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|---|---|---|
| In the Matter of Deferral or Waiver of Fees and Court Costs in Civil Actions or Proceedings Pursuant to ORS 21.682 | ) | CHIEF JUSTICE ORDER<br>No. 12-078<br><br>AMENDED ORDER CONTINUING STANDARDS AND PRACTICES FOR DEFERRALS AND WAIVERS IN CIVIL ACTIONS AND PROCEEDINGS PURSUANT TO ORS 21.682 AND ADOPTING REVISED FORMS; SUPERSEDES CJO 10-045 and CJO 12-065 |

Pursuant to my authority under ORS 1.002 and ORS 21.682, I continue the following standards and practices and adopt the following revised forms for state courts to apply to requests to defer or waive fees and court costs.

The court may grant a temporary deferral of all or part of a filing fee or court costs, and either postpone a final determination on the application for a waiver until the conclusion of the case or require a new application for deferral or waiver upon conclusion of the case.

1. Application

   To be eligible for deferral or waiver of all or part of the fees or court costs, 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. Oregon Health Plan benefit package (OHP).

   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.

2. Eligibility

   These standards apply to all requests filed in a state court to defer or waive all or part of the applicable civil fees or court costs.

   The court shall consider all the following when determining whether to grant a deferral or waiver of fees or court costs:

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.

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.

A court may not consider available credit on a credit card as an asset or source of income in its evaluation.

3. Court Actions

a. Except as provided in subsection b. below, after considering the applicant's household size, the court will take one of the following actions:

i. Waive all or part of the fees or 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.

ii. Defer all or part of the fees or 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.

iii. Deny a request to defer or waive all or part of the fees or court costs if the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.

b. Instead of taking one of the actions established by subsection a. above, after considering the applicant's entire financial situation, a court may instead determine that no relief or an alternative form of relief is warranted based on the individual circumstances presented.

4. Other

a. The model forms and instructions for courts to use to implement this Order are attached and dated November 9, 2012.

b. The presiding judge of the court may issue a written delegation of authority to the court administrator and court clerks to defer or waive fees and costs in accordance with ORS 21.682(2) and consistently with the standards of this Order.

c. This Order does not apply to an application filed by an inmate subject to the provisions of ORS 30.642 to 30.650.

d. This order authorizes the State Court Administrator, if necessary, to make and appropriately disseminate technical or formatting changes to the forms adopted by this order, so long as any change does not conflict with or change the intent of the forms as adopted. This authority includes, but is not limited to, authority to modify the forms to reflect changes as required by laws adopted by a future Legislative Assembly and to modify the forms to comply with electronic filing requirements. Pages will include the date last modified and current forms will be posted on the OJD website.

5. Definitions

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.

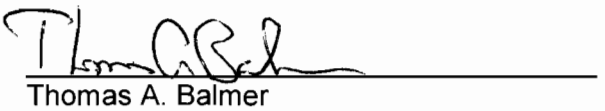
b. "Household" means a person or group of people occupying a common dwelling and sharing necessary living expenses.

c. "Federal poverty guidelines" means the current-year poverty guidelines annually established by the U.S. Department of Health and Human Services.

d. "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 November 9, 2012, and supersedes CJ0 10-045 and CJO 12-065.

DATED this 7th day of November, 2012.



Thomas A. Balmer
Chief Justice

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

_____
Plaintiff/Petitioner

v.

_____
Defendant/Respondent

**Case No.** _____

**Application & Declaration for Deferral or Waiver of Fees for:**

☐ Plaintiff/Petitioner
☐ Defendant/Respondent

***ACCESS TO THIS DOCUMENT IS RESTRICTED TO PROTECT THE PRIVACY OF PARTIES***

I am asking for deferral or waiver of fees in this case because I am unable to pay all or part of the fees right now. I understand that I must complete the ***Declaration for Deferral or Waiver of Fees*** to prove to the court that I do not have enough money to pay the fees. I understand that if I do not, my request can be denied.

