

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE FIFTEENTH JUDICIAL DISTRICT

FILED

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IN THE MATTER OF REQUESTS)
TO WAIVE OR DEFER COURT)
FEES AND COURT COSTS AND)
ENTERING JUDGMENTS IF FEES)
AND COURT COSTS ARE DEFERRED)

General Order
CLATSOP COUNTY COURT
COLUMBIA, OREGON

No. 07-04

This Matter Coming Before the Court on its Own Motion:

Whereas ORS 21.682(2) (chapter 493, Oregon Laws 2007) allows a judge to waive or defer all or part of fees and costs payable to the court by a party in a civil action or proceeding, if the judge finds that the party is unable to pay all or any part of the fees and costs.

Whereas ORS 21.682(2) (chapter 493, Oregon Laws 2007) allows a presiding judge to delegate the authority to waive or defer fees and court costs to the court administrator if the delegation is made in writing and provides clear standards.

Whereas Chief Justice Order 07-056, pursuant to ORS 21.682(4), establishes standards and practices for fee waivers and deferrals, effective January 1, 2008.

IT IS THEREBY ORDERED that, effective January 1, 2008, authority to waive or defer fees and court costs, including the sheriff's service feeⁱ, in a civil action or proceeding are delegated to the court administrator and that pursuant to ORS 8.225(4) the court administrator may delegate these duties to court staff.

IT IS FURTHER ORDERED that, effective January 1, 2008, the following standards must be followed by the court administrator and court staff on all requests filed with the court to waive or defer fees and court costs:

- 1. Mandatory waiver.** A waiver of fees and court costs must be granted when the applicant, who has completed the Application form (copy attached), receives benefits from certain government programs, the applicants income is less than or equal to 133 percent of the federal poverty guidelines (copy attached), and the applicant provides proof of current eligibility for one or more of the benefit programs. The following benefit programs qualify for a mandatory waiver: food stamps, TANF, SSI, OHP Plus, OHP Standard, and OHP with limited drug. Applicants who fall into the mandatory waiver category do not need to complete the Declaration form (copy attached). The court clerk shall consider the following documentation to determine eligibility for a fee waiver:

- Verification of Food Stamps
- Verification of Temporary Assistance to Needy Families (TANF)
- Verification of SSI (SSI computer-generated printout or bank statement showing SSI deposit

- Current Oregon Health Plan card

- 2. Waiver presumption.** A waiver of fees and court costs is presumed to be appropriate when, after taking into account the applicant's household size, the applicant's income from all sources, including food stamps, is less than or equal to 133 percent of the federal poverty guidelines (copy attached).
- 3. Deferral presumption.** A deferral of fees and court costs is presumed to be appropriate when, after taking into account the applicant's household size, the applicant's income from all sources, including food stamps, is between 133 and 185 percent of the federal poverty guidelines.
- 4. Denial presumption.** A denial of a deferral or waiver request is presumed to be appropriate when, after taking into account the applicant's household size, the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.
- 5. Judicial Discretion.** Categories 2, 3, and 4 are "presumptions because they do not take into account assets and other factors relevant to the applicant's ability to pay. If the applicant identifies liquid assets (cash/savings) of \$500.00 or more or extraordinary expenses (medical expense/prescriptions) over \$500 the court clerk shall forward the request to a Judge for further review. (Pursuant to Chief Justice Order 07-056 the court may not consider available credit as an asset or source of income.)
- 6. Paperwork.** The attached Federal Poverty Guidelines are the current-year poverty guidelines established by the U.S. Department of Health and Human Services. The State Court Administrators Office will annually provide the Federal Poverty Guidelines to the courts. The following documents (attached) will be provided by the court, free of charge, to all individuals seeking a fee waiver or deferral. The court shall also post these documents on the court's website:
 - **Application.** All applicants must complete and sign this document. The applicant must specify the fees he or she is requesting the court to waive or defer. If the applicant is requesting waiver or deferral based on eligibility for benefit programs, the applicant must identify the type of benefits received and show the court proof of current eligibility.
 - **Declaration.** If the applicant does not receive or is unable to show proof of current eligibility for the listed benefit programs, the applicant must complete the Declaration. The Declaration shows the applicants household size, household income, and assets, and provides an opportunity for the applicant to explain any extenuating circumstances. By law, the clerk must keep the personal financial information in the Declaration confidential and not subject to public inspection. (This will be done by the clerk placing the Declaration in a sealed envelope marked confidential inside the court file on the right hand side.)

