

1 MOTION #2

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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
9 IN AND FOR THE COUNTY OF \_\_\_\_\_

10 \_\_\_\_\_  
11 Plaintiff  
(landlord)

Case No.: \_\_\_\_\_

12 v.

MOTION TO STAY ENFORCEMENT OF  
WRIT OF RESTITUTION AND FOR  
PAYMENT PLAN UNDER RCW  
59.18.410(3)

13  
14 \_\_\_\_\_  
15 Defendant(s)  
(tenant)

16  
17 Defendant moves the Court to stay the writ of restitution and order a payment  
18 plan under RCW 59.18.410(3):

19 I. Relief Requested

20 I ask the Court to stay enforcement of the writ of restitution and allow me to  
21 continue living in my rental unit under the fair and just terms of the payment plan below  
22 because there is good cause based on the evidence below.

23 I also want the Court to (check all that apply):

- 1  Order a fair and just payment plan according to these terms:
- 2      Payment of total amount \_\_\_\_\_ . Consisting of
- 3          Rent due \_\_\_\_\_
- 4          Court costs \_\_\_\_\_
- 5          Late fee \_\_\_\_\_
- 6          Attorneys' fees \_\_\_\_\_
- 7          Payment due under a deposit installment plan \_\_\_\_\_
- 8          Other \_\_\_\_\_
- 9      Payment of total by date \_\_\_\_\_ .
- 10     First payment of \_\_\_\_\_ due \_\_\_\_\_ .
- 11     2nd payment of \_\_\_\_\_ due \_\_\_\_\_ .
- 12     3rd payment of \_\_\_\_\_ due \_\_\_\_\_ .
- 13     4th payment of \_\_\_\_\_ due \_\_\_\_\_ .
- 14     Additional payments:
- 15 \_\_\_\_\_
- 16 \_\_\_\_\_
- 17 \_\_\_\_\_

18

19 AND/OR

20  Stay enforcement of the writ of restitution as necessary (under RCW

21 59.18.410(3)(c)(iv)) to afford me an equal opportunity to comply with the terms of the

22 payment plan by relying on an emergency rental assistance program. I am relying on

23

1 an emergency rental assistance program provided by this government or nonprofit  
2 entity: \_\_\_\_\_  
3

4 AND/OR

5  Find that I am low-income, limited resourced, or experiencing hardship (under RCW  
6 59.18.410(3)(e)(i)) and am eligible for disbursement through the Landlord Mitigation  
7 Program established under RCW 43.31.605(1)(c).  
8

9 II. Declaration

10 *(Check the factors that apply and write a description)*

11  (i) Any non-payment or late payment of rent or failure to make a payment on a  
12 deposit installment plan was not willful or intentional because:  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_.

16  (ii) Any non-payment or late payment of rent or failure to make a payment on a  
17 deposit installment plan was caused by exigent circumstances outside my control and  
18 not likely to recur, specifically:  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_.

22  (iii) I am currently able to pay timely according to the payment plan because:  
23 \_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_.

(iv) I had a positive and timely payment history up until recently, specifically:

\_\_\_\_\_

\_\_\_\_\_.

(v) I am in substantial compliance with my rental agreement, specifically:

\_\_\_\_\_

\_\_\_\_\_.

(vi) An eviction would cause me great hardship because:

\_\_\_\_\_

\_\_\_\_\_.

(vii) I have shown good conduct related to other notices served within the last 6 months, specifically:

\_\_\_\_\_

\_\_\_\_\_.

I am currently low-income, limited-resourced or experiencing hardship. Specifically:

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I am relying on an emergency rental assistance program provided by this government or nonprofit entity: \_\_\_\_\_.

I have attached an offer of proof of the emergency rental assistance from the government or nonprofit entity. (See attached document.)

I declare under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct.

Signed at (*city and state*): \_\_\_\_\_ Date: \_\_\_\_\_

▶ \_\_\_\_\_  
*Defendant signs here* *Print name*

III. Evidence Relied Upon

This motion is based on Defendant’s declaration above and the filings and pleadings in this case, including documents attached to this motion.

IV. Argument

A. A tenant may move to stay the writ of restitution under RCW 59.18.410(3) at the show cause hearing or trial or at any time before execution of the writ.

Under RCW 59.18.410(3)(a), “the court, at the time of the show cause hearing or trial, or upon subsequent motion of the tenant but before the execution of the writ of

1 restitution, may stay the writ of restitution upon good cause and on such terms that the  
2 court deems fair and just for both parties.”

3 Under RCW 59.18.410(3)(a), “the court shall consider evidence of the following  
4 factors” in making this decision: the tenant’s willful or intentional default or intentional  
5 failure to pay rent; whether non-payment of the rent was caused by exigent  
6 circumstances that were beyond the tenant’s control and that are not likely to recur; the  
7 tenant’s ability to timely pay the judgment; the tenant’s payment history; whether the  
8 tenant is otherwise in substantial compliance with the rental agreement; hardship on the  
9 tenant if evicted; and conduct related to other notices served within the last six months.