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

☐ Filing Fees ☐ Filing Fees + Sheriff's Service Fee* ☐ Motion Fee
☐ Arbitration Fee ☐ Trial Fee
☐ Other (describe): _____

*If you are requesting deferral or waiver of the sheriff's service fee, explain why you cannot find another person to serve the papers. Papers can be served by any competent person who is at least 18 years old, a resident of Oregon (or the state where service is made), and who is not a party to the case or a party's lawyer, employee, officer, or director.

_____

_____

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

   a. The fees are a debt I owe to the State of Oregon, and the court may put me on a payment plan. I agree to pay the fees according to the payment plan. If I fail to do so, the total amount of unpaid fees will be referred for collection.

   b. The court will enter a judgment against me for the unpaid amount of the fees that are deferred, and the judgment will be enforced regardless of the outcome of the case.

   c. If the court refers this judgment for collection, administrative and collection costs will automatically be added to the judgment without further notice to me or further action by the court.

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

## ***Declaration***

**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

Phone: _____ Date of Birth (month/day/year) _____

Marital Status: _____ *SSN: _____ DL/ID: _____

*I am providing my Social Security number voluntarily. I understand that I cannot be forced 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 of court-imposed monetary obligations.

**Names and ages of legal dependents living in household:**

| Name | Age | Name | Age |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

**2. PUBLIC ASSISTANCE** *(include the amount you receive PER MONTH, if any)*

☐ I am now receiving assistance from the following programs (*check all that apply*):

- ☐ Food Stamps (SNAP-Supplemental Nutrition Assistance Program) - $_____
- ☐ Supplemental Security Income (SSI) - $ _____
- ☐ Temporary Assistance to Needy Families (TANF) - $_____
- ☐ Oregon Health Plan (OHP)

*(If you checked any of the boxes above, you must show proof of the amount that you are receiving.)*

**3. 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 _____ Last Paycheck $_____

Wages/salary $_____ per _____ Hours Per Week _____

Monthly Income: Gross (before taxes) $_____ Net (after taxes) $_____

*(If you are employed, you must show proof of your income. See Instructions.)*

**Household Members' Employment and Income**

Name and relationship to you: _____

☐ 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 _____ Last Paycheck $_____

Wages/salary $_____ per _____ Hours Per Week _____

Monthly Income: Gross (before taxes) $ _____ Net (after taxes) $_____



Case No. _____

**Any other income for you, household members, or dependents *in addition to* amounts listed in Section 2** (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?

_____ $_____ _____ _____
_____ $_____ _____ _____
_____ $_____ _____ _____
_____ $_____ _____ _____

☐ Additional Page Attached

**Other Party's Employment and Income** *(if known to you)*

☐Currently Employed ☐Not Currently Employed How long since last employment? _____

Occupation (job title) _____Wages/salary $_____ per _____ Hours Per Week _____ Monthly Income: $_____ ☐ gross (before tax) ☐ net (after taxes)

**4. MONTHLY LIVING EXPENSES (Total: $ _____)**

**Home**

| | | |
|---|---|---|
| Rent/mortgage $ | Food $ | Trash $ |

**Utilities**

| | | |
|---|---|---|
| Electric $ | Gas $ | Water $ |
| Sewer $ | Phone $ | Cell $ |
| Cable $ | Internet $ | |

**Transportation**

| | | |
|---|---|---|
| Vehicle payments $ | Insurance $ /month | Gas $ |
| Bus $ | Parking $ | |

**Other**

| | | |
|---|---|---|
| Credit cards $ | Student loans $ | Court fines $ |
| Medical $ | Child support $ | Other *(describe)* |
| | | |

*(You must show proof of the amount you pay for monthly expenses. See Instructions.)*

**Any other individuals who help pay your living expenses:**

Relationship Amount Payment for what?

