

PIERCE COUNTY SUPERIOR COURT EX PARTE DIVISION POLICY

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

_____ (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 Division.

1. SUBJECT:

Ex Parte Division Policy.

2. APPLICATION:

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

3. PURPOSE:

To set clear and precise guidelines for parties and attorneys appearing before the Ex Parte Commissioner or submitting orders by Ex Parte Mail or Mandatory Electronic Submissions.

4. EX PARTE COURTROOM (ROOM 129) OPERATION:

A. Matters HEARD in the Ex Parte Division:

- **NOTE: Certain orders must be submitted electronically and are no longer presented in person in Ex Parte. See Section 5.**
- 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 Division 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.
- Orders to Shorten Time for hearings before Superior Court Commissioners.
- Emergency Orders restraining relocation of a child or granting temporary relocation, 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.)
- Filing fee waivers.

B. Hours of Operation, Sign in Process, and Procedure:

- The Ex Parte Division (Courtroom 129) 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.
- Any person requesting a hearing in the Ex Parte Division shall contact Commissioner Services in advance by either telephone (253-798-6697) or email (supcsd@piercecounitywa.gov) to arrange the date and time of hearing, or to request waiver of notice to any other party.

*** *See below for COVID 19 process*

- Requests for Immediate Restraining Orders and other contested matters will not be heard after 11:00 a.m. or 3:00 p.m. except under extraordinary or exigent circumstances.

*** *Covid 19 Process:*

Ex Parte Hearings are currently being conducted remotely through video conferencing. The requesting party will need to provide an email address and telephone number for themselves and for any opposing party or attorney. For further instructions, see the provisions in Ex Parte Division – Room 129 found in the Emergency/Temporary Procedures for Civil Commissioner Courtrooms: <https://www.co.pierce.wa.us/DocumentCenter/View/90508/Covid-19-emergency-procedures-re-Commissioners-Hearings>.

Most matters previously heard in Ex Parte are now subject to Mandatory Electronic submission including those matters previously requiring a personal appearance (such as probates, orders to show cause, finalization of family law case – except in non-parent custody cases, temporary family law orders).

5. ELECTRONIC SUBMISSION OR MAILING OF CERTAIN ORDERS:

MANDATORY Electronic Submission:

- 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 judicial officer 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 also 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.

6. MATTERS NOT HEARD IN THE EX PARTE DIVISION:

- 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 Invalidity 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. (These requests are scheduled before the Criminal Presiding Judge)

CHECKLIST FOR JUDGMENTS BY DEFAULT

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

a. 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.

b. 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>

c. 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?

d. 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.

e. 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:

- 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
- Order for Supplemental Proceedings
- Order re: Service
- Order for Publication
- Order for Service of Summons by Publication
- Order for Service by Mail
- Confessions of Judgment
- Order for Payments in Installments

Case type 3:

- Order of Default
- Order of Dismissal
- Order of Dismissal with Prejudice
- Order of Dismissal without Prejudice
- Order of Dismissal *Partial*
- Order for Supplemental Proceedings
- Order Waiving Filing Fee
- Order for Service of Summons by Publication
- Order for Service by Mail
- Order to DCYF to Release CPS Information

- Order to Show Cause
- Agreed Qualified Domestic Relation Orders (QDRO)
- Agreed Findings of Fact Conclusion of Law, Divorce Decree, Order of Child Support with Child Support Worksheets, Final Parenting Plan presented by attorney (without a trial occurring)
- Agreed Final Order and Findings for a Parenting Plan, Order of Child Support with Child Support Worksheets, Final Parenting Plan presented by attorney (without a trial occurring)
- Order Appointing Guardian ad Litem
- Agreed Temporary Order of Child Support with Child Support Worksheets
- Final Order and Findings on Petition to Modify Child Support and Child Support Order with Child Support Worksheets
- Order on Motion to Adjust Child Support and Child Support Order with Child Support Worksheets
- Agreed Temporary Family Law Order
- Ex Parte Order on Motion for Final Order Changing Parenting Plan-Moving with Children (Relocation)

Case type 4:

- Order of Default
- Order of Dismissal
- Order of Dismissal with Prejudice
- Order of Dismissal without Prejudice
- Order Confirming Sale
- Order Admitting Will to Probate
- Order Appointing Personal Representative/Administrator
- Bond
- Order Granting Letters of Administration
- Order Granting Non-Intervention Powers
- Order Waiving Filing Fee
- Order Appointing Guardian ad Litem
- Order Adjudicating Solvency
- Order for Additional Guardian ad Litem (GAL) Hours or Fees

ADD THE EXAMPLE OF THE EX PARTE ELECTRONIC SIGN IN FORM

[Electronic Ex Parte Sign in Form](#)