The following forms are to be filled in by the clerk and, where indicated, submitted to the TCA in Coquille and the supervisor in North Bend or Gold Beach for signature:

- **Recommendation and Order.** The clerk will fill out the recommendation portion of the form documenting the clerk's recommendation and then complete the order portion of the form and then sign it. If the clerk has any questions about eligibility, that do not fall within the guidelines outlined under Judicial Discretion, the clerk shall consult with the TCA, a supervisor in North Bend or Gold Beach, or, in their absence, a judge prior to completing the form.
- **Judgment.** If fees are deferred the judgment form will be completed by the clerk and submitted to the TCA in Coquille or to the supervisors in North Bend and Gold Beach for their signature. (In the absence of the TCA or supervisor the Recommendation and Order should be forwarded to a judge for signature.) Once the signed Judgment is returned to the clerk the clerk will enter the Judgment and create a judgment lien. When paid in full the clerk shall note that fact in the judgment lien record and change the judgment status to "satisfied".

IT IS FURTHER ORDERED that these procedures do not apply to a request for waiver or deferral of fees and costs filed by an inmate subject to the provisions of ORS 30.642 to 30.650.

It is so ordered this 27th day of December, 2007



Richard L. Barron, Presiding Judge
Fifteenth Judicial District

ⁱ The forms include provisions relating to waiver or deferral of the sheriff's service fee. In *Burgess v Holstedt*, 156 Or App 436, 965 P2d 473 (1998), the Court of Appeals held that the sheriff's service fee is a "fee" within the meaning of ORS 21.605 that a circuit court has the authority to waive or defer. The Court also held that it is an abuse of discretion for a court to waive or defer other fees and costs at the request of an indigent person but to deny waiver or deferral of the sheriff's service fee.

→ NO longer correct!

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____**

_____,)
 Petitioner/Plaintiff,)
 v.)
 _____,)
 Respondent/Defendant.)

Case No. _____

Petitioner/Plaintiff
 Respondent/Defendant
**APPLICATION FOR WAIVER
 OR DEFERRAL OF FEES**

I am asking for waiver or deferral of fees in this case because I am unable to pay all or part of the fees. The following information is complete and accurate to the best of my knowledge. I understand that I may be required to provide documentation verifying this information. I understand that failure to do so could result in my request being denied.

1. I am applying for WAIVER DEFERRAL of the following fees (check all that apply):

- Arbitration Fee(s) Hearing Fee(s) Sheriff's Service Fee Other (describe):
 Filing Fee(s) Motion Fee(s) Trial Fee(s) _____

Papers may be served by any competent person that is at least 18 years of age; a resident of Oregon or the state where service is made; and is not a party to the case or a party's attorney, employee, officer, or director. If you are requesting a waiver or deferral of the sheriff's service fee, please explain why you cannot find another qualified person to serve the papers instead of the sheriff:

2. I declare that (check one of the boxes below):

I am receiving assistance from at least one of the following programs:

- | | |
|-----------------------------|-----------------------------------------------|
| Food Stamps | Oregon Health Plan with Limited Drug |
| Oregon Health Plan Standard | Supplemental Security Income (SSI) |
| Oregon Health Plan Plus | Temporary Assistance to Needy Families (TANF) |

If you checked the above box, you must be prepared to show proof that you are receiving assistance from the program. You do NOT need to fill out a Declaration for Waiver or Deferral of Fees unless you are enrolled in the Oregon Health Plan's Qualified Medicare Beneficiary (QMB) program or Citizen Alien-Waived Emergency Assistance (CAWEM) program. If you are enrolled in QMB or CAWEM, you must complete and file the declaration with this application.

