

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT SPR14-05

Title	Action Requested
Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver	Review and submit comments by June 18, 2014
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO.	February 28, 2015
Proposed by	Contact
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Executive Summary and Origin

The Civil and Small Claims Advisory Committee recommends that certain California Rules of Court be amended and forms be revised to permit parties to waive the right to have a hearing prior to the court's issuing an order denying a fee waiver application, but permitting installment payments. Several courts have requested this amendment so that parties do not have to return to court if they are willing to accept permission to make payments over time, which would relieve parties and the courts from the expense of unnecessary hearings. The committee also recommends that payments over time generally be limited to first appearance fees and limited in time to a period of three months, with the court retaining discretion to order otherwise.

The Appellate Advisory Committee recommends that the rules that list the court fees that must be waived as part of an initial fee waiver be amended to consolidate this list of fees in one rule, and to add the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

Background

Payments of Trial Court Fees Over Time

Government Code section 68634¹ provides how an application for a fee waiver in the trial courts is to be handled.² If the court does not grant the fee waiver, it can deny the waiver without a prior hearing only if the application is incomplete or because the information provided conclusively establishes that the applicant is not eligible. (§ 68634(e)(2) and (3).) If the information in the application does not establish that the applicant meets the eligibility requirements for a fee waiver, but does not *conclusively* establish that the applicant is not eligible for one, then the court must hold an eligibility hearing with 10 days notice to the applicant. (§ 68634(e)(5).) If at that hearing the court finds the applicant not eligible for a fee waiver (and so denies the fee waiver), the court may grant a partial waiver or permission to pay fees over time. (Id.)

To implement this statutory provision for allowing payments over time only after a hearing, the Judicial Council includes on its *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008) an item in which a court may order payments over time of filing fees or other items (to be identified in the order). Several judicial officers³ and the Ad Hoc Advisory Committee on Trial Court Efficiencies have requested that a similar item be added to the order form that is used when no hearing is required, *Order on Court Fee Waiver (Superior Court)* (form FW-003). These judicial officers have recommended that hearings should not be required before the grant of installment payments because many parties do not want to have to make a court appearance for a fee waiver eligibility hearing if they are going to be permitted to make payments over time. The judicial officers note that the requirement of a hearing before all orders permitting payments over time is unnecessarily burdensome to both parties and courts.

As the same time, several court administrators have complained that when payments over time are permitted, problems can arise in ultimately collecting the full amount if the time period for payments is too long. When a time period of a year or more is allowed, the decisions on substantive issues can be issued and the main case completed long before the payment period concludes—particularly in unlawful detainer cases and certain family law proceedings—and the unsuccessful parties in such cases are often unwilling to pay any remaining fees. The suggestion was therefore made that the time period over which payments could be made should be a fairly short one. In addition, in those cases that do go on for a longer period, court administrators have asked for clarification as to exactly what filing fees are covered by an order permitting payments over time—only the initial filing fee or also fees for filing motions or ex parte applications.

¹ Unless otherwise indicated, all statutory references herein are to the Government Code.

² A separate statute, Government Code section 68634.5, addresses the handling of fee waiver applications in the appellate courts.

³ Express requests have been received from judicial officers in the Superior Courts of Solano, San Diego, and Contra Costa County Counties. In addition, judicial officers from other courts have agreed with the concerns when raised at various meetings on trial court efficiencies.

Fees Waived by Initial Fee Waiver

Last year, the Appellate Advisory Committee and the Court Executives Advisory Committee circulated for public comment a proposal to amend the California Rules of Court relating to reporters' transcripts in civil appeals. Among other things, that proposal recommended the establishment of a new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter's transcript on appeal. Because this would be a new fee, the committees anticipated that there would be questions about the potential waiver of this fee. The invitation to comment therefore also specifically solicited comments on whether this fee should be listed among the superior court fees that must be waived under rule 3.55 of the California Rules of Court or may be waived under rule 3.56. All four commentators who responded to this request for input suggested that the new fee should be on the list of specific superior court fees and costs that must be waived as part of an initial fee waiver under rule 3.55.

The proposal to establish the new \$50 fee was approved by the Judicial Council at its October 2013 meeting, and the new fee took effect on January 1, 2014. In the report to the Judicial Council, the committees indicated that, based on the public comments received, they would recommend that this fee be added to the list of superior court fees that must be waived as part of an initial fee waiver.

There is also another rule—rule 8.818, part of the appellate division rules—that currently includes a separate list of superior court fees that must be waived as part of an initial fee waiver in an appeal in a limited civil case. The list in rule 8.818 identifies several of the same fees as rule 3.55. However, it also includes one fee that is not currently identified in rule 3.55: the fee for transcribing or copying an official electronic recording. Because this fee is not currently listed in rule 3.55, there may be confusion about whether it must be waived as part of an initial fee waiver.

The Proposal

In light of the statutory requirement that a party be accorded the opportunity for a hearing prior to a court allowing payments over time instead of a fee waiver, the Civil and Small Claims Advisory Committee could not recommend simply eliminating the requirement for such hearings. Instead, the committee proposes that a procedure for a knowing waiver of such hearing be put in place, to allow parties who are satisfied with being allowed to pay filing fees over time to avoid unnecessary court appearances. The proposal would amend California Rules of Court, rules 3.51 and 3.52 and the fee waiver application form (form FW-001), *Information Sheet on Waiver of Superior Court Fees and Costs* (FW-001-INFO), and superior court fee waiver orders (forms FW-003 and FW-008) to more directly address the payment of filing fees over time—including generally limiting such time to three months—and to provide for an informed waiver of a hearing. While making the changes to the forms needed to avoid unnecessary hearings, the proposal would also amend these fee waiver forms in some other minor ways in response to suggestions received from courts over the five years since the forms were first adopted.

At the same time, the Appellate Advisory Committee proposes a change to the fee waiver rules, specifically to amend rules 3.55 and 8.818 of the California Rules of Court to consolidate in one rule the list of superior court fees that are waived as part of an initial fee waiver and to add to this list the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript on appeal. These rule changes would require parallel amendments of the list of such fees on the fee waiver orders (forms FW-003 and FW-008) and information sheets (forms APP-001, FW-001-INFO, and APP-015/FW-015-INFO).

The proposed rules are attached at pages 15-17. The proposed forms are attached at pages 18-32.

Payments of Trial Court Fees Over Time

Because statute mandates that a court provide an applicant with the opportunity for a hearing before denying a fee waiver and instead permitting payments over time, that provision may not be changed by rule of court.⁴ This proposal would not, therefore, eliminate the opportunity for a hearing before the grant of payments over time instead of a fee waiver, but rather provides that an applicant may make an informed waiver of the right to such a hearing and thus avoid unnecessary court appearances. The proposal would also, as a general rule, limit the time period in which the payments can be made to three months and limit the applications of payments over time to the initial filing fees, for a first appearance. A court may, at its discretion, provide for a longer time period and provide that other filing fees may be included. The details of the proposal are described below.

Rules 3.50 and 3.51. These rules, describing the application of the fee waiver rules and providing how a party applies for a fee waiver, would be amended to provide that the rules also apply to a request to make payments over time, and that such a request should be made on the fee waiver application form. While there may be some applicants who only want payments over time, and are not applying for a fee waiver *per se*, such applicant would still need to provide the financial information on the back of the fee waiver application form. Therefore it makes sense that this form be adapted for use even by those applicants not directly seeking a fee waiver, rather than developing yet another set of forms and another set of procedures to parallel the fee waiver procedures.

Rule 3.52. This rule, concerning how a court processes a fee waiver application, would be amended in a few places.

- Rule 3.52(2) would be clarified to provide that an order on a fee waiver application that is issued *without a hearing* should be on form FW-003.⁵

⁴ The Judicial Council is expressly authorized to make rules regarding payment of court fees in installments by applicants not eligible for a fee waiver (see Gov. Code, § 68640), but is not authorized to make rules inconsistent with statute.

