

**FINANCIAL HEARINGS**  
**Court Determination of Amount and Manner of Payments**

**AUTHORITY:** 1203.1b PC (Cost of Probation, presentence investigation and report, jurisdictional transfer processing, or interstate compact supervision request processing; order for payment according to ability; hearing waiver; modification; enforcement; allocation of sums paid...)

**RESCINDS:** Procedure Manual Item 2-1-106, dated 03/16/09

**FORMS:**

Notice of Financial Hearing	F057-1330 AF (04/2006)
Notice of Financial Hearing	F057-1331 AF (04/2006)
Statement of Cost (Electronic Report)	(F057-9307)
Instructions to Adult Probationer	(F0502-1117)
Adult Financial Statement	(F057-1115AF)
Notice of Right to a Financial Hearing	(F057-9309.1AF)
Defendant's Waiver of Right to a Financial Hearing and Stipulation (Non-Restitution)	(F057-9252.1AF)
Defendant's Waiver of Rights for Stipulation and Restitution	(F057-9353AF)
Stipulation (Restitution Only)	(F057-9251AF)
Stipulation (Non-Restitution)	(F057-9248.1AF)
Restitution Determination Order	(F057-9351AF)
Financial Hearing Worksheet	(F057-9477AF)

**PURPOSE:** To outline the procedure for calendaring a financial hearing in Court to determine the amount and manner of payments when the defendant fails to sign a Waiver of Rights to a Financial Hearing and Stipulation.

**I. GENERAL INFORMATION**

- A. All cases assigned to the Adult Field Service and Special Function units are routed through collection staff to insure all Court ordered financial obligations are properly set up in the Probation Accounts Receivable System.
- B. At the conclusion of the initial indoctrination conducted by the assigned DPO, all probationers should be referred to the assigned Collection Officer.
- C. Pursuant to 1203.1b PC the probationer is advised of their right to a hearing to determine their ability to pay all or part of the financial obligations.
- D. If the probationer claims an inability to pay, a financial evaluation is conducted. Per 1203.1b (e) "ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs. This is to include the defendant's present financial condition, reasonably discernible future financial position (no more than one year from the date of the hearing), likelihood that the defendant shall be able to obtain employment within the one-year period from the date of the hearing, and any other factors.

- E. After review of the *Adult Financial Statement*, monthly payments are generally set based on the defendant's net disposable income (generally one-half), taking into consideration that financial obligations are to be paid off by the end of the term of probation.
- F. After a financial evaluation, if there is a dispute regarding the amount of the financial obligations or the monthly amount that is based on the defendant's ability to pay, the matter is referred to the assigned DPO to schedule a financial hearing.
- G. If for any reason the probationer does not sign a Waiver of Rights to a Financial Hearing and Stipulation he is entitled to a hearing to have the Court set the amount and manner of payment.
- H. The assigned DPO shall discuss with the defendant his/her financial obligations, the determined monthly payment, and his right to a hearing before sending the matter to Court.

## II. PROCEDURE

- A. The Financial Officer will complete the *Financial Hearing Worksheet* regarding the probationer's obligations and financial history. This worksheet along with other supporting documentation will be forwarded to the Deputy Probation Officer of record in order to set a Financial Hearing.
  - 1. The DPO will select the appropriate *Notice of Financial Hearing* template and complete it using the worksheet provided by the Financial Officer.
    - a. *Notice of Financial Hearing* F057-1330 is to be used when the Probation Department is unable to determine the defendant's ability to pay the court ordered financial obligations due to the defendant's failure to cooperate in a financial interview pursuant to PC1203.1b.
    - b. *Notice of Financial Hearing* F057-1331 is to be used when the probationer disagrees with the established payment amount and has requested that a determination of his ability to pay be made by the Court.
  - 2. Upon completion of the *Notice of Financial Hearing*, the document will be forwarded electronically to the Resident Probation Officer in the appropriate Court.
  - 3. The DPO will request the date of the hearing (which is placed on the *Notice of Hearing* form) be set at least 5 Court days in advance and notify all parties including the probationer.
  - 4. The DPO will attach the *Financial Hearing Worksheet*, the *Adult Financial Statement*, and *Statement of Costs* forms provided by the *Collection Officer*.

5. The assigned DPO should be prepared to testify in Court as to how the total amount of financial obligations were determined and the manner in which the payments should be made based on the probationer's ability to pay.
6. After the Financial Hearing has been completed, the DPO will print out a copy of the Register of Actions and forward a copy to the Financial Officer.