_____ _____ _____

_____ _____ _____

**5. MONEY ON HAND / IN BANK**

Cash $_____

Checking Account # _____ Bank/Credit Union _____ Balance $ _____

Savings Account # _____ Bank/Credit Union _____ Balance $ _____

Other Account # _____ Institution _____ Balance $ _____

**6. VEHICLES**

Year, Make, and Model Value Amount Owed Payments made to:

_____ $_____ $_____ _____

_____ $_____ $_____ _____

**7. REAL ESTATE**

| Address (include city and state) | Purchase Year | Purchase Price | Value | Amount Owed | Payments Made to: |
|---|---|---|---|---|---|
| _____ | _____ | $_____ | $_____ | $_____ | _____ |
| _____ | _____ | $_____ | $_____ | $_____ | _____ |

**8. ALL OTHER PROPERTY OR ASSETS** (such as: ATVs, RVs, boats, guns, jewelry, livestock, etc.):

| Description | Value | Description | Value |
|---|---|---|---|
| _____ | $_____ | _____ | $_____ |
| _____ | $_____ | _____ | $_____ |
| _____ | $_____ | _____ | $_____ |

**9. LIQUIDATION OF ASSETS**

If you are unable to sell or liquidate your assets, explain why: _____

_____

_____

**10. MONEY OWED TO YOU BY OTHERS** (tax refunds, judgments, trust funds, settlements, etc.):

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

**11. ARE YOU SEEKING TEMPORARY CHILD AND/OR SPOUSAL SUPPORT?**

☐ No ☐ Yes (How much? $_____

**12. OTHER INFORMATION YOU WANT COURT TO CONSIDER**

_____

_____

_____

_____

Do you have a lawyer (or do you plan to) to represent you in this case? ☐ Yes ☐ No

Have you paid your lawyer money? ☐ No ☐ Yes (How much? $_____ )

Do you have a contingency fee agreement with your lawyer? ☐ No ☐ Yes

**Certificate of Document Preparation**. Check all that apply:

☐ I chose this form for myself and completed it without paid help.

☐ A legal help organization helped me choose or complete this form, but I did not pay money to anyone.

☐ I paid (or will pay) _____ for help choosing, completing, or reviewing this form.

**I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use as evidence in court and I am subject to penalty for perjury.**

_____ _____

Date Signature of Applicant (☐ Plaintiff/Petitioner ☐ Defendant/Respondent)

_____

Name of Applicant (printed or typed)



Case No. _____

## INSTRUCTIONS FOR FEE DEFERRAL OR WAIVER APPLICATION & DECLARATION

Fees and costs are required in any civil case, including dissolutions (divorce), small claims, evictions (FED – Forcible Entry and Detainer), and arbitration. A list of fees is available at *www.courts.oregon.gov* or from the court clerk. The court accepts cash, credit and debit cards, and money orders or checks made out to the State of Oregon. If you cannot afford to pay the amount required, you may ask the court to defer or waive those fees and costs. If the court **defers** the fees and costs you do not need to pay them at the time of filing. You still have to pay according to the schedule set up by the court.

If you want to apply for a deferral or waiver of fees, complete the following forms:

The **case heading** must be the same as on the papers you filed or received

**APPLICATION & DECLARATION FOR DEFERRAL OR WAIVER OF FEES**;

Fill in the case heading and mark whether you are the Plaintiff/Petitioner or Defendant/ Respondent. You must completely fill out the Declaration. Do not leave any sections blank. Date, sign, and print your name. This document is kept confidential (only court staff will see it, not the other party).

**ORDER REGARDING DEFERRAL OR WAIVER OF FEES**.

Fill in the case heading and mark whether you are the Plaintiff/Petitioner or Defendant/ Respondent. The judge or designated court staff will complete the rest of the form.

You must show proof of income and monthly bills (including rent and utilities) for the past two months. If you claim to be eligible for public assistance, you ***must*** show proof of the amount you receive from all programs. Once the forms are complete, bring them to court. You will appear before a judge or other court staff.

At the end of your case, fee deferrals may be addressed again if any amount is still unpaid. The judge will review the situation and decide whether the fees should be waived. At that time, you will have to update your information.

