

FILED
SUPREME COURT
STATE OF WASHINGTON
December 3, 2021
BY ERIN L. LENNON
CLERK

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED
PETITION AND ORDER FOR NEW GENERAL
RULE 39—LEGAL FINANCIAL OBLIGATIONS

ORDER

NO. 25700-A-1392

The Washington State Pattern Forms Committee, having approved the adoption of the suggested petition and order for new General Rule 39—Legal Financial Obligations, and the Court having considered the attached petition and order, and having determined that the petition and order will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:


- (a) That the petition and order as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested petition and order will be expeditiously published in the Washington Reports and will become effective upon publication.

ORDER

IN THE MATTER OF THE SUGGESTED PETITION AND ORDER FOR NEW GENERAL
RULE 39—LEGAL FINANCIAL OBLIGATIONS

DATED at Olympia, Washington this 3rd day of December, 2021.


González, C.J.

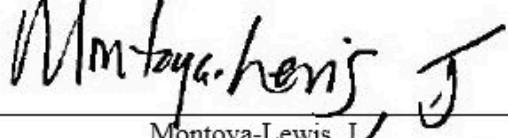

Johnson, J.

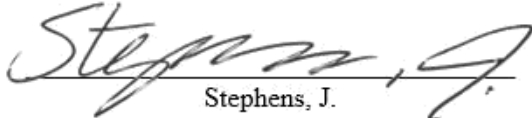

Gordon McCloud, J.

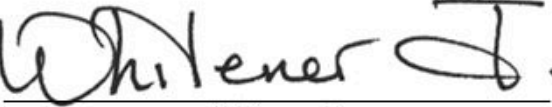

Madsen, J.


Yu, J.


Owens, J.


Montoya-Lewis, J.


Stephens, J.


Whitener, J.

[NEW]

GR 39

REMISSION OF LEGAL FINANCIAL OBLIGATIONS

(a) Definitions.

(1) Legal financial obligation (LFO), as referenced in this rule, means costs, fines, fees, penalties, assessments, and restitution imposed by a Washington court and does not include the RCW 9.94A.780 clerk's fee for collecting the LFO.

(2) "Indigent" is defined in RCW 10.101.010.

(b) Relief Available. An individual who has been required to pay LFOs may petition the sentencing court for a waiver of interest and remission or reduction of any unpaid portion of the LFOs, except restitution and mandatory LFOs not subject to remission or reduction, and may request any other relief as allowed by law. The petitioner may also request that the LFOs be removed from a collection agency; request additional time to pay the LFOs; and, excluding restitution and mandatory LFOs not subject to remission or reduction, request payment by community service or other forms of community restitution if available in the community.

(c) Indigence or Inability to Pay. A petition shall allege that the petitioner is indigent or lacks the financial ability to pay the LFO. Provided, a petitioner is not required to show indigence or the lack of ability to pay an LFO when making a request to waive interest on a nonrestitution LFO pursuant to RCW 10.82.090.

(d) Mandatory Form and Notice. The petitioner shall complete and file a mandatory pattern form petition, declaration of mailing and proposed order created by the Administrative Office of the Courts (AOC). The petitioner may attach appropriately redacted financial documents supporting the request. See GR 31(e). The petitioner shall also mail copies of the petition, declaration of mailing and proposed order to the appropriate prosecuting attorney.

(e) Submission of Petition; Fee. The court shall accept the petition submitted in person, by mail, or, where authorized by local court rule not inconsistent with GR 30, by electronic filing. All petitions shall be presented to a judicial officer for consideration in a timely manner and there shall be no fee imposed for filing and consideration of a petition.

(f) Hearings; Notice. The judicial officer may set the petition for a hearing, or may consider the petition ex parte without a hearing no sooner than three business days from filing of the petition and declaration of mailing or the filing of the declaration of mailing, if filed after the petition. Provided, when the appropriate prosecuting authority files a letter with a presiding judge requesting notice of all petitions filed pursuant to this rule, the court shall set all such petitions for hearing and send the notice of hearing to all parties. In the letter provided to the presiding judge, the prosecuting authority, however, may limit the notice requested to select cases, such as cases where the fine or costs are greater than a specified amount.

