

**1. SETTLEMENT AGREEMENT.** This Settlement Agreement (“Settlement” or “Agreement”) is made by and among Defendant Benton County (“County”) and Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves (“Plaintiffs”) on behalf of the individual Plaintiffs and the proposed classes identified below. The County and Plaintiffs are each a “Party” and collectively the “Parties” to this Agreement. The Parties agree as follows.

**2. RECITALS.**

**2.1** A legal financial obligation (“LFO”) is a fine, penalty, court cost, or other expense that may be imposed as part of a sentencing order and judgment in a criminal proceeding. The imposition and collection of LFOs has been the subject of frequent litigation. See, recently, *State v. Blazina*, 182 Wn.2d 827 (2015). Due process precludes the jailing of a person for failure to pay LFOs if the person's failure to pay was due to indigence. *Smith v. Whatcom County Dist. Court*, 147 Wn.2d 98, 111, (2002) (citing *Bearden v. Georgia*, 461 U.S. 660, 672–73 (1983)). However, if a person is capable of paying but willfully refuses to pay, or if a person does not “make sufficient bona fide efforts to seek employment or borrow money in order to pay,” the State may imprison the person for failing to pay LFOs. *Bearden*, 461 U.S. at 668.

**2.2** In 2011, the State Legislature stated in part:

(1) The legislature finds that it is in the interest of the public to promote the reintegration into society of individuals convicted of crimes. Research indicates that legal financial obligations may constitute a significant barrier to successful reintegration.

...  
(2) At the same time, the legislature believes that payment of legal financial obligations is an important part of taking personal responsibility for one’s actions. The legislature therefore, supports the efforts of county clerks in taking collection action against those who do not make a good faith effort to pay.

Section 1, Chapter 106, Laws of 2011.

**2.3** On October 7, 2015, Plaintiffs filed a proposed class action lawsuit against the County in Yakima County Superior Court entitled *Fuentes v. Benton County*, Case No. 15-2-02976-1 (“Action”). On behalf of themselves and the proposed Classes defined below, Plaintiffs allege due process, equal protection, and right to counsel claims under the constitutions of the United States and the state of Washington for which they seek declaratory relief, injunctive relief, nominal damages, and attorneys’ fees and costs (the “Claims”). The Claims arise out of the County’s alleged policies, practices, and customs regarding enforcement of LFOs, including the threatened and actual incarceration of persons claiming indigency and an inability to pay LFOs in Benton County District Court (the “Court”); the inadequate funding, training, and supervision of public defenders in their representation of indigent persons in district court LFO

enforcement proceedings; and the failure to provide meaningful assistance of counsel to indigent persons facing charges in district court for nonpayment of LFOs.

**2.4** RCW 10.82.030 and .040 authorize, in part, a County legislative authority to permit a person committed to jail for failure to pay LFOs to perform labor (commonly referred to as “work crew”) or to serve jail time to reduce the amount of LFOs owed. In 1991, at the request of the District Court, the Board of Benton County Commissioners (“Board”) adopted a resolution (*see, e.g.*, Resolution 10-655 and 10-602) setting the amount of credit a person who is incarcerated in jail or served on work crew for failing to pay LFOs should receive for each day of jail or work crew. On December 2, 2015, the Board adopted Resolution 2015-860, repealing the operative resolution on this issue. The Court, prior to December 2, 2015, relied upon the prior resolution to convert unpaid LFOs to jail time or time on work crew.

**2.5** The Parties seek to avoid the expense of further litigation and to settle the Action for the consideration set forth herein, the sufficiency of which is hereby acknowledged. Without admitting fault or liability, the Parties agree to settle the Claims in the Action. Nothing in this Settlement supersedes the authority of the Benton County District Court under Court Rule, Chapter 10.01 RCW or other law to enforce LFOs against a person who is not indigent and is capable of paying but willfully refuses to pay LFOs.

**3. THE CLASSES.** The proposed “Classes” in the Action are defined as follows: (1) all indigent persons who owe LFOs in relation to criminal cases prosecuted in Benton County District Court; and (2) all indigent persons who, at any time since October 7, 2012, were jailed or placed on work crew for nonpayment of LFOs owed in relation to criminal cases prosecuted in the Court.

**4. CONDITIONAL AGREEMENT.**

**4.1** This Settlement is subject to (1) entry of an order by the Yakima County Superior Court preliminarily approving the Settlement; (2) entry of an order by the Yakima County Superior Court finally approving the Settlement; and (3) passage of the date for appealing from the final approval order or, if there is an appeal, the date of final resolution of the appeal (the “Effective Date”). On the Effective Date, the Claims of Plaintiffs and the proposed Classes shall be settled and dismissed with prejudice. Any other individual claims of Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves that could have brought in the Action shall also be settled and dismissed with prejudice on the Effective Date. The Agreement terms and conditions are as follows.

