

RESTITUTION PROTOCOL

SUPERIOR COURT

September 5, 2006

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September 5, 2006

1.

Preamble

The Court has determined that a Restitution Protocol is necessary:

1. To insure the Court timely and efficiently issues approved sentence orders for restitution to assist victims who have been harmed;
2. To be able to produce at the time of sentencing immediately following a plea sentencing orders which contain all necessary restitution information;
3. To provide for an orderly and timely process for producing modified sentence orders when restitution due is determined after the original sentence has been pronounced; and
4. To confirm the responsibility of the Department of Justice to provide restitution information, particularly where no pre-sentence investigation has been ordered.

Process

I Immediate sentencing, restitution due is known and not disputed:

A. The State shall submit at the time of plea, a Report of Victim Restitution (Form A) along with the Plea Agreement. The Plea agreement shall contain any victim's name and the amount due to any victim. The Prothonotary shall place all the necessary information from the report on the restitution screen. In New Castle County report shall be handed to the Judge in a green envelope.

1. The clerk shall write the defendant's name and case number on the front of the envelope. The clerk shall also write on the envelope "To be opened by a Judge or the Accounting staff only," but the clerk shall not seal it.
2. The envelope unsealed and its contents shall be turned over to the Accounting staff. After noting the information, the Accounting staff shall seal the envelope.

B. The approved ASOP sentence order shall contain the amount of restitution due and to whom owed. It shall also state, where applicable, that the restitution obligation is joint and several.*

* It is the Court policy in co-defendant cases to order restitution liability to be joint and several.

II Immediate sentencing, restitution due is unknown, and to be researched by the State:

- A. The sentencing judge shall give the state a specific period of time, such as 30, 45,60 days within which to supply the court and the defendant with the amount of restitution it seeks.
- B. The original sentence order shall state that specific deadline.
- C. If the State informs the Court and the defendant that no restitution is due, the Court using the procedure outlined below, shall prepare a modified ASOP order to reflect that. The notice to the Court shall be in letter form (Forms B, C).
- D. If the State indicates that it is seeking restitution, it shall notify the Court by letter (Form D). The State must send a copy of this letter to defense counsel/defendant. The copy of the letter to the Court must include the Victim Loss and Restitution Statement (Form E). That form is not to be copied to the defense (contains confidential victim's information.).
 1. The letter gives the defendant 20 days within which to respond.
 2. In New Castle County, the State is to send copies of the letter and form to the head of the Accounting Department. Once Accounting gets the information it needs, then the form is to be placed in a green envelope with the Defendant's name and case number written on it. The Accounting staff shall write on the envelope "To be opened only by order of Judge or by Accounting staff."
 3. If there is no response within the 20 days or the defendant has indicated no opposition, the Judge will sign the State's letter, note "Approved" and date it. A modified ASOP order shall be done (the process for preparation of that order is set out in the attached instructions).
 4. If the defendant objects to the State's request, the sentencing judge shall undertake steps to resolve the matter. When such a resolution has been completed, the Judge shall issue an approved ASOP modified sentence order memorializing whatever is the result (utilizing the process contained in the attached instructions).
 5. Once the approved order has been issued, the State's letter and the Victim Loss Form shall be forwarded to the Accounting Department in accordance with the procedures outlined in the instructions.

6. The order is to be prepared:

- (a) In Sussex County by the Judges' secretaries.
- (b) In Kent County by the Case Managers.
- (c) In New Castle County by the persons designated in the instructions.

III When ISO is to determine restitution (only):

- A. ISO shall follow its normal procedures for determining restitution due.
- B. Once determined, ISO will prepare a draft modified ASOP order and forward it to the sentencing judge. If the judge approves, chambers staff will approve and print the order for signature and follow the usual process for distribution of copies.

IV Reports:

- A. The Court will prepare by the end of the 2nd week of every month a report for the prior month a listing of cases where the State has been directed to supply restitution information but has not yet done so. These reports will be provided to designated supervisory prosecutors in each county. They will also be supplied to the Criminal Administrative Judge in each respective county.
- B. The Court will prepare a report showing in which cases where it has the information from the State, where sufficient time has elapsed for the identification of such cases but there is no approved order in the system. This report will be sent to the Criminal Administrative Judge in the respective county.

2.



DEPARTMENT OF JUSTICE ~ STATE OF DELAWARE
REPORT OF VICTIM RESTITUTION
(IMMEDIATE SENTENCING ONLY)



STATE OF DELAWARE)

v.)

ID No. _____)

Cr. A. No. _____)

THIS REPORT IS NOT TO BE PLACED IN THE PROTHONOTARY'S PUBLIC FILE BUT IS FOR USE BY THE SENTENCING JUDGE AND ACCOUNTING DEPARTMENT ONLY.

(1) Name of Victim: _____

Address: _____

Phone Number: (H) _____ (W) _____

Total Amount of Restitution Required for this Victim: _____

If additional victims require restitution:

(2) Name of Victim: _____

Address: _____

Phone Number: (H) _____ (W) _____

Total Amount of Restitution Required for this Victim: _____

(3) Name of Victim: _____

Address: _____

Phone Number: (H) _____ (W) _____

Total Amount of Restitution Required for this Victim: _____

If recipient is VCCB or a bank, credit card or insurance company taking loss for victim:

Name of Recipient Company: _____

Address: _____

Local Contact: _____ Phone: _____

Policy/Account No.: _____ Claim No.: _____

Total Amount of Restitution Required for this Recipient: _____

 DEPUTY ATTORNEY GENERAL

 DATE

3.