Even though I am NOT receiving assistance from any of the above programs, I am still unable to pay the fees. If you have checked this box, you must complete and file a Declaration for Waiver or Deferral of Fees with this application. The declaration is designed to prove to the court that you do not have sufficient financial resources to pay the fees.

3. If the court defers fees, I understand that:

- a. The fees are an obligation owed by me to the State of Oregon and that the court may place me on a payment schedule. I agree to pay the fees according to the payment schedule. If I fail to pay according to the payment schedule, the total amount of the unpaid fees are due immediately.
- b. The court may enter a judgment against me for the unpaid amount of the fees that are deferred and the judgment will be enforced without regard to the outcome of the case.
- c. If the court establishes a payment schedule or refers a judgment for collection, the law allows administrative and collection costs to be automatically added to the judgment without further notice to me or further action by the court.

4. I understand that if the clerk denies my application, I have the right to ask a judge to review my application.

Date

Signature of Applicant

Name of Applicant (printed or typed)

INCOME GUIDELINES FOR WAIVER/DEFERRAL OF FEES
January 2008

Monthly Gross Income

<u>Household Size:</u>	<u>Waive if under:</u>	<u>Defer if between:</u>	<u>Must pay if over:</u>
1	\$1,131	\$1,131 - 1,574	\$1,574
2	1,517	1,517 - 2,110	2,110
3	1,903	1,903 - 2,647	2,647
4	2,288	2,288 - 3,183	3,183
5	2,674	2,674 - 3,720	3,720
6	3,060	3,060 - 4,256	4,256
7	3,445	3,445 - 4,793	4,793
8	3,831	3,831 - 5,329	5,329

Each Additional
Person add \$293

Monthly Net Income

<u>Household Size:</u>	<u>Waive if under:</u>	<u>Defer if between:</u>	<u>Must pay if over:</u>
1	\$ 870	\$ 870 - 1,211	\$1,211
2	1,168	1,168 - 1,624	1,624
3	1,465	1,465 - 2,038	2,038
4	1,761	1,761 - 2,450	2,450
5	2,058	2,058 - 2,864	2,864
6	2,356	2,356 - 3,277	3,277
7	2,652	2,652 - 3,690	3,690
8	2,949	2,949 - 4,103	4,103

Each Additional
Person add \$225

The Income Guidelines are based on gross income calculated at 133 percent of the Federal Poverty Level (FPL) for presumptive waiver and between 133 percent and 185 percent for presumptive deferral. The FPL is the amount of income necessary to provide for basic living needs, including food. The FPL is adjusted by the Federal Government each year and will be updated by CPSD.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

_____,)
Petitioner/Plaintiff,)
v.)
_____,)
Respondent/Defendant.)

Case No. _____

- Petitioner/Plaintiff
 Respondent/Defendant

DECLARATION FOR WAIVER OR DEFERRAL OF FEES

(TO BE COMPLETED BY APPLICANT)

ACCESS TO THIS DOCUMENT IS RESTRICTED PURSUANT TO THE COURT'S POLICY TO PROTECT THE PERSONAL PRIVACY INTERESTS OF PARTIES

1. PERSONAL

Full Name of Applicant _____
FIRST NAME MIDDLE NAME LAST NAME
Residence Address _____
STREET ADDRESS CITY STATE ZIP
Mailing Address (if different) _____
ADDRESS CITY STATE ZIP
Telephone Number _____ *SSN _____ ODL/ID _____ Marital Status _____

*I am providing my Social Security number on a voluntary basis. I understand that I cannot be compelled to provide it or be denied consideration solely for failure to provide it. It may be used to verify my identification, credit and employment information, and for collection purposes of court imposed monetary obligations.

