BENJAMIN SALORIO

Public Defender

County of Imperial

DARREN BEAN

State Bar No. 240959

Deputy Public Defender

895 Broadway

El Centro, CA 92243

Telephone: (442) 265-1705

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Attorneys for Defendant,

DFIRST DLAST

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF IMPERIAL**

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| THE PEOPLE OF THE STATE OF CALIFORNIA,  Plaintiff,  vs.  DFIRST DLAST  Defendant. | )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) | Case No.: CASENO  **NOTICE OF MOTION AND**  **MOTION TO WAIVE FEES FOR A CERTIFIED BATTERERS PROGRAM BASED ON DEFENDANT’S FINANCIAL INABILITY TO PAY; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF**  **DARREN BEAN;**  **[PROPOSED] ORDER**  Date: HRGDATE  Time: HRGTIME  Dept: HRGDEPT |

**TO: THE CLERK OF THE COURT; THE DISTRICT ATTORNEY OF IMPERIAL COUNTY, GILBERT OTERO AND/OR HIS REPRESENTATIVE; TO CERTIFIED BATTER’S PROGRAMS UNDER PENAL CODE § 1203.097.**

NOTICE IS HEREBY GIVEN that at the above-captioned date and time or as soon thereafter as practicable, in the above-referenced court located at 939 Main St, El Centro, California, the above-captioned Defendant will and hereby does move the court for an order waiving all fees and costs associated with his court-mandated participation in a certified batterers program, pursuant to Penal Code § 1203.097(c)(P).

/ / /

This motion is based on this notice of motion, the papers and pleadings on file herein, the memorandum of points and authorities, and such other and further evidence, both oral and

documentary, as may be presented at the time of the hearing.

Dated: \_\_\_\_\_\_\_\_\_\_\_ Respectfully submitted,

BENJAMIN SALORIO

Public Defender

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

DARREN BEAN

Deputy Public Defender

Attorney for Defendant,

DFIRST DLAST

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF IMPERIAL**

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| THE PEOPLE OF THE STATE OF CALIFORNIA,  Plaintiff,  vs.  DFIRST DLAST  Defendant. | )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) | Case No.: CASENO  **MEMORANDUM OF POINTS AND AUTHORITIES**  Date: HRGDATE  Time: HRGTIME  Dept: HRGDEPT |

**MEMORANDUM OF POINTS AND AUTHORITIES**

1. **STATEMENT OF FACTS.**

As a term of probation in the above-entitled matter, Defendant has been ordered to complete an anger management program. (Bean Decl. ¶ 3.) Although Defendant desires to comply with the Court’s order, Defendant is unable to enroll in and/or complete the program due to a financial inability to pay.

1. **THE COURT HAS AUTHORITY TO WAIVE FEES FOR A CERTIFIED BATTERERS PROGRAM IF THE DEFENDANT DEMONSTRATES A FINANCIAL INABILITY TO PAY.**

“The batterer’s program shall develop and utilize a sliding fee scale that recognizes both the defendant’s ability to pay and the necessity of programs to meet overhead expenses.... Upon a hearing and finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee.” **(**Penal Code § 1203.097(c)(P).)

Batterer’s programs certified by Probation Department are required to comply with Penal Code § 1203.097(c)(P), which provides the court with authority to waive payments for indigent defendants. A court order will enable Defendant to enroll and complete the course.

1. **DEFENDANT’S FINANCIAL INABILITY TO PAY FOR THE PROGRAM JUSTIFIES GRANTING A FEE WAIVER.**

Defendant is unable to pay the costs to attend the batterer’s program. None of the certified batterers programs located within a reasonable distance from Defendant’s residence will waive their program fees without a Court order. (Bean Decl ¶ 5.) A statement of financial inability to pay is attached hereto as Exhibit “1.” Defendant respectfully requests that the Court make a finding that Defendant does not possess the financial ability to pay for the program and

enter into an order waiving the fees so Defendant can comply with the court’s order and complete

the program.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Respectfully submitted,

