

AFFIDAVIT OF INDIGENCY

AND REQUEST FOR WAIVER, SUBSTITUTION
OR STATE PAYMENT OF FEES & COSTS

*(Note: If you are **currently confined in a prison or jail** and are not seeking immediate release under G.L. c. 248 §1, but you are suing correctional staff and wish to request court payment of "normal" fees (for initial filing and service), **do not use this form.** Obtain separate forms from the clerk.)*

_____ Court _____ Case Name and Number (if known)

Name of applicant _____

Address _____
(Street and number) (City or town) (State and Zip)

SECTION 1: Under the provisions of General Laws, Chapter 261, Sections 27A-27G, I swear (or affirm) as follows:
I AM INDIGENT in that *(check only one)*:

(A) I receive public assistance under Transitional Aid to Families with Dependent Children (TAFDC), Emergency Aid to Elderly, Disabled or Children (EAEDC), Supplemental Security Income (SSI), Medicaid (MassHealth) or Massachusetts Veterans Benefits Programs; *(circle form of public assistance received)*; **or**

(B) My income, less taxes deducted from my pay, is \$ _____ per week/month/year *(circle period that applies)*, for a household of _____ persons, consisting of myself and _____ dependents; which income is at or below the court system's poverty level; *(Note: The court system's poverty levels for households of various sizes must be posted in this courthouse. If you cannot find it, ask the clerk. The court system's poverty level is updated each year.)* [List any other available household income for the circled period on this line: _____) **or**

(C) I am unable to pay the fees and costs of this proceeding, or I am unable to do so without depriving myself or my dependents of the necessities of life, including food, shelter and clothing.

IF YOU CHECKED (C), YOU MUST ALSO COMPLETE THE SUPPLEMENT TO THE AFFIDAVIT OF INDIGENCY.

SECTION 2: *(Note: In completing this form, please be as specific as possible as to fees and costs known at the time of filing this request. A supplementary request may be filed at a later time, if necessary.)*

I request that the following **NORMAL FEES AND COSTS** be waived (not charged) by the court, or paid by the state, or that the court order that a document, service or object be substituted at no cost (or a lower cost, paid for by the state): *(Check all that apply and, in any "\$ ____" blank, indicate your best guess as to the cost, **if known.**)*

- Filing fee and any surcharge. \$ _____
- Filing fee and any surcharge for appeal. \$ _____
- Fees or costs for serving court summons, witness subpoenas or other court papers. \$ _____

Other fees or costs of \$ _____ for (specify): _____

Substitution (specify): _____

SECTION 3: I request that the following **EXTRA FEES AND COSTS** either be waived (not charged), substituted or paid for by the state:

Cost, \$ _____, of expert services for testing, examination, testimony or other assistance (specify): _____

Cost, \$ _____, of taking and/or transcribing a deposition of (specify name of person): _____

Cassette copies of tape recording of trial or other proceeding, needed to prepare appeal for applicant **not** represented by Committee for Public Counsel Services (CPCS-public defender).

Appeal bond

Cost, \$ _____, of preparing written transcript of trial or other proceeding

Other fees and costs, \$ _____, for (specify) _____

Substitution (specify) _____

Date signed	Signed under the penalties of perjury x _____
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By order of the Supreme Judicial Court, all information in this affidavit is CONFIDENTIAL. Except by special order of a court, it shall not be disclosed to anyone other than authorized court personnel, the applicant, applicant's counsel or anyone authorized in writing by the applicant.

This form prescribed by the Chief Justice of the SJC pursuant to G.L. c. 261, § 27B. Promulgated March , 2003

SUPPLEMENT TO AFFIDAVIT OF INDIGENCY

AND REQUEST FOR WAIVER, SUBSTITUTION
OR STATE PAYMENT OF FEES & COSTS

(Note: If you checked (C) on the AFFIDAVIT OF INDIGENCY, you must complete this form.)

