

## DRAFT FAQs - 5/19/09

### **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 FW-001 form.
- 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.

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

*[Send them to section on fee waivers for appeals cases. Will draft.]*

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

If you filed Form FW-001, your fees will be waived for:

- filing papers in superior court (except for an appeal in a case over \$25,000).
- making or certifying copies,
- sheriff's fees for giving notice,
- and a few other fees. [Click here](#) to find out what other fees can be waived.

**Important:** Even if your fees are waived at first, there are some cases in which you may have to pay them back later. [Click here](#) 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.

### **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 form *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 page 2 of Form FW-008. On the form in these items, the court will tell you when you must start making the partial payments and how much you must pay each month. If you do not make those payments, or pay for any other fees and costs as they come due, the court may cancel the papers you filed.
- 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 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. [Click here](#) (or go to question "once my fees are waived, will I have to pay them back later?") to find out more.

## **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. [Click here](#) if you got a court order to pay back your own waived fees. [Click here](#) if you got a court order to pay back the other side's waived fees.
- 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.

## **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 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.

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

- 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.
- 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.

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

If you file 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 and certifying a clerk's transcript on appeal

If you file 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.

## **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.

## **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 in appellate courts, read rules 8.26, 8.100, 8.122, and 8.128 (for the Supreme Court and Court of Appeal) and rules 8.818, 8.821, 8.832, and 8.833 (for the appellate division of superior court).

**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). [Click here](#) to find out how to serve the other side.
6. Fill out a Proof of Service form (FL-330) or (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). [Click here](#) to find out how to serve the other side.
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.