BENJAMIN SALORIO

Public Defender

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

DARREN BEAN

Deputy Public Defender

Attorney for Defendant,

DFIRST DLAST

BENJAMIN SALORIO

Public Defender

County of Imperial

DARREN BEAN

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Attorneys for Defendant,

DFIRST DLAST

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF IMPERIAL**

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| THE PEOPLE OF THE STATE OF CALIFORNIA,  Plaintiff,  vs.  DFIRST DLAST  Defendant. | )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) | Case No.: CASENO  **DECLARATION OF DARREN BEAN**  Date: HRGDATE  Time: HRGTIME  Dept: HRGDEPT |

**DECLARATION OF DARREN BEAN**

I, DARREN BEAN, hereby declare and state as follows:

1. I am an attorney at law, licensed to practice before all the courts of the State of California and I am an employee of the Imperial County Office of the Public Defender, counsel of record for Defendant in the above-captioned matter. I am familiar with this case, including all matters set forth in this declaration. If called to testify, I can and would competently testify based on my own personal knowledge, except for those matters which are based on information and belief.

2. I am making this declaration in furtherance of Defendant’s motion to waive fees for a certified batterers program so Defendant can attend and complete the program in compliance with Defendant’s terms of probation.

3. The terms of probation require Defendant to complete a 52-week certified batterers program.

4. Defendant recently represented that he was unable to afford an attorney by completing a financial declaration that should remain on file with the court. He has informed me that his financial situation has not changed significantly since completing the financial declaration, and therefore he is unable to afford to pay for the anger management classes. I have attached a declaration completed by Defendant as Exhibit A.

5. It is my understanding that none of the certified batterers programs located within a reasonable distance from Defendant’s residence will waive their program fees without a Court order.

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

Executed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, at El Centro, California.

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

DARREN BEAN, Declarant

BENJAMIN SALORIO

Public Defender

County of Imperial

DARREN BEAN

State Bar No. 240959

Deputy Public Defender

895 Broadway

El Centro, CA 92243

Telephone: (442) 265-1705

Fax: (442) 265-1706

Attorneys for Defendant,

DFIRST DLAST

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF IMPERIAL**

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| THE PEOPLE OF THE STATE OF CALIFORNIA,  Plaintiff,  vs.  DFIRST DLAST  Defendant. | )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) | Case No.: CASENO  **PROPOSED ORDER RE:**  NOTICE OF MOTION AND  MOTION TO WAIVE FEES FOR A CERTIFIED BATTERERS PROGRAM BASED ON DEFENDANT’S FINANCIAL INABILITY TO PAY  Date: HRGDATE  Time: HRGTIME  Dept: HRGDEPT |

IT IS HEREBY ORDERED THAT:

1. Pursuant to the Court’s authority in Penal Code § 1203.097(c)(P), the above captioned defendant’s motion requesting a fee waiver for a certified batterers program, is granted; and
2. All certified batterers programs, as described in Penal Code § 1203.097 in Imperial County are hereby ordered to provide 52 weeks of anger management classes, including enrollment and class sessions, to the defendant at no cost to him.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE OF THE SUPERIOR COURT

EXHIBIT A

**PROOF OF PERSONAL SERVICE**

# Case Name: People of the State of California v. DFIRST DLAST

Superior Court Case No.: CASENO

I am a citizen of the United States and a resident of the County of Imperial, State of California. I am over the age of 18 years and not a party to the within action. My office address is 895 Broadway El Centro, California 92243.

On the date of execution of this document, I personally served a true and correct copy of:

**NOTICE OF MOTION AND MOTION TO WAIVE FEES FOR A CERTIFIED BATTERERS PROGRAM BASED ON DEFENDANT’S FINANCIAL INABILITY TO PAY; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS;**

**EXHIBIT; [PROPOSED] ORDER**

to the following addressees:

Office of the Imperial County District Attorney HALL OF JUSTICE

940 W. Main Street #102 939 W. Main Street

El Centro, CA 92243 El Centro, CA 92243

Attention: Clerk of the Court

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

Executed on the\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, at El Centro, California.

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

Server