**4.2** As soon as practicable after the execution of this Agreement, the Parties will ask the Yakima County Superior Court to continue its stay of all proceedings in the Action except those contemplated or required by this Agreement, including proceedings related to preliminary and final approval of the Settlement, and, if necessary, determination of reasonable attorneys’ fees and costs. In the event the Yakima County Superior Court does not approve the Settlement,

the interim stay shall automatically be lifted, and this Agreement shall be null and void and of no force and effect whatsoever.

**5. INDIVIDUALS SUBJECT TO LFOs.**

**5.1** There is no person currently in the Benton County Jail (“Jail”) or on work crew in relation to nonpayment of Court LFOs, including persons: (1) “sitting out fines,” (2) “working off fines” on work crew or otherwise, (3) failing to appear in response to an order to sit out or work off Court LFOs, or (4) pending a hearing to review outstanding Court LFOs.

**5.2** The County has credited, but if not shall credit, each released person with a reduction in the amount of LFOs owed for each day served, at the rate previously provided under now-repealed Resolution No. 10-655.

**5.3** The Court will schedule an LFO review hearing upon the request of an individual subject to Court LFOs. At such a hearing, the individual may seek a reduction in the payment amount set by the Court, a stay of payments for a period of time, or a waiver of some or all of the outstanding LFOs through appropriate legal process.

**5.4** If the Court, whether on its own or at the request of any prosecutor or probation officer, schedules a hearing for the purpose of addressing alleged LFO noncompliance issues that could lead to the person’s incarceration, notice of that hearing shall be hand delivered to the person or mailed to the address last provided to the Court by the person. If mailed, notice must be postmarked no less than twenty-one (21) days before the hearing, unless an earlier hearing date is requested by a person and agreed to by the Court. The notice shall clearly and conspicuously inform the person of the availability of the following forms and identify the website and OPD location at which the forms may be accessed: Worksheet for Determining Ability to Pay LFOs, at Agreement Exhibit A; Advisement of Rights Regarding Outstanding Legal Financial Obligations, at Agreement Exhibit B; and Notice of Change of Address, at Agreement Exhibit C. If the hearing may lead to the incarceration of the person, the person shall be advised of (1) the right to be represented by counsel; and, (2) if qualified, the right to have counsel appointed at no charge to represent the person at the hearing.

**6. QUASHING OF OUTSTANDING WARRANTS.** Prior to the Parties’ execution of this Agreement, the Court quashed all outstanding warrants issued by the Court for failure to pay LFOs, failure to appear at an LFO review hearing, or failure to appear to serve time in jail or on work crew for nonpayment of Court LFOs. Unless statutorily mandated and non-discretionary, the County either has waived or waives any post-sentencing fees associated with such prior outstanding warrants.

## 7. LFO PROCEDURES.

7.1 The Court currently is not issuing warrants for LFO noncompliance. In the event that the Court were to elect to issue a warrant for failure to appear at a hearing scheduled for the purpose of addressing alleged LFO noncompliance issues, including a hearing to address an alleged probation violation based on the charge of failure to pay an LFO, the Court will follow the bail schedule set forth in Court Rules (including CrRLJ 3.2) and will not set bail at the total amount of LFOs currently owing unless a prior determination has been entered by the Court that the person is not indigent and the person has willfully refused to pay a Court LFO. The determination that the person is not indigent, or has willfully refused to pay, shall have followed the guidelines set out in this Agreement Section 7.3.

7.2 Warrants for failure to appear at a hearing scheduled for the purpose of addressing alleged LFO noncompliance issues, including a hearing to address an alleged probation violation based on the charge of failure to pay an LFO, shall not be issued without notice to persons regarding their court dates. The notice requirement is satisfied when the Court hand delivers or mails a notice to the person in question at the address last provided by the person to the Court. If mailed, notice shall be postmarked no less than twenty-one (21) days before the hearing, unless an earlier date is requested by a person and agreed to by the Court. The notice shall clearly and conspicuously inform the person of the availability of the following forms and identify the website and OPD location at which the forms may be accessed: Worksheet for Determining Ability to Pay LFOs, at Agreement Exhibit A; Advisement of Rights Regarding Outstanding Legal Financial Obligations, at Agreement Exhibit B; and Notice of Change of Address, at Agreement Exhibit C.