(g) Telephonic Hearing. Hearings by telephone or video conference improve access to the courts. If a petition is set for hearing, upon request, the court in its discretion may permit a telephone or video conference appearance by the petitioner subject to local court rule and/or local policies.

I am the defendant in the above action and declare that I have been released from total confinement on this matter: *(Check all that apply)*

I have paid my restitution in full.

I am indigent because:

I am receiving one of the following types of public assistance: temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, Medicaid (for example, Apple Health), or supplemental security income. (RCW 10.101.010(3)(a); GR 34(a)(3)(A).) I am receiving the following forms of public assistance:

I am involuntarily committed to a public mental health facility. (RCW 10.101.010(3)(b).)

I am receiving an annual income, after taxes, of 125% or less of the current federally established poverty level. (RCW 10.101.010(3)(c); GR 34(a)(3)(B).)

I am receiving an annual income, after taxes, of more than 125% of the federally established poverty level but I have recurring basic living expenses making me unable to pay the LFOs imposed. (GR 34(a)(3)(C).) Details:

Other compelling circumstances exist that demonstrate my inability to pay fees and/or charges. (GR 34(a)(3)(D).) Details:

I am homeless. (RCW 9.94A.6333(3)(d); RCW 9.94A.760(11); RCW 10.01.180(1)(c).)

I am not able to complete community restitution hours because:

I have not paid my LFOs in a timely manner. However, my late payment(s) or failure to pay was/were not willful because:

OPTIONAL: I have attached my financial case history report from the court clerk.

I request:

the court rule without a hearing.

a hearing by telephone video conference in court appearance.

- 4.** I mailed or delivered this Petition, Declaration and proposed Order to the Court on *(date)* _____ and to the Prosecuting Attorney on *(date)* _____.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at *(city)* _____, *(state)* _____ on *(date)* _____.

Signature of Defendant

Print Name

Dated: _____

Defendant's Attorney/WSBA No.

Print Name

The Court orders:

- [] **LFO Interest.** All interest that is not restitution on the defendant's LFOs is waived. RCW 10.82.090(2)(a).
- [] **Restitution Interest Waiver.** Because the defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs, all restitution interest is waived. RCW 10.82.090(2)(b).
- [] **Restitution Interest Reduction.** Because the defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs, restitution interest is reduced to_____. RCW 10.82.090(2)(b).
- [] **Remission.** All discretionary LFOs that are not restitution, including all costs or fees attendant to private debt collection efforts, are waived. RCW 9.94A.6333(3)(f); RCW 10.01.160(3), (4) (relating to costs); RCW 10.01.180(5); RCW 46.63.190; RCW 36.18.190. The following mandatory LFOs shall remain:

- [] **Reduction.** RCW 9.94A.6333(3)(f); RCW 10.01.180(5). All discretionary LFOs that are not restitution are reduced as follows:

- [] **Community Restitution.** All discretionary LFOs that are not restitution are converted to community restitution hours through a community restitution program at the rate of \$_____per hour for each hour of community restitution. RCW 9.94A.6333(3)(f); RCW 10.01.180(5); RCW 46.63.190.

- [] **Additional Time.** RCW 9.94A.6333(3)(f); RCW 10.01.180(5); RCW 10.82.090(2)(b); RCW 10.01.170; RCW 46.63.190. All remaining LFOs may be paid according to the following schedule:

Next payment due date: _____

Minimum monthly payment: _____

Payments shall be made to: _____

- [] **Collection.** The remaining LFOs are removed from a third-party collection agency and payments shall now be made to the Clerk's Office. RCW 36.18.190.

- [] A review hearing is set for (date)_____

- [] **Other**_____

Dated: _____
_____ Judge

Presented by:

Signature of Defendant/Attorney WSBA No.

Print Name