STATE OF DELAWARE
DEPARTMENT OF JUSTICE



CARL C. DANBERG
Attorney General

NEW CASTLE COUNTY
Carvel State Building
820 N. French Street
Wilmington, DE 19801
Criminal Division (302) 577-8500
Fax: (302) 577-2496
Civil Division (302) 577-8400
Fax: (302) 577-6630
TTY: (302) 577-5783

KENT COUNTY
102 West Water Street
Dover, DE 19901
Criminal Division (302) 739-4211
Fax: (302) 739-6727
Civil Division (302) 739-7641
Fax: (302) 739-7652
TTY: (302) 739-1545

SUSSEX COUNTY
114 E. Market Street
Georgetown, DE 19947
(302) 856-5352
Fax: (302) 856-5369
TTY: (302) 856-2500

PLEASE REPLY TO:

SENTENCING JUDGE

RE: STATE V. DEFENDANT
I.D. # _____; CR.A. NO. _____

Dear Judge _____:

The above-captioned defendant entered a guilty plea and was sentenced on _____. At that proceeding, the Court ordered the State to provide the amount of restitution which may be required under 11 *Del. C.* §4106.

The State has investigated whether restitution is appropriate in this matter and determined that no restitution need be ordered in this case. Please accept this as the State's notice that no restitution is sought under 11 *Del. C.* §4106.

Thank you for the Court's consideration of the State's position in this matter.

Respectfully submitted,

Deputy Attorney General

Xc: Defense Counsel
Prothonotary

Form B

4.



STATE OF DELAWARE
DEPARTMENT OF JUSTICE



CARL C. DANBERG
Attorney General

NEW CASTLE COUNTY
Carvel State Building
820 N. French Street
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SUSSEX COUNTY
114 E. Market Street
Georgetown, DE 19947
(302) 856-5352
Fax: (302) 856-5369
TTY: (302) 856-2500

PLEASE REPLY TO:

SENTENCING JUDGE

RE: STATE V. DEFENDANT
I.D. # _____; CR.A. NO. _____

Dear Judge _____:

The above-captioned defendant entered a guilty plea and was sentenced on _____. At that proceeding, the Court ordered the State to provide the amount of restitution which may be required under 11 *Del. C.* §4106.

Consistent with its responsibilities under chapters 41 and 94 of Title 11, the State has made reasonable efforts to obtain such information but has received no response from the victim.

Accordingly, there is no request for restitution in this matter.

Thank you for the Court's consideration of the State's position in this matter.

Respectfully submitted,

Deputy Attorney General

Xc: Defense Counsel
Prothonotary

Form C

5.



STATE OF DELAWARE
DEPARTMENT OF JUSTICE



CARL C. DANBERG
Attorney General

NEW CASTLE COUNTY
Carvel State Building
820 N. French Street
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Criminal Division (302) 577-8500
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SUSSEX COUNTY
114 E. Market Street
Georgetown, DE 19947
(302) 856-5352
Fax: (302) 856-5369
TTY: (302) 856-2500

PLEASE REPLY TO:

SENTENCING JUDGE

RE: STATE V. DEFENDANT
I.D. # _____; CR.A. NO. _____

Dear Judge _____:

The above-captioned defendant entered a guilty plea and was sentenced on _____. At that proceeding, the Court ordered the State to provide the amount of restitution required under 11 Del. C. §4106. The State has determined that restitution in the following amounts is appropriate under the statute:

- \$ ____ for medical bills for (Victim) 's treatment at _____.
\$ ____ for property damage or loss to (Victim).
\$ ____ for monetary theft from (Victim).
\$ ____ - TOTAL RESTITUTION.

Documentation of these amounts, which includes the necessary victim or payee contact information as required by the Prothonotary's Accounting Department, is being forwarded to the Court with this letter.

Pursuant to the Court's restitution procedures, (Defense Counsel or Defendant) is being supplied with a copy of this letter. Under the Court's procedures, (Defense Counsel or Defendant) must inform the Court within 20 days of the defendant's position regarding the

State v. Defendant
I.D. # _____
Page ____

State's request. Lastly, under those procedures, IF THE COURT DOES NOT RECEIVE A RESPONSE TO THIS REQUEST FROM COUNSEL (OR THE DEFENDANT) IN THAT TIME, THE STATE'S REQUEST MAY BE DEEMED UNOPPOSED AND THE SENTENCING ORDER MODIFIED TO INCLUDE SUCH RESTITUTION.

Thank you for the Court's consideration of the State's position in this matter.

Respectfully submitted,

Deputy Attorney General

Xc: Defense Counsel
Prothonotary - Criminal

Form D

6.



DEPARTMENT OF JUSTICE ~ STATE OF DELAWARE
Victim Loss & Restitution Statement



THE FOLLOWING INFORMATION CONTAINED IN THIS COVER SHEET IS CONFIDENTIAL. IT MAY NOT BE RELEASED WITHOUT PERMISSION OF THE VICTIM, THE DEPARTMENT OF JUSTICE, OR THE COURT.

Case Information

Victim's Name: _____ Defendant's Name: _____
 Address: _____ Case Number: _____
 City: _____ Date of Offense: _____
 State & Zip: _____
 Date of Birth: _____ Work Phone: _____
 Home Phone: _____ Cell Phone: _____

Secondary Contact Information (please complete)

Contact's Name: _____ Telephone: _____
 Address: _____
 City: _____ State: _____ Zip: _____

I DECLARE THAT MY LOSS AS REPRESENTED IN THE ATTACHED IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND I UNDERSTAND THAT ANY FRAUDULENT CLAIM MAY SUBJECT ME TO CRIMINAL PENALTIES. I ALSO UNDERSTAND THAT THE COURT MAY NOT AWARD RESTITUTION FOR EVERYTHING INCLUDED IN THE ATTACHED STATEMENT.

THIS STATEMENT MUST BE RETURNED AS SOON AS POSSIBLE BUT NO LATER THAN 2 WEEKS AFTER RECEIPT. FAILURE TO DO SO MAY RESULT IN NO RESTITUTION BEING ORDERED BY THE COURT.

