

PIERCE COUNTY SUPERIOR COURT EX PARTE DEPARTMENT POLICY

**EFFECTIVE DATE OF CURRENT
POLICY OR REVISION:**

June 25, 2018 (EC)

REVISION DATE:

**June 25, 2018
May 6, 2013 (Judges' Meeting)
April 22, 2013 (EC)
August 20, 2012 (Judges' Meeting)**

NOTE: COURT COMMISSIONERS AND COURT STAFF ARE PRECLUDED FROM GIVING LEGAL ADVICE. Please consult legal resources prior to coming to the Ex Parte Department

1. SUBJECT:

Ex Parte Department Policy.

2. APPLICATION:

This policy applies to all parties and attorneys appearing in the Commissioner Ex Parte Department as well to all Ex Parte Mail and Mandatory Electronic Submissions.

3. PURPOSE:

To set clear and precise guidelines for parties and attorneys who appear before the Ex Parte Commissioner or who submit orders by mail or Mandatory Electronic Submissions.

4. Hours of Operation, Sign In Process and Procedures:

- The Ex Parte Department is open from 9:00 a.m. until 11:30 a.m. and from 1:30 p.m. until 3:30 p.m., Monday through Friday.
- Attorneys must sign in electronically in the Clerk's Office (Room 110) and self-represented parties must sign in the Commissioners Services Department (currently Room 140) using the dedicated computer kiosk, before going to the Ex Parte Courtroom. [[Sign In Process](#)] Once the electronic sign in is complete, proceed into the Ex Parte Courtroom (Room 105) and wait for your case to be called by the Court Clerk.

- Attorneys will be given preference in presenting uncontested/agreed orders. Please indicate on the electronic Ex Parte Sign In Form if your matter is an agreed or not agreed matter.
- Requests for Immediate Restraining Orders and contested matters will not be heard after 11:00 a.m. or 3:00 p.m. except under extraordinary or emergent circumstances.

5. Matters NOT subject to Electronic Submission:

- Finalizations of Dissolutions, Legal Separations, Invalidity, Non-Parental or Child Custody, Paternity, Modifications/Changes of Parenting Plans/Residential Plans.
- Temporary Orders addressing Parenting Plans or Child Support for children.
- Orders Continuing Adequate Cause or Agreed Orders Finding Adequate Cause.
- Restraining Orders, Orders Shortening Time and Orders Exceeding the Show Cause Cap, and Motions for Subpoena.
- Appointments of Personal Representatives/Administrators and Petitions to Reopen Estates.
- Requests to restore firearm rights.

6. MANDATORY Electronic Submission of certain Orders:

- Pursuant to [PCLGR 30](#), certain orders presented by attorneys must be submitted electronically via the LINX website.
- Payment of the \$40 Electronic Submission filing fee is mandatory.
- Electronically Submitted orders may not be signed immediately. It may take up to a week before the Court has time to review and sign proposed documents, and the orders are scanned by the Superior Court Clerk's Office.
- The list of orders subject to mandatory electronic submission is included at the end of this policy and found on the Superior Court Clerk's website. <https://www.co.pierce.wa.us/95/Clerk-of-the-Superior-Court>
- For any order requesting the setting of a hearing before a Judge or Commissioner (e.g., Orders for Supplemental Proceedings), the hearing date must first be electronically scheduled in LINX by the moving party.

7. PERMISSIVE Electronic Submission or mailing of certain Orders:

- Except as set forth above in Section 5, other ex parte matters may be submitted by Mandatory Electronic Submission or mail via the LINX website with payment of the \$40 Electronic Submission filing fee.
- These orders may not be signed immediately and may take up to a week before the Court has time to review and sign proposed documents, and the orders are scanned by the Superior Court Clerk's Office.
- Any proposed order that is time sensitive should not be presented by mail.
- For any order requesting the setting of a hearing before a Judge or Commissioner (e.g., Orders to Show Cause, Orders to go to Court for Contempt Hearing, Orders for Supplemental Proceedings) the hearing date must first be electronically scheduled in LINX by the moving party.
- Any motion must be accompanied by a proposed order.

8. Matters HEARD in the Ex Parte Department (unless subject to Mandatory Electronic Submission in Section 6 above):

- Agreed Orders already signed by both parties (unless subject to **Mandatory Electronic Submission**).
- Family Law Immediate Restraining Orders with contested issues that would cause irreparable damage if the order is not signed immediately. (The Declaration must detail the notice provided to the other party. If no notice is given, the court may: deny the request, set over the Ex Parte hearing to allow notice to the other party/attorney, or waive notice if court rule and statutory requirements are met.)
- If a contested hearing will last ten (10) minutes or more, the Ex Parte Department may assign the matter to another courtroom as follows:
 - Contested Family Law matters may be assigned to one of the Commissioners sitting in Civil Division A, B or C.
 - Non Family Law matters that do not request injunctive relief may be assigned to the Commissioner in Civil Division A.
- Petitions to Admit Wills to Probate, for Letters of Administration, Petitions to Reopen Estates, and for Adjudication of Intestacy and Heirship (Need verified petition, evidence of estate solvency, the birth date of the proposed personal representative/administrator, and if personal representative/administrator resides out of state, a statement that he/she has no felonies or crimes involving moral turpitude).
- Orders of default which do not require notice to the opposing party, only if presented by a self-represented party.
- Default Judgments, provided the default judgment requirements listed on the **Judgment by Default checklist below** are followed **and presented by a self-represented party**. (Defaults and Default Judgments presented by attorneys are subject to mandatory **Electronic Submission**.)
- Finalization of Dissolutions of Marriage, Domestic Partnerships, Invalidity of Marriage, Legal Separations, Parenting Plans/Residential Schedules, and Modifications/Change of Parenting Plans presented by attorneys (If a party is self-represented, all agreed or by default finalizations of Dissolutions of Marriages, Domestic Partnerships, Invalidity of Marriage, and Legal Separations must be scheduled on the Self-Represented/Pro Se Dissolution Friday morning dockets.)
- All agreed or by default finalizations of Parenting Plans/Residential Schedules and Modifications/Change of Parenting Plans for self-represented parties may be heard in Ex Parte at the Commissioner's discretion, but the preferred method of finalization is on the show cause docket.
- Temporary Orders addressing Parenting Plans or Child Support for children.
- Orders Continuing Adequate Cause or Agreed Orders Finding Adequate Cause.
- Appointment of Guardian ad Litem in RCW 26.09 and 26.10 matters after the full retainer has been paid and proof of payment is provided to the court, and the scope order was previously entered. These orders may be presented by **Electronic Submission** as well.
- Appointment of Guardian ad Litem in guardianship matters (public and private pay cases).

