

# Fee Waiver Law: Forms, Rules, and Procedures

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## WORKSHOP REFERENCE MATERIALS

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## ADMINISTRATIVE OFFICE OF THE COURTS

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**Statutes – Government Code**  
**§§ 68630 – 68641**



## **§ 68630. Legislative findings and declarations**

The Legislature finds and declares all of the following:

(a) That our legal system cannot provide “equal justice under law” unless all persons have access to the courts without regard to their economic means. California law and court procedures should ensure that court fees are not a barrier to court access for those with insufficient economic means to pay those fees.

(b) That fiscal responsibility should be tempered with concern for litigants' rights to access the justice system. The procedure for allowing the poor to use court services without paying ordinary fees must be one that applies rules fairly to similarly situated persons, is accessible to those with limited knowledge of court processes, and does not delay access to court services. The procedure for determining if a litigant may file a lawsuit without paying a fee must not interfere with court access for those without the financial means to do so.

(c) That those who are able to pay court fees should do so, and that courts should be allowed to recover previously waived fees if a litigant has obtained a judgment or substantial settlement.

### **68631. Initial fee waiver**

An initial fee waiver shall be granted by the court at any stage of the proceedings at both the appellate and trial court levels if an applicant meets the standards of eligibility and application requirements under Sections 68632 and 68633. An initial fee waiver excuses the applicant from paying fees for the first pleading or other paper, and other court fees and costs as specified in rules adopted by the Judicial Council, unless the court orders the applicant to make partial payments under subdivision (c) of Section 68632, subdivision (d) of Section 68636, or subdivision (e) of Section 68637. Under circumstances set forth in Section 68636, the court may reconsider the initial fee waiver and order the fee waiver withdrawn for future fees and costs or deny the fee waiver retroactively. At the end of the case, the court may recover fees and costs that were initially waived under circumstances set forth in Section 68637.

## **68632. Persons eligible to proceed without paying court fees and costs**

Permission to proceed without paying court fees and costs because of an applicant's financial condition shall be granted initially to all of the following persons:

(a) A person who is receiving public benefits under one or more of the following programs:

(1) Supplemental Security Income (SSI) and State Supplementary Payment (SSP)(Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).

(2) California Work Opportunity and Responsibility to Kids Act (CalWORKs)(Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or a federal Tribal Temporary Assistance for Needy Families (Tribal TANF) grant program (Section 10553.25 of the Welfare and Institutions Code).

(3) Food Stamps (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code) or the California Food Assistance Program (Chapter 10.1 (commencing with Section 18930) of Part 6 of Division 9 of the Welfare and Institutions Code).

(4) County Relief, General Relief (GR), or General Assistance (GA)(Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code).

(5) Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI)(Chapter 10.3 (commencing with Section 18937) of Part 6 of Division 9 of the Welfare and Institutions Code).

(6) In-Home Supportive Services (IHSS)(Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).

(7) Medi-Cal (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(b) 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 under the authority of paragraph (2) of Section 9902 of Title 42 of the United States Code.

(c) A person who, as individually determined by the court, cannot pay court fees without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family. Only if a trial court finds that an applicant under this subdivision can pay a portion of court fees, or can pay court fees over a period of time, or under some other equitable arrangement, without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family, the court may grant a partial initial fee waiver using



the notice and hearing procedures set forth in paragraph (5) of subdivision (e) of Section 68634. “Common necessities of life,” as used in this article, shall be interpreted consistently with the use of that term in paragraph (1) of subdivision (c) of Section 706.051 of the Code of Civil Procedure.

### **§ 68633. Initial fee waiver applications**

(a) An applicant for an initial fee waiver under subdivision (a) of Section 68632 shall complete, under penalty of perjury, a Judicial Council application form requiring the applicant to list his or her current street address, or another address where the court can contact the applicant, occupation, employer, and the type of public benefits that he or she is receiving. At the time the application is submitted, the applicant shall not be required to provide documents supporting receipt of public benefits, to provide evidence of identity, to submit to interviews regarding the applicant's financial circumstances, to be physically present to file the application, or to fill out additional parts of the application form.

(b) An applicant for an initial fee waiver under subdivision (b) of Section 68632 shall complete, under penalty of perjury, both of the following:

(1) A Judicial Council application form requiring the applicant to provide his or her current street address, or another address where the court can contact the applicant, occupation, and employer.

(2) A financial statement showing monthly or yearly income as determined under rules, and on forms, adopted by the Judicial Council. At the time the application is submitted, the applicant shall not be required to provide documents to prove income, dependents, or expenses, to provide evidence of identity, to submit to interviews regarding the applicant's financial circumstances, to be physically present to file the application, or to fill out additional parts of the application form.

(c) An applicant for an initial fee waiver under subdivision (c) of Section 68632 shall complete, under penalty of perjury, both of the following:

(1) A Judicial Council application form requiring the applicant to provide his or her current street address, or another address where the court can contact the applicant, occupation, and employer.

(2) A financial statement showing monthly or yearly income and expenses and a summary of assets and liabilities as determined under rules, and on forms, adopted by the Judicial Council. At the time the application is submitted, the applicant shall not be required to provide documents to prove income, dependents, or expenses, to provide evidence of identity, to submit to interviews regarding the applicant's financial circumstances, or to be physically present to file the application.

(d) The clerk shall provide forms adopted by the Judicial Council pursuant to this article without charge to any person who requests those forms or indicates that he or she is unable to pay any court fees or costs. An applicant shall not be required to complete any form as part of his or her application under this article other than those forms adopted by the Judicial Council.

(e) An applicant for an initial fee waiver shall be informed that, at a later date, the court may require proof of receipt of benefits or financial information to verify eligibility, as provided in Section 68636, and that a trial court may seek reimbursement of initially waived fees under circumstances set forth in Section 68637. This notice requirement is satisfied if the information is provided on the Judicial Council fee waiver application form.

(f) Financial information provided by an applicant shall be kept confidential by the court. No person shall have access to the application except the court, authorized court personnel, and any person authorized by the applicant. No person shall reveal any information contained in the application except as authorized by law. Any hearing regarding whether to grant or deny a fee waiver request shall be held in camera, and the court shall exclude all persons except court staff, the applicant, those present with the applicant's consent, and any witness being examined. The fact that an applicant's fees and costs have been initially waived and the amount of the waived fees and costs are not confidential. The Judicial Council shall adopt procedures to keep the financial information confidential and to consider a request seeking that confidential information.

(g) Counsel representing an applicant who is filing in a general jurisdiction civil case pursuant to an agreement that counsel will advance litigation costs shall indicate that agreement on the application form. The court shall set a hearing to determine whether or not the applicant is able to pay court fees without using moneys that normally would pay for the common necessities of life. This subdivision does not apply if the applicant is represented by counsel for, or affiliated with, a qualified legal services project, as defined in Section 6213 of the Business and Professions Code.

## **§ 68634. Trial courts; processing and determination of fee waiver applications**

(a) This section applies to the processing and determination of fee waiver applications in the trial courts.

(b) All applications for an initial fee waiver shall be accepted for filing. If an applicant submits an application without providing all required information to complete the form, the clerk may request that the applicant supply the omitted information, but shall not refuse to file the application, or refuse to file any pleadings accompanying the application, on the ground that the fee has not been paid. The clerk shall not request that the applicant furnish information that is not required on the Judicial Council fee waiver application form. At the time the application is submitted, the clerk shall not request that the applicant provide documents to support the information other than those required under Section 68633.

(c) If a person has filed an application for an initial fee waiver, the person shall be permitted to file his or her pleading or other papers immediately, without paying any fees.

(d) The court may delegate to the clerk the authority to grant applications for an initial fee waiver that meet the standards of eligibility and application requirements set forth in Sections 68632 and 68633. The court shall not delegate to a clerk the authority to deny or to partially grant an application for an initial fee waiver.

(e) The fee waiver application shall be determined without regard to the substance of the applicant's pleading or other paper filed, if any. On review of an application for an initial fee waiver the court shall take the following actions, as applicable:

(1) Grant the application if the information provided on the application establishes that the applicant meets the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(2) Deny the application if the application is incomplete. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to submit a revised application.

(3) Deny the application if the information provided on the application conclusively establishes that the applicant is not eligible for an initial fee waiver under Section 68632 on the grounds requested. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to request a hearing. The applicant may submit additional information at the hearing.

(4) Set an eligibility hearing if the court has good reason to doubt the veracity of the factual statements in the application. The applicant shall be given 10 days' notice of the hearing and the specific reason the court doubts the veracity of the factual statements. The court may require that specified, reasonably available, additional information be provided concerning the truthfulness of the factual statements in the application, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(5) Set an eligibility hearing if the information provided on the application does not establish that the applicant meets the criteria for eligibility and application requirements set forth in Sections 68632 and 68633, but that information does not conclusively establish that the applicant is not eligible for an initial fee waiver on the grounds requested. The applicant shall be given 10 days' notice of the hearing and the specific reason why the court has not granted the application. The court may require that specified, reasonably available, additional information be provided, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

After notice and an opportunity to be heard, the court may require an applicant under subdivision (c) of Section 68632 to pay a portion of court fees, or to pay court fees over a period of time or under some other equitable arrangement that meets the criteria of subdivision (c) of Section 68632. The court shall give a written statement of reasons if an application is denied in whole or in part.

(f) An application for an initial fee waiver is deemed granted five court days after it is filed, unless before that time, the court gives notice of action on the application as provided in subdivision (e). Any delay by the court in processing an application to initially waive court fees and costs does not count against any time limits affecting the pleadings or other papers that the applicant timely filed.

(g) If an application is denied in whole or in part, the applicant shall pay the court fees and costs that ordinarily would be charged, or make the partial payment as ordered by the court, within 10 days after the clerk gives notice of the denial, unless within that time the applicant submits a new application or requests a hearing under subdivision (e). If the applicant does not pay on time, the clerk shall void the papers that were filed without payment of the court fees and costs.

(h) A person who applies for an initial fee waiver shall indicate whether he or she has filed a prior application for an initial fee waiver in the same case within the previous six months and shall attach a copy, if one is reasonably available.

### **68634.5. Appellate courts; processing and determination of fee waiver applications**

(a) This section applies to the processing and determination of fee waiver applications in the appellate courts.

(b) All completed applications for a fee waiver shall be accepted for filing. If an application is submitted without all required information filled out on the form, the clerk may return the application to the applicant and request that the applicant supply the omitted information, but shall not refuse to file any paper accompanying the application on the ground that the application is incomplete or the fee has not been paid. The clerk shall not request that the applicant furnish information that is not required on the Judicial Council fee waiver application form. At the time the application is submitted, the clerk shall not request that the applicant provide documents to support the information other than those required under Section 68633.

(c) A person shall be permitted to file his or her papers immediately, even if the person does not present the filing fee, or an application for, or order granting, a fee waiver

(d) The court may delegate to the clerk the authority to grant applications for a fee waiver that meet the standards of eligibility and application requirements set forth in Sections 68632 and 68633. The court shall not delegate to a clerk the authority to deny an application for a fee waiver.

(e) The fee waiver application shall be determined without regard to the substance of any other paper filed by the applicant. On review of an application for a fee waiver, the court shall take the following actions, as applicable:

(1) Grant the application if the information provided on the application establishes that the applicant meets the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(2) Deny the application if the application is incomplete. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity

to submit a revised application.

(3) Deny the application if the information provided on the application conclusively establishes that the applicant is not eligible for a fee waiver under Section 68632 on the grounds requested. If the application is denied on this basis, the applicant shall be given notice of the specific reason for denial and a reasonable opportunity to submit additional information related to the criteria for eligibility and application requirements.

(4) If the court concludes that there is a substantial evidentiary question regarding the applicant's eligibility, the court:

(A) May require the applicant to provide specified, reasonably available, additional information concerning the factual statements in the application, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(B) May set a hearing to consider evidence concerning the applicant's eligibility.

(C) Shall give a written statement of reasons if an application is denied.

(f) An application for a fee waiver is deemed granted five court days after it is filed, unless before that time, the court gives notice of action on the application as provided in subdivision (e).

(g) If an application is denied, the applicant shall pay the court fees and costs that ordinarily would be charged within 10 days after the clerk gives notice of the denial, unless within that time, the court grants a fee waiver based on a new application or additional information provided by the applicant under subdivision (e). The clerk shall notify the applicant of the consequences for failure to pay the court fees.

(h) A person who applies for an initial fee waiver shall indicate whether he or she has filed a prior application for a fee waiver in the same case and shall attach a copy, if one is reasonably available.

### **68635. Trial court fee waivers; persons sentenced to state prison or confined in county jail**

(a) This section applies only to waivers of trial court fees.

(b) Notwithstanding any other provision of this article, a person who is sentenced to the state prison or confined in a county jail shall pay the full amount of the trial court filing fees and costs to the extent provided in this section.

(c) To apply for an initial fee waiver, a person who is sentenced to the state prison or confined in a county jail shall complete, under penalty of perjury, a Judicial Council application form giving the current address of the inmate and a statement that he or she is incarcerated, together with a statement of account for any moneys due to the inmate for the six-month period immediately preceding the application. The form shall be certified by the appropriate official of the Department of Corrections and Rehabilitation or a county jail.

(d) When the pleadings or other papers are filed, the court shall assess and, if funds exist, collect as partial payment, a partial filing fee of 20 percent of the greater of either of the following:

(1) The average monthly deposits to the inmate's account.

(2) The average monthly balance in the inmate's account for the six-month period immediately preceding the application.

(e) After the initial filing fee is partially paid, the inmate shall make monthly payments of 20 percent of the preceding month's income credited to the inmate's account. The Department of Corrections and Rehabilitation, or a county jail, shall forward payments from this account to the clerk of the court each time the amount in the account exceeds ten dollars (\$10) until the filing fees are paid in full.

(f) The fees collected by the court under this section shall not exceed the amount of the fees that would be charged to a person who is not incarcerated.

(g) The court may delegate to a clerk the authority to process requests for fee waivers from inmates under this section.

(h) An inmate shall not be prohibited from filing pleadings or other papers solely because the inmate has no assets and no means to partially pay the initial filing fee.

**68636. Persons granted initial fee waiver; change in circumstances; notice to court; hearing to reconsider fee waiver; withdrawal of waiver**

(a) After the court has granted an initial fee waiver in whole or in part, and before final disposition of the case, the person who received the initial fee waiver shall notify the court within five days of any change in financial circumstances that affects his or her ability to pay all or a portion of the court fees and costs that were initially waived.

(b) If, before or at the time of final disposition of the case, the court obtains information, including information derived from the court file, suggesting that a person whose fees and costs were initially waived is not entitled to a fee waiver, or that the person's financial condition has

changed so that he or she is no longer eligible for a fee waiver, the court may require the person to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing and the specific reasons why the initial fee waiver might be reconsidered. The court may require the person to provide reasonably available evidence, including financial information, to support his or her eligibility for the fee waiver, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633. The court shall not conduct a hearing pursuant to this subdivision more often than once every six months.

(c) At the time of final disposition of the case, the court may give notice that a person whose fees and costs were initially waived is required to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing. The court may require the person to provide reasonably available evidence, including financial information, to support his or her eligibility for the fee waiver, but shall not require submission of information that is not related to the criteria for eligibility and application requirements set forth in Sections 68632 and 68633.

(d) In conducting a hearing under subdivision (b) or (c), if the court determines that the person was not entitled to the initial fee waiver at the time it was granted, the court may order the waiver withdrawn retroactively. The court may order the person to pay to the court immediately, or over a period of time, all or part of the fees that were initially waived. The court shall give the person a minimum of 10 court days to begin paying the full or partial fees.

(e) In conducting a hearing under subdivision (a), (b), or (c), if the court determines that the person's financial circumstances have changed since the grant of the initial fee waiver or partial initial fee waiver, the court may order the fee waiver withdrawn prospectively from the time that the person no longer was eligible for a fee waiver. The court may order the person to pay to the court immediately, or over a period of time, all or part of the fees that were waived since the time that the person no longer was eligible for a fee waiver. The court may order the person to begin paying all or part of the court fees assessed for future activities in the case. The court shall give the person a minimum of 10 court days to begin paying the full or partial fees.

(f) If the court obtains information suggesting that a litigant whose fees and costs were initially waived is obtaining court services in bad faith, or for an improper purpose such as to harass or cause unnecessary delay, or to needlessly increase the costs of litigation, the court may give notice that the litigant is required to appear at a court hearing to consider whether limitations should be placed on court services for which fees were initially waived.

**68637. Trial court fee waivers; prevailing parties; order for party against whom judgment or dismissal is entered to pay waived fees and costs; exceptions**

(a) This section applies only to waivers of trial court fees.

(b)(1) If a party whose trial court fees and costs were initially waived is a prevailing party within

the meaning of Section 1032 of the Code of Civil Procedure, the judgment or dismissal entered in favor of the party whose fees and costs were initially waived shall include an order requiring that the party against whom judgment or dismissal has been entered pay to the court the waived fees and costs. The court may refuse to enter a partial or full satisfaction of a judgment until an accompanying order requiring payment of waived fees and costs has been satisfied.

(2) A party petitioning the court to enter satisfaction of judgment shall declare, under penalty of perjury, that any order requiring payment of waived fees and costs has been satisfied.

(3) This subdivision does not apply to any of the following:

(A) Unlawful detainer cases.

(B) Family law matters, for which recovery of fees is subject to subdivisions (d) and (e).

(C) Cases in which the judgment or dismissal is entered against a party whose fees and costs were initially waived.

(c) If a party in a civil case whose trial court fees and costs were initially waived recovers ten thousand dollars (\$10,000) or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other recovery, the waived fees and costs shall be paid to the court out of the settlement, compromise, award, or other recovery.

(1) The court shall have a lien on any settlement, compromise, award, or other recovery in the amount of all the court fees and costs initially waived.

(2) The waived fees and costs shall first be paid to the court before the party whose fees and costs were initially waived receives anything of value under the settlement, compromise, award, or other recovery.

(3) Notice of the lien shall be given to the parties under rules and on forms adopted by the Judicial Council, and the Judicial Council shall provide by rule the procedures by which a party subject to a lien may determine the amount of the lien.

(4) The court may refuse to enter a petition for dismissal in the case until the lien is satisfied. A party filing a petition for dismissal shall declare, under penalty of perjury, that the lien has been paid, or that any settlement, compromise, award, or other recovery has a value of less than ten thousand dollars (\$10,000).

(5) In a case in which an initial waiver of fees and costs was granted, or if a petition to dismiss the case is filed without the declaration, the court may issue an order to show cause why the lien should not be enforced and why the court should not enter a judgment making the parties jointly and severally liable to the court for initially waived fees and costs.

(d) If a judgment or an order to pay support is entered in a family law case, the trial court shall consider, based on the information in the court file, whether a party who did not receive a fee



waiver has the ability to pay all or part of the other party's waived fees. Any order for the payment of the other party's waived fees shall be made payable only after all current support and all accrued arrears owed by the party who did not receive the fee waiver have been paid. If the court orders payment of the other party's waived fees, and the party required to pay is not present in court at the time judgment is entered, the party required to pay shall be given notice and an opportunity for a hearing to request that the court set aside the order to pay fees. A request for a hearing shall be made in writing within 30 days after service of the notice of the court order. If a request for hearing is made, the order for payment of initially waived fees shall not be enforced until after the hearing.

