FILED
KING COUNTY, WASHINGTON
NOV 20 2020
SEA
SUPERIOR COURT CLERK

SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

IN THE MATTER OF THE RESPONSE BY THE KING COUNTY SUPERIOR COURT TO THE PUBLIC HEALTH EMERGENCY IN WASHINGTON STATE	NO. 20-0-12050-5 SEA EMERGENCY ORDER 21 RE: EVICTION RESOLUTION PROGRAM

This matter comes before the Court with respect to the current public health emergency in Washington State.

Pursuant to its inherent power and responsibility as the judiciary, the Court, on its own motion, makes the following findings of fact and enters this Emergency Order.

Findings of Fact

1. Nearly one million people in Washington state have lost their jobs or have had employment hours severely curtailed because of the COVID-19 emergency.

2. The widespread loss of income has made it impossible for many families and individuals (tenants) to keep current in rental payments.

3. Various federal, state, and local orders have prohibited most evictions during the COVID-19 emergency, but such orders will be lifted at some point.

4. Many residential landlords face hardship and significant loss of income due to the inability of their tenants to keep current in paying their rent, and due to the prohibition on evictions established by federal, state, and local eviction moratoria.

5. Many residential renters currently face substantial arrearages and threat of eviction upon termination of federal, state and local eviction moratoria.

6. This Court's operations have been curtailed substantially since April 2020 due to COVID-19, and the Court continues to face a substantial hearing backlog related to civil, criminal, juvenile, and child welfare matters.

7. Given the severe administrative backlog this Court is facing, the anticipated number of unlawful detainer filings presents a threat to the capacity of this Court to hear and decide such cases fairly, consistently, and within statutory deadlines.

8. State and local rent-assistance programs offer the opportunity for immediate assistance in addressing rent arrearages (or portions thereof).

9. By order dated September 9, 2020, the Washington Supreme Court authorized establishment of Eviction Resolution Programs ("**ERP**") in all Superior Courts, and authorized judicial officers to require participation in the program before eviction cases can proceed through the court process.[1]

10. The goals of the ERP are to (a) resolve residential nonpayment-of-rent eviction cases prior to court action, through mediation and other alternative dispute resolution processes involving impartial Eviction Resolution Specialists trained and provided by local Dispute Resolution Centers; and (b) ensure that tenants have access to other community resources, including *pro bono* attorney representation where available, to reach solutions that stabilize households through relationship building.

11. Courts in six (6) counties, including this Court, have agreed to implement a pilot ERP program in their respective counties.

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[1] Supreme Court Order Authorizing Eviction Resolution Program in Superior Courts, No. 25700-B-639: http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/EvictionsResolutionProgramAuthorizingOrder090920.pdf

12. It is anticipated that when state and federal eviction moratoria are lifted, the number of unlawful detainer cases will be greatest in the six (6) pilot counties.

13. ***Prior to*** the expiration of any state and/or local eviction moratoria, the pilot ERP ***encourages*** landlords to notify their tenants of the opportunity to work with local Dispute Resolution Centers and local Housing Justice Projects to resolve rent-payment issues.

14. ***After*** the expiration of such moratoria, the pilot ERP ***requires*** landlords to comply with the requirements of the ERP, including Tier 1 and Tier 2 notification and engagement processes, prior to serving or filing a summons and complaint for eviction for non-payment of rent.

15. The Dispute Resolution Center of King County ("**DRC**") and the King County Bar Association Housing Justice Project ("**HJP**") are prepared to help residential tenants and landlords resolve rent-payment issues through non-judicial processes, including the ERP.

16. The Administrative Office of the Courts ("**AOC**") has engaged the DRC and the HJP to work with the King County Superior Court, and those agencies are integral components of this Court's pilot ERP.

17. The Court has designated Commissioner Henry Judson to serve as the procedural point person to work with the HJP, the DRC, and other relevant stakeholders on the implementation and ongoing administration of the pilot ERP. The Court certifies that such designation has been provided to the AOC.

18. The Court finds that opportunities for effective resolution of residential nonpayment-of-rent eviction cases (a) will be enhanced by early notification to and involvement of Eviction Resolution Specialists and attorneys for tenants; (b) will allow landlords and tenants to resolve their rent-payment issues efficiently and informally; and (c) will divert residential

eviction cases from this Court, which in turn will help ensure that all of the Court's dockets are managed effectively.