7.3 The County acknowledges the Court's current duty to inquire at any LFO hearing about a person's ability to pay LFOs consistent with *Smith v. Whatcom Cnty. Dist. Court*, 147 Wn.2d 98 (2002). At any hearing on the issue of nonpayment of Court LFOs, including probation violation hearings and hearings brought for reasons other than Court LFO issues but in which LFO issues are raised, the Court shall be guided by the *Reference Guide on Legal Financial Obligations (LFOs) [for] Courts of Limited Jurisdiction (CLJ) in Washington State* (Washington State Supreme Court Minority and Justice Commission, October 2015, as may be now or later amended or superseded, "Bench Card").

7.4 The County, through its website and at the County Office of Public Defense, shall make available to persons the following forms: Worksheet for Determining Ability to Pay LFOs, at Agreement Exhibit A; Advisement of Rights Regarding Outstanding Legal Financial Obligations, at Agreement Exhibit B; and Notice of Change of Address, at Agreement Exhibit C.

## 8. TRAINING

8.1 **General.** The County's public defenders and prosecutors shall participate in training on LFO issues as set forth below. The County shall make available training to District

Court personnel and to city prosecutors. The County and ACLU-WA shall select one or more qualified persons or entities to conduct all trainings and provide relevant materials, and the County shall be responsible for any costs associated with the trainings described below for the County's public defenders, prosecutors and District Court Judges. If the County and ACLU-WA cannot agree on the selection of trainer(s), the County and ACLU-WA shall jointly apply to the Chief Judge of Division III of the Washington Court of Appeals to assist in and/or determine the selection of trainer(s).

**8.2 Public Defenders.** The County's public defenders and contract public defenders for District Court criminal cases shall attend periodic trainings on LFO issues. If a public defender did not attend the training presented by the Star Project in Walla Walla in October 2015 or any training presented by the Washington Office of Public Defense on LFO issues since April 1, 2015, such training shall occur within nine (9) months of the Agreement Effective Date. Thereafter, training shall be periodic, but shall occur again within twenty four (24) months, or more frequently as the Parties may agree in writing is appropriate based on changes in law. Such training may be part of other public defender training (e.g., part of sentencing or post-sentencing training). Among other things, the training shall address at least the following topics:

- The requirements for assessing a person's ability to pay at the time LFOs are imposed, as outlined in *Blazina*, 182 Wn.2d at 838-39 or current law;
- The guidelines for assessing a person's ability to pay when determining whether a nonpayment was willful, as outlined in *Bearden*, 461 U.S. at 672-73; *Smith*, 147 Wn.2d at 111-12; and the Bench Card;
- The arguments that may be raised at the time LFOs are imposed, defenses to nonpayment, and ways to gather information necessary to support those arguments and defenses;
- The procedure and legal requirements for seeking remission of LFOs;
- The need for sufficient time to gather evidence and prepare arguments against the imposition of LFOs or sanctions for nonpayment;
- The impact of LFOs on persons and alternatives to LFOs and to incarceration for failure to pay LFOs;
- Instruction on the use of the forms attached as Exhibits A, B and C; and
- Considerations regarding the inclusion of LFOs in plea agreements with persons who may be indigent.

Every effort shall be made to accommodate public defender schedules in presenting the training required by this Section including through webcast (if feasible) or video replays of such training. Attendance by webcast or video replay shall be sufficient for compliance with the training requirements in this Agreement Section 8, when consistent with Washington Admission and Practice Rules (APR) for Continuing Legal Education. The County shall ensure that copies of training materials are provided to and reviewed with all new public defenders within their first week of work.

**8.3 Prosecutors.** The County's district court deputy prosecutors shall attend periodic trainings on LFO issues. If such a deputy prosecutor has not received training on LFO issues since April 1, 2015, such training shall occur within twelve (12) months of the Agreement Effective Date. Thereafter, training shall be periodic, but shall occur again within thirty six (36) months, or more frequently as the parties may agree in writing is appropriate based on changes in law, as long as the deputy remains in the above described division of the Prosecutor's Office. Such training may be part of other training (e.g., as part of sentencing or post-sentencing training). The trainings shall be open to the prosecutors from the Cities of Kennewick, Richland, West Richland, and Prosser (at their cost), whom the County will encourage to attend. The trainings may be open to prosecutors from other jurisdiction at their cost. The training shall address at least the following topics:

- The requirements for assessing a person's ability to pay at the time LFOs are imposed, as outlined in *Blazina*, 182 Wn.2d at 838-39;
- The guidelines for assessing a person's ability to pay when determining whether a nonpayment was willful, as outlined in *Bearden*, 461 U.S. at 672-73; *Smith*, 147 Wn.2d at 111-12; and the Bench Card;
- The impact of LFOs on persons and alternatives to LFOs and to incarceration for failure to pay LFOs; and
- Considerations regarding the inclusion of LFOs in plea agreements with persons who may be indigent.