**REFERENCES:**

Procedures:	2-1-101	Adult Restitution
	1-5-231	Adult Non-Restitution
	1-5-212	Collection Officer Procedure Determination and Setup of Adult Restitution
	1-5-232	Conversion of Criminal Court Orders

Policies:	B-1	Case Confidentiality – Client's Right to Privacy
	E-7	Restitution

Attachment

C. Bieber:mas

**APPROVED BY:** Chris Bieber  
Division Director

May 26, 2010  
Date

**NOTICE OF FINANCIAL HEARING  
SUPERIOR COURT**

DEPT ##  
Date of Hearing at Time of Hearing a.m.

NAME:	LAST, First Middle	A-	
ADDRESS:	Street Address City, STATE Zip	COURT CASE #:	
		TELEPHONE:	
AKA:		WHEREABOUTS:	O/R
DPO:		ATTORNEY:	

**REASON FOR PETITION:** Defendant requested a hearing to determine his ability to pay financial obligations ordered by the court, pursuant to PC1203.1b.

**COURT STATUS:** The defendant was granted formal probation for a period of [ ] years on [ ].

**CASE REVIEW:** The defendant was ordered to pay \$ [ ] restitution, \$ [ ] fines, \$ [ ] penalty assessments, \$ [ ] fees, and cost of probation, based on ability to pay.

It was determined that the defendant has the ability to pay monthly payments in the amount of \$ [ ] per month. This was determined in an investigation interview conducted pursuant to 1203.1b PC. The defendant disagrees with the established payment amount and has requested that a determination of his ability to pay be made by the Court. The defendant refuses to sign a Waiver of Rights to a Stipulation for entry of judgment pursuant to section 1214PC

**RECOMMENDATION:** In view of the foregoing information, it is respectfully recommended that the defendant be ordered to pay \$ [ ] per month beginning [ ] to allow for full payment of the financial obligations within the period of time the defendant remains on probation.

Should the probationer fail to appear for this hearing, it is respectfully recommended that the probationer be ordered to pay his/her financial obligations in the amount of \$ [ ] per month.

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

Done this [ ] day of [ ], in Santa Ana, California.

**The probationer was notified in court on [ ] to appear for Financial Hearing on Date of Hearing at Time of Hearing a.m. in the [ ], [ ].**

**COLLEENE PRECIADO  
CHIEF PROBATION OFFICER**

By

**NOTICE OF FINANCIAL HEARING - DETERMINED**

**NOTICE OF FINANCIAL HEARING**

**SUPERIOR COURT**

, DEPT. ##

Date of Hearing at Time of Hearing a.m.

NAME:	LAST, First Middle	A-	
ADDRESS:	Street Address	COURT CASE #:	
	City, STATE Zip	TELEPHONE:	
AKA:		WHEREABOUTS:	O/R
DPO:		ATTORNEY:	

**REASON FOR PETITION:** Defendant has failed to cooperate in a financial investigation to determine his ability to pay financial obligations ordered by the court, pursuant to PC1203.1b.

**COURT STATUS:** The defendant was granted formal probation for a period of [ ] years on [ ].

**CASE REVIEW:** The defendant was ordered to pay \$ [ ] restitution, \$ [ ] fines, \$ [ ] penalty assessments, \$ [ ] fees, and cost of probation, based on ability to pay.

The Probation Department has been unable to determine the defendant's ability to pay the court ordered financial obligations due to the defendant's failure to cooperate in a financial interview, pursuant to section PC1203.1b

**RECOMMENDATION:** In view of the foregoing information, it is respectfully recommended that the defendant be ordered to pay \$ [ ] per month beginning [ ] to allow for full payment of the financial obligations within the period of time the defendant remains on probation.

Should the probationer fail to appear for this hearing, it is respectfully recommended that the probationer be ordered to pay his/her financial obligations in the amount of \$ [ ] per month.

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

Done this [ ] day of [ ], in Santa Ana, California.

**The probationer was notified in court on [ ] to appear for Financial Hearing on Date of Hearing at Time of Hearing a.m. in the [ ], [ ].**

**COLLEENE PRECIADO**  
CHIEF PROBATION OFFICER

By

**NOTICE OF FINANCIAL HEARING - UNDETERMINED**

F057-1330AF(11/2006)