(e) If a judgment is entered in a family law case, the trial court shall consider, based on the information in the court file, whether a party's circumstances have changed so that it is reasonable to require a party who received an initial fee waiver to pay all or part of the fees that were initially waived. In making this determination, the court shall use the criteria for eligibility set forth in Section 68632. In considering whether a child or spousal support order constitutes a change of circumstances allowing the party to pay fees, the court also shall consider the likelihood that the support obligor will remit the payments ordered by the court. If a support order is the primary basis for the court's finding of changed circumstances, the court shall order the support obligor to pay the previously waived fees subject to the provisions of subdivision (d). When the court orders the party to pay all or part of the fees that were initially waived, the party required to pay shall be given notice and an opportunity for a hearing to request that the court set aside the order to pay fees. A request for a hearing shall be made in writing within 30 days after service of the notice of the court order. If a request for hearing is made, the order for payment of initially waived fees shall not be enforced until after the hearing.

### **68638. Trial courts; execution on orders for payment of initially waived fees and costs**

(a) The trial court may execute on any order for payment of initially waived fees and costs in the same manner as on a judgment in a civil action. The court may issue an abstract of judgment, a writ of execution, or both, for all of the following:

- (1) Recovery of the initially waived fees and costs as ordered.
- (2) Fees for issuing the abstract of judgment, writ of execution, or both.
- (3) A twenty-five-dollar (\$25) fee for administering this subdivision.
- (4) An amount due to levying officers for serving and collecting on the judgment that will all be added to the writ of execution.

(b) Upon collection, the initially waived fees and costs, the fees for issuing the abstract of judgment and writ of execution, and the twenty-five-dollar (\$25) administrative fee shall be

remitted to the court. Thereafter, the amount due to the levying officers for serving and collecting on the judgment shall be paid.

### **68639. Expiration of initial fee waiver**

An initial fee waiver shall expire 60 days after the judgment, dismissal, or other final disposition of the case.

### **68640. Persons not eligible for fee waiver; installment payment of court costs**

The Judicial Council may adopt a rule of court to allow litigants who are not eligible for a fee waiver to pay court fees in installments.

### **68641. Judicial council; authorization to adopt rules and forms to implement this article**

The Judicial Council shall adopt rules and forms to establish uniform procedures to implement this article, including, but not limited to, procedures for all of the following:

- (a) Considering and determining applications to proceed without paying court fees and costs at every stage of the proceedings, including at the trial and appellate levels of the court.
- (b) Prescribing the court fees and costs that may be waived at every stage of the proceedings.
- (c) Giving notice of lien and hearings for reconsideration and recovery of initially waived fees and costs.
- (d) Collecting waived fees and costs.
- (e) Requesting a hearing when an application is denied.
- (f) Any other procedures necessary to implement the provisions of this article.

# **Rules of Court**



## **Division 2. Waiver of Fees and Costs**

*Rule 3.50. Application of rules*

*Rule 3.51. Method of application*

*Rule 3.52. Eligibility [Repealed]*

*Rule 3.52. Procedure for determining application*

*Rule 3.53. Verification of financial condition [Repealed]*

*Rule 3.53. Application granted unless acted on by the court*

*Rule 3.54. Determination without regard to pleading or paper submitted for filing [Repealed]*

*Rule 3.54. Confidentiality*

*Rule 3.55. Effect of denial of application; time for payment of fees [Repealed]*

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

*Rule 3.56. [Renumbered as rule 3.52]*

*Rule 3.56. Additional court fees and costs waived*

*Rule 3.57. [Renumbered as rule 3.53]*

*Rule 3.57. Amount of lien for waived fees and costs*

*Rule 3.58. Hearing on application [Repealed]*

*Rule 3.58. Posting notice*

*Rule 3.59. Changed circumstances [Repealed]*

*Rule 3.60. [Renumbered as rule 3.54]*

*Rule 3.61. [Renumbered as rule 3.55]*

*Rule 3.62. [Renumbered as rule 3.56]*

*Rule 3.63. [Renumbered as rule 3.58]*

### **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 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.

*(Subd (a) amended and lettered effective July 1, 2009; adopted as unlettered subd effective January 1, 2007.)*

#### **(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.

*(Subd (b) adopted effective July 1, 2009.)*

*Rule 3.50 amended effective July 1, 2009; adopted effective January 1, 2007.*

### **Rule 3.51. Method of application**

An application for initial fee waiver under rule 3.55 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 3.51 amended effective July 1, 2009; adopted effective January 1, 2007; previously amended effective January 1, 2007.*

### **Former rule 3.52. Eligibility [Repealed]**

*Rule 3.52 repealed effective July 1, 2009; adopted effective January 1, 2007.*

### **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 must be made on *Order on Court Fee Waiver (Superior Court)* (form FW-003), except as provided in (6) below.
- (3) An order determining an application for an initial fee waiver after a hearing in the trial court must be made on *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008).
- (4) Any order granting a fee waiver must be accompanied by a blank *Notice of Improved Financial Situation or Settlement* (form FW-010).
- (5) Any order denying an application without a hearing on the ground that the information on the application conclusively establishes that the applicant is not eligible for a waiver must be accompanied by a blank *Request for Hearing About Fee Waiver Order (Superior Court)* (form FW-006).

(6) Until January 1, 2013, a court with a computerized case management system may produce electronically generated court fee waiver orders as long as:

(A) **The document is substantively identical to the mandatory Judicial Council form it is replacing;**

(B) **Any electronically generated form is identical in both language and legally mandated elements, including all notices and advisements, to the mandatory Judicial Council form it is replacing; and**

(C) **The order is an otherwise legally sufficient court order, as provided in rule 1.31(g), concerning orders not on Judicial Council mandatory forms.**

*Rule 3.52 amended and renumbered effective July 1, 2009; adopted as rule 3.56 effective January 1, 2007; previously amended effective January 1, 2007.*

### **Former rule 3.53. Verification of financial condition [Repealed]**

*Rule 3.53 repealed effective July 1, 2009; adopted effective January 1, 2007.*

### **Rule 3.53. Application granted unless acted on by the court**

The application for initial fee waiver is deemed granted unless the court gives notice of action on the application within five court days after it is filed. If the application is deemed granted under this provision, the clerk must prepare and serve a *Notice: Waiver of Court Fees (Superior Court)* (form FW-005) five court days after the application is filed.

*Rule 3.53 amended and renumbered effective July 1, 2009; adopted as rule 3.57 effective January 1, 2007; previously amended effective January 1, 2007.*

### **Former rule 3.54. Determination without regard to pleading or paper submitted for filing [Repealed]**

*Rule 3.54 repealed effective July 1, 2009; adopted effective January 1, 2007.*

## **Rule 3.54. Confidentiality**

### **(a) Confidential records**

No person may have access to an application for an initial fee waiver except the court and authorized court personnel, any persons authorized by the applicant, and any persons authorized by order of the court. No person may reveal any information contained in the application except as authorized by law or order of the court.

*(Subd (a) amended and lettered effective July 1, 2009; adopted as unlettered subd effective January 1, 2007.)*

### **(b) Request for access to confidential records**

Any person seeking access to an application or financial information provided to the court by an applicant must make the request by noticed motion, supported by a declaration showing good cause regarding why the confidential information should be released.

*(Subd (b) adopted July 1, 2009.)*

### **(c) Order**

An order granting access to an application or financial information may include limitations on who may access the information and on the use of the information after it has been released.

*(Subd (c) adopted July 1, 2009.)*

*Rule 3.54 amended and renumbered effective July 1, 2009; adopted as rule 3.60 effective January 1, 2007; previously amended effective January 1, 2008.*

## **Former rule 3.55. Effect of denial of application; time for payment of fees [Repealed]**

*Rule 3.55 repealed effective July 1, 2009; adopted effective January 1, 2007.*

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

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

- (1) Clerk's fees for filing papers;
- (2) Clerk's fees for reasonably necessary certification and copying;



- (3) Clerk's fees for issuance of process and certificates;
- (4) Clerk's fees for transmittal of papers;
- (5) Court-appointed interpreter's fees for parties in small claims actions;
- (6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of the Government Code (commencing with section 26720);
- (7) Reporter's daily fees for attendance at hearings and trials held within 60 days of the date of the order granting the application;
- (8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; and
- (9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's transcript on appeal to the reviewing court and the party. A party proceeding under an initial fee waiver must specify with particularity the documents to be included in the clerk's transcript on appeal.

*Rule 3.55 amended and renumbered effective July 1, 2009; adopted as rule 3.61 effective January 1, 2007; previously amended effective January 1, 2009.*

### **Former rule 3.56. Renumbered effective July 1, 2009**

*Rule 3.56 renumbered as rule 3.52.*

### **Rule 3.56. Additional court fees and costs that may be included in initial fee waiver**

Necessary court fees and costs that may be waived upon granting an application for an initial fee waiver, either at the outset or upon later application, include:

- (1) Jury fees and expenses;
- (2) Court-appointed interpreter's fees for witnesses;
- (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or defense of the case;
- (4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date of the order granting the application;
- (5) Witness fees of court-appointed experts; and
- (6) Other fees or expenses as itemized in the application.

(4) The provisions of (3) do not apply to original proceedings.

(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2007.)

*Rule 8.25 amended effective January 1, 2009; adopted as rule 40.1 effective January 1, 2005; previously amended and renumbered effective January 1, 2007.*

### **Advisory Committee Comment**

**Subdivision (a).** Subdivision (a)(1) requires service “by any method permitted by the Code of Civil Procedure.” The reference is to the several permissible methods of service provided in Code of Civil Procedure sections 1010–1020. *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) provides additional information about how to serve documents and how to provide proof of service.

**Subdivision (b)(2).** In general, to be filed on time, a document must be received by the clerk before the time for filing that document expires. There are, however, some limited exceptions to this general rule. For example, the rules currently provide that if the superior court clerk receives a notice of appeal in a criminal, juvenile, or conservatorship case or notice of intent in a juvenile dependency case by mail from a custodial institution after the deadline for filing the notice has expired but the envelope shows that the notice was mailed or delivered to custodial officials for mailing before the deadline expired, the notice is deemed timely (see rules 8.308(e), 8.400(f), 8.450(e)(5), 8.480(a)). These provisions reflect the “prison-delivery” exception articulated by the California Supreme Court in *In re Jordan* (1992) 4 Cal.4th 116.

### **Rule 8.26. Waiver of fees and costs**

#### **(a) Application form**

An application for initial waiver of court fees and costs in the Supreme Court or Court of Appeal must be made on *Request to Waive Court Fees* (form FW-001). The clerk must provide *Request to Waive Court Fees* (form FW-001) and the *Information Sheet on Waiver of Fees and Costs (Supreme Court, Court of Appeal, or Appellate Division)* (form APP-015/FW-015-INFO) without charge to any person who requests any fee waiver application or states that he or she is unable to pay any court fee or cost.

#### **(b) Filing the application**

##### **(1) Appeals**

The appellant should submit any application for initial waiver of court fees and costs for an appeal with the notice of appeal in the superior court that issued the judgment or order being appealed. The respondent should submit any application for initial waiver of the court fees and costs for an appeal at the time the fees are to be paid to the court.

(2) *Writ proceedings*

The petitioner should submit the application for waiver of the court fees and costs for a writ proceeding with the writ petition.

(3) *Petitions for review*

The petitioner should submit the application for waiver of the court fees and costs for a petition for review in the Supreme Court with the petition.

**(c) Procedure for determining application**

The application must be considered and determined as required by Government Code section 68634.5. An order from the Supreme Court or Court of Appeal determining the application for initial fee waiver or setting a hearing on the application in the Supreme Court or Court of Appeal may be made on *Order on Court Fee Waiver (Court of Appeal or Supreme Court)* (form APP-016/FW-016.)

**(d) Application granted unless acted on by the court**

The application for initial fee waiver is deemed granted unless the court gives notice of action on the application within five court days after the application is filed.

**(e) Court fees and costs waived**

Court fees and costs that must be waived on granting an application for initial waiver of court fees and costs in the Supreme Court or Court of Appeal include:

- (1) The fee for filing the notice of appeal under Government Code section 68926;
- (2) The fee for filing an original proceeding required under Government Code section 68926;
- (3) The fee for filing a petition for review required by Government Code section 68927; and
- (4) Any court fee for telephonic oral argument.

**(f) Denial of the application**

If an application is denied, the applicant must pay the court fees and costs or submit the new application or additional information requested by the court within 10 days after the clerk gives notice of the denial.

**(g) Confidential records**

- (1) No person may have access to an application for an initial fee waiver submitted to the court except the court and authorized court personnel, any persons authorized by the applicant, and any persons authorized by order of the court. No person may reveal any information contained in the application except as authorized by law or order of the court. An order granting access to an application or financial information may include limitations on who may access the information and on the use of the information after it has been released.
- (2) Any person seeking access to an application or financial information provided to the court by an applicant must make the request by motion, supported by a declaration showing good cause as to why the confidential information should be released.

*Rule 8.26 adopted effective July 1, 2009.*

**Advisory Committee Comment**

**Subdivision (a).** The waiver of court fees and costs is called an “initial” waiver because, under Government Code section 68630 and following, any such waiver may later be modified, terminated, or retroactively withdrawn if the court determines that the applicant was not or is no longer eligible for a waiver. The court may, at a later time, order that the previously waived fees be paid.

**Subdivision (b)(1).** If an applicant is requesting waiver of both Court of Appeal fees, such as the fee for filing the notice of appeal, and superior court fees, such as the fee for preparing, certifying, copying, and transmitting the clerk’s transcript, the clerk of the superior court may ask the applicant to provide two signed copies of *Request to Waive Court Fees* (form FW-001).

**Subdivision (e).** The parties in an appeal may also ask the superior court to waive the deposit required under Government Code section 68926.1 and the fees under rule 8.122 for preparing, certifying, copying, and transmitting the clerk’s transcript to the reviewing court and to the requesting party.

## **Rule 8.818. Waiver of fees and costs**

### **(a) Applications for waiver of fees and costs**

#### *(1) Appeals*

- (A) If the trial court previously issued an order granting a party's request to waive court fees and costs in a case, and that fee waiver is still in effect, all of the court fees for an appeal to the appellate division in that case that are listed in (d) are waived by that order, and the party is not required to file a new application for waiver of court fees and costs for an appeal to the appellate division in that case.
- (B) If the trial court did not previously issue an order granting a party's request to waive court fees and costs in a case or an order that was previously issued is no longer in effect, an application for initial waiver of court fees and costs for an appeal must be made on *Request to Waive Court Fees* (form FW-001). The appellant should file the application with the notice of appeal in the trial court that issued the judgment or order being appealed. The respondent should file any application at the time the fees are to be paid to the court.

#### *(2) Writ proceedings*

To request the waiver of fees and costs in a writ proceeding, the petitioner must complete *Request to Waive Court Fees* (form FW-001). The petitioner should file the application with the writ petition.

#### *(3) Forms*

The clerk must provide *Request to Waive Court Fees* (form FW-001) and *Information Sheet on Waiver of Fees and Costs (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO) without charge to any person who requests any fee waiver application or states that he or she is unable to pay any court fee or cost.

### **(b) Procedure for determining application**

The application must be considered and determined as required by Government Code section 68634.5. An order determining the application for initial fee waiver or setting a hearing on the application may be made on *Order on Court Fee Waiver (Superior Court)* (form FW-003).

**(c) Application granted unless acted on by the court**

The application for initial fee waiver is deemed granted unless the court gives notice of action on the application within five court days after the application is filed.

**(d) Court fees and costs waived**

Court fees and costs that must be waived upon granting an application for initial waiver of court fees and costs include:

- (1) The fee for filing the notice of appeal;
- (2) The clerk's fees for preparing and certifying the clerk's transcript on appeal and for copying and transmitting a copy of this transcript to the applicant;
- (3) The fee for preparing a transcript of an official electronic recording under rule 8.835 or a copy of such an electronic recording; and
- (4) Any court fee for telephonic oral argument.

**(e) Denial of the application**

If an application is denied, the applicant must pay the court fees and costs or submit the new application or additional information requested by the court within 10 days after the clerk gives notice of the denial.

**(f) Confidential records**

- (1) No person may have access to an application for an initial fee waiver submitted to the court except the court and authorized court personnel, any person authorized by the applicant, and any persons authorized by order of the court. No person may reveal any information contained in the application except as authorized by law or order of the court. An order granting access to an application or financial information may include limitations on who may access the information and on the use of the information after it has been released.
- (2) Any person seeking access to an application or financial information provided to the court by an applicant must make the request by motion, supported by a declaration showing good cause as to why the confidential information should be released.

# **Fee Waiver Forms**





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 all or part of your court fees. 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:

*Clerk stamps date here when form is filed.*

- 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:*

*Fill in case number and name:*

<b>Case Number:</b>
<b>Case Name:</b>

**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 and Costs (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)*:  Medi-Cal  Food Stamps  SSI  SSP  County Relief/General Assistance  IHSS (In-Home Supportive Services)  CalWORKS or Tribal TANF (Tribal Temporary Assistance for Needy Families)  CAPI (Cash Assistance Program for Aged, Blind and Disabled)

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 7, 8 and 9 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 \$389.59 for each extra person.</i>
1	\$1,128.13	3	\$1,907.30	5	\$2,686.46	
2	\$1,517.71	4	\$2,296.88	6	\$3,076.05	

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 one)*:  waive all court fees  waive some of the court fees  let me make payments over time *(Explain)*: \_\_\_\_\_ *(If you check 5c, you must fill out page 2.)*

**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*

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 7, 8, and 9 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  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.

8 Your Monthly Income

- a. Gross monthly income (before deductions): \$ \_\_\_\_\_
List each payroll deduction and amount below:
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
b. Total deductions (add 8a (1)-(4) above): \$ \_\_\_\_\_
c. Total monthly take-home pay (8a minus 8b): \$ \_\_\_\_\_
d. List the source and amount of any other income you get each month, including: 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) \_\_\_\_\_ \$ \_\_\_\_\_
e. Your total monthly income is (8c plus 8d): \$ \_\_\_\_\_

9 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.
Table with columns: Name, Age, Relationship, Gross Monthly Income
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
b. Total monthly income of persons above: \$ \_\_\_\_\_

Total monthly income and household income (8e plus 9b): \$ \_\_\_\_\_

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.

10 Your Money and Property

- a. Cash ----- \$ \_\_\_\_\_
b. All financial accounts (List bank name and amount):
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
c. Cars, boats, and other vehicles
Table with columns: Make / Year, Fair Market Value, How Much You Still Owe
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
d. Real estate
Table with columns: Address, Fair Market Value, How Much You Still Owe
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):
Table with columns: Describe, Fair Market Value, How Much You Still Owe
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_

11 Your Monthly Expenses

- (Do not include payroll deductions you already listed in 8b.)
a. Rent or house payment & maintenance \$ \_\_\_\_\_
b. Food and household supplies \$ \_\_\_\_\_
c. Utilities and telephone \$ \_\_\_\_\_
d. Clothing \$ \_\_\_\_\_
e. Laundry and cleaning \$ \_\_\_\_\_
f. Medical and dental expenses \$ \_\_\_\_\_
g. Insurance (life, health, accident, etc.) \$ \_\_\_\_\_
h. School, child care \$ \_\_\_\_\_
i. Child, spousal support (another marriage) \$ \_\_\_\_\_
j. Transportation, gas, auto repair and insurance \$ \_\_\_\_\_
k. Installment payments (list each below):
Paid to:
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
l. Wages/earnings withheld by court order \$ \_\_\_\_\_
m. Any other monthly expenses (list each below):
Paid to: How Much?
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
Total monthly expenses (add 11a - 11m 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.
  - 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. 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.
- **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, 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.



