

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF THE DEFERRAL)	ADMINISTRATIVE ORDER
OR WAIVER OF COURT FEES)	No. 2010-038
)	
_____)	(Replaces No. 2002-119)

WHEREAS, the Court Institution is committed to due process regardless of a party's ability to pay fees, and

WHEREAS, Arizona law (A.R.S. § 12-302) authorizes the Court to grant a deferral or waiver of fees under specific circumstances, and

WHEREAS, the Court has an obligation to administer this law uniformly and in a way that protects the interests of all citizens of the County,

IT IS ORDERED adopting the attached protocol for use by all personnel involved in the deferral/waiver process in this Court.

This Order is effective June 1, 2010.

Dated this 28th day of April, 2010.

Barbara Rodriguez Mundell
Presiding Judge

Original: Clerk of the Superior Court

Copies: Hon. Norman J. Davis, Associate Presiding Judge
Hon. Colleen McNally, Family Court Presiding Judge
Hon. Robert Oberbillig, Civil Court Presiding Judge
Hon. Karen L. O'Connor, Probate and Mental Health Presiding Judge
Family Court Judges and Commissioners
Marcus Reinkensmeyer, Judicial Branch Administrator
Phillip Knox, Trial Courts Administrator
Hon. Michael K. Jeanes, Clerk of the Superior Court
Mitch Michkowski, Civil Court Administrator
Elizabeth Evans, Probate Court Administrator
Jennifer Murray, Family Court Administrator
Peter Kiefer, Regional Court Administrator

Protocol for the Processing of Requests to Defer/Waive Court Fees

Introduction

The following protocol establishes a multi-tiered framework for objectively determining the eligibility of a person who requests a deferral and/or waiver of court fees (hereinafter referred to as “litigant”). This methodology is designed to be used by Court or Clerk staff appointed as Special Commissioners for the specific purpose of ruling on such requests. This protocol clarifies the statutory process described in A.R.S. § 12-302.

Requests for Deferral/Waiver of Court Fees

- I. Upon the submission of the court-approved application for deferral/waiver of court fees, and affirmation by the litigant that all information contained within is accurate under penalty of perjury, the Special Commissioner shall examine the application for information regarding the income and expenses of the litigant, as well as any reference to the litigant’s participation in a government assistance program.
 - A. If any part of the application is incomplete which hinders the ability of the Special Commissioner to properly analyze the litigant’s financial situation, the Special Commissioner shall require the litigant to complete the application. If the litigant chooses not to complete the application, the Special Commissioner shall deny the application and return it to the party requesting the deferral.
- II. After examining the proof of current enrollment **or** the relevant financial information received within the application for deferral/waiver of court fees, the Special Commissioner shall determine which of the following tiers is most applicable given the litigant’s financial circumstances.
 - A. Tier 0 - Code WAIV-Eligible for waiver at the outset of the case
 1. *Eligibility Attributes*
 - a. Proof of current enrollment in the supplemental social security income (SSI) program under Title XVI of the Social Security Act. The litigant must present an eligibility letter at the time the litigant is seeking the waiver. If the letter is not presented, the party will not receive the waiver status.
 - B. Tier 1 – Code DEFW
 1. *Eligibility Attributes*
 - a. The litigant provides proof of current enrollment (an award/eligibility letter or verification card) in one or more of the following programs:

- The U.S. Temporary Assistance for Needy Families (TANF).
 - The U.S. Food Stamp Program (which has been renamed Supplemental Nutrition Assistance Program or SNAP).
- b. The litigant's income is 150% or less of the current U.S. Poverty Guidelines as established by the Department of Health and Human Services (HHS).
 - c. Represented by Community Legal Services.

2. *Payment Requirements*

- a. Deferral is granted until the end of the case, with no payment required at the time of application.
- b. To request a payment plan or waiver of relevant fees at the end of the case, the litigant must file a supplemental application at the court location where the case was originally filed or mail the application to the downtown office.
- c. At the end of the case, Judicial Officers shall, based on the application filed, make a determination about the payment or waiver of court fees.
- d. If no supplemental application is filed (under section II.B.2.b. of this protocol), a letter will be sent to the litigant stating that the relevant fees are due in full within 30 days of receipt or collections activities will be initiated.

3. *Delinquent Account Consequences*

- a. If an account becomes delinquent, it will be transferred to the Maricopa County Collections Unit for further collection efforts.

C. Tier 2 – Code DEF1

1. *Eligibility Attributes*

- a. The litigant's income is greater than 150%, but less than 175%, of U.S. Poverty Guidelines.

2. *Payment Requirements*

- a. Payment of no less than \$10 is due at the time of filing.

- b. A monthly billing statement will be sent to the litigant requiring no less than \$10 per month due until balance is paid.

3. *Delinquent Account Consequences*

- a. If an account becomes delinquent, it will be transferred to the Maricopa County Collections Unit for further collection efforts.
- b. The account will be referred to the Debt Setoff program of the Arizona Department of Revenue (also known as the Arizona Tax Refund Intercept Program).

D. Tier 3 – Code DEF2

1. *Eligibility Attributes*

- a. The litigant's income is greater than 175%, but less than 225%, of U.S. Poverty Guidelines.

2. *Payment Requirements*

- a. Payment of no less than 25% of filing fee is due at the time of filing.
- b. The remaining balance will be paid in three equal consecutive monthly payments beginning 30 days after the initial filing date.
- c. A monthly billing statement will be sent to the litigant which provides outstanding balance information with the payment due date.

3. *Delinquent Account Consequences*

- a. If an account becomes delinquent, it will be transferred to a contracted private collection agency, which is authorized to charge to the litigant an additional 28% to the outstanding balance.
- b. The account will be referred to the Debt Setoff program of the Arizona Department of Revenue (also known as the Arizona Tax Refund Intercept Program).

E. Tier 4 – Ineligible for deferral/waiver

1. *Eligibility Attributes*

- a. The litigant's income is greater than 225%, of U.S. Poverty Guidelines.

2. *Payment Requirements*

- a. Payment of the entire fee is due at the time of filing.

3. *Delinquent Account Consequences*

- a. The litigant will not be allowed to file without entire fee paid.

III. Judicial Review

A. Review of determination of initial application.

If the litigant contests the order of the Special Commissioner, the litigant may request a review by a judicial officer. After reviewing the application and interviewing the litigant, the Judicial Officer may uphold the order of the Special Commissioner or modify the ruling as appropriate.

B. Review of determination of supplemental application.

Within twenty days of the date the court denies the supplemental application, the litigant may either pay the fees or request a hearing on the court's final order denying further deferral or waiver. If the litigant requests a hearing, the court shall not enter a consent judgment unless a hearing is held.

- IV. Any request for a deferral of a filing fee(s) which is presented at one of the Clerk's Office depositories or by mail will be processed in the same manner as when presented in person. The proper filing fee amount must be submitted with the documents or the filing cannot be accepted pursuant to A.R.S. § 12-284. If the proper filing fee is not presented with the documents, the Clerk's Office will make one attempt to call the telephone number in the request for fee deferment. The filing documents will be held for five (5) business days to allow the litigant time to provide the required payment. If the required fee is not provided within the 5 business days, the documents will be mailed to the address on the deferral request form and **WILL NOT** be considered as officially filed.