10 Under RCW 59.18.410(3)(c)(iv), the court shall stay the writ as necessary to  
11 afford a tenant an equal opportunity to comply with the terms of a payment plan if a  
12 tenant is relying on an emergency rental program provided by a government or nonprofit  
13 entity and provides an offer of proof.

14 Under recently amended RCW 59.18.283, a tenant may move to stay a  
15 writ of execution if a tenant defaulted in payment owed under a deposit  
16 installment plan. RCW 59.18.283 now includes the provision that “When, at the  
17 commencement of the tenancy, the landlord has provided an installment  
18 payment plan for nonrefundable fees or deposits for the security of the tenant's  
19 obligations and the tenant defaults in payment, the landlord may treat the default  
20 in payment as rent owing. Any rights the tenant and landlord have under this  
21 chapter with respect to rent owing equally apply under this subsection.” RCW  
22 59.18.283 (3).

23 Under RCW 59.18.410(3)(e)(i), the court shall issue a finding as to whether the  
tenant is low-income, limited resourced, or experiencing hardship to determine if the


1 parties may be eligible for disbursement through the landlord mitigation program  
2 account established within RCW 43.31.605(1)(c).

3 A recently added provision to RCW 43.31.605, provides that unpaid  
4 judgments resulting from the tenant's failure to comply with an installment  
5 payment agreement are also eligible for reimbursement from the landlord  
6 mitigation program. See RCW 43.31.605 (1)(c).

7 V. Conclusion

8 For the reasons stated in this Motion, Defendant seeks an Order staying  
9 enforcement of the writ, restoring tenancy, and ordering a payment plan according to  
10 the terms above.

11  
12 Signed at (*city and state*): \_\_\_\_\_ Date: \_\_\_\_\_

13  
14  \_\_\_\_\_  
*Defendant signs here*

\_\_\_\_\_ *Print name*

1 ORDER #2 [Use this form if you asked for a plan to pay off the amount you owe within  
2 90 days of the writ]

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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
9 IN AND FOR THE COUNTY OF \_\_\_\_\_

10 \_\_\_\_\_  
11 Plaintiff  
(landlord)

12 v.

13 \_\_\_\_\_  
14 Defendant(s)  
(tenant)

Case No.: \_\_\_\_\_

[PROPOSED] ORDER STAYING  
ENFORCEMENT OF WRIT OF  
RESTITUTION AND ESTABLISHING  
PAYMENT PLAN UNDER 59.18.410(3)  
FOR CONTINUATION OF TENANCY

15  
16 Defendant(s) \_\_\_\_\_ has moved this Court for an  
17 order under RCW 59.18.402(3) staying a writ of restitution upon a showing of good  
18 cause and on such terms that this court deems fair and just for both parties.

19 Additionally, Defendant(s)  has/have  has/have not moved this court to Stay  
20 enforcement of the writ of restitution as necessary (under RCW 59.18.410(3)(c)(iv)) to  
21 afford them an equal opportunity to comply with the terms of the payment plan by relying  
22 on an emergency rental assistance program.



1 Defendant(s)  has/have  has/have not proven they are relying on an  
2 emergency rental assistance program provided by this government or nonprofit entity:

3 \_\_\_\_\_  
4 After making the findings above and after consideration of the evidence of the  
5 factors stated in RCW 59.18.410(3)(a), the Court finds that the tenant has shown good  
6 cause to stay the writ upon the fair and just terms below.

7 It is now therefore ORDERED that:

8 1.  Defendant(s) shall pay a total amount of \_\_\_\_\_.

9 Consisting of

10  Rent due \_\_\_\_\_

11  Court costs \_\_\_\_\_

12  Late fee \_\_\_\_\_

13  Attorneys' fees \_\_\_\_\_

14  Payment due under a deposit installment plan \_\_\_\_\_

15  Other \_\_\_\_\_

16  Defendant(s) shall pay the total within 90 days of this order, by  
17 (date)\_\_\_\_\_.

18  First payment of \_\_\_\_\_ due \_\_\_\_\_.

19 [if this order is entered before the 15<sup>th</sup> of the month, the first payment must be for one  
20 month's rent, and must be paid within five court days of the entry of this order. RCW  
21 59.18.410(3). If after the 15<sup>th</sup> of the month, then the following month's rental payment  
22 may be included in the total amount.]

23  2nd payment of \_\_\_\_\_ due \_\_\_\_\_.

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3rd payment of \_\_\_\_\_ due \_\_\_\_\_.

4th payment of \_\_\_\_\_ due \_\_\_\_\_.