⁵ This is not a change in the rule, which already distinguishes between orders issued with or without a hearing. (Cf. Cal. Rules of Court, rule 3.52(3) (any order issued determining an application for an initial fee waiver *after* a

- A new subdivision would be added regarding payments over time, providing that such payments should be for a period of three months, unless a court finds good cause for a longer period. (Cal. Rules of Court, rule 3.52(6).)
- The new subdivision would also provide that orders permitting such payments could be made on form FW-003 if the hearing had been waived. (Id.)
- Renumbered subdivision (7), which, when the current fee waiver forms were first adopted in 2009, had allowed courts a grace period in which they could use forms created within their own electronic case management system rather than the Judicial Council so long as the forms met certain requirements, would be revived to provide a one-year period after this latest revision of the order forms in which a court could again electronically create its own order forms if the court elected to do so.

Form FW-001. Additions and changes on the proposed revised *Request to Waive Court Fees* (form FW-001) are described below and are highlighted on the attached copy of the form.

First page of form.

- *Item 5a, for eligibility based on eligibility to receive public benefits (§ 68633(a)).* Some of the longer names of the public benefits programs have been abbreviated to make more space on the form. Some programs are already listed just by initials on the current form, but more have been abbreviated in the proposed version. One, however, would be lengthened. In response to reported confusion by applicants, the name of one program, Supplemental Security Income, referred to on the form as SSI, would have a longer reference in the amended form (Supp. Sec. Inc.) to clarify that the eligible program is not Social Security income. An express reference to the information sheet (form FW-001-INFO) has been added where the full names of all the public benefits programs can be found.
- *Item 5b, for eligibility based on household's income being below 125% of the federal poverty guideline (§ 68633(b)).* The chart showing the maximum amount of income for this type of eligibility would be retained.⁶ The references to the income items on the financial statement on page two of the form have been renumbered to reflect the proposed changes on that page.
- *Item 5c, for eligibility based on income not being sufficient for common necessities of life (§ 68633(c)).*
 - The direction to check one of the options in this item has been changed to “check all boxes that apply” so that parties can apply for both fee waiver and payments

hearing in the trial court must be made on *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008).)

⁶ See discussion and request for specific comments below in Alternatives Considered, at page 12.

- over time. (This has been happening anyway, with parties checking multiple boxes in spite of directions on the current form to check only one.)
- The instruction that an applicant checking this basis for eligibility must complete all of the items on the back of the form has been moved closer to the beginning of the item, and the word “must” emphasized in italics and underlining. This change is in response to requests by several court administrators to emphasize this direction.
 - The option to elect to “waive some court fees” would be deleted. While a partial waiver is a possible outcome for an applicant denied a waiver based on income not being sufficient for common necessities, there is no express statutory basis for asking for a partial waiver and, based on the experience of advisory committee members, a partial fee waiver is seldom, if ever, requested unless in conjunction with a full waiver. Removal of the item reduces confusion and provides more space on the form.
 - The direction “let me make payments over time” is changed to “let me pay my initial Superior Court⁷ filing fees over time” and adds an instruction to complete item 7 on the back of the form (the new item regarding possible waiver of a hearing) as well as the rest of the financial statement.

Back page of form:

- Item 7. A new item is added at the top of the second page of the form, titled Payments Over Time. The text describes the party’s right to a hearing prior to a denial of a fee waiver, along with the possibility of waiving that right in the event a court allows payments over time. There is also a reference to additional information regarding payments over time on the fee waiver information sheet (form FW-001-INFO). There are two check boxes so that the applicant can indicate whether or not he or she is waiving a hearing.
- All the remaining items on the page are renumbered.
- Item 9, Your Monthly Gross Income. In the current form, this item seeks an applicant’s income. It begins with a space for gross income from the applicant’s employment, followed by spaces to list all the deductions, and calls for a net amount of the applicant’s work income. The following lines are for the applicant’s gross income from other sources, with the next item asking for gross income from other members of the household. Thus, the total income figure at the bottom of the left side of the current form is a mix of net and gross figures. In the proposed form, all items in this column on the left side of the form would be for gross income figures. An item for the applicant’s gross work income is added to new item 9(a). The item for deductions has been moved to the list of expenses in renumbered item 12 (Your Monthly Deductions and Expenses).

⁷ The statute providing for how the Court of Appeal is to process requests for fee waivers does not include references to payments over time and the Courts of Appeal do not allow them.

- Item 11, Your Money and Property. A line has been removed from each of sub-items b (financial accounts), d (real estate), and e (other personal property), to add more space for the payroll deductions in item 12.

Form FW-001-INFO. Two new items have been added to the *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO) and three current items have been revised. The changes, which will make this a two-page form, are highlighted on the attached revised form and described below.

- Paragraph 1 in the general instructions section. The list of fees that will be waived if a fee waiver is granted has been revised to include two additional fees regarding appellate records. (See discussion in section regarding fees waived by initial fee waiver below.)
- Paragraph 3. This is a new paragraph about requesting permission to pay the filing fee over time. It identifies the item on the application form in which to make such a request, and describes the applicant's right to a hearing and the possibility of waiving this right if the applicant does not want a hearing should payments over time be permitted by the court. It also warns the applicant that, if payments over time are permitted, the period of time will generally be for up to three months unless the party provides the court with good cause for a longer time.
- Paragraph regarding public benefits program. A new paragraph has been added to list the full names of all the public programs listed in item 5b on the fee waiver application. The programs are in the same order as they appear on the application form.
- Paragraph regarding court collections. This paragraph has been amended to expand the warning that the court can use collection proceedings and add a fee and costs for collection, so that it includes the court's efforts to collect any unpaid installments of fees for which a party was permitted to pay over time.
- Paragraph regarding prisoner applicants. A citation to the portion of the fee waiver statutes addressing applications by prisoners (§ 68635) has been added. This is an area that causes some confusion among applicants and, while there has not yet been a separate set of forms developed for prisoner applications, the committee concluded that a cross reference to the applicable statute may be helpful.

Form FW-003. The major change to the *Order on Court Fee Waiver (Superior Court)* (form FW-003) is the addition of a new item which allows the court to issue an order denying a fee waiver, when allowing for payments over time, without a hearing. Currently, the form has items which the court may use to deny a fee waiver without a hearing if the application is incomplete (item 4b(1)) or if the information on the application *conclusively* establishes that a party is not eligible for an initial fee waiver (item 4b(2)). With the proposed changes to the order, if a party

has waived a hearing if payments over time are permitted, the court may also use this form to deny the fee waiver by completing item 4b(2) (giving the reasons for denying the waiver), and then completing new item 4d, allowing payments over time, without having to set a hearing first. The court may also use the amended form to grant or deny a standalone request for payments over time, when no fee waiver is requested. The changes are as follows:

- Item 4b(2) is amended to make optional the instruction that—following a denial of a fee waiver application that showed the applicant was not eligible—a party has 10 days to either ask for a hearing or pay the amount due in full. The opportunity to request a hearing is required by statute in situations where a fee waiver has been denied because the information on the application *conclusively* shows a lack of eligibility for a fee waiver and no advance hearing was required. (§ 68634(c)(3).) The committee concluded that this opportunity for a hearing is not necessary in situations where a party has waived the right to a hearing before denial of the application. A check box has been added to the form to make the instructions an optional item that the judicial officer would not need to check if a party has waived the right to a hearing.
- Item 4b(3) is added to provide a place for a court to deny a request for payments over time, when appropriate. This item would only be used if the application did not contain a request for a fee waiver. If there is a fee waiver requested at the same time as the request to pay over time, then there is a right to a hearing in advance of a court’s permitting installment payments, unless the party has waived that right. Because the waiver is, in the proposed form, conditioned on the court allowing a party to pay the filing fees over time, if the court does not allow payments over time, there would be no waiver. If a party requests *only* the right to make payments over time, with no actual fee waiver request, there is no statutory right to a hearing before the order and the court may use this item to deny the order if appropriate.
- New item 4d. This new item regarding payments over time is similar to the item regarding payments over time on the current form for a fee waiver order after hearing (item 5b(2) on form FW-008) with the following changes, which are being proposed for form FW-008 at the same time:
 - The item begins with a finding that the right to a hearing has been waived and a note that the fee waiver application has been denied (with a cross-reference to the item showing the denial).
 - There is a reference to proposed rule 3.52(d), which provides a general limit of three months time to such deferrals. The committee intended this rule reference to be a reminder to the judicial officers as well as parties.
 - The type of fees that may be paid over time is now listed as “initial” filing fees, rather than just “filing fees.” Generally, only the payment of the substantial fees connected to a party’s first appearance in an action will be extended over time. This change is intended to clarify that the order allowing payments over time does

not extend to fees for filing motions, unless expressly included in the “other” category.

