

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SKAGIT COUNTY

STANDING ORDER

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 59.12, 59.18, and 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 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 motions for appointment of counsel based on the following process. Skagit Legal Aid or the Northwest

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.

Justice Project shall file a motion for appointment of counsel with the Skagit County Clerk's Office. Such motion 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, the Clerk's Office, pursuant to their timelines and procedures, will present the motion and proposed order appointing counsel to the judicial officer on the daily ex parte calendar for consideration. Each order under this process will be filed as its own civil miscellaneous case.

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 its 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 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 the Eviction Defense Screening Line or Skagit Legal Aid and whether the tenant defendant was screened for eligibility.

(1) If the tenant failed to be screened for eligibility, the court shall immediately refer the tenant defendant to Skagit Legal Aid by phone or in person to conduct an eligibility screening.

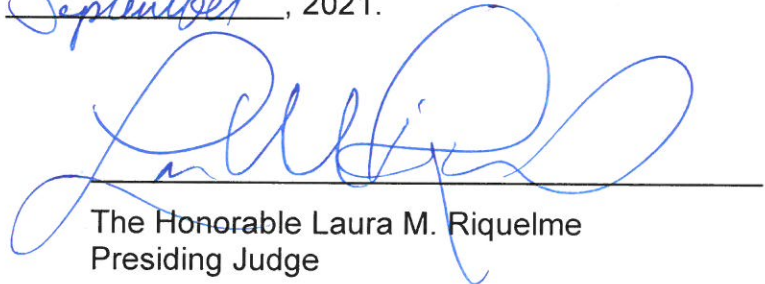
(2) Skagit Legal Aid has committed to maintain availability, either physically or virtually, to conduct screenings from 9:30 a.m. to 10:30 a.m. on Fridays for tenants who appeared unrepresented after requesting the appointment of counsel. Cases that have been previously continued by tenant request will receive screening priority.

- (3) If the tenant defendant is found to be eligible for appointed counsel under the standards in sec 8, ch. 115, laws of 2021, the tenant defendant shall inform the court. The court shall then enter an order that an application and proposed order to appoint shall be filed by Skagit Legal Aid within one week.
- (4) The court shall exercise its discretion in whether to proceed if a tenant defendant:
 - (a) was found ineligible for services by either Skagit Legal Aid or the Eviction Defense Screening Line;
 - (b) refuses by their words or conduct to screen for eligibility of assigned counsel, or;
 - (c) waives their right to assigned counsel on the record.
- (D) In considering requests to continue or further refer a matter for counsel, the court will exercise its discretion based upon a review of:
 - (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;
 - (3) the existence and reasonableness of any repayment plan offered by the plaintiff to the defendant as required by sec. 4, ch. 115, laws of 2021, and;
 - (4) 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 Skagit 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 21st day of September, 2021.



The Honorable Laura M. Riquelme
Presiding Judge