

LCR 40.1. EX PARTE AND PROBATE DEPARTMENT

This rule governs all matters presented to the Ex Parte and Probate Department.

(a) Ex Parte and Probate Department Motions and Hearings Manual. The Ex Parte Motions and Hearings Manual is issued by the clerk and lists which matters are heard in person and which must be submitted in writing, without oral argument, through the clerk's office. The Ex Parte Motions and Hearings Manual contains specific procedural information on how to present matters through the clerk's office. The Ex Parte Motions and Hearings Manual shall be made available online at <https://kingcounty.gov/en/dept/dja/courts-jails-legal-system/court-forms-document-filing/filing/ex-parte-via-the-clerk> and in paper form through the clerk's office and the Ex Parte and Probate Department.

(b) Argument. Matters presented to the Ex Parte and Probate Department are heard either with or without oral argument as determined by this rule.

(1) Matters With Oral Argument. Generally, emergency orders of protection, other specific emergent matters, matters requiring notice, matters requiring testimony, and matters directed specifically by the Court will be heard in person, with oral argument. The parties shall comply with the Ex Parte Motions and Hearings Manual to determine if a specific matter shall be permitted oral argument.

(2) Matters Required to be Noted. Those matters that require notice to another party and all matters listed under Local Rule 98.16, 98.04, and 98.20 must be noted for hearing with oral argument in the Ex Parte and Probate Department and served on all parties.

(3) Matters Without Oral Argument. All other matters not presented in person shall be submitted to the Ex Parte and Probate Department in writing, without oral argument, through the clerk's office. Parties must submit their paperwork to the clerk's office directly. Parties shall comply with the specific process set forth in the Motions and Hearings Manual for submitting their paperwork.

(c) Certification to a Judge. At the judicial officer's discretion, a case assigned to the Ex Parte and Probate Department may be certified for assignment to a judge. Upon certification, the clerk's office will assign the case to a judge with a trial date. Once assigned to a judge, the entire case is before that judge, including all motions except as provided otherwise in these rules or by the Court. The housing commissioner may refer a matter to a judge assigned to the unlawful detainer calendars for a show cause hearing without the matter being certified to a judge.

(d) Procedures Specific to Certain Proceedings.

(1) Adoption Proceedings. Adoption proceedings, except Confidential Intermediary Petitions which are assigned to the Judges Sealed File Committee, shall be heard in the Ex Parte and Probate Department or a judge by special setting. Contested proceedings may be referred by the commissioner to the clerk who will issue a trial date and a case schedule and will assign the case to a judge. All hearings to finalize an Adoption Petition shall be noted for a hearing on the appropriate calendar. All other matters shall be presented via the clerk.

(2) Agreed and Default Family Law Decrees and Modifications. See LFLR 5.

(3) Civil Protection Orders. Petitions for Civil Protection Orders and all accompanying submissions must comply with the requirements of LFLR 12. Requests for temporary civil protection orders; including antiharassment, stalking, domestic violence, extreme risk, sexual assault, and vulnerable adult protection orders shall be presented to the Ex Parte

and Probate Department.

(A) Return Hearings. Hearings on final civil protection orders, except vulnerable adult protection orders, shall be set by the clerk or judicial officer on the Civil Protection Order calendar.

(B) Vulnerable Adult Protection Orders. Hearings on final vulnerable adult protection orders shall be set by the clerk or judicial officer on the Guardianship/Probate calendar in the Ex Parte and Probate Department. Unless otherwise ordered by the court, immediately following each hearing, an order reflecting the ruling of the court shall be presented for signature by the moving party.

(4) Guardianships, Probates and Other Settlements of Claim Involving Incapacitated Adults or Minors. With the exception of actions governed by LCR 98.22, all proceedings brought under Title 11 RCW which include but are not limited to Guardianships, Probates, and trust matters, as well as motions to approve settlement of a claim on behalf of a minor or incapacitated adult pursuant to SPR 98.16, shall be set on the Guardianship/Probate calendar in the Ex Parte and Probate Department either through the clerk's office or in person, pursuant to the policy guidelines in the Ex Parte Motions and Hearings Manual. If the matter is contested, it may be referred by the judicial officer to the clerk who will issue a trial date and will assign the case to a judge.

(5) Judgments on Arbitration Awards. Judgments on Arbitration Awards shall be presented to the Ex Parte and Probate Department with notice to the other parties.

(6) Motions to Show Cause. Where the return on the order to show cause is to a calendar, the moving party shall select the return date and state the calendar in the proposed order. For family law cases, see LFLR 5(b)(1). See also LCR 7(b)(9).

(7) Motions to Waive Filing Fees. In Forma Pauperis Motions where the party is attempting to seek a waiver of the initial filing fee shall be presented to the Ex Parte and Probate Department. See GR 34. Forms and instructions for these waivers are available at the clerk's office or on the clerk's website: <https://kingcounty.gov/en/dept/dja/courts-jails-legal-system/courts-financial/fees-payments>.

(8) Receivership Proceedings. If the petition is a new action and not part of an underlying proceeding, the initial hearings shall be set in the Ex Parte and Probate Department, and be presented in person; contested proceedings may be referred by the commissioner to the clerk who will issue a trial date and a case schedule and will assign the case to a judge.

