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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF \_\_\_\_\_**

THE STATE OF WASHINGTON

Plaintiff(s),

vs.

Defendant.

No. \_\_\_\_\_

**MOTION TO REMIT LEGAL  
FINANCIAL OBLIGATIONS**

COMES NOW the Defendant, \_\_\_\_\_, by and through his attorney of record, \_\_\_\_\_, and moves the Court for an order remitting the Defendant's legal financial obligations on the grounds that the Defendant lacks the ability to pay. This motion is based on the Defendant's oral colloquy with the Court, the annexed Memorandum of Law, Defendant's financial statement, and the record and files herein.

Respectfully submitted this \_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Attorney for Defendant

Name & WSBA Number:

MOTION TO REMIT LEGAL FINANCIAL OBLIGATIONS- 1 Name:

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## MEMORANDUM OF LAW

Under RCW 10.01.160(4), a defendant who is not willfully or contemptuously failing to pay costs may obtain an order of remission from the court upon the court finding that payment will impose manifest hardship on the defendant or the defendant's immediate family.

Additionally, RCW 9.94A.6333(2)(d) permits a court to modify its previous order of judgment and sentence regarding payment of legal financial obligations and community restitution obligations if it finds the Defendant's noncompliance with the order is not willful. A court may not incarcerate a non-complying offender simply because of the defendant's indigency. *Bearden v. Georgia*, 461 U.S. 660, 668, 103 S. Ct. 2064, 76 L. Ed. 2d 221 (1983); *State v. Woodward*, 116 Wn. App. 697, 703, 67 P.3d 530 (2003).

For guidance, courts should look to the comment in court rule GR 34 regarding indigence. In *State v. Blazina*, our Supreme Court stated:

This rule allows a person to obtain a waiver of filing fees and surcharges on the basis of indigent status, and the comment to the rule lists ways that a person may prove indigent status. GR 34. For example, under the rule, courts must find a person indigent if the person establishes that he or she receives assistance from a needs-based, means-tested assistance program, such as Social Security or food stamps. *Id.* (comment listing facts that prove indigent status). In addition, courts must find a person indigent if his or her household income falls below 125 percent of the federal poverty guideline. *Id.* Although the ways to establish indigent status remain nonexhaustive, *see id.*, if someone does meet the GR 34 standard for indigency, courts should seriously question that person's ability to pay LFOs.

*State v. Blazina*, 182 Wn. 2d 827, 838, 839, 344 P.3d 680, 685 (2015), (Emphasis added).

Court rule GR 34 also notes that if a defendant is above 125% of the federal poverty level but has recurring basic living expenses that render him or her without the financial ability to pay LFOs, that defendant meets the GR 34 indigent standard. Other circumstances that

MOTION TO REMIT LEGAL FINANCIAL OBLIGATIONS- 2 Name:

Address:

1 demonstrate a defendant's inability to pay should also be taken into account. GR 34. "Basic  
2 living costs" means the average monthly amount spent by the defendant for reasonable  
3 payments toward living costs, such as shelter, food, utilities, health care, transportation,  
4 clothing, loan payments, support payments, and court-imposed obligations. RCW 10.101.010.

5 In the present case, based on the evidence presented to the court, the Defendant lacks  
6 the ability to pay legal financial obligations and is not willfully failing to comply with the  
7 court's order. Instead, despite reasonable efforts, the Defendant remains indigent such that  
8 enforcing the payment order will impose manifest hardship on the Defendant. An order  
9 remitting the Defendant's legal financial obligations is appropriate and should, therefore, be  
10 entered.

11 Respectfully submitted this \_\_\_ day of \_\_\_\_\_ 20\_\_.

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13 \_\_\_\_\_  
14 Attorney for Defendant

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MOTION TO REMIT LEGAL FINANCIAL OBLIGATIONS- 3 Name:

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