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FILED

JUN 13 2023

KITSAP COUNTY CLERK
DAVID T. LEWIS III

KITSAP COUNTY SUPERIOR COURT
STATE OF WASHINGTON

IN RE THE MATTER OF THE RESPONSE BY THE
KITSAP COUNTY SUPERIOR COURT TO THE
PANDEMIC OUTBREAK OF THE CORONAVIRUS
DISEASE 2019 (COVID-19)

**FOURTH AMENDED STANDING
ADMINISTRATIVE ORDER REGARDING
UNLAWFUL DETAINER ACTIONS AND
THE EVICTION RESOLUTION PILOT
PROGRAM (ERPP)**

THIS ADMINISTRATIVE ORDER is being issued in response to the current pandemic outbreak of the Coronavirus Disease 2019 (COVID-19).¹ Incorporated by reference are all Kitsap County Superior Court Emergency Orders, Supreme Court Orders related to public health emergency and court operations (**specifically including Order No. 25700-B-639 authorizing the Eviction Resolution Pilot Program in Superior Courts, dated and filed on September 9, 2020**), Revised Code of Washington 59.18, Washington State Department of Health orders, Kitsap County Public Health District orders and directives that may impact Court operations.

WHEREAS, the Court makes the following findings:

- A. Findings from previous ERPP Standing Order(s) are incorporated by reference if consistent with this amended Order. Evictions for non-payment of rent were permitted to resume as of November 1st, 2021. As a result, the Kitsap County Superior Court anticipates a significant increase in eviction cases and hearings.

¹ Hereafter "disease."

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2 **B.** Rental assistance programs are operational in Kitsap County and the Dispute Resolution Center
3 providing ERPP services are operational.

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5 **C.** *Exhibit A* is the ERPP Notice required in Kitsap County.

6
7 **D.** The necessity of an effective and meaningful ERPP is key to successful diversion of cases from
8 court. The court recognizes the local agencies providing volunteer legal services, rental
9 assistance and dispute resolution services do not have unlimited human and other resources to
10 handle the continued influx of nonpayment of rent cases requiring ERPP services. The court
11 also recognizes that an effective ERPP requires the local DRC to develop and implement ERPP
12 intake and processing protocols to meet scheduling requirements and expedite processing.

13
14 **E.** This court has determined it appropriate to issue this Standing Order pursuant to the Supreme
15 Court General Order and RCW 59.18.660 to establish an Eviction Resolution Pilot Program
16 (ERPP) to divert unlawful detainer cases from the docket and facilitate resolution in both pre-
17 filed and post-filed unlawful detainer cases where the principal issue in controversy is non-
18 payment of rent.

19
20 **F.** This Order applies to all Notices issued and served on or before June 30, 2023, even if the
21 ERPP process is not completed on or before June 30, 2023. This Standing Order will expire on
22 October 1, 2023.

23
24 **NOW, THEREFORE ORDERED:**

25 **A.** **ERPP Administration.** The court designates that Kitsap County Superior Court Judge
26 Kevin D. Hull will serve as the procedural point person(s) to work with relevant stakeholders
27 on the implementation and ongoing administration of the ERPP and such designation has
28 been provided to the Administrative Office of the Courts.

1 **B. DRC Notification to of ERPP Filing.** If Kitsap Legal Services is not named as a recipient,
2 as required below, the DRC may electronically forward copies of all ERPP Notice or
3 Resource forms and/or provide notice of any updated tenant contact information to Kitsap
4 Legal Services upon request.

5
6 **C. Landlord/Landlord counsel's Obligations regarding Eviction Resolution.** Prior to
7 serving and/or filing a summons and complaint for nonpayment of rent the landlord or
8 landlord's counsel shall:

- 9 (1) *strictly comply with* the notice, service, and certification requirements of RCW
10 59.18.620-660
- 11 (2) offer the tenant a reasonable schedule of repayment of the unpaid rent required by RCW
12 59.18.630 (2) through April 30, 2023 fourteen days prior to submitting ERPP notice and
13 pay or vacate notice required by RCW 59.18.660 (3);
- 14 (3) provide a legible and complete Kitsap ERPP Notice and Information form and explain
15 any omissions of tenant contact information.in the initial submission to DRC;
- 16 (4) forward a copy of the Kitsap ERPP Notice to Kitsap Legal Services when submitting
17 notices to the DRC;
- 18 (5) promptly notify the DRC if payment is received, an agreed repayment plan is entered,
19 and/or the tenant vacates;
- 20 (6) participate in a collaborative resolution process that brings together landlord and counsel,
21 tenants and counsel, rent assistance programs, and the DRC to facilitate the resolution of
22 the issue of nonpayment of rent, e.g. accessing rental assistance as well as entering
23 reasonable payment plans, if the tenant chooses to participate;
- 24 (7) complete the Eviction Resolution Pilot program for all nonpayment of rent notices issued
25 and served through June 30, 2023, even if DRC scheduling necessitates sessions beyond
26 June 30, 2023; and,
- 27 (8) at the time of filing a summons and complaint, the landlord or landlord's counsel shall
28 file a completed DRC Certificate of ERPP Participation as a separate document with the
29 court.
30