- Item 4a. The other changes proposed to this form, not related to payments over time, are all in the first section of item 4, on the first page of the form, as follows:
 - The direction to “check one” indicating that the form could be used only to rule on either a *Request to Waive Court Fees* or a *Request to Waive Additional Court Fees*, but not both, has been removed.
 - Item 4a(1) has been amended to include a reference to the rule of court providing for waiver of fees on appeals, some of which fees occur in the superior court.
 - The two new items for fees proposed for addition to rule 3.55, relating to trial court fees for appellate records, are added to the list of waived fees and costs in item 4a(1).
 - Current item 4a(3), Fee Waiver for Appeal, has been deleted, because the items listed were duplicative of those already listed in item 4a(1).

Form FW-008. The *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008) has been revised in parallel with the changes described above in form FW-003.

- Item 5a is changed in all the ways item 4a on form FW-003 has been changed.
- Item 5b(2) regarding payments over time has been amended so that it mirrors new item 4d in amended form FW-003 described above.

Fees Waived by Initial Fee Waiver

Rules 3.55 and 8.818. Rule 3.55 of the California Rules of Court, which lists the superior court fees and costs that must be waived upon granting an application for an initial fee waiver, would be amended to add to this list the new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter’s transcript on appeal. The proposed language of the amendment is based on language from rules 8.130 and 8.334 referring to the \$50 fee as being for “the superior court to hold this deposit [for the reporter’s transcript] in trust.”

In the interest of ensuring that all of the fees that the superior court must waive upon granting an application for an initial fee waiver can easily be found in one place, this proposal would further amend rule 3.55 to add the fee now listed in rule 8.818—for transcribing official electronic recordings—to the list of superior court fees in rule 3.55 that must be waived and would amend rule 8.818 to simply cross-reference to rule 3.55 for the list of fees that must be waived.

Forms FW-001-INFO, FW-003, FW-008, APP-015/FW-015-INFO, and APP-001.

As discussed above, form FW-001-INFO is the information sheet regarding waiver of superior court fees and forms FW-003 and FW-008 are the superior court fee waiver order forms. All of these forms currently identify the superior court fees that must be waived upon granting an

application for an initial fee waiver. As already noted above, these forms would be revised in the following places to reflect the proposed amendments to rule 3.55:

- Form FW-001 INFO. Paragraph 1 in the general instructions section.
- FW-003. Item 4a(1).
- FW-008. Item 4a(1).

Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division) (form APP-015/FW-015-INFO) is the form that provides litigants with information about waiver of appellate court fees and *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001) provides general information about appeals to the Court of Appeal in civil cases, including information about fee waivers. Both of these forms currently identify the superior court fees related to appeals that must be waived upon granting an application for an initial fee waiver. These forms would be revised in the following places to reflect the proposed amendments to rule 3.55 (the proposed changes are highlighted on the attached copies of these forms):

- Form APP-015/FW-015-INFO. Item 2. Cross-references to this discussion would also be added to Item 3.
- Form APP-001. Page 2, Reporter's Transcript section, middle paragraph.

The Appellate Advisory Committee is also proposing a number of other updates to form APP-001 to reflect recent changes in appellate fees, rules, and procedures, including:

- Updating the amount of the fee to file a notice of appeal (page 1, item 4);
- Adding information about new fees for respondents (page 1, item 4);
- Reflecting that there are permissible substitutes to depositing funds with the court for a reporter's transcript (page 2, item 5, Reporter's Transcript section, middle paragraph);
- Updating rule references and the procedures relating to designation of the record (pages 2 and 3, item 5, Clerk's Transcript or Appendix section);
- Updating the procedures for filing a *Civil Case Information Statement* (form APP-004) (page 3, item 8); and
- Updating information about required copies of briefs (page 4, item 10, Service and Filing of Briefs section).

Alternatives Considered

1. No change

The Civil and Small Claims Advisory Committee initially considered the alternative of not amending the fee waiver rules and forms to address the issue of payments over time. The committee recognizes that these forms and the fee waiver procedures are both complex and very heavily used in the courts and that, as a result, any change will place a burden on the courts, requiring training of court clerks and judicial officers who deal with fee waivers. In addition, revising the forms to provide for installment payments on the order issued without a hearing (form FW-003) necessarily lengthens the form, which will become three-pages long—a length some courts will find burdensome. The goal of these changes, however, is to save parties and courts the time and expense of unnecessary court appearances. Because the change has been urged by sitting judicial officers who regularly handle fee waiver applications, and because the change was recommended by the Ad Hoc Advisory Committee on Trial Court Efficiencies, et al., the committee concluded that proposing amendments to effect the requested change is appropriate.

The Appellate Advisory Committee similarly considered not proposing amendments to the fee waiver rules and forms. However, based on the comments received last year, the committee concluded that it was important to specifically provide that the new fee for holding deposits for reporters' transcripts in trust is among those superior court fees that must be waived when an initial fee waiver is granted.

Given that changes to the fee waiver rules and forms were being considered by both the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee, the committees also concluded that it would be most economical to consider all of the potential changes to these forms at the same time.

2. Separate forms for payments over time

The Civil and Small Claims Advisory Committee considered the alternative of leaving the current fee waiver forms as they exist, and adding another set of forms (application and order) solely focused on requests for payments over time. This alternative had the advantage of leaving the fee waiver forms as they currently exist and so could result in a lesser training burden on the courts. However, the committee concluded that a second set of forms and procedures would not solve the current problem. While such forms could be useful for the small number of individuals who are seeking *only* the relief of making payments over time, without requesting any waiver of their fees, they would not help relieve the burden of unnecessary hearings for parties who do apply for fee waivers. Those individuals who want a fee waiver if possible, but who are willing to settle for the payments over time as an alternative, would still be able to get such relief only following a hearing. The committee concluded that this alternative was not a useful one.

3. Removing chart showing income eligibility dollar amounts

While considering amendments to the *Request to Waive Court Fees* (form FW-001), at the request of a member of the Judicial Council's Rules and Projects Committee, the Civil and Small Claims Advisory Committee considered the alternative of further revising that form to delete the chart in item 5b that shows the dollar amounts for eligibility for a fee waiver under section 68632(b),⁸ which provides that a fee waiver should be given to any applicant whose monthly income is 125 percent or less of the current poverty guidelines.

Currently, this form is revised almost every February to reflect a change in the federal poverty guidelines that occurs at the end of January in most years. Each year in which the figures are revised, courts have to change the forms, either creating or purchasing new ones, because courts are required by statute to provide these forms at no cost to the parties. By removing this chart from the form and instead including a reference to a copy of the chart made available (and updated each year) on the California Courts Online Self-Help Center, courts would be relieved from the cost of having to deal with a form being revised each February, on a short time frame.

Before the current application form was adopted by the council, the chart was on the fee waiver information sheet. The Judicial Council working group that proposed the fee waiver statute in 2007 urged that, when new forms were developed to implement the fee waiver statute, the chart of the maximum income eligibility figures be included on the application form. The Civil and Small Claims and Family Law Advisory Committees, which together developed the new and revised forms to implement that statute, agreed with that recommendation. In the report those committees made to the council regarding form FW-001, the committees recommended that the chart be on the application form in order to make clearer to both the applicant and the court the factual basis for the applicant's assertion that he or she is eligible for a fee waiver under section 68632(b).

The current advisory committee agrees with its predecessor and concluded that the chart should stay on the form, in order to assist both the applicants and the courts in determining eligibility. The committee particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy access to the Internet, and that they are asserting their eligibility under penalty of perjury. The committee also noted that, since the amendments to reflect the change in eligibility amounts are regularly issued in February of each year, courts can plan for the changes in stocking the fee waiver forms.

In light of concerns regarding the burden of producing or procuring new forms, the committee asks for comments on the question of whether the chart should remain on the form, or be removed and made available instead online.

⁸ That statute provides that a fee waiver should be given to any applicant who is "a person whose monthly income is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services."

