

IN THE SUPREME COURT OF THE STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

| | | |
|-------------------------|---|--------------------------|
| In the Matter of: |) | |
| |) | |
| FEE DEFERRAL AND WAIVER |) | Administrative Directive |
| PROCEDURES AND FORMS |) | No. 2015 - <u>03</u> |
| |) | |
| |) | |
| |) | |
| |) | |

Arizona Code of Judicial Administration (ACJA) § 5-206 authorizes the Administrative Director to approve or modify forms for matters concerning fee deferrals and waivers in response to changes in state or federal laws or procedures and to make other necessary administrative amendments or corrections deemed necessary.

Members of the Arizona Commission on Access to Justice—Judge Janet Barton, Associate Presiding Judge in Maricopa County and Ellen Katz, William E. Morris Institute for Justice—have identified a deficiency in the application and order forms for fee deferral and waiver related to the education program required by A.R.S. § 25-352. Attendance at a program educating persons about the impact of divorce on adults and children is required when the divorcing parties have a child in common or in a paternity determination when legal decision-making or parenting time is at issue. Attendance at the program requires the payment of a fee, but the fee may be waived or deferred in the same manner as other fees under A.R.S § 12-302. Litigants are unaware that the fee may be deferred or waived, and the approved forms do not inform the litigants of that option. The members propose that specific language be added to the application and order forms for fee deferral and waiver to make that option known to all litigants applying for a fee deferral or waiver.

Therefore, pursuant to ACJA § 5-206 and in order to promote the use of uniform and efficient legal forms at all levels of the court system and to enhance public access to the courts through the availability of useable and understandable legal forms,

IT IS DIRECTED that effective May 15, 2015, the forms as approved by Administrative Directive No. 2014-22 shall be replaced by the documents included in Appendix A of this Directive. The attached forms are adopted for mandatory use on or before **June 1, 2015** by all Arizona courts for matters concerning fee deferral and waivers.

Dated this 7th day of May, 2015.

David K. Byers
Administrative Director

Attachment: Appendix A

APPENDIX A

Form 1

(COURT'S JURISDICTIONAL NAME AND ADDRESS HERE)

Name of Person Filing Document: _____
 Your Address: _____
 Your City, State, and Zip Code: _____
 Your Telephone Number: _____
 Attorney Bar Number (if applicable): _____
 Attorney E-mail Address: _____
 Representing Self (Without an Attorney) OR
 Attorney for Petitioner Respondent

STATE OF ARIZONA)
) **ss.**
COUNTY OF _____)

Name of Petitioner/Plaintiff

Case Number: _____

**APPLICATION FOR DEFERRAL OR WAIVER
 OF COURT FEES OR COSTS AND CONSENT
 TO ENTRY OF JUDGMENT**

Name of Respondent/Defendant

Notice. A Fee Deferral is only a temporary postponement of the payment of the fees due. You may be required to make payments depending on your income. A Fee Waiver is usually permanent unless your financial circumstances change during the pendency of this court action.

I am requesting a deferral or waiver of all fees including: filing a case, issuance of a summons or subpoena, the cost of attendance at an educational program required by A.R.S. § 25-352, one certified copy of a temporary order in a family law case, one certified copy of the court's final order, preparation of the record on appeal, court reporter's fees of reporters or transcribers, service of process costs, and/or service by publication costs. (I have completed the separate Supplemental Information form if I am asking for service of process costs, or service by publication costs.) I understand that if I request deferral or waiver because I am a participant in a government assistance program, I am required to provide proof at the time of filing. The document(s) submitted must show my name as the recipient of the benefit and the name of the agency awarding the benefit. **Note. All other applicants must complete the financial questionnaire beginning at section 3. If you are a participant in one of the programs in section 1 or 2 (below), you do not need to complete the financial questionnaire, and can proceed to the signature page.**

1. **DEFERRAL:** I receive government assistance from the state or federal program marked below or am represented by a not for profit legal aid program:
 - Temporary Assistance to Needy Families (TANF)
 - Food Stamps
 - Legal Aid Services

2. **WAIVER:**
 - I receive government assistance from the federal Supplemental Security Income (SSI) program.