- Orders to Shorten Time for hearings before Superior Court Commissioners.
- Emergency Orders restraining relocation of a child, granting temporary relocation, or final orders after objection period has passed, all pursuant to **RCW 26.09.405 – 560**.
- Motions to stay issuance of Writs of Restitution. Defendant may be required to post a bond. (The Declaration must detail the notice provided to the other party/attorney and the factual basis for a stay.)
- Orders to Show Cause for Family Law matters.
- Filing fee waivers.

9. Matters NOT HEARD in the Ex Parte Department:

- Adoptions. The Ex Parte Adoption docket is held at Remann Hall. Call (253) 798-7973 for the Adoption Ex Parte presentation times. Orders appointing Adoption investigator are no longer required. The Adoption Investigator is assigned when the case is filed.
- Finalization of Dissolution of Marriage/Divorce, Domestic Partnerships or Legal Separation or Invalidation for self-represented parties. These matters must be scheduled on the self-represented/pro se dissolution docket. (Friday mornings).
- Finalization of Non-Parent/Child Custody matters, these matters shall be scheduled on the show cause docket if agreed or finalized by default.
- Requests for civil injunctive relief. These matters shall go to the Presiding Judge pursuant to PCLR 65. The Ex Parte Court Clerk shall send an email to the Calendar Coordinators and Presiding Judge's JA that includes: case number, when the attorneys/parties are being sent, brief statement of the issue. The Calendar Coordinators email both the Presiding Judge and Presiding Judge's judicial assistant the information from the Ex Parte Court Clerk requesting the Presiding Judge's availability. The attorneys/parties are directed to the Calendar Coordinators or Presiding Judge as the responsive email directs.
- Criminal Matters.
- Requests to restore firearm rights.

CHECKLIST FOR JUDGMENTS BY DEFAULT

The following outline sets forth the standards the court will use when considering the entry of default judgments.

1. Proof of Service reviewed.

NOTE: if service by mail or publication, CR 55(f) requires a written declaration or affidavit verifying service.

NOTE: if service is more than one year prior, CR 55(b) (3) requires notice to be given to defendants before any default can be entered.

2. Affidavit of Non-Military Service or equivalent with DOD Manpower Status Report reviewed.

Was Notice to Dependents of Service members sent, or reference made to Dependents in Affidavit of Non-Military Service?

<https://scra.dmdc.osd.mil/scra/#/single-record>

3. Complaint reviewed.

- Is amount certain pled in complaint?
- Is complaint verified - or is there a declaration supporting the amount pled?
- If proposed judgment is different from the amount pled in the complaint, are differences (not exceeding amount pled in complaint) explained in Formal Proof Affidavit?

4. Formal Proof (CR 55) Declaration/Affidavit reviewed.

Required elements:

- Competent witness
- Contract and/or Recent Billing Statement
- Proof of Assignment
- Interest Rate
- Explanation of judgment calculations, including, but not limited to:
 - start date and period of covered for accrued (prejudgment) interest;
 - adjustments for offsets and credits;
 - why interest rate different from contract rate; and
 - differences with principal balance on billing statement
 - extra charges – inspection etc.

5. Attorney Fee Declaration, if any, reviewed.

Fees and costs authorized and explained? Fee request will be compared to any amount pled in complaint.

ORDERS SUBJECT TO MANDATORY ELECTRONIC SUBMISSION

- Case Type 2: **(Civil)**
 - Judgment on Answer of Garnishee Defendant
 - Order appointing Guardian ad Litem
 - Order for Writ of Restitution
 - Order of Dismissal
 - Order of Dismissal with Prejudice
 - Order of Dismissal without Prejudice
 - Order of Dismissal *Partial*
 - Stipulated Judgment
 - Default Judgment
 - Order of Default
 - Judgment and Order for Writ of Restitution
 - Judgment and Decree of Foreclosure
 - Order Confirming Sale
 - Order Extending Judgment
 - Order to Show Cause
 - Agreed Order
 - Order for Supplemental Proceedings
 - Order re: Service
 - Order for Publication

- Case Type 3: **(Domestic)**
 - Order of Default
 - Order of Dismissal
 - Order of Dismissal with Prejudice
 - Order of Dismissal without Prejudice
 - Order of Dismissal *Partial*
 - Order for Supplemental Proceedings

- Case Type 4: **(Probate/Guardianship)**
 - Agreed Order
 - Order of Default
 - Order of Dismissal
 - Order of Dismissal with Prejudice
 - Order of Dismissal without Prejudice
 - Order Confirming Sale

ADD THE EXAMPLE OF THE EX PARTE ELECTRONIC SIGN IN FORM

[Electronic Ex Parte Sign in Form](#)