_____ Court _____ Case Name and Number (if known)

Name of applicant _____

Address _____
(Street and number) (City or town) (State and Zip)

Under the provisions of General Laws, Chapter 261, Sections 27A-G, I swear or affirm as follows:

1. PERSONAL INFORMATION

(a) Date of Birth: _____

(b) Highest Grade Attained in School: _____

(c) Special Training: _____

(d) List any physical or mental disabilities which you wish to reveal and which affect your earning capacity or living expenses:

(e) Number of Dependents: _____

2. INCOME AFTER TAXES (monthly):

(a) If from employment, list your occupation and your employer's name and address:

(b) Source of income, if not from employment: _____

(c) My gross annual income for the past twelve months was: \$ _____

- (d) Gross Income (monthly): \$ _____
- (e) Taxes Deducted (monthly):
- | | |
|-----------------------|----------|
| Federal Tax | \$ _____ |
| State Tax | \$ _____ |
| Social Security | \$ _____ |
| Medicare | \$ _____ |
| Other Taxes (specify) | \$ _____ |
- Total Taxes Deducted \$ _____
- (f) Total Income After Taxes (*subtract 2(e) from 2(d)*): \$ _____
- (g) If any other member of your household is employed, list occupation and name and address of his/her employer and monthly income after taxes: _____
-

3. NET INCOME (monthly):

- (a) Income After Taxes (from Line 2(f)): \$ _____
- (b) Expenses (monthly):
- | | | | |
|------------------|----------|---------------------------------|----------|
| Rent or Mortgage | \$ _____ | Uninsured Medical Expenses | \$ _____ |
| Food | \$ _____ | Child Care | \$ _____ |
| Electricity | \$ _____ | Education Expenses for Children | \$ _____ |
| Gas | \$ _____ | Child Support | \$ _____ |
| Oil | \$ _____ | Clothing | \$ _____ |
| Water | \$ _____ | Laundry/Cleaning | \$ _____ |
| Telephone | \$ _____ | Car Insurance | \$ _____ |
| Health Insurance | \$ _____ | Transportation Expenses | \$ _____ |
- Other (*specify*): \$ _____
-
- Total Expenses \$ _____
- (c) Income After Taxes Minus Expenses (monthly) (*subtract 3(b) from 3(a)*): \$ _____

4. ASSETS

(a) Own home? _____ Market Value \$ _____
Balance owed \$ _____

(b) Own Car? _____ Year & Make _____
Market Value \$ _____ Balance Owed \$ _____

(c) Bank Accounts (specify type and balance) _____

(d) Other Property Including Real Estate (specify type and value) _____

5. DEBTS

(a) Specify: _____

6. MISCELLANEOUS

(a) Other facts which may be relevant to your ability to pay fees and costs?

Signed under the penalties of perjury:

Signature: _____

Type/Printed Name: _____

Address: _____

Date: _____

By order of the Supreme Judicial Court, all information in this affidavit is CONFIDENTIAL. Except by special order of a court, it shall not be disclosed to anyone other than authorized court personnel, the applicant, applicant's counsel or anyone authorized in writing by the applicant.

This form prescribed by the Chief Justice of the SJC pursuant to G.L. c. 261, § 27B. Promulgated March , 2003

DETERMINATION REGARDING FEES AND COSTS

Court

Case Name and Number

Name of Applicant

Address
(Street and number) (City of Town) (State and Zip)

FORTHWITH DETERMINATION BY CLERK (Register, Recorder)

ALLOWED FORTHWITH. The applicant's affidavit appears regular and complete on its face, indicates that the applicant is indigent, and requests waiver, substitution or payment by the Commonwealth of normal fees and costs only. Pursuant to G. L. c. 261, § 27C(2), the application is therefore **ALLOWED** forthwith without hearing, and the normal fees and costs indicated in the application are:

waived in full to be paid by the Commonwealth in the amount of \$

REFERRED TO A JUDGE. The applicant's affidavit does not satisfy all the conditions of § 27C(2), and is therefore referred to a judge pursuant to § 27C(3), because:

- The affidavit is not regular and complete on its face.
- The affidavit does not indicate that the applicant is indigent within the meaning of § 27A.
- The affidavit requests waiver, substitution or payment by the Commonwealth of **extra** fees and costs.