Names and ages of legal dependants living in household:

Table with 4 columns: Name, Age, Name, Age. Includes three rows of blank lines for entry.

2. EMPLOYMENT AND INCOME

Currently Employed Not Currently Employed How long since last employment?
Employer Name (use previous employer if not currently employed)
Employer Address Work Phone
Occupation (job title) Length of Employment Amount of Last Paycheck \$
Hourly Wage \$ Hours Per Week Monthly Income: Gross \$ Net (after taxes) \$

Spouse's Employment

Currently Employed Not Currently Employed How long since last employment?
Employer Name (use previous employer if not currently employed)
Employer Address Work Phone
Occupation (job title) Length of Employment Amount of Last Paycheck \$
Hourly Wage \$ Hours Per Week Monthly Income: Gross \$ Net (after taxes) \$

Other income for you, spouse, dependants, or household members (for example: Social Security, unemployment, retirement, public assistance, child support, workers' compensation, disability, tribal benefits, etc.):

Table with 4 columns: Source of Income (describe), Amount, How long received?, How often received?. Includes three rows of blank lines for entry.

Other household members who help pay your living expenses:

Relationship _____	Amount \$ _____	Payment for what (describe)? _____
_____	\$ _____	_____

3. MONEY ON HAND / IN BANK

Cash \$ _____

Checking Account Number _____	Bank/Credit Union _____	Balance \$ _____
Savings Account Number _____	Bank/Credit Union _____	Balance \$ _____
Other Account Number _____	Institution _____	Balance \$ _____

4. MOTOR VEHICLES

Year, Make, and Model _____	Value \$ _____	Amount Owing \$ _____	Payments made to: _____
_____	\$ _____	\$ _____	_____

5. REAL ESTATE

Address (include city and state) _____	Year Purchased _____	Purchase Price \$ _____	Value \$ _____	Amount Owing \$ _____	Payments made to: _____
_____	_____	\$ _____	\$ _____	\$ _____	_____

6. ALL OTHER PROPERTY OR ASSETS (for example: ATVs, RVs, boats, guns, jewelry, livestock, etc.):

Description _____	Value \$ _____	Description _____	Value \$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

7. MONEY OWED TO YOU BY OTHERS (for example: tax refunds, judgments, trust funds, etc.):

Name of Debtor Owing You Money _____	Amount Owed \$ _____	Date Expected _____
_____	\$ _____	_____

8. MONTHLY LIVING EXPENSES

Rent/Mortgage \$ _____	Gas \$ _____	Electric \$ _____	Vehicle Payment \$ _____
Credit Card Payment \$ _____	Water \$ _____	Sewer \$ _____	Vehicle Insurance \$ _____
Child Support Payment \$ _____	Trash \$ _____	Phone \$ _____	Transportation Costs \$ _____
Court Fines \$ _____	Medical \$ _____	Food \$ _____	Other _____ \$ _____

9. LIQUIDATION OF ASSETS

If you are unable to sell or liquidate your assets, please use this space to explain why: _____

I hereby declare that the above statement is true to the best of my knowledge and belief. I understand that it is made for use as evidence in court and is subject to penalty for perjury.

Date

Signature of Applicant

Name of Applicant (printed or typed)

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

Petitioner/Plaintiff,

v.

Respondent/Defendant.

)
)
)
)
)
)
)

Case No. _____

**FEE WAIVER OR DEFERRAL
RECOMMENDATION AND ORDER**

CLERK'S RECOMMENDATION OR ORDER (to be completed by court clerk)

I have reviewed (applicant name) _____'s application for waiver or deferral of fees and RECOMMEND ORDER the following:

DENIAL of the applicant's request for waiver or deferral of fees because:

- the applicant is financially able to pay the fees (see part _____ of the Declaration);
- the application is not complete or contains insufficient information (see part _____ of the Declaration);
- the applicant has not shown proof of current eligibility for public benefits; or
- _____.

WAIVER of the applicant's fees in whole or in part.

