

INSTRUCTIONS: HOW TO APPLY FOR A DEFERRAL OR WAIVER OF COURT FEES AND COSTS

1. **WHAT COURT FEES OR COSTS ARE CHARGED?** Arizona law requires the court to charge fees and costs when a court user files certain court papers and/or needs other court services. There are various fees and costs charged for different kinds of cases, depending on what you want or need to do. You can find out the exact fees and costs that are charged for any particular matter by calling the Clerk of the Court at **602-506-6185** or on their website at:

<http://clerkofcourt.maricopa.gov/fees.asp>

Here are the most common events for which fees and costs are charged:

- To file a **Complaint, Petition, Answer, or Response to a new court case;**
- To file a **post-decree Petition or Response in a Family Court case, for example, to enforce or modify a court order for child support, legal decision making (custody), or visitation;**
- For the issuance by the Clerk of Court for a **Summons or Subpoena;**
- For **service of process or costs of service by publication;**
- To get a copy or a certified copy of any court order or judgment or paperwork;
- To file an appeal of a case to a higher court;
- To photocopy court papers for the record on appeal;
- To pay for court reporter or transcriber fees of court trials or hearings.
- For issuance of marriage license.

There are no filing fees for Orders of Protection or Injunctions Against Harassment. There is no fee for service of process for any Order or Protection or those Injunctions Against Harassment involving a dating relationship.

2. **WHO PAYS THE COURT FEES AND COSTS?** Usually the person who wants to file a certain court document, or who wants a certain court service, must pay the fees and costs at the time the filing or the service is done. At the end of the court case the judge may order that one party pay *all* the costs and fees, which means that party must pay back the other party who already paid court fees or costs. If you are handling your own court case, be prepared to pay various fees and costs along the way.
3. **WHAT ABOUT A PARTY WHO CANNOT PAY COURT FEES OR COSTS?** Sometimes, for very serious reasons, a party cannot pay court fees and costs at the time of filing court papers or asking for another court service. If this happens, the party can apply for a **DEFERRAL** or **WAIVER** of court costs and fees.
- A **DEFERRAL** is a delayed payment or payment plan, granted when the party cannot pay the entire fee now, but may be able to pay in the future. Because everyone needs to bear his or her fair share of the court fees and costs and because you may be able to pay in the future. In most cases you will get a deferral rather than a waiver. If at the end of your case, you meet the financial criteria and still cannot pay your court fees, you can ask the Court to further defer (delay or reduce) your payments or waive your court fees and costs.

- A **WAIVER** is a complete forgiveness of eligible fees and costs. If WAIVER is granted, the party will *not* be required to make payments or otherwise pay any portion of the waived fees and costs. A WAIVER is granted when the party does **not** have financial resources to pay now, and is not expected to in the future. As a general rule, waivers are given at the **end** of a case.
- **Effective February 1, 2009, if your request for deferral is granted, a charge of \$26 will be added to the amount of your deferred fees** (The charge does **not** apply to waivers).

4. COURT PAPERWORK FOR A DEFERRAL OR WAIVER OF COURT FEES AND COSTS:

A. APPLICATION FOR DEFERRAL or WAIVER OF COURT FEES AND/OR COSTS and CONSENT TO JUDGMENT (GNF11f):

You must file the Application with the Clerk of the Court. You should know that the "**Application for Deferral or Waiver of Court Fees and/or Costs**" includes a "**Consent to Entry of Judgment.**" By signing the **Consent**, you agree that a judgment may be entered against you for all fees and/or costs that are deferred, but that remain unpaid after thirty (30) calendar days following the entry of final judgment. At the conclusion of the case, you will receive a notice indicating how much is owed and what steps you must take to avoid a judgment against you if you are still unable to pay. In filling out the Application, check the boxes that apply to your situation as follows:

- **Page 1.** Fill in the information requested and check the boxes that tell the court what fees and/or costs you need deferred or waived.
- **Page 2.** Check box "1" for "Deferral" if are unable to pay all of the court fees and costs you listed on the first page at this time. Check the box for "A" if you receive any of the listed types of governmental assistance and then check the box(es) to indicate which you receive. Be prepared to show proof to the person who will review your application. Read "B" and "C" and check the box to indicate if applicable. If you checked the box for "C", explain. If you want to ask the court to consider granting a complete WAIVER of fees and costs listed on page one, check the box for "2", "Waiver", read and check "A" and/or "B", if applicable.
- **Next, fill out the Financial Questionnaire.**
Note that if your financial condition gets better, you must tell the court, so that even if you cannot pay now, you must pay later if you have the money to do so.