Comments:

Describe fees and costs waived:

Date Clerk-Magistrate/ Assistant Clerk (register, recorder/assistant)

X

DETERMINATION BY JUDGE **after hearing** **without hearing**

NORMAL FEES AND COSTS

The application is **ALLOWED** with respect to the normal fees and costs indicated in the application, and they are ordered:

waived in full. to be paid by the Commonwealth in the amount of \$_____.

waived in part. I find that it is within the applicant's limited financial means to pay a reduced amount of \$_____.

to be avoided by the provision of _____ to the applicant, pursuant to § 27F, as an alternative which is available at lower or no cost, is substantially equivalent and does not materially impair the rights of any party.

The application is **DENIED** with respect to the normal fees and costs indicated in the application, because I find that:

The applicant is not indigent within the meaning of § 27A.

Other:

Describe normal fees and costs waived:

EXTRA FEES AND COSTS

The application is **ALLOWED** with respect to the extra fees and costs indicated in the application, and they are ordered:

waived in full. to be paid by the Commonwealth in the amount of \$_____.

waived in part. I find that it is within the applicant's limited financial means to pay a reduced amount of \$_____.

to be avoided by the provision of _____ to the applicant, pursuant to § 27F, as an alternative which is available at lower or no cost, is substantially equivalent and does not materially impair the rights of any party.

The application is **DENIED** with respect to the extra fees and costs indicated in the application, because I find that:

The applicant is not indigent within the meaning of § 27A.

The document, service or object is not reasonably necessary to assure the applicant as effective a prosecution, defense or appeal as if the applicant were financially able to pay.

Other:

Describe extra fees and costs waived:

Date Judge

X

The applicant may appeal denial of this application by filing a notice of appeal with the clerk (register, recorder) of this court within 7 days from notice of denial.

IMPOUNDED - CONFIDENTIAL

COMMONWEALTH OF MASSACHUSETTS

_____ Court

NO. _____

INFORMATION FOR THE INMATE/APPLICANT: You have requested that the _____ Court waive the filing fees and (normal) costs and allow you to proceed as an indigent plaintiff. You are required to provide the court with information about your finances so that the court can determine whether you are unable to pay the fee or to make partial payments. You are required to sign this affidavit form under the penalties of perjury. This includes a statement that no action has been taken to hide assets. The court can dismiss the complaint if it finds that the claim of indigency is untrue. In addition, the court may impose costs on an inmate who intentionally files an affidavit that contains false information or that omits material information. You are also subject to loss of up to 60 days of good time earned or to be earned under G. L. c. 127, § 129C (for blood donation) or under c. 127, § 129D (for work, education or rehabilitation programs) if the court finds that the affidavit is frivolous and filed in bad faith in order to abuse the judicial process. See G. L. c. 261, § 29.

_____, Plaintiff(s)

v.

_____, Defendant(s)

INMATE'S AFFIDAVIT OF INDIGENCY AND REQUEST FOR WAIVER OF NORMAL FEES AND COSTS IN COMPLIANCE WITH GENERAL LAWS c. 261, § 29

Pursuant to General Laws c. 261, § 29, the applicant, _____, swears (or affirms) that the following information is true. (NAME)

SOCIAL SECURITY #: _____

DATE OF BIRTH: _____

INMATE IDENTIFICATION #: _____

CORRECTIONAL FACILITY: _____

ASSETS:

CASH: _____

MONIES IN BANK ACCOUNTS:

INMATE CANTEEN ACCOUNT: _____

OTHER INSTITUTIONAL ACCOUNT: _____

NON-PRISON ACCOUNT(S): _____

REAL ESTATE: _____

OTHER INVESTMENTS: _____

ACCESSIBLE ASSETS OF A SPOUSE: _____

INCOME:

LAST SIX MONTHS' INCOME: _____

___ INCOME EXPECTED IN NEXT SIX MONTHS: _____

LIABILITIES (for example, any debts you owe, including Victim/Witness fees, restitution fees, child support, other court-imposed costs, and costs assessed for incarceration and pre-release programs):

MONTHLY EXPENSES:

NECESSARY CANTEEN PURCHASES (for example, stamps, envelopes, soap, toothpaste and other toiletries, medications and clothing):

OTHER EXPENSES: _____

I state under penalties of perjury that the statements made in this affidavit are true, that I have not omitted any assets that are available to me to pay filing fees or court costs, that I have not transferred any assets to avoid payment of filing fees and costs, and that I have not taken any action nor has any action been taken on my behalf relative to any assets in order to avoid having such assets used for payment of filing fees and costs.