*Clerk stamps date here when form is filed.*

This form asks the court to waive *additional* court fees that are not covered in a current order. If you have not already received an order that waived or reduced your court fees, you must complete and file a *Request to Waive Court Fees (Superior Court)*, form FW-001, along with this form.

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

Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone number: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**2 Your lawyer**, if you have one (*name, firm or affiliation, address, phone number, and State Bar number*): \_\_\_\_\_

*Fill in case number and case name:*

**Case Number:**

**Case Name:**

- 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.*

**3** Date your *last* court fee waiver order, if any, was granted: \_\_\_\_\_

**4** Has your financial situation improved since your last *Request to Waive Court Fees*?  No  Yes (*If yes, you must fill out a new Request to Waive Court Fees, form FW-001, and attach it to this form.*)

**5** What other fees do you want your court fee waiver order to cover? (*Check all that apply*):

- a.  Jury fees and expenses
- b.  Court-appointed interpreter fees for a witness
- c.  Fees for a peace officer to testify in court
- d.  Reporter's daily fees (*beyond 60-days after grant of a fee waiver, at court-approved daily rate*)
- e.  Fees for court-appointed experts
- f.  Other (*specify*): \_\_\_\_\_

**6** Why do you need these other services? (*Explain*): \_\_\_\_\_

**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.

**I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Print your name here*

\_\_\_\_\_  
*Sign here*



Clerk stamps date here when form is filed.

**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 case 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 (check one):**  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, rule 3.55.*) 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
- 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 a peace officer to testify in court
- Fees for court-appointed experts
- Court-appointed interpreter fees for a witness
- Reporter's daily fees (*beyond the 60-day period following the fee waiver order*)
- Other (*specify*): \_\_\_\_\_

(3)  **Fee Waiver for Appeal.** The court grants your request and waives the fees and costs checked below, for your appeal. (*Cal. Rules of Court, rules 3.55, 3.56, 8.26, and 8.818.*) You do not have to pay for the checked items.

- Preparing and certifying clerk's transcript for appeal
- Other (*specify*): \_\_\_\_\_

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

b.  The court **denies** your 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, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006 to request hearing.*)

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: \_\_\_\_\_

	Date: _____	Time: _____	Name and address of court if different from page 1: _____
	Dept.: _____	Rm.: _____	_____

**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.

Date: \_\_\_\_\_

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



**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



Clerk stamps date here when form is filed.

**1 Person who asked the court to waive court fees:**

Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone number: \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3 Your Request to Waive Court Fees was filed on (date):** \_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number and case name:

**Case Number:**

**Case Name:**

**4 Your request is granted by operation of law because no court action was taken within five days after it was filed. A fee waiver is granted for the following court fees and costs (Cal. Rules of Court, rule 3.55):**

- Filing papers
- Giving notice and certificates
- Sending papers to another court department
- Reporter's daily fee (for up to 60 days after the date of this notice, at the court-approved daily rate)
- Court fee for phone hearing
- Preparing, certifying, copying, and sending the clerk's transcript on appeal.
- Making copies and certifying copies
- Sheriff's fee to give notice
- Court-appointed interpreter in small claims court

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

**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.

**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 notice to the party and attorney, if any, listed in 1 and 2, at the court, on the date below.  
 This notice 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



*Clerk stamps date here when form is filed*

**1 Your Information** *(person who asked the court to waive court fees):*  
Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

**2 Your lawyer**, if you have one *(name, address, phone number, e-mail, and State Bar number):* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3 Date of order** denying your request to waive court fees  
*(month/day/year):* \_\_\_\_\_  
 *(Check here if you have a copy of the order denying your request, and attach it to this form.)*

*Fill in court name and street address:*

**Superior Court of California, County of**  
\_\_\_\_\_  
\_\_\_\_\_

*Fill in case number and case name:*

**Case Number:**  
\_\_\_\_\_  
**Case Name:**  
\_\_\_\_\_

**4** I ask the court for a hearing on my fee waiver request so that I can bring more information about my financial situation.

**5**  The additional facts that support my request for a fee waiver are *(describe):*  
*(Use this space if you want to tell the court in advance what facts you want considered at the hearing. If the space below is not enough, attach form MC-025. Or attach a sheet of paper and write Additional Facts and your name and case number at the top. You may also attach copies of documents you want the court to look at.)*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
*Print your name here*



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



Clerk stamps date here when form is filed.

**1 Person who asked for the hearing:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3 The court received your request for a hearing about your court fees on (date):** \_\_\_\_\_

Fill out court name and street address:

**Superior Court of California, County of**

Fill in case number and case name:

**Case Number:**

**Case Name:**

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

**4**  The court grants your request for a hearing on your eligibility for a fee waiver. **Go to your court hearing** on the date below. You may bring information about your financial situation to the hearing.

<b>Hearing Date</b> →	Date: _____	Time: _____	Name and address of court if different from above: _____
	Dept.: _____	Rm.: _____	

**5**  The court **denies** your request for a hearing because (check all that apply):

- a.  The hearing request was not filed within ten days after the clerk gave notice of the denial of the request for a fee waiver. (Government Code section 68634(g).)
- b.  No request to waive fees has been denied by the court in your action.
- c.  Other (explain): \_\_\_\_\_

Date \_\_\_\_\_

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



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

**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 notice to the party and attorney, if any, listed in 1 and 2, at the court, on the date below.

This notice 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



Clerk stamps date here when form is filed.

**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): \_\_\_\_\_  
 \_\_\_\_\_

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.

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

a.  The court **grants** your 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, rule 3.55.*) 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
  - 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
- (3)  **Fee Waiver for Appeal.** The court **grants** your request and waives the fees and costs checked below, for your appeal. (*Cal. Rules of Court, rules 8.26 and 8.818.*) You do not have to pay for the checked items.
- Preparing and certifying clerk's transcript for appeal
  - Other (*specify*): \_\_\_\_\_

<b>Case Name:</b> _____	<b>Case Number:</b> _____
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- 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. 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)  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<br><input type="checkbox"/> Sheriff's fee to give notice<br><input type="checkbox"/> Court-appointed interpreter<br><input type="checkbox"/> Reporter's daily fee up to 60 days after order<br><input type="checkbox"/> Jury fees and expenses<br><input type="checkbox"/> Court-appointed experts' fees<br><input type="checkbox"/> Making certified copies<br><input type="checkbox"/> Other ( <i>describe</i> ): _____ | <input type="checkbox"/> Giving notice and certificates<br><input type="checkbox"/> Sending papers to another court department<br><input type="checkbox"/> Court-appointed interpreter fees for a witness<br><input type="checkbox"/> Reporter's daily fees beyond the 60 days after initial order<br><input type="checkbox"/> Fees for a peace officer to testify in court<br><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



*Clerk stamps date here when form is filed.*

**1** **Your Information** *(person with a fee waiver):*  
 Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone number: \_\_\_\_\_

**2** **Your lawyer**, if you have one *(name, address, phone number, e-mail, and State Bar number):* \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**3** Date of your **last** court fee waiver order in this case:  
*(date)* \_\_\_\_\_

*Fill out court name and street address:*

**Superior Court of California, County of**

*Fill out case number and case name:*

**Case Number:**

**Case Name:**

**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**  My financial situation has changed since the date of the last court fee waiver order in a way that improves my ability to pay fees. I ask the court to do one of the following:
- a.  **End** my fee waiver because my financial situation has improved and I am able to pay my court fees and costs that are due after *(date)*: \_\_\_\_\_ .
  - b.  **Review** my updated financial information in the attached *Request to Waive Court Fees*. I believe I am still eligible for a fee waiver. *(Complete form FW-001 and attach to this form.)*
- 5**  My case has settled for *(check one)*  less than \$10,000  \$10,000 or more *(if so, complete a and b below.)*
- a. I *(check one)*  have  have not received the proceeds of the settlement.
  - b. The name and address of the party who has agreed to pay the settlement:

\_\_\_\_\_  
\_\_\_\_\_

**I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Print your name here*

\_\_\_\_\_  
*Sign here*



**Notice to Appear for Reconsideration of Fee Waiver**

Clerk stamps date here when form is filed.

**Warning:** If you do not go to the hearing on the date and time below, the court may cancel your fee waiver.

**1 Name of person who asked the court to waive court fees:**

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 The court has information that (check all that apply):**

a.  Your financial situation may have changed, or you may no longer be eligible for a fee waiver because (explain): \_\_\_\_\_

b.  You may be increasing the costs of your case unnecessarily. The fee waiver for the court services you are using may be limited because (explain): \_\_\_\_\_

c.  Your case is coming to an end, and the court requires some information about your eligibility to have your court fees waived.

**4 You must go to court on the date below:**

<b>Hearing Date</b> →	Date: _____	Time: _____	Name and address of court if different from above: _____
	Dept.: _____	Rm.: _____	

Bring the following information if reasonably available: \_\_\_\_\_

Date: \_\_\_\_\_

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



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five 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 notice to the party and attorney, if any, listed in 1 and 2, at the court, on the date below.

This notice 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



Clerk stamps date here when form is filed.

**1 Name of person who asked the court to waive court fees:**

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Name of lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number):** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**3 The court made a previous fee waiver order in this case on (date):**

\_\_\_\_\_

**4 The court sent you a notice to go to court about your fee waiver on (date):**

\_\_\_\_\_

Fill in court name and street address:

**Superior Court of California, County of**

Fill in case number and case name:

**Case Number:**  
  
**Case Name:**

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

**5 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): \_\_\_\_\_  
\_\_\_\_\_

**6 After considering the information provided at the hearing, the court makes the following order:**

a.  **No Change to Fee Waiver.** The *Order on Court Fee Waiver* issued by this court on (date): \_\_\_\_\_ remains in effect. No change is made at this time.

b.  **Fee Waiver Is Ended as of (date):** \_\_\_\_\_. The court finds that beginning on that date you were no longer eligible for a fee waiver because): \_\_\_\_\_

(1) You must pay all court fees in this case from the date of this order.

(2)  You must also pay the court \$ \_\_\_\_\_ for fees that were initially waived after you were no longer eligible.

(a)  You must pay that amount within 10 days of this order.

(b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (date): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.

c.  **Fee Waiver Is Retroactively Withdrawn.** The court finds that you were never entitled to a fee waiver in this case because: \_\_\_\_\_

(1) You must pay all court fees in this case from the date of this order.

(2)  You must also pay the court \$ \_\_\_\_\_ for fees that the court initially waived.

(a)  You must pay that amount within 10 days of this order.

(b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (date): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

6 d.  **Fee Waiver Is Modified.** The court finds that you obtained the initial fee waiver in bad faith, for an improper purpose, or to needlessly increase the costs of litigation. The court places the following limitations on the fee waiver that was granted to you:

- (1)  You must pay all court fees in this case from the date of this order.
- (2)  From the date of this order, only the following court fees will be waived (*court to check all that apply*).


**You must pay for all court fees that are not checked below:**

- Filing papers at superior court
- Making certified copies
- Giving notice and certificates
- Sheriff's fee to give notice
- Sending papers to another court department
- Court-appointed interpreter
- Court-appointed interpreter fees for a witness
- Reporter's daily fee (*up to 60 days after date of fee waiver*)
- Reporter's daily fees (*beyond 60 days after the fee waiver*)
- Jury fees and expenses
- Fees for a peace officer to testify in court
- Court-appointed expert's fees
- Court fees for telephone hearings
- Other (*specify*): \_\_\_\_\_

(3)  Other modification: \_\_\_\_\_  
\_\_\_\_\_

e.  **Other Order:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

  
Signature of Judge or 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 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. 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).

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, SSI or SSP, County Relief/General Assistance, IHSS (In-Home Supportive Services), CalWORKS, Tribal Temporary Assistance for Needy Families, or CAPI (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	\$1,128.13	3	\$1,907.30	5	\$2,686.46
2	\$1,517.71	4	\$2,296.88	6	\$3,076.05

*If more than 6 people at home, add \$389.59 for each extra person.*

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

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, or a petition for review 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 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.

The court **cannot** waive the fees for preparing a reporter's transcript in a civil case. If you are represented by a lawyer in your appeal, a special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See Business and Professions Code sections 8030.2 and following for more information about this fund.) However, there is no financial help available for parties who are not represented by lawyers. 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.

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), your fee for filing a notice of appeal and your costs for the clerk's transcript 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.

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

- **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 are the appellant (the party who is appealing) 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. 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; your costs for the clerk's transcript are already waived, just give the court a copy of your current fee waiver). 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 (a party other than the appellant in a case that is being appealed) and the trial court already issued an order waiving your court fees *and that fee waiver has not ended*, your costs for the clerk's transcript are already waived; just give the trial court a copy of your current fee waiver. If you have not already received a fee waiver in the case or you had a fee waiver but it ended, to request waiver of the fee for a copy of the clerk's transcript, you must complete a *Request to Waive Court Fees* (form FW-001) and file it in the trial court with your request for a copy of the transcript. 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). The completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office.
- **Petition for Review.** If you want to request that the Supreme Court waive the fee for filing a petition for review, you must complete a *Request to Waive Court Fees* (form FW-001). You should submit the completed form with your petition for review.

For more information about appeals and writ proceedings, see *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO), *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001), and *Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases* (form APP-150-INFO).

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.



*Clerk stamps date here when form is filed.*

**1 Person who asked the court to waive court fees:**

Name: \_\_\_\_\_  
 Street address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone number: \_\_\_\_\_

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

**3 On (date):** \_\_\_\_\_ you filed a *Request to Waive Court Fees* (form FW-001).

**4 The court reviewed your request and makes the following order:**

- a.  The court **grants** your request and waives your court fees and costs listed below. You do not have to pay fees for the following:
- Filing notice of appeal, petition for writ, or petition for review
- Other (*specify*): \_\_\_\_\_

b.  The court **denies** your request for the following reasons:

- (1)  Your request is incomplete. You have **10 days** from the date this notice was sent to:

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

\_\_\_\_\_

- (2)  The information you provided on the request shows that you are not eligible for the fee waiver you requested (*specify reasons*): \_\_\_\_\_

You have **10 days** from the date this notice was sent to:

- Pay your fees and costs, or
- File more information that shows you are eligible.

- (3)  The court finds there is substantial question regarding your eligibility (*describe issue regarding eligibility*): \_\_\_\_\_

You have **10 days** from the date this notice was sent to:

- Pay your fees and costs, or
- File the following additional documents to support your request:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Court of Appeal or Supreme Court Case Number:**  
  
**Appellate District, Division Number:**

**Warning!** If you miss the deadline for paying your fees and costs or providing the additional items required by the court and you are the appellant, your appeal may be dismissed.

Court of Appeal/  
Supreme Court Case Name: \_\_\_\_\_

**Court of Appeal/Supreme Court  
Case Number:**

④ c.  The court needs more information. **You must go to court** on the date below.

**Hearing  
Date**

→ Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_

Name and address of the court if different from page 1:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bring the following proof to support your request, if it is reasonably available:

\_\_\_\_\_  
\_\_\_\_\_

**Warning!** If item ④ c. is checked and you do not go to court on your hearing date, the court will deny your request to waive court fees and you will have **10 days** to pay your fees. If you are the appellant and you do not pay your filing fees, your appeal may be dismissed.

Date: \_\_\_\_\_

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

## SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

CASE NUMBER:  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<b>REQUEST FOR DISMISSAL</b> <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Other (specify) : _____	CASE NUMBER: _____
<b>- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -</b>	

1. TO THE CLERK: Please **dismiss** this action as follows:

a. (1)  With prejudice   (2)  Without prejudice

b. (1)  Complaint       (2)  Petition

(3)  Cross-complaint filed by (name): \_\_\_\_\_

on (date): \_\_\_\_\_

(4)  Cross-complaint filed by (name): \_\_\_\_\_

on (date): \_\_\_\_\_

(5)  Entire action of all parties and all causes of action

(6)  Other (specify):\*

2. (Complete in all cases except family law cases.)

Court fees and costs were waived for a party in this case. (This information may be obtained from the clerk. If this box is checked, the declaration on the back of this form must be completed).

Date: \_\_\_\_\_

.....  
(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:

Plaintiff/Petitioner

Defendant/Respondent

Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date: \_\_\_\_\_

.....  
(TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*\* If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:

Plaintiff/Petitioner

Defendant/Respondent

Cross-Complainant

(To be completed by clerk)

4.  Dismissal entered as requested on (date): \_\_\_\_\_

5.  Dismissal entered on (date): \_\_\_\_\_ as to only (name): \_\_\_\_\_

6.  Dismissal **not entered** as requested for the following reasons (specify): \_\_\_\_\_

7. a.  Attorney or party without attorney notified on (date): \_\_\_\_\_

b.  Attorney or party without attorney not notified. Filing party failed to provide

a copy to be conformed    means to return conformed copy

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

**Declaration Concerning Waived Court Fees**

The court has a statutory lien for waived fees and costs on any recovery of \$10,000 or more in value by settlement, compromise, arbitration award, mediation settlement, or other recovery. The court's lien must be paid before the court will dismiss the case.

1. The court waived fees and costs in this action for (*name*):
2. The person in item 1 (*check one*):
  - a.  is not recovering anything of value by this action.
  - b.  is recovering less than \$10,000 in value by this action.
  - c.  is recovering \$10,000 or more in value by this action. (*If item 2c is checked, item 3 must be completed.*)
3.  All court fees and costs that were waived in this action have been paid to the court (*check one*):  Yes  No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF  ATTORNEY  PARTY MAKING DECLARATION)



\_\_\_\_\_  
 (SIGNATURE)

SUMMONS (Family Law)

CITACIÓN (Derecho familiar)

NOTICE TO RESPONDENT (Name):
AVISO AL DEMANDADO (Nombre):

FOR COURT USE ONLY
(SÓLO PARA USO DE LA CORTE)

You are being sued. Lo están demandando.

Petitioner's name is:

Nombre del demandante:

CASE NUMBER (NÚMERO DE CASO):

You have 30 calendar days after this Summons and Petition are served on you to file a Response (form FL-120 or FL-123) at the court and have a copy served on the petitioner. A letter or phone call will not protect you.
If you do not file your Response on time, the court may make orders affecting your marriage or domestic partnership, your property, and custody of your children. You may be ordered to pay support and attorney fees and costs. If you cannot pay the filing fee, ask the clerk for a fee waiver form.
If you want legal advice, contact a lawyer immediately. You can get information about finding lawyers at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), at the California Legal Services Web site (www.lawhelpcalifornia.org), or by contacting your local county bar association.

