

Skagit County Superior Court Local Court Rules—Proposed Rule Changes

Commented [GS1]:

Complaints for writs of restitution, money judgments, and other orders in residential, post-foreclosure, and manufactured and mobile home unlawful detainer actions will be granted only under the following conditions:

(a) Owners or lessors of real property, or any person designated as their Representative, may properly be a plaintiff in an unlawful detainer action. All complaints must include the following;

- (1) A copy of the rental agreement or lease upon which the tenancy is based, if any, shall be filed with the complaint. A complaint that involves a month-to-month tenancy that is the result of a conversion from a lease shall include a copy of the underlying lease.
- (2) Plaintiff owners of the real property must state ownership in the complaint.
- (3) Plaintiff lessors and sublessors must state their status as lessor or sublessor in their complaint.
- (4) Representatives of property owners, including property managers, must state their status as representative in the complaint and must file with the complaint a copy of their written designation as representative.
- (5) If the action is based upon a facility rules violation, a copy of the rules shall be attached.
- (6) If the property or housing unit is a federally, state, or tribally subsidized in any manner (including, but not limited to Section 8 housing, Public Housing, Rural Development Housing, or Low Income Tax Credit Program) the name of the program and nature of subsidy shall be included in the complaint.

Commented [GS2]: A portion of this section mirrors a provision that has been in place in Whatcom County for some time. It requires the Landlord to affirmatively plead critical elements and requires the Landlord to provide the documentation upon which the claim is made. It will help limit the time spent trying to determine the nature of the arrangement and the applicable law.

(b) A plaintiff seeking a writ of restitution must either schedule the matter for trial or schedule a Show Cause Hearing on the issuance of the writ, with proper notice to the defendant of the hearing and notice that failure to attend may result in a default judgment and writ of restitution. Notice of the hearing must be by an order to Show Cause, which may be served with the Summons and Complaint or at any time thereafter. The plaintiff shall attach the Attachment A, which is attached hereto, as to all Orders to Show Cause issued in all residential, post-foreclosure and manufactured and mobile home unlawful detainer actions. The Court will not issue an order of default or an Order for Writ of Restitution, until the hearing has occurred. A properly served defendant's failure to appear at the show cause hearing will be treated as default. Nothing contained in this section precludes the practice of serving unfiled Summons and Complaints in unlawful detainer actions

Commented [GS3]: This provision has been in place in Whatcom County for a number of years. It requires unlawful detainer matters to actually appear on the calendar rather than allowing for defaults. This will limit the number of instances in which defaults are entered without there having ever been proper service of process. It will limit the number of times that defendants will have to move to have defaults set aside.

(c) A plaintiff seeking the entry of a writ of restitution in any residential post-foreclosure and manufactured and mobile home unlawful detainer action shall cause to be served with the

Order to Show Cause a notice that the defendant is entitled to seek legal assistance regarding the matter and that low income individuals may qualify for free legal services from designated Qualified Legal Services Providers. The Notice shall be in substantially the same form and content as set forth as Attachment A.

Procedure of the in person Unlawful Detainer Calendar.

- (a) At the commencement of each unlawful detainer court calendar a representative of a Qualified Legal Services Provider shall be permitted to announce to the parties present the availability of free legal services for those who desire legal assistance and who financially qualify.
- (b) The court will defer calling the case of any defendant to a time later on the calendar for any defendant who indicates to the court the desire to consult with an attorney associated with the Qualified Legal Services Provider. Plaintiff's Counsel is encouraged to meet with and negotiate resolution of matters during this time as appropriate.
- (c) In the event the show cause hearing is heard using telephonic or virtual appearance systems, the court will at the commencement of the hearing advise the parties that the defendant may seek a continuance of the hearing to a later date if the defendant wishes to seek an attorney to represent them or if they need more time for some other valid reason. The defendant must exercise this option at the very start of the hearing.

Commented [GS4]: This provision is intended to get the tenant to a volunteer attorney quicker than the morning of the hearing. This will allow more time for case analysis and negotiation with opposing counsel. It will result in fewer cases having to actually be heard on the unlawful detainer calendar, thus saving judicial time. It is an extension of the new provision of the law requiring that the defendant be advised to call 211. It better ensures that the defendant get to appropriate assistance more timely.

Commented [GS5]: This is current practice in Skagit Superior Court. The proposed rule change serves to notify the plaintiff's counsel as to what to expect.

Commented [GS6]: This is current practice in Skagit County Superior Court. Inclusion in the rules serves to let counsel know in advance what to expect.

Commented [GS7]: It is difficult to assess exactly what court rules will be appropriate to implement a video option that the Court is considering until that is more developed. Interaction of video system and the standard HJP model is difficult to visualize. It is essential that the defendants know of the availability of legal assistance prior to the commencement of the hearing and have the ability to access that opportunity in a meaningful manner. There needs to be time for the volunteer attorney to consult with the client and engage in negotiations with opposing counsel.

ATTACHMENT A TO ORDER TO SHOW CAUSE

IMPORTANT NOTICE TO TENANTS

This notice contains legal rights that you have under the law and Skagit County Superior Court Rules.

- You have the right to appear at the Show Cause hearing and present your side to the Court.
- If you do not participate in your Show Cause hearing, the Sheriff could evict you.
- Your landlord is required to give you this addendum if they give you an "Order to Show Cause."

Legal Help

You may qualify for a free lawyer to help you with your case. If you desire legal assistance, please call the CLEAR Advice and Referral line at 1-888-201-1014 or CLEAR Senior line at 1-888-381-7111. You will be screened for eligibility: legal representation is not guaranteed. If you are unable to contact CLEAR, you may contact the Housing Justice Project operated by the Skagit Volunteer Lawyer Program. The clinic operates each Friday on the third floor of the courthouse commencing at 9:00 AM until 11:30 AM on a first-come, first-served basis. You may also visit WashingtonLawHelp.org for up to date information on landlord/tenant law.

Individuals with Disabilities

If you have a disability and need assistance in order to fully and equally participate in your Show Cause hearing, you should promptly contact the Superior Court Administrator's office and follow the instructions provided by that office. Applicants should request the accommodation that will allow them to best participate in court programs, services, or activities. A reasonable accommodation could be, but is not limited to, an interpreter, a sign language interpreter; large print or high contrast documents and forms; hearings held by teleconference; extended time for hearings and recesses; or assistive listening and seeing devices; personal assistance or someone who can help present the case or claim to the Court.