

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE FIFTEENTH JUDICIAL DISTRICT

FILED

2010 OCT -8 PM 12:02

COOS COUNTY COURT
COQUILLE, OREGON

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

Amended

General Order

No. 10.05

This Matter Coming Before the Court on its Own Motion:

Whereas ORS 21.682(2) 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) 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 10-045, pursuant to ORS 21.682(4), establishes standards and practices for fee waivers and deferrals, effective October 1, 2010.

IT IS THEREBY ORDERED that, effective October 1, 2010 authority to waive or defer fees and court costs, which are payable to the court, 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:

1. Application:

To be eligible for deferral or waiver of fees and court costs, which are payable to the court, an applicant must do the following:

- a) 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:
 - I. Food stamps (SNAP – Supplemental Nutrition Assistance Program).
 - II. Temporary Assistance to Needy Families (TANF)
 - III. Supplemental Security Income (SSI)
 - IV. The following Oregon Health Plan (OHP) benefit packages:
 - OHP Plus,
 - OHP Standard, or

- OHP with limited drug.
- b) File a declaration that describes the applicant's household size, household income, assets and expenses as well as any extenuating circumstances an applicant wishes the court to consider.
- c) A court may not consider available credit on a credit card as an asset or source of income in its evaluation.

2. Eligibility:

These standards apply to all requests filed in the Fifteenth Judicial District (Coos & Curry) to defer or waive civil fees and court costs which are payable to the court.

The court shall consider the following when determining whether to grant a deferral or waiver of fees and court costs which are payable to the court.

- a) Whether the applicant receives benefits from a government program whose eligibility criteria account for the applicant's household income assets, and size;
- b) Whether the applicant's income from all sources is less than or equal to 133 percent of the federal poverty guidelines; and
- c) Whether the applicant provides proof of current eligibility for one or more of the benefit programs listed in subsection 1.a. of this order.

3. Court Actions:

- a) Except as provided in subsection b. below, after considering the applicant's household size, the clerks will take one of the following actions:
 - I. Waiver Presumption: Waive fees and court costs, which are payable to the court, 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.
 - II. Deferral Presumption: Defer fees and court costs, which are payable to the court, if the applicant's household income from all sources, including food stamps, is between 133 and 185 percent of the federal poverty guidelines.
 - III. Denial Presumption: Deny a request to defer or waive fees and court costs, which are payable to the court, if the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.
 - IV. I, II, and III above 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 expenses/prescriptions) over \$500.00 the court clerk shall forward the request to the TCA or Judge in Coos or a Judge in Curry for a review.

V. The 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 will also post these documents to the court's website (<http://www.courts.oregon.gov/Coos> or <http://www.courts.oregon.gov/Curry>):

- Application for Deferral or Waiver of Fees: All applicants must complete and sign this document. **Please note this is a generic statewide form – the Sheriff's Service Fee is not paid to the court and therefore the fee is not eligible to be deferred or waived pursuant to ORS 21.682(1).** Incomplete or missing information could result in request being denied.
 - Declaration for Deferral or Waiver of Fees: All applicants must complete and sign this form. Incomplete or missing information could result in request being denied.
 - Order Regarding Deferral or Waiver of Fees: Pursuant to this Order the clerk will complete and sign the order. The clerk, on his/her own motion or at the request of the applicant, may refer the Order to the TCA or Judge for review. **Please note this is a generic statewide form – at the time the fee is deferred in Coos or Curry County the clerk will prepare a judgment and payment plan for the applicant.**
 - Judgment: If Judgment for Deferred Fees is not paid in 30 days, collection costs will be added without further notice to the party. When paid in full the clerk shall note the fact in the judgment lien record and change the judgment status to "satisfied".
- b) Instead of taking one of the actions established by subsection a. above, after considering the applicant's entire financial situation, a judge may determine that no relief or an alternative form of relief is warranted for the individual circumstances presented.

4. Definitions:

As used in this order:

- a) "Deferral" means establishing a schedule to pay fees and court costs.
- b) "Household" means a person or group of people occupying a common dwelling and sharing necessary living expenses.
- c) "Federal Poverty Guidelines" means the current-year poverty guidelines established annually by the U.S. Department of Health and Human Services.


d) "Judge" means a judge of a circuit court.

e) "Court" means a circuit court.

