COMMONWEALTH OF MASSACHUSETTS

TRIAL COURT OF THE COMMONWEALTH

PLYMOUTH, s.s. BROCKTON DISTRICT COURT

Docket No.

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

)

IN THE MATTER OF ) **AFFIDAVIT OF COUNSEL IN SUPPORT OF**

) **WAIVER OF FEES**

JOHN DOE, )

)

Appellant-Respondent )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

I, XXXXX, counsel for JOHN DOE, Appellant-Respondent, do hereby aver that:

1. Appellant-Respondent JOHN DOE is presumed indigent by operation of Supreme Judicial Court Rule 3.10 (h) (iii) as a person who is subject to a civil commitment proceeding.
2. Appellant-Respondent was represented by Court-appointed counsel at trial.
3. The funds sought by means of the within Motion to Waive Fees associated with this appeal and the within Motion for Funds for Transcriber are necessary in order that Appellant-Respondent may properly prepare for and prosecute his appeal of the order committing him for up to one year to the strict security of the Bridgewater State Hospital. Denial of these Motions will place him at a substantial disadvantage in pursuing his appeal.
4. Appellant-Respondent has a right under the United States and Massachusetts Constitutions to the same access to the Courts as a person of means, including the right to file and prosecute an appeal. This especially is true in a case such as this in which the Court ordered his involuntary commitment under strict security at the Bridgewater State Hospital.
5. Allowance of the within Motions is also required pursuant to G.L. c.261, §27C in that waiving the filing fee and fee for obtaining the recording of the proceedings, in addition to authorizing funds to retain a transcriber, are necessary to assure that the Appellant-Respondent is able to prosecute this appeal in as effective a manner as would be available to a person of means. *Commonwealth v. Lockley,* 381 Mass. 156 (1980).
6. Appellant-Respondent asserts that it cannot reasonably be argued that a person of means would ever knowingly choose not to expend his funds to prosecute an appeal in these matters. *See, e.g., Guardianship of a Mentally Ill Person,* Mass.App.Ct. No. 85-0018 Civ.

(Dreben, J. 1/28/85).

The foregoing is true and correct to the best of my knowledge and belief.

Respectfully submitted,

JOHN DOE by his attorney,

XXXXX

Dated:

**CERTIFICATE OF SERVICE**

I, XXXX, hereby certify that I today caused the foregoing Affidavit of Counsel in Support of Motion to Waive Fees to be served, via first class postage prepaid mail, upon the following attorney of record in this matter:

XXXXX

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Dated: