



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courtinfo.ca.gov

CIRCULATING ORDER MEMORANDUM
TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-11-01

Title

Fee Waiver: Poverty Guidelines on *Request to Waive Court Fees and Information Sheet on Waiver of Appellate Court Fees* (Forms FW-001 and APP-015/FW-015-INFO)

Rules, Forms, Standards, or Statutes Affected

Revise forms FW-001 and APP-015/FW-015-INFO

Recommended by

William C. Vickrey
Administrative Director of the Courts

Mary M. Roberts, General Counsel
Office of the General Counsel

Action Requested

VOTING MEMBERS ONLY: Vote and return by fax. Additionally, return original signature page by mail.

Please Respond By

February 14, 2011

Date of Report

February 4, 2011

Contact

Anne M. Ronan, 415-865-8933
anne.ronan@jud.ca.gov

Executive Summary

The *Request to Waive Court Fees* (form FW-001) and *Information Sheet on Waiver of Appellate Court Fees* (form APP-015/FW-015-INFO) need to be revised to reflect increases in the federal poverty guidelines as recently established and released by the federal government. The council is asked to approve these revisions by circulating order rather than at the next business meeting so that litigants and the courts will have accurate monthly income guidelines on which a court may base a decision to grant a fee waiver application as soon as possible.

Recommendation

The Judicial Council Rules and Projects Committee and Administrative Office of the Courts staff recommend that the Judicial Council revise the *Request to Waive Court Fees* and

Information Sheet on Waiver of Appellate Court Fees (forms FW-001 and APP-015/FW-015-INFO), effective immediately, to conform to the 2011 federal poverty guidelines.

The revised forms are attached at pages 4–7.

Previous Council Action

The Judicial Council has adopted rules of court and forms for litigants proceeding in forma pauperis. Two of the forms are the *Request to Waive Court Fees* and *Information Sheet on Waiver of Appellate Court Fees* (forms FW-001 and APP-015/FW-015-INFO). Both forms contain dollar amounts based on the federal poverty guidelines. In the past, the Judicial Council has approved by circulating order revisions to the predecessor form that contained these dollar amounts to ensure that the form was consistent with the increases in the federal poverty guidelines as soon as possible after the guidelines were updated.

Rationale for Recommendation

The eligibility of litigants to proceed in forma pauperis is determined by California Government Code section 68632. Among other things, section 68632(b) provides that a fee waiver shall be granted to litigants whose monthly income is 125 percent or less of the current poverty guidelines established by the U.S. Department of Health and Human Services (HHS).

The *Request to Waive Court Fees* (form FW-001) and the *Information Sheet on Waiver of Appellate Court Fees* (form APP-015/FW-015-INFO) provide monthly income amounts on which a court may base a decision to grant a fee waiver in accordance with Government Code section 68632. The monthly income amounts currently on the forms reflect 125 percent of the 2009 monthly poverty guidelines established by the HHS. HHS released revised federal poverty guidelines on January 20, 2011.¹ As a result, the forms must be revised to reflect the 2011 federal poverty guideline revisions. To determine the new monthly income amounts to be included in the forms, the amounts stated in the federal poverty guidelines must be multiplied by 125 percent and divided by 12.² The new amounts are reflected in item 5b of revised form FW-001 (at page 4 of this report) and the chart on page 1 of revised form APP-015/FW-015-INFO (at page 6 of this report).

Revised forms FW-001 and APP-015/FW-015-INFO should take effect immediately to ensure that litigants and courts are provided with accurate monthly income guidelines on which a court may base a decision to grant a fee waiver. This rapid change to the forms is necessary because the revised poverty guidelines take effect immediately upon release. Once adopted by the Judicial Council, revised forms FW-001 and APP-015/FW015-INFO will be distributed to the courts and forms publishers and posted on the California Courts website.

¹ Relevant sections are attached at page 8. No revisions were released in 2010.

² The computation sheet is attached at page 9.

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for comment because the changes to the forms are technical. No alternatives were considered.

Implementation Requirements, Costs, and Operational Impacts

The resource implications of this proposal for the trial courts should be minimal. Courts will be responsible for making the revised forms available to litigants.

Attachments

1. Revised form FW-001, *Request to Waive Court Fees*
2. Revised form APP-015/FW-015-INFO, *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)*
3. 2011 HHS Poverty Guidelines
4. Computation sheet
5. Voting instructions
6. Voting and signature pages

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:

- 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.

Clerk stamps date here when form is filed.