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.

This Order is effective when signed and supersedes General Order 07-04.

It is so ordered this 5th day of October, 2010.



Richard L. Barron, Presiding Judge
Fifteenth Judicial District

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

_____ Petitioner/Plaintiff,)	Case No. _____
v.)	<input type="checkbox"/> Petitioner/Plaintiff <input type="checkbox"/> Respondent/Defendant
_____ Respondent/Defendant.)	APPLICATION FOR DEFERRAL OR WAIVER OF FEES

I am asking for deferral or waiver 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.

You must complete the attached Declaration for Deferral or Waiver 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.

1. I am applying for deferral or waiver of the following fees (check one box only):

- | | |
|--|--|
| <input type="checkbox"/> Filing Fee Only | <input type="checkbox"/> Filing Fee(s) + Sheriff's Service Fee* |
| <input type="checkbox"/> Hearing Fee(s) | <input type="checkbox"/> Arbitration Fee(s) <input type="checkbox"/> Other (describe): _____ |
| <input type="checkbox"/> Motion Fee(s) | <input type="checkbox"/> 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 deferral or waiver 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 the following programs (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Food Stamps (SNAP)* | <input type="checkbox"/> Oregon Health Plan with Limited Drug |
| <input type="checkbox"/> Oregon Health Plan Standard | <input type="checkbox"/> Supplemental Security Income (SSI) |
| <input type="checkbox"/> Oregon Health Plan Plus | <input type="checkbox"/> 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. *(SNAP – Supplemental Nutrition Assistance Program).

Even though I am NOT receiving assistance from any of the above programs, I am still unable 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)

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 DEFERRAL OR WAIVER OF FEES

(TO BE COMPLETED BY APPLICANT IN ITS ENTIRETY INCLUDING "N/A" or "0" WHEN APPROPRIATE)

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. Two rows of blank lines for entry.

2. EMPLOYMENT AND INCOME

Your 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) \$ _____

Household Members' 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) \$ _____

Adverse Party's 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) \$ _____

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

Source of Income (describe)	Amount	How long received?	How often received?
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

3. 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 \$ _____	Cable TV \$ _____
Cell Phone \$ _____	Data Plan \$ _____	Internet \$ _____	Other _____ \$ _____

Any other individuals who help pay your living expenses:

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

4. 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 \$ _____	

5. MOTOR VEHICLES

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

6. REAL ESTATE

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

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

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

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

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

9. ARE YOU SEEKING AN AWARD OF TEMPORARY CHILD AND/OR SPOUSAL SUPPORT?

Yes If so, how much? \$ _____
 No

10. LIQUIDATION OF ASSETS

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

11. OTHER INFORMATION YOU WANT COURT TO CONSIDER

Have you retained an attorney, or do you plan to do so to represent you in this matter? _____

If so, who is your attorney? _____

Have you paid your attorney money? Yes / No (circle) If so, how much? \$ _____

Is there a contingency fee agreement? Yes / No (circle)

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. _____

Petitioner/Plaintiff
 Respondent/Defendant
**ORDER REGARDING DEFERRAL
OR WAIVER OF FEES**

IT IS HEREBY ORDERED that:

Deferral Only (No Waiver)

1. The applicant's filing fees are **DEFERRED**. The deferred fees shall be paid pursuant to the attached judgment/payment schedule. If not paid in full within 30 days the court, by statute, will add a payment schedule assessment fee of \$50.00 if the amount owing is less than \$150.00; \$125.00 if the amount owing is between \$150.00 and \$399.99; and \$200 if the amount owing is \$400.00 or more.

Waiver

2. The following fees are **WAIVED** (No payment)
 Filing Fee(s) Hearing Fee(s) Arbitration Fee(s) Other
 Motion Fee(s) Trial Fee(s) _____

Denial

3. The applicant's request for deferral or waiver of fees is **DENIED** because:
 Applicant is financially able to pay the fees (see part _____ of the Declaration);
 Application contains insufficient information (see part _____ of the Declaration);
 Applicant does not qualify under the General Order regarding deferral and waiver of fees;
 Other findings _____.

Dated this _____ day of _____, 20__.

Circuit Court Judge/TCA/TCA Designee

