

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION § 5-206)	No. 2015 - <u>97</u>
FEE DEFERRALS AND WAIVERS)	(Affecting Administrative
)	Order No. 2014-72)
)	

Pursuant to the Arizona Code of Judicial Administration § 1-201 (E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 5-206 is amended as indicated on the attached document. All other provisions of § 5-206 remain unchanged and in effect.

IT IS FURTHER ORDERED that the effective date of this amendment shall be January 1, 2016.

Dated this 25th day of November, 2015.

SCOTT BALES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 2: Programs and Standards

Section 5-206: Fee Deferrals and Waivers

A. Definitions. The following definitions apply to this section:

“Applicant” means a person who asserts the condition of being unable to pay court fees and costs and requests a deferral or waiver of that obligation.

“Application” means a request for deferral or waiver at any point before the end of a case.

“Arizona Department of Corrections (ADOC) inmate” means an incarcerated felon confined to a facility operated by Arizona State Department of Corrections.

“Day” means calendar day including holidays and weekends.

“Deferral” means “either postponement of an obligation to pay fees or establishment of a schedule for payment of fees” as provided in A.R.S. § 12-302(M)(1).

“Fees and costs”, as provided in A.R.S. § 12-302(H), means:

1. Filing fees.
2. Fees for issuance of either a summons or subpoena.
3. Fees for obtaining one certified copy of a temporary order in a domestic relations case.
4. Fees for obtaining one certified copy of a final order, judgment or decree in all civil proceedings.
5. Sheriff, marshal, constable and law enforcement fees for service of process if any of the following applies:
 - (a) The applicant established by affidavit that the applicant has attempted without success to obtain voluntary acceptance of service of process.
 - (b) The applicant’s attempt to obtain voluntary acceptance of service of process would be futile or dangerous.
 - (c) An order of protection or an injunction against harassment in favor of the applicant and against the party sought to be served exists and is enforceable.
6. The fee for service by publication if service is required by law and if the applicant establishes by affidavit specific facts to show that the applicant has

exercised due diligence in attempting to locate the person to be served and has been unable to do so.

7. Court reporter's fees for the preparation of court transcripts if the court reporter is employed by the court.

8. Appeal preparation and filing fees at all levels of appeal and photocopy fees for the preparation of the record on appeal pursuant to sections 12-119.01, 12-120.31 and 12-2107 and section 12-284, subsection A.

"Further deferral" means "the establishment of a schedule for payment of fees" as provided in A.R.S. § 12-302(M)(2).

"Non-ADOC inmate" means an incarcerated felon confined to facilities in Arizona other than operated by the Arizona State Department of Corrections or to a facility outside of Arizona.

"Permanently unable to pay" means "the applicant's income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and the income and liquid assets are unlikely to change in the foreseeable future" as provided in A.R.S. § 12-302(D).

"Special commissioner" means a person appointed by the presiding judge to determine an applicant's eligibility for a deferral or waiver.

"Supplemental application" means the form used to request waiver or further deferral at the conclusion of a case.

"Vexatious conduct" as provided in A.R.S. § 12-3201(E), means:

1. "Vexatious conduct" includes any of the following:

(a) Repeated filing of court actions solely or primarily for the purpose of harassment.

(b) Unreasonably expanding or delaying court proceedings.

(c) Court actions brought or defended without substantial justification.

(d) Engaging in abuse of discovery or conduct in discovery that has resulted in the imposition of sanctions against the pro se litigant.

(e) A pattern of making unreasonable, repetitive and excessive requests for information.

(f) Repeated filing of documents or requests for relief that have been the subject of previous rulings by the court in the same litigation.

"Vexatious litigant" means a pro se litigant whom the court finds to have engaged in vexatious conduct.

"Waiver" means the court has determined that the applicant is not required to pay the fees unless the applicant's financial circumstances have changed during the action.

B. through P. [no changes]

Q. ~~Cases Filed by Inmates~~ Vexatious Litigants.

1. Postponement. The court may grant a vexatious litigant’s application for fee deferral if the court approves the filing of a new pleading, motion or other document, and the litigant meets the eligibility requirements of this code.
2. Waiver. As provided in A.R.S. § 12-302(K)(3), the court shall not grant a waiver of court fees or costs in “[c]ivil actions other than cases of dissolution of marriage, legal separation, annulment or establishment, enforcement or modification of child support filed by a pro se litigant who has been previously declared a vexatious litigant by any court.”
3. Determination Pending Completion of Litigation. As provided by A.R.S. § 12-302(M), “[i]f an applicant who is granted a deferral or waiver is found to be a vexatious litigant by any court during the pendency of the action, the court shall order the applicant to pay the deferred or waived fees and costs.”

QR. Cases Filed by Inmates. [no changes]

RS. Cases Ineligible for Waiver. [no changes]

ST. Nonpayment of Court Fees. [no changes]

TU. Deferrals or Waivers for Cases on Appeal. [no changes]

UV. Other Fees Eligible for Deferral or Waiver. [no changes]