 Victim's Signature or Parent/Guardian's if Victim is under age 18

 Date

 Victim's Name (please print)

 Social Security Number of Victim or
 Parent/Guardian's if Victim is under 18

Social Security Number Disclosure Statement

Disclosure of your social security number is required so that each individual who is claiming restitution may be identified accurately. This disclosure is required pursuant to the State of Delaware Accounting Manual and 5 U.S.C. §552(a). The disclosure of your social security number is voluntary at this time. However, it is mandatory and will be required prior to you receiving any check. The State of Delaware cannot issue a check without receiving your social security number. Therefore, should you choose not to provide it at this time, you must provide it at a later date to receive a check. Your social security number is necessary for accounting and tax reporting purposes, as required by State and Federal law. Your social security number as set forth on this form will be part of the record maintained by the Court and any criminal justice agency involved in the criminal justice process, as well as any accounting or other State agency necessary to process the payment of any restitution.

YOU MUST ATTACH COPIES (NOT ORIGINALS) OF ALL BILLS, RECEIPTS, ESTIMATES OR OTHER VERIFICATION OF LOSSES.

Return to: **New Castle County Cases**
 Department of Justice
 Victim Witness Unit
 820 N. French St., 7th Floor
 Wilmington, DE 19801

Kent County Cases
 Department of Justice
 Victim Witness Unit
 102 W. Water St.
 Dover, DE 19904

Sussex County Cases
 Department of Justice
 Victim Witness Unit
 114 E. Market St.
 Georgetown, DE 19947



DEPARTMENT OF JUSTICE ~ STATE OF DELAWARE
Victim Loss & Restitution Statement



Defendant's Name: _____

Victim's Name: _____

Case Number: _____

A) Property/Monetary Loss ~ personal items damaged or stolen (if not applicable, skip to B)

Description of Stolen or Damaged Property	Purchase Date and Price	Market Value Actual value of property at the time of the crime	Replacement Value Use <i>only</i> if Market Value cannot be determined	Was it recovered or repaired?

1. Was the property insured? Yes No

2. Have you submitted a claim to your insurance company? Yes No

3. Insurance Information:

a. Policy number: _____

b. Claim number: _____

c. Insurance company: _____

d. Claims adjuster/agent: _____

e. Telephone number: _____

4. Please state your insurance deductible, if any: \$ _____

5. State the amount paid by insurance: \$ _____



DEPARTMENT OF JUSTICE ~ STATE OF DELAWARE
Victim Loss & Restitution Statement



6. Did this crime involve theft from your bank account or credit card? (if NO, skip to #8) Yes No
7. If YES, please provide:
- a. Name & Address of your bank or credit card company: _____

- b. Local contact person: _____
- c. Account #: _____
- d. Amount covered by bank or credit card company: \$ _____
8. Total amount of restitution requested for Section A: \$ _____

B) Personal Injury (including emotional or mental trauma) (If not applicable, skip to C)

Please describe injury: _____

1. Was medical attention received? Yes No
2. Did you seek professional counseling for any emotional effects from the crime? Yes No
3. Health Care insurance information:
- a. Policy number: _____
- b. Insurance company: _____
- c. Address of company: _____

4. Were your expenses covered by insurance? Yes No
5. If yes, amount paid by insurance? \$ _____
6. Amount not covered by insurance, including co-payments? \$ _____



DEPARTMENT OF JUSTICE ~ STATE OF DELAWARE
Victim Loss & Restitution Statement



7. Have you filed a claim with the *Violent Crimes Compensation Board*? Yes No

(If you sustained personal injury (physical or emotional) you *may be* eligible for assistance from the Violent Crimes Compensation Board, call 302-995-8383 for more information.)

8. If yes, were you compensated for any losses? Yes No

9. If yes, please state for *what* and *the amount*: _____

C) Other Related Expenses ~ expenses you may have incurred, not previously covered on the form
 (*lost wages, costs associated with court appearance, etc.*)

Expenses/Loss Incurred:	Value of Expense/Loss:
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

7.

RESTITUTION SUBMITTED AT TIME OF PLEA / SENTENCE

At the time of immediate sentence after PLEA, the Deputy Attorney General hands the clerk/case manager in the Courtroom the Forms with the Victim's restitution amounts and other information so that the clerk/case manager can enter the information into the ASOP sentence screens and then place forms in Green envelope and handwrite the Defendant's name, case number and write : Restitution Information on the front of the envelope as well as write- NOT TO BE OPENED UNLESS BY ORDER OF THE JUDGE or ACCOUNTING UNIT and hand the envelope up to the Judge.

After the sentence is pronounced, the Judge will hand the forms and the green envelope back to the clerk/case manager to be placed in the file.

Once the file goes back to the Prothonotary's office, the Green Envelope is to be given to the Head of the Accounting Unit to ensure that all information is in Accounting system. The envelope is then sealed and placed back in file.

8.

RESTITUTION SUBMITTED AT TIME OF VERDICT/SENTENCE

At the time of immediate sentence after VERDICT, the Deputy Attorney General hands the clerk/case manager in the Courtroom the Forms with the Victim's restitution amounts and other information so that the clerk/case manager can enter the information into the ASOP sentence screens and then place forms in Green envelope and handwrite the Defendant's name, case number and write : Restitution Information on the front of the envelope as well as write- NOT TO BE OPENED UNLESS BY ORDER OF THE JUDGE or ACCOUNTING UNIT and hand the envelope up to the Judge.

After the sentence is pronounced, the Judge will hand the forms and the green envelope back to the clerk/case manager to be placed in the file.

Once the file goes back to the Prothonotary's office, the Green Envelope is to be given to the Head of the Accounting Unit to ensure that all information is in Accounting system.

The envelope is then sealed and placed back in file.

9.

OMITTED

10.

