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7 **KITSAP COUNTY SUPERIOR COURT**
8 **STATE OF WASHINGTON**

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

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

14 *EFFECTIVE APRIL 5, 2022 THROUGH JUNE 30, 2023.*

15 THIS ADMINISTRATIVE ORDER is being issued in response to the current pandemic outbreak of the
16 Coronavirus Disease 2019 (COVID-19).¹ Incorporated by reference are all Kitsap County Superior
17 Court Emergency Orders, Supreme Court Orders related to public health emergency and court
18 operations (**specifically including Order No. 25700-B-639 authorizing the Eviction Resolution**
19 **Pilot Program in Superior Courts, dated and filed on September 9, 2020**), Revised Code of
20 Washington 59.18.660, Washington State Department of Health orders, Kitsap County Public Health
21 District orders and directives that may impact Court operations.

22 WHEREAS, the Court makes the following findings:

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24 **A.** Findings from previous ERPP Standing Order(s) and RCW 59.18.660 are incorporated by
25 reference if consistent with this amended Order. Evictions for non-payment of rent were
26 permitted to resume as of November 1st, 2021. As a result, the Kitsap County Superior Court
27 anticipates a significant increase in eviction cases and hearings.

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30 ¹ Hereafter "disease."

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

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

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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.

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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.

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20 **NOW, THEREFORE ORDERED:**

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

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

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

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

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

22 (1) The DRC has 14 days after receipt of the correct Kitsap ERPP Notice to engage the tenant
23 in the eviction resolution program. Unless otherwise agreed, if the tenant responds, DRC
24 shall, at the request of the landlord, within 7 calendar days, begin to schedule the meet and
25 confer and/or mediation session for the landlord and the tenant (and their respective counsel).
26 This session shall be set to occur at the next available set mediation date [currently,
27 Tuesdays] after 21 calendar days of commencement of scheduling, consistent with the DRC
28 scheduling capacity. However, if all parties agree, the mediation may be set to occur within
29 21 calendar days consistent with the DRC scheduling capacity.

1 (2) If landlord has not complied with C of this Order, DRC shall reject and request
2 resubmission for any deficient ERPP notice.

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

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

6 (5) Should a tenant not engage in the first 14 business days after the landlord has issued/
7 served the ERPP notice and the 14-day notice to pay or vacate to the tenant(s), to DRC, and
8 to KLS, DRC Certification that the landlord has satisfied the requirements under RCW
9 59.18.620-660 and this Standing Order, or under protest as noted below, shall issue upon the
10 timely request of the Landlord.

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

18 (7) The DRC may add any relevant language to the certificate to assist the court in evaluating
19 the matter, including but not limited to deviations from requirements of this Standing Order,
20 incorrect or missing contact information, the availability of rent assistance, parties declined
21 assistance, tenant engagement, representation, a protest, and if dispute resolution services
22 were conducted.

23 **E. Initial Hearing Procedures for Unlawful Detainer Cases.**

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

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

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

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

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

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

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

16 (3) In non-payment of rent cases where a DRC Certificate of ERPP Participation was issued
17 along with an agreement between the parties, the court reserves its ability to enforce such
18 agreements, including those that reached agreement on matters addressed by the rental
19 agreement beyond nonpayment of rent, provided such agreements comply with RCW 59.18
20 and/or RCW 59.20. The court further reserves any lawful discretion to require the parties to
21 return to the DRC to seek further resolution attempts.

22 F. Nothing within this order shall be construed to restrain the Court's ability to exercise lawful
23 discretion. All parties, litigants, attorneys, and agencies referenced within this order shall
24 comply with all requirements as expressed within this standing order.
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1 **G. Superseding Effect.** This order supersedes all prior standing orders issued with respect to
2 the practice and procedure relating to the Eviction Resolution Pilot Program.

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4 DATED this 5th day of April, 2022.

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9 The Honorable KEVIN D. HULL
10 Presiding Judge
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