The County shall ensure that copies of the training materials are provided to and reviewed with all new prosecutors within their first month of work.

**8.4 District Court.** The County shall make available to the District Court Judges and personnel assigned by the Court periodic trainings on LFO issues. The first such training shall be available within nine (9) months of the Effective Date and every twenty-four (24) months thereafter. The trainings shall address at least the following topics:

- The requirements for assessing a person's ability to pay at the time LFOs are imposed, as outlined in *State v. Blazina*, 182 Wn.2d at 838-39;
- The guidelines for assessing a person's ability to pay when determining whether a nonpayment was willful, as outlined in *Bearden*, 461 U.S. at 672-73; *Smith*, 147 Wn.2d at 111-12; and the Bench Card;
- The remission of LFOs, including the proper standards and procedures for determining whether remission is appropriate;
- The impact of LFOs on indigent persons and alternatives to LFOs and to incarceration for failure to pay LFOs; and
- Considerations regarding the inclusion of LFOs in plea agreements with persons who may be indigent.

Copies of LFO training materials from trainings attended by one or more District Court Judges shall be made available to all new District Court Judges within their first month of taking office.

## **9. PUBLIC DEFENDER FUNDING, CONTRACTING, AND SUPERVISION**

**9.1 Funding.** The County through its Office of Public Defense (“OPD”) maintains and shall maintain case weighting consistent with Washington State Supreme Court standards. The County shall continue to provide sufficient funding to OPD in support of its mission to provide meaningful, continuing representation to any individual before the Court for nonpayment of Court LFOs.

**9.2 Public Defender Contracts.** Within one hundred eighty (180) days of the Effective Date, the County shall provide in its professional services agreements with attorneys and law firms serving as public defenders representing indigent persons in the Court (“OPD Contracts”) provisions to address the matters addressed in this Agreement Section 9. OPD Contracts shall include provisions for mandatory continuing legal education on LFO representation, including claims of indigency; reporting to OPD regarding any separate representation regarding LFO hearings that occur post-sentencing; and continuing required reporting and case load limits, including nonpublic defense legal services, consistent with the Washington Supreme Court’s Standards for Indigent Defense and Chapter 10.101 RCW.

**9.3 Supervision.** Within one hundred eighty (180) days of the Effective Date, the County shall review procedures for OPD’s supervision of performance of OPD personnel and under OPD Contracts. The supervision shall include evaluation of the effectiveness of public defenders on LFO issues.

**9.4 Data Collection.** Within one hundred eighty (180) days of the Effective Date OPD shall collect the following data on at least an annual basis: (1) number of Court cases to which each public defender is appointed; (2) the charges in each Court case; (3) the number of jail visits made by the public defender; (4) the number of Court cases in which substantive motions were filed by the public defender; (5) the number of Court cases in which investigation requests were made by the public defender; (6) the amount of time spent on each case; and, (7) the number of trials in the Court conducted by the public defender. In the event separate LFO proceedings are assigned for representation under OPD Contracts, OPD shall also collect the following data specifically related to LFOs: (a) the number of failure to pay Court cases to which each public defender was appointed; and (b) the number of failure to appear Court cases arising out of nonpayment of LFOs to which each public defender was appointed. The data shall be available to Plaintiffs, ACLU-WA and others for inspection and copying.

## **10. ALTERNATIVES TO INCARCERATION**

**10.1 General.** The County shall continue to maintain alternative approaches for dealing with persons who owe LFOs including the potential availability of the following.

Nothing in this Section 10 is intended to be exclusive or to limit the availability of other alternatives.

**10.2 Payment Plans.**

**10.2.1** The Court continues to be guided by RCW 10.01.170 and the Bench Card.

**10.2.2** The Court shall not refuse to accept payment toward any LFO balance on the grounds that the payment is late or that the payment is less than the monthly amount ordered.

**10.3 Collections.** As authorized by State law, the County may send an unpaid LFO balance to a collections agency if the person owing the LFOs is in default. The Court will not refer a person's account to collections unless a payment is at least ninety (90) days past due and the person does not have a pending motion seeking relief of some type regarding the payment of LFOs. A partial payment of an amount due may but will not necessarily preclude referral to collections. After an account has been referred to collections, under RCW 3.62.010 or otherwise, the Court retains the authority to recall the account from collections and has the power to remit the LFO balance and any unpaid interest or collection fee.