Judicial Secretary
Instructions on doing Modified Sentence Order for Restitution
Prior to a VOP order being done

- If the Memo from the DAG office is filed in the Prothonotary's office, the restitution memo gets docketed and then gets sent to Judges secretary.
- The Judges secretary tickles the restitution memo for 20 days. If there is no response from Defense counsel at the end of the 20 days, then the he/she gives the memo to the Judge for approval.
- If the defense counsel sends a response earlier than 20 days with no opposition the DAG memo, then send information to Judge for approval.
- If the defense counsel files a response in opposition, then a restitution hearing gets scheduled.
- If no opposition the Judge then writes the date he/she is approving that a modified order be done this is usually done on the right side in the middle of the memo and the secretary prepares the Sentence order with instructions attached.
See sample of notes on Restitution memo.
- Once the secretary does the order, then he/she gets the Judge to sign the order and then the Order goes to the Clerk/Case manager for distribution. The clerk/case manager gives a copy of the sentence order to the Accounting Unit and puts the restitution information in a Green envelope and writes on the front of the envelope: RESTITUTION INFORMATIONL- Defendant's name, case number and writes that this envelope is NOT TO BE OPENED UNLESS BY ORDER OF THE JUDGE or Accounting unit.
The green envelope does not get sealed unit the Accounting unit is finished with information inside.
- Once the Accounting Unit enters all information into their system, then the green envelope gets sealed and placed back in the file.

11.

Clerk/Case Manager
Instructions on doing Modified Sentence Order for Restitution
Prior to a VOP order being done

- If the Memo from the DAG office is filed in the Prothonotary's office, the restitution memo gets docketed and then gets sent to Judges secretary.
- The Judges secretary tickles the restitution memo for 20 days . If there is no response from Defense counsel at the end of the 20 days, then the he/she gives the memo to the Judge for approval.
- If the defense counsel sends a response earlier than 20 days with no opposition the DAG memo, then send information to Judge for approval.
- If the defense counsel files a response in opposition, then a restitution hearing gets scheduled.
- If no opposition the Judge then writes the date he/she is approving that a modified order be done this is usually done on the right side in the middle of the memo. See sample of notes on Restitution memo.
- Once the Judge approves the Restitution memo, then the memo gets sent to the Sentence Clerk/Case Manager for a modified Sentence order to be prepared.
- Once prepared, the Sentence Order gets sent back up to chambers for Judges signature.
- Once the Judge has approved the sentence order, it then goes back to the Clerk/Case Manager for distribution and the restitution memo gets put into a green envelope, and Defendant's name, case number, RESTITUTION INFORMATION and the working: Not to be opened unless by order of the Judge or Accounting unit and the envelope and a copy of the Sentence order is given to the Head of Accounting unit.
- Once the Accounting Unit enters all information into their system, then the green envelope gets sealed and placed back in the file.

12.

Modified for Restitution Only

(Attorney General's Office)

3/9/2005

Purpose: To create a modified sentence order when the Attorney General's Office determines restitution and notifies the sentencing Judge

Procedure:

1. Enter ASOP.
2. Click on the **CASE** tab and drop down to **SENTENCING** to open the initial data entry screen.
3. Enter the case number under **CASE SELECTION** and click on **RETRIEVE** or press **ENTER**. Doing this brings up the sentence orders that have been previously done for that case.
4. Verify that the retrieved case and name match the case number that you entered.
5. Highlight the desired ASOP or CMS order. If the original order was created using ASOP, begin the process of creating a new order in ASOP as described under ASOP below. If the original order was created using CMS, begin the process of creating a new order in ASOP as described under CMS below:
 - a. ASOP
 - i. Click on the box labeled **MODIFY** which is located just above and to the right of the highlighted line.
 - ii. When the information for the new modified order appears, change the **SENTENCE** date, the **EFFECTIVE** date, and the **ORIGINAL** date, as follows:

Sentence date = Date the modified order is created.
Effective date = Original Effective date, i.e., the
effective date of the order being modified
Original date = Date of the original sentence order.
 - iii. Click on the **CUSTODY** tab.
 1. Delete all custody information, including the "Z" as the first logical operator.
 2. Enter "RES" as the first logical operator – nothing else.
 - iv. Click on the **SPECIAL CONDITION** tab.
 1. Enter **OVERALL** as the Category, and
 2. Enter Restitution Only as the Operator
 - iv. Go to Step 6.
 - b. CMS

- i. Use the drop down menus in the **YOU MAY CREATE A NEW ORDER** section to select a **STD STD MO** order.
 - ii. Click once on the **NEW** box to begin the modified order
 - iii. When the information for the new modified order appears, change the **SENTENCE** date, the **EFFECTIVE** date, and the **ORIGINAL** date, as follows:
 - Sentence date = Date the modified order is created
 - Effective date = Date the modified order is created
 - Original date = Date of the original sentence order
 - iv. Click on the **CUSTODY** tab.
 1. Enter "RES" as the first logical operator. There should be no other entries in the Custody portion.
 - v. Click on the **SPECIAL CONDITION** tab.
 1. Enter **OVERALL** as the Category, and
 2. Enter **RESTITUTION ONLY** as the Operator

6. If the original ASOP or CMS order has not been approved, you will receive a warning message. When this happens, click on **NO** and research the original order to identify the problem, have it corrected, and get the original order approved before continuing on with the modified order. Once you have the order approved, repeat steps 1 - 5 and then continue on with steps 7 - 14.

7. Click on the **FINES AND COSTS** tab:
 - a. Delete the information (agency and number of days) found in the **TO BE DETERMINED BY** section.
 - b. Click on the **DETAIL** box to enter applicable information in the **RESTITUTION DETAIL** screen.
 - c. To Enter/Correct information of an existing victim:
 - i. Highlight a victim's name; click on the **UPDATE DATA** box, and enter/correct the existing data.
 1. For restitution amounts, no decimal point is entered unless the amount includes cents, i.e., \$500 is entered as 500 and \$500.25 is entered as 500.25.
 2. For AG account number or claim number, limit character to 20. If you enter more than 20 characters, all information will be deleted. A request to JIC to expand the field is on file.
 - ii. If the victim's address is available but has not been entered, update the victim's address information using the process described in "8. c. i." above.

