



Washington State Office of Civil Legal Aid

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To: Superior Court Presiding Judges and Unlawful Detainer Judicial Officers
Superior Court Administrators
Superior Court Clerks

From: Jim Bamberger, Director Office of Civil Legal Aid
Philippe Knab, OCLA Eviction Defense Program Manager

Re: Update on Indigent Tenant Right to Counsel Implementation

Date: August 31, 2021

This memo offers a brief update to courts and judicial officers presiding over unlawful detainer cases. As outlined in Sec. 8(1) of ch. 115, laws of 2021, courts must appoint attorneys for indigent tenants in unlawful detainer cases (both filed and unfiled). Further, as confirmed by the AGO letter dated July 19, 2021, courts may not proceed to hear unlawful detainer cases involving indigent tenants until the Office of Civil Legal Aid (OCLA) certifies that the conditions for operation of the right to counsel (RTC) program exist in the judicial district.

As previously outlined, there are three criteria before OCLA can certify the availability of RTC services. These are:

1. Hiring and deployment of RTC attorneys (or, where relevant, engagement of contract attorneys) allocated to the judicial district.
2. RTC attorney and contractor completion of the mandatory training curriculum outlined in sec. 6.b of the [RTC Implementation Plan](#).
3. Adoption by the court in each judicial district of (a) an agreement between the OCLA-contracted provider(s) and the court or (b) entry of an order outlining the process for appointment of counsel in both filed and unfiled cases. See sec. 9.b of the [RTC Implementation Plan](#).

RTC Implementation Status Update:

1. **RTC capacity:** By September 14th, more than 60 attorneys will have been hired and deployed to serve as dedicated RTC attorneys. In addition, RTC-contracted legal aid programs are entering into contracts with private attorneys (who also must be trained) in rural parts of the state that cannot support a full-time dedicated RTC attorney. Protocols and capacity have been established to provide counsel in cases involving conflicts or other obstacles that limit the ability of one or more providers to represent any specific

indigent tenant. Finally, Northwest Justice Project (NJP) will be hiring three “floater” attorneys to serve as regional gap-covers in cases of conflict or where the number of appointments exceeds funded and staffed RTC capacity.

2. **Training:** Basic curricula have been developed and mandatory training at NJP is being delivered this week. Training of all other RTC attorneys will commence September 14, 2021 and be completed by September 20, 2020. *See* OCLA memorandum dated August 17, 2021 and the training curriculum attached to that memorandum.
3. **RTC Protocols or Orders:** To date, OCLA has received copies of orders or protocols from seven (7) judicial districts. These include:
 - a. Pierce County
 - b. Okanogan County
 - c. Jefferson County
 - d. Cowlitz County
 - e. Grays Harbor County
 - f. Snohomish County
 - g. San Juan County

We have not received copies of RTC appointment protocols or orders from any other court. *Absent receipt of such documents, we will be unable to certify the availability of RTC services in the judicial district.* We want to certify as fast as we can, so **please forward any RTC protocols or orders immediately upon adoption/execution.**

Interim Role of Housing Justice Projects: Housing Justice Projects (HJP’s) operate in several counties. These are located within local volunteer attorney programs, some of which are also OCLA RTC contractors. Prior to RTC certification, the role of these HJP’s is to provide legal information, advice, and assistance to tenants at risk of eviction. Absent express agreement between the HJP and the relevant judicial officers, HJP attorneys are not authorized to accept appointments and are not funded to represent indigent tenants -- even if they appear for the limited purpose of challenging the authority of the court to hear an unlawful detainer case prior to OCLA certification or to provide other limited assistance to the tenant.

RTC Implementation Timeline: Given the hiring and training of RTC attorneys, OCLA expects to issue initial certifications in **mid-late September**. This should allow for RTC appointments to commence about the same time as post-moratorium demand picks up.

Future Communications: Please forward all future inquiries and communications on RTC implementation to both Philippe Knab (Eviction Defense Program Manager) and me. You can reach us both by e-mailing us individual (philippe.knab@ocla.wa.gov; jim.bamberger@ocla.wa.gov) or by e-mailing evictiondefense@ocla.wa.gov.