Order

NOW, THEREFORE, IT IS ORDERED THAT THE FOLLOWING PROCESS IS IMPLEMENTED.

THE FIRST PART OF THIS PROCESS, UNDER PARAGRAPH ONE, IS OPTIONAL. THE SECOND PART OF THE PROCESS UNDER PARAGRAPH TWO IS MANDATORY.

1. ***Optional: During any federal, state, or local eviction moratorium***, in any situation in which a residential tenant is in arrears in paying rent, the landlord is ***encouraged*** to notify the tenant of the opportunity to work with the Dispute Resolution Center of King County to resolve the rent-payment dispute, using the following two-tiered notification process.

A. **Tier One – Initial Notice**. The landlord is encouraged to deliver a notice ("**Initial Notice**") to the tenant. "**Deliver or delivery" means**: a notice sent in any one of three ways: in person, by email, or by mail. The notice should include contact information for the Dispute Resolution Center of King County, contact information for the King County Bar Association Housing Justice Project, and information regarding other rental assistance resources.[2] A form of the Ten-Day Notice is attached hereto as **Exhibit A**.[3]

B. **Tier Two – Second Notice**. If the tenant does not respond to the landlord's initial notice within ten days, the landlord is encouraged to deliver the Ten-Day Notice to the tenant a second time ("**Second Notice**"); and to email a copy of the Second Notice to the Dispute Resolution Center of King County

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[2] Eviction Resolution Program Court User Guidance Documents and Materials at .pdf p. 10.

[3] *Id.* at .pdf pp. 32-33.

(housing@kcdrc.org).[4] The Dispute Resolution Center will attempt to make contact with the tenant at least three times in a one-week period. The Dispute Resolution Center also will refer the matter to the King County Bar Association Housing Justice Project. Both agencies will attempt to (1) work with the tenant and the landlord to resolve the issues of non-payment and future rent payments, by mediation or otherwise; and (2) assist the tenant in accessing rent/landlord assistance programs that may be available to the tenant.

2. ***Mandatory: After the expiration of all federal, state, and local eviction moratoria,*** in any situation in which a residential tenant is in arrears in paying rent, and prior to serving or filing a summons and complaint for eviction for nonpayment of rent, the landlord, or the landlord's counsel, ***shall comply*** with all procedural requirements of the Eviction Resolution Program, including the following two-tiered notification process.

A. **Tier One –Fourteen-Day Notice**. The landlord shall deliver an initial notice ("**Fourteen-Day Notice**") to the tenant in person, by email, or by mail. The Fourteen-Day Notice shall include contact information for the Dispute Resolution Center of King County, contact information for the King County Bar Association Housing Justice Project, and information regarding other rental assistance resources.[5] A form of the initial notice is attached hereto as **Exhibit B**.[6]

B. **Tier Two - Ten-Day Notice**. If the tenant does not respond to the landlord's initial notice within fourteen days, the landlord shall deliver a second notice ("**Ten-Day Notice**") to the tenant. A form of the Ten-Day

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[4] *Id.* at .pdf p. 10.

[5] *Id.* at .pdf p. 11.

[6] *Id.* at .pdf pp. 34-35.

Notice is attached hereto as **Exhibit C**.[7] Additionally, the landlord simultaneously shall email to the Dispute Resolution Center of King County (housing@kcdrc.org) (1) a notice stating the landlord's intent to file a complaint in unlawful detainer against the tenant, along with the tenant's last known contact information (*i.e.* address(es), telephone number(s) and e-mail(s)); and (2) a copy of the landlord's Ten-Day Notice to the tenant. The Dispute Resolution Center will attempt to make contact with the tenant at least three times in a one-week period. The Dispute Resolution Center also will refer the matter to the King County Bar Association Housing Justice Project. Both agencies will attempt to (1) work with the landlord and the tenant to resolve the issues of non-payment and future rent payments, by mediation or otherwise; and (2) assist the tenant in accessing rent/landlord assistance programs available to the tenant. The Dispute Resolution Center will provide the landlord with a report within ten days after receiving the landlord's notice.[8]

C. **Certification To Be Included in Complaint**. The landlord shall include as part of the complaint in unlawful detainer the following certification:

> I certify and declare, under penalty of perjury under the laws of the state of Washington, that on _____ [a date not later than ten days before the date on which the complaint is filed or served], I e-mailed to the King County Bar Association Housing Justice Project at hjpstaff@kcba.org and the Dispute Resolution Center of King County at housing@kcdrc.org: (1) a copy of my notice of my intent to file a complaint in unlawful detainer against Tenant _____ [insert Tenant's name], along with the Tenant's last known

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[7] *Id.* at .pdf pp. 36-37.