(9) Sealed Files. See LGR 15, LCR 26(b) and LFLR 11.

(10) Unlawful Detainer Actions. This subsection applies to unlawful detainer actions brought under title chapter 59.18 RCW.

(A) Designation of Residential or Commercial. All court-filed documents must include the word RESIDENTIAL or COMMERCIAL directly below the document title in the caption, depending on whether the action seeks to evict a residential or a commercial tenant.

(B) Orders to Show Cause. Orders to show cause must be presented without oral argument through the clerk's office to the Ex Parte and Probate Department. See LCR 40.1(b)(3). The moving party must: (1) prior to submitting the proposed order to show cause, obtain authorization for the date and time of the hearing through the [online scheduling webpage](#), which will require identification of whether the action seeks to evict a residential or a commercial tenant; (2) provide proof of that authorization with the submission; (3) include the date, time, and location (including how to appear by remote means) of the hearing in the proposed order to show cause; (4) after the order is entered by the Court, file the note for hearing. In any action, only one show cause hearing may be calendared at any given time. The plaintiff may reschedule the show cause hearing, but only after filing a notice striking the existing hearing date. The plaintiff must by notice in the court file strike any calendared show cause hearing within one judicial day after settlement or decision not to proceed.

(C) Motions to Stay and Vacate (Residential). Motions to stay or vacate writs issued in residential cases must be scheduled before the housing commissioner, who may decide the motion(s) or refer the motion(s) to another judicial officer.

~~(A) When Circumstances Do Not Seriously Affect the Health and Safety of Other Tenants.~~ ~~Except in actions described in subparagraph (ii) below, orders to show cause, any agreed orders, and any orders that do not require notice, shall be presented without oral argument through the clerk's office to the Ex Parte and Probate Department. The moving party shall obtain the order to show cause first before filing the note for hearing. The initial hearings on order to show cause shall be heard in the Ex Parte and Probate Department, provided that contested proceedings may be referred by the judicial officer to the Chief Civil Judge, who will issue a trial date with a case schedule and will assign the case to a judge. Once assigned to a judge, the moving party shall present a motion to show cause to the assigned judge as required by LCR 7(b)(9). The assigned trial judge shall manage the entirety of the matter, including all other motions, except as provided otherwise in these rules or by the court.~~

~~(B) When Circumstances Substantially Affect the Health and Safety of Other Tenants.~~ ~~In actions alleging that the tenant is in substantial noncompliance with RCW 59.18.130 or RCW 59.18.140 in a manner that either seriously affects the health and safety of other tenants, or greatly increases the hazards of fire or accidents, as outlined in RCW 59.18.180, the case to a judge shall be submitted without oral argument to the Chief Civil Judge. If the Chief Civil Judge grants the motion, the Chief Civil Judge will assign the case, with a trial date, to a judge. Once assigned to a judge, the moving party shall present a motion to show cause to the assigned judge as required by LCR 7(b)(9). The assigned trial judge shall manage the entirety of the matter, including all other motions, except as provided otherwise in these rules or by the court.~~

~~(C) Calendared Show Cause Hearings.~~ ~~A plaintiff in an unlawful detainer proceeding may reserve only one show cause hearing on the Ex Parte and Probate Department calendar at any given time. If an unlawful detainer matter settles, or if for any other reason a plaintiff in an unlawful detainer proceeding decides not to proceed with a scheduled show cause hearing, the plaintiff shall file promptly a notice striking the pending show cause hearing. This notice to strike the pending show cause hearing shall be filed no later than one judicial day after settlement or any other decision not to proceed. If a plaintiff in an unlawful detainer proceeding has already obtained a date for a hearing on an order to show cause and seeks to reset the hearing to a new date on the Ex Parte and Probate Department calendar, the plaintiff shall file a notice striking the original hearing before submitting a new motion to reset the hearing to a new date. Failure to comply with this rule may result in the sua sponte imposition of sanctions on the offending party, attorney for that party, or both.~~

(11) Writs. For pre-judgment garnishment, attachment, replevin, restitution and assistance writs the initial application shall be presented without oral argument to the Ex Parte and Probate Department through the clerk's office. The moving party shall obtain a date from the assigned trial court for the return hearing before presenting the motion to the Ex Parte and Probate Department. For other writs, see LCR 40 (b)(13).

(12) Post-Foreclosure Motions. Following the entry of the order of foreclosure by the assigned judge, motions to confirm the sale and/or motions for an order to disburse funds shall be set in the Ex Parte and Probate Department and be presented in person with notice pursuant to LCR 7 (b) to all parties who have appeared.

(13) Motion for Temporary Restraining Order. See LCR 65(b).

(e) Matters Not Presented to the Ex Parte and Probate Department. Regardless of the type of motion or proceeding, the following types of cases are not heard in the Ex Parte and Probate Department except as otherwise directed by the Court: juvenile court proceedings; civil commitment and sexual predator proceedings; criminal matters; and family law matters given a UFS or UFK designation and assigned to an individual judicial officer for intensive case management. See LFLR 5 and the Motions and Hearings Manual with respect to what types of family law motions shall be presented to the Ex Parte and Probate Department.

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