**Note: Court-specific instructions may be attached.**

**Tips for completing the Declaration:**

- Complete EVERY entry – enter "N/A" for "Not Applicable" if it does not apply to you.
- ONLY enter payments that you are legally required to make for yourself or your dependents. If you are paying any expenses for a child who is not your legal dependent, a parent, or anyone else, do NOT include those payments in your *Declaration*.
- "DL/ID" is your Driver's License or identification number.
- "Transportation" includes bus passes, parking fees, etc.
- "Vehicle payments" and "Insurance" include *all* vehicles that you are currently making payments on (cars, trucks, motorcycles, scooters, bicycles, etc.).
- "Liquidation of assets" – if you sold your valuable possessions, how much would you get?
- A contingency fee agreement means that your lawyer gets paid part of any judgment or award that you get in this case.



Case No. _____

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

_____
Plaintiff/Petitioner

v.

_____
Defendant/Respondent

**Case No.** _____

**Order Regarding Deferral or Waiver of Fees for:**

☐ Plaintiff/Petitioner
☐ Defendant/Respondent

The court finds that the applicant is currently unable to pay all or part of the noted fees. **THE COURT HEREBY ORDERS THAT:**

1. Deferral (Temporary): ☐ The court **DEFERS** the following fees on a temporary and/or partial basis:

☐ Filing Fees ☐ Sheriff's Service Fee ☐ Motion Fee
☐ Arbitration Fee ☐ Trial Fee
☐ Other: *(describe)* _____

☐ The noted fees are deferred until the court receives notice that Applicant is represented by a lawyer ***or*** until a hearing or trial. Fees are due in full upon occurrence of either event unless Applicant files a new *Application and Declaration for Deferral or Waiver of Fees* and the court grants that application. If neither event occurs, the fees are due as specified in a future judgment in this case.

***or***

Payment must be made
☐ According to the terms of the attached payment plan (or) $_____ per month until paid in full
☐ As ordered by a judgment in this case (or)
☐ Other: _____

**If fees are not paid as ordered, judgment will be entered against you without further notice.**

2. Waiver: ☐ The court **WAIVES** the following fees (no payment):

☐ Filing Fees ☐ Sheriff's Service Fee ☐ Motion Fee
☐ Arbitration Fee ☐ Trial Fee
☐ Other (describe) _____

3. Denial: ☐The court **DENIES** the applicant's request for deferral or waiver of fees because:

☐Applicant is financially able to pay the fees (see part _____ of the Declaration);
☐Application contains insufficient information (see part _____ of the Declaration);
☐Other findings _____

_____
Date

_____
Circuit Court Judge or designee, signature

_____
Name, printed



Case No: _____

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

**Case No:** _____

_____
Plaintiff/Petitioner

v.

_____
Defendant/Respondent

☐**LIMITED** ☐**SUPPLEMENTAL**
**JUDGMENT AND MONEY AWARD RE: DEFERRED FEES**

The court finds that the Judgment Debtor has not paid the noted fees. The court awards judgment for the State of Oregon and against the judgment debtor for the unpaid amount of:

☐ Filing Fees ☐ Sheriff's Service Fee ☐ Motion Fee
☐ Arbitration Fee ☐ Trial Fee
☐ Other (describe): _____

**MONEY AWARD**

1. Judgment Creditor: State of Oregon *(address of this court)*:_____
_____

   a. Judgment Creditor's lawyer *(name, address, phone number)* _____
   _____

2. Judgment Debtor

| Name | |
|---|---|
| Address | |
| Year of Birth | |
| SSN (last 4 digits) or Full Tax ID | |
| Driver License # (last 4) & State | |
| Lawyer (name and bar #) | |

3. The total amount awarded by this judgment is $_____. This amount does not include interest, attorney fees, or prevailing party fees. No interest will accrue post-judgment. Additional collection costs may be added without further notice to judgment debtor under ORS 1.202.

_____ _____
Date Circuit Court Judge or designee

_____
Print Name