Total Fees \$ _____ Amount to be Waived \$ _____

The applicant is RECOMMENDED ORDERED to pay:

- \$ _____ in full by (date) _____.
- pursuant to a schedule to be established by court staff.
- by a payment schedule of \$ _____ today and \$ _____ on the same day of each month until paid.

DEFERRAL of the applicant's fees.

The applicant is RECOMMENDED ORDERED to pay:

- \$ _____ in full by (date) _____.
- pursuant to a schedule to be established by court staff.
- by a payment schedule of \$ _____ today and \$ _____ on the same day of each month until paid.

Signature of Clerk

Name of Clerk (printed or typed)

Date

JUDGE'S ORDER (May be completed and signed by clerk pursuant to General Order 07-04)

The clerk's recommendation is AFFIRMED.

The clerk's recommendation is MODIFIED or I ORDER as follows:

The applicant's request for waiver or deferral of fees is DENIED because:

the applicant is financially able to pay the fees (see part _____ of the Declaration);

the application is not complete or contains insufficient information (see part _____ of the Declaration); or

_____.

The applicant's fees are WAIVED in whole or in part.

Total Fees \$ _____ Amount Waived \$ _____

The applicant is ORDERED to pay:

\$ _____ in full by (date) _____.

pursuant to a schedule to be established by court staff.

by a payment schedule of \$ _____ today and
\$ _____ on the same day of each month until paid.

The applicant's fees are DEFERRED.

The applicant is ORDERED to pay:

\$ _____ in full by (date) _____.

pursuant to a schedule to be established by court staff.

by a payment schedule of \$ _____ today and
\$ _____ on the same day of each month until paid.

Other findings _____

Date

Signature of Judge/Clerk/Supervisor/Trial Court Administrator

Printed or Typed Name of above Signature

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

Petitioner/Plaintiff,

v.

Respondent/Defendant.

)
)
)
)
)
)
)

Case No. _____

LIMITED JUDGMENT
 SUPPLEMENTAL JUDGMENT
**FOR DEFERRED FEES WITH
MONEY AWARD**

_____ (applicant name) has filed an application for deferral of fees. The court has reviewed the application and deferred all or part of the fees. As of the date of this judgment, the amount shown below is unpaid and the applicant is obligated to the State of Oregon for that amount.

MONEY AWARD

Judgment Creditor: State of Oregon

Address City State Zip

Judgment Debtor:

Full Name Social Security Number Driver License # / State

Address City State Zip

Name of Attorney (if represented by counsel) Bar Number Attorney Phone Number

Attorney Address City State Zip

Filing Fee(s) \$ _____ Trial Fee(s) \$ _____
Hearing Fee(s) \$ _____ Other Fee(s) \$ _____
Motion Fee(s) \$ _____

TOTAL DUE \$ _____ **Interest Rate** 0 %

- To be paid in full by (date) _____.
- To be paid according to a collection agreement.
- To be paid according to a payment schedule of \$ _____ today and \$ _____ on the same day of each until paid.

Date

Signature of Judge/Trial Court Administrator/Supervisor

Printed or Typed Name of above Signature

NOTICE

When you are granted a partial or full deferral of fees, the deferred fees are an obligation owed by you to the State of Oregon. This obligation is payable according to the terms set out above. Failure to pay the amount shown within 30 days of entry of the judgment or failure to comply with the payment schedule may result in 1) additional amounts for administrative and collection costs to be added automatically to the judgment, and 2) your account being referred to the Department of Revenue for collection, without further notice to you from the court. When payment is received in full, the court will make a notation in the court records.

