

**FILED**

**SEP 21 2021**

**KIMBERLY A. ALLEN  
GRANT COUNTY CLERK**

**IN THE SUPERIOR COURT OF WASHINGTON**

**IN AND FOR GRANT COUNTY**

**MEMORANDUM OF UNDERSTANDING**

**Appointment of Counsel for Indigent Defendants in Unlawful Detainer Actions**

**I. Purpose**

Pursuant to Ch. 115, Laws of 2021 (Senate Bill 5160), and subject to the availability of amounts appropriated by the Legislature for appointment of attorneys, Grant County Superior Court is required to appoint an attorney for indigent tenant defendants in an unlawful detainer proceeding commenced under RCW 59.12, 59.18, or 59.20. The Northwest Justice Project (Wenatchee office) and Chelan-Douglas Volunteer Attorney Services are designated as the agencies that will provide attorney representation for indigent tenant defendants in unlawful detainer proceedings. This Memorandum of Understanding (MOU) is for the purpose of certification from the Office of Civil Legal Aid (OCLA) of Right to Counsel funding and program implementation.

**II. Appointment of Counsel**

In unlawful detainer proceedings commenced under RCW 59.12, 59.18, or 59.20, an attorney from the Northwest Justice Project or Chelan-Douglas Volunteer Attorney Services shall be appointed as counsel for indigent tenant defendants that pass eligibility screening requirements consistent with Sec. 8, Ch. 115, Laws of 2021, as well as general Rules of Professional Conduct concerning conflicts of interest.

**III. Process for Appointment in Unfiled Unlawful Detainer Matters**

Where no unlawful detainer has been filed, a tenant defendant will submit to the Grant County Superior Court Clerk a petition for appointment of counsel, a request for waiver of fees with financial declaration or a Qualified Legal Services Provider certification, and a proposed order appointing counsel. The proposed order shall identify the attorney from the Northwest Justice Project and/or from the Chelan-Douglas Volunteer Services that will be assigned.<sup>1</sup> These documents will be provided to a judicial officer for review. The Clerk has agreed not to charge an ex parte fee to present these documents to a judicial officer. After a waiver of fees is granted

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<sup>1</sup> In the event an Indigent tenant defendant does not identify the attorney to be assigned in the proposed order, the indigent tenant defendant shall be referred to the Northwest Justice Project Eviction Defense Screening Line, (855) 657-8387, for eligibility screening and for identification of the attorney to be assigned.

and an order appointing counsel is signed, the Clerk will open a case file under the Civil Miscellaneous case type and said file will be assigned a case file number. Thereafter, the Clerk will resolve and complete the Miscellaneous case.

**IV. Process for Appointment following filing of Unlawful Detainer Complaint**


At the tenant defendant's initial appearance after filing of any unlawful detainer action 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 indigent tenant defendant requests appointment of counsel, the Court shall refer the tenant to the Northwest Justice Project Eviction Defense Screening Line, (855) 657-8387, for eligibility screening. In such case, the Court shall continue the initial hearing for not less than one week to permit the tenant defendant time to be screened for eligibility and consult with an attorney.


If after screening a tenant defendant is found eligible for attorney services, the Northwest Justice Project and/or the Chelan-Douglas Volunteer Attorney Services shall have an attorney file a Notice of Appearance in the unlawful detainer action and shall appear at the next scheduled hearing. At the scheduled hearing, the Court will enter a formal order appointing counsel pursuant to Sec. 8, Ch. 115, Laws of 2021. After appointment of counsel and upon motion of either party, the court may continue the show cause hearing or trial to permit appointed counsel to engage with plaintiff and their attorney, to review pleadings, to conduct discovery, to attempt to negotiate a settlement, to develop a defense to the claim for writ of restitution, and otherwise to ensure fairness of the proceedings. The Court may also 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 September 21, 2021

Dated this 21<sup>st</sup> day of September, 2021

  
\_\_\_\_\_  
The Honorable David G. Estudillo  
Presiding Judge  
Grant County Superior Court

  
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Michelle Lucas  
Managing Attorney, Eviction Prevention Unit  
Northwest Justice Project

*Eloise Bardsley*  
By Eloise Bardsley, Director  
Chelan-Douglas Volunteer Attorney Services