- b. If no victim is listed or you want to add a victim to the list:

- i. Click on the **ADD VICTIM** box and enter data into the data entry screen.
 - c. Save information after entering/correcting/adding information for each victim by clicking on the **POST** box to the left of the screen.
 - d. If you have more than one addition or update, repeat steps “8. c. through e.” above.
 - e. When all restitution detail information is entered and saved, click on the **POST** box at the bottom of the page to save the information a final time.
9. After completing all changes to the Fines and Costs portion of the order, create a note in the “Notes” section as follows:

- a. Click on the **NOTES** box in the upper/center section of the ASOP page.

- b. Notes should be kept short and to the point.

Restitution information is included within the order. Because notes should contain only necessary information, do not list all victims in the note if you have more than 4 victims. Instead refer in your notes to the restitution listing created in ASOP and attached to the order

- c. If no previous note exists:

- i. Enter “Modified Order” on the first line of the note
- ii. On the next line enter “And now this ____ day of ____, 200X, the sentence order of (date of the order being modified) is hereby modified to reflect that restitution is ordered payable to (name of victim) in the amount of (amount). All other terms and conditions previously imposed remain in effect.”
- iii. After the last line of the note, enter down twice and place a series of 8 - 10 “=” symbols - this is to keep this note separate from future notes.
- iv. Then click **OK** to exit Notes and return to the Sentence Order Entry Screen.

- d. If a previous note exists, enter the following **AFTER** the last note:

- i. A series of 8 - 10 “=” symbols - this is to keep this note separate from past notes.
- ii. Enter “Modified Order:” on the next line.
- iii. On the next line enter: “And now this ____ day of ____, 200X, the sentence order of (date of the order being modified) is hereby modified to reflect that restitution is ordered payable to (name of victim) in the amount of (amount). All other terms and conditions previously imposed remain the in effect.”
- iv. After the last line of the note, enter down twice and place a series of 8 - 10

- “=” symbols - this is to keep this note separate from future notes.
- v. Then click **OK** to exit “Notes” and return to the Sentence Order Entry Screen.

10. Once you are done making all changes and adding notes, click on the **PREVIEW** box to review the contents and structure of the order prior to printing out the order for proofreading by the judge.
 - a. Review the Financial Summary Page carefully. The financial summary of the modified order should equal the total of the original order PLUS the restitution amount. If this is not the case, return to the **COST** and **FINES** tab and adjust as necessary.
11. After a final review of the order, press the **PRINTER** button at the bottom of the preview screen. Then, attach the unapproved copy of the modified sentencing order to the letter or e-mail from the Attorney General’s Office and give it to the judge to proofread. After the judge ok’s the unapproved draft, you can approve it.
12. Send it to the judge for approval or approve/gavel the order by doing the following
 - a. Repeat steps 1- 4. Also, make sure your printer has the correct paper in it for printing out approved orders.
 - b. Click on the unapproved order to highlight it and then click on the **PREVIEW** box to bring up the preview screen.
 - c. At the bottom of the preview screen, enter the appropriate judge’s ID number and click on the **GAVEL**.
 - d. Select the number of copies you want to print and click on the **PRINTER** button. You will get a message window; click on **OK** so your order prints.
13. Once you are done, you can click on **CANCEL** to return to the ASOP Sentence Order Entry page, or you can click **CLOSE** in the lower right hand corner to return to the ASOP Sentencing History page and begin another order by starting with step 3, or click on **CLOSE** and **EXIT** to exit out of ASOP.
14. After the modified order is approved and signed by the judge, attach it to the original documentation from the Attorney General’s Office and send it to the sentencing clerk with a note requesting the clerk to docket, copy, and distribute as needed.

It is important that all orders are proofread and all changes are made prior to approving orders. If not, a corrected order will have to be done to correct any errors after the modified order has been approved*

Modified for Restitution Only

DRAFT

5/10/2005

Use After
Original when a
Sentence
(mod order)

Purpose: To create a modified sentence order "For Restitution Only."

Procedure:

1. Review the docket to analyze the current situation of the case, including whether it's open or closed, whether or not the defendant has been discharged from probation ON THE CASE being modified, and whether or not something happened subsequent to the case being closed or the defendant being discharged that could affect whether or not the terms and conditions of the sentence order will remain in effect.
 - a. Is the case open?
 - i. If yes, the case is to remain open after completion of the modified order.
 - ii. Go to Step 1.b.
 - iii. If no, open the case using the "Event Driver" option in CMS using the attached procedures or ask the case manager to open it.
 - iv. Go to Step 1.b.
 - b. Is restitution owed?
 - i. If yes, go to Step 1.c.
 - ii. If no, and the case was previously closed, the case should be closed again after the judge approves the modified order. Include this instruction in your e-mail to the judge's secretary so the judge's secretary will notify the case manager. Whether or not the case was previously closed, go to Step 2.
 - c. Has the defendant been discharged from probation?
 - i. If yes and restitution is owed, you will refer the case to OSCEE for collection when entering Special Conditions as described below.
 - ii. If no, case is not referred to OSCCE for collection under Special Conditions.
 - d. Take note of "yes" or "no" answer so you can refer to your note when completing "Special Conditions" and "Notes"
2. Enter ASOP
3. Click on the **CASE** tab and drop down to **SENTENCING** to open the initial data entry screen.
4. Enter the case number under **CASE SELECTION** and click on **RETRIEVE** or press **ENTER**. Doing this brings up previously completed sentence orders for this case – except those entered only on the docket.
5. Verify that the retrieved case and name match the case number that you entered.
6. Verify that the case is open/pending. If no, see Step 1.a.iii. If yes, got to Step 7

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7. Highlight the desired **ASOP** or **CMS** order,
 - a. If there is **ONLY** an original ASOP order listed, highlight the ASOP order and go to Step 8.
 - b. If an original ASOP or CMS order was modified or corrected in ASOP for something other than restitution, highlight the most recently completed modified, or corrected order that includes **TO BE DETERMINED BY** information in the order and go to Step 8.
 - c. If there is at least one ASOP order and a VOP, highlight the most recent ASOP order that includes **TO BE DETERMINED BY** information in the order and go to Step 8.
 - d. If there is **ONLY** an original CMS order listed and no ASOP order(s) other than a VOP, highlight the CMS order and go to Step 9.
 - e. If there is a CMS order **AND** subsequent order(s) in ASOP that do **NOT** include **TO BE DETERMINED BY** information, highlight the most recent ASOP order (that is **NOT** a VOP) and go to Step 10.