[8] *Id.* at .pdf p. 11, 13.

contact information (*i.e.* address(es), telephone number(s) and e-mail(s)); and (2) a copy of the Ten-Day Notice that I delivered to the tenant as required by the Eviction Resolution Program.[9]

3. After the residential eviction moratoria are lifted, judicial officers may decline to grant relief in any unlawful detainer action if the plaintiff has not complied with the requirements of the Eviction Resolution Program, including the notification and certification requirements described herein.

4. The Clerk of this Court shall post to the Court's website a link to the Administrative Office of the Court's **Eviction Resolution Program Court User Guidance Documents and Materials:**

(http://www.courts.wa.gov/newsinfo/content/Eviction%20Resolution%20Program%20Materials.pdf)

and all forms and other written materials that the Superior Court Judges' Association Unlawful Detainer Work Group has prepared or shall prepare with respect to the Eviction Resolution Program.

5. This Order is effective immediately. The Governor's Moratorium is anticipated to expire on December 31, 2020. This Order expires six months from the date of this Order, pursuant to this Court's Pilot Project Local Rule, LCMR 13, and procedures for its implementation, which allow a maximum of six months for a pilot project. Should the Moratorium be extended, this Court may issue additional orders for timelines.

6. This Order does not apply to any currently filed or served eviction matters.

IT IS SO ORDERED this 20th day of November, 2020.

James E. Rogers, Presiding Judge

[9] *Id.* at .pdf p. 13.

Exhibit A

EVICTION RESOLUTION PROGRAM

OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

****Attention Landlords: This notice should be sent to the Dispute Resolution Center in the County where your property is located in addition to being provided to the tenant/s.**
See DRC e-mails on page 2 of this Notice.**

****Tenants: Please respond within 10 days of the date below!****

Date:_____

TO:	**FROM: (Send Response here);**
Name:	**Name of Landlord (LL):** **Name of LL's Attorney:**
Telephone	**Telephone for LL:** **Telephone for LL's Attorney:**
E-mail:	**E-mail for LL:** **E-mail for LL's Attorney:**

HELP & RESOURCES ARE AVAILABLE – DO NOT DELAY!

1. **Tenants:** A NEUTRAL THIRD PARTY OR LOCAL LEGAL AID PROGRAM MAY BE ABLE TO HELP YOU WITH YOUR RENT AT NO COST TO YOU.
2. **Tenants:** YOU MAY ASK FOR A MEDIATOR TO ASSIST YOU AND THE LANDLORD
3. **Tenants: GET HELP:** To get free early resolution or free legal help contact the **Dispute Resolution Center** or **Get a Lawyer** telephone numbers below in the county where you live.

RESOURCES

County	Dispute Resolution Center	Rental Assistance	Get a Lawyer
Clark County	(360) 334-5862, ext. 1001	https://www.councilforthehomeless.org/erap/	(360) 334-4007
King County	(206) 443-9603, ext. 115	https://kingcounty.gov/depts/community-human-services/COVID/eviction-prevention-rent-assistance.aspx	(206) 267-7069
Pierce County	(253) 572-3657	https://www.piercecountywa.gov/housinghelp	(253) 572-5134
Snohomish County	(425) 339-1335 x3	Call 211	(425) 258-9283 Ext. 5

EVICTION RESOLUTION PROGRAM

OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

****Attention Landlords: This notice should be sent to the Dispute Resolution Center in the County where your property is located in addition to being provided to the tenant/s.**
See DRC e-mails on page 2 of this Notice.**

RESOURCES – continued:

County	Dispute Resolution Center	Rental Assistance	Get a Lawyer
Spokane County	(509) 456-0103 (509) 838-2799	www.snapwa.org Call 509-456-7627	(509) 477-2674
Thurston County	(360) 965-1155	http://www.caclmt.org/ https://hatc.org/community-resources/eviction-rent-assistance-program/	(360) 705-8194