Tiene 30 días corridos después de haber recibido la entrega legal de esta Citación y Petición para presentar una Respuesta (formulario FL-120 ó FL-123) ante la corte y efectuar la entrega legal de una copia al demandante. Una carta o llamada telefónica no basta para protegerlo.
Si no presenta su Respuesta a tiempo, la corte puede dar órdenes que afecten su matrimonio o pareja de hecho, sus bienes y la custodia de sus hijos. La corte también le puede ordenar que pague manutención, y honorarios y costos legales. Si no puede pagar la cuota de presentación, pida al secretario un formulario de exención de cuotas.
Si desea obtener asesoramiento legal, póngase en contacto de inmediato con un abogado. Puede obtener información para encontrar a un abogado en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en el sitio Web de los Servicios Legales de California (www.lawhelpcalifornia.org) o poniéndose en contacto con el colegio de abogados de su condado.

NOTICE: The restraining orders on page 2 are effective against both spouses or domestic partners until the petition is dismissed, a judgment is entered, or the court makes further orders. These orders are enforceable anywhere in California by any law enforcement officer who has received or seen a copy of them.

AVISO: Las órdenes de restricción que figuran en la página 2 valen para ambos cónyuges o pareja de hecho hasta que se despida la petición, se emita un fallo o la corte dé otras órdenes. Cualquier autoridad de la ley que haya recibido o visto una copia de estas órdenes puede hacerlas acatar en cualquier lugar de California.

NOTE: If a judgment or support order is entered, the court may order you to pay all or part of the fees and costs that the court waived for yourself or for the other party. If this happens, the party ordered to pay fees shall be given notice and an opportunity to request a hearing to set aside the order to pay waived court fees.

AVISO: Si se emite un fallo u orden de manutención, la corte puede ordenar que usted pague parte de, o todas las cuotas y costos de la corte previamente exentas a petición de usted o de la otra parte. Si esto ocurre, la parte ordenada a pagar estas cuotas debe recibir aviso y la oportunidad de solicitar una audiencia para anular la orden de pagar las cuotas exentas.

- 1. The name and address of the court are (El nombre y dirección de la corte son):
2. The name, address, and telephone number of the petitioner's attorney, or the petitioner without an attorney, are: (El nombre, dirección y número de teléfono del abogado del demandante, o del demandante si no tiene abogado, son):

Date (Fecha): Clerk, by (Secretario, por) Deputy (Asistente)

[SEAL]

NOTICE TO THE PERSON SERVED: You are served
AVISO A LA PERSONA QUE RECIBIÓ LA ENTREGA: Esta entrega se realiza
a. as an individual. (a usted como individuo.)
b. on behalf of respondent who is a (en nombre de un demandado que es):
(1) minor (menor de edad)
(2) ward or conservatee (dependiente de la corte o pupilo)
(3) other (specify) (otro - especifique):
(Read the reverse for important information.) (Lea importante información al dorso.)

### **WARNING—IMPORTANT INFORMATION**

**WARNING:** California law provides that, for purposes of division of property upon dissolution of a marriage or domestic partnership or upon legal separation, property acquired by the parties during marriage or domestic partnership in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language in the deed that characterizes how title is held (i.e., joint tenancy, tenants in common, or community property) will be controlling, and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property.

### **STANDARD FAMILY LAW RESTRAINING ORDERS**

**Starting immediately, you and your spouse or domestic partner are restrained from**

1. Removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court;
2. Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their minor child or children;
3. Transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life; and
4. Creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court. Before revocation of a nonprobate transfer can take effect or a right of survivorship to property can be eliminated, notice of the change must be filed and served on the other party.

You must notify each other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, you may use community property, quasi-community property, or your own separate property to pay an attorney to help you or to pay court costs.

### **ADVERTENCIA – INFORMACIÓN IMPORTANTE**

**ADVERTENCIA:** De acuerdo a la ley de California, las propiedades adquiridas por las partes durante su matrimonio o pareja de hecho en forma conjunta se consideran propiedad comunitaria para los fines de la división de bienes que ocurre cuando se produce una disolución o separación legal del matrimonio o pareja de hecho. Si cualquiera de las partes de este caso llega a fallecer antes de que se divida la propiedad comunitaria de tenencia conjunta, el destino de la misma quedará determinado por las cláusulas de la escritura correspondiente que describen su tenencia (por ej., tenencia conjunta, tenencia en común o propiedad comunitaria) y no por la presunción de propiedad comunitaria. Si quiere que la presunción comunitaria quede registrada en la escritura de la propiedad, debería consultar con un abogado.

### **ÓRDENES DE RESTRICCIÓN NORMALES DE DERECHO FAMILIAR**

**En forma inmediata, usted y su cónyuge o pareja de hecho tienen prohibido:**

1. Llevarse del estado de California a los hijos menores de las partes, si los hubiera, sin el consentimiento previo por escrito de la otra parte o una orden de la corte;
2. Cobrar, pedir prestado, cancelar, transferir, deshacerse o cambiar el nombre de los beneficiarios de cualquier seguro u otro tipo de cobertura, tal como de vida, salud, vehículo y discapacidad, que tenga como beneficiario(s) a las partes y su(s) hijo(s) menor(es);
3. Transferir, gravar, hipotecar, ocultar o deshacerse de cualquier manera de cualquier propiedad, inmueble o personal, ya sea comunitaria, cuasicomunitaria o separada, sin el consentimiento escrito de la otra parte o una orden de la corte, con excepción las operaciones realizadas en el curso normal de actividades o para satisfacer las necesidades de la vida; y
4. Crear o modificar una transferencia no testamentaria de manera que afecte el destino de una propiedad sujeta a transferencia, sin el consentimiento por escrito de la otra parte o una orden de la corte. Antes de que se pueda eliminar la revocación de una transferencia no testamentaria, se debe presentar ante la corte un aviso del cambio y hacer una entrega legal de dicho aviso a la otra parte.

Cada parte tiene que notificar a la otra sobre cualquier gasto extraordinario propuesto, por lo menos cinco días laborales antes de realizarlo, y rendir cuenta a la corte de todos los gastos extraordinarios realizados después de que estas órdenes de restricción hayan entrado en vigencia. No obstante, puede usar propiedad comunitaria, cuasicomunitaria o suya separada para pagar a un abogado o para ayudarle a pagar los costos de la corte.



ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and address):</i>       TELEPHONE NO.: _____ FAX NO. <i>(optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:   RESPONDENT/DEFENDANT:   OTHER:	
<b>ORDER TO PAY WAIVED COURT FEES AND COSTS (Superior Court)</b>	CASE NUMBER:

1. This proceeding was heard as follows:  Default or uncontested  By declaration under Family Code section 2336  
 Contested

on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

- a. by Judge *(name)*: \_\_\_\_\_  Temporary Judge
- b.  Petitioner/plaintiff present  Attorney present *(name)*:
- c.  Respondent/defendant present  Attorney present *(name)*:
- d.  Other present  Attorney present *(name)*:
- e. On the order to show cause or motion filed *(date)*: \_\_\_\_\_ by *(name)*:

**2. THE COURT FINDS**

- a. The court made an order waiving court fees and costs for  petitioner  respondent in this matter on *(date)*:
- b.  The court made an order for support payable by  petitioner  respondent to  petitioner  respondent on *(date)*:
- c. After considering information in the court file and other evidence,  petitioner  respondent has the ability to pay all or part of the waived court fees and costs.

**3. THE COURT ORDERS**

- a.  Petitioner  Respondent must pay  his or her own  the other party's previously waived court fees in the total amount of *(specify)*:
- b. Payment be made:
  - (1) \_\_\_\_\_ per month until paid in full, beginning *(date)*:
  - (2)  Within 10 days from the date of service of this *Order to Pay Waived Court Fees (see attached Proof of Service)*.
  - (3) After all current support and accrued support arrears have been paid (if ordered to pay the other party's waived court fees). *(Government Code, § 68637(d).)*
  - (4)  Other *(specify)*:
- c. Payment be sent to *(specify)*:

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
--------------------------------------	--------------

**4. NOTICE TO:**

- Petitioner  Respondent  , Initial fee waiver recipient, ordered to pay waived court fees and costs.
- Petitioner  Respondent  , Support obligor ordered to pay the initial fee waiver recipient's waived court fees and costs.
- The party ordered to pay fees and costs who did not receive the initial fee waiver AND was not present at the trial or hearing when the court ordered payment of waived court fees and costs.

**YOU HAVE AN OPPORTUNITY FOR A HEARING TO REQUEST THAT  
THE COURT SET ASIDE THE ORDER TO PAY WAIVED COURT FEES AND COSTS**

- a. To request a hearing, complete and file with the court clerk:  
 (1) *Notice of Motion* (form FL-301) or *Order to Show Cause* (form FL-300) and  
 (2) *Application to Set Aside Order to Pay Waived Court Fees and Costs—Attachment* (form FL-337)
- b. The forms specified in a. must be completed and filed with the court clerk within 30 days from the date of service of this *Order to Pay Waived Court Fees and Costs* (see attached Proof of Service).
- c. In addition, the party requesting the hearing must serve the other party with  
 (1) Copies of the documents in a. filed with the court, and  
 (2) A **blank** *Responsive Declaration to Order to Show Cause or Notice of Motion* (form FL-320).  
 You can obtain these forms from the clerk of the court, your county law library, or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).
- d. If a request for hearing is filed with the court clerk within the time specified in b., the order to pay waived court fees and cost will not be enforced until after the hearing.

**WARNING: The court has ordered you to pay court fees and costs. If you do not pay the court fees and costs, the court can institute collection proceedings and charge you interest and a collection fee.**

Date:

\_\_\_\_\_  
Signature of Judicial Officer

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
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**APPLICATION TO SET ASIDE ORDER TO PAY WAIVED COURT FEES—ATTACHMENT**

Attachment to  **Notice of Motion (form FL-301)**                       **Order to Show Cause (form FL-300)**

1. I am the  petitioner  respondent. I request that the court set aside the *Order to Pay Waived Court Fees*.
2. In making this request, I ask the court to consider the information in the court's case file, the information attached to this application, the information specified in the supporting declaration, and the evidence presented at the hearing.

**NOTICE**

To request a hearing, the party must complete and file with the court clerk the following: (1) *Notice of Motion* (form FL-301) or *Order to Show Cause* (form FL-300) and (2) *Application to Set Aside Order to Pay Waived Court Fees—Attachment (Family Law)* (form FL-337). These forms must be completed and filed with the court clerk within 30 days from the date of personal service of the *Order to Pay Waived Court Fees* **OR** within 35 days from the date the *Order to Pay Waived Court Fees* was served by mail.

In addition, the party requesting the hearing must serve the other party with (1) Copies of the above-listed documents filed with the court and (2) A **blank Responsive Declaration to Order to Show Cause or Notice of Motion** (form FL-320). You may obtain Judicial Council forms from the clerk of the court, at your county law library, or at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

If the request for hearing is filed with the court clerk within this time, the *Order to Pay Waived Court Fee* will not be enforced until after the hearing.

3. The reasons in support of this request are (*specify*):  
 Supporting declarations attached. You may use *Attached Declaration* (form MC-031).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF DECLARANT)



# **Fee Waiver Information Packet**



# Fee Waivers

## READ THIS FIRST!

If you cannot afford the court fees and costs, you can ask the court for a fee waiver. You may need different forms and the process can be a little confusing.

To help you, this packet has frequently asked questions, sample forms and instructions. You can find the forms you will need to fill out at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) and the frequently asked questions at <http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#fees>.

### It is very important that you:

1. **Read the forms very carefully.** The forms contain a lot of information you must know. They can help you understand what you have to do and decide on your options. Do not just skip to the parts you have to answer. Read everything on the form you are filling out.
2. **Fill out the forms carefully, and tell the truth.** Your answers must be accurate and complete. You must sign your forms under penalty of perjury, and you could get in trouble if you lie or leave information out on purpose to mislead the court.
3. **Make sure you always use the right form.** The form names and numbers are on the top and/or bottom of every page. There is also a date on the bottom left-hand section of the page. Make sure that date is July 1, 2009. If it is not, you have an outdated form that the court will not accept.

## Frequently Asked Questions on Fee Waivers in Superior Court

### **I cannot afford my court fees. What can I do?**

If you are low-income and cannot afford to pay the fee to file your court papers, you can ask for a “Fee Waiver”.

To ask for a fee waiver:

- Read *Information Sheet on Waiver of Superior Court Fees and Costs* (Form FW-001-INFO).
- Fill out *Request to Waive Court Fees* (Form FW-001), reading the form very carefully and using the attached sample form as a guide.
- Make 2 copies of your completed Form FW-001.
- Turn in your fee waiver forms to the clerk. They will tell you how long it will take to process your application for fee waiver.

**Remember:** You must sign your request for a fee waiver under penalty of perjury. So, on your forms, you must tell the truth, and your answers must be accurate and complete.

---

### **Who can get a fee waiver?**

There are 3 ways to qualify for a fee waiver:

- If you are receiving public benefits, like Medi-Cal, Food Stamps, Cal-Works, General Assistance, SSI, SSP, Tribal TANF, IHHS or CAPI;
  - If your household income, before taxes, is less than the amounts listed on Form FW-001 in item 5b, *or*
  - If the court finds that you do not have enough income to pay for your household’s basic needs AND the court fees.
- 

### **What fees and costs can the trial court waive if I qualify for the fee waiver?**

If you file a *Request to Waive Court Fees* (Form FW-001) and your request is granted, you will not have to pay fees for:

- Filing papers in superior court (except for appeals in cases worth over \$25,000)
- Making and certifying copies
- Sheriff’s fee to give notice
- Court-appointed interpreter in small claims court
- Court fees for telephone hearings
- Giving notice and certificates
- Sending papers to another department
- Court reporter’s daily fees (for the first 60 days following the grant of the fee waiver)
- Preparing, copying, and certifying a clerk’s transcript on appeal and transmitting it to the appellate court and the party.



If you file a *Request to Waiver Additional Court Fees* (Form FW-002) and the court grants your request, you will not have to pay fees for services the court determines to be necessary for your case. The fees that are waived will be checked off on Form FW-003 or Form FW-008. These may include one or more of the following:

- Jury fees and expenses
- Fees for court-appointed experts
- Fees for a police officer to testify in court
- Court appointed interpreter fees for a witness
- Other fees: read Form FW-001-INFO to see examples of the fees you can request to waive.

**Important:** Even if your fees are waived at first, there are some cases in which you may have to pay them back later. Read below to find out when you may have to pay your fees back.

---

### **What happens if my fee waiver request is granted?**

The fees and costs checked off on Form FW-003 or FW-008 will be waived and you will be able to proceed with your case without paying those fees and costs.

But, even if your fees are waived at first, there are some cases in which you may have to pay them back later. Read below to find out when you may have to pay your fees back.

---

### **Why was my fee waiver request denied without a hearing?**

Your fee waiver application may be denied without a hearing for one of two reasons:

- it is incomplete, or
- from your application, the court decided you are not eligible for the fee waiver.

The judge will check the reason for denying your request on page 2 of Form FW-003.

---

### **What happens if my fee waiver request is denied without a hearing?**

If your fee waiver is denied without a hearing, you have 10 days from the date in the Clerk's Certificate of Service (at the bottom of page 2 of Form FW-003 or attached to that form) to:

- (1) pay your fees,
- (2) file a new request if the court found that your request was incomplete, or
- (3) ask for a hearing to show the court more information.

Read item 5b on Form FW-003 carefully to find out what you need to do.

If you do not do one of these 3 things, the court will cancel the papers you filed with your fee waiver request and you can miss important deadlines or have to start all over.

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**What happens if the court does not deny my fee waiver but says it needs more information?**

If the court wants more information to make a decision on your fee waiver, the court will set up a hearing date for you. The information on the hearing will be on page 2 of Form FW-003, under item #4-c.

Make sure you go to that hearing. Bring with you any documents that the court tells you to bring. The court will tell you what documents it wants you to bring right above the hearing date information.

If you do not go to this court hearing, your fee waiver application will be denied and you will have to pay your fees in 10 days.

---

**My fee waiver request was denied without a hearing. How do I ask for a court hearing to bring more information?**

- Fill out a *Request for Hearing about Court Fee Waiver Order* (Form FW-006) and the top of *Notice on Hearing about Court Fees* (Form FW-007) using the attached sample forms as a guide.
- Make 2 copies of each form and turn them in to the clerk.
- The court will send you Form FW-007 completed, telling you when the court date is for your fee waiver hearing.

If you missed the deadline and filed your request for hearing more than 10 days after your fee waiver application was denied, the court will deny your hearing request and say so on Form FW-007. If there is another reason why the court denies your hearing request, the court will write it in item #5c.

---

**My fee waiver application was denied after a hearing. What do I do?**

It depends on what the court orders. First, look at page two of the *Order on Court Fee Waiver after Hearing* (Form FW-008) to see what the court ordered.

- If the court grants you a partial waiver of your fees and costs, you will still have to pay some of the fees, but not all. The court will tell what part of the fees are waived on page 2 of Form FW-008, item c. You must pay any other fees you owe within 10 days after the date in the Clerk's Certificate of Service (at the bottom of the form or attached to it). If you do not, the court will cancel the papers you filed.
- If the court denies your request for a waiver, but allows you to pay some court fees and costs over time, the court will check items b (1) and b (2) at the top of

- If the court denies your request for a waiver and orders you to pay in full immediately, the court will check only item b (1) at the top of page 2 of Form FW-008. You must pay your court fees within 10 days after the date in the Clerk's Certificate of Service (at the bottom of the form or attached to it). If you do not pay, the court will cancel the papers you filed.

**Remember:** You must act quickly after you get that order if you want your case to move forward.

---

**I have to pay court fees that are not included in my *Order on Court Fee Waiver* (Form FW-003 or FW-008, but I cannot afford them. What can I do?**

- Read *Information Sheet on Waiver of Superior Court Fees and Costs* (Form FW-001-INFO).
- Fill out a *Request to Waive Additional Court Fees* (Form FW-002), and the top of *Order on Court Fee Waiver* (Form FW-003) using the attached sample forms as a guide.
- If you don't already have an order that waived or reduced your initial court fees, you must also file a *Request to Waiver Court Fees* (Form FW-001) along with Form FW-002.
- Make 2 copies of your forms.
- Turn in your forms to the clerk. They will tell you how long it will take to process your application for fee waiver.
- The rest of the process is the same as with your original fee waiver.

**Remember:** You must sign your request for a fee waiver under penalty of perjury. So, on your forms, you must tell the truth, and your answers must be accurate and complete.

---

**I got a fee waiver. What do I do next?**

As long as your financial situation remains the same, you do not have to do anything. BUT, if your finances improve or if you can now afford to pay the court fees and costs, you have to tell the court within 5 days. Fill out *Notice to Court of Improved Financial Situation* (Form FW-010) and file it with the clerk.

Also, you may get a *Notice to Appear for Reconsideration of Fee Waiver* (Form FW-011). This is a notice from the court to go to a hearing to reconsider your fee waiver. The court sends this form if it thinks your financial situation may have changed. Make sure you go to this court date, or your fee waiver may be canceled.

It is possible that you may have to pay the fees that were waived in some cases. Read below to find out more.