**10.4 Community Service.** Within one hundred eighty (180) days of the Effective Date, the County shall create a community service study task force or work group ("study"). The ACLU may provide the County and its study with resources, information, and other support as it evaluates community service options. The study shall consider an alternative mechanism for individuals to earn credit at no less than the applicable minimum wage rate per hour toward discharge of their LFOs in the form of voluntary community service. Such a study should include consideration of (1) the legal authority for converting LFOs to community service; (2) the amount of earned credit (*e.g.*, dollar amount per hour or day of service) against LFOs; (3) types of eligible community service such as community restitution programs, work for bona fide charitable organizations, approved educational programs, job skills training, counseling and mental health services, and drug addiction treatment; (4) disadvantages of requiring payment by persons owing LFOs to participate in community service; and (5) comparable programs in other communities.

**10.5 Remission Process.** Under RCW 10.73.160(4), a person

who has been sentenced to pay costs and who is not in contumacious default in the payment may at any time petition the court that sentenced the defendant or juvenile offender for remission of the payment of costs or of any unpaid portion. If it appears to the satisfaction of the sentencing court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the sentencing court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

Accordingly, the Court shall consider any request for remission regarding outstanding LFOs and set such request promptly for hearing on an available calendar. In considering remission requests, the Court shall continue to be guided by the Bench Card. Persons seeking remission under available process shall not, unless required by law, be appointed public defense counsel.

## **11. MONITORING OF SETTLEMENT COMPLIANCE**

**11.1** The County shall provide the following information to Plaintiffs' counsel every six (6) months from the Effective Date for a period of five years, either by direct mail or by advising of internet posting of the information. The information shall be (1) the number of Court cases to which each public defender is appointed; (2) the charges in each Court case; (3) the number of jail visits made by public defenders in Court cases; (4) the number of Court cases in which one or more substantive motions were filed by public defenders; (5) the number of Court cases in which investigation requests were made by public defenders; and (6) the number of trials in Court conducted by public defenders. In the event separate LFO proceedings are assigned for representation under OPD Contracts, OPD shall also collect and report the following data specifically related to LFOs: (a) the number of failure to pay Court cases to which each public defender was appointed; and (b) the number of failure to appear Court cases arising out of nonpayment of LFOs to which each public defender was appointed. OPD shall also provide copies of all OPD contracts upon County receipt of written request.

**11.2** Information shall be provided in an aggregate format. Information under Agreement Section 11.1(1), (3), (4), (5), (6), (a) and (b) shall be sufficient if a total overall figure for each category is provided together with the total number of public defenders under contract for the applicable time period. Reporting under Agreement Section 11.1(2) shall be sufficient if total aggregated figures for each criminal charge filed in Court cases assigned for public defense for the applicable time period are provided. For Court cases with multiple charges, reporting under Agreement Section 11.1(2) shall be based on a reasonable determination of the most serious charge or the charge with the highest mandatory minimum jail time.

## **12. PAYMENTS, ATTORNEYS' FEES AND COSTS**

**12.1** In full and final payment and settlement of all claims of the named Plaintiffs related to or arising out of the subject matter of the Action, the County agrees to pay to Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves, and Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves agree to accept, Three Thousand Dollars (\$3,000) (the "Settlement Funds"). The Settlement Funds compensate Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves for the cost and burden of participating in this action as a class representative; and, for the release of any individual claims for damages, including personal injury or deprivation of rights that Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves, only, may have against the County and the Court arising out of or relating to Court LFO enforcement against any of them. The Settlement Funds shall be divided equally among Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves. The

County shall pay the Settlement Funds to the Trust Account of Terrell Marshall Law Group PLLC within ten (10) days of the Effective Date.

**12.2** In connection with this Agreement, the County shall pay reasonable attorneys' fees and costs ("Attorneys' Fees and Costs") to Plaintiffs' counsel for work performed regarding this Action through the Effective Date. The reasonableness of Attorneys' Fees and Costs shall be determined by agreement of the Parties or, in the absence of agreement, by the Yakima County Superior Court applying applicable standards, including under 42 U.S.C. § 1988(b). Nothing in this Agreement forecloses the Parties' use of a mediator to resolve issues under this Agreement Section 12.2.

**12.3** The Parties shall complete any efforts to agree on the reasonableness of Attorneys' Fees and Costs, including through mediation if any, no later than thirty (30) days after execution of this Agreement. If the parties are unable to reach agreement within that timeframe, Plaintiffs' counsel may move the Yakima County Superior Court for a determination of Attorneys' Fees and Costs. The County shall pay the agreed-upon or awarded Attorneys' Fees and Costs to the Trust Account of Terrell Marshall Law Group PLLC within ten (10) days of the Effective Date.

