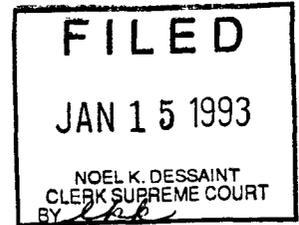


FEE WAIVER FORMS AND PROCEDURES



Administrative Order No 93-3

Pursuant to ARS §12-306 A directing the Supreme Court to adopt forms and procedures for the application for a waiver of court costs,

IT IS ORDERED THAT the attached fee waiver forms and procedures are approved and shall be used for fee waivers in the Municipal Courts, Justice Courts, Superior Court, Court of Appeals and Supreme Court.

DATED AND ENTERED this 15th day of January, 1993, at the Arizona State Courts Building in Phoenix, Arizona.

Stanley G. Feldman
Chief Justice

Attachment

FEE WAIVER FORMS AND PROCEDURES

PROCEDURES

1. The attached forms are to be used by all courts when applicants request a waiver (or deferral) of civil case court fees and costs for the following:
 - A. Filing Fees.
 - B. Fees for issuance of either a summons or subpoena.
 - C. Fees for obtaining one certified copy of a temporary order in a domestic relations case and a final order, judgment or decree in all civil proceedings.
 - D. Sheriff, marshal and constable's fees for service if the applicant establishes by affidavit on the attached form that the applicant has attempted without success to obtain voluntary acceptance of process or that the attempt would be futile or dangerous, or if there is in existence an order of protection in favor of the applicant and against the party sought to be served.
 - E. The cost of service by publication if service is required by law and if the applicant establishes by affidavit on the attached form specific facts to show that s/he has exercised due diligence in attempting to locate the person to be served and has been unable to do so.
 - F. Court reporter fees or reporters or transcribers employed by the court for the preparation of the transcript.
 - G. Appeal preparation and filing fees at all levels of appeal and photocopy fees for preparation of the record on appeal.
2. Applicants requesting waiver (or deferral) of service of process costs and/or publication costs must complete the supplemental information form. If other court costs and fees are waived and the applicant establishes, by filing of the supplemental form, that s/he has attempted without success to obtain voluntary acceptance of process or that the attempt would be futile or dangerous, or if there is in existence an order of protection in favor of the applicant and against the party sought to be served, then a waiver (not a deferral) of service of process costs must be granted.

If other court costs and fees are waived and service is required by law and the

applicant establishes by filling out the supplemental form, specific facts to show that due diligence has been exercised in attempting to locate the person to be served and that person cannot be located, a waiver (not a deferral) of publication costs must be granted.

3. Applicants who check a box in section one of the Request for Waiver do not need to complete the rest of the application, other than to sign the application. A.R.S. 12-306(B)(1)(2) mandates a waiver (not a deferral) for applicants receiving benefits from the following:
 - A. Aid to Families with Dependent Children (42 US Code, Sections 601-615).
 - B. Food Stamps (7 US Code, Section 2011-2029).
 - C. General Assistance (Title 46, Chapter 2, Article 2).
 - D. Supplemental Security Income (SSI) Program (42 US Code, Sections 1381-1385).
4. Applicants may complete the form verbally by dictating answers to the clerk, who then signs the form OR by answering questions asked in court by the judge, who will then check the box on the form that precedes the statement "In lieu of written application" OR the judge may issue the acknowledgment and order by minute entry.
5. Granting the waiver does not preclude the court from assessing court costs at a later date per A.R.S. 12-306(J).
6. A.R.S. 12-306(B)(3) mandates a waiver for persons who have insufficient resources to meet the daily essentials of life and no income which can be applied to pay for court costs. The statute lists two guidelines which may lead the judge to grant a waiver:
 - A. The applicant has a gross monthly income which is 150% or less of the current monthly poverty threshold established by the United States Office of Management and Budget. Absent extraordinary assets or other resources, this should be considered sufficient proof of insufficient income and lend to the granting of a waiver.

An applicant may have income over 150% of the current monthly poverty threshold and still be eligible for a waiver of court costs and fees if there are extraordinary expenses.
 - B. The applicant has an income that is considered sufficient, but the applicant provides proof of extraordinary expenses, including medical expenses, costs of care for elderly family members or family members with disabilities

or other expenses that are deemed extraordinary.

Those are not the only examples of insufficient income which would lead to a waiver of court costs.

7. At any time during pendency of the action, the court may review the waiver decision if the applicant, or a party to the action, notifies the court of a change in the applicant's financial circumstances. If the applicant no longer meets the eligibility requirements for a waiver, the court shall order the person to pay the waived costs.

It is not necessary to review the waiver decision at the time of final action in the case. If there is no change in financial circumstances of the applicant, the waiver stays in place.

It is not necessary to have the applicant again fill out the request for waiver when reviewing the waiver decision. The applicant may give testimony as to his or her financial circumstances.

To rescind a waiver (or deferral) the judge/commissioner may check the appropriate box on the original order and date and sign it OR issue a minute entry.