❶ **Tenants: The Dispute Resolution Center will attempt to contact you to engage in Early Dispute Resolution.**

❷ **Tenants: You may respond to this Notice and engage in Early Dispute Resolution within 10 days of the date above by contacting the Dispute Resolution Center, obtaining a free lawyer, or returning this completed form to your landlord (see information above). If possible, keep a copy of the form for yourself.**

❸ **Tenants:** ***If you have received a Summons and Complaint, you should respond to the Summons by sending this Notice to the Landlord's attorney, or if no attorney, the Landlord.***

I want assistance in resolving my unpaid rent. My contact information is:

Tenant's Name: _____

Tenant's Address: _____

Tenant's Phone: _____ Tenant's Email: _____

Tenants: You may return this Form to your landlord to initiate Early Dispute Resolution.
Tenants: This Notice is available in different languages at: www.courts.wa.gov/EvictionResolutionProgram
Tenants: FREE INTERPRETER SERVICES are available through your local Housing Justice Project and Dispute Resolution Center

****Landlords:** You should send this Notice by email to the Dispute Resolution Center in the County where your property is located at the email address below.**

County	Dispute Resolution Email Address
Clark County	info@mediationclarkcounty.org
King County	housing@kcdrc.org
Pierce County	solveit@centerforresolution.org
Snohomish County	earlyresolution@voaww.org
Spokane County	info@nwmediationcenter.com intakespecialist@fulcrumdispute.com
Thurston County	info@mediatethurston.org

Exhibit B

EVICTION RESOLUTION PROGRAM

NOTICE #1: OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

****Tenants: Respond within 14 days of the date below!****

Date: _____

TO	FROM (Send Response here)
Name:	**Name of Landlord (LL):** **Name of LL's Attorney:**
Telephone:	**Telephone for LL:** **Telephone for LL's Attorney:**
E-mail:	**E-mail for LL:** **E-mail for LL's Attorney:**

HELP & RESOURCES ARE AVAILABLE – DO NOT DELAY!

❶ **Tenants:** A NEUTRAL THIRD PARTY OR LOCAL LEGAL AID PROGRAM MAY BE ABLE TO HELP YOU WITH YOUR RENT AT NO COST TO YOU.

❷ **Tenants:** YOU MAY ASK FOR A MEDIATOR TO ASSIST YOU AND THE LANDLORD

❸ **Tenants: GET HELP:** To get free early resolution or free legal help contact the **Dispute Resolution Center** or **Get a Lawyer** telephone numbers below in the county where you live.

RESOURCES

County	Dispute Resolution Center	Rental Assistance	Get a Lawyer
Clark County	(360) 334-5862 x1001	https://www.councilforthehomeless.org/erap/	(360) 334-4007
King County	(206) 443-9603, ext. 115	https://kingcounty.gov/depts/community-human-services/COVID/eviction-prevention-rent-assistance.aspx	(206) 267-7069
Pierce County	(253) 572-3657	https://www.piercecountywa.gov/housinghelp	(253) 572-5134
Snohomish County	(425) 339-1335 x3	Call 211	(425) 258-9283 Ext. 5
Spokane County	(509) 456-0103 (509) 838-2799	www.snapwa.org Call 509-456-7627	(509) 477-2674
Thurston County	(360) 965-1155	http://www.caclmt.org/ https://hatc.org/community-resources/eviction-rent-assistance-program/	(360) 705-8194

EVICTION RESOLUTION PROGRAM

NOTICE #1: OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

****Tenants: You may also complete the information below and return this Notice to your landlord within 14 days of the date above by email or other means to access the Eviction Resolution Program. If possible, keep a copy of the form for yourself.****

I want assistance in resolving my unpaid rent. My contact information is:

Tenant's Name: _____

Tenant's Address: _____

Tenant's Phone: _____ Tenant's Email: _____

Tenants: You may return this Form to your landlord to initiate Early Dispute Resolution.

Tenants: This Notice is available in different languages: www.courts.wa.gov/EvictionResolutionProgram

Tenants: For FREE INTERPRETER SERVICES, contact your local Housing Justice Project or Dispute Resolution Center.