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**I received a Notice to Appear for Reconsideration of Fee Waiver, but I already got a fee waiver. What do I do?**

The court may send you a *Notice to Appear for Reconsideration of Fee Waiver* (Form FW-011) if it thinks your financial situation may have changed or you are abusing the fee waiver. Make sure you go to this court date, or your fee waiver may be canceled and you may have to repay fees that were waived.

---

**I have an Order on Court Fee Waiver (Form FW-003 or Form FW-008), but I now have additional fees that are not included in my Order. What can I do?**

- Read *Information Sheet on Waiver of Superior Court Fees and Costs* (Form FW-001-INFO).
- Fill out a *Request to Waive Additional Court Fees* (Form FW-002), and then top of *Order on Court Fee Waiver* (Form FW-003) using the fee waiver instructions as a guide.
- Make 2 copies of your forms
- Turn in your forms to the clerk. They will tell you how long it will take to process your application for fee waiver.
- The rest of the process is the same as with your original fee waiver.

**Remember:** You must sign your request for a fee waiver under penalty of perjury. So, on your forms, you must tell the truth, and your answers must be accurate and complete.

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**When do fee waivers end?**

Fee waivers expire 60 days after the judgment, dismissal or the case is finished in some other way.

They can also end if the court finds that you are no longer eligible for the fee waiver.

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**Once my fees are waived, will I have to pay them back later?**

It depends.

- If your financial circumstances improve during your case, the court may order you to pay back any fees that were waived after your eligibility ended.
- If you get a judgment or child/spousal/family support order in a family law case, the court may order you or the person who is paying support to pay all or part of your waived fees. If this happens, you or the person ordered to pay your fees has the right to ask for a court hearing. Read below for more information.

- If you have a civil or small claims case and you win, usually the court orders the other side to pay the fees. The court will not enter a satisfaction of judgment until those fees and costs are paid.
- If you have a civil case and you settle with the other side for \$10,000 or more, you will have to pay any waived fees. The court will put a lien on your settlement to pay these fees. And the court will not dismiss the case until the fees have been paid.
- If the court asks you to provide proof for the information you wrote on your fee waiver request and you do not provide that proof, the court will cancel your fee waiver and you will have to pay back any fees and costs that were waived.

---

**I lost my civil case and owe money to the other side. The court ordered me to pay the other side's fees but they had a fee waiver. What do I do?**

Even if the other side's fees were waived, you are still responsible for them. You owe them to the court. The judgment against you will not be satisfied until you pay back the waived fees of the other side.

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**I am paying child support /spousal/domestic partner/family support. I received an *Order to Pay Waived Court Fees and Costs (Form FL-336)* that says I also have to pay my spouse's or domestic partner's waived court fees. I disagree with the order. What do I do?**

You can ask for a hearing to request that the court set aside (cancel) the order to pay the other person's waived court fees and costs.

You must request a hearing within 30 days from the date of service of the *Order to Pay Waived Court Fees and Costs (Form FL-336)*. If you file in time, you will not have to pay the waived fees until the judge makes a decision after the hearing.

To request a hearing:

1. Fill out a *Notice of Motion (Form FL-301)* or an *Order to Show Cause (Form FL-300)*
2. Fill out an *Application to Set Aside Order to Pay Waived Court Fees-Attachment (Form FL-337)* and attach it to Form FL-301 or Form FL-300.
3. Make 3 copies of your forms.
4. Turn in your forms to the clerk. They will give you a date for the hearing.
5. Serve the other person with one copy of the forms that the clerk returns to you AND include a blank *Responsive Declaration to Order to Show Cause or Notice of Motion (Form FL-320)*.
6. Fill out a Proof of Service (Form FL-330 or Form FL-335) and file it with the clerk
7. Make sure you go to your hearing. If you do not go, your request will be denied and you will have to pay back the other side's waived fees and costs.

**I received an *Order to Pay Waived Court Fees and Costs* (Form FL-336) that says I have to pay back my waived court fees. I disagree with the order. What do I do?**

The court may order you to pay back fees and costs that were previously waived for you if the court believes your financial situation has changed. If you disagree with the order, you can ask for a hearing to request that the court set aside (cancel) the order.

You must request a hearing within 30 days from the date of service of the *Order to Pay Waived Court Fees and Costs* (Form FL-336). If you file in time, you will not have to pay the waived fees until the judge makes a decision after the hearing.

To request a hearing:

1. Fill out a *Notice of Motion* (Form FL-301) or an *Order to Show Cause* (Form FL-300)
2. Fill out an *Application to Set Aside Order to Pay Waived Court Fees-Attachment* (Form FL-337) and attach it to Form FL-301 or Form FL-300.
3. Make 3 copies of your forms.
4. Turn in your forms to the clerk. They will give you a date for the hearing.
5. Serve the other person with one copy of the forms that the clerk returns to you AND include a blank *Responsive Declaration to Order to Show Cause or Notice of Motion* (Form FL-320).
6. Fill out a Proof of Service form (Form FL-330 or Form FL-335) and file it with the clerk.
7. Make sure you go to your hearing. If you do not go, your request will be denied and you will have to pay back the waived fees and costs.

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**Where can I find the laws and rules of court about fee waivers?**

The California laws about fee waivers are in the Government Code, Sections 68630 through 68641.

The California Rules of Court also deal with fee waivers for:

- Fee waiver rules for the trial courts, read Rules 3.50 through 3.58.
- Fee waiver rules in the Court of Appeal, read Rules 8.26, 8.100, 8.122, and 8.128.
- Fee waiver rules in the appellate division of the superior court, read Rules 8.818, 8.821, 8.832, and 8.833.

*Clerk stamps date here when form is filed.*

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 you are unable to pay court fees, you may use this form to ask the court to waive all or part of your court fees. You must fill out this form to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

**READ this carefully!**

**SAMPLE ONLY**

**Do not fill out this form**

**Write in the court address here**

*Fill in case number and name:*

**Case Number: Write your Case Number here**

**Case Name: Write your Case Name here**

*number, and State Bar number):*

**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** (name, address, telephone number, and State Bar number): \_\_\_\_\_

**Complete items #1, #2 & #4. Fill out #3 if you have a lawyer.**

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, Appellate Court Fees and Costs

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

a.  I receive (check all that apply) public benefits, IHSS (In-home Supportive Services), or CalWORKS (Calif. Assistance for Needy Families)

b.  My gross monthly household income is less than \_\_\_\_\_ (If you check 5b you must provide your gross monthly household income.)

**For question 5, check 'a', 'b', OR 'c':**  
**If you check # 5a, just make sure you check any box that applies to you in 5a.**  
**If you check # 5b, fill out # 7,8 and 9 on the back. Then, you are done!**  
**If you check #5c, fill out everything on back side of the form.**

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	<i>If more than 6 people at home, add \$389.59 for each extra person.</i>
1	\$1,128.13	3	\$1,907.30	5	\$2,686.46	
2	\$1,517.71	4	\$2,296.88	6	\$3,076.05	

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 one):  waive all court fees  waive some of the court fees  let me make payments over time (Explain): \_\_\_\_\_ (page 2.)

**6**  Check here if you have previously asked for a fee waiver in this case in the last 6 months. Attach that request if you have it and check the second box.

*(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: **Write Today's Date here**

**Print Your Name here**

**Sign Here**

*Print your name here*

*Sign here*

Print Your Name here

Case Number:

Write your Case Number here

Your name: \_\_\_\_\_

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 7, 8, and 9 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  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.

8 Your Monthly Income

a. Gross monthly income (before deductions): \$ \_\_\_\_\_
List each payroll deduction and amount below:
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
b. Total deduction \$ \_\_\_\_\_
c. Total monthly income \$ \_\_\_\_\_
d. List the source of your income for each month, including unemployment benefits, disability benefits, Social Security, VA benefits, annuities, interest, dividends, and other income, including income from investments, such as stocks, bonds, and mutual funds, etc.
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_
e. Your total monthly income is (8c plus 8d): \$ \_\_\_\_\_

10 Your Money and Property

a. Cash \_\_\_\_\_ \$ \_\_\_\_\_
b. All financial accounts (List bank name and amount):
(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
(4) \_\_\_\_\_ \$ \_\_\_\_\_

If you checked # 5b, fill out # 7,8 and 9. You do not have to fill out #10 and #11.
If you checked #5c, fill out everything on this side of the form.
When you answer the items in this page, make sure you fill out everything and that the information is true and complete.

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

9 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: \$ \_\_\_\_\_

11 Your Monthly Expenses

(Do not include payroll deductions you already listed in 8b.)
a. Rent or house payment & maintenance \$ \_\_\_\_\_
b. Food and household supplies \$ \_\_\_\_\_
c. Utilities and telephone \$ \_\_\_\_\_
d. Clothing \$ \_\_\_\_\_
e. Laundry and cleaning \$ \_\_\_\_\_
f. Medical and dental expenses \$ \_\_\_\_\_
g. Insurance (life, health, accident, etc.) \$ \_\_\_\_\_
h. School, child care \$ \_\_\_\_\_
i. Child, spousal support (another marriage) \$ \_\_\_\_\_
j. Transportation, gas, auto repair and insurance \$ \_\_\_\_\_

Total monthly income and household income (8e plus 9b): \$ \_\_\_\_\_

READ this notice carefully!
If you want to add any more information, attach form MC-025 or a piece of paper, with your name, case number and write "Financial Information" at the top. Don't forget to check the box in here telling the court you have attached another page.

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.

(1) \_\_\_\_\_ \$ \_\_\_\_\_
(2) \_\_\_\_\_ \$ \_\_\_\_\_
(3) \_\_\_\_\_ \$ \_\_\_\_\_
Total monthly expenses (add 11a - 11m above): \$ \_\_\_\_\_



This form asks the court to waive additional court fees that are not covered in a current order. If you have not already received an order that waived or reduced your court fees, you must complete and file a Request to Waive Court Fees (Superior Court), form FW-001, along with this form.

SAMPLE ONLY

Do not fill out this form

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

Name: \_\_\_\_\_
Street or mailing address: \_\_\_\_\_
City: \_\_\_\_\_
Phone number: \_\_\_\_\_

Fill out item #1.
Fill out #2 if you have a lawyer.

Fill in court name and street address:

Superior Court of California, County of

Write in the court address here

2 Your lawyer (name, telephone number, and State Bar number): \_\_\_\_\_

Fill in case number and case name:

Case Number Write your Case Number here

Case Name Write your Case Name here

In item #3, write the date of your latest fee waiver order. If you do not have one, leave it blank AND remember you have to also fill out form FW-001.

fees or costs

If you have a low income, you may have to go to court for your low income, you may have to go to court for fees.

On #4, check the box that applies. Fill out a new FW-001 if your financial situation has gotten better.

3 Date your last court fee waiver order, if any, was granted: \_\_\_\_\_

4 Has your financial situation improved since your last Request to Waive Court Fees? [ ] No [ ] Yes (If yes, you must fill out a new Request to Waive Court Fees, form FW-001, and attach it to this form.)

5 What other fees do you want your court fee waiver order to cover? (Check all that apply):

- a. [ ] Jury fees and expenses
b. [ ] Court-appointed interpreter
c. [ ] Fees for a peace officer to testify
d. [ ] Reporter's daily fees (beyond 60-days after grant of a fee waiver, at court-approved daily rate)
e. [ ] Fees for court-appointed expert
f. [ ] Other (specify) \_\_\_\_\_

For #5, check the box for every fee or cost you want the court to waive. If the fee you need waived is not listed, check "f" and explain what it is.

For #6, explain why you need the service that you want the fees waived for. For example, if you want the court to waive fees for a court-appointed interpreter for a witness, explain who the witness is and why you need him or her to testify in your case.

READ this Notice carefully!

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.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: Write your Date here

Print Your Name here

Sign Here

Print your name here

Sign here



Clerk stamps date here when form is filed.

**1 Person who asked the court to waive court fees:**

Name: \_\_\_\_\_

Street: \_\_\_\_\_

City: \_\_\_\_\_

**Write your name and address in #1.  
Fill out #2 if you have a lawyer.**

**2 Lawyer (if you have a lawyer, fill out #2):**

(Name, 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): \_\_\_\_\_

*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. The court may order the other side to pay the fees. If you pay the fees, you must pay the amount of the waived fees.

**Do not fill out anything else on this page.**

**4 After reviewing the court makes the following order:**

a.  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.

(1)  **Fee Waiver for Trial.** 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.

- Filing
- Making
- Sheriff
- Reporter
- Preparing

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

(3)  **Fee Waiver for Appeal.** The court grants your request and waives the fees and costs checked below, for your appeal. (Cal. Rules of Court, rules 3.55, 3.56, 8.26, and 8.818.) You do not have to pay for the checked items.

- Preparing and certifying clerk's transcript for appeal
- Other (specify): \_\_\_\_\_

**SAMPLE ONLY**  
**Do not fill out this form**

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

**Write in the court address here**

Fill in case number and case name:

Case Number: **Write your Case Number here**

Case Name: **Write your Case Name here**

Give Additional Court Fees

listed below. (Cal. Rules of

- certificates
- other court department
- interpreter in small claims court
- (court-approved daily rate)
- hearings

Your name: \_\_\_\_\_

**Write your Name here**

**Case Number:** \_\_\_\_\_

**Write your Case Number here**

b.  The court **denies** your 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 \_\_\_\_\_ (see **items**):

(2)  The court is not eligible for \_\_\_\_\_

The court \_\_\_\_\_ (Superior Court), form FW-006.

- Pay your \_\_\_\_\_
- Ask for \_\_\_\_\_

c.  The court needs \_\_\_\_\_ below. The hearing \_\_\_\_\_

Bring the \_\_\_\_\_

**Do not fill out anything else on this page.**

**Hearing Date** →

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Name and address of court if different from page 1: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Rm.: \_\_\_\_\_

**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.

Date: \_\_\_\_\_

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



**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

*Clerk stamps date here when form is filed*

**SAMPLE ONLY**  
**Do not fill out this form**

**1 Your Information** *(person who asked the court to waive court fees):*  
Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_

**Fill out item #1.**  
**Fill out #2 if you have a lawyer.**

**2 Your** \_\_\_\_\_ *number, e-mail,*  
**and St** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Fill in court name and street address:*  
Superior Court of California, County of \_\_\_\_\_  
**Write in the court address here**

**3 Date of order** denying your request to waive court fees  
*(month/day/year):* \_\_\_\_\_  
 *(Check this box if you have a copy of the order denying your request.)*  
**In #3, write the date of the order denying your request for a fee waiver (Form FW-003). If you have a copy of it, check the box and attach it to this Request.**

*Fill in case number and case name:*  
Case Number: \_\_\_\_\_ **Write your Case Number here**  
Case Name: \_\_\_\_\_ **Write your Case Name here**

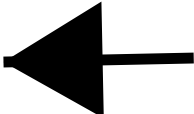
**4** I ask the court for a hearing on my fee waiver request so that I can bring more information about my financial situation.

**5**  The additional facts that support my request for a fee waiver are *(describe):*  
*(Use this space if you want to tell the court in advance what facts you want considered at the hearing. If the space below is not enough, attach form MC-025. Or attach a sheet of paper and write Additional Facts and your name and case number at the top. You may also attach copies of documents you want the court to look at.)*

**In #5, if you want to add anything to the information you already wrote down on Form FW-001, check the box and write it in this space. The information you write here must be related to your financial situation and to your inability to afford the fees. If you run out of room, you can attach a piece of paper and write your name, case number and "Additional Facts" at the top.**

Date: **Write Today's Date here**  
**Print Your Name here**

**Sign Here**



*Print your name here*



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



*Clerk stamps date here when form is filed.*

**1 Person who asked for the hearing:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_  
Phone: \_\_\_\_\_

**Write your name and address in #1.  
Fill out #2 if you have a lawyer.**

**SAMPLE ONLY**  
**Do not fill out  
this form**

**2 Lawyer (include phone number, e-mail, and State Bar number):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Fill out court name and street address:*

Superior Court of California, County of \_\_\_\_\_  
**Write in the court address here**

**3 The court received your request for a hearing about your court fees on (date):**

\_\_\_\_\_

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

**4  The court grants your request for a hearing on your eligibility for a fee waiver. Go to your court hearing on the date below. You may bring information about your financial situation to the hearing.**

*Fill in case number and case name:*

Case Number: \_\_\_\_\_  
**Write your Case Number here**

Case Name: \_\_\_\_\_  
**Write your Case Name here**

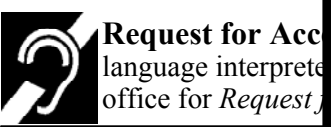
**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_ Name and address of court if different from above: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Rm: \_\_\_\_\_

**5  The court denies your request for a hearing about your court fees on the following grounds:**  
a.  The hearing was held on \_\_\_\_\_ for a fee waiver.  
b.  No request for a hearing was made.  
c.  Other (explain): \_\_\_\_\_

**Do not fill out anything else on this page.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Clerk, Deputy Clerk, or sign captioning, or sign contact the clerk's

Date: \_\_\_\_\_



**Request for Access to Language Interpreter**  
language interpreter office for Request for Hearing

**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 notice to the party and attorney, if any, listed in ① and ②, at the court, on the date below.  
 This notice 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





*Clerk stamps date here when form is filed.*

**SAMPLE ONLY**

**Do not fill out  
this form**

*Fill out court name and street address:*

Superior Court of California, County of

**Write in the court  
address here**

*Fill out case number and case name:*

Case Number **Write your Case Number here**

Case Name: **Write your Case Name here**

**1 Your Information** *(person with a fee waiver):*

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**Write your name and address in #1.  
Fill out #2 if you have a lawyer.**

**2** Your lawyer's name, telephone number, e-mail, and State Bar number: \_\_\_\_\_

**3** Date of your last court fee waiver order in this case: \_\_\_\_\_  
*(date)*

**On #3, write the date of your  
last fee waiver court order.**

**READ this Notice  
carefully!**

**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**  My financial situation has changed since I filed my Request to Waive Court Fees. I ask the court to do the following:  
a.  End my fee waiver because my financial situation has improved and I can now afford to pay the costs that are due after *(date)*: \_\_\_\_\_

**Check #4 if your finances have improved. Then,  
Check #4a if you can now afford the court fees and  
write the date when you can start paying them.  
Check #4b if you still need a fee waiver.**

b.  Review my updated financial information in the attached *Request to Waive Court Fees*. I believe I am still eligible for a fee waiver. *(Complete form FW-001 and attach to this form.)*

**5**  My case has settled for \_\_\_\_\_  
a. I *(check one)*  have received the money from the settlement.  
b. The name and address of the party who will pay the settlement is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Check #5 if your case settled and check the right  
box depending on how much you settled for.  
In #5a, check the right box telling the court if you  
got the the money from the settlement.  
In #5b, write the name and address of the party  
who will pay the settlement.**

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: **Write Today's Date here**

**Print Your Name here**

*Print your name here*

**Sign Here**

*Sign here*



**Cruz v. Superior Court (2004)**  
**120 Cal. App. 4th 175**





1 of 30 DOCUMENTS

**ABEL CRUZ et al., Petitioners, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondents; SHAWN AYROMLOO, Real Party in Interest.**

**B172309**

**COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT,  
DIVISION SEVEN**

*120 Cal. App. 4th 175; 14 Cal. Rptr. 3d 917; 2004 Cal. App. LEXIS 1048; 2004 Cal. Daily Op. Service 5952; 2004 Daily Journal DAR 8064*

**June 30, 2004, Filed**

**NOTICE:**

As modified July 28, 2004.