8. **ASOP** – Original ASOP order only

- a. Click on the icon labeled **MODIFY**
 - i. If the original ASOP or CMS order has not been approved, you will receive a warning message. If this happens, click on **NO** and research the original order to identify the problem, have it corrected, and get the original order approved before creating a modified order
- b. When the information for the new modified order appears, change the **SENTENCE** date, the **EFFECTIVE** date, and the **ORIGINAL** date, as follows:

Sentence date = Date the modified order is created.

Effective date = Original effective date, i.e., the effective date of the order being modified

Original date = Date of the original sentence order, i.e., the order being modified.

c. Click on the first charge

- i. Do **NOT** change Custody
- ii. Click on the **SPECIAL CONDITION** tab.
 1. If the defendant has **NOT** been discharged from probation:
 - a. Enter **OVERALL** as the Category, and
 - b. Enter **RESTITUTION ONLY** as the Operator
 2. If the defendant has been discharged from probation:
 - a. Enter **OVERALL** as the Category, and
 - b. Enter **RESTITUTION ONLY** as the Operator
 - c. Enter **FINOBL** as another Category, and
 - d. **OSCCE** as the Operator.
 - e. Repeat Step 8a.ii. for each charge.

iii. Go to Step 11

9. **CMS** – Original CMS order only

- a. Use the drop down menus in the **YOU MAY CREATE A NEW ORDER**

section to select a **STD STD MO** order.

- b. Click once on the **NEW** box to begin the modified order.

NOTE: If the original ASOP or CMS order has not been approved, you will receive a warning message. If this happens, click on **NO** and research the original order to identify the problem, have it corrected, and get the original order approved before creating a modified order

- c. When the information for the new modified order appears, change the **SENTENCE** date, the **EFFECTIVE** date, and the **ORIGINAL** date, as follows:

Sentence date = Date the modified order is created.

Effective date = Date of the original sentence order, i.e., the order being modified.

Original date = Date of the original sentence order, i.e., the order being modified.

- d. Was the original CMS order bundled with other case numbers?
 - i. If no, go to Step 9. e.
 - ii. If yes, bundle the cases on the new ASOP order by clicking on the “Bundle” icon and entering the other case number. If there are more than two cases bundled, click on the “Bundle” icon and enter the next case number. Repeat as needed.
- e. Click on the **CUSTODY** tab.
 1. Enter “RES” as the first logical operator – **nothing else**.
 2. SAVE
 3. Click on the next charge – if any
 4. Repeat Step 9.d.i. for each charge
 - ii. Click on the **SPECIAL CONDITION** tab.
 1. If the defendant has NOT been discharged from probation:
 - a. Enter OVERALL as the Category, and
 - b. Enter RESTITUTION ONLY as the Operator
 2. If the defendant has been discharged from probation:
 - a. Enter OVERALL as the Category, and
 - b. Enter RESTITUTION ONLY as the Operator
 - c. Enter FINOBL as another Category, and
 - d. OSCCE as the Operator.
 - iv. Go to Step 11.

10. CMS Order with a subsequent order in ASOP

- a. Click on the box labeled **MODIFY**
 - i. If the original ASOP or CMS order has not been approved, you will receive a warning message. If this happens, click on **NO** and research the original order to identify the problem, have it corrected, and get the original order approved before creating a modified order
- b. When the information for the new modified order appears, change the **SENTENCE** date, the **EFFECTIVE** date, and the **ORIGINAL** date, as follows:

Sentence date = Date the modified order is created.

Effective date = Date the modified order is created.

Original date = Date of the original sentence order, i.e., the order being modified.

- c. Click on the first charge
- d. Click on the **CUSTODY** tab
 - i. Delete ALL previously entered custody information from the custody page
 1. Delete ALL information from the custody grid by:
 - a. Highlighting the first line of the grid
 - b. Tabbing to and then deleting each block within the line
 - c. Repeat as needed
 - d. Enter "RES" as the first logical operator – nothing else
 - e. Repeat as needed
- e. Repeat Step 10.c.through d.i.1.a.b.c.d. for each charge
- f. Click on the **SPECIAL CONDITION** tab
 - i. If the defendant has NOT been discharged from probation:
 1. Enter OVERALL as the Category, and
 2. Enter RESTITUTION ONLY as the Operator
 - ii. If the defendant has been discharged from probation:
 1. Enter OVERALL as the Category, and
 2. Enter RESTITUTION ONLY as the Operator
 3. Enter FINOBL as another Category, and OSCCE as the Operator
- g. Go to Step 11

11. Click on the **FINES AND COSTS** tab:

- a. If the order being modified was an ASOP order, delete the information (agency and number of days) found in the **TO BE DETERMINED BY** section.
- b. Click on the **DETAIL** box to enter applicable information in the **RESTITUTION DETAIL** screen.
- c. To Enter/Correct information of an existing victim:
 - i. Highlight a victim's name; click on the **UPDATE DATA** box, and enter/correct the existing data.
 1. For restitution amounts, no decimal point is entered unless the amount includes cents, i.e., \$500 is entered as 500 and \$500.25 is entered as 500.25.
 2. For AG account number or claim number, limit character to 20. If you enter more than 20 characters, all information will be deleted. A request to JIC to expand the field is on file.
 - ii. If the victim's address is available but has not been entered, update the victim's address information using the process described in "8.

