

In the Matter of Deferral or Waiver	)	CHIEF JUSTICE ORDER
of Fees and Court Costs in	)	No.10-045
Civil Actions or Proceedings Pursuant to	)	
ORS 21.682	)	ORDER ESTABLISHING STANDARDS
	)	AND PRACTICES FOR FEE DEFERRALS
	)	AND WAIVERS IN CIVIL ACTIONS
	)	AND PROCEEDINGS PURSUANT TO
	)	ORS 21.682; SUPERSEDES CJO 07-056

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

The court may grant a temporary deferral of a filing fee and court costs on an individual fee basis postponing a final determination on the application for a waiver until the conclusion of the case, or require a new application for deferral or waiver upon conclusion of the case.

1. Application

To be eligible for deferral or waiver of fees and court costs an applicant must do the following:

- a. File an application that lists the type of benefits received, and show proof of current benefit eligibility, if an applicant receives any of the following benefits:
  - i. Food stamps (SNAP – Supplemental Nutrition Assistance Program).
  - ii. Temporary Assistance to Needy Families (TANF).
  - iii. Supplemental Security Income (SSI).
  - iv. The following Oregon Health Plan (OHP) benefit packages:
    - 1. OHP Plus,
    - 2. OHP Standard, or
    - 3. OHP with limited drug.
- b. File a declaration that describes the applicant’s household size, household income, assets and expenses as well as any extenuating circumstances an applicant wishes the court to consider.
- c. A court may not consider available credit on a credit card as an asset or source of income in its evaluation.

2. Eligibility

These standards apply to all requests filed in a state court to defer or waive civil fees and court costs.

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

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

3. Court Actions

- a. Except as provided in subsection b. below, after considering the applicant's household size, the court will take one of the following actions:
  - i. Waive fees and court costs if the applicant's household income from all sources, including food stamps, is less than or equal to 133 percent of the federal poverty guidelines.
  - ii. Defer fees and court costs if the applicant's household income from all sources, including food stamps, is between 133 and 185 percent of the federal poverty guidelines.
  - iii. Deny a request to defer or waive fees and court costs if the applicant's household income from all sources, including food stamps, equals or exceeds 185 percent of the federal poverty guidelines.
- b. Instead of taking one of the actions established by subsection a. above, after considering the applicant's entire financial situation, a judge may instead determine that no relief or an alternative form of relief is warranted for the individual circumstances presented.

4. Other

- a. The model forms and instructions for courts to use to implement this Order are attached.
- b. The presiding judge of the court may issue a written delegation of authority to the court administrator and court clerks to defer or waive in accordance with ORS 21.682(2) and consistent with the standards of this Order.
- c. This Order does not apply to an application filed by an inmate subject to the provisions of ORS 30.642 to 30.650.

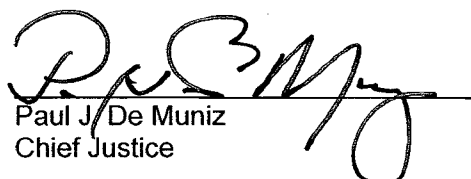
5. Definitions

As used in this Order:

- a. "Deferral" means either postponing an obligation to pay fees and court costs or establishing a schedule to pay fees and court costs.
- b. "Household" means a person or group of people occupying a common dwelling and sharing necessary living expenses.
- c. "Federal poverty guidelines" means the current-year poverty guidelines annually established by the U.S. Department of Health and Human Services.
- d. "Judge" means the Chief Justice of the Supreme Court, the Chief Judge of the Oregon Court of Appeals, a judge of a circuit court, the judge of the Oregon Tax Court, and a tax court magistrate.
- e. "Court" means the Oregon Supreme Court, the Oregon Court of Appeals, a circuit court, and the Oregon Tax Court (Regular and Magistrate Divisions).

This Order is effective October 1, 2010, and supersedes CJO-07-056.

DATED this 26<sup>th</sup> day of August, 2010.

  
Paul J. De Muniz  
Chief Justice

## OJD INSTRUCTIONS FOR FEE DEFERRAL OR WAIVER APPLICATION

Various fees and costs are required in any civil proceeding including dissolutions, small claims, landlord-tenant disputes and arbitration. A fee schedule is available from the court clerk or on the court's website at: (Circuit Court's Website). The court accepts credit card, money order, check, or cash. If you cannot afford to pay the amount required, you may ask the court to defer or waive those fees and costs. If the court defers the fees and costs you do not need to pay them at the time of filing but you are still responsible to pay them according to the schedule set up by the court.