**SUBSEQUENT HISTORY:** Modified by *Cruz v. Superior Court, 2004 Cal. App. LEXIS 1242 (Cal. App. 2d Dist., July 28, 2004)*

**PRIOR HISTORY:** [\*\*\*1] ORIGINAL PROCEEDINGS in mandate. Superior Court of Los Angeles County, No. BC303634, Victor Greenberg, Commissioner.

**DISPOSITION:** Petition granted; issuance of a writ of mandate ordered.

**CASE SUMMARY:**

**PROCEDURAL POSTURE:** Petitioner applicants were plaintiffs in an underlying tenants' suit. Respondent superior court denied without hearings their applications for in-forma-pauperis status under *Cal. Gov't Code § 68511.3(a)(6)(C)*. The applicants sought writ of mandate, alleging a policy not to consider waiver of court fees for applicants with incomes over 125 percent of the poverty guidelines and a failure to schedule evidentiary hearings under *Cal. R. Ct. 985(f)*.

**OVERVIEW:** The applicants requested fee waivers under *Cal. Gov't Code § 68511.3(a)(6)(C)*, each declaring under penalty of perjury that his or her income was not enough to pay court fees and costs and also to pay for common necessities of life. On each application, the superior court indicated that monthly income exceeded the guidelines but did not address ability to proceed without using funds otherwise required to provide for the common necessities. In granting the writ, the court held that requests for fee waivers under *§ 68511.3(a)(6)(c)* had to be individually reviewed to determine if it was appropriate to grant permission to proceed in forma pauperis. Any all-inclusive requirement for additional documentation before considering the merits of an application would violate *Cal. R. Ct. 985(a)*. Further, on reconsideration, the superior court had denied all but six petitioners' applications without a hearing, demonstrating use of an impermissibly narrow construction of the hearing requirement. Finally, denial of an application without a hearing could not be justified either by a monthly income that exceeded all monthly expenses by a small amount or by the existence of a modest savings account.

**OUTCOME:** The court issued a writ of mandate to the superior court directing it to vacate its orders denying the fee waiver applications without an evidentiary hearing. The court also directed the superior court to enter new

orders granting the affected applicants at least 10 days' written notice of an evidentiary hearing to determine their eligibility to proceed in forma pauperis. The court granted the applicants their costs in the writ proceeding.

**CORE TERMS:** forma pauperis, fee waiver, evidentiary, monthly, eligibility, necessities of life, declaration, monthly income, permission, documentation, monthly expenses, payroll deductions, household, indigent, guideline, poverty, necessities of life, evidentiary hearing, sacrificing, informal, financial condition, opportunity to respond, savings account, petitioners' applications, reconsideration, supplemental, sworn, financial information, factual allegations, expense items

#### LexisNexis(R) Headnotes

#### *Civil Procedure > Parties > Self-Representation > General Overview*

#### *Workers' Compensation & SSDI > Social Security Disability Insurance > Costs & Attorney Fees*

[HN1] *Cal. Gov't Code* § 68511.3(a) instructs the Judicial Council to adopt rules of court and uniform forms to be used by litigants requesting waivers of court fees and costs. *Section 68511.3(a)(6)* identifies three categories of litigants for whom permission to proceed in forma pauperis must be granted: (A) litigants who are receiving government benefits from specified public assistance and supplemental income programs; (B) litigants whose monthly income is 125 percent or less of the current monthly federal poverty guideline; and (C) other persons when in the court's discretion, this permission is appropriate because the litigant is unable to proceed without using money which is necessary for the use of the litigant or the litigant's family to provide for the common necessities of life. Litigants who apply for permission to proceed in forma pauperis pursuant to § 68511.3(a)(6)(C) are required to file a financial statement under oath on a form promulgated pursuant to rules adopted by the Judicial Council. § 68511.3(b)(2).

#### *Civil Procedure > Parties > Self-Representation > General Overview*

[HN2] The poverty guideline identified in *Cal. Gov't Code* § 68511.3(a)(6)(B) is the current monthly poverty line annually established by the Secretary of Health and

Human Services pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended.

#### *Civil Procedure > Parties > Self-Representation > General Overview*

[HN3] *Cal. R. Ct. 985*, adopted pursuant to the legislature's direction in *Cal. Gov't Code* § 68511.3(a), details the procedures to be followed in determining applications to proceed without paying court fees and costs. *Rule 985(a)* directs all applications be made on Judicial Council form 982(a)(17) and prohibits use of any additional form not adopted by the Judicial Council as part of the application process.

#### *Civil Procedure > Parties > Self-Representation > General Overview*

#### *Governments > Courts > Clerks of Court*

#### *Governments > Local Governments > Duties & Powers*

[HN4] Although the court may authorize appropriate county officials (including the clerk of the court) to make reasonable efforts to verify a litigant's financial condition, additional documentation relating to the litigant's financial condition may be required of an applicant proceeding under *Cal. Gov't Code* § 68511.3(a)(6)(C) only if he or she failed to provide information requested by the approved application form or if the court has good reason to doubt the truthfulness of the factual allegations in the application. *Cal. R. Ct. 985(b)*. *Rule 985(d)* permits the trial court to delegate to the clerk the authority to grant applications that meet the standards of eligibility established by section *Cal. Gov't Code* § 68511.3(a)(6)(A) and (a)(6)(B), but not the authority to deny an application.

#### *Civil Procedure > Parties > Self-Representation > General Overview*

[HN5] An application to proceed in forma pauperis is automatically granted if not acted upon within five court days of filing. *Cal. R. Ct. 985(e)*. If the court determines within that five-court day period that there is a substantial evidentiary conflict concerning the applicant's eligibility for in forma pauperis status, the trial court must hold a hearing, upon no less than 10 days' written notice, to determine his or her eligibility for the fee waiver. *Cal. R. Ct. 985(f)*.

#### *Civil Procedure > Parties > Self-Representation >*

**General Overview****Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection  
Constitutional Law > Equal Protection > Poverty**

[HN6] The right of an indigent civil litigant to proceed in forma pauperis is grounded in a common law right of access to the courts and constitutional principles of due process. Restricting an indigent's access to the courts because of his poverty contravenes the fundamental notions of equality and fairness which since the earliest days of the common law have found expression in the right to proceed in forma pauperis.

**Civil Procedure > Parties > Self-Representation > General Overview**

[HN7] *Cal. Gov't Code* § 68511.3 provides specific terms and conditions under which an individual might be eligible to proceed in forma pauperis.

**Civil Procedure > Parties > Self-Representation > General Overview**

[HN8] In addition to mandating in forma pauperis status for litigants who received aid from specified government benefits programs or fell below 125 percent of the federal poverty line, *Cal. Gov't Code* § 68511.3 has directed the trial court to exercise its discretion to grant permission to proceed in forma pauperis in any other instance in which the litigant is unable to proceed without using money which is necessary for the use of the litigant or the litigant's family to provide for the common necessities of life. The legislature's creation of this third, statutory category of litigants eligible for fee waivers codifies the principle that an individual seeking timely access to the courts cannot be required to deny himself or herself necessities of life over a period of months to try to accumulate the amount necessary to defray the costs of filing and serving a lawsuit.

**Civil Procedure > Parties > Self-Representation > General Overview**

[HN9] An all-inclusive requirement for additional documentation explaining why an applicant for in forma pauperis status should get a waiver before considering the merits of an application pursuant to *Cal. Gov't Code* § 68511.3(a)(6)(C), other than applications from incarcerated litigants, § 68511.3(e)(1), would violate *Cal. R. Ct. 985(a)* (No applicant shall be required to complete any form as part of his or her application under this rule

other than forms adopted by the Judicial Council.) and *Cal. R. Ct. 985(b)* (Additional documentation of a litigant's financial condition shall be required only if the applicant failed to provide the information required by the application form or if the court has good reason to doubt the truthfulness of the factual allegations in the application.)

**Civil Procedure > Parties > Self-Representation > General Overview  
Governments > Local Governments > Employees & Officials**

[HN10] If a request for additional information is warranted under *Cal. R. Ct. 985(b)*, the responsible county official must (1) Inform the litigant of the information in the application that is insufficient or that the court believes may not be truthful; (2) Inform the litigant of the specific type or types of documentation the litigant is required to submit; (3) Require the litigant to submit only such documentation as the litigant has in his or her possession or that the litigant can obtain with reasonable efforts; and (4) Require the litigant to submit only such documentation as will clarify or prove the truthfulness of the factual allegations in the application. *Rule 985(b)*.

**Civil Procedure > Parties > Self-Representation > General Overview**

[HN11] *Cal. R. Ct. 985(f)* requires the court to schedule a confidential hearing, with at least 10 days' notice, if there is a substantial evidentiary conflict concerning an applicant's eligibility for in forma pauperis status.

**Civil Procedure > Parties > Self-Representation > General Overview  
Tax Law > State & Local Taxes > Income Tax > General Overview**

[HN12] It is improper to deny a *Cal. Gov't Code* § 68511.3(a)(6)(c) fee waiver request without a hearing simply because an applicant's gross monthly household income exceeds total monthly expenses or the applicant has a small savings account.

**Civil Procedure > Parties > Self-Representation > General Overview  
Constitutional Law > Bill of Rights > Fundamental Rights > Procedural Due Process > Scope of Protection**

[HN13] It is imperative that procedures utilized in determining a request to proceed in forma pauperis guarantee that a denial of an applicant's motion will not be based on allegations to which he has not had the opportunity to respond.

***Civil Procedure > Parties > Self-Representation > General Overview***

***Tax Law > State & Local Taxes > Income Tax > General Overview***

[HN14] A slim monthly margin without additional resources to respond to emergency needs is an insufficient basis to deny a request for permission to proceed in forma pauperis without providing the applicants an opportunity to respond to the court's conclusion that they can, contrary to their sworn declaration, afford to pay fees and costs without sacrificing necessities of life. Unless monthly income exceeds expenses, including payroll deductions, by a significant amount (something more than \$ 100 to \$ 150 per month), the superior court's tentative conclusion that an applicant can afford to pay court fees and costs notwithstanding his or her contrary declaration demonstrates a substantial evidentiary conflict requiring a hearing concerning the applicant's eligibility for in forma pauperis status under *Cal. R. Ct. 985(f)*.

***Civil Procedure > Parties > Self-Representation > General Overview***

[HN15] Neither a monthly income that exceeds all monthly expenses by a small amount nor the existence of a modest savings account, whether considered alone or in combination, constitutes such compelling evidence of an applicant's ability to pay court fees and costs without sacrificing the necessities of life that denial of such an application without a hearing is justified.

***Civil Procedure > Parties > Self-Representation > General Overview***

***Evidence > Testimony > Lay Witnesses > Opinion Testimony > General Overview***

***Evidence > Testimony > Lay Witnesses > Ultimate Issue***

[HN16] The sworn assertion that an in-forma-pauperis applicant cannot afford court fees and costs without sacrificing necessary expenses is evidence before the court, just as the applicant's identification of his or her occupation and employer and the income and expense items listed on the form are evidence. *Cal. Evid. Code §§*

800 (lay opinion testimony is permitted if rationally based on the witness's perception and helpful to understanding his or her testimony); 805 (opinion testimony that is otherwise admissible is not objectionable because it embraces the ultimate issue to be decided by the trier of fact). A judicial officer's disbelief of the asserted need for a fee waiver creates an evidentiary conflict: In most instances -- that is, unless the questioned amount is so plainly unreasonable that no explanation seems possible -- the applicant must be given an opportunity to respond to the otherwise undisclosed assessment that he or she is spending more than necessary for food, clothing, housing or other "necessaries of life." To adopt a more restrictive interpretation of "substantial evidentiary conflict" would deprive *Cal. R. Ct. 985(f)*'s hearing requirement of any significance.

***Civil Procedure > Judicial Officers > Judges > General Overview***

***Governments > Courts > Authority to Adjudicate***

[HN17] Just as a theater critic must see the play before writing a review, judges must carefully consider the evidence before deciding a case. The lifeblood of our judicial institutions depends upon judges rendering decisions that are the product of a reasoned and objective view of the law and the facts.

***Civil Procedure > Parties > Self-Representation > General Overview***

***Civil Procedure > Judgments > Relief From Judgment > General Overview***

***Civil Procedure > Remedies > Writs > Common Law Writs > Mandamus***

[HN18] Even under a circumstances where a questioned amount on an application for in-forma-pauperis status is so plainly unreasonable that no explanation seems possible, rather than simply denying an application for a fee waiver, the court should give the applicant an opportunity to complete item 12 on Judicial Council form 982(a)(17) to explain any items that appear to the judicial officer (although not necessarily to the applicant) to be unusually high. If the court thereafter denies the application, it must explain its reasons for doing so. A statement of reasons for denial is essential not only to enable a prospective litigant to renew his application before the trial court if the defect can be corrected, but also to provide an appellate court with a basis for reviewing the trial court's denial.



**SUMMARY:****CALIFORNIA OFFICIAL REPORTS SUMMARY**

Nineteen low-income individuals filed a petition for writ of mandate alleging that a superior court unlawfully maintained a policy and practice of refusing to exercise discretion and consider applications for waiver of court fees and costs pursuant to *Gov. Code, § 68511.3, subd. (a)(6)(C)*, for applicants with incomes exceeding 125 percent of the federal poverty guidelines. They further claimed that the superior court failed to schedule evidentiary hearings as required by Cal. Rules of Court, rule 985(f), when substantial evidentiary conflicts exist with respect to an applicant's eligibility for a fee waiver pursuant to *Gov. Code, § 68511.3, subd. (a)(6)(C)*. The applicants had filed a lawsuit against their landlord seeking to enforce their right to return to their apartments after being forced to evacuate and had filed applications to proceed in forma pauperis. Without conducting a hearing, the superior court denied their applications. In some cases the applicants had a small positive net monthly income or modest savings accounts that caused the superior court to deny their applications. (Superior Court of Los Angeles County, No. BC303634, Victor H. Greenberg, Commissioner.)

The Court of Appeal granted the petition and issued a peremptory writ of mandate to the superior court directing it to vacate its orders denying the fee waiver applications made without an evidentiary hearing and to enter new orders granting the affected applicants at least 10 days' written notice of an evidentiary hearing to determine their eligibility to proceed in forma pauperis under *Gov. Code, § 68511.3, subd. (a)(6)(C)*. An individual seeking timely access to the courts cannot be required to deny himself or herself necessities of life over a period of months to try to accumulate the amount necessary to defray the costs of filing and serving a lawsuit. An all-inclusive requirement for additional documentation before considering the merits of an application pursuant to *Gov. Code, § 68511.3, subd. (a)(6)(C)*, violated Cal. of Court, rule 985(a). The court held that to the extent that the superior court imposed any blanket requirement for additional financial information in connection with *Gov. Code, § 68511.3, subd. (a)(6)(C)* applications, it must cease doing so. [\*176] The court also held that the superior court was employing an impermissibly narrow construction of the hearing requirement when it denied reconsideration without a

hearing for all but six applicants. Neither a monthly income that exceeds all monthly expenses by a small amount nor the existence of a modest savings account, whether considered alone or in combination, constituted compelling evidence of an applicant's ability to pay court fees and costs without sacrificing the necessities of life without a hearing to provide an opportunity for an applicant to explain their finances. The court held that--unless the questioned amount was so plainly unreasonable that no explanation seems possible--the applicant must be given an opportunity to respond to the otherwise undisclosed assessment that he or she was spending more than necessary for the necessities of life. (Opinion by Perluss, P. J., with Johnson and Zelon, JJ., concurring.)

**HEADNOTES****CALIFORNIA OFFICIAL REPORTS HEADNOTES**

Classified to California Digest of Official Reports

**(1) Costs § 5--Actions in Forma Pauperis--Statutory Requirements.**--*Gov. Code, § 68511.3, subd. (a)*, instructs the Judicial Council to adopt rules of court and uniform forms to be used by litigants requesting waivers of court fees and costs. *Gov. Code, § 68511.3, subd. (a)(6)*, identifies three categories of litigants for whom permission to proceed in forma pauperis must be granted: (A) litigants who are receiving government benefits from specified public assistance and supplemental income programs; (B) litigants whose monthly income is 125 percent or less of the current monthly federal poverty guideline; and (C) other persons when in the court's discretion, this permission is appropriate because the litigant is unable to proceed without using money which is necessary for the use of the litigant or the litigant's family to provide for the common necessities of life. Litigants who apply for permission to proceed in forma pauperis pursuant to *Gov. Code, § 68511.3, subd. (a)(6)(C)*, are required to file a financial statement under oath on a form promulgated pursuant to rules adopted by the Judicial Council pursuant to *Gov. Code, § 68511.3, subd. (b)(2)*.

**(2) Costs § 5--Actions in Forma Pauperis--Application Process.**--*Cal. Rules of Court, rule 985*, adopted pursuant to the Legislature's direction in *Gov. Code, § 68511.3, subd. (a)*, details the procedures to be followed in determining applications to proceed without paying court fees and costs. *Cal. Rules of Court, rule 985(a)*, directs

all applications be made on Judicial Council form 982(a)(17) and prohibits use of any additional form not adopted by the Judicial Council. [\*177]

**(3) Costs § 5--Actions in Forma Pauperis--Verification of Financial Condition--Documentation.**--Although the court may authorize appropriate county officials (including the clerk of the court) to make reasonable efforts to verify the litigant's financial condition, additional documentation relating to the litigant's financial condition may be required of an applicant proceeding under *Gov. Code*, § 68511.3, *subd. (a)(6)(C)*, only if he or she failed to provide information requested by the approved application form or if the court has good reason to doubt the truthfulness of the factual allegations in the application to proceed in forma pauperis. (*Cal. Rules of Court*, rule 985(b).) *Cal. Rules of Court*, rule 985(d), permits the trial court to delegate to the clerk the authority to grant applications that meet the standards of eligibility established by *Gov. Code*, § 68511.3, *subd. (a)(6)(A) & (B)*, but not the authority to deny an application.

**(4) Costs § 5--Actions in Forma Pauperis--Due Process--Timely Access--Qualifications.**--The right of an indigent civil litigant to proceed in forma pauperis is grounded in a common law right of access to the courts and constitutional principles of due process. Indigents are entitled not merely to access to the courts but to timely access. Appellate courts possess inherent power to waive filing fees for indigents. An applicant need not establish total destitution to qualify for in forma pauperis relief.

**(5) Costs § 5--Actions in Forma Pauperis--Timely Access--Necessities of Life.**--An individual seeking timely access to the courts cannot be required to deny himself or herself necessities of life over a period of months to try to accumulate the amount necessary to defray the costs of filing and serving a lawsuit.

**(6) Costs § 5--Actions in Forma Pauperis--Additional Documentation.**--Any all-inclusive requirement for additional documentation before considering the merits of an application pursuant to *Gov. Code*, § 68511.3, *subd. (a)(6)(C)*, other than applications from incarcerated litigants, would violate *Cal. Rules of Court*, rule 985(a) & (b). To the extent a superior court imposes any blanket requirement for additional financial information in connection with *Gov. Code*, § 68511.3, *subd. (a)(6)(C)*, applications to proceed in forma pauperis, it must cease doing so immediately.

