

Superior Court of Washington, County of _____

In re:

Petitioner/s *(person/s who started this case)*:

And Respondent/s *(other party/parties)*:

No. _____

Findings/Order re Service Members Civil Relief Act (ORSMCRA)

Findings/Order re Service Members Civil Relief Act

The **federal** Servicemembers Civil Relief Act covers:

- Army, Navy, Air Force, Marine Corps, and Coast Guard members on active duty;
- National Guard or Reserve members under a call to active service for more than 30 days in a row; and
- commissioned corps of the Public Health Service and NOAA.

The **state** Service Members' Civil Relief Act covers those service members listed above who are either stationed in or residents of Washington state, and their dependents, except for the commissioned corps of the Public Health Service and NOAA.

1. An issue has been raised about whether the state or federal Service Members' Civil Relief Act applies to a party in this case.

2. Findings

(Name): _____ is or was in service as follows:

Branch of Service	Washington State Connection	Duty Status
<input type="checkbox"/> U.S. Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard) <input type="checkbox"/> National Guard or Reserves <input type="checkbox"/> commissioned corps of Public Health Service or National Oceanic and Atmospheric Administration	<input type="checkbox"/> Stationed in or resident of Washington <input type="checkbox"/> None	<input type="checkbox"/> In military service (meaning active duty or a call to active service for more than 30 days in a row) <input type="checkbox"/> Is within 90 days after termination of or release from military service (50 USC 522(a)(1)) <input type="checkbox"/> Is within 180 days after termination of or release from military service (RCW 38.42.060(1)(a)) <input type="checkbox"/> Not on active duty or a call to active service for more than 30 days in a row

- (Name): _____ is a **dependent** of (name): _____, who is a service member covered by the **state** Service Members' Civil Relief Act and who is under a call to active service for more than 30 days in a row.
(Dependent means a spouse, child under 18, or other person who got at least 50% of his/her financial support from a covered service member.)

3. Conclusions

(Name): _____ is covered by:

- the **federal** Servicemembers Civil Relief Act. 50 USC 501 et seq.
 the **state** Service Members' Civil Relief Act. Chapter 38.42 RCW.
 neither the state or federal act. (Skip the Court Order sections and sign below.)

➤ The Court Orders:

4. Stay of proceedings (suspending or delaying the case)

(People covered by the **state** act may request a stay while in military service or within **180 days** after termination of or release from military service. People covered by the **federal** act may request a stay while in military service or within **90 days** after termination of or release from military service.)

- A stay is not needed because the service member or dependent has appeared in this case and has not asked for a stay, and the court finds no reason to grant a stay on its own motion.
- The Court **grants** a stay of proceedings until (date): _____. This is:
- the first stay granted in this case. (First stay must be for at least 90 days.)
 - an additional stay.

The stay is granted because:

- no appearance** – the covered party has not appeared in this case, is currently in military service (or is the dependent of a Washington resident National Guard or Reserve member currently in military service), **and** the court has determined:
- There may be a defense to the action and a defense cannot be presented without the presence of the service member or dependent; **or**
 - After due diligence, the service member or dependent's lawyer has been unable to contact the service member or dependent, or otherwise determine if a meritorious defense exists. 50 USC 521(d), RCW 38.42.050(5).
- upon request** – the covered party has provided:
- A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the service member's or dependent's ability to appear and stating a date when the service member or dependent will be available to appear; **and**
 - A letter or other communication from the service member's commanding officer stating that the service member's current military duty prevents either the service member's or dependent's appearance and that military leave is not authorized for the service member at the time of the letter. 50 USC 522(b)(2), RCW 38.42.060(3).

Other reason: _____

The court **denies** the service member or dependent's request for a stay because:

the service member or dependent did **not** provide:

- A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the service member's or dependent's ability to appear and stating a date when the service member or dependent will be available to appear; **and**
- A letter or other communication from the service member's commanding officer stating that the service member's current military duty prevents either the service member's or dependent's appearance and that military leave is not authorized for the service member at the time of the letter. 50 USC 522(b)(2), RCW 38.42.060(3).

a first stay has already been granted and the court finds that an additional stay should not be granted.

The court has appointed a lawyer in section **5** below.

The service member or dependent has his/her own lawyer.

other reason: _____

5. Appointment of Lawyer

Does not apply.

The Court appoints (*name of lawyer*): _____
to represent the service member or dependent named above in this case. The court is appointing a lawyer because:

no appearance – the service member or dependent named above has not appeared in this case. Appointment of counsel is required by 50 USC 521(b)(2) or RCW 38.42.050(4).

additional stay denied – the court denied the service member or dependent's request for an additional stay. Appointment of counsel is required by 50 USC 522(d)(2) or RCW 38.42.060(6).

Other: _____

6. Temporary family law orders

- Does not apply because no temporary family law orders have been requested.
- The court may issue temporary orders in this family law case because the service member or dependent has appeared in this case and the court is not issuing a stay.
- The service member or dependent has not appeared or has been granted a stay.
 - Federal Act** – The court may issue temporary orders in this family law case because the service member or dependent is represented by a lawyer.
 - State Act** – The court may issue temporary orders in this family law case even if the service member has not appeared or a stay has been granted. The court finds that a failure to issue temporary orders at this time, despite the absence of the service member, would result in manifest injustice to the other interested parties. Temporary orders issued without the service member’s participation shall not set any precedent for the final disposition of the matters addressed therein. RCW 38.42.050(6).
 - Other: _____

7. Other orders, if any

Ordered.

Date ▶ _____
Judge or Commissioner

Petitioner and Respondent or their lawyers fill out below.

This document (*check any that apply*):

- is an agreement of the parties
- is presented by me
- may be signed by the court without notice to me

This document (*check any that apply*):

- is an agreement of the parties
- is presented by me
- may be signed by the court without notice to me

▶ _____
Petitioner signs here or lawyer signs here + WSBA #

▶ _____
Respondent signs here or lawyer signs here + WSBA #

Print Name *Date*

Print Name *Date*