8. A.R.S. 12-306(J) allows the court to assess fees to the opposing party. The court, not the person receiving the waiver, is responsible for collecting this judgment. If a waiver is granted but subsequently the fees are assessed to the opposing party, the court cannot withhold the order, judgment or decree from the person who requested the waiver because the other party hasn't paid the costs.
9. The order granting a waiver of court costs and fees shall be transmitted as part of the record when a case is appealed.

2. [] I have income that is not sufficient or is barely sufficient to meet the daily essentials of life, I have no money that can be budgeted for costs to gain access to the court, and am requesting a waiver of all filing fees, service of process costs, and/or service by publication costs. (I have attached the Supplemental Information form if I am asking for a waiver of service of process costs, and/or service by publication costs.)

If you checked box 2, you MUST complete the Financial Questionnaire on the following pages of this form.

REQUEST FOR DEFERRAL OF FEES AND COSTS

Do not check box 3 if you have checked box 1 listed above.

3. [] Although I am not indigent, I do not have the money to pay costs for access to the courts right now, however, I can pay the costs at a later date. I am requesting a Deferral of all filing fees, service of process costs, and/or service by publication costs. (I have attached the Supplemental Information form if I am asking for a waiver of service of process costs, and/or service by publication costs.)

FINANCIAL QUESTIONNAIRE

4. **SUPPORT RESPONSIBILITIES** - I support myself and the following people (list the people for whom you believe you provide over one-half of the financial support):

NAME:

RELATIONSHIP:

5. **STATEMENT OF INCOME AND EXPENSES** -

A. My monthly income is:

- | | | |
|----|--------------------------------|----------|
| 1. | Monthly gross pay | \$ _____ |
| 2. | Other monthly income (explain) | \$ _____ |

TOTAL MONTHLY INCOME \$ _____

B. My monthly expenses and debts are:

	PAYMENT AMT.	LOAN BAL.
1. Rent/Mortgage Payment	\$ _____	\$ _____
2. Food/Household Supplies	\$ _____	\$ _____
3. Utilities/Telephone	\$ _____	\$ _____
4. Clothing	\$ _____	\$ _____
5. Medical/Dental/Drugs	\$ _____	\$ _____
6. Health Insurance Payments	\$ _____	\$ _____
7. Laundry	\$ _____	\$ _____
8. Child Support	\$ _____	\$ _____
9. Child Care	\$ _____	\$ _____
10. Car Loan Payment	\$ _____	\$ _____
11. Car Insurance Payment	\$ _____	\$ _____
12. Gasoline/Bus Fare	\$ _____	\$ _____
13. Credit Card Payments	\$ _____	\$ _____
14. Other payments and debts	\$ _____	\$ _____
TOTAL OF EXPENSES AND DEBTS OWED		\$ _____

6. **STATEMENT OF ASSETS -**

A. I own the following property:	ESTIMATED VALUE
1. Cash and Bank Accounts	\$ _____
2. Credit Union Accounts	\$ _____
3. Cars/other vehicles (describe) _____	\$ _____
4. Equity in Real Estate	
a. Home	\$ _____
b. Other property (describe) _____	\$ _____
5. Other including stocks, bonds, pending estate or lawsuit settlements, etc. (describe) _____ _____ _____	\$ _____ \$ _____ \$ _____
TOTAL PROPERTY	\$ _____

7. Other facts that support this application are:
(for example, describe and provide proof of unusual medical needs, financial hardship, cost of care of elderly or disabled family members, other extraordinary expenses)

	AMOUNT
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL OF EXTRAORDINARY EXPENSES	\$ _____

I will promptly notify the court in writing if any of my financial circumstances change during the pendency of this court action. If that happens, I may be able to pay court costs that have been waived or deferred.

Applicant's Signature

SUBSCRIBED AND SWORN OR AFFIRMED and acknowledged before me this
date _____.

Notary Public/Deputy Clerk

Notary Expiration date: _____

9. The residence and whereabouts of the other party are unknown to me.
- I have made a diligent search to find out the residence and whereabouts of the other party, but the search has failed to reveal any information concerning the other party's residence or whereabouts.
- I have contacted the persons listed below to find out the location of the other party:

NAME:

ADDRESS:

- To the best of my knowledge, as of _____ the last address of the other party was:

ADDRESS:

CITY/STATE:

Applicant's Signature

SUBSCRIBED AND SWORN OR AFFIRMED and acknowledged before me this date _____.

Notary Public/Deputy Clerk

Notary Expiration date: _____

(COURT'S JURISDICTIONAL NAME AND ADDRESS HERE)

PLAINTIFF (Name/Address/Telephone)

CASE NO.

DEFENDANT (Name/Address/Telephone)

**ORDER FOR DEFERRAL OF FEES
AND COSTS, SERVICE OF PROCESS
COSTS, OR PUBLICATION COSTS**

ORDER FOR DEFERRAL OF FEES AND COSTS

THE COURT FINDS THAT:

- The applicant has demonstrated a need for a deferral of costs pursuant to A.R.S. §12-302.