4. Effective date of proposed changes

In light of the fact that the dollar amounts in the eligibility chart on form FW-001 are likely to be changed early next year, with a form containing the revised figures likely to be approved by the council in late February, the committee considered the alternative of recommending that the proposal described here go into effect on March 1, 2015, rather than January 1. The committee asks for comment on this alternative, addressing whether it would be preferable to have the revised forms and amended rules reflecting the new procedures for payments over time and the amendments to the list of waived fees for appellate matters go into effect January 1, with the knowledge that the application form (form FW-001) is likely to be further revised effective March 1, or to defer the effective date of the entire proposal so that form FW-001 will only have to be changed one time? Note that it is not possible to have *only* the revisions to form FW-001 deferred, because the other changes cannot be implemented without the changes to the application form.

Implementation Requirements, Costs, and Operational Impacts

The proposal regarding payments over time will impose a need for training of court clerks and judicial officers on the amended forms and new procedures for handling requests for such payments. It will also impose a cost in producing or procuring new forms. Some of that cost, at least as to the application forms, could be minimized by making the effective date in late February 2015 so that any changes to the form because of a change in the federal poverty guidelines could be made at the same time. It is anticipated that costs will also be offset by courts being able to eliminate hearings in cases where parties have agreed to waivers.

Adding the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript to the list of fees that must be waived when an initial fee waiver is granted may result in a reduction in revenues to the trial court from this fee. It is anticipated that this reduction would be small, as indigent parties may already request that the court waive this fee under rule 3.56(6) (“Other fees or expenses as itemized in the application”). There may also be some off-setting reduction in court costs, as the court will not have to consider separate requests to waive this fee.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the chart of income amounts for eligibility under Government Code section 68632(b) be removed from the application (form FW-001) and placed on the judicial branch's website, so that yearly changes to those amounts would not require changes to the form? Would the resulting savings to the courts offset the added burden to the parties and judicial officers in finding that information? (See discussion under Alternatives Considered, at page 12.)
- In light of the fact that one item on form FW-001 (the figures in the eligibility chart in item 5b) is likely to have to be revised in late February 2015, would it be helpful to make the effective date of the proposed amendments to all the rules and forms March 1, to coincide with changes to the amounts in the eligibility chart? (See discussion under Alternatives Considered, at page 13.)

The advisory committees also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments

1. Proposed amendments to California Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818
2. Proposed revised forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

Rules 3.50, 3.51, 3.52, 3.55, and 8.818 of the California Rules of Court would be amended, effective January 1, 2015, to read:

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Title 3. Civil Rules

Division 2. Waiver of Fees and Costs

Rule 3.50. Application of rules

(a) Application

The rules in this division govern applications in the trial court for an initial waiver of court fees and costs or for leave to pay filing fees over time because of the applicant’s financial condition. As provided in Government Code sections 68631 and following, any waiver may later be ended, modified, or retroactively withdrawn if the court determines that the applicant is not eligible for the waiver. As provided in Government Code sections 68636 and 68637, the court may, at a later time, determine that the previously waived fees and costs be paid.

(b) Definitions

For purpose of the rules in this division, “initial fee waiver” means the initial waiver of court fees and costs that may be granted at any stage of the proceedings and includes both the fees and costs specified in rule 3.55 and any additional fees and costs specified in rule 3.56.

Rule 3.51. Method of application

An application for initial fee waiver under rule 3.55 or for leave to pay filing fees over time must be made on *Request to Waive Court Fees* (form FW-001). An application for initial fee waiver under rule 3.56 must be made on *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The clerk must provide the forms and the *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO) without charge to any person who requests any fee waiver application or indicates that he or she is unable to pay any court fee or cost.

Rule 3.52. Procedure for determining application

The procedure for determining an application is as follows:

- (1) The trial court must consider and determine the application as required by Government Code sections 68634 and 68635.
- (2) An order determining an application for an initial fee waiver without a hearing must be made on *Order on Court Fee Waiver (Superior Court)* (form FW-003), except as provided in ~~(6)~~ (7) below.

- 1 (3) An order determining an application for an initial fee waiver after a hearing in the trial
2 court must be made on *Order on Court Fee Waiver After Hearing (Superior Court)* (form
3 FW-008).
4
- 5 (4) Any order granting a fee waiver must be accompanied by a blank *Notice of Improved*
6 *Financial Situation or Settlement* (form FW-010).
7
- 8 (5) Any order denying an application without a hearing on the ground that the information on
9 the application conclusively establishes that the applicant is not eligible for a waiver must
10 be accompanied by a blank *Request for Hearing About Fee Waiver Order (Superior Court)*
11 (form FW-006).
12
- 13 (6) Any order allowing payment of fees over time should limit the time for payments to three
14 months unless there is good cause for a longer time. The order may be issued on form FW-
15 003 if the party has waived a hearing.
16
- 17 (7) Until January 1, ~~2013~~ 2016, a court with a computerized case management system may
18 produce electronically generated court fee waiver orders as long as:
19 (A) The document is substantively identical to the mandatory Judicial Council form it is
20 replacing;
21 (B) Any electronically generated form is identical in both language and legally
22 mandated elements, including all notices and advisements, to the mandatory
23 Judicial Council form it is replacing; and
24 (C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g),
25 concerning orders not on Judicial Council mandatory forms.
26

27 **Rule 3.55. Court fees and costs included in all initial fee waivers**

28
29 Court fees and costs that must be waived upon granting an application for an initial fee waiver
30 include:

- 31
- 32 (1) Clerk's fees for filing papers;
33
- 34 (2) Clerk's fees for reasonably necessary certification and copying;
35
- 36 (3) Clerk's fees for issuance of process and certificates;
37
- 38 (4) Clerk's fees for transmittal of papers;
39
- 40 (5) Court-appointed interpreter's fees for parties in small claims actions;
41
- 42 (6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of
43 the Government Code (commencing with section 26720);
44

- 1 (7) Reporter’s daily fees for attendance at hearings and trials held within 60 days of the date of
2 the order granting the application;
3
4 (8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; ~~and~~
5
6 (9) Clerk’s fees for preparing, copying, certifying, and transmitting the clerk’s transcript on
7 appeal to the reviewing court and the party. A party proceeding under an initial fee waiver
8 must specify with particularity the documents to be included in the clerk’s transcript on
9 appeal;
10
11 (10) The fee under rule 8.130(b) or rule 8.834(b) for the court to hold in trust the deposit for a
12 reporter’s transcript on appeal; and
13
14 (11) The clerk’s fee for preparing a transcript of an official electronic recording under rule
15 8.835 or a copy of such an electronic recording.
16

17 Title 8. Appellate Rules

18 Division 2. Rules Relating to the Superior Court Appellate Division

19 Chapter 1. General Rules Applicable to Appellate Division Proceedings

20 Rule 8.818. Waiver of fees and costs

21 (a)–(c) * * *

22 (d) Court fees and costs waived

23 Court fees and costs that must be waived upon granting an application for initial waiver of
24 court fees and costs ~~include:~~ are listed in rule 3.55. The court may waive other necessary
25 court fees and costs itemized in the application upon granting the application, either at the
26 outset or upon later application.

27 (1) ~~The fee for filing the notice of appeal;~~

28 (2) ~~The clerk’s fees for preparing and certifying the clerk’s transcript on appeal and for~~
29 ~~copying and transmitting a copy of this transcript to the applicant;~~

30 (3) ~~The fee for preparing a transcript of an official electronic recording under rule 8.835~~
31 ~~or a copy of such an electronic recording; and~~

32 (4) ~~Any court fee for telephonic oral argument.~~

33 (e)–(f) * * *

Clerk stamps date here when form is filed.

DRAFT
03/24/14
NOT APPROVED BY
THE JUDICIAL COUNCIL

If you are getting public benefits, are a low-income person, or do not have enough income to pay for household's basic needs and your court fees, you may use this form to ask the court to waive your court fees or allow payment over time. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

- You cannot give the court proof of your eligibility,
- Your financial situation improves during this case, or
- You settle your civil case for **\$10,000** or more. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

1 Your Information (person asking the court to waive the fees):

Name: _____
 Street or mailing address: _____
 City: _____ State: ____ Zip: _____
 Phone number: _____

2 Your Job, if you have one (job title): _____

Name of employer: _____
 Employer's address: _____

3 Your Lawyer, if you have one (name, firm or affiliation, address, phone number, and State Bar number):

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes No

b. (If yes, your lawyer must sign here) Lawyer's signature: _____

If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

4 What court's fees or costs are you asking to be waived?

- Superior Court (See *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO).)
- Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See *Information Sheet on Waiver of Appellate Court Fees* (form APP-015/FW-015-INFO).)