### **13. TERM, EFFECT AND ENFORCEMENT**

**13.1** Unless otherwise stated, the County shall comply with the terms of this Agreement for five (5) years following the Effective Date. The Action shall be considered closed on the Effective Date. However, for a period of five (5) years following the Effective Date, the Yakima County Superior Court (with its approval) shall retain jurisdiction over the Action to enforce the terms of this Agreement and to oversee all matters that relate to the performance of this Agreement.

**13.2** If Plaintiffs believe the County is not in substantial compliance with any Settlement term, Plaintiffs may file a motion for appropriate relief with the Yakima County Superior Court. Prior to filing such a motion, Plaintiffs shall (1) notify the County in writing of any allegation of violations of this Agreement; and (2) provide the County with thirty (30) days to cure such violations.

**13.3** If the County fails to cure alleged violations within thirty days, the Parties shall meet and confer in an attempt to resolve the alleged violations. The County shall make its counsel available for such a conference within ten (10) working days of Plaintiffs' counsel's request. The Parties agree to use their reasonable best efforts that may be necessary or appropriate to resolve disputes. If Plaintiffs file a motion for relief and demonstrate the County has failed to substantially comply with one or more of the material terms of this Agreement, Plaintiffs' counsel shall be entitled to an award of attorneys' fees and costs in addition to any relief the Yakima County Superior Court imposes.

#### **14. RELEASE OF CLAIMS**

**14.1** As of the Effective Date, Plaintiffs and Class members release and forever discharge the County and the Court for the Claims that were brought in the Action.

**14.2** As of the later of either the Effective Date or the payment of the Settlement Funds and Attorneys' Fees and Costs under Agreement Sections 12.1 and 12.2, Plaintiffs Jayne Fuentes, Gina Taggart and Reese Groves release and forever discharge the County and the Court from claims for general, special, exemplary and punitive damages and Attorneys' Fees and Costs (such fees and costs addressed in Agreement Section 12.2).

#### **15. ADDITIONAL TERMS**

**15.1 State Law.** This Agreement shall be deemed to have been made in and shall be construed under the Laws of the State of Washington.

**15.2 Headings.** Any headings to articles, sections or paragraphs appearing herein are not part of the terms of this Agreement and shall not be interpreted as such.

**15.3 Construction.** None of the Parties hereto shall be considered to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

**15.4 Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law. Further, the Parties shall negotiate in good faith regarding amendments to this Agreement that would, to the maximum extent possible, effectuate the intent of any provision determined to be invalid or unenforceable.

**15.5 Complete Agreement.** This Agreement contains an entire, complete, and integrated statement of each and every term and provision agreed to by and between the Parties, and this Agreement cancels and supersedes all prior written and unwritten agreements and understandings pertaining to the Settlement of the Action.

THE PARTIES HEREBY AGREE TO THE ABOVE SETTLEMENT AGREEMENT BY THE FOLLOWING SIGNATURES.

Jayne Fuentes

JAYNE FUENTES

Date: 5/27/15

GINA TAGGART

Date: \_\_\_\_\_

REESE GROVES

Date: \_\_\_\_\_

Approved as to form:

TERRELL MARSHALL LAW GROUP PLLC

By: \_\_\_\_\_

Toby J. Marshall, WSBA #32726

Elizabeth A. Adams, WSBA #49175

*Attorneys for Plaintiffs and Classes*

**For Defendant Benton County:**

James Beaver  
Benton County Commissioner

Date: \_\_\_\_\_

Jerome Delvin  
Benton County Commissioner

For Plaintiffs and Classes:

JAYNE FUENTES

Date:

GINA TAGGART

Date:



5-23-16

REESE GROVES

Date:

Approved as to form:

TERRELL MARSHALL LAW GROUP PLLC

By:

Toby J. Marshall, WSBA #32726  
Elizabeth A. Adams, WSBA #49175  
*Attorneys for Plaintiffs and Classes*

For Defendant Benton County:

JAYNE FUENTES

Date: \_\_\_\_\_

GINA TAGGART

Date: \_\_\_\_\_

  
REESE GROVES

Date: 5/24/2016

Approved as to form:

TERRELL MARSHALL LAW GROUP PLLC

By: \_\_\_\_\_

Toby J. Marshall, WSBA #32726

Elizabeth A. Adams, WSBA #49175

*Attorneys for Plaintiffs and Classes*

**For Defendant Benton County:**

\_\_\_\_\_  
James Beaver  
Benton County Commissioner

Date: \_\_\_\_\_

\_\_\_\_\_  
Jerome Delvin  
Benton County Commissioner

**For Plaintiffs and Classes:**

\_\_\_\_\_  
JAYNE FUENTES

Date: \_\_\_\_\_

\_\_\_\_\_  
GINA TAGGART

Date: \_\_\_\_\_

\_\_\_\_\_  
REESE GROVES

Date: \_\_\_\_\_

Approved as to form:

TERRELL MARSHALL LAW GROUP PLLC

By:  \_\_\_\_\_

Toby J. Marshall, WSBA #32726

Elizabeth A. Adams, WSBA #49175

*Attorneys for Plaintiffs and Classes*

**For Defendant Benton County:**

\_\_\_\_\_  
James Beaver  
Benton County Commissioner

\_\_\_\_\_  
Jerome Delvin  
Benton County Commissioner

**For Plaintiffs and Classes:**

\_\_\_\_\_  
JAYNE FUENTES

Date: \_\_\_\_\_

\_\_\_\_\_  
GINA TAGGART

Date: \_\_\_\_\_

\_\_\_\_\_  
REESE GROVES

Date: \_\_\_\_\_

Approved as to form:

TERRELL MARSHALL LAW GROUP PLLC

By: \_\_\_\_\_

Toby J. Marshall, WSBA #32726

Elizabeth A. Adams, WSBA #49175

*Attorneys for Plaintiffs and Classes*

**For Defendant Benton County:**

  
\_\_\_\_\_

James Beaver  
Benton County Commissioner

  
\_\_\_\_\_

Jerome Delvin  
Benton County Commissioner

  
\_\_\_\_\_  
Shon Small  
Benton County Commissioner

Date: JUNE 1, 2016

Approved as to form:  
BENTON COUNTY PROSECUTING  
ATTORNEY

By: Ryan K. Brown by PSD 6/1/2016  
Andy Miller, WSBA #10817  
Ryan K. Brown, WSBA #19837

FOSTER PEPPER LLC

By: P. Stephen DiJulio  
P. Stephen DiJulio, WSBA #7139  
*Attorneys for Defendant*

# Worksheet for Determining Ability to Pay LFOs

[Ex. A]

## WORKSHEET FOR DETERMINING ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS (LFOs)

NAME: \_\_\_\_\_ CASE NO. \_\_\_\_\_

### INCOME

Approximate Monthly Amount

Your take-home pay: \$ \_\_\_\_\_

Occupation: \_\_\_\_\_

Employer's name and phone number: \_\_\_\_\_

How long worked there: \_\_\_\_\_

Spouse/partner's monthly take-home wages/salary: \$ \_\_\_\_\_

Monthly amount received from public assistance programs \$ \_\_\_\_\_

#### Check all that apply:

Basic Food (SNAP)  SSI  Medicaid  Pregnant Women Assistance Benefits  Poverty-Related Veterans' Benefits  Temporary Assistance for Needy Families  Refugee Settlement Benefits  Aged, Blind or Disabled Assistance Program  Other: \_\_\_\_\_

Other sources of income (e.g. spousal maintenance, family member living in your home and contributing to living expenses, dividends, etc.): \$ \_\_\_\_\_

APPROXIMATE TOTAL MONTHLY INCOME: \$ \_\_\_\_\_

### MONTHLY EXPENSES AND DEBTS

Approximate Monthly Amount

Wage garnishments taken from your paycheck: \$ \_\_\_\_\_

Rent/mortgage: \$ \_\_\_\_\_

Utilities (electricity, water, garbage, telephone, etc.): \$ \_\_\_\_\_

Food/household supplies: \$ \_\_\_\_\_

Transportation: \$ \_\_\_\_\_

Health care (out-of-pocket costs, prescriptions, insurance, debt payments) \$ \_\_\_\_\_

Child support, spousal maintenance, and loan payments: \$ \_\_\_\_\_

Court-ordered restitution – monthly payment amount: \$ \_\_\_\_\_

Credit cards, personal loans, and other debt payments: \$ \_\_\_\_\_

Other basic living costs (clothing, child care, insurance, etc.) \$ \_\_\_\_\_

Describe: \_\_\_\_\_ \$ \_\_\_\_\_

APPROXIMATE TOTAL MONTHLY EXPENSES: A. \$ \_\_\_\_\_

Total of other outstanding debt not identified above  
(Examples: late child support and medical care payments):  
\_\_\_\_\_ B. \$ \_\_\_\_\_