Additional payments/requirements:

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2. Defendant(s) \_\_\_\_\_ are hereby reinstated to the tenancy at the address: \_\_\_\_\_.

3. Any Writ of Restitution previously ordered in this action is hereby stayed. Either Plaintiff(s) or Defendant(s) may deliver an uncertified copy of this Order to the Sheriff for purposes of stopping the enforcement of any Writ of Restitution.

DATED: \_\_\_\_\_ JUDGE/COURT COMMISSIONER

PRESENTED BY: \_\_\_\_\_ APPROVED BY: \_\_\_\_\_  
Defendant(s)

1 ORDER #3 [Use this form if you are asking the court to find you eligible for assistance  
2 to pay off your judgment and reinstate your tenancy.]  
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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
9 IN AND FOR THE COUNTY OF \_\_\_\_\_

10 \_\_\_\_\_  
11 Plaintiff  
(landlord)

12 v.

13 \_\_\_\_\_  
14 Defendant(s)  
(tenant)

Case No.: \_\_\_\_\_

[PROPOSED] ORDER STAYING  
ENFORCEMENT OF WRIT OF  
RESTITUTION AND ESTABLISHING  
ELIGIBILITY FOR TENANCY  
PRESERVATION PROGRAM UNDER  
59.18.410(3)

15  
16 Defendant(s) \_\_\_\_\_ has moved this Court for an order  
17 under RCW 59.18.402(3) staying a writ of restitution upon a showing of good cause  
18 and on such terms that this court deems fair and just for both parties.

19 Additionally, Defendant(s)  has/have  has/have not moved this court to  
20 Stay enforcement of the writ of restitution as necessary (under RCW  
21 59.18.410(3)(c)(iv)) to afford them an equal opportunity to comply with the terms of the  
22 payment plan by relying on an emergency rental assistance program.  
23

1 Defendant(s)  has/have  has/have not proven they are relying on an  
2 emergency rental assistance program provided by this government or nonprofit entity:

3 \_\_\_\_\_  
4 Finally, Defendant(s) have moved this court to find that they are low-income,  
5 limited resourced, or experiencing hardship (under RCW 59.18.410(3)(e)(i)) and are  
6 eligible for disbursement through the Landlord Mitigation Program established under  
7 RCW 43.31.605(1)(c) to satisfy the judgment owed to Plaintiff and reinstate the  
8 tenancy.

9 The Court finds that the Defendant(s)  is/are  is not/are not low-income,  
10 limited resourced, or experiencing hardship (under RCW 59.18.410(3)(e)(i)) and   
11 is/are  is not/are not eligible for disbursement through the Landlord Mitigation  
12 Program established under RCW 43.31.605(1)(c).

13 IT IS HEREBY ORDERED that:

- 14 1. Enforcement of the Plaintiff's Judgment entered on \_\_\_\_\_ is  
15 stayed pending satisfaction of the Judgment by the Department of Commerce's  
16 TPP;
- 17 2. The Order for Writ of Restitution issued on \_\_\_\_\_ in favor of the  
18 Plaintiff is hereby STAYED; Plaintiff or Defendant may present an uncertified  
19 copy of this Order to the Sheriff to stay any eviction;
- 20 3. The Clerk of the Court is hereby directed without further order of this court to  
21 remit any future payments made by the Defendant(s) in order to reimburse the  
22 Department of Commerce pursuant to RCW 43.31.605(1)(c)(iii);
- 23 4. If the Department of Commerce fails to pay the Plaintiff its full Judgment  
amount within thirty days of the date the TPP application is submitted to the  
Department of Commerce, or the tenant fails to pay ongoing rental obligations

1 as they come due, then the Plaintiff may renew an application for Writ of  
2 Restitution pursuant to RCW 59.18.410 (3)(e)(iii) and for other rent owed by the  
3 Defendant since the time of entry of the prior Judgment, and for an order  
4 extending the Writ up to an additional twenty days from the date of obtaining  
such an order.

5 5.  If requested, and this box is checked, additional rent or payment due under a  
6 deposit installment plan that comes due after entry of the judgment and before  
7 entry of this order may be added to the judgment submitted to Commerce. The  
8 following amount of additional rent due or payment owed under a deposit  
9 installation plan is \$\_\_\_\_\_ for the following  
months:\_\_\_\_\_.

10 6. If the Department of Commerce satisfied the Plaintiff's Judgment, and the  
11 Defendant has made the payments set forth in paragraph 3 above the tenancy  
12 which is the subject of this action shall be restored. The Plaintiff shall file a  
13 Satisfaction of Judgment with the Clerk of the Court within thirty days of receipt  
of the payment.

14  
15  
16 DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE/COURT COMMISSIONER

17  
18 PRESENTED BY:

APPROVED BY:

19  
20 \_\_\_\_\_  
Defendant

\_\_\_\_\_  
Plaintiff