Exhibit C

EVICTION RESOLUTION PROGRAM

NOTICE #2: OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

**Attention Landlords: <u>This notice must be sent to the Dispute Resolution Center in the County where your property is located in addition to be served on the tenant/s.</u>
See DRC e-mails on page 2 of this Notice.*

<u>Tenants: Respond within 10 days of the date below!**</u>**

Date:_____

TO:	**FROM: (Send Response here);**
Name:	**Name of Landlord (LL):** **Name of LL's Attorney:**
Telephone:	**Telephone for LL:** **Telephone for LL's Attorney:**
E-mail:	**E-mail for LL:** **E-mail for LL's Attorney:**

<u>HELP & RESOURCES ARE AVAILABLE – DO NOT DELAY!</u>

1. **<u>Tenants:</u>** A NEUTRAL THIRD PARTY OR LOCAL LEGAL AID PROGRAM MAY BE ABLE TO HELP YOU WITH YOUR RENT AT NO COST TO YOU.
2. **<u>Tenants:</u>** YOU MAY ASK FOR A MEDIATOR TO ASSIST YOU AND THE LANDLORD
3. **<u>Tenants:</u>** **<u>GET HELP:</u>** To get free early resolution or free legal help contact the **Dispute Resolution Center** or **Get a Lawyer** telephone numbers below in the county where you live.

<u>RESOURCES</u>

County	Dispute Resolution Center	Rental Assistance	Get a Lawyer
Clark County	(360) 334-5862 X1001	https://www.councilforthehomeless.org/erap/	(360) 334-4007
King County	(206) 443-9603, ext. 115	https://kingcounty.gov/depts/community-human-services/COVID/eviction-prevention-rent-assistance.aspx	(206) 267-7069
Pierce County	(253) 572-3657	https://www.piercecountywa.gov/housinghelp	(253) 572-5134
Snohomish County	(425) 339-1335 x3	Call 211	(425) 258-9283 Ext. 5

EVICTION RESOLUTION PROGRAM

NOTICE #2: OPPORTUNITY FOR EARLY RESOLUTION & RESOURCE INFORMATION

****Attention Landlords: <u>This notice must be sent to the Dispute Resolution Center in the County where your property is located in addition to be served on the tenant/s.</u>**
****See DRC e-mails on page 2 of this Notice.*****

RESOURCES – continued:

County	Dispute Resolution Center	Rental Assistance	Get a Lawyer
Spokane County	(509) 456-0103 (509) 838-2799	www.snapwa.org Call 509-456-7627	(509) 477-2674
Thurston County	(360) 965-1155	http://www.caclmt.org/ https://hatc.org/community-resources/eviction-rent-assistance-program/	(360) 705-8194

❶ **Tenants: The Dispute Resolution Center will attempt to contact you to engage in Early Dispute Resolution.**
❷ **Tenants: You may respond to this Notice and engage in Early Dispute Resolution <u>within 10 days of the date above</u> by contacting the Dispute Resolution Center, obtaining a free lawyer, or returning this completed form to your landlord (see information above). If possible, keep a copy of the form for yourself.**
❸ **Tenants: If you have received a Summons and Complaint, you should respond to the Summons by sending this Notice to the Landlord's attorney, or if no attorney, the Landlord.**

<u>I want assistance in resolving my unpaid rent. My contact information is:</u>

Tenant's Name: _____

Tenant's Address: _____

Tenant's Phone: _____ Tenant's Email: _____

<u>Tenants</u>: You may return this Form to your landlord to initiate Early Dispute Resolution
<u>Tenants</u>: This Notice is available in different languages: <u>www.courts.wa.gov/EvictionResolutionProgram</u>
<u>Tenants</u>: FREE INTERPRETER SERVICES are available through your local Dispute Resolution Center or Housing Justice Project

****Landlords: <u>You must send this Notice by email to the Dispute Resolution Center in the County where your property is located at the email address below.</u>****

County	Dispute Resolution Email Address
Clark County	info@mediationclarkcounty.org
King County	housing@kcdrc.org
Pierce County	solveit@centerforresolution.org
Snohomish County	earlyresolution@voaww.org
Spokane County	info@nwmediationcenter.com intakespecialists@fulcrumdispute.com
Thurston County	info@mediatethurston.org