1 **D. DRC Scheduling and Certification of ERPP.**

2 (1) Through and including June 30, 2023, the DRC has 14 days after receipt of the correct
3 Kitsap ERPP Notice to engage the tenant in the eviction resolution program. Unless
4 otherwise agreed, if the tenant responds, DRC shall, at the request of the landlord, within 7
5 calendar days, begin to schedule the meet and confer and/or mediation session for the
6 landlord and the tenant (and their respective counsel). This session shall be set to occur at
7 the next available set mediation date after 21 calendar days of commencement of scheduling,
8 consistent with the DRC scheduling capacity [currently Tuesdays and Thursdays through
9 September 30, 2023]. However, if all parties agree, the mediation may be set to occur within
10 21 calendar days consistent with the DRC scheduling capacity.

11 (2) If landlord has not complied with Section 5 C § 1-4 of this order, DRC shall reject and
12 request resubmission for any deficient ERPP notice.

13 (3) The parties may agree to extend the timeframe for scheduling the facilitated negotiation
14 session (meet and confer/mediation).

15 (4) The local DRC shall implement necessary processes to meet all anticipated scheduling.

16 (5) Should a tenant not engage in the first 14 business days, after the landlord has
17 issued/served the ERPP notice and the 14-day notice to pay or vacate to tenant, to DRC, and
18 to KLS. DRC Certification that the landlord has satisfied the requirements under RCW
19 59.18.620-660 and this Standing Order, or under protest as noted below, shall issue upon the
20 timely request of the Landlord.

21 (6) If a landlord files a nonpayment of rent unlawful detainer case without DRC certification,
22 this court may address whether the landlord complied with the ERPP and all conditions
23 precedent to filing. Should the court find that the landlord was entitled to DRC certification
24 notwithstanding DRC's failure to certify, the court may proceed with the show cause hearing
25 or trial. The court will not hear any nonpayment of rent landlord/tenant unlawful detainer
26 cases where the tenant has engaged with the DRC, any sooner than 28, days from the date on
27 which the parties are provided confirmation of their entry into the ERPP.

28 (7) The DRC may add any relevant language to the certificate to assist the court in evaluating
29 the matter, including but not limited to deviations from requirements of this Standing Order,
30 incorrect or missing contact information, the availability of rent assistance, parties declined

1 assistance, tenant engagement, representation, a protest, and if dispute resolution services
2 were conducted.

3
4 **E. Initial Hearing Procedures for Unlawful Detainer Cases.**

5 (1) The Right to Counsel Program has been implemented in Kitsap County. At the first
6 hearing, the court will advise the tenant of their right to appointed counsel if indigent and
7 inquire whether they wish to assert that right. If so, the court shall refer the tenant to Kitsap
8 Legal Services (KLS) and/or the Eviction Defense Hotline for eligibility screening unless
9 counsel has previously been appointed for the tenant. If a tenant is referred for screening, the
10 court will continue the initial hearing as determined by the court to allow the litigant to
11 receive assistance from assigned counsel within appropriate timeframes as allowed by law
12 and/or court rule.

13 (2) At the first hearing, the court shall determine:

14 (a) whether the landlord has complied with the notice, service, participation, and
15 certification filing requirements of RCW 59.18.660; and

16 (b) whether the DRC Certificate of ERPP Participation complies with this Standing
17 Order and RCW 59.18.620-660 and/or RCW 59.20; and

18 (c) whether a show cause hearing will proceed.

19 (d) If the tenant fails to appear at the first hearing, and the court finds the landlord has
20 demonstrated compliance with the applicable law, the court may issue an order of
21 default at the request of the landlord;

22 (e) Sanctions available for the landlord's noncompliance with notice, service, or
23 certification filing requirements include but are not limited to: awarding attorney's fees
24 and costs, granting a continuance, and any other relief as allowed by law and/or court
25 rule;

26 (3) In non-payment of rent cases where a DRC Certificate of ERPP Participation was issued
27 along with an agreement between the parties, the court reserves its ability to enforce such
28 agreements, including those that reached agreement on matters addressed by the rental
29 agreement beyond nonpayment of rent, provided such agreements comply with RCW 59.18
30

1 and/or RCW 59.20. The court further reserves any lawful discretion to require the parties to
2 return to the DRC to seek further resolution attempts.

3
4 **F.** Nothing within this order shall be construed to restrain the Court's ability to exercise lawful
5 discretion. All parties, litigants, attorneys, and agencies referenced within this order shall
6 comply with all requirements as expressed within this standing order.

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8 **G. Superseding Effect.** This order supersedes all prior standing orders issued with respect to
9 the practice and procedure relating to the pilot Eviction Resolution Pilot Program.

10 DATED this 15th day of June, 2023.

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14 _____
15 JUDGE KEVIN D. HULL