5 Why are you asking the court to waive your court fees?

- a. I receive (check all that apply; see form FW-001-INFO for definitions): Food Stamps Supp. Sec. Inc. SSP Medi-Cal County Relief/Gen. Assist. IHSS CalWORKS or Tribal TANF CAPI
- b. My gross monthly household income (before deductions for taxes) is less than the amount listed below. (If you check 5b, you must fill out 8, 9, and 10 on page 2 of this form.)

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	<i>If more than 6 people at home, add \$422.92 for each extra person.</i>
1	\$1,215.63	3	\$2,061.46	5	\$2,907.30	
2	\$1,638.55	4	\$2,484.38	6	\$3,330.21	

- c. I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to: (check all boxes that apply, and you must fill out page 2): waive all court fees and costs let me pay my initial Superior Court filing fees over time (complete item 7 on page 2, along with all other items on that page)

6 Check here if you asked the court to waive your court fees for this case in the last six months. (If your previous request is reasonably available, please attach it to this form and check here:)

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.

Date: _____

Print your name here

Sign here



Your name: _____

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 8, 9, and 10 only. If you checked 5c, you **must** fill out this entire page. If you need more space, attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

7 Payments Over Time

If you asked to make payments over time in addition to requesting a fee waiver, you may have the right to a hearing in advance—which means you will need to come to court—if the court denies the fee waiver. If the court grants the payments over time, do you waive your right to come to court for a hearing before the court rules on your application? (Check one; and see form FW-001-INFO for more information on payments over time.)

- Yes, I waive the right to a hearing in advance.
- No, I do not waive the right to a hearing in advance even if the court permits me to make payments over time.

8 Check here if your income changes a lot from month to month. Fill out below based on your average income for the past 12 months.

9 Your Gross Monthly Income

a. List the source and amount of *any* other income you get each month, including: wages or other income from work, before deductions, spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.

- (1) _____ \$ _____
- (2) _____ \$ _____
- (3) _____ \$ _____
- (4) _____ \$ _____

b. Your total monthly income: \$ _____

10 Household Income

a. List all other persons living in your home and their income; include only your spouse and all individuals who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.

Name	Age	Relationship	Gross Monthly Income
(1) _____	_____	_____	\$ _____
(2) _____	_____	_____	\$ _____
(3) _____	_____	_____	\$ _____
(4) _____	_____	_____	\$ _____

b. Total monthly income of persons above: \$ _____

Total monthly income and household income (9b plus 10b): \$ _____

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach form MC-025. Or attach a sheet of paper, and write Financial Information and your name and case number at the top. Check here if you attach another page.

Important! If your financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010.

11 Your Money and Property

- a. Cash \$ _____
- b. All financial accounts (List bank name and amount):
 - (1) _____ \$ _____
 - (2) _____ \$ _____
 - (3) _____ \$ _____
- c. Cars, boats, and other vehicles

Make / Year	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____
- d. Real estate

Address	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
- e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

Describe	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____

12 Your Monthly Deductions and Expenses

- a. List any payroll deductions and the monthly amount below:
 - (1) _____ \$ _____
 - (2) _____ \$ _____
 - (3) _____ \$ _____
 - (4) _____ \$ _____
- b. Rent or house payment & maintenance \$ _____
- c. Food and household supplies \$ _____
- d. Utilities and telephone \$ _____
- e. Clothing \$ _____
- f. Laundry and cleaning \$ _____
- g. Medical and dental expenses \$ _____
- h. Insurance (life, health, accident, etc.) \$ _____
- i. School, child care \$ _____
- j. Child, spousal support (another marriage) \$ _____
- k. Transportation, gas, auto repair and insurance \$ _____
- l. Installment payments (list each below):

Paid to:		
(1) _____	_____	\$ _____
(2) _____	_____	\$ _____
(3) _____	_____	\$ _____
- m. Wages/earnings withheld by court order \$ _____
- n. Any other monthly expenses (list each below):

	How Much?
(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____

Total monthly expenses (add 12a –12n above): \$ _____

INFORMATION SHEET ON WAIVER OF SUPERIOR COURT FEES AND COSTS

If you have been sued or if you wish to sue someone, or if you are filing or have received a family law petition, and if you cannot afford to pay court fees and costs, you may not have to pay them in order to go to court. If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs and your court fees, you may ask the court to waive all or part of your court fees.

1. To make a request to the court to waive your fees in superior court, complete the *Request to Waive Court Fees* (form FW-001). If you qualify, the court will waive all or part of its fees for the following:
 - Filing papers in superior court (other than for an appeal in a case with a value of over \$25,000)
 - Making and certifying copies
 - Sheriff's fee to give notice
 - Court fees for telephone hearings
 - Reporter's daily fee (*for up to 60 days after the grant of the fee waiver, at the court-approved daily rate*)
 - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
 - Holding in trust the deposit for reporter's transcript on appeal under California Rules of Court, rules 8.833 or 8.834
 - Making a transcript or copy of an official electronic recording under rule 8.835
 - Giving notice and certificates
 - Sending papers to another court department
 - Having a court-appointed interpreter in small claims court
2. You may ask the court to waive other court fees during your case in superior court as well. To do that, complete a *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The court will consider waiving fees for items such as the following, or other court services you need for your case:
 - Jury fees and expenses
 - Fees for court-appointed experts
 - Reporter's daily fees (*beyond the 60-day period after the grant of the fee waiver, at the court-approved daily rate*)
 - Fees for a peace officer to testify in court
 - Court-appointed interpreter fees for a witness
 - Other necessary court fees
3. You may ask to pay your filing fee in Superior Court in payments over time. To do that, complete the *Request to Waive Court Fees* and check the box in item 5c for payments over time. State law allows a court to grant this request even if a fee waiver is denied, but requires that the court give you opportunity for a hearing about the denial first. If you are willing to waive that hearing so that you do not have to go to court before the court allows payments over time, you should check "yes" on item 7 on the back of the request form, as well as filling out the rest of that form. A court may allow up to three months for payment of the filing fee, unless you can show a really good reason for a longer time. See Cal. Rules of Court, rule 3.52(6).
4. If you want the Appellate Division of Superior Court or the Court of Appeal to review an order or judgment against you and you want the court fees waived, ask for and follow the instructions on *Information Sheet on Waiver of Appellate Court Fees, Supreme Court, Court of Appeal, Appellate Division* (form APP-015/FW-015-INFO).

IMPORTANT INFORMATION!

- **You are signing your request under penalty of perjury. Please answer truthfully, accurately, and completely.**
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **Public benefits programs listed on the application form.** In item 5 on the *Request to Waive Court Fees*, there is a list of programs from which you may be receiving benefits, listed by the abbreviations they are commonly known by. The full names of those programs can be found in Government Code section 68632(a), and are also listed here:
 - Medi-Cal
 - Food Stamps—California Food Assistance Program, CalFresh Program, or SNAP
 - Supp. Sec. Inc.—Supplemental Security Income (not Social Security)
 - SSP—State Supplemental Payment
 - County Relief/General Assistance—County Relief, General Relief (GR), or General Assistance (GA)
 - IHSS—In-Home Supportive Services
 - CalWORKS—California Work Opportunity and Responsibility to Kids Act
 - Tribal TANF—Tribal Temporary Assistance for Needy Families
 - CAPI—Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrant

- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court within five days if your finances improve or if you become able to pay court fees or costs during this case. (File *Notice to Court of Improved Financial Situation or Settlement* (form FW-010) with the court.) You may be ordered to repay any amounts that were waived after your eligibility came to an end.
- **If you receive a judgment or support order in a family law matter:** You may be ordered to pay all or part of your waived fees and costs if the court finds your circumstances have changed so that you can afford to pay. You will have the opportunity to ask the court for a hearing if the court makes such a decision.
- **If you win your case in the trial court:** In most circumstances the other side will be ordered to pay your waived fees and costs to the court. The court will not enter a satisfaction of judgment until the court is paid. (This does not apply in unlawful detainer cases. Special rules apply in family law cases. (Government Code, section 68637(d), (e).)
- **If you settle your civil case for \$10,000 or more:** Any trial court waived fees and costs must first be paid to the court out of the settlement. **The court will have a lien on the settlement in the amount of the waived fees and costs.** The court may refuse to dismiss the case until the lien is satisfied. A request to dismiss the case (use form CIV-110) must have a declaration under penalty of perjury that the waived fees and costs have been paid. Special rules apply to family law cases.
- **The court can collect fees and costs due to the court.** If waived fees and costs are ordered paid to the trial court, **or if you fail to make the payments over time,** the court can start collection proceedings and add a \$25 fee plus any additional costs of collection to the other fees and costs owed to the court.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or earlier if a court finds that you are not eligible for a fee waiver.
- **If you are in jail or state prison:** Prisoners may be required to pay the full cost of the filing fee in the trial court but may be allowed to do so over time. **See Government Code section 68635.**

**Order on Court Fee Waiver
(Superior Court)**

Clerk stamps date here when form is filed.