- c. i." above.
 - d. If no victim is listed or you want to add a victim to the list:
 - i. Click on the **ADD VICTIM** box and enter data into the data entry screen.
 - e. Save information after entering/correcting/adding information for each victim by clicking on the **POST** box to the left of the screen.
 - f. If you have more than one addition or update, repeat steps "8. c. through e." above.
 - g. When all restitution detail information is entered and saved, click on the **POST** box at the bottom of the page to save the information a final time.
12. After completing all changes to the Fines and Costs portion of the order, create a note in the **NOTE** section as follows:

- a. Click on the **NOTES** box in the upper/center section of the ASOP page
- b. Notes should be kept short and to the point.

Restitution information is included within the order. Because notes should contain only necessary information, do not list all victims in the note if you have more than 4 victims. Instead refer in your notes to the restitution listing created in ASOP and attached to the order

- c. If no previous note exists:
 - i. Enter "Modified Order" on the first line of the note
 - ii. On the next line enter "And now this ____ day of ____, 200X, the sentence order of (date of the order being modified) is hereby modified to reflect that restitution is ordered payable to (name of victim) in the amount of (amount). If restitution is NOT owed change wording to reflect this situation and include the reason.
 - iii. If the defendant is NOT off probation or is NOT actively paying an obligation to the Courts, add "All terms and conditions from prior sentence order(s) shall remain in effect as previously ordered."
 - iv. After the last line of the note, enter down twice and place a series of 8 - 10 "=" symbols - this is to keep this note separate from future notes.
 - v. Then click **OK** to exit Notes and return to the Sentence Order Entry Screen.
- d. If a previous note exists, enter the following **AFTER** the last note:
 - i. A series of 8 - 10 "=" symbols - this is to keep this note separate from past notes.
 - ii. Enter "Modified Order:" on the next line.
 - iii. On the next line enter: "And now this ____ day of ____, 200X, the sentence order of (date of the order being modified) is hereby modified to reflect that restitution is ordered payable to (name of victim) in the amount of (amount). If restitution is NOT owed change wording to reflect this situation and include the reason.
 - iv. If the defendant is NOT off probation and/or is NOT actively paying an

obligation to the Courts, add "All terms and conditions from prior sentence order(s) shall remain in effect as previously ordered."

- v. All terms and conditions from prior sentence order(s) shall remain in effect as previously ordered."
- vi. After the last line of the note, enter down twice and place a series of 8 - 10 "=" symbols - this is to keep this note separate from future notes.
- vii. Then click **OK** to exit "Notes" and return to the Sentence Order Entry Screen.

13. Click on the **PREVIEW** box to review the contents and structure of the order and Review the Financial Summary Page carefully. The financial summary of the modified order should equal the total of the order being modified **PLUS** the restitution amount. If this is not the case, return to the **FINES an COSTS** tab and adjust as necessary.

It is important that all orders are proofread and all changes are made prior to approving orders. If not, a corrected order will have to be done to correct any errors after the modified order has been approved.

**** All procedures are subject to change based on the wishes of the sentencing judge ****

Modified for Restitution Only
(Investigative Services)

Purpose: To review and approve a Standard/Standard/Modified Sentence Order when Investigative Services creates the modified order, and notifies the sentencing judge/secretary that the modified order is complete and ready for approval.

Procedure:

1. Enter ASOP.
2. Click on the **CASE** tab and drop down to **SENTENCING** to open the initial date entry screen.
3. Enter the case number under **CASE SELECTION** and click on **RETRIEVE** or press **ENTER**. Doing this brings up the sentence orders that have been previously done for that case.
4. Verify that the retrieved case and name match the case number that you entered.
5. Click on the line to highlight the desired ASOP order.
6. Click on **EDIT** and go to **COST AND FINES** to make sure the ISO/PSO information and days in the **TO BE DETERMINED BY** section are deleted.
7. Click on **PREVIEW** box to review the contents and structure of the order. Verify that the Total figure on the financial summary page of the modified order is equal to the Total figure on the original financial summary page, plus (+) the restitution figure.
8. Contact Investigative Services if the financial summary page is incorrect or the information in the modified order does not reflect the information in the e-mail sent by them. A judge's secretary should not change a modified order created by Investigative Services.
9. Once you are done reviewing the order, approve/gavel the order by doing the following:
 - a. Make sure your printer has the correct paper in it for printing out approved orders.
 - b. At the bottom of the preview screen, enter the appropriate Judge=s ID number and click on the **GAVEL**.

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c. Select the number of copies you want to print and click on the **PRINTER** button. You will get a message window, click on **OK** until your order print

10. Once your are done, you can click on **CANCEL** to return to the ASOP Sentence Order Entry page, or you can click on **CLOSE** in the lower right hand corner to return to the ASOP Sentencing History page and begin another order by starting with step 3, or click on **CLOSE** and **EXIT** to exit out of ASOP.

11. Once the modified order is approved and signed by the judge, attach it to the e-mail from Investigative Services and send it to the sentencing clerk with a note requesting the clerk to docket, copy, and distribute as needed.

****It is important that all orders are proofread and all changes are made prior to approving the orders. If not, a corrected order will have to be done later to correct any errors after the modified order has been approved****

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

VS.

JOHNNY W EWELL

Alias: See attached list of alias names.

DOB: 08/28/1981

SBI: 00369630

CASE NUMBER:
0504018346

CRIMINAL ACTION NUMBER:
IN05-05-1791
RECK END 1ST(F)
IN05-05-1792
VEH.ASSAULT 2ND(M)

MODIFIED SENTENCE ORDER

NOW THIS 5TH DAY OF JUNE, 2006, IT IS THE ORDER OF THE COURT THAT: THE ORDER DATED April 25, 2006 IS HEREBY MODIFIED AS FOLLOWS:

The defendant is adjudged guilty of the offense(s) charged. The defendant is to pay the costs of prosecution and all statutory surcharges.