IT IS ORDERED that:

- All costs and fees in this action are **DEFERRED** until further order of the Court as set forth below:
- Filing fees, fees for the issuance of summonses and/or subpoenas, fees for obtaining one certified copy of a temporary order in a domestic relations case, a final order in any case, appeal preparation and filing fees and photocopy fees for preparation of the record on appeal, court reporter's fees of reporters or transcribers employed by the court for preparation of the transcript.
 - If Service by Publication is made on the other party, the newspaper is directed to mail the billing for the service fees to the Court.
 - Fees for service by a constable, sheriff, or peace officer.
 - As per the payment schedule attached.
 - As per the following agreement.

IT IS FURTHER ORDERED that the applicant shall promptly notify this court in writing of any change in his or her financial circumstances during the time the case is pending, or during the time any appeal of this action is pending which may affect his or her ability to pay the deferred fees and costs. The applicant must keep a copy of this order to present upon request.

Any time the applicant appears before the Court on this case, the Court has the right to inquire as to the applicant's financial circumstances with respect to the **DEFERRAL** that has been granted. The Court also has the right to review the initial Order granting the **DEFERRAL** if the financial circumstances of the applicant have changed. If there has been a change in the financial circumstances of the applicant from the date of this Order such that the applicant no longer meets the eligibility requirements of A.R.S. §12-306(B), the Court shall enter an Order against the applicant in the amount of the costs and fees that have been waived.

[] In lieu of written application, and having examined the applicant in accordance with the standards set forth in the Application For Waiver or Deferral of Fees and Costs, the undersigned finds the fees and costs should be deferred.

DATED: _____
Judge/Commissioner

I certify that I have received a copy of the Application and Order.

DATE: _____
Applicant's signature

ORDER OF RESCISION

[] Order rescinded.

DATE: _____
Judge/Commissioner

CERTIFICATE OF MAILING OF ORDER OF RESCISION

Copy mailed to _____ Plaintiff _____ Defendant

Date: _____ By: _____

(COURT'S JURISDICTIONAL NAME AND ADDRESS HERE)

PLAINTIFF (Name/Address/Telephone)

CASE NO.

DEFENDANT (Name/Address/Telephone)

**ORDER FOR WAIVER OF FEES
AND COSTS, SERVICE OF
PROCESS COSTS, OR
PUBLICATION COSTS**

ORDER FOR WAIVER OF FEES AND COSTS

THE COURT FINDS THAT the applicant has an income that is not sufficient or is barely sufficient to meet the daily essentials of life and has no money that can be budgeted for costs and fees to gain access to the Court as follows:

- The applicant is receiving benefits pursuant to the AFDC Program, the Food Stamp Program, Arizona General Assistance Program (GA), or the Supplemental Security Income Program (SSI).
- The applicant has a gross monthly income which is 150% or less of the current monthly poverty threshold established by the United States Office of Management and Budget.
- The applicant's income according to the affidavit is not sufficient for daily essentials of life, and the applicant has a need for a waiver of court costs and fees.

IT IS ORDERED that:

- All costs and fees in this action are **WAIVED** subject to the terms set forth below.

- Filing fees, fees for the issuance of summonses and/or subpoenas, fees for obtaining one certified copy of a temporary order in a domestic relations case, a final order in any case, appeal preparation and filing fees and photocopy fees for preparation of the record on appeal, court reporter's fees of reporters or transcribers employed by the court for the preparation of the transcript.
- If Service by Publication is made on the other party, the newspaper is directed to mail the billing for the service fees to the Court.
- Fees for service by a constable, sheriff, or peace officer.

IT IS FURTHER ORDERED that the applicant shall promptly notify this court in writing of any change in his or her financial circumstances during the time the case is pending, or during the time any appeal of this action is pending which may affect his or her ability to pay the waived fees and costs. The applicant must keep a copy of this order to present upon request.

Any time the applicant appears before the Court on this case, the Court has the right to inquire as to the applicant's financial circumstances with respect to the **WAIVER** that has been granted. The Court also has the right to review the initial Order granting the **WAIVER** if the financial circumstances of the applicant have changed. If there has been a change in the financial circumstances of the applicant from the date of this Order such that the applicant no longer meets the eligibility requirements of A.R.S. §12-306(B), the Court shall enter an Order against the applicant in the amount of the costs and fees that have been waived.

- In lieu of written application, and having examined the applicant in accordance with the standards set forth in the Application for Waiver or Deferral of Fees and Costs, the undersigned finds the fees and costs should be waived.

DATED: _____

Judge/Commissioner

I certify that I have received a copy of the Application and Order.

DATE: _____

Applicant's signature

ORDER OF RESCISSION

- Order rescinded.

DATE: _____

Judge/Commissioner

CERTIFICATE OF MAILING OF ORDER OF RESCISSION

Copy mailed to _____ Plaintiff _____ Defendant

Date: _____ By: _____