**DRAFT
04/14/2014
NOT APPROVED
BY
THE JUDICIAL COUNCIL**

1 Person who asked the court to waive court fees:
Name: _____
Street or mailing address: _____
City: _____ State: _____ Zip: _____

2 Lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number): _____

3 A request to waive court fees was filed on (date): _____
 The court made a previous fee waiver order in this case on (date): _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

Read this form carefully. All checked boxes are court orders.

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

4 After reviewing your: *Request to Waive Court Fees* *Request to Waive Additional Court Fees*
the court makes the following orders:

a. The court **grants** your request, as follows:

(1) **Fee Waiver.** The court grants your request and waives your court fees and costs listed below. (*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:

- Filing papers in Superior Court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's daily fee (*for up to 60 days following the fee waiver order at the court-approved daily rate*)
- Preparing and certifying the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rules 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearings

(2) **Additional Fee Waiver.** The court grants your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for court-appointed experts
- Reporter's daily fees (*beyond the 60-day period following the fee waiver order*)
- Other (*specify*): _____
- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness

Case Number: _____

Your name: _____

b. The court **denies** your fee waiver request, as follows:

Warning! If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

(1) The court **denies** your request because it is incomplete. You have **10 days** after the clerk gives notice of this order (see date below) to:

- Pay your fees and costs, or
- File a new revised request that includes the items listed below (*specify incomplete items*):

(2) The court **denies** your request because the information you provided on the request shows that you are not eligible for the fee waiver you requested (*specify reasons*): _____

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Superior Court)*, form FW-006. You have **10 days** after the clerk gives notice of this order (see date below) to:

- Pay your fees and costs **in full or in the amount listed in d. below**, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006 to request hearing.*)

(3) The court **denies** your request for payments over time.

c. The court needs more information to decide whether to grant your request. You must go to court on the date below. The hearing will be about (*specify questions regarding eligibility*): _____

Bring the following proof to support your request if reasonably available: _____

Name and address of court if different from above:

Hearing Date → Date: _____ Time: _____ _____
 Dept.: _____ Room: _____ _____

Warning! If item c is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay your fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

d. Having waived the right to a hearing, and the fee waiver having been denied (see (b)(2) above), you may pay some court fees and costs over time. (See *Cal. Rules of Court, rule 3.52(6)*.) You may make monthly payments of \$ _____ beginning (*date*): _____ and then payable on the 1st of each month after that, until the fees and costs checked below are paid in full:

(1) **Initial filing fees.** (2) **Other** (*describe*): _____

You must pay all other court fees and costs as they are due.

Date: _____

Signature of (check one): *Judicial Officer* *Clerk, Deputy*

This is a Court Order.

Case Number: _____

Your name: _____



Request for Accommodations. Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8.)

Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*): A certificate of mailing is attached.
 I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.
 This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): _____, California on the date below.
Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Order on Court Fee Waiver After Hearing (Superior Court)

Clerk stamps date here when form is filed.

DRAFT

03/24/14

NOT APPROVED BY JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

1 Person who asked the court to waive court fees:

Name: _____

Street or mailing address: _____

City: _____ State: _____ Zip: _____

2 Lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number):

3 A request to waive court fees was filed (date): _____

4 There was a hearing on (date): _____
at (time): _____ **in (Department):** _____

The following people were at the hearing (check all that apply):

Person in 1 Lawyer in 2

Others (names): _____

Read this form carefully. All checked boxes are court orders.

Notice: The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

5 After reviewing your: Request to Waive Court Fees Request to Waive Additional Court Fees **the court makes the following order:**

a. The court **grants** our request and waives your court fees and costs as follows:

(1) **Fee Waiver.** The court **grants** your request and waives your court fees and costs listed below (*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:

- Filing papers in superior court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's daily fee (*for up to 60 days after the grant of the fee waiver, at the court-approved daily rate*)
- Preparing and certifying the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rules 8.130 or 8.834
- Making a transcript or copy of an official electronic recorder under rule 8.835
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearing

(2) **Additional Fee Waiver.** The court **grants** your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for court-appointed experts
- Reporter's daily fees (*beyond the 60-day period after grant of the fee waiver, at court-approved daily rate*)
- Other: (*specify*): _____
- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness



Case Name: _____	Case Number: _____
-------------------------	---------------------------

- b. The court **denies** your request and **will not waive or reduce** your fees and costs.
- (1) The reason for this denial is as follows:
- (a) Your request is incomplete, and you did not provide the information that the court requested (*specify items missing*): _____
- (b) You did not go to court on the hearing date to provide the information the court needed to make a decision.
- (c) The information you provide shows that you are not eligible for the fee waiver you requested because (*check all that apply*):
- i. Your income is too high.
- ii. Other (*explain*): _____
- (d) There is not enough evidence to support a fee waiver.
- (e) Other (*state reasons*): _____
- (2) You may pay some court fees and costs over time. (See *Cal. Rules of Court, rule 3.52(6)*.) You may make monthly payments of \$ _____ beginning (*date*): _____ and then payable on the 1st of each month after that, until the fees checked below are paid in full:
- (a) Initial filing fees.
- (b) Other (*describe*): _____
- You must pay all other court fees and costs as they are due.
- c. The court **partially grants** your request so you can pay court fees without using money you need to pay for your household's basic needs. You are ordered to pay a portion of your fees, **as checked below**. The court only partially grants the request because (*state reasons for partial denial*): _____
- (1) You must pay _____ % of your court fees.
- (2) The court waives some fees. The fees checked below are waived. You must pay all other court fees.
- | | |
|---|---|
| <input type="checkbox"/> Filing papers at superior court
<input type="checkbox"/> Sheriff's fee to give notice
<input type="checkbox"/> Court-appointed interpreter
<input type="checkbox"/> Reporter's daily fee up to 60 days after order
<input type="checkbox"/> Jury fees and expenses
<input type="checkbox"/> Court-appointed experts' fees
<input type="checkbox"/> Making certified copies
<input type="checkbox"/> Other (<i>specify</i>): _____ | <input type="checkbox"/> Giving notice and certificates
<input type="checkbox"/> Sending papers to another court department
<input type="checkbox"/> Court-appointed interpreter fees for a witness
<input type="checkbox"/> Reporter's daily fees beyond the 60 days after initial order
<input type="checkbox"/> Fees for a peace officer to testify in court
<input type="checkbox"/> Court fees for telephone hearings |
|---|---|
- (3) Other (*specify*): _____

Warning! If b or c above are checked: You have **10 days** after the clerk gives notice of this order (see date below) to pay your fees as ordered, unless there is a later date for beginning payments in item b(2). If you do not pay, your court papers will not be processed. If the papers are a notice of appeal, your appeal may be dismissed.

Date: _____

 Signature of Judicial Officer

Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*): A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): _____, California on the date below.