AS TO IN05-05-1791- : TIS
RECK END 1ST

The defendant shall pay his/her restitution as follows:
\$44220.25 TO CHRISTIANA CARE

Effective January 31, 2006 the defendant is sentenced as follows:

- The defendant is placed in the custody of the Department of Correction for 5 year(s) at supervision level 5
- Suspended after serving 6 month(s) at supervision level 5
- For 2 year(s) supervision level 4 HOME CONFINEMENT
- Or PLUMMER CENTER

STATE OF DELAWARE
VS.
JOHNNY W EWELL
DOB: 08/28/1981
SBI: 00369630

- Suspended after serving 6 month(s) at supervision level
4 HOME CONFINEMENT

- Or PLUMMER CENTER

- For balance to be served at supervision level 3

- Hold at supervision level 5

AS TO IN05-05-1792- : TIS
VEH.ASSAULT 2ND

- The defendant is placed in the custody of the Department
of Correction for 6 month(s) at supervision level 5

- Suspended for 1 year(s) at supervision level 2

Probation is concurrent to criminal action number
IN-05-05-179 .

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
JOHNNY W EWELL
DOB: 08/28/1981
SBI: 00369630

CASE NUMBER:
0504018346

The defendant shall pay any monetary assessments ordered during the period of probation pursuant to a schedule of payments which the probation officer will establish.

Have no unlawful contact with Quentin Stanford .

Defendant shall be evaluated for substance abuse and follow recommendation for treatment, counseling and screening.

Defendant shall successfully complete anger management, counseling, treatment program.

NOTES

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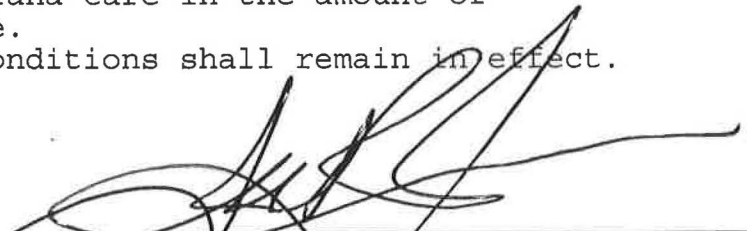
Modified Sentence Order

Now This 5th day of June, 2006, It is the Order of the Court that:

The sentence order dated 4/25/2006, is hereby modified to reflect that Restitution is ordered to be paid by defendant to : Christiana Care in the amount of \$44,220.25 in this case.

All other terms and conditions shall remain in effect.

=====



JUDGE JAN R JURDEN

FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
JOHNNY W EWELL
DOB: 08/28/1981
SBI: 00369630

CASE NUMBER:
0504018346

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	44220.25
SHERIFF, NCCO ORDERED	45.00
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	50.00
PROSECUTION FEE ORDERED	100.00
VICTIM'S COM ORDERED	
VIDEOPHONE FEE ORDERED	2.00
<hr/>	
TOTAL	44,417.25

LIST OF ALIAS NAMES

STATE OF DELAWARE
VS.

JOHNNY W EWELL
DOB: 08/28/1981
SBI: 00369630

CASE NUMBER:
0504018346

JOHNNY EWELL
SEAN HARRIS
THE MAN EWELL
JONATHAN HENRY
JOHNNIE HENRY
RAYMOND J WILSON
JOHNNY SMITH
JOHNNY R WILSON
JOHN W EWELL

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

VS.

NAOMI R JOHNSON

Alias: No Aliases

DOB: 05/19/1960

SBI: 00330660

CASE NUMBER:

0407019291

CRIMINAL ACTION NUMBER:

IN04-08-0746

ENDANGER-DEATH(F)

RESTITUTION ONLY

MODIFIED SENTENCE ORDER

NOW THIS 25TH DAY OF APRIL, 2006, IT IS THE ORDER OF THE COURT THAT: THE ORDER DATED February 17, 2006 IS HEREBY MODIFIED AS FOLLOWS:

The defendant is adjudged guilty of the offense(s) charged. Costs are hereby suspended. Defendant is to pay all statutory surcharges.

AS TO IN04-08-0746- : TIS
ENDANGER-DEATH

The defendant shall pay his/her restitution as follows:
\$3634.50 TO STRANO/FEELEY FUNERAL HOME

Effective February 17, 2006 the defendant is sentenced as follows:

- This sentence is to reflect restitution only. All terms and conditions from prior sentence order(s) shall remain in effect as previously ordered.

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE
VS.
NAOMI R JOHNSON
DOB: 05/19/1960
SBI: 00330660

CASE NUMBER:
0407019291

The defendant shall pay any monetary assessments ordered during the period of probation pursuant to a schedule of payments which the probation officer will establish.

Have no contact with victim's family

NOTES

Defendant shall NOT work again in the Child Care field.
=====

Modified Sentence Order

Now this 25th Day of April, 2006, It is the Order OF THE COURT THAT:

the sentence order dated 2/17/2006 is hereby modified to reflect that restitution is ordered in amount of \$3,634.50 to Strano and Feeley Funeral Home for funeral expenses for Madison Brooks.

This order is for restitution only.

All other terms and conditions shall remain in effect.
=====



JUDGE CHARLES H TOLIVER IV

FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
NAOMI R JOHNSON
DOB: 05/19/1960
SBI: 00330660

CASE NUMBER:
0407019291

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	3634.50
SHERIFF, NCCO ORDERED	
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	
PROSECUTION FEE ORDERED	
VICTIM'S COM ORDERED	
VIDEOPHONE FEE ORDERED	1.00
<hr/>	
TOTAL	3,635.50