**(7) Costs § 5--Actions in Forma Pauperis--Confidential Hearing--Denial Without Hearing.**--*Cal. Rules of Court*, rule 985(f), requires the court to schedule a confidential hearing, with at least 10 days' notice, if there is a substantial evidentiary conflict concerning the applicant's eligibility for in forma pauperis status. This provision does not require a [\*178] hearing in every case before denial of the application pursuant to *Gov. Code*, § 68511.3 *subd. (a)(6)(C)*, even though such a denial is necessarily grounded on a conflict between the applicant's sworn declaration that his or her income is not enough to pay for the common necessities of life and also pay court fees and costs, and the trial court's determination that the applicant's income is sufficient for both purposes based on its assessment of the data. In some instances the financial information submitted by the applicant may conclusively demonstrate his or her lack of entitlement to a fee waiver without raising a substantial evidentiary conflict.

**(8) Costs § 5--Actions in Forma Pauperis--Procedures.**--It is imperative that procedures utilized in determining request to proceed in forma pauperis guarantee that a denial of an applicant's motion will not be based on allegations to which he has not had the opportunity to respond.

**(9) Costs § 5--Actions in Forma Pauperis--Eligibility.**--A slim monthly margin of \$ 112 in an application to proceed in forma pauperis without additional resources to respond to emergency needs was an insufficient basis to deny a request for permission to proceed in forma pauperis without providing the applicants an opportunity to respond to the court's conclusion that they can, contrary to their sworn declaration, afford to pay fees and costs without sacrificing necessities of life. Unless monthly income exceeds expenses, including payroll deductions, by a significant amount (something more than \$ 100 to \$ 150 per month), a superior court's tentative conclusion that the applicant can afford to pay court fees and costs notwithstanding his or her contrary declaration demonstrated a substantial evidentiary conflict that required a hearing concerning the applicant's eligibility for in forma pauperis status under *Cal. Rules of Court*, rule 985(f).

**(10) Costs § 5--Actions in Forma Pauperis--Eligibility.**--Neither a monthly income that exceeds all monthly expenses by a small amount nor the

existence of a modest savings account, whether considered alone or in combination, constituted such compelling evidence of an applicant's ability to pay court fees and costs without sacrificing the necessities of life that denial of such an application to proceed in forma pauperis without a hearing was justified.

**(11) Costs § 5--Actions in Forma Pauperis--Evidentiary Conflict--Hearing Required**

--The sworn assertion that the applicant cannot afford court fees and costs without sacrificing necessary expenses was [\*179] evidence before the court, just as the applicant's identification of occupation, employer, income and expense items listed on the form were evidence. A judicial officer's disbelief of the asserted need for a fee waiver created an evidentiary conflict. Unless the questioned amount is so plainly unreasonable that no explanation seems possible, the applicant must be given an opportunity to respond to the otherwise undisclosed assessment that he or she was spending more than necessary for food, clothing, housing or other necessities of life. To adopt a more restrictive interpretation of substantial evidentiary conflict would deprive *Cal. Rules of Court, rule 985(f)*'s hearing requirement of any significance.

[3 Witkin, Cal. Procedure (4th ed. 1996) Actions, § 401.]

**COUNSEL:** Legal Aid Foundation of Los Angeles, T. E. Glenn; Western Center for Law & Poverty, Richard A. Rothschild and Robert Newman for Petitioners.

Horvitz & Levy, Frederic D. Cohen and David S. Ettinger for Harriett Buhai Center for Family Law as Amicus Curiae on behalf of Petitioners.

Bill Lockyer, Attorney General, Manuel M. Medeiros, State Solicitor General, Andrea Lynn Hoch, Chief Assistant Attorney General, Louis R. Mauro, Assistant Attorney General, Kenneth R. Williams, Michelle Mitchell Lopez and Douglas J. Woods, Deputy Attorneys General.

No appearance by Real Party in Interest.

**JUDGES:** Perluss, P. J., with Johnson and Zelon, JJ., concurring.

**OPINION BY:** PERLUSS

**OPINION**

[\*\*919] **PERLUSS, P. J.--**

*"Access to justice is a fundamental and essential right in a democratic society. It is the responsibility of government to ensure that all people enjoy this right."*<sup>1</sup>

1 California Commission on Access to Justice, *The Path To Equal Justice: A Five-Year Status Report on Access to Justice in California* (October 2002) Finding A, page 36.

[\*\*2] To protect indigents' right of access to our courts, the California Legislature has mandated that litigants whose incomes are insufficient to pay court [\*180] fees and costs without sacrificing their ability to provide "the common necessities of life" for themselves or their families must be granted permission to proceed in forma pauperis. (*Gov. Code, § 68511.3, subd. (a)(6)(C)*.)  
2 If an individual completes and files the appropriate Judicial Council-approved form requesting a fee waiver but there is a "substantial evidentiary conflict" as to the applicant's right to proceed in forma pauperis, the trial court may not deny the application without first conducting a noticed hearing to determine his or her eligibility for the fee waiver. (*Cal. Rules of Court, rule 985(f)*.)<sup>3</sup>

2 Statutory references are to the Government Code unless otherwise indicated. For convenience, *section 68511.3, subdivision (a)(6)(C)* will be referred to as *subdivision (a)(6)(C)*.

3 N3 References to a rule or rules are to the California Rules of Court.

[\*\*3] The petitioners before us are 19 low-income individuals whose applications to proceed in forma pauperis under *subdivision (a)(6)(C)* were denied without a hearing and without consideration of the criteria specified in that subdivision. In response to their petition, we ordered respondent Los Angeles Superior Court (Superior Court) to show cause why it should not be compelled to cease implementation of any formal or informal policy to deny applications for waiver of fees without making the determination required by *subdivision (a)(6)(C)* and without complying with the procedural requirements set forth in *rule 985*. Our order to show cause also provided, as an alternative, that the Superior Court could demonstrate it does not have any

such formal or informal policy.

The Superior Court concedes it incorrectly applied the income guidelines in *section 68511.3, subdivision (a)(6)(B)* to deny petitioners' applications, rather than evaluating their ability to pay for the necessities of life as well as court costs under *subdivision (a)(6)(C)*, but asserts any error was cured during the pendency of this writ petition by an order to reconsider petitioners' [\*\*920] fee waiver requests. However, on reconsideration two-thirds [\*\*\*4] of the applications were again denied without hearing.<sup>4</sup>

Although we are not persuaded there exists a court-wide policy to refuse to properly decide *subdivision (a)(6)(C)* fee waiver applications, as petitioners initially contended, it nonetheless appears the process by which the Superior Court determines those applications is inconsistent with procedures mandated by the California Rules of Court. Accordingly, we issue a writ of mandate to the Superior Court directing it to vacate its orders denying petitioners' fee waiver applications made without an evidentiary hearing and to enter new [\*181] orders granting the affected applicants at least 10 days' written notice of an evidentiary hearing to determine their eligibility to proceed in forma pauperis under *subdivision (a)(6)(C)*.

4 On reconsideration the applications for fee waivers of two petitioners were granted; hearings on the applications of four other petitioners were scheduled to resolve evidentiary conflicts regarding their income and expenses. The applications of all other petitioners were again denied without hearing.

#### [\*\*\*5] PROCEDURES GOVERNING FEE WAIVER APPLICATIONS

(1) *Section 68511.3, subdivision (a)* [HN1] instructs the Judicial Council to adopt rules of court and uniform forms to be used by litigants requesting waivers of court fees and costs. *Section 68511.3, subdivision (a)(6)* identifies three categories of litigants for whom permission to proceed in forma pauperis must be granted: (A) litigants who are receiving government benefits from specified public assistance and supplemental income programs;<sup>5</sup> (B) litigants whose monthly income is 125 percent or less of the current monthly federal poverty guideline;<sup>6</sup> and (C) "[o]ther persons when in the court's discretion, this permission is appropriate because the

litigant is unable to proceed without using money which is necessary for the use of the litigant or the litigant's family to provide for the common necessities of life." Litigants who apply for permission to proceed in forma pauperis pursuant to *subdivision (a)(6)(C)* are required to file a financial statement under oath on a form promulgated pursuant to rules adopted by the Judicial Council. (§ 68511.3, *subd. (b)(2)*.)

5 *Section 68511.3, subdivision (a)(6)(A)* requires permission to proceed in forma pauperis be granted to litigants who receive benefits from the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs, the *California Work Opportunity and Responsibility to Kids Act* (CalWORKs) program or the Food Stamp program or pursuant to *Welfare and Institutions Code section 17000*.

[\*\*\*6]

6 [HN2] The poverty guideline identified in *section 68511.3, subdivision (a)(6)(B)* is the "current monthly poverty line annually established by the Secretary of Health and Human Services pursuant to the *Omnibus Budget Reconciliation Act of 1981*, as amended."

(2) *Rule 985*, [HN3] adopted pursuant to the Legislature's direction in *section 68511.3, subdivision (a)*, details the procedures to be followed in determining applications to proceed without paying court fees and costs. *Rule 985(a)* directs all applications be made on Judicial Council form 982(a)(17)<sup>7</sup> and prohibits use of any additional form not adopted by the Judicial Council as part of the application process.<sup>8</sup>

7 A copy of form 982(a)(17) is attached as appendix A, *post*, pages 192-193. Judicial Council form 982(a)(20) is to be used for an application for waiver of additional court fees and costs under *rule 985(j)*. (See *rule 985(a)*.)

8 An exception to the limitation on nonapproved forms is made for inmates filing civil actions, as authorized by *section 68511.3, subdivision (e)(1)*. (See *rule 985(a)*.)

[\*\*\*7] [\*\*921] Form 982(a)(17) requires the litigant to declare his or her [\*182] "gross monthly pay" and also provides for calculation of "monthly take-home pay": "gross monthly pay" less "payroll deductions" (line 9(b); for example, deductions for Social Security, Medicare and federal and state income taxes).

The litigant must also list other sources of monthly income or receipts (for example, spousal or child support, disability payments, interest income and lottery winnings) and the gross monthly income of persons living in the home who depend in whole or in part on the litigant for support. Line 9(g), labeled "total gross monthly household income," includes all sources of income or revenue without any adjustment for payroll deductions or withholdings for the litigant or other individuals whose gross income is included in the calculation. The expense side of the form specifically directs the applicant *not* to include items listed as payroll deductions on line 9(b). The applicant is also asked to identify balances on hand in savings, checking and credit union accounts and is given the opportunity at line 12 to supply any additional facts that support the request for waiver of fees and costs [\*\*\*8] (for example, any unusual medical needs or expenses for recent family emergencies).

[HN4] (3) Although the court may authorize appropriate county officials (including the clerk of the court) to make reasonable efforts to verify the litigant's financial condition, additional documentation relating to the litigant's financial condition may be required of an applicant proceeding under *subdivision (a)(6)(C)* only if he or she failed to provide information requested by the approved application form "or if the court has good reason to doubt the truthfulness of the factual allegations in the application." (*Rule 985(b)*.) *Rule 985(d)* permits the trial court to delegate to the clerk the authority to grant applications that meet the standards of eligibility established by *section 68511.3, subdivision (a)(6)(A) and (B)*, but not the authority to deny an application.

[HN5] An application is automatically granted if not acted upon within five court days of filing. (*Rule 985(e)*.) If the court determines within that five-court day period that there is a "substantial evidentiary conflict concerning the applicant's eligibility" for in forma pauperis status, the trial court must hold a hearing, upon no less than [\*\*\*9] 10 days' written notice, to determine his or her eligibility for the fee waiver. (*Rule 985(f)*.)

## FACTUAL AND PROCEDURAL BACKGROUND

Petitioners are 19 of 32 plaintiffs in a lawsuit filed in Los Angeles Superior Court against their landlord seeking to enforce their right to return to their apartments after being forced to evacuate the building following a raw sewage spill and subsequent order of repair from the

Los Angeles Housing Department (*Cruz v. Ayromloo* (Super. Ct. L.A. County, 2003, No. BC303634)). All 32 plaintiffs filed applications to proceed in forma pauperis pursuant to *section 68511.3, subdivision (a)(6)* and *rule 985*. The 13 [\*183] applications requesting fee waivers pursuant to *section 68511.3, subdivisions (a)(6)(A) and (a)(6)(B)* were granted by the Superior Court. Petitioners requested fee waivers pursuant to *subdivision (a)(6)(C)*, each declaring under penalty of perjury that his or her income is not enough to pay court fees and costs and also to pay for the common necessities of life for the applicant and the applicant's family. Each petitioner completed Judicial Council form 982(a)(17), including the financial information portion of the application.

On November 7, 2003 the [\*\*\*10] Superior Court denied all 19 *subdivision (a)(6)(C)* [\*\*\*922] applications without a hearing. As to each petitioner, the form order on application for waiver of court costs and fees stated as the reason for denying the waiver request (by checkmark in the box): "Monthly household income exceeds guidelines (*Gov. Code § 68511.3(a)(6)(B)*)." None of the 19 orders denying the fee waiver applications addressed the criteria specified in *subdivision (a)(6)(C)*, that is, whether the litigant, whose income exceeded 125 percent of the federal poverty guidelines, was nonetheless unable to proceed without using funds otherwise required to provide for the common necessities of life for the litigant or his or her family.

Upon learning that all applications for fee waivers pursuant to *subdivision (a)(6)(C)* had been denied, T.E. Glenn of the Legal Aid Foundation of Los Angeles, counsel for seven of the petitioners, spoke with two clerks who work with the Superior Court commissioner primarily responsible for civil fee waiver applications (other than those for family law and probate). According to the declaration submitted with the petition for writ of mandate, Glenn was told completion [\*\*\*11] of the detailed financial information portion of form 982(a)(17) was insufficient for a fee waiver pursuant to *subdivision (a)(6)(C)*: Applicants must also submit a supplemental declaration providing additional justification for a fee waiver although there is no indication litigants are advised of this further requirement. Glenn was also told the Superior Court does not conduct evidentiary hearings before denying *subdivision (a)(6)(C)* fee waiver requests, but will upon request hold a hearing to reconsider its earlier denial of an application.

On January 9, 2004 petitioners filed their petition for writ of mandate alleging that respondent Los Angeles Superior Court unlawfully maintains a policy and practice of refusing to exercise discretion and consider applications for waiver of court fees and costs pursuant to *subdivision (a)(6)(C)* for applicants with incomes exceeding 125 percent of the federal guidelines. The petition also asserted the Superior Court improperly fails to schedule evidentiary hearings as required by *rule 985(f)* when substantial evidentiary conflicts exist with respect to an applicant's eligibility for a fee waiver pursuant to *subdivision (a)(6)(C)*.

[\*184] On February 6, 2004 the [\*\*\*12] Superior Court filed an informal opposition to the petition, advising this court that the orders of November 7, 2003 denying petitioners' applications had been vacated earlier that day and all 19 applications would be reconsidered. (The Superior Court explained the commissioner who regularly considers fee waiver requests was unavailable on November 7, 2003 and petitioners' applications had been denied by a commissioner who was less familiar with the law governing such applications.) The Superior Court suggested the petition was therefore moot.

We issued an order to show cause on February 10, 2004 directing the Superior Court to show cause why it should not be compelled to cease implementation of any formal or informal policy to deny applications for fee waivers under *subdivision (a)(6)(C)* without exercising discretion under that provision or without complying with the procedural requirements contained in *rule 985*. As an alternative, the Superior Court could demonstrate it did not have any such formal or informal policy.

In its return filed March 1, 2004 the Superior Court maintained it does not have any policy, formal or informal, to deny applications under *subdivision (a)(6)(C)* [\*\*\*13] without applying the criteria and exercising discretion under that provision. The commissioner regularly responsible [\*\*923] for deciding fee waiver requests submitted a declaration in which he stated "there is not and has never been any court policy of automatic rejection of applications under [*subdivision (a)(6)(C)*]." "Fee waivers have been and continue to be granted in whole or in part under *Government Code section 68511.3(a)(6)(C)*." The commissioner also declared that he holds hearings pursuant to *rule 985(f)* whenever there is a substantial evidentiary conflict in the information provided by the

applicant: "Substantial evidentiary conflicts may arise in the form of my having some doubt as to the legitimacy of the applicant's answers in the application." However, the commissioner explained that, in his view, a hearing is not required simply because he concludes from the financial information submitted that the applicant can afford to pay court fees, notwithstanding the applicant's contrary declaration. <sup>9</sup> Petitioners filed a reply to return, which included the Superior Court's order of February 17, 2004 granting the fee waiver applications of two petitioners [\*\*\*14] (Alejandro Cruz and Marcela Aguilar), setting hearings to resolve evidentiary conflicts as to four petitioners and denying all other applications for waivers of court fees and costs.

9 After the Superior Court filed its return, petitioners moved for an order permitting limited discovery, specifically including inspection of files in all recent cases in which applications for fee waivers were made under *subdivision (a)(6)(C)*. We denied petitioners' motion.

#### [\*185] DISCUSSION

1. *Requests for Fee Waivers Pursuant to Subdivision (a)(6)(C) Must Be Individually Reviewed to Determine if It Is Appropriate to Grant Permission to Proceed In Forma Pauperis*

[HN6] (4) The right of an indigent civil litigant to proceed in forma pauperis is grounded in a common law right of access to the courts and constitutional principles of due process. (*Earls v. Superior Court* (1971) 6 Cal.3d 109, 113-114 [98 Cal. Rptr. 302, 490 P.2d 814] [indigents are entitled not merely to access to the courts but to timely access]; *Ferguson v. Keays* (1971) 4 Cal.3d 649, 653-655, 658, fn. 8 [94 Cal. Rptr. 398, 484 P.2d 70], [\*\*\*15] [appellate courts possess inherent power to waive filing fees for indigents; applicant need not establish total destitution to qualify for in forma pauperis relief].) "[R]estricting an indigent's access to the courts because of his poverty ... contravenes the fundamental notions of equality and fairness which since the earliest days of the common law have found expression in the right to proceed in forma pauperis." (*Isrin v. Superior Court* (1965) 63 Cal.2d 153, 165 [45 Cal. Rptr. 320, 403 P.2d 728].)

In *Haglund v. Superior Court* (1982) 139 Cal. App. 3d 256, 259 [188 Cal. Rptr. 627], Division One of this court observed that the Legislature had acted "[i]n

complete harmony with the concerns expressed by the Supreme Court in *Earls* and *Ferguson*" when it codified the right to proceed in forma pauperis by enacting *section 68511.3* in 1979 and directed the Judicial Council to promulgate rules to enforce that right. [HN7] "This statute provides specific terms and conditions under which an individual might be eligible to proceed in forma pauperis." (*139 Cal. App. 3d at p. 259.*)

(5) From the outset, [HN8] in addition to mandating in forma pauperis status for litigants who received aid from [\*\*\*16] specified government benefits programs or fell below 125 percent of the federal poverty line, *section 68511.3* has directed the trial court to exercise its discretion to grant permission to proceed in forma pauperis "in any other instance in which ... the litigant is unable to proceed without using money which is necessary for the use of the litigant [\*\*924] or the litigant's family to provide for the common necessities of life." (Former § 68511.3, Stats. 1979, ch. 850, § 1, pp. 2952-2953.) The Legislature's creation of this third, statutory category of litigants eligible for fee waivers codifies the principle, recognized in *Earls v. Superior Court, supra*, 6 Cal.3d 109, that an individual seeking timely access to the courts cannot be required to deny himself or herself necessities of life over a period of months to try to accumulate the amount necessary to defray the costs of filing and serving a lawsuit. "The adoption of such a concept could virtually eliminate relief in forma pauperis since it would be a rare case in which a [\*186] litigant could not deny himself necessities of life to save some sum over a period of months or years, and then file his action when he had saved [\*\*\*17] the total amount necessary." (*Id. at p. 117* ["Indigents are entitled not merely to access to the courts but to timely access."].)