Total of outstanding court fines, penalties and costs  
(legal financial obligations (LFOs)), including other cases: C. \$ \_\_\_\_\_

APPROXIMATE TOTAL CURRENT DEBT (A.+B.+C.): \$ \_\_\_\_\_

## Worksheet for Determining Ability to Pay LFOs

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### PERSONAL INFORMATION

How long do you believe you will be jailed for this and any other current cases?: \_\_\_\_\_

Other than yourself, how many people do you financially support? \_\_\_\_\_. Age(s): \_\_\_\_\_

Highest grade level of education \_\_\_\_\_. Do you have any vocational training or a college degree? If yes please state your specialty: \_\_\_\_\_

Have you had a mental health diagnosis?  yes  no

If yes, please describe. \_\_\_\_\_

**Please provide your public defender with a letter from your doctor about your mental health if you can.**

Have your mental health issues made it harder for you to get a job? Please explain

\_\_\_\_\_

Do you have any serious physical disabilities that make it harder for you to get a job? If so, please explain. \_\_\_\_\_

Please list your jobs and approximate monthly pay over the past three years:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How might this conviction affect your ability to get a job? Please describe. \_\_\_\_\_

\_\_\_\_\_

Please describe how the payment of fines and fees may be a hardship on your immediate family (include any information regarding housing, employment, child care, transportation, and anything else you want the court to know): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Are you able to speak English fluently? \_\_\_\_\_

**Checklist for what you should bring to court or give to your public defender (in cases assigned to public defender):**

- Proof of SSI or public assistance
- Paystubs
- Bills
- Letter from doctor describing mental health issues (if applicable)
- Letter from doctor describing serious physical problem (if applicable)
- Job application logs (showing your efforts to get a job)

## BENTON COUNTY DISTRICT COURT

[Ex. B]

### ADVISEMENT OF RIGHTS REGARDING OUTSTANDING LEGAL FINANCIAL OBLIGATIONS

If you owe Legal Financial Obligations (LFOs) to the Benton County District Court, you have the following legal rights:

1. You have the right to ask for a hearing. At the hearing, you can tell the Court about your financial situation. You can use this hearing to ask the Court to: a) reduce your monthly payment; b) defer or postpone your payments for a while; or c) waive some or all of the LFOs that you owe. You have the right to have a private attorney help you at the hearing, but the Court will not appoint a public defender to represent you if the hearing is at your request. To request a hearing, please contact the Benton County District Court Clerk at 7122 W Okanogan Place, Bldg. A, Kennewick, WA 99336; Phone: 509.735.8476
2. If you are accused of failing to pay your LFOs and are ordered to come to Court, then you may have the right to be helped by a public defender. If you would like a public defender to help you, then you must tell the Judge when you show up in Court for the first time. There will be a determination of your eligibility for a public defender (including, whether the failure to pay LFOs may lead to your being put in jail). If you need time to work with your public defender, then the Court will usually allow you to come back to Court at a later date.
3. If you show that you cannot make LFO payments through no fault of your own, the Court cannot put you in jail or on work crew for the missed payments.

When you go to Court (whether requested by you or ordered by the Court), it is important to show the Court that you cannot make LFO payments or that payments will be a serious hardship. To do this you will need to collect documents and information about your finances and situation.

A document called a “**Worksheet for Determining Ability to Pay LFOs,**” is available at the public defender’s office and at the public defender’s website ( [BentonCountyDefense.org](http://BentonCountyDefense.org) ). Please use the Worksheet as a guide and checklist for gathering the information you will present or explain to the Court. You do not have to provide the worksheet itself to the Court. If you are ordered to Court and will be working with a public defender, please discuss the Worksheet with the public defender before the hearing. The public defender’s office is at 7122 W Okanogan Place, Bldg. A, Kennewick, Washington 99336; Phone: 509.222.3700.

**BENTON COUNTY DISTRICT COURT**

[Ex C.]

**STATE OF WASHINGTON**

Please

Print

\_\_\_\_\_

First Name

Middle Name

Last Name

Date of Birth \_\_\_\_\_ Email Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number ( ) - - \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE OF SIGNATURE

NOTIFY THE COURT IF THIS INFORMATION CHANGES

**RETURN THIS FORM TO THE OFFICE OF THE BENTON COUNTY DISTRICT COURT CLERK AT  
7122 W. Okanogan Place, Bldg. A, KENNEWICK, WASHINGTON 99336  
BY HAND DELIVERY, BY U.S. MAIL, OR BY EMAIL TO [district.court@co.benton.wa.us](mailto:district.court@co.benton.wa.us)**