B. ORDER FOR DEFERRAL OR WAIVER: Do not fill out this form except for caption, which includes the name of the petitioner/plaintiff, name of the respondent/defendant. The Special Commissioner will fill out this form after he or she has reviewed your application. This form tells you whether your costs have been waived, deferred or your request denied.

C. AFFIDAVIT SUPPORTING DEFERRAL OR WAIVER OF SERVICE COSTS: A deferral or waiver of fees to pay the sheriff for personal service, or the newspaper for publication of service, must be applied for separately. To do so, fill out the form described in Section 4(A) above, and the "**Affidavit Supporting Deferral or Waiver of Service Costs**". Here are some important points:

- **For service by the sheriff:** Did you try to ask the other party to voluntarily accept service? If not, you must have a very good reason.
- **For service by publication:** Why are you publishing instead of using another method of service? This is important, not only to get fees waived or deferred, but because service by publication is only used as a last resort. If the Court is not satisfied that you have made *every reasonable effort* to locate the other party and have the papers served (delivered in the manner required by law), you may be required to take additional

steps adding delay and expense to your case, including being required to publish notice again. BE SURE TO READ THE SELF-SERVICE CENTER'S INSTRUCTIONS ON SERVICE BY PUBLICATION ***BEFORE*** YOU PUBLISH. This could save you time, effort, and difficulty! **WARNING: YOU GENERALLY WILL NOT BE ABLE TO ESTABLISH OR CHANGE CHILD SUPPORT OR SPOUSAL MAINTENANCE (alimony) WITH SERVICE BY PUBLICATION!**

5. HOW DO I APPLY FOR A DEFERRAL?

- A. Complete the court paperwork for the ***“Application for Deferral or Waiver of Court Fees and/or Costs”*** and ***“Consent to Entry of Judgment”*** along with the court papers you want to file for whatever court proceeding you are involved with. If you are hand-delivering the Application to the Clerk of the Court, **DO NOT SIGN** the Application until you get to the Filing Counter. If you are *mailing* your Application to the Clerk of the Court, you will need to sign the Application in front of a Notary Public before you mail your application.
- B. IT IS ALWAYS A GOOD IDEA TO **COME IN PERSON TO APPLY** FOR A DEFERRAL OR WAIVER, however, you can mail the application to the **Clerk of the Court, 201 West Jefferson, Phoenix, Arizona 85003**. The Special Commissioner will review your application, and notify you as to whether you qualify for a deferral or waiver.
- C. Take the Application and all the other court papers to the Clerk of Court Filing Counter.
- D. Hand your papers over to the Clerk. If you have not had your signature notarized, you will need to present a photo ID for the Clerk to verify your signature. The Special Commissioner will usually make the decision whether to grant the Application based on the information in the Application. Occasionally the Application is sent to a Judge to determine if the Application should be approved.
- E. If the Application is granted, file the court papers for the court process you are involved with. If the Application is denied, pay the fee or costs. If you do not agree with the decision, you can request a hearing in front of a Judge.
- F. If the Deferral or Waiver is for fees for Personal Service by the sheriff, take the papers that need to be served, along with a copy of the Order of Deferral or Waiver, to the sheriff. Instructions on how to do this are contained on the help sheet that is in the packet on service of process.
- G. If the Deferral or Waiver is for the cost of Publication, follow the instructions in the “SERVICE” packet.
- H. **REMINDER.** If you still cannot pay the fees and costs at the end of the case, and believe you should receive a further deferral (a payment plan) or waiver, you must file a ***“Supplemental Application”*** at the end of the case, or a Consent Judgment will be entered against you. You will receive instructions on how to do this at the end of the case.

OTHER HELP. Court personnel can answer questions about court procedures but are unable to give legal advice. If you have questions about matters requiring legal advice, the Self-Service Center has a list of lawyers who can give you legal advice and who can help you on a task-by-task basis for a fee, and a list of court-approved mediators as well. You may view the lists at the Self-Service Centers or on the web at:

<http://www.superiorcourt.maricopa.gov/SuperiorCourt/FamilyCourt/Rosters/index.asp>

**ALL FORMS REFERRED TO IN THESE INSTRUCTIONS
ARE AVAILABLE AT THE SELF-SERVICE CENTER OR ON THE INTERNET AT:**

<http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/forms/>