Fill in court name and street address:

Fill in case number and name:

Case Number:

Case Name:

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

Name: _____

Street or mailing address: _____

City: _____ State: _____ Zip: _____

Phone number: _____

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

Name of employer: _____

Employer's address: _____

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

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

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

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

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

- Superior Court (See *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO).)
- Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See *Information Sheet on Waiver of Appellate Court Fees 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	If more than 6 people at home, add \$397.92 for each extra person.
1	\$1,134.38	3	\$1,930.21	5	\$2,726.05	
2	\$1,532.30	4	\$2,328.13	6	\$3,123.96	

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 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	\$1,134.38	3	\$1,930.21	5	\$2,726.05
2	\$1,532.30	4	\$2,328.13	6	\$3,123.96

If more than 6 people at home, add \$397.92 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.



The 2011 HHS Poverty Guidelines

The following figures are the 2011 HHS poverty guidelines that are scheduled to be published in the *Federal Register* on January 20, 2011. (Additional information will be posted after the guidelines are published.)

2011 HHS Poverty Guidelines			
Persons in Family	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$10,890	\$13,600	\$12,540
2	14,710	18,380	16,930
3	18,530	23,160	21,320
4	22,350	27,940	25,710
5	26,170	32,720	30,100
6	29,990	37,500	34,490
7	33,810	42,280	38,880
8	37,630	47,060	43,270
For each additional person, add	3,820	4,780	4,390

Go to [Further Resources on Poverty Measurement, Poverty Lines, and Their History](#)

Go to [Frequently Asked Questions \(FAQs\)](#)

Return to the main [Poverty Guidelines, Research, and Measurement](#) page.

Last Revised: 01/18/11

[ASPE Home](#) | [HHS Home](#) | [Questions?](#) | [Contacting HHS](#) | [Accessibility](#) | [Privacy Policy](#) | [FOIA](#) | [Disclaimers](#) | [No FEAR Act](#)

[The White House](#) | [USA.gov](#) | [Ely.gov](#)

U.S. Department of Health & Human Services – 200 Independence Avenue, S.W. – Washington, D.C. 20201

Computation Sheet

Number in Family	2011 Federal Poverty Guidelines (A)	125% of Poverty Guidelines (B) (B = A x 125%)	2011 California Monthly Income (C) (C = B / 12)*
1	\$10,890	\$13,612.50	\$1,134.38
2	14,710	18,387.50	1,532.30
3	18,530	23,162.50	1,930.21
4	22,350	27,937.50	2,328.13
5	26,170	32,712.50	2,726.05
6	29,990	37,487.50	3,123.96
7	33,810	42,262.50	3,521.88
8	37,630	47,037.50	3,919.80
Each additional person	3,820	4,775.00	397.92

*Figures are rounded up to the nearest cent.

Instructions for Review and Action by Circulating Order

Voting members

- Please indicate your **vote, sign, and FAX** the signature pages to the attention of **Secretariat Unit, Executive Office Programs Division**, at 415-865-4586 by **5 p.m.**, Monday, February 14, 2011, if possible.
- If you are unable to reply by Monday, February 14, 2011, please do so as soon as possible thereafter.
- Additionally, **return the original** signature page to the Secretariat Unit, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, California, 94102-3688. **Please keep a copy for your records.**

Advisory members

The circulating order is being faxed to you for your information only. There is no need to sign or return any documents.

**CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages**

Effective immediately, the Judicial Council approves the revisions to the *Request to Waive Court Fees* (form FW-001) and *Information Sheet on Waiver of Appellate Court Fees* (form AAP-015/FW-015-INFO).

My vote is as follows:

Approve

Disapprove

Abstain

_____/s/
Tani Cantil-Sakauye, Chair

Stephen H. Baker

_____/s/
Marvin R. Baxter

Ellen M. Corbett

Mike Feuer

James E. Herman

_____/s/
Harry E. Hull, Jr.

_____/s/
Richard D. Huffman

_____/s/
Ira R. Kaufman

_____/s/
Miriam A. Krinsky

Edith R. Matthai

_____/s/
Joel S. Miliband

_____/s/
Douglas P. Miller

_____/s/
Hon. Mary Ann O'Malley

My vote is as follows:

Approve Disapprove Abstain

_____/s/
James N. Penrod

_____/s/
Burt Pines

_____/s/
Winifred Younger Smith

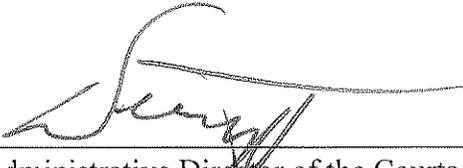
Kenneth K. So

Sharon J. Waters

_____/s/
David S. Wesley

_____/s/
Erica R. Yew

Date: February 14, 2011

Attest: 

Administrative Director of the Courts and
Secretary of the Judicial Council