If you wish to apply for a fee deferral or fee waiver, complete the following three forms:

- APPLICATION FOR DEFERRAL OR WAIVER OF FEES;**  
Fill in the case heading and indicate whether you are the Petitioner/Plaintiff or Respondent/Defendant. Check the boxes that apply to you. Date, sign, and print your name.
  
- DECLARATION FOR DEFERRAL OR WAIVER OF FEES; AND**  
Fill in the case heading and indicate whether you are the Petitioner/Plaintiff or Respondent/Defendant. The declaration must be completely filled out. Do not leave any sections blank. Date, sign, and print your name. The Declaration form is placed in the confidential section of the court file.
  
- ORDER REGARDING DEFERRAL OR WAIVER OF FEES.**  
Fill in the case heading and indicate whether you are the Petitioner/Plaintiff or Respondent/Defendant. The judge or designated court staff will complete the remainder of the form.

Once the forms are complete, you will be required to appear before a judge or designated court staff to make your request for a fee deferral or waiver. All fee deferral and waiver matters are heard                     (location, date & time)                    .

For purposes of verification, the judge or designated court staff member may require documentation regarding applicable household income, expenses, or public assistance. Be prepared to provide proof relating to this information.

At the completion of your case, the questions of fee deferral or waiver may again be addressed for any amount still unpaid. The judge in your case will again review the situation and decide in the final judgment whether the fees should be deferred or waived. At that time, you may be asked to come back to the court and update your financial situation again through the fee deferral or fee waiver process.

[Note: Court-specific instructions may be added to this page to fit local hearing and review procedures.]

**IN THE CIRCUIT COURT OF THE STATE OF OREGON**  
**FOR THE COUNTY OF \_\_\_\_\_**

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

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

**You must complete the attached Declaration for Deferral or Waiver of Fees with this application.** The declaration is designed to prove to the court that you do not have sufficient financial resources to pay the fees.

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

- |  |  |
|--|--|
| <input type="checkbox"/> Filing Fee Only | <input type="checkbox"/> Filing Fee(s) + Sheriff's Service Fee*                              |
| <input type="checkbox"/> Hearing Fee(s)  | <input type="checkbox"/> Arbitration Fee(s) <input type="checkbox"/> Other (describe): _____ |
| <input type="checkbox"/> Motion Fee(s)   | <input type="checkbox"/> Trial Fee(s) _____  |

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

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

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

- |  |  |
|--|--|
| <input type="checkbox"/> Food Stamps (SNAP)*         | <input type="checkbox"/> Oregon Health Plan with Limited Drug          |
| <input type="checkbox"/> Oregon Health Plan Standard | <input type="checkbox"/> Supplemental Security Income (SSI)            |
| <input type="checkbox"/> Oregon Health Plan Plus     | <input type="checkbox"/> Temporary Assistance to Needy Families (TANF) |

If you checked the above box, you must be prepared to show proof that you are receiving assistance from the program. \*(SNAP – Supplemental Nutrition Assistance Program).

Even though I am NOT receiving assistance from any of the above programs, I am still unable to pay the fees.

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Name of Applicant (printed or typed)

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_, )  
Petitioner/Plaintiff, )  
 )  
v. )  
 )  
\_\_\_\_\_, )  
Respondent/Defendant. )

Case No. \_\_\_\_\_

- Petitioner/Plaintiff
 Respondent/Defendant

DECLARATION FOR DEFERRAL OR WAIVER OF FEES

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

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

1. PERSONAL

Full Name of Applicant \_\_\_\_\_
FIRST NAME MIDDLE NAME LAST NAME

Residence Address \_\_\_\_\_
STREET ADDRESS CITY STATE ZIP

Mailing Address (if different) \_\_\_\_\_
ADDRESS CITY STATE ZIP

Telephone Number \_\_\_\_\_ \*SSN \_\_\_\_\_ ODL/ID \_\_\_\_\_ Marital Status \_\_\_\_\_

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

Names and ages of legal dependants living in household:

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

2. EMPLOYMENT AND INCOME

Your Employment and Income

Currently Employed  Not Currently Employed How long since last employment? \_\_\_\_\_

Employer Name (use previous employer if not currently employed) \_\_\_\_\_

Employer Address \_\_\_\_\_ Work Phone \_\_\_\_\_

Occupation (job title) \_\_\_\_\_ Length of Employment \_\_\_\_\_ Amount of Last Paycheck \$ \_\_\_\_\_

Hourly Wage \$ \_\_\_\_\_ Hours Per Week \_\_\_\_\_ Monthly Income: Gross \$ \_\_\_\_\_ Net (after taxes) \$ \_\_\_\_\_

Household Members' Employment and Income

Currently Employed  Not Currently Employed How long since last employment? \_\_\_\_\_

Employer Name (use previous employer if not currently employed) \_\_\_\_\_

Employer Address \_\_\_\_\_ Work Phone \_\_\_\_\_

Occupation (job title) \_\_\_\_\_ Length of Employment \_\_\_\_\_ Amount of Last Paycheck \$ \_\_\_\_\_

Hourly Wage \$ \_\_\_\_\_ Hours Per Week \_\_\_\_\_ Monthly Income: Gross \$ \_\_\_\_\_ Net (after taxes) \$ \_\_\_\_\_

Adverse Party's Employment and Income

Currently Employed  Not Currently Employed How long since last employment? \_\_\_\_\_

Employer Name (use previous employer if not currently employed) \_\_\_\_\_

Employer Address \_\_\_\_\_ Work Phone \_\_\_\_\_

Occupation (job title) \_\_\_\_\_ Length of Employment \_\_\_\_\_ Amount of Last Paycheck \$ \_\_\_\_\_

Hourly Wage \$ \_\_\_\_\_ Hours Per Week \_\_\_\_\_ Monthly Income: Gross \$ \_\_\_\_\_ Net (after taxes) \$ \_\_\_\_\_

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

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

**3. MONTHLY LIVING EXPENSES**

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

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

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

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

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

**5. MOTOR VEHICLES**

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

**6. REAL ESTATE**

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

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

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

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

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

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

Yes If so, how much? \$ \_\_\_\_\_  
 No

**10. LIQUIDATION OF ASSETS**

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

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

If so, who is your attorney? \_\_\_\_\_

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

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

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Name of Applicant (printed or typed)

**IN THE CIRCUIT COURT OF THE STATE OF OREGON**  
**FOR THE COUNTY OF \_\_\_\_\_**

\_\_\_\_\_, )  
 Petitioner/Plaintiff, )  
 )  
 v. )  
 )  
 \_\_\_\_\_, )  
 Respondent/Defendant. )

**Case No.** \_\_\_\_\_

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

**IT IS HEREBY ORDERED that:**

Deferral Only (No Waiver)

1.  The applicant's filing fees are **DEFERRED**. The deferred fees shall be paid prior to the final judgment or hearing, whichever occurs first. If the fees are not so paid, a supplemental judgment shall be entered for any deferred fees.

Deferral (Temporary)

2.  The following other fees are **DEFERRED** for payment:  
 Filing Fee(s)       Hearing Fee(s)       Arbitration Fee(s)       Other  
 Sheriff's Service Fee       Motion Fee(s)       Trial Fee(s)      \_\_\_\_\_

on a temporary and/or partial basis until: (a) judgment is presented to the court, (b) the matter comes on for trial or hearing in this case, or (c) a notice of attorney representation is filed on the moving party's behalf. The temporary deferral shall expire and fees and costs shall be paid, or a new application and declaration supporting a final deferral or waiver of fees shall be submitted to the court if you are unable to pay the fees and costs when a, b, or c occurs. In the event that the temporary deferral allowed in this paragraph expires and a judgment is entered without payment of the fees or costs, a supplemental judgment for any temporarily deferred fees or costs shall be entered. If the judgment is not paid in 30 days or a payment plan approved, collection costs will be added without further notice to you.

Waiver

3.  The following fees are **WAIVED** (No payment)  
 Filing Fee(s)       Hearing Fee(s)       Arbitration Fee(s)       Other  
 Sheriff's Service Fee       Motion Fee(s)       Trial Fee(s)      \_\_\_\_\_

Denial

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 Circuit Court Judge