Checks or money orders are to be made payable to the **State of Oregon** and may be mailed to the following address:

Court Name

Mailing Address

City

State

Zip

Cash or credit/debit card payment must be brought to the address below:

Court Name

Street Address

City

State

Zip

In the Matter of Waiver or Deferral
of Fees and Court Costs in
Civil Actions or Proceedings Pursuant to
ORS 21.682

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CHIEF JUSTICE ORDER
No. 07-056

ORDER ESTABLISHING STANDARDS
AND PRACTICES FOR FEE WAIVERS
AND DEFERRALS IN CIVIL ACTIONS
AND PROCEEDINGS PURSUANT TO
ORS 21.682

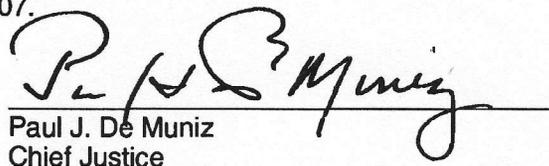
Pursuant to my authority under ORS 1.002 and ORS 21.682, I ORDER all state courts to follow these standards and practices for all requests to waive or defer fees and court costs:

1. These standards apply to all requests filed in a state court to waive or defer fees and court costs.
 - (a) The court must grant a waiver of fees and court costs when:
 - (i) the applicant receives benefits from a government program whose eligibility criteria account for the applicant's household income, assets, and size; and
 - (ii) the applicant's income from all sources is less than or equal to 133 percent of the federal poverty guidelines; and
 - (iii) the applicant provides proof of current eligibility for one or more of the benefit programs listed in section (3)(a).
 - (b) Except as provided in subsection (c), after considering the applicant's household size, the court must apply the following presumptions and take one of the following actions:
 - (1) Waive fees and court costs if the applicant's household income from all sources, including food stamps, is less than or equal to 133 percent of the federal poverty guidelines.
 - (2) Defer fees and court costs if the applicant's household income from all sources, including food stamps, is between 133 and 185 percent of the federal poverty guidelines.
 - (3) Deny a request to waive or defer fees and court costs if the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.
 - (c) The presumptions established by subsection (b) may be overcome if, after considering the applicant's entire financial situation, a judge determines that extenuating circumstances exist.
 - (d) A court may not consider available credit on a credit card as an asset or source of income.
2. A state court must make written findings to support an order denying an application for waiver or deferral of fees and court costs.

3. To be eligible for waiver or deferral of fees and court costs, an applicant must do one of the following:
- (a) An applicant must file an application that lists the type of benefits received, and show proof of current benefit eligibility, if an applicant receives any of the following benefits:
 - (1) Food stamps.
 - (2) Temporary Assistance to Needy Families (TANF).
 - (3) Supplemental Security Income (SSI).
 - (4) The following Oregon Health Plan (OHP) benefit packages:
 - (i) OHP Plus,
 - (ii) OHP Standard, or
 - (iii) OHP with limited drug.
 - (b) An applicant must file a declaration that describes the applicant's household size, household income, and assets and explains all extenuating circumstances if an applicant:
 - (1) does not receive or is unable to show proof of current eligibility for the benefits listed in section (3)(a); or
 - (2) is enrolled in either of the following Oregon Health Plan (OHP) benefit packages:
 - (i) Qualified Medicare Beneficiary (QMB), or
 - (ii) Citizen Alien-Waived Emergency Medical Assistance (CAWEM).
4. The State Court Administrator will promulgate forms and instructions for state courts to use to implement this Order.
5. This Order does not apply to an application filed by an inmate subject to the provisions of ORS 30.642 to 30.650.
6. As used in this Order:
- (a) "Deferral" means either postponing an obligation to pay fees and court costs or establishing a schedule to pay fees and court costs.
 - (b) "Federal poverty guidelines" means the current-year poverty guidelines annually established by the U.S. Department of Health and Human Services.
 - (c) "Judge" means the Chief Justice of the Supreme Court, the Chief Judge of the Oregon Court of Appeals, a judge of a circuit court, the judge of the Oregon Tax Court, and a tax court magistrate.
 - (d) "State court" means the Oregon Supreme Court, the Oregon Court of Appeals, a circuit court, and the Oregon Tax Court (Regular and Magistrate Divisions).

This Order is effective January 1, 2008.

DATED this 20th day of December, 2007.


Paul J. De Muniz
Chief Justice