3. FINANCIAL QUESTIONNAIRE

SUPPORT RESPONSIBILITIES. List all persons you support (including those you pay child support and/or spousal maintenance/support for):

| NAME | RELATIONSHIP |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

STATEMENT OF INCOME AND EXPENSES

Employer name: _____
 Employer phone number: _____
 I am unemployed (explain): _____

 My prior year's gross income: \$ _____

MONTHLY INCOME

My total monthly gross income: \$ _____
 My spouse's monthly gross income (if available to me): \$ _____
 Other current monthly income, including spousal maintenance/support, retirement, rental, interest, pensions, and lottery winnings: \$ _____
TOTAL MONTHLY INCOME \$ _____

MONTHLY EXPENSES AND DEBTS: My monthly expenses and debts are:

| | PAYMENT AMOUNT | LOAN BALANCE |
|---------------------------------|----------------|--------------|
| Rent/Mortgage payment | \$ _____ | \$ _____ |
| Car payment | \$ _____ | \$ _____ |
| Credit card payments | \$ _____ | \$ _____ |
| Explain: Other payments & debts | \$ _____ | \$ _____ |
| Household | \$ _____ | |
| Utilities/Telephone/Cable | \$ _____ | |
| Medical/Dental/Drugs | \$ _____ | |
| Health insurance | \$ _____ | |
| Nursing care | \$ _____ | |
| Tuition | \$ _____ | |
| Child support | \$ _____ | |
| Child care | \$ _____ | |
| Spousal maintenance | \$ _____ | |
| Car insurance | \$ _____ | |
| Transportation | \$ _____ | |
| Other expenses (explain) | \$ _____ | |
| TOTAL MONTHLY EXPENSES | | \$ _____ |

STATEMENT OF ASSETS: List only those assets available to you and accessible without financial penalty.

| | ESTIMATED VALUE |
|------------------------|-----------------|
| Cash and bank accounts | \$ _____ |
| Credit union accounts | \$ _____ |
| Other liquid assets | \$ _____ |

TOTAL ASSETS

\$ _____

The basis for the request is:

4. DEFERRAL:

A. My income is insufficient or is barely sufficient to meet the daily essentials of life, and includes no allotment that could be budgeted for the fees and costs that are required to gain access to the court. My gross income as computed on a monthly basis is 150% or less of the current federal poverty level. (Note: Gross monthly income includes your share of community property income if available to you.)

OR

B. I do not have the money to pay court filing fees and/or costs now. I can pay the filing fees and/or costs at a later date. **Explain.**

OR

C. My income is greater than 150% of the poverty level, but have proof of extraordinary expenses (including medical expenses and costs of care for elderly or disabled family members) or other expenses that reduce my gross monthly income to 150% or below the poverty level.

DESCRIPTION OF EXPENSES

AMOUNT

\$ _____

\$ _____

\$ _____

TOTAL EXTRAORDINARY EXPENSES

\$ _____

5. WAIVER:

I am permanently unable to pay. My income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and are unlikely to change in the foreseeable future.

IMPORTANT

This "Application for Deferral or Waiver of Court Fees or Costs" includes a "Consent to Entry of Judgment." By signing this Consent, you agree a judgment may be entered against you for all fees and costs that are deferred but remain unpaid thirty (30) calendar days after entry of final judgment. At the conclusion of the case you will receive a *Notice of Court Fees and Costs Due* indicating how much is owed and what steps you must take to avoid a judgment against you if you are still participating in a qualifying program. You may be ordered to repay any amounts that were waived if the court finds you were not eligible for the fee deferral or waiver. If your case is dismissed for any reason, the fees and costs are still due.

CONSENT TO ENTRY OF JUDGMENT. By signing this Application, I agree that a judgment may be entered against me for all fees or costs that are deferred but remain unpaid thirty (30) calendar days after entry of final judgment.

OATH OR AFFIRMATION

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

Date

Signature

Applicant's Printed Name

Date

Judicial Officer, Deputy Clerk or Notary Public

My Commission Expires/Seal:

Form 1a. No Change

Form 2.

(COURT'S JURISDICTIONAL NAME AND ADDRESS HERE)

Name of Petitioner/Plaintiff

Case Number: _____

**ORDER REGARDING DEFERRAL OR
WAIVER OF COURT FEES AND COSTS AND
NOTICE REGARDING CONSENT JUDGMENT**

Name of Respondent/Defendant

THE COURT FINDS that the applicant (print name)
:

1. IS NOT ELIGIBLE FOR A DEFERRAL of fees and costs.
OR
2. IS ELIGIBLE FOR A DEFERRAL of fees and costs based on financial eligibility. As required by state law, the applicant has signed a consent to entry of judgment.
OR
3. IS ELIGIBLE FOR A DEFERRAL of fees and costs at the court's discretion (A.R.S. § 12-302(L)).
OR
4. IS ELIGIBLE FOR A DEFERRAL of fees and costs based on good cause shown. As required by state law, the applicant has signed a consent to entry of judgment.
OR
5. IS ELIGIBLE FOR A WAIVER of fees and costs because the applicant is permanently unable to pay.
OR
6. IS ELIGIBLE FOR A WAIVER of fees and costs at the court's discretion (A.R.S. § 12-302(L)).
OR
7. IS NOT ELIGIBLE FOR A WAIVER of fees and costs.