Signature of applicant: _____

DATE: _____

ALL INFORMATION CONTAINED HEREIN IS CONFIDENTIAL. EXCEPT BY SPECIAL ORDER OF A COURT, IT SHALL NOT BE DISCLOSED TO ANYONE OTHER THAN AUTHORIZED COURT PERSONNEL, PARTIES TO THIS LITIGATION OR THEIR COUNSEL, AND AN AUTHORIZED (IN WRITING) REPRESENTATIVE OF THE APPLICANT.

COMMONWEALTH OF MASSACHUSETTS

Court _____

Case number: _____
Civil Action

Case Name:

_____, Plaintiff(s)

v.

_____, Defendant(s)

**NOTICE OF WAIVER OF COURT COSTS AND REQUEST FOR PAYMENT TO BE
WITHDRAWN FROM ACCOUNT PURSUANT TO G. L. c. 261, § 29**

The prisoner/plaintiff in the above-captioned action has filed a motion to waive the filing fee and court costs (normal) and to proceed in forma pauperis. After reviewing the affidavit of indigency and the statement of inmate account provided by the correctional facility, the court hereby orders:

_____ The plaintiff is incapable of paying the filing fee and may proceed in forma pauperis.

_____ The plaintiff is ordered to pay a lump-sum partial payment of \$ _____ in order to proceed. The court further finds that requiring additional installment payments would create an undue administrative burden for the court.

_____ The plaintiff has sufficient funds such that an installment payment schedule would not be an administrative burden for the court. The plaintiff is ordered to pay the filing fee of \$ _____ in installments as follows:

\$ _____ for the first installment payment, which represents 20% of the preceding six months average balance in the prisoner's account. (Note: the balance in the account must be large enough so that the 20% payment is at least \$10. See G. L. c. 261, § 29.)

AND: in subsequent months, monthly payments representing 10% of the average monthly balance remaining in the prison's account until the fee is paid. (Note: the balance in the account must be large enough so that each 10% payment is at least \$10. See G. L. c. 261, § 29.)

The prisoner's name and case number must be noted on each remittance.

By the Court ()

Clerk or Assistant Clerk

Dated: _____

The undersigned prisoner/plaintiff authorizes the Commission of Correction or the County Sheriff AND the Superintendent of the facility where he or she is incarcerated to withdraw the payment(s) as ordered above and send it to the court. If installment payments are ordered, this authorization remains in effect for each monthly payment unless the undersigned revokes authorization in writing. This authorization is valid in any state or county correctional facility to which the prisoner may be transferred.

Prisoner/Plaintiff

Dated: _____

ALL PRISONERS MUST SEND A COPY OF THIS FORM TO THE SUPERINTENDENT OF THE FACILITY WHERE THEY ARE INCARCERATED AND TO THE COMMISSIONER OF CORRECTION (IF YOU ARE IN A STATE FACILITY) OR TO THE COUNTY SHERIFF (IF YOU ARE IN A COUNTY FACILITY).

COMMONWEALTH OF MASSACHUSETTS

Court _____

Case number: _____
Civil Action

Case Name:

_____, Plaintiff(s)

v.

_____, Defendant(s)

**ORDER TO COMMISSIONER OF CORRECTION OR COUNTY SHERIFF TO
PROVIDE CERTAIN INFORMATION REGARDING INMATE ACCOUNT RELATIVE
TO PLAINTIFF’S MOTION TO WAIVE FILING FEE AND PROCEED IN FORMA
PAUPERIS**

The plaintiff in the above-captioned action has filed a motion to waive the filing fee and court costs (normal) and to proceed in forma pauperis.

Pursuant to G. L. c. c.261, § 29, the correctional facility where the prisoner is currently incarcerated shall file a document showing the current status of the plaintiff’s canteen account and savings account, if any, and the account activity for the past six (6) months. The document shall be filed within thirty (30) days of the date of this order.

By the court

Clerk or Assistant Clerk

Dated: _____