Date: _____ Clerk, by _____, Deputy

INFORMATION ON APPEAL PROCEDURES FOR UNLIMITED CIVIL CASES

The following is general information about the procedures for appeals of unlimited civil cases (“unlimited civil case” generally means a civil case in which the amount in controversy is more than \$25,000; see Code of Civil Procedure sections 85 and 88). This information is not intended to be comprehensive, but to provide an overview to help guide you through the appeal process. **You should thoroughly read rules 8.100–8.276 of the California Rules of Court. If you have questions about the appellate process, you should consult an attorney of your own choosing.**

1. NATURE OF AN APPEAL

An appeal is a review of a court’s decision by another court. A party may appeal an unfavorable judgment and certain orders in an unlimited civil case made in the superior court to the Court of Appeal for the district in which the superior court is located. Generally, the appeal must be based on an argument that a **legal error** was made by the superior court. An appeal is not a retrial. You will not be permitted to introduce new evidence, and the appellate court will not reassess conflicting evidence. You may not appeal on behalf of a friend, a spouse, a child, or other relative (unless you are a legally appointed guardian).

2. PARTIES

The party filing the appeal is called the APPELLANT. The party against whom the appeal is brought is called the RESPONDENT.

STEPS IN THE APPEAL PROCESS AT THE SUPERIOR COURT

3. NOTICE OF APPEAL

To appeal from a superior court decision in an unlimited civil case, the appellant must file a notice of appeal **in the superior court** (Cal. Rules of Court, rule 8.100). A notice of appeal tells the other party or parties in the case and the superior court that you are appealing the decision of the superior court. You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file a notice of appeal in an unlimited civil case.

The notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court. Generally, this service and filing must be completed within **60 calendar days** after the clerk or a party serves either a notice of entry of judgment or a file-stamped copy of the judgment. If neither of these documents is served, the notice of appeal must be filed within **180 calendar days** after entry of judgment (generally the date the judgment is file-stamped). **If your notice of appeal is filed late, your appeal will be dismissed** (Cal. Rules of Court, rules 8.104 and 8.108).

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a cross-appeal. To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later (Cal. Rules of Court, rule 8.108). You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file this notice in an unlimited civil case.

4. FEES ON APPEAL

The notice of appeal must be accompanied by a **\$775** filing fee (Gov. Code, §§ 68926 and 68926.1) made payable to “Clerk, Court of Appeal” and a \$100 deposit (Gov. Code, § 68926.1) made payable to “Clerk of the Superior Court.” **Parties other than the appellant must pay a fee of \$390 when they file their first document in the Court of Appeal.** If you do not have the money for the fees, you may submit an application for waiver of court fees and costs on appeal under rule 8.26 and 3.50–3.63 of the California Rules of Court (Cal. Rules of Court, rule 8.100).

5. DESIGNATION OF RECORD

See rules 8.120–8.163 of the California Rules of Court, which govern the preparation of the record on appeal.

Since the appellate court was not present at the trial or other proceedings in the superior court, there must be an official record of the proceedings from the superior court for the appellate court to review in assessing the appeal. Within 10 days of filing the notice of appeal, the appellant must tell the superior court in writing (“designate”) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. **You will need to designate all the parts of the record that the Court of Appeal will need to decide the issues you raise in the appeal.** You can use Judicial Council form APP-003, *Notice Designating Record on Appeal (Unlimited Civil Case)* to designate the record in an unlimited civil case.

Reporter’s Transcript

A court reporter’s transcript is a written record (often called the “verbatim” record) of the oral proceedings in the superior court. A reporter’s transcript is not required but is usually necessary.

Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk either a notice designating a reporter’s transcript or a notice of intent to proceed without a reporter’s transcript (Cal. Rules of Court, rule 8.121). You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a reporter’s transcript, among other things, the notice designating this transcript must specify the date of each proceeding to be included in the transcript and must be served on each known court reporter (Cal. Rules of Court, rule 8.130). The names of the court reporters who reported the proceedings are found in the superior court clerk’s minute orders, which are prepared for each day of the proceedings and then placed in the superior court file.

With the notice designating the reporter’s transcript, the appellant must deposit the approximate cost of transcribing the proceedings designated or one of the substitutions authorized by rule 8.130(b)(3) (Cal. Rules of Court, rule 8.130). The cost may be obtained from the reporter’s written estimate or calculated at \$650 per day (more than three hours of court time) or \$325 per fraction of a day (less than three hours of court time) for proceedings that were not previously transcribed. If the appellant deposits these funds with the court, the appellant must also pay the court a \$50 fee for holding this deposit in trust, unless the trial court has waived the appellant’s fees under rules 3.50 – 3.63 (Cal. Rules of Court, rule 8.130).

Within 10 days after service of the appellant’s designation of the reporter’s transcript, the respondent may serve and file a notice designating additional proceedings to be included in the reporter’s transcript (Cal. Rules of Court, rule 8.130). Respondent must pay for the cost of transcribing any additional proceedings designated.

If the appellant chooses to proceed without a reporter’s transcript, the respondent may not designate a reporter’s transcript without first obtaining an order from the reviewing court (Cal. Rules of Court, rule 8.130).

Clerk’s Transcript or Appendix

The clerk’s transcript is a compilation of the documents filed in the superior court that is prepared by the clerk. An appendix is a compilation of these documents prepared by a party (Cal. Rules of Court, rule 8.124). Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk a notice indicating what form of the record of the documents filed in the trial court the appellant wants to use. You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a clerk’s transcript, the appellant must identify (designate) the documents from the court file that the appellant wants the superior court to include in the clerk’s transcript (Cal. Rules of Court, rule 8.122). Each document designated for inclusion in the clerk’s transcript must be identified by its title and filing date. If the filing date is not known, the date the document was signed may be used instead (Cal. Rules of Court, rule 8.122).

Within 10 days after service of a notice designating the documents to be included in the clerk’s transcript, respondent may serve and file a notice designating additional documents to be included in the clerk’s transcript (Cal. Rules of Court, rule 8.122).

The superior court clerk will send the appellant a bill for the cost of preparing an original and one copy of the transcript (Cal. Rules of Court, rule 8.122). **Unless the trial court has waived the appellant's fees and costs under rules 3.50 – 3.63,** this must be paid within 10 days or the appeal may be dismissed by the Court of Appeal.

If the appellant chooses to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by California Rules of Court, rule 8.124. The parties may prepare separate appendices or stipulate (agree) to a joint appendix. If separate appendices are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the cost will be paid by the appellant(s) (Cal. Rules of Court, rule 8.124).

6. FILING OF CLERK'S AND REPORTER'S TRANSCRIPTS (IF ANY)

If the appellant chooses to designate a clerk's transcript, after all the fees have been paid, the superior court clerk will compile the requested documents into a transcript format and forward the original clerk's transcript, together with the original reporter's transcript, if any, to the Court of Appeal for filing. A copy of the transcript(s) will be sent to the appellant. If the respondent has purchased a copy, the clerk's transcript will also be mailed to the respondent (Cal. Rules of Court, rules 8.122, 8.130, and 8.150).

7. ABANDONMENT OF APPEAL

If the appellant decides not to proceed with the appeal and the record has not yet been filed in the Court of Appeal, the appellant must file an abandonment of appeal in the superior court (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-005, *Abandonment of Appeal (Unlimited Civil Case)*, for this purpose.

STEPS IN THE APPEAL PROCESS AT THE COURT OF APPEAL

8. CIVIL CASE INFORMATION STATEMENT

Within 15 days after the trial court clerk mails out a notice that a notice of appeal has been filed in an unlimited civil case, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form APP-004), attaching a copy of the judgment or appealed order that shows the date it was entered (Cal. Rules of Court, rules 8.100 and 8.104).

9. SERVING AND FILING APPENDIX IN LIEU OF CLERK'S TRANSCRIPT

If a party chooses to prepare an appendix of the documents filed in the superior court under rule 8.124 rather than designating a clerk's transcript, the party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. A joint appendix or an appellant's appendix must be served and filed with the appellant's opening brief. A respondent's appendix, if any, must be served and filed with the respondent's brief. An appellant's reply appendix, if any, must be served and filed with the appellant's reply brief (Cal. Rules of Court, rule 8.124).

10. BRIEFS

A brief is a party's written description of the facts in the case, the relevant law, and the party's argument. The preparation and filing of briefs is governed by rules 8.200–8.224 of the California Rules of Court. Parties are encouraged to read these rules thoroughly and comply accordingly.

Contents and Format of Briefs

See rule 8.204 of the California Rules of Court.

The brief must clearly explain, using references to the clerk's and reporter's transcripts (or other form of the record being used), the claimed legal errors in the superior court proceedings. Each brief must be no longer than 14,000 words if produced on a computer (you can rely on the word count provided by your computer in meeting this requirement) or up to 50 pages if produced on a typewriter. The brief must contain a table of contents and a table of authorities.