The Superior Court acknowledges that, in denying each petitioner's applications for fee waivers because the income reflected on form 982(a)(17) exceeded 125 percent of federal poverty guidelines, it failed to perform its duty to exercise discretion to determine whether petitioners could pay court fees and costs without sacrificing the common necessities of life for themselves or their families. The Superior Court has provided a satisfactory explanation for this error and acknowledges it must evaluate each request for a waiver of fees pursuant to *subdivision (a)(6)(C)* to determine if the application should be granted. There is no other evidence the Superior Court has a policy, either formal or informal, of denying all such applications simply because the

litigant has an income that exceeds 125 percent of the federal poverty guidelines.

(6) Nonetheless, from the record before us it appears the Superior Court may follow an informal practice of denying most, if not all, applications pursuant to *subdivision (a)(6)(C)* unless accompanied [\*\*\*18] by a supplemental declaration "explaining why they should get a waiver." Any such [HN9] all-inclusive requirement for additional documentation before considering the merits of an application pursuant to *subdivision (a)(6)(C)*, other than applications from incarcerated litigants (see § 68511.3, *subd. (e)(1)*), would violate *rule 985(a)* ("No applicant shall be required to complete any form as part of his or her application under this rule other than forms adopted by the Judicial Council ...") and *rule 985(b)* ("Additional documentation of a litigant's financial condition shall be required only if the applicant failed to provide the information required by the application form or if the court has good reason to doubt the truthfulness of the factual allegations in the application.").<sup>10</sup> Accordingly, although we do not believe it necessary to include a specific prohibition of this practice in the writ we issue in this proceeding, to the extent the Superior Court imposes any blanket requirement for additional financial information in connection with *subdivision (a)(6)(C)* applications, it must cease doing so immediately. (See *Poe v. Gerstein* (1974) 417 U.S. 281 [41 L. Ed. 2d 70, 94 S. Ct. 2247] [\*\*\*19] ["the District Court properly refused to issue [\*187] the injunction; [\*\*925] for there was 'no allegation here and no proof that respondents would not, nor can we assume that they will not, acquiesce in the decision ...' [Citation.]."])

10 [HN10] If a request for additional information is warranted under *rule 985(b)*, the responsible county official must "(1) Inform the litigant of the information in the application that is insufficient or that the court believes may not be truthful; [¶] (2) Inform the litigant of the specific type or types of documentation the litigant is required to submit; [¶] (3) Require the litigant to submit only such documentation as the litigant has in his or her possession or that the litigant can obtain with reasonable efforts; and [¶] (4) Require the litigant to submit only such documentation as will clarify or prove the truthfulness of the factual allegations in the application." (*Rule 985(b)*.)

[\*\*\*20] 2. *The Superior Court Is Improperly Denying Subdivision (a)(6)(C) Fee Waiver Requests Without a Hearing*

(7) *Rule 985(f)* [HN11] requires the court to schedule a confidential hearing, with at least 10 days' notice, if "there is a substantial evidentiary conflict concerning the applicant's eligibility for in forma pauperis status ... ." The Superior Court is correct in asserting this provision does not require a hearing in every case before denial of the application pursuant to *subdivision (a)(6)(C)*, even though such a denial is necessarily grounded on a conflict between the applicant's sworn declaration that "[m]y income is not enough to pay for the common necessities of life for me and the people in my family whom I support and also pay court fees and costs" (form 982(a)(17), line 7) and the trial court's determination that the applicant's income is sufficient for both purposes based on its assessment of the data on the form 982(a)(17): In some instances the financial information submitted by the applicant may conclusively demonstrate his or her lack of entitlement to a fee waiver without raising "a substantial evidentiary conflict."<sup>11</sup> Nonetheless, the denial on reconsideration without a hearing of all but six petitioners' applications demonstrates the Superior [\*\*\*21] Court is employing an impermissibly narrow construction of the hearing requirement.<sup>12</sup>

11 If, for example, an applicant were to list a substantial monthly entertainment expense, based on its evaluation of the other income and expense items, the court might be able to conclude the applicant is not eligible for in forma pauperis status without first holding an evidentiary hearing.<sup>12</sup> This is not the first time the Superior Court has denied indigent litigants in forma pauperis status without a hearing in violation of the requirements of *rule 985(f)*. In *Simpson v. Superior Court* (2001) 92 Cal.App.4th Supp. 1, Supp. 6 [111 Cal. Rptr. 2d 819], the Appellate Division of the Los Angeles Superior Court held the Superior Court had misapplied the law concerning applications for waiver of court fees and costs and had erred in failing to order a hearing to resolve a substantial evidentiary conflict concerning the applicant's eligibility for in forma pauperis status.

[\*\*\*22] [HN12]

a. *It Is Improper to Deny a Subdivision (a)(6)(C) Fee Waiver Request Without a Hearing Simply Because an Applicant's Gross Monthly Household Income Exceeds Total Monthly Expenses or the Applicant Has a Small Savings Account*

On reconsideration following issuance of our order to show cause, the Superior Court denied the application for waiver of fees and costs of three related petitioners who live together, Maria Alicia Gonzalez, Blanca Estela Gonzalez and Rosa Angela Gonzalez, on the ground as to each that her [\*188] "household income is sufficient to pay common necessities of life and court costs," and as to Maria and Blanca on the additional ground that "[a]pplicant also has \$ 3,500.00 in cash."<sup>13</sup> Examination of the financial information submitted by these petitioners on form 982(a)(17), however, discloses that, although the three women show total monthly expenses on line 11(n) of \$ 2,291 and total gross monthly household income on line 9(g) of \$ 2,429 (a positive differential of \$ 138), Maria has monthly payroll deductions of \$ 131 and Blanca monthly [\*\*926] payroll deductions of \$ 270 that are not included in line 11(n).<sup>14</sup> The monthly household net income, therefore, is \$ 268 less than monthly expenses--an income gap that will [\*\*\*23] consume Maria and Blanca's \$ 3,500 savings account in approximately 13 months, even assuming their family faces no emergency requiring extraordinary expenditures in excess of their normal budgeted expenses. (See *Earls v. Superior Court, supra*, 6 Cal.3d at p. 117 ["Even if we were to assume arguendo that petitioner can save \$ 10 a month based on her present budget, it is not unlikely that she may be faced in subsequent months with some essential expenditures which will consume the amount she could otherwise set aside, thereby indefinitely postponing the time she can file her action."].)<sup>15</sup> The financial information presented would, on its face, appear to justify granting these petitioners' applications for waiver of court fees and costs, but in no event is denial of their requests without first holding a hearing warranted. (8) (See *March v. Municipal Court* (1972) 7 Cal.3d 422, 429-430 [102 Cal. Rptr. 597, 498 P.2d 437] [imperative [HN13] that procedures utilized in determining request to proceed in forma pauperis "guarantee that a denial of an [applicant's] motion will not be based on allegations to which he has not had the opportunity to respond"].)

13 We refer to these related petitioners by their first names, not out of disrespect, but for purposes



of clarity and convenience. (See *Rubenstein v. Rubenstein* (2000) 81 Cal.App.4th 1131, 1136, fn. 1 [97 Cal. Rptr. 2d 707].)

[\*\*\*24]

14 As discussed above, form 982(a)(17) specifically directs the applicant not to include items identified as payroll deductions in listing monthly expenses. Revision of the form to include those expense items would seem appropriate.

15 In a declaration filed with petitioners' reply memorandum, Maria Gonzalez explained the \$ 3,500 in her savings account was the balance from \$ 5,000 in emergency relocation benefits she received to help with the additional expenses of temporary shelter, moving and higher rent at a new apartment after she and her family were forced to leave her old apartment--the event that precipitated the underlying lawsuit against her landlord. The balance of the funds are being used to meet on-going monthly expenses in excess of her monthly income. Information of this type, essential for determining Maria's eligibility for in forma pauperis status, cannot be readily obtained by the bench officer evaluating the application unless a hearing is held pursuant to *rule 985(f)*.

(9) Similarly, the Superior Court on reconsideration denied the applications of Arturo Canizales and [\*\*\*25] his wife Edith Yolanda Canizales on the ground their "household income is sufficient to pay common necessities of life and court costs." Their applications show total gross monthly household income of \$ 2,325 and totally monthly expenses of \$ 1,854 (a positive differential of [\*189] \$ 471); but the couple also has monthly payroll deductions of \$ 207 for Arturo and \$ 152 for Edith, reducing their positive cash flow to only \$ 112 per month. Such [HN14] a slim monthly margin without additional resources to respond to emergency needs is, once again, an insufficient basis to deny a request for permission to proceed in forma pauperis without providing the applicants an opportunity to respond to the court's conclusion that they can, contrary to their sworn declaration, afford to pay fees and costs without sacrificing necessities of life. Unless monthly income exceeds expenses, including payroll deductions, by a significant amount (something more than \$ 100 to \$ 150 per month), the Superior Court's tentative conclusion that the applicant can afford to pay court fees and costs notwithstanding his or her contrary declaration, in our

view, demonstrates "a substantial evidentiary conflict" requiring a hearing [\*\*\*26] concerning the applicant's eligibility for in forma pauperis status under *rule 985(f)*.

The applications of Josue Moises Mendez and his mother Maria G. Perez were also denied on reconsideration without [\*\*927] hearing, Ms. Perez on the ground her household income is sufficient to pay common necessities of life and court costs; Mr. Mendez on the ground of sufficient income and also because he has \$ 7,900 in savings and checking accounts. Yet this family's total monthly expenses, including payroll deductions, exceeds its monthly income by \$ 581--a differential that, if it persists, will consume the accumulated savings in less than 14 months. Based on the information presented, a meaningful evaluation of the family's entitlement to a waiver of court fees and costs cannot possibly be made without giving Mr. Mendez and Ms. Perez the opportunity to explain their finances, including how they were able to create their existing savings accounts and the need they may have to use those resources in the near future.

(10) In sum, [HN15] neither a monthly income that exceeds all monthly expenses by a small amount nor the existence of a modest savings account, whether considered alone or in combination, constitutes [\*\*\*27] such compelling evidence of an applicant's ability to pay court fees and costs without sacrificing the necessities of life that denial of such an application without a hearing is justified.

*b. It Is Improper to Deny a Subdivision (a)(6)(C) Fee Waiver Request Without a Hearing Based on the Judicial Officer's Ex Cathedra Determination the Applicant's Monthly Expenses Exceed Sums Required for "the Common Necessaries of Life"*

In his declaration filed with the Superior Court's return, the commissioner regularly responsible for deciding fee waiver requests provided two examples of substantial evidentiary conflicts requiring a hearing under *rule 985(f)*: [\*190] (1) when he has "some doubt as to the legitimacy of the applicant's answers in the application"--presumably referring to sums listed as monthly income or expenses or to the number of individuals being supported by the applicant; <sup>16</sup> and (2) when the application fails to include income for a spouse although the form states the applicant's spouse is employed. As emphasized by counsel for the Superior Court at oral argument, however, neither the

commissioner nor the court itself believes a hearing is required when the commissioner [\*\*\*28] accepts as accurate the applicant's statement of monthly income and expenses but determines, based on his own experience and judgment, that the applicant is spending more for listed expense items (for example, clothing) than required for "the common necessities of life" <sup>17</sup> and that the applicant's income and expenses are otherwise sufficient to pay court fees and costs. The Superior Court's interpretation of *rule 985(f)*'s hearing requirement is improperly constricted.

16 If the court has good reason to doubt the truthfulness of the factual allegations in the application, rather than holding an evidentiary hearing, it may simply request additional documentation. (*Rule 985(b)*.)

17 Form 982(a)(17) includes preprinted line items for rent or house payment and maintenance, food and household supplies, utilities and telephone, clothing, laundry and cleaning, medical and dental payments, insurance, school and child care, child and spousal support from prior marriages, transportation and auto expenses, and installment payments. Line 11(m) permits the applicant to identify additional, unlisted expenses.

[\*\*\*29] (11) Every applicant for a fee waiver pursuant to *subdivision (a)(6)(C)* declares his or her income is insufficient to pay for the common necessities of life and also pay court fees. Although the Superior Court may be correct that this statement is "conclusory," it erroneously dismisses it as a "formality simply serving to designate the [\*\*\*928] provision under which the applicant is requesting a waiver." [HN16] The sworn assertion that the applicant cannot afford court fees and costs without sacrificing necessary expenses is evidence before the court, just as the applicant's identification of his or her occupation and employer and the income and expense items listed on the form are evidence. (Cf. *Evid. Code*, §§ 800 [lay opinion testimony is permitted if rationally based on the witness's perception and helpful to understanding his or her testimony], 805 [opinion testimony that is otherwise admissible is not objectionable because it embraces the ultimate issue to be decided by the trier of fact].) The judicial officer's disbelief of the asserted need for a fee waiver creates an evidentiary conflict: In most instances--that is, unless the questioned amount is so plainly unreasonable [\*\*\*30] that no explanation seems possible <sup>18</sup>--the applicant must

be given an opportunity to respond to the [\*191] otherwise undisclosed assessment that he or she is spending more than necessary for food, clothing, housing or other "necessaries of life." (See *March v. Municipal Court*, *supra*, 7 Cal.3d at pp. 429-430.) To adopt the Superior Court's more restrictive interpretation of "substantial evidentiary conflict" would deprive *rule 985(f)*'s hearing requirement of any significance. (See generally *Rose v. Superior Court* (2000) 81 Cal.App.4th 564, 572 [96 Cal. Rptr. 2d 843] ["Just [HN17] as a theater critic must see the play before writing a review, judges must carefully consider the evidence before deciding a case. The lifeblood of our judicial institutions depends upon judges rendering decisions that are the product of a reasoned and objective view of the law and the facts."].)

18 [HN18] Even under these circumstances, rather than simply denying an application for a fee waiver, the court should give the applicant an opportunity to complete item 12 on form 982(a)(17) to explain any items that appear to the judicial officer (although not necessarily to the applicant) to be unusually high. If the court thereafter denies the application, it must explain its reasons for doing so. (See *Earls v. Superior Court*, *supra*, 6 Cal.3d at p. 115 ["A statement of reasons for denial is essential not only to enable a prospective litigant to renew his application before the trial court if the defect can be corrected, but also to provide an appellate court with a basis for reviewing the trial court's denial."].)

#### [\*\*\*31] DISPOSITION

Let a peremptory writ of mandate issue, commanding respondent Los Angeles Superior Court to vacate its orders denying petitioners' fee waiver applications, made without first conducting an evidentiary hearing, and to enter new orders granting the affected applicants at least 10 days' written notice of an evidentiary hearing to determine their eligibility to proceed in forma pauperis under *section 68511.3, subdivision (a)(6)(C)*.

Petitioners are entitled to recover their costs in this writ proceeding, which may include reasonable attorney fees pursuant to *Code of Civil Procedure section 1021.5*. (See, e.g., *Olney v. Municipal Court* (1982) 133 Cal. App. 3d 455, 463-464 [184 Cal. Rptr. 78] [affirming fee award

120 Cal. App. 4th 175, \*191; 14 Cal. Rptr. 3d 917, \*\*928;  
2004 Cal. App. LEXIS 1048, \*\*\*31; 2004 Cal. Daily Op. Service 5952

against municipal court]; *Rhyne v. Municipal Court* (1980) 113 Cal. App. 3d 807, 823-827 [170 Cal. Rptr. 312].) Because this matter is an original proceeding in this court, we are unable to follow the usual practice of remanding petitioners' request for fees to the court in which the trial was held for the purpose of determining the propriety of an award of attorney fees or fixing the [\*\*\*32] amount of those fees, if any are to be awarded. (See *Mack v. Younger* (1980) 27 Cal.3d 687, 689 [165 Cal. Rptr. 876, 612 P.2d 966]; *Planned Parenthood Affiliates v. Swoap* (1985) 173 Cal. App. 3d 1187, 1202 [219 Cal. Rptr. 664].) Accordingly, unless the parties are

able to agree within 20 days as to the appropriate amount of costs and fees, the matter may be submitted to this court on affidavits. (*Planned Parenthood Affiliates*, at p. 1202.)

Johnson, J., and Zelon, J., concurred.

On July 28, 2004, the opinion was modified to read as printed above. [\*192]

[\*\*929] **APPENDIX A**





LEXSEE 2004 CAL. APP. LEXIS 1242

**ABEL CRUZ et al., Petitioners, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondents; SHAWN AYROMLOO, Real Party in Interest.**

**B172309**

**COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT,  
DIVISION SEVEN**

*2004 Cal. App. LEXIS 1242*

**July 28, 2004, Filed**

**NOTICE:**

Modification of opinion (120 Cal.App.4th 175; \_\_\_ Cal.Rptr.3d \_\_\_).

**PRIOR HISTORY:** [\*1] Los Angeles County Superior Court, No. BC303634. *Cruz v. Superior Court*, 120 Cal. App. 4th 175, 2004 Cal. App. LEXIS 1048 (Cal. App. 2d Dist., 2004)

**OPINION**

**THE COURT.**--1. It is ordered that the opinion filed herein on June 30, 2004 be modified as follows:

The disposition paragraph on page 17 [120 Cal.App.4th 191, advance report] is modified in the following manner: The final sentence ("Petitioners are to recover their costs in this writ proceeding.") is deleted and replaced with the following new paragraph:

Petitioners are entitled to recover their costs in this

writ proceeding, which may include reasonable attorney fees pursuant to *Code of Civil Procedure section 1021.5*. (See, e.g., *Olney v. Municipal Court* (1982) 133 Cal. App. 3d 455, 463-464 [184 Cal. Rptr. 78] [affirming fee award against municipal court]; *Rhyne v. Municipal Court* (1980) 113 Cal. App. 3d 807, 823-827 [170 Cal. Rptr. 312].) Because this matter is an original proceeding in this court, we are unable to follow the usual practice of remanding petitioners' request for fees to the court in which the trial was held for the purpose of determining the propriety of an award of attorney fees [\*2] or fixing the amount of those fees, if any are to be awarded. (See *Mack v. Younger* (1980) 27 Cal.3d 687, 689 [165 Cal. Rptr. 876, 612 P.2d 966]; *Planned Parenthood Affiliates v. Swoap* (1985) 173 Cal. App. 3d 1187, 1202 [219 Cal. Rptr. 664].) Accordingly, unless the parties are able to agree within 20 days as to the appropriate amount of costs and fees, the matter may be submitted to this court on affidavits. (*Planned Parenthood Affiliates*, at p. 1202.)

2. This modification changes the judgment.