s proposed Standing Order. The creation of an ERP will facilitate resolution of many matters before they reach the Court. An ERP cannot be a stand-alone operation. It must factor in the other critical strategies and programs developed to help alleviate the looming housing crisis. It must take into consideration the availability of rental assistance programs. It must recognize that many eviction proceedings are not simple failures to pay rent. It must recognize the overlay of federal law and regulations. It must ensure that tenants have access at the earliest possible opportunity to legal information regarding landlord-tenant law. It must ensure that mediated resolutions do not waive important rights in violation of law. We believe that the proposed Standing Order addresses these issues.

The proposed amendments to Local Rule 8 and the proposed Eviction Resolution Program Standing Order collectively have the potential to prevent homelessness, keep tenants in rental properties without an eviction record, and allow landlords to receive income for their rental properties. We encourage the Court to adopt the proposals.

We recognize that the situation regarding unlawful detainer proceedings is rapidly changing and evolving. We are aware that a model Standing Order is being prepared and will be circulated in the near future. We strongly encourage the Court to adopt a Standing Order that recognizes the specific situation and available resources in Skagit County. We believe the proposed order does that.

Thank you for providing the opportunity to present these comments on the proposed changes to the Court's Local Rules and Standing Order. If you have any questions or wish to discuss these comments further, please reach out to us at the contact information below.

Sincerely,



Managing Attorney
Northwest Justice Project
206-707-0823
kellyo@nwjustice.org



Brendan Gaff
Staff Attorney
Northwest Justice Project
206-707-7218
brendang@nwjustice.org