Service and Filing of Briefs

See rule 8.212 of the California Rules of Court.

The appellant's opening brief must be served and filed within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant elects to proceed under rule 8.124 with no reporter's transcript. The cover of the appellant's opening brief must be green (Cal. Rules of Court, rules 8.212 and rule 8.40).

The respondent's brief must be served and filed within 30 days after the appellant's opening brief is filed. If this brief is the first document you have filed in the Court of Appeal in this case, you may have to pay a filing fee with the brief. The cover of the respondent's brief must be yellow.

The appellant's reply brief, if any, must be served and filed within 20 days after the respondent's brief is filed. The cover of the appellant's reply brief must be tan.

An original and four copies of each brief, along with proof of service, must be filed with the Court of Appeal. A copy of each brief must be served on all counsel and self-represented parties and on the superior court clerk for delivery to the trial judge. If a brief is not filed electronically under rules 8.70-8.79, one electronic copy must also be submitted to the Court of Appeal or, if it would cause undue hardship for the party filing the brief to submit an electronic copy to the Court of Appeal, the party may instead serve four paper copies on the California Supreme Court (Cal. Rules of Court, rule 8.212). The addresses of the California Supreme Court, Courts of Appeal, and superior courts can be found on the Internet at www.courts.ca.gov/courts.htm.

In some instances a copy of each brief must be served on the Attorney General or the local district attorney. See rule 8.29 of the California Rules of Court and the *Civil Case Information Statement* (Judicial Council form APP-004).

Cover: Appellant's opening brief—green
Respondent's brief—yellow
Appellant's reply brief—tan

File: Original plus 4 paper copies along with proof of service in the Court of Appeal
Submit 1 electronic copy to the Court of Appeal (or, if this is hardship, serve 4 paper copies on California Supreme Court)

Serve: Superior court—1 copy
All counsel
All self-represented parties

Extension of Time to File Brief

If the time to file a brief has not already been extended by the court on application of the party, the parties may extend the time to file a brief for up to 60 days by filing a stipulation (agreement) in the Court of Appeal (Cal. Rules of Court, rule 8.212).

An application for extension of time must be filed with the Court of Appeal before the brief is due when:

- The parties cannot agree to a stipulation; or
- The parties have stipulated to the maximum automatic extension permitted under rule 8.212 of the California Rules of Court, and the applicant seeks a further extension.

Judicial Council form APP-006, *Application for Extension of Time to File Brief (Civil Case)*, can be used to apply to the Court of Appeal for an extension of time to file a brief.

11. DISMISSAL OF APPEAL

If the appellant decides not to proceed with the appeal after the record has been filed in the Court of Appeal, the appellant must file a request for dismissal in the Court of Appeal (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-007, *Request for Dismissal of Appeal (Civil Case)* for this purpose (Cal. Rules of Court, rule 8.244).

INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES
(SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

If you file an appeal, a petition for a writ, or a petition for review in a civil case, such as a family law case or a case in which you sued someone or someone sued you, you must generally pay a filing fee to the court. If you are a party other than the party who filed the appeal or the petition, you must also generally pay a fee when you file your first document in a case in the Court of Appeal or Supreme Court. You and the other parties in the case may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk’s transcript in an appeal. However, if you cannot afford to pay these court fees and costs, you may ask the court to issue an order saying you do not have to pay these fees (this is called “waiving” these fees).

1. Who can get their court fees waived?

The court will waive your court fees and costs if:

- **You are getting public assistance**, such as Medi-Cal, Food Stamps, Supplemental Security Income (not Social Security), State Supplemental Payment, County Relief/General Assistance, In-Home Supportive Services, CalWORKS, Tribal Temporary Assistance for Needy Families, or Cash Assistance Program for Aged, Blind, and Disabled.
- **You have a low income level.** Under the law you are considered a low-income person if the gross monthly income (before deductions for taxes) of your household is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,215.63	3	\$2,061.46	5	\$2,907.30
2	\$1,638.55	4	\$2,484.38	6	\$3,330.21

If more than 6 people at home, add \$422.92 for each extra person.

- **You do not have enough income to pay for your household’s basic needs and your court fees .**

2. What fees and costs will the court waive?

If you qualify for a fee waiver, the Supreme Court, Court of Appeal, or Appellate Division will waive the filing fee for the notice of appeal, a petition for a writ, a petition for review, or the first document filed by a party other than the party who filed the appeal or petition, and any court fee for participating in oral argument by telephone. The trial court will also waive costs related to the clerk’s transcript on appeal, the fee for the court to hold in trust the deposit for a reporter’s transcript on appeal under rule 8.130(b) or rule 8.834(b) and the fees for making a transcript or copy of an official electronic recording under rule 8.835. If you are the appellant (the person who is appealing the trial court decision), the fees waived include the deposit required under Government Code section 68926.1 and the costs for preparing and certifying the clerk’s transcript and sending the original to the reviewing court and one copy to you. If you are the respondent (a party other than the appellant in a case that is being appealed), the fees waived include the costs for sending you a copy of the clerk’s transcript. You can also ask the trial court to waive other necessary court fees and costs.

The court **cannot** waive the fees for preparing a reporter’s transcript in a civil case. A special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See <http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf> and Business and Professions Code sections 8030.2 and following for more information about this fund.) If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by preparing an agreed statement or, in some circumstances, a statement on appeal or settled statement.

3. How do I ask the court to waive my fees?

- **Appeal in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** In a limited civil case, if the trial court already issued an order waiving your court fees and that fee waiver has not ended (fee waivers automatically end 60 days after the judgment), the fees and costs identified in item 2 above are already waived; just give the court a copy of your current fee waiver. If you do not already have an order waiving your fees or you had a fee waiver but it has ended, you must complete and file a *Request to Waive Court Fees* (form FW-001). If you are the appellant (the party who is appealing), you should check both boxes in item 4 on FW-001 and file the completed form with your notice of appeal. If you are the respondent (a party other than the appellant in a case that is being appealed),

the completed form should be filed in the court when the fees you are requesting to be waived, such as the fee for the clerk's transcript or telephonic oral argument, are due.

- **Writ Proceeding in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** If you want the Superior Court to waive the fees in a writ proceeding in a limited civil case, you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box. The completed form should be filed with your petition for a writ.
- **Appeal in Other Civil Cases.** If you want the court to waive fees and costs in an appeal in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box to ask the Court of Appeal to waive the fee for filing the notice of appeal or, if you are a respondent (a party other than the one who filed the appeal), the fee for the first document you file in the Court of Appeal. Check both boxes if you also want the trial court to waive your costs for the clerk's transcript (if the trial court already issued an order waiving your fees *and that fee waiver has not ended*, you do not need to check the first box; **the fees and costs identified in item 2 above are already waived**, just give the court a copy of your current fee waiver). If you are the appellant, the completed form should be submitted with your notice of appeal (if you check both boxes in item 4, the court may ask for two signed copies of this form). If you are the respondent, the completed form should be submitted at the time the fee you are asking the court to waive is due. For example, file the form in the trial court with your request for a copy of the clerk's transcript if you are asking the court to waive the transcript fee or file the form in the Court of Appeal with the first document you file in that court if you are asking the court to waive the fee for filing that document. To request waiver of a court fee for telephonic oral argument, you should file the completed form in the Court of Appeal when the fee for telephonic oral argument is due.
- **Writ Proceeding in Other Civil Cases.** If you want the Supreme Court or Court of Appeal to waive the fees and costs in a writ proceeding in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner (the party filing the petition), the completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court or Court of Appeal.
- **Petition for Review.** If you want to request that the Supreme Court waive the fees in a petition for review proceeding, you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner, you should submit the completed form with your petition for review. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court.

IMPORTANT INFORMATION!

- **Fill out your request completely and truthfully.** When you sign your request for a fee waiver, you are declaring under penalty of perjury that the information you have provided is true and correct.
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court immediately if your finances improve or if you become able to pay court fees or costs during this case (file form FW-010 with the court). You may be ordered to repay any amounts that were waived after your eligibility ended. If the trial court waived your fees and costs and you settle your case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or when the court finds that you are not eligible for a fee waiver.