

AUG 17 2021

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

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

MEMORANDUM OF UNDERSTANDING

Appointment of Counsel for Indigent Defendants in Unlawful Detainers

I. Purpose

Pursuant to Ch. 115, Laws of 2021 (Senate Bill 5160), Pierce County Superior Court (PCSC) must appoint an attorney for an indigent tenant defendant in an unlawful detainer proceeding commenced under RCW 59.12, 59.18, or 59.20. Tacoma Probono Housing Justice Project (HJP) currently has funding and staffing to provide for attorney representation for indigent tenant defendants in unlawful detainer proceedings in Pierce County. This Memorandum of Understanding (MOU) is intended to be in effect prior to the certification from the Office of Civil Legal Aid (OCLA) of Right to Counsel funding and program implementation.

II. Process for Appointment

In any unlawful detainer proceeding commenced by (1) service of a summons and complaint upon a tenant defendant but not filed with the Court, or (2) filing of a summons and complaint in PCSC, HJP shall be appointed as counsel for indigent tenant defendants that pass HJP eligibility screening consistent with Sec. 8, Ch. 115, Laws of 2021, as well as general Rules of Professional Conduct concerning conflicts of interest.

II. Process for Appointment in Unfiled Proceedings

A tenant defendant's request for appointment of counsel and waiver of fees that is presented to the County Clerk where no unlawful detainer has been filed will result in
APPOINTMENT OF COUNSEL – MEMORANDUM OF UNDERSTANDING

a case filing under the Civil Miscellaneous case type. The request will have a case number. The motion and proposed order will be sent over to the judicial officer for entry of the order, which will be filed in Civil Miscellaneous case. At that time, the clerk will resolve and complete the Miscellaneous case.

IV. Process for Appointment following filing of Unlawful Detainer Proceeding

At the tenant defendant's initial appearance after the filing of any unlawful detainer in an unlawful detainer proceeding commenced under RCW 59.12, 59.18, or 59.20, including at any show cause hearing or trial, the Court shall 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 the tenant defendant to HJP for eligibility screening by HJP staff.

If a tenant defendant is referred for appointment of counsel and passes HJP eligibility screening, the Court shall appoint HJP to provide tenant defendant with legal representation and shall continue the initial hearing for not less than one week to permit the tenant defendant time to consult with appointed counsel. be screened for eligibility and, if eligible, secure appointment of and consult with their counsel. In all cases of HJP appointment and notwithstanding the initial continuance, 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, refer the matter for mediation services with the local Eviction Resolution Pilot Program (ERPP), 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 Sec. 4, Ch. 115, Laws of 2021, or (d) other circumstances relevant to the determination of whether to proceed with the hearing.

V. Effective Date

This MOU shall take effect on August 18, 2021

DATED this 16 day of August, 2021.

The Honorable Philip Sorensen
Presiding Judge

HOUSING JUSTICE PROJECT
MARK MORZOL, #43457

FILED
IN COUNTY CLERK'S OFFICE

AUG 17 2021

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY KMA DEPUTY