

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

IN THE MATTER OF	)	PRESIDING JUDGE'S
FEE WAIVER AND DEFERRAL OF	)	ORDER NO. 18-01
CIVIL FEES AND COURT COSTS	)	
	)	

This Presiding Judge's Order is made pursuant to and in accordance with ORS 21.680 et seq (Waiver and Deferral of Fees and Court Costs) and Chief Justice Order No. 18-024.

Now therefore it is hereby Ordered:

(1) **Reservation/Delegation of Authority:** The authority to grant or deny an application for a fee waiver or deferral, and to sign judgments for deferral of fees on behalf of the Douglas County Circuit Court is reserved to the Presiding Judge. The Trial Court Administrator and Trial Court Clerks are authorized to grant fee waivers and deferrals as more particularly described in this Order.

(a) Fee Waivers and Deferrals: The Trial Court Administrator and Trial Court Clerks are hereby given authority to grant or deny applications for fee waivers and deferrals, without further order of the court as follows:

(i) *Application/Declaration Required:* Any person requesting a fee waiver or deferral must truthfully complete an application and declaration. A separate application/declaration must be completed each time a fee waiver or deferral is requested. The application and declaration must be notarized or a signed declaration, pursuant to ORCP 1E. The form of application, declaration and supporting documents shall be as prescribed by the Presiding Judge or Trial Court Administrator.

(ii) *Clerk Action:* After receiving an application and declaration, the Trial Court Clerk shall:

- (A) 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. Or,
- (B) 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. Or,
- (C) 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.
- (D) After taking into account the applicant's entire financial situation, the Trial Court Clerk may deny the application or refer the application to the Presiding Judge for decision. Provided however,
- (E) The Trial Court Clerk does not have authority to grant a fee waiver or deferral if the applicant is represented by an attorney, other than by a legal aid attorney. And,
- (F) The Trial Court Clerk does not have authority to grant a waiver or deferral for the sheriff's service fees or arbitration fees.

(iii) Documents: When granting a fee waiver or deferral, the Trial Court Clerk shall prepare documents similar to the forms promulgated by the Trial Court Administrator or Presiding Judge. The documents shall indicate/include:

- (A) A statement that fees are waived or deferred.
- (B) All deferred fees must be paid not later than the final judgment, or when a hearing is held by the Court, or when the applicant is represented by an attorney, whichever first occurs. As used in this subparagraph, "hearing" includes (but is not limited to) a court-annexed arbitration hearing, court-annexed mediation, court-annexed settlement conference, and any other appearance before a judge or arbitrator/mediator/settlement attorney.
- (C) A Judgment will immediately be entered against the applicant for all deferred fees. Additional charges may be added to the Judgment. And,
- (D) Any document to set up a payment plan.

(b) Authority to Deny Fee Waiver or Deferral: The Trial Court Administrator and the Trial Court Clerks have authority to deny an application for a fee waiver or deferral.

(c) Authority Retained by PJ: Except as provided in paragraph (1)(a)(ii) above, neither Trial Court Administrator nor the Trial Court Clerk has authority to waive or defer fees. All authority not expressly delegated to the Trial Court Administrator or the Trial Court Clerks is retained by the Presiding Judge or in the Presiding Judge's absence, a Circuit Judge.

(d) Judgments: The clerks will prepare judgments, against the applicant, for all fee deferrals. The judgments shall be submitted to the Trial Court Administrator, the Presiding Judge or a Circuit Judge for signature.

(e) PJ Review: Any action taken by the Trial Court Administrator and the Trial Court Clerk is subject to review by the Presiding Judge at any time. Upon request by an applicant (either verbally or in writing), the Trial Court Clerk shall forward the application for waiver or deferral of the fees to the Presiding Judge for a ruling. The Presiding Judge may affirm the decision of the Trial Court Clerks or may make some other decision. When reviewing a request for a fee waiver or deferral, the Presiding Judge may take into account whether the applicant has a colorable claim or defense. A colorable claim or defense is one which, when considered and if uncontested, could result in a decision on the merits in favor of the applicant.

(f) When Clerk Action is Final Action: Unless contrary action is taken, the Trial Court Clerk's denial of a fee waiver or deferral, shall constitute a denial or deferral of fees by the Presiding Judge, without further action by the Presiding Judge.

(2) **Inmate Lawsuits Against Governmental Entities**: This Order does not apply to an application filed by an inmate subject to the provisions of ORS 30.642 to 30.650.

(3) **Definitions**:

(a) As used in this Order, "fee," "fees," and/or "court costs" means and includes: Filing fees, hearing fees, motions fees, trial fees, sheriff's service fee and/or arbitration fees.

(b) CJO # 18-024 makes reference to the "federal poverty guidelines." Clerks shall use the most currently available federal poverty guidelines. As of the date of this order, the most current federal poverty guidelines are attached.

(4) **Prior Orders Superseded**: This Order supersedes all previous Waiver and Deferral of Civil Fees and Court costs Orders, including (but not limited to) the Order dated 9/4/2013.

(5) **Effective Date:** The effective date of this Order shall be on the day after this Order is signed. This Order shall apply and be effective to any application made for a fee waiver or deferral after the Order is signed.

Dated this 15 day of June, 2018.



Frances E. Burge
Presiding Judge