IT IS ORDERED:

DEFERRAL IS DENIED for the following reason(s):

The application is incomplete because _____
You are encouraged to submit a complete application.

The applicant does not meet the financial criteria for deferral because _____

A deferral MUST BE granted if the applicant is receiving public assistance benefits from the Temporary Assistance to Needy Families (TANF) program or Food Stamps; has an income that is insufficient or barely sufficient to meet the daily essentials of life and that includes no allotment that could be budgeted to pay the fees and costs necessary to gain access to the court; or, if the applicant demonstrates other good cause.

DEFERRAL IS GRANTED for the following fees and costs in this court:

- Any or all filing fees; fees for the issuance of either a summons and subpoena; or the cost of attendance at an educational program required by A.R.S. § 25-352, fees for obtaining one certified copy of a temporary order in a domestic relations case or a final order, judgment or decree in all civil proceedings.
- Fees for service of process by a sheriff, marshal, constable or law enforcement agency.
- Fees for service by publication.
- Filing fees and photocopy fees for the preparation of the record on appeal.
- Court reporter or transcriber fees if employed by the court for the preparation of the transcript.

IF A DEFERRAL IS GRANTED, PLEASE CHECK ONE OF THE FOLLOWING BOXES:

NO PAYMENTS WILL BE DUE UNTIL FURTHER NOTICE.

SCHEDULE OF PAYMENTS.

The applicant shall pay \$ _____ each _____ (week, month etc.) until paid in full, beginning _____.

WAIVER IS DENIED for all fees and costs in this case.

WAIVER IS GRANTED for all fees and costs in this case that may be waived under A.R.S. § 12-302(H).

- Any or all filing fees; fees for the issuance of either a summons or subpoena; or the cost of attendance at an educational program required by A.R.S. § 25-352, fees for obtaining one certified copy of a temporary order in a domestic relations case or a final order, judgment or decree in all civil proceedings.
- Fees for service of process by a sheriff, marshal, constable or law enforcement agency.
- Fees for service by publication.
- Filing fees and photocopy fees for the preparation of the record on appeal.
- Court reporter or transcriber fees if employed by the court for the preparation of the transcript.

RIGHT TO JUDICIAL REVIEW. If the application is denied or a payment schedule is set by a special commissioner, you may request the decision be reviewed by a judicial officer. The request must be made within twenty (20) days of the day the order was mailed or delivered to you. If a schedule of payments has been established, payments shall be suspended until a decision is made after judicial review. Judicial review shall be held as soon as reasonably possible.

NOTICE REGARDING CONSENT JUDGMENT. Unless any of the following applies, a consent judgment may be entered against the applicant for all fees and costs that are deferred and remain unpaid thirty (30) days after entry of final judgment:

- A. Fees and costs are taxed to another party;
- B. The applicant has an established schedule of payments in effect and is current with those payments;
- C. The applicant filed a supplemental application for waiver or further deferral of fees and costs and a decision by the court is pending;
- D. In response to a supplemental application, the court orders that the fees and costs be waived or further deferred; or
- E. Within twenty (20) days of the date the court denies the supplemental application, the applicant either:
 - 1. Pays the fees and costs; or,
 - 2. Requests a hearing on the court's order denying further deferral or waiver. If the applicant requests a hearing, the court cannot enter the consent judgment unless a hearing is held, further deferral or waiver is denied, and payment has not been made within the time prescribed by the court.

If an appeal is taken, a consent judgment for deferred fees and costs that remain unpaid in the lower court shall not be entered until thirty (30) days after the appeals process is concluded. The procedures for notice of court fees and costs and for entry of a consent judgment continue to apply.

If a consent judgment is signed and the applicant pays the fees and costs in full, the court is required to comply with the provisions of A.R.S. § 33-964(C).

DUTY TO REPORT CHANGE IN FINANCIAL CIRCUMSTANCES. An applicant who is granted a deferral or waiver shall promptly notify the court of any change in financial circumstances during the pendency of the case that would affect the applicant's ability to pay court fees and costs. Any time the applicant appears before the court on this case, the court may inquire as to the applicant's financial circumstances.

DATED: _____

_____ **Judicial Officer** **Special Commissioner**

Forms 3 through 13. No Change