IN THE COURT OF COMMON PLEAS FOR COUNTY NAME

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA)	
)	
v.)	Case No. ###################################
)	
JOHN DOE)	
)	
)	

MOTION TO SET PAYMENT PLAN FOR FINES AND COSTS

Defendant JOHN DOE, through counsel, hereby moves this Honorable Court to set a payment plan for his court fines and costs in this matter of no more than per month, pursuant to Pa.R.Crim.P. 706, and as grounds therefor avers as follows:

I. Background

- As a result of his criminal conviction in this matter, Mr. DOE owes TOTAL #AMOUNT
 DUE# in fines and costs. PAYMENT AND EMPLOYMENT HISTORY.
- 2. Mr. DOE cannot afford to pay all of the fines and costs that he owes in this matter in a lump sum. [or, if already on a payment plan: Mr. Doe cannot afford to pay \$X per month toward his fines and costs.] [Reasons why the defendant cannot afford to pay in full]
- 3. **RESIDENCE/HOUSING.**
- 4. EMPLOYMENT HISTORY and current income
- 5. FINANCIAL ASSETS AND SOCIAL ASSISTANCE

II. Argument

6. When the Court sets a payment plan for a defendant who is unable to pay the full amount of fines and costs in one remittance, it must set a payment plan that it "deems to be just and practicable, taking into account the financial resources of the defendant and the

- nature of the burden its payments will impose." Pa.R.Crim.P. 706(B). Such a payment plan must permit the defendant to "make payments in reasonable installments."

 Commonwealth ex rel. Parrish v. Cliff, 304 A.2d 158, 161 (1973).
- 7. Because Mr. DOE is now requesting a change to his payment plan, he bears the burden of showing that his "financial condition has deteriorated to the extent that the defendant is without the means to meet the payment schedule." Pa.R.Crim.P. 706(D). As described above, Mr. DOE is EXPLANATION OF NEED. See Commonwealth v. Eggers, 742 A.2d 174, 176 n.1 (Pa. Super. Ct. 1999) (receiving public assistance (e.g., food stamps or Medicaid) and the services of the public defender's office "invite the presumption of indigence."). No evidence rebuts these presumptions, and Mr. DOE satisfies the requirements of Rule 706 to have his payment plan modified.
- 8. Mr. DOE respectfully requests that the Court place him on a payment plan of \$X per month. The Superior Court has held that Rule 706 enforces the constitutional requirement that there is a "duty of paying costs 'only against those who actually become able to meet it without hardship." Commonwealth v. Hernandez, 917 A.2d 332, 337 (Pa. Super. Ct. 2007) (quoting Fuller v. Oregon, 417 U.S. 40, 54 (1974)). In making this ruling, the Hernandez court cited with approval Alexander v. Johnson, 742 F.2d 117, 124 (4th Cir. 1984), which held that a court must consider "the other demands on [the defendant's] own and family's finances, and the hardships he or his family will endure if repayment is required. The purpose of this inquiry is to assure repayment is not required as long as he remains indigent." Thus, Mr. Doe must be placed on a payment plan that does not impose a financial hardship.
 - 9. Mr. DOE has limited financial means and is unable to afford to pay in full. [or meet the

current payment plan]. While he can afford to pay \$X per month, that is the most he can afford in light of his current financial circumstances.

WHEREFORE, Mr. DOE respectfully requests that this Honorable Court set this Motion for a hearing, at which he will present evidence about his financial circumstances, and set a payment plan of \$X per month.

Res	pectfully	y subm	itted,	
[sign	nature b	lock]		

Date: #DATE#

VERIFICATION

I, JOHN DOE, the Defendant in this matter, hereby verify that the statements set forth in

the foregoing Motion are true and correct to the best of my knowledge, information, and belief. I

understand that false statements made herein are subject to the penalties of 18 Pa. Cons. Stat. §

4904, relating to unsworn falsification to authorities.

Date: #DATE#

JOHN DOE

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IN THE COURT OF COMMON PLEAS FOR COUNTY NAME

CRIMINAL DIVISION

COMMONWEAL	LTH OF PENNSYLVANIA	A)		
v.) Case No. ########		
JOHN DOE)))		
	ORDER SETTIN	G PAYMENT PLAN		
Upon consid	deration of the Defendant's	Motion in the above-captioned case, and upon		
consideration of the	e record and exhibits filed th	nereof, it is on this day of MONTH, YEAR,		
ORDERED that:				
1. The Defend	lant's Motion is GRANTED	and he is hereby placed on a payment plan of \$>		
per month for	or his fines and costs, with t	the first payment due on the day of		
	,			
	В	Y THE COURT:		
	$\overline{ m Ju}$	adge, Court of Common Pleas		