



Washington State Office of Civil Legal Aid

1220 Main St, Ste 400
Vancouver, WA 98660
(360) 280-8784 (mobile)

Philippe Knab
Eviction Defense Program Manager
Philippe.Knab@ocla.wa.gov

To: Superior Court Judges' Association
Judicial Officers Presiding Over Unlawful Detainer Cases

From: Philippe Knab, Eviction Defense Program Manager
Office of Civil Legal Aid

Re: SCJA Memo No. 13
Availability of Appointed Counsel Following
100% Increase in Unlawful Detainer Filings

Date: November 13, 2023

The Office of Civil Legal Aid (OCLA) is assigned responsibility to manage the appointed counsel program established in RCW 13.34.640. RCW 2.53.050. Fully funded by the Legislature since its initial establishment, OCLA-contracted attorneys represented 12,500 tenants for whom counsel was appointed in unlawful detainer cases. Data through 9/30/23 can be found on our [data dashboard](#). Since January 2022, OCLA has operated the program without any disruption or suspension of certification in any county.¹ During that time, every indigent tenant for whom courts appointed counsel pursuant to RCW 59.18.640 has been effectively represented.

For most of the period following implementation of the Appointed Counsel Program (ACP), statewide unlawful detainer (UD) filings averaged between 1000 and 1200 per month. While challenged and stretched close to the limits of their ability to accept appointments and provide effective assistance of counsel for their indigent tenants, OCLA's contracted attorneys were able to do so without threat of disruption. Courts have been respectful and in most instances responsive to our requests for additional time to "catch up" or bring remote contract attorneys in to address periods of attorney unavailability and temporary spikes in case filings.

Things have radically changed in recent months. Since April 2023, JIS data confirms that monthly UD case filings have jumped by 100% from the post-pandemic, post-moratorium normal level. The magnitude of the increase is unprecedented -- from 1027 cases in April to

¹ For discussion of OCLA's responsibilities and authority to suspend certification when capacity is unavailable, see: [Right to Counsel Update Memo to SCJA No. 9](#) (Nov. 30, 2021).

2056 in October 2023. Increases have occurred mostly in judicial districts serving urban counties. King County has seen a 200% increase; Pierce County a 50% increase; Clark County more than a 100% increase; Spokane County an 80% increase; and Snohomish County a 100% increase. The current level of UD filings well exceeds the average level of pre-pandemic filings.

There is now a significant likelihood of demand far outstripping capacity to provide counsel in a manner that ensures indigent tenants are effectively and ethically represented. OCLA is considering a range of strategies to ensure fair and proper administration of justice in these cases consistent with applicable law. While OCLA has authority to suspend certification and interrupt the ability of courts to hear UD cases involving indigent tenants, we consider this an action of last resort. Our desired approach is to work directly with courts to find creative and effective ways to properly manage dockets consistent with the rights of both tenants and landlords, the challenges of over-crowded court dockets, and the ethical obligations of OCLA-contracted tenant-defense attorneys. We are committed to consulting with courts before action is taken in any specific judicial district.

In response to the unprecedented spike in UD case filings, and consistent with its statutory responsibilities under RCW 2.53.050, OCLA filed an emergency supplemental budget request for additional contract attorney capacity. You can find OCLA's decision package [here](#).

We welcome the opportunity to host a Zoom meeting with SCJA leadership, presiding judges, and judicial officers presiding over unlawful detainer cases during which we would share some of the ideas we have to address the current unanticipated crisis. We are also available to meet with judicial officers in any court to identify and consider appropriate responses to the increased demand on already over-crowded dockets and our increasingly overwhelmed tenant defense contractors. Please feel free to contact us at evictiondefense@ocla.wa.gov