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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF _____**

THE STATE OF WASHINGTON,

Plaintiff,

vs.

Defendant.

No. _____

**MOTION TO REMIT LEGAL
FINANCIAL OBLIGATIONS**

I. INTRODUCTION AND RELIEF REQUESTED

COMES NOW the Defendant, _____, 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. In addition, since Defendant is unable to afford the services of an attorney, Defendant hereby petitions the Court for the appointment of counsel in this proceeding. *See Attachment 1, Financial Statement.*

II. AUTHORITY

Under RCW 10.01.160(4), a defendant who is not willfully or contemptuously failing

1 to pay costs may obtain an order of remission from the court upon the court finding that
2 payment will impose manifest hardship on the defendant or the defendant's immediate family.

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

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

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

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

18 Court rule GR 34 also notes that if a defendant is above 125% of the federal poverty level but
19 has recurring basic living expenses that render him or her without the financial ability to pay
20 LFOs, that defendant meets the GR 34 indigent standard. Other circumstances that
21 demonstrate a defendant's inability to pay should also be taken into account. GR 34. "Basic
22 living costs" means the average monthly amount spent by the defendant for reasonable

1 payments toward living costs, such as shelter, food, utilities, health care, transportation,
2 clothing, loan payments, support payments, and court-imposed obligations. RCW 10.101.010.

3 **II. FACTUAL BACKGROUND**

4 a) Defendant was sentenced on _____ (date), in the above captioned matter.

5 b) Defendant was ordered to pay LFOs as follows:

6 (Check those that apply and enter amounts)

7 **Mandatory LFOs**

- 8 Restitution \$ _____
9 Victim's Penalty Assessment \$ _____
10 DNA Fee \$ _____
11 Criminal Filing Fee \$ _____

12 **Discretionary LFOs**

- 13 Attorney Costs \$ _____
14 Bench Warrant Fee \$ _____
15 Extradition Costs \$ _____
16 Jury Fee \$ _____
17 Witness Costs \$ _____
18 Court Costs \$ _____
19 Appellate Costs \$ _____
20 Drug Offense Costs \$ _____
21 Investigative fees \$ _____
22 Other: _____ \$ _____

17 c) As of today, Defendant owes a total of \$ _____ in LFOs for the above captioned
18 matter. Defendant has paid a total of \$ _____.

19 d) Defendant's gross monthly income is \$ _____. See Attachment A, Financial
20 Statement. Defendant's disposable income (money remaining after paying taxes and
21 expenses) at the end of the month is \$ _____.

22 e) Defendant has \$ _____ in monthly expenses, and a debt of \$ _____.

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f) Defendant suffers from the following physical and/or mental conditions:

g) Due to Defendant's conditions, he/she experiences the following symptoms:

h) Defendant's mental disorder or condition is evidenced by:

- Defendant is enrolled in a public assistance program
- Defendant has a record of involuntarily hospitalization
- Defendant has been diagnosed by a competent expert

i) Other facts that will be important to Defendant's case:

III. ARGUMENT

PAYMENT OF LFOs IS CREATING A HARDSHIP ON DEFENDANT OR DEFENDANT'S FAMILY

a) The payment of LFOs is creating a hardship on:

- Defendant
- Defendant's family

1
2 b) The following facts may assist the Court in making a decision to assess the hardship
presented to the Defendant:

3 (Check those that apply)

- 4 Distinctions exist between Defendant's financial circumstances at time of
5 sentence and Defendant's current financial status.
- 6 Defendant lost employment
- 7 Defendant's income has decreased and cannot longer afford current payments
8 of LFOs
- 9 Defendant is homeless
- 10 Defendant receives assistance from a needs based, means tested assistance
11 program.
- 12 Defendant's household income is at or below 125% of the federal poverty line
- 13 Defendant's household income is above 125% of the federal poverty line and
14 the Defendant has recurring basic living expenses, as defined in RCW
15 10.101.010(4) (d), that render him without financial ability to pay.
- 16 Other compelling circumstances exist that demonstrate the Defendant's

hardship to pay LFOs: (explain)

13 _____

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17 **IV. CONCLUSION AND PRAYER FOR RELIEF**

18 For the aforementioned reasons and arguments, Defendant respectfully requests the
19 court to grant the motion to remit legal financial obligations (LFOs) in the form of:

- 20 WAIVING all or part of discretionary Legal Financial Obligations noted in judgment
- 21 LOWERING Defendant's monthly payments of Legal Financial Obligations
- 22 SUSPENDING monthly payment of Legal Financial Obligations until Defendant regains
the ability to make said payments

MOTION TO REMIT LEGAL FINANCIAL OBLIGATIONS- 5

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Other: _____

Respectfully submitted this _____ day of _____, 20____.

Defendant's Signature

Defendant's Name:
Address: