



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 19, 2015

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Title	Agenda Item Type
Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rules 3.52, 3.55, and 8.818; revise forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015/FW-015-INFO	March 1, 2015 and July 1, 2015
Recommended by	Date of Report
Civil and Small Claims Advisory Committee	February 3, 2015
Hon. Patricia M. Lucas, Chair	Contact
Appellate Advisory Committee	Anne M. Ronan, Senior Attorney, 415-865-8933, <a href="mailto:anne.ronan@jud.ca.gov">anne.ronan@jud.ca.gov</a>
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### Executive Summary

The Civil and Small Claims Advisory Committee recommends modifying the *Request to Waive Court Fees* (form FW-001) effective March 1, 2015 to reflect the 2015 increase to the federal poverty guidelines and at the same time make other clarifying changes to the form.

In addition, the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee jointly recommend amendments to the rules that list the court fees that must be waived as part of an initial fee waiver and those that may be waived at the court's discretion. The Appellate Advisory Committee recommends amending these rules to consolidate the list of mandatorily waived fees in one rule and to also list the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript. The Civil and Small Claims Advisory

Committee recommends further rule amendments to reflect recent changes in law that mandates that any fees charged for the court's cost for court reporting services and assessments for court investigation under certain provisions of the Probate Code be included in a waiver. Several fee waiver forms and information sheets would be revised to reflect these changes.

## **Recommendation**

1. The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective March 1, 2015, amend *Request to Waive Court Fees* (form FW-001), to reflect 2015 increases in the federal poverty guidelines. Other non-substantive, clarifying changes would be made to the form at the same time.
2. The Civil and Small Claims Advisory Committee and Appellate Advisory Committee recommend that the Judicial Council, effective July 1, 2015:
  - Amend California Rules of Court, rules 3.52, 3.55, 3.56, and 8.818 to:
    - consolidate in rule 3.55 the list of superior court fees relating to appellate matters that are waived as part of an initial fee waiver;
    - add to rule 3.55 the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript on appeal; and
    - reflect in rules 3.55 and 3.56 the new statutory requirement that court fees for court reporting services be included in all fee waivers, and add an advisory committee comment to rule 3.55 to clarify that the inclusion of all court reporter's fees in the rule is not intended to mandate that a court reporter be provided for all fee waiver recipients.
  - Revise the list of waived fees on all the fee waiver order forms (forms FW-002, FW-003, FW-005, FW-008, and FW-012) and information sheets (forms FW-001-INFO, APP-001, and APP-015/FW-015-INFO) to reflect the changes in rules 3.55 and 3.56 and the recently enacted amendments to Government Code section 68631.
3. The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2015 amend rule 3.52 to provide a grace period for courts in which they may use order forms created within their own electronic case management system rather than the newly amended Judicial Council forms.
4. The Appellate Advisory Committee recommends that the Judicial Council, effective July 1, 2015, further revise form APP-001 to reflect recent changes in appellate fees, rules, and procedures.

The text of the amended rules and the revised forms are attached at pages 15-35.

## **Previous Council Action**

The Judicial Council last amended the rules on fee waivers in July 2009, to implement council-sponsored legislation that revised the fee waiver procedures. New and revised forms became operative at that same time. Since then, only minor changes have been made to the rules and

forms—primarily annual revisions of an income eligibility chart on forms FW-001 and APP-015/FW-015 to reflect changes in the federal poverty guidelines on which the chart is based.

The list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver was referenced in a report to the council in 2013. A proposal to establish a new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter's transcript on appeal was approved by the Judicial Council at its October 2013 meeting, and the new fee took effect on January 1, 2014. In the report to the council on the proposal, the Appellate Advisory Committee and the Court Executives Advisory Committee indicated that, based on the public comments received, they would recommend that this fee be added to the list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver.

## **Rationale for Recommendation**

### ***Request to Waive Court Fees (form FW-001)***

#### ***Federal poverty guidelines***

The eligibility of indigent litigants to proceed without paying filing fees or other court costs 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 household monthly income is 125 percent or less of the current poverty guidelines established by the United States Department of Health and Human Services (HHS).

The Judicial Council has adopted rules of court and forms for litigants to obtain fee waivers. The application form, *Request to Waive Court Fees* (form FW-001), contains a table in item 5b that provides monthly income figures on which a court may base a decision to grant a fee waiver in accordance with Government Code section 68632. These income figures are based on the Federal poverty guidelines

The monthly income figures currently on the form reflects 125 percent of the 2014 poverty guidelines established by the HHS. The HHS released revised federal poverty guidelines on January 22, 2015.<sup>1</sup> As a result, the figures on the form must be revised to reflect the 2015 federal poverty guideline revisions.

To determine the new monthly income figures for the forms, the federal poverty guidelines must be multiplied by 125 percent and divided by 12.<sup>2</sup> The new figures are reflected in item 5b of the revised fee waiver application form (at page 18 of this report).

#### ***Other changes to form FW-001***

The advisory committees recommend the following additional, non-substantive changes to the fee waiver application form:

- *Item 5a, for eligibility based on eligibility to receive public benefits.* This item would be amended to further abbreviate some of the longer names of the public benefits programs,

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<sup>1</sup> See Annual Update of the HHS Poverty Guidelines, 80 *Fed. Reg.* 3236 (January 22, 2015), attached at pages 68-69.

<sup>2</sup> The Computation Sheet is attached at page 70.

to make one name longer (the descriptor of Supplemental Security Income) to avoid confusion, and to include an express reference to the information sheet (form FW-001-INFO) where the full names of all the public benefits programs can now be found.

- *Item 5c, for eligibility based on income not being sufficient for common necessities of life (§ 68633(c)).* The instruction that an applicant checking this basis for eligibility must complete all of the items on the back of the form has been moved and made more emphatic, in response to requests by several court administrators to emphasize this direction. The item would otherwise retain the same content as currently on the form.
- *Items 8, 9, and 11, seeking financial information.* These items would be amended, so that all items in the left column of the form are for gross income figures—rather than some seeking net income and others gross—and the item for payroll deductions is moved from the income items to the list of expenses in renumbered item 12 (*Your Monthly Deductions and Expenses*). The text in these items has also been clarified.

### ***Recommended effective date for form FW-001***

The committee recommends making all the amendments to form FW-001 effective March 1, 2015, to ensure that litigants are provided with accurate monthly income guidelines on which a court may base a decision regarding fee waivers or financial liability. This rapid change to the form is necessary because the revised poverty guidelines take effect immediately upon release. Once adopted by the Judicial Council, the revised form will be distributed to the courts and forms publishers and posted to the California Courts website. The March effective date will result in this form only being amended once in 2015.

### **Fees waived by initial fee waiver**

***Background.*** Last year, the Appellate Advisory Committee and the Court Executives Advisory Committee circulated for public comment a proposal to amend the California Rules of Court relating to reporter’s transcripts in civil appeals. Among other things, that proposal recommended the establishment of a new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter’s transcript on appeal. Because this was a new fee, the committees anticipated that there would be questions about the potential waiver of this fee. The invitation to comment therefore also specifically solicited comments on whether this fee should be listed among the superior court fees that must be waived under rule 3.55<sup>3</sup> or may be waived under rule 3.56. All four commentators who responded to this question suggested that the new fee should be on the list of specific superior court fees and costs that must be waived as part of an initial fee waiver under rule 3.55.

As indicated above, the proposal to establish the new \$50 fee was approved by the Judicial Council at its October 2013 meeting, and the new fee took effect on January 1, 2014. In the report to the Judicial Council, the committees indicated that, based on the public comments received, they would recommend that this fee be added to the list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver.

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<sup>3</sup> All references to rules in this report are to the California Rules of Court.

There is also another rule—rule 8.818, part of the appellate division rules—that currently includes a separate list of superior court fees that must be waived as part of an initial fee waiver in an appeal in a limited civil case. The list in rule 8.818 identifies several of the same fees as rule 3.55. However, it also includes one fee that is not currently identified in rule 3.55: the fee for transcribing or copying an official electronic recording. Because this fee is not currently listed in rule 3.55, there may be confusion about whether it must be waived as part of an initial fee waiver.

There has also been a recent change in the law regarding court reporting fees in trial courts that must be reflected in the fee waiver rules and forms. Government Code section 68086 on court reporter’s fees was amended a year ago to include a \$30 court reporter fee for hearings taking less than an hour, as well as pro rated daily fees for hearings taking less than half a day. That statute has recently been amended further to expressly require that fees for court reporting services provided at the expense of the court must be waived for a person who has been granted a fee waiver under section 68631. (See § 68086(b).) This statutory amendment requires that rule 3.55(7) and rule 3.56(4) be amended not only so that the \$30 fee is covered, but also so that the time distinction in the current rules, giving a court the discretion to waive the reporter fees for a hearing more than 60 days after the grant of the fee waiver, is eliminated. As the rules currently read, they are in conflict with statute.

The statutory fee waiver provisions in section 68631 have also been recently amended, effective January 1, 2105, to expressly provide that assessments for court investigations under Probate Codes sections 1513, 1826, or 1851 are included in all initial fee waivers granted by a court.<sup>4</sup>

***Proposal regarding rules on fees.*** The Appellate Advisory Committee recommends amending rule 3.55, which lists the superior court fees and costs that must be waived upon granting an application for an initial fee waiver, to add to this list the new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter’s transcript on appeal. The proposed language of the amendment is based on language from rules 8.130 and 8.334 referring to the \$50 fee as being for “the superior court to hold this deposit [for the reporter’s transcript] in trust.”

In the interest of ensuring that all of the fees that the superior court must waive upon granting an application for an initial fee waiver can easily be found in one place, the committee recommends further amending rule 3.55 to add the fee now listed in rule 8.818—for transcribing official electronic recordings—to the list of superior court fees in rule 3.55 that must be waived and amending rule 8.818 to simply cross-reference to rule 3.55 for the list of fees that must be waived.

The Civil and Small Claims Advisory Committee recommends amending rule 3.55(7), which currently includes on the list of fees that must be waived only those court reporters fees for hearing held within 60 days of the issuance of the fee waiver order, to eliminate the time restriction in light of the new mandate in Government Code section 68086(b) that all court

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<sup>4</sup> See Assembly Bill 2747 (Wieckowski) (Stats. 2014; ch. 913). Recommendations regarding rules and forms implementing other provisions in that legislation concerning fee waivers in probate matters will be addressed by the Probate and Mental Health Advisory Committee.

reporter's fees otherwise charged by a court are waived for a party who has received a fee waiver. For the same reason, the committee recommends that the item including reporter's fees for hearing held more than 60 days after the issuance of the fee waiver order be deleted from the list of fees the court has discretion to grant a waiver for in rule 3.56, since the waiver of such fees are no longer discretionary. An advisory committee comment has been added following rule 3.55 to clarify that the inclusion of such fees in the list of waived fees is in no way intended to mandate that reporters be provided by the court for all hearings or trials at which a fee waiver recipient appears.

***Trial court forms.*** Several trial court forms would be revised to reflect the recommended amendments to rules 3.55 and 3.56, and the recently enacted amendments to Government Code section 68631. Some additional clarifying amendments are recommended at the same time.

- *Form FW-001-INFO.* Some new items have been added to the *Information Sheet on Waiver of Superior Court Fees and Costs* and three current items have been revised, as described below. The changes will make this a two-page form.
  - Paragraph 1 in the general instructions section, containing a list of fees that will be waived if a fee waiver is granted, would be revised to add fees for court investigations under certain Probate Code provisions and two fees regarding appellate records, and to revise the item for court reporter's fees to include all such fees.
  - Paragraph 2, listing the fees the court has the discretion to waive upon an additional request for waiver from the parties, would be revised to delete the item regarding court reporter's fees for a hearing after 60 days from the list of items the court has the discretion to waive, as all court reporter's fees are now automatically included in any fee waiver.
  - A new paragraph on public benefits programs would be added, to list the full names of all the public programs listed in item 5a on the fee waiver application. The programs are in the same order as they appear on the application form.
  - The paragraph on court collections would be amended to expand the warning that the court can use collection proceedings and add a fee and costs for collection, to include the court's efforts to collect any unpaid fees that a party was permitted to pay over time.
  - The paragraph on prisoner applicants would be revised to include a citation to the portion of the fee waiver statutes addressing applications by prisoners (§ 68635). This is an area that has caused some confusion among applicants and, while there has not yet been a separate set of forms developed for prisoner applications, the committee concluded that a cross-reference to the applicable statute may be helpful.
- *Form FW-002, Request to Waive Additional Court Fees (Superior Court).* This form is used by a party to request that a court exercise its discretion to waive one or more of the court fees that are not automatically included in a fee waiver. Item 5 of this form would

be revised to delete the item for court reporters' fees for hearings 60 days after the fee waiver has been granted. Such fees are now automatically included in any fee waiver and so should not be included in this application for waiver of additional fees.

- *Form FW-003, Order on Court Fee Waiver (Superior Court)*. The first section of item 4, on the first page of the form, would be revised as follows:
  - The current direction to “check one”, which indicates that the form could be used only to rule on either a *Request to Waive Court Fees* or a *Request to Waive Additional Court Fees*, but not both, has been removed.
  - Item 4a(1) has been amended to include a reference to the rule of court providing for waiver of fees on appeals, some of which occur in the superior court.
  - The item for court reporter's fees has been amended in item 4(a)(1) and deleted from item 4(a)(2) to reflect proposed changes in rule 3.55 and 3.56.
  - A new item has been added for fees for court investigations under Probate Code sections 1513, 1826, or 1587, as provided in recently amended section 68631.
  - The two new items for fees proposed for addition to rule 3.55, relating to trial court fees for appellate records, are added to the list of waived fees and costs in item 4a(1), and the other item relating to appellate fees has been expanded to track the language of the rule more exactly in light of the additional space available on the revised form.
  - Current item 4a(3), Fee Waiver for Appeal, has been deleted because the items listed were duplicative of those already listed in item 4a(1).
- *Form FW-005, Notice: Waiver of Court Fees (Superior Court)*. This is the form issued by a court when a fee waiver is granted by operation of law when no court action is taken within five days of filing a request. The only change to this form is in item 4, where the item for court reporter's fees has been amended to include all such fees, and the new appellate fees and probate fees have been added.
- *Form FW-008, Order on Court Fee Waiver After Hearing (Superior Court)*. This form would be revised in parallel with the changes described above in form FW-003, in that item 5a, listing the items included in a fee waiver, would be amended in all the ways item 4a on form FW-003 has been amended.
- *Form FW-012, Order on Court Fee Waiver After Reconsideration Hearing (Superior Court)*. The only change to this form is in item 6d(2), where the item for court reporter's fees has been amended to parallel that same item in the other orders.<sup>5</sup>

***Appellate Court Forms.*** Two appellate court forms, *APP-015/FW-015-INFO*, and *APP-001*, would also be revised.

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<sup>5</sup> These revisions and three of these forms, forms FW-002, FW-005, and FW-012, were not among those circulated for comment. The committee is recommending that the council approve the further changes without circulation, as “minor substantive change[s] that [are] unlikely to create controversy,” under rule 10.22(d)(2). While the change to the statutes to waive all fees for court reporting services and for investigations under the Probate Code may themselves have been likely to create a controversy, the changes to the rule and forms now that the laws are in effect are not, in that they are essentially mandated by the change in statute. Making the changes without circulation would allow all the changes to the fee waiver forms and rules to take place at the same time, rather than having some forms continue to be in non-compliance with the law until next January.

The *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO) is the form that provides litigants with information about waiver of appellate court fees. Like *Request to Waive Court Fees* (form FW-001), this form contains a table that provides monthly income figures on which a court may base a decision to grant a fee waiver in accordance with Government Code section 68632. These income figures are based on the Federal poverty guidelines and must be updated to reflect the revised 2015 poverty figures.

The *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001) provides general information about appeals to the Court of Appeal in civil cases, including information about fee waivers. Both APP-001 and APP-015/FW-015-INFO currently identify the superior court fees related to appeals that must be waived upon granting an application for an initial fee waiver. These forms would be revised in the following places to reflect the proposed amendments to rule 3.55:

- APP-001 –page 2, item 5, Reporter’s Transcripts section, middle paragraph; and
- APP-015/FW-015-INFO – page 1, item 2, paragraph 1.

Because form APP-001 must be revised to reflect these changes in the fee waiver rules, the Appellate Advisory Committee is also recommending a number of other updates to form APP-001 to reflect recent changes in appellate fees, rules, and procedures, including:

- Updating the amount of the fee to file a notice of appeal (page 1, item 4);
- Adding information about new fees for respondents (page 1, item 4);
- Reflecting that there are permissible substitutes to depositing funds with the court for a reporter’s transcript (page 2, item 5, Reporter’s Transcript section, middle paragraph);
- Updating rule references and the procedures relating to designation of the record (pages 2 and 3, item 5, Clerk’s Transcript or Appendix section);
- Updating the procedures for filing a *Civil Case Information Statement* (form APP-004) (page 3, item 8); and
- Updating information about required copies of briefs (page 4, item 10, Service and Filing of Briefs section).

**Rule 3.52.** Subdivision (6) of this rule, concerning how a superior court processes a fee waiver application, would be amended to allow courts a grace period after this latest revision of the order forms, in which they may use forms created within their own electronic case management system rather than the Judicial Council so long as the forms met certain requirements. This is similar to the grace period provided when the current forms were adopted in 2009.



### ***Recommended effective date for rules and forms other than form FW-001***

The committees recommends making all the proposed amendments other than those to form FW-001 effective July 1, 2015, to ensure that courts have time to implement the changes in the rules and forms.<sup>6</sup>

### **Comments, Alternatives Considered, and Policy Implications**

The proposal was circulated with an invitation to comment in spring 2014. As circulated, the proposal also included amendments and revisions to certain fee waiver rules and forms that relate to a court's permitting payments over time in the event a fee waiver application is denied. Those modifications would have (1) permitted parties to waive the right to a hearing prior to the court's issuing an order denying a fee waiver application if the court has authorized payments over time following the denial and the parties are satisfied with making payments over time; (2) limited payments over time to first appearance fees and a payment period of three months. The committee has removed this part of the proposal from its final recommendations, in light of opposition to any change in the forms or rules relating to payments over time, as described below.

#### **Summary of comments received**

Fourteen comments were received, some extensive, from 16 different commentators (three public interest law organizations from Los Angeles submitted a joint comment). Comments were received from five courts (Los Angeles, Orange, Riverside, Sacramento, and San Diego), a judicial officer (from San Bernardino), a family law facilitator, two State Bar committees, two county bar associations, an individual lawyer, the Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC), and the three public interest law organizations (Harriett Buhai Center for Family Law, Western Center on Law & Poverty, and Public Counsel).

Of the 16 commentators:

- 2 *agree* with the proposal as circulated: Superior Court of Riverside County and the Committee on Administration of Justice (CAJ), with CAJ expressly agreeing that there should be a method to waive the advance hearing when the party agrees to payments over time.<sup>7</sup>

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<sup>6</sup> Note that making the revisions to APP-015/FW-015-INFO effective July 1, 2015 means that the income eligibility chart on this form will not be updated until that time. Thus, for the four month period from March 1 until July 1, the charts on FW-001 and APP-015/FW-015-INFO will be different and courts will need to explain that the chart on FW-001 is the applicable one. The alternative would be to revise APP-015/FW-015-INFO twice in this four month period – once effective March 1 to update the chart and once effective July 1 to reflect the amendments to rule 3.55 that are recommended to take effect on that date.

<sup>7</sup> The Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee also reviewed the proposal as circulated, and provided informal comments to staff. The large majority of members of both groups who reviewed the invitation to comment were in favor of going forward with the proposal to allow a party to waive a hearing before receiving permission to make payments over time in the event the fee waiver request was denied. The groups noted that procedures could be used to provide better access to the courts for lower-income parties who are not eligible for fee waivers generally. Some members of the Family and Juvenile Law Advisory Committee were opposed to the proposal, however, noting that payments over time are seldom completed by the parties and place a heavy administrative burden on the courts, and so should not be facilitated.

- 6 agree with the proposal *but propose it be modified*: the individual attorney, individual judge, family law facilitator, Orange County Bar Association, Superior Courts of Orange County and San Diego County (many of the modifications requested have been made, as described below);
- 6 *oppose* making the proposed changes relating to payments over time: the three public interest law groups, Superior Court of Los Angeles County and Superior Court of Sacramento County, and the TCPJAC/CEAC Joint Rules Working Group; and
- 2 commented only on the appellate portion of the proposal: Appellate Courts Section of Los Angeles Bar and Committee on Appellate Courts of State Bar.

A chart listing all commentators and showing all the comments received and modifications requested is attached, at pages 36-67. In light of the variety of issues in this proposal, and the variety of concerns raised, the comments chart is organized by subject matter. The chart starts with a list of all commentators in alphabetical order, and a note of the position taken by the commentator. The comments are then organized by topics, so that it is easier to see comments on each topic all together.

The main points raised by the commentators and the committees' proposed responses are summarized below, by topic.

#### **Comments on payments of trial court fees over time**

*Opposition to proposal.* As noted above, while the majority of commentators agree with the proposal generally, at least with some minor modifications, six commentators strongly oppose the portion of the proposal relating to payments over time. All six note that this portion of the proposal will encourage courts to make more orders for payments over time rather than either granting fee waiver applications or simply denying them outright—and conclude that this is not desirable. The commentators have different reasons for why they view the expected outcome negatively.

The Superior Court of Los Angeles County and the TCPJAC/CEAC Joint Rules Working Group, in identical comments, expressed concern that the increased amount of orders allowing payments over time will increase the work of court staff, requiring substantial additional staff time for processing multiple payments, especially with older court computerized case systems and with the fact that cash will frequently be involved. The commentators are also concerned that collections will be difficult and time consuming. The Superior Court of Sacramento County agrees that the proposed amendments would burden the courts more than benefit them, due to the increased time that would have to be spent on handling multiple payments and collections.

While the advisory committee agrees that payments over time are administratively burdensome, the majority had originally concluded that the proposed amendment, particularly eliminating some hearings, would benefit the courts. The committee's view was that the statute already provides that judicial officers should consider the alternative of payments over time at any eligibility hearing at which the court denies a fee waiver application (see § 68634(c)(5), at last paragraph) and that the proposal was not intended to change or expand the law authorizing payments over time. However, in further conversations with members of the advisory committee, representatives of the TCPJAC/CEAC Joint Rules Working Group voiced strong objections that whether intended to or not, the proposed modifications regarding payments over

time were perceived as adding additional burdens to the courts at a time when they could ill afford them. The representatives also reported that this concern was widespread among the members of their respective committees. In light of this strong opposition, the committee decided to withdraw all of its proposed changes relating to payments over time. The forms as recommended contain no changes relating to payments over time. All items regarding such payments have been left as in the current forms.

The three public interest law groups oppose the proposal as it relates to payments over time from a different viewpoint, from the harm they perceive it will cause to the parties. They have provided an extensive comment pointing out the flaws they perceive in the proposal. While the majority of the advisory committee members disagreed with their general objections, as set forth in the comment chart, there is no need to summarize the comments here in light of the decision to withdraw all aspects of the proposal relating to payments over time. Those comments will be reconsidered when the committee works on this issue in the future.

There were several requests for modifications to the forms, some to sections not related to the payment of fees over time. Those requests not directed to payments over time, but to other proposed changes to forms, can be found in the section of the chart entitled “Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008”. Requests for modifications that relate to payments over time are included in the first topic section of the chart. They are not summarized here in light of the committee’s withdrawal of that part of its proposal.

#### **Comments on chart showing income eligibility dollar amounts and effective date**

As noted above, the fee waiver application, form FW-001, contains a chart showing the income amounts for fee waiver eligibility based on 125% of the current poverty guidelines.<sup>8</sup> Members of the council’s Rules and Projects Committee suggested that this chart be removed from FW-001 on the grounds that such amounts (and hence the form) have to be revised almost every year. The suggestion was that the information could instead be maintained on the Judicial Council’s website, where revisions would not automatically result in changes to the forms. To assist in assessing this suggestion, the invitation to comment asked for specific input on this issue.

Five commentators opposed removing the chart from the forms in spite of the annual revisions required: Committee on Administration of Justice of State Bar, family law facilitator Larsen, the Orange County Bar Association, and Superior Courts of Orange and Riverside Counties. The two courts noted that having the chart of the form was valuable to court staff and judicial officers as well as to fee waiver applicants.

Two commentators, Superior Court of Los Angeles County and TCPJAC/CEAC Joint Rules Working Group, made identical comments, noting the cost of having to revise the form yearly.

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<sup>8</sup> Government Code section 68632(b) provides that a fee waiver should be given to any applicant “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.” The proposal circulated for comment did not include the specific numbers for 2015 forms, which were just released last week. The circulated proposal did, however, note that the change to the chart was an almost annual event, and figures likely to be issued in February would require revisions to the chart.

They propose, instead, that form FW-001 could include a pointer to the website containing the information *and* that an optional form be created that would include both the information in the family size/income eligibility chart and explanations of the public benefits abbreviations (which they suggest be removed from the proposed INFO sheets). According to these commentators, courts could then choose to use that optional form if they wished, to hand out to all applicants or to post in clerk's office of self-help center.

Because FW-001 is used in both the superior court and Court of Appeal, removal of the chart from this form would impact both levels of court. For this reason, both the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee considered this issue. In addition, informal comments on this issue were received from the Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee. All of these Judicial Council committees agree with the majority of the commentators that the chart should stay on the form, in order to assist both the applicants and the courts in determining eligibility.

The Civil and Small Claims Advisory Committee and the Appellate Advisory Committee particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, many without easy access to the Internet, and that they are asserting their eligibility under penalty of perjury. The committees also note that the chart was originally on the information sheet, rather than the application, but was moved to the application in 2009 at the recommendation of the Fee Waiver Working Group that developed the fee waiver legislation sponsored by the council back at that time. They proposed the move in order to make clearer to both the applicant and the court the factual basis for the applicant's assertion being made under penalty of perjury that he or she is eligible for a fee waiver under section 68632(b). In addition, the committees noted that, since the amendments to reflect the change in eligibility amounts are regularly issued in late February of each year, courts can plan for the changes in stocking the fee waiver forms.

### **Comments on types of fees included in all initial fee waivers**

*Appellate fees.* Three commentators—the Appellate Courts Section of the Los Angeles County Bar, the State Bar's Committee on Appellate Courts, and Superior Court of San Diego County—submitted comments on the proposal to amend rule 3.55 and related forms to add the two additional appellate fees that must be waived as part of an initial fee waiver. All agreed with the proposed amendments to the rule and the resulting changes to the forms to reflect the change.

The Superior Court of Los Angeles County and TCPJAC/CEAC Joint Rules Working Group raised a somewhat different issue relating to appellate fees, stating that appellate fees should not be referenced in the initial fee waiver forms (presumably meaning in the application form FW-001, which includes requests for waiver of fees for appeals, and the two order forms, FW-003 and FW-008) because it was confusing to applicants to see information regarding appellate fees on forms at the start of the case. Removing this information from the fee waiver forms would be an important substantive change and thus is not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver

application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. Removing the appellate fee references from these forms requires the committees to reconsider that earlier policy decision. The committees will add this suggestion to the list of proposals for future consideration by the committees.

***Trial court fees.*** Several commentators also raised some points about some of trial court fees listed in rule 3.55, with particularly strong concerns raised by both the Superior Court of Orange County and Superior Court of San Diego County concerning the recent amendments to Government Code section 68086 regarding court reporter's fees that they believe should be reflected in modifications to current rule 3.55(7). As the commentators note, the Government Code section on court reporter's fees was amended this past year to expressly require that the fees for all court reporting services provided at the expense of the court—whether a daily fee or the new \$30 fee for a short hearing—must be waived for a person who has been granted a fee waiver under section 68631. (See §68086(b).) The three public interest law groups that jointly commented on the circulated proposal also sent a separate joint proposal to the committee that that rules 3.55(7) and 3.56(4) should be changed, to reflect the current state of the law under section 68086 that the waiver of court reporter's fees is now unconditional and cannot be time-restricted by rule of court.

As discussed above, the Civil and Small Claims Advisory Committee agrees that, as the rules currently read, the two rules are in conflict with statute and is recommending that modifications to rules 3.55 and 3.56, and to the forms that include the lists of items in those rules, to conform the rules and forms to statute.

#### **Other alternatives considered**

In addition to the alternatives raised in the comments, the following alternatives were considered by the committees.

***No changes.*** The Appellate Advisory Committee considered the alternative of not proposing amendments to the fee waiver rules and forms. However, based on the comments received last year, the committee concluded that it was important to specifically provide that the new fee for holding deposits for reporters' transcripts in trust is among those superior court fees that must be waived when an initial fee waiver is granted. Given that changes to the fee waiver rules and forms were being considered by both the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee, the committees also concluded that it would be most economical to consider all of the potential changes to these forms at the same time.

***Separate forms for payments over time.*** The Civil and Small Claims Advisory Committee considered the alternative of developing another set of forms (application and order) solely focused on requests for payments over time. This alternative had the advantage of leaving the fee waiver forms unchanged on this issue and so might result in a lesser training burden on the courts. The committee decided not to recommend this approach at this time, but may revisit this concept in light of the opposition to the proposed changes to the current fee waiver forms that were circulated on this topic.

## **Implementation Requirements, Costs, and Operational Impacts**

The proposal will impose a need for training of court clerks and judicial officers on the new items that should be included in fee waivers. It will also impose a cost in producing or procuring new forms. Some of that cost, at least as to the application, form FW-001, would be required in any event because of the change in the federal poverty guidelines.

Adding the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript to the list of fees that must be waived when an initial fee waiver is granted may result in a reduction in revenues to the trial court from this fee. It is anticipated that this reduction would be small, as indigent parties may already request that the court waive this fee under rule 3.56(6) (“Other fees or expenses as itemized in the application”). There may also be some off-setting reduction in costs, as the court will not have to consider separate requests to waive this fee.

### **Attachments**

1. Cal. Rules of Court, rules 3.52, 3.55, 3.56, and 8.818, at pages 15-17.
2. Forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015-INFO, at pages 18-35.
3. Chart of comments, at pages 36-67.
4. Excerpt from Federal Register, at pages 68-69.
5. Computation Sheet, at page 70.

California Rules of Court, rules 3.52, 3.55, 3.56, and 8.818 would be amended, effective March 1, 2015, to read:

1 **Title 3. Civil Rules**

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

4  
5 **Rule 3.52. Procedure for determining application**

6  
7 The procedure for determining an application is as follows:

- 8  
9 (1) The trial court must consider and determine the application as required by Government  
10 Code sections 68634 and 68635.  
11  
12 (2) An order determining an application for an initial fee waiver without a hearing must be  
13 made on *Order on Court Fee Waiver (Superior Court)* (form FW-003), except as provided  
14 in (6) below.  
15  
16 (3)–(5) \*\*\*  
17  
18 (6) Until January 1, ~~2013~~ 2016, a court with a computerized case management system may  
19 produce electronically generated court fee waiver orders as long as:  
20 (A) The document is substantively identical to the mandatory Judicial Council form it is  
21 replacing;  
22 (B) Any electronically generated form is identical in both language and legally  
23 mandated elements, including all notices and advisements, to the mandatory  
24 Judicial Council form it is replacing; and  
25 (C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g),  
26 concerning orders not on Judicial Council mandatory forms.  
27

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

29  
30 Court fees and costs that must be waived upon granting an application for an initial fee waiver  
31 include:

- 32  
33 (1) Clerk’s fees for filing papers;  
34  
35 (2) Clerk’s fees for reasonably necessary certification and copying;  
36  
37 (3) Clerk’s fees for issuance of process and certificates;  
38  
39 (4) Clerk’s fees for transmittal of papers;  
40  
41 (5) Court-appointed interpreter’s fees for parties in small claims actions;

- 1  
2 (6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of  
3 the Government Code (commencing with section 26720);  
4  
5 (7) Reporter's ~~daily~~ fees for attendance at hearings and trials, if the reporter is provided by the  
6 court held within 60 days of the date of the order granting the application;  
7  
8 (8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; ~~and~~  
9  
10 (9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's transcript on  
11 appeal to the reviewing court and the party. A party proceeding under an initial fee waiver  
12 must specify with particularity the documents to be included in the clerk's transcript on  
13 appeal;  
14  
15 (10) The fee under rule 8.130(b) or rule 8.834(b) for the court to hold in trust the deposit for a  
16 reporter's transcript on appeal; and  
17  
18 (11) The clerk's fee for preparing a transcript of an official electronic recording under rule  
19 8.835 or a copy of such an electronic recording.  
20

21 **Advisory Committee Comment**

22 The inclusion of court reporter's fees in the fees waived upon granting an application for an  
23 initial fee waiver is not intended to mandate that a court reporter be provided for all fee waiver  
24 recipients. Rather, it is intended to include within a waiver all fees mandated under the  
25 Government Code for the cost of court reporting services provided by a court.  
26

27  
28 **Rule 3.56. Additional court fees and costs that may be included in initial fee waiver**  
29

30 Necessary court fees and costs that may be waived upon granting an application for an initial fee  
31 waiver, either at the outset or upon later application, include:  
32

- 33 (1) Jury fees and expenses;  
34  
35 (2) Court-appointed interpreter's fees for witnesses;  
36  
37 (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or  
38 defense of the case;  
39  
40 ~~(4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date~~  
41 ~~of the order granting the application;~~  
42  
43 ~~(5)~~ (4) Witness fees of court-appointed experts; and  
44



1 (65) Other fees or expenses as itemized in the application.  
2  
3

4 **Title 8. Appellate Rules**  
5

6 **Division 2. Rules Relating to the Superior Court Appellate Division**  
7

8 **Chapter 1. General Rules Applicable to Appellate Division Proceedings**  
9

10 **Rule 8.818. Waiver of fees and costs**  
11

12 **(a)–(c) \* \* \***  
13

14 **(d) Court fees and costs waived**  
15

16 Court fees and costs that must be waived upon granting an application for initial waiver of  
17 court fees and costs ~~include:~~ are listed in rule 3.55. The court may waive other necessary  
18 court fees and costs itemized in the application upon granting the application, either at the  
19 outset or upon later application.  
20

21 ~~(1) The fee for filing the notice of appeal;~~  
22

23 ~~(2) The clerk's fees for preparing and certifying the clerk's transcript on appeal and for~~  
24 ~~copying and transmitting a copy of this transcript to the applicant;~~  
25

26 ~~(3) The fee for preparing a transcript of an official electronic recording under rule 8.835~~  
27 ~~or a copy of such an electronic recording; and~~  
28

29 ~~(4) Any court fee for telephonic oral argument.~~  
30

31 **(e)–(f) \* \* \***

Clerk stamps date here when form is filed.

DRAFT
01/30/14
NOT APPROVED BY
THE JUDICIAL COUNCIL

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 use this form to ask the court to waive your court fees.

- 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.

Fill in court name and street address:

Superior Court of California, County of

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 (form APP-015/FW-015-INFO).)

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

- I receive (check all that apply; see form FW-001-INFO for definitions): Food Stamps Supp. Sec. Inc. SSP Medi-Cal County Relief/Gen. Assist. IHSS CalWORKS or Tribal TANF CAPI
My gross monthly household income (before deductions for taxes) is less than the amount listed below. (If you check 5b, you must fill out 8, 9, and 10 on page 2 of this form.)

Table with 6 columns: Family Size, Family Income, Family Size, Family Income, Family Size, Family Income. Rows show income thresholds for family sizes 1-6.

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 and you must fill out page 2):

- wave all court fees and costs
wave some of the court fees
let me make payments over time

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

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. If it does, complete the form based on your average income for the past 12 months.

**8 Your Gross Monthly Income**

a. List the source and amount of **any** income you get each month, including: wages or other income from work before deductions, 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) \_\_\_\_\_ \$ \_\_\_\_\_

b. Your total monthly income: \$ \_\_\_\_\_

**9 Household Income**

a. List the income of all other persons living in your home 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: \$ \_\_\_\_\_

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

**10 Your Money and Property**

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

c. Cars, boats, and other vehicles

Make / Year	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____

d. Real estate

Address	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

Describe	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____

**11 Your Monthly Deductions and Expenses**

- a. List any payroll deductions and the monthly amount below:
  - (1) \_\_\_\_\_ \$ \_\_\_\_\_
  - (2) \_\_\_\_\_ \$ \_\_\_\_\_
  - (3) \_\_\_\_\_ \$ \_\_\_\_\_
  - (4) \_\_\_\_\_ \$ \_\_\_\_\_
- b. Rent or house payment & maintenance \$ \_\_\_\_\_
- c. Food and household supplies \$ \_\_\_\_\_
- d. Utilities and telephone \$ \_\_\_\_\_
- e. Clothing \$ \_\_\_\_\_
- f. Laundry and cleaning \$ \_\_\_\_\_
- g. Medical and dental expenses \$ \_\_\_\_\_
- h. Insurance (life, health, accident, etc.) \$ \_\_\_\_\_
- i. School, child care \$ \_\_\_\_\_
- j. Child, spousal support (another marriage) \$ \_\_\_\_\_
- k. Transportation, gas, auto repair and insurance \$ \_\_\_\_\_

l. Installment payments (list each below):

Paid to:

(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____

m. Wages/earnings withheld by court order \$ \_\_\_\_\_

n. Any other monthly expenses (list each below):

	How Much?
(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____

**Total monthly expenses (add 11a – 11n above):** \$ \_\_\_\_\_

To list any other facts you want the court to know, such as unusual medical expenses, 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.**

**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 fee for telephone hearing
  - Reporter's fee for attendance at hearing or trial, if a reporter is provided by the court.
  - Assessment for court investigations under Probate Code section 1513, 1826, or 1851.
  - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
  - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.833 or 8.834.
  - Making a transcript or copy of an official electronic recording under rule 8.835
  - 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
  - Other necessary court fees
  - Fees for a peace officer to testify in court
  - Court-appointed interpreter fees for a witness
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. 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.
- **Public benefits programs listed on the application form.** In item 5 on the *Request to Waive Court Fees*, there is a list of programs from which you may be receiving benefits, listed by the abbreviations they are commonly known by. The full names of those programs can be found in Government Code section 68632(a), and are also listed here:
  - Medi-Cal
  - Food Stamps—California Food Assistance Program, CalFresh Program, or SNAP
  - Supp. Sec. Inc.—Supplemental Security Income (not Social Security)
  - SSP—State Supplemental Payment
  - County Relief/General Assistance—County Relief, General Relief (GR) or General Assistance (GA)
  - IHSS—In Home Supportive Services
  - CalWORKS—California Work Opportunity and Responsibility to Kids Act
  - Tribal TANF—Tribal Temporary Assistance for Needy Families
  - CAPI—Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants
- **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, or if you fail to make the payments over time, 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. See Government Code section 68635.

*Clerk stamps date here when form is filed.*

**DRAFT**

**02.02.15**

**Not approved by the  
Judicial Council**

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: \_\_\_\_\_

**2 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.*

**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.  Fees for court-appointed experts
- e.  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*

**Order on Court Fee Waiver  
(Superior Court)**

*Clerk stamps date here when form is filed.*

**DRAFT  
02.02.2015  
NOT APPROVED  
BY  
THE JUDICIAL COUNCIL**

**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 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:  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, rules 3.55 and 8.818.*) 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
- Court fee for phone hearing
- Reporter's fee for attendance at hearing or trial, if reporter provided by the court
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court

(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
- Other (specify): \_\_\_\_\_

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

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

b.  The court **denies** your fee waiver 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 of service on next page) 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 of service below) to:

- Pay your fees and costs in full or the amount listed in c. below, 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: \_\_\_\_\_

Name and address of court if different from above:

**Hearing Date**

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

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

**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

**This is a Court Order.**



**Notice: Waiver of Court Fees  
(Superior Court)**

*Clerk stamps date here when form is filed.*

**DRAFT 02.02.15  
Not approved  
by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

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

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

**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
- Court fee for phone hearing
- Reporter’s fee for attendance at hearing or trial, if reporter provided by the court
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk’s transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rules 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835
- 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

**Order on Court Fee Waiver After Hearing (Superior Court)**

*Clerk stamps date here when form is filed.*

**Replacement pages  
26-27, 2015-02-18**

**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:**  Request to Waive Court Fees  Request to Waive Additional Court Fees **the court makes the following order:**

- a.  The court **grants** our 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, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:
    - Filing papers in superior court
    - Giving notice and certificates
    - Making copies and certifying copies
    - Sending papers to another court department
    - Sheriff's fee to give notice
    - Court-appointed interpreter in small claims court
    - Reporter's fee for attendance at hearing or trial, if reporter provided by the court
    - Assessment for court investigations under Probate Code section 1513, 1826, or 1851
    - Preparing and certifying the clerk's transcript on appeal
    - Court fees for phone hearing
    - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
    - Making a transcript or copy of an official electronic recorder under rule 8.835
  - (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
    - Other: (*specify*): \_\_\_\_\_



Case Name:

Case Number:

- 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 must 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.
- Filing fees
- Other (*specify*): \_\_\_\_\_

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  | <input type="checkbox"/> Giving notice and certificates                 |
| <input type="checkbox"/> Sheriff's fee to give notice   | <input type="checkbox"/> Sending papers to another court department     |
| <input type="checkbox"/> Court-appointed interpreter  | <input type="checkbox"/> Court-appointed interpreter fees for a witness |
| <input type="checkbox"/> Reporter's fee for attendance at trial or hearing if reporter provided by the court. |   |
| <input type="checkbox"/> Jury fees and expenses   | <input type="checkbox"/> Fees for a peace officer to testify in court   |
| <input type="checkbox"/> Court-appointed experts' fees  | <input type="checkbox"/> Court fees for telephone hearings              |
| <input type="checkbox"/> Making certified copies  |   |
| <input type="checkbox"/> Other ( <i>specify</i> ): _____  |   |
- (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.*

**DRAFT  
02.02.14  
Not approved  
by the  
Judicial Council**

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

**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.

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

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 fee for attendance at hearing or trial, if reporter provided by court
- 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 ON APPEAL PROCEDURES FOR UNLIMITED CIVIL CASES

The following is general information about the procedures for appeals of unlimited civil cases (“unlimited civil case” generally means a civil case in which the amount in controversy is more than \$25,000; see Code of Civil Procedure sections 85 and 88). This information is not intended to be comprehensive, but to provide an overview to help guide you through the appeal process. **You should thoroughly read rules 8.100–8.276 of the California Rules of Court. If you have questions about the appellate process, you should consult an attorney of your own choosing.**

### 1. NATURE OF AN APPEAL

An appeal is a review of a court’s decision by another court. A party may appeal an unfavorable judgment and certain orders in an unlimited civil case made in the superior court to the Court of Appeal for the district in which the superior court is located. Generally, the appeal must be based on an argument that a **legal error** was made by the superior court. An appeal is not a retrial. You will not be permitted to introduce new evidence, and the appellate court will not reassess conflicting evidence. You may not appeal on behalf of a friend, a spouse, a child, or other relative (unless you are a legally appointed guardian).

### 2. PARTIES

The party filing the appeal is called the APPELLANT. The party against whom the appeal is brought is called the RESPONDENT.

## STEPS IN THE APPEAL PROCESS AT THE SUPERIOR COURT

### 3. NOTICE OF APPEAL

To appeal from a superior court decision in an unlimited civil case, the appellant must file a notice of appeal **in the superior court** (Cal. Rules of Court, rule 8.100). A notice of appeal tells the other party or parties in the case and the superior court that you are appealing the decision of the superior court. You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file a notice of appeal in an unlimited civil case.

The notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court. Generally, this service and filing must be completed within **60 calendar days** after the clerk or a party serves either a notice of entry of judgment or a file-stamped copy of the judgment. If neither of these documents is served, the notice of appeal must be filed within **180 calendar days** after entry of judgment (generally the date the judgment is file-stamped). **If your notice of appeal is filed late, your appeal will be dismissed** (Cal. Rules of Court, rules 8.104 and 8.108).

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a cross-appeal. To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later (Cal. Rules of Court, rule 8.108). You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file this notice in an unlimited civil case.

### 4. FEES ON APPEAL

The notice of appeal must be accompanied by a \$775 filing fee (Gov. Code, §§ 68926 and 68926.1) made payable to “Clerk, Court of Appeal” and a \$100 deposit (Gov. Code, § 68926.1) made payable to “Clerk of the Superior Court.” Parties other than the appellant must pay a fee of \$390 when they file their first document in the Court of Appeal. If you do not have the money for the fees, you may submit an application for waiver of court fees and costs on appeal under rules 8.26 and 3.50–3.63 of the California Rules of Court (Cal. Rules of Court, rule 8.100).

### 5. DESIGNATION OF RECORD

See rules 8.120–8.163 of the California Rules of Court, which govern the preparation of the record on appeal.

Since the appellate court was not present at the trial or other proceedings in the superior court, there must be an official record of the proceedings from the superior court for the appellate court to review in assessing the appeal. Within 10 days of filing the notice of appeal, the appellant must tell the superior court in writing (“designate”) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. **You will need to designate all the parts of the record that the Court of Appeal will need to decide the issues you raise in the appeal.** You can use Judicial Council form APP-003, *Notice Designating Record on Appeal (Unlimited Civil Case)* to designate the record in an unlimited civil case.

### Reporter’s Transcript

A court reporter’s transcript is a written record (often called the “verbatim” record) of the oral proceedings in the superior court. A reporter’s transcript is not required but is usually necessary.

Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk either a notice designating a reporter’s transcript or a notice of intent to proceed without a reporter’s transcript (Cal. Rules of Court, rule 8.121). You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a reporter’s transcript, among other things, the notice designating this transcript must specify the date of each proceeding to be included in the transcript and must be served on each known court reporter (Cal. Rules of Court, rule 8.130). The names of the court reporters who reported the proceedings are found in the superior court clerk’s minute orders, which are prepared for each day of the proceedings and then placed in the superior court file.

With the notice designating the reporter’s transcript, the appellant must deposit the approximate cost of transcribing the proceedings designated or one of the substitutions authorized by rule 8.130(b)(3) (Cal. Rules of Court, rule 8.130). The cost may be obtained from the reporter’s written estimate or calculated at \$650 per day (more than three hours of court time) or \$325 per fraction of a day (less than three hours of court time) for proceedings that were not previously transcribed. For previously transcribed proceedings, the deposit is calculated at \$160 per day (more than three hours of court time) or \$80 per fraction of a day (less than three hours of court time). If the appellant deposits these funds with the court, the appellant must also pay the court a \$50 fee for holding this deposit in trust, unless the trial court has waived the appellant’s fees under rules 3.50–3.63 (Cal. Rules of Court, rule 8.130).

Within 10 days after service of the appellant’s designation of the reporter’s transcript, the respondent may serve and file a notice designating additional proceedings to be included in the reporter’s transcript (Cal. Rules of Court, rule 8.130). Respondent must pay for the cost of transcribing any additional proceedings designated.

If the appellant chooses to proceed without a reporter’s transcript, the respondent may not designate a reporter’s transcript without first obtaining an order from the reviewing court (Cal. Rules of Court, rule 8.130).

### Clerk’s Transcript or Appendix

The clerk’s transcript is a compilation of the documents filed in the superior court that is prepared by the clerk. An appendix is a compilation of these documents prepared by a party (Cal. Rules of Court, rule 8.124). Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk a notice indicating what form of the record of the documents filed in the trial court the appellant wants to use. You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a clerk’s transcript, the appellant must identify (designate) the documents from the court file that the appellant wants the superior court to include in the clerk’s transcript (Cal. Rules of Court, rule 8.122). Each document designated for inclusion in the clerk’s transcript must be identified by its title and filing date. If the filing date is not known, the date the document was signed may be used instead (Cal. Rules of Court, rule 8.122).

Within 10 days after service of a notice designating the documents to be included in the clerk’s transcript, respondent may serve and file a notice designating additional documents to be included in the clerk’s transcript (Cal. Rules of Court, rule 8.122).

The superior court clerk will send the appellant a bill for the cost of preparing an original and one copy of the transcript (Cal. Rules of Court, rule 8.122). Unless the trial court has waived the appellant's fees and costs under rules 3.50–3.63, this bill must be paid within 10 days or the appeal may be dismissed by the Court of Appeal.

If the appellant chooses to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by California Rules of Court, rule 8.124. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the cost will be paid by the appellant(s) (Cal. Rules of Court, rule 8.124).

## 6. FILING OF CLERK'S AND REPORTER'S TRANSCRIPTS (IF ANY)

If the appellant chooses to designate a clerk's transcript, after all the fees have been paid, the superior court clerk will compile the requested documents into a transcript format and forward the original clerk's transcript, together with the original reporter's transcript, if any, to the Court of Appeal for filing. A copy of the transcript(s) will be sent to the appellant. If the respondent has purchased a copy, the clerk's transcript will also be mailed to the respondent (Cal. Rules of Court, rules 8.122, 8.130, and 8.150).

## 7. ABANDONMENT OF APPEAL

If the appellant decides not to proceed with the appeal and the record has not yet been filed in the Court of Appeal, the appellant must file an abandonment of appeal in the superior court (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-005, *Abandonment of Appeal (Unlimited Civil Case)*, for this purpose.

## STEPS IN THE APPEAL PROCESS AT THE COURT OF APPEAL

### 8. CIVIL CASE INFORMATION STATEMENT

Within 15 days after the trial court clerk mails out a notice that a notice of appeal has been filed in an unlimited civil case, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form APP-004), attaching a copy of the judgment or appealed order that shows the date it was entered (Cal. Rules of Court, rules 8.100 and 8.104).

### 9. SERVING AND FILING APPENDIX IN LIEU OF CLERK'S TRANSCRIPT

If a party chooses to prepare an appendix of the documents filed in the superior court under rule 8.124 rather than designating a clerk's transcript, the party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. A joint appendix or an appellant's appendix must be served and filed with the appellant's opening brief. A respondent's appendix, if any, must be served and filed with the respondent's brief. An appellant's reply appendix, if any, must be served and filed with the appellant's reply brief (Cal. Rules of Court, rule 8.124).

### 10. BRIEFS

A brief is a party's written description of the facts in the case, the relevant law, and the party's argument. The preparation and filing of briefs is governed by rules 8.200–8.224 of the California Rules of Court. Parties are encouraged to read these rules thoroughly and comply accordingly.

#### Contents and Format of Briefs

See rule 8.204 of the California Rules of Court.

The brief must clearly explain, using references to the clerk's and reporter's transcripts (or other form of the record being used), the claimed legal errors in the superior court proceedings. Each brief must be no longer than 14,000 words if produced on a computer (you can rely on the word count provided by your computer in meeting this requirement) or up to 50 pages if produced on a typewriter. The brief must contain a table of contents and a table of authorities.

#### Service and Filing of Briefs

The appellant's opening brief must be served and filed within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant elects to proceed under rule 8.124 with no reporter's



transcript. The cover of the appellant's opening brief must be green (Cal. Rules of Court, rules 8.212 and rule 8.40).

The respondent's brief must be served and filed within 30 days after the appellant's opening brief is filed. If this brief is the first document you have filed in the Court of Appeal in this case, you may have to pay a filing fee with the brief. The cover of the respondent's brief must be yellow.

The appellant's reply brief, if any, must be served and filed within 20 days after the respondent's brief is filed. The cover of the appellant's reply brief must be tan.

Generally, an original and four paper copies of each brief, along with proof of service, must be filed with the Court of Appeal. However, the court may provide by local rule that an electronic copy of the brief substitutes for one or more of the paper copies. If a brief is not filed electronically under rules 8.70–8.79, one electronic copy must be submitted to the Court of Appeal or, if it would cause undue hardship for the party filing the brief to submit an electronic copy to the Court of Appeal, the party may instead serve four paper copies on the California Supreme Court (Cal. Rules of Court, rule 8.212). The addresses of the California Supreme Court, Courts of Appeal, and superior courts can be found on the Internet at [www.courts.ca.gov/courts.htm](http://www.courts.ca.gov/courts.htm).

A copy of each brief must be served on all counsel and self-represented parties and on the superior court clerk for delivery to the trial judge. In some instances a copy of each brief must also be served on the Attorney General or the local district attorney. See rule 8.29 of the California Rules of Court and the *Civil Case Information Statement* (form APP-004).

Cover:	Appellant's opening brief—green Respondent's brief—yellow Appellant's reply brief—tan
File:	Original plus 4 paper copies along with proof of service in the Court of Appeal, unless court has local rule substituting electronic copy for one or more paper copies
Submit:	1 electronic copy to the Court of Appeal (or, if this is a hardship, serve 4 paper copies on the California Supreme Court)
Serve:	Superior court—1 copy All counsel All self-represented parties

### Extension of Time to File Brief

If the time to file a brief has not already been extended by the court on application of a party, the parties may extend the time to file a brief for up to 60 days by filing a stipulation (agreement) in the Court of Appeal (Cal. Rules of Court, rule 8.212).

An application for extension of time must be filed with the Court of Appeal before the brief is due when:

- The parties cannot agree to a stipulation; or
- The parties have stipulated to the maximum automatic extension permitted under rule 8.212 of the California Rules of Court, and the applicant seeks a further extension.

Judicial Council form APP-006, *Application for Extension of Time to File Brief (Civil Case)*, can be used to apply to the Court of Appeal for an extension of time to file a brief.

## 11. DISMISSAL OF APPEAL

If the appellant decides not to proceed with the appeal after the record has been filed in the Court of Appeal, the appellant must file a request for dismissal in the Court of Appeal (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-007, *Request for Dismissal of Appeal (Civil Case)* for this purpose (Cal. Rules of Court, rule 8.244).

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. If you are a party other than the party who filed the appeal or the petition, you must also generally pay a fee when you file your first document in a case in the Court of Appeal or Supreme 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).

1. 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, Supplemental Security Income (not Social Security), State Supplemental Payment, County Relief/General Assistance, In-Home Supportive Services, CalWORKS, Tribal Temporary Assistance for Needy Families, or 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	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

*If more than 6 people at home, add \$433.34 for each extra person.*

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

2. 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, a petition for review, or the first document filed by a party other than the party who filed the appeal or petition, 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, the fee for the court to hold in trust the deposit for a reporter’s transcript on appeal under rule 8.130(b) or rule 8.834(b) of the California Rules of Court, 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. You can also ask the trial court to waive other necessary court fees and costs.

The court **cannot** waive the fees for preparing a reporter’s transcript in a civil case. A special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See <http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf> and Business and Professions Code sections 8030.2 and following for more information about this fund.) 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.

3. 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), the fees and costs identified in item 2 above 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.

- **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 want the court to waive fees and costs in an appeal 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 or, if you are a respondent (a party other than the one who filed the appeal), the fee for the first document you file in the Court 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; the fees and costs identified in item 2 above are already waived, just give the court a copy of your current fee waiver). If you are the appellant, 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, the completed form should be submitted at the time the fee you are asking the court to waive is due. For example, file the form in the trial court with your request for a copy of the clerk's transcript if you are asking the court to waive the transcript fee or file the form in the Court of Appeal with the first document you file in that court if you are asking the court to waive the fee for filing that document. 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). If you are the petitioner (the party filing the petition), the completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court or Court of Appeal.
- **Petition for Review.** If you want to request that the Supreme Court waive the fees in a petition for review proceeding, you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner, you should submit the completed form with your petition for review. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court.

#### 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.

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
2.	Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	A	As a whole, CAJ agrees with the proposed amendments and supports the amendments as proposed to the Rules of Court and the Forms.  See comments on specific provisions below.	See committee responses to comments on specific provisions below.
3.	Committee on Appellate Courts State Bar of California By: Saul Bercovitch, Staff Attorney	A	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
4.	Magda Conant Oceanside, California	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
5.	Hon. Janet M. Frangie Superior Court of San Bernardino County	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
6.	<i>[joint comment by three legal aid organizations in Los Angeles area]</i> -Harriett Buhai Center for Family Law By: Betty Norwind, Executive Director and David S. Ettinger, Member Board of Directors -Western Center on Law & Poverty By: Richard A. Rothschild, Director of Litigation	N	On behalf of the Harriett Buhai Center for Family Law, Western Center on Law & Poverty, and Public Counsel, we write concerning SPR 14-05, which proposes various changes to rules and forms concerning waivers of court fees and costs for indigent litigants. We appreciate the opportunity to comment. (Last month, we separately submitted our own proposal to make other changes to the fee	See committee responses to comments on specific provisions below.

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	-Public Counsel By: Lisa R. Jaskol Directing Attorney - Appellate Law		waiver rules and forms.) See comments on specific provisions below.	
7.	Stacy Larsen Family Law Facilitator Superior Court of Shasta County	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
8.	Orange County Bar Association By: Thomas Bienert, Jr., President	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
9.	Superior Court of Los Angeles County (no name provided)	N	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
10.	Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
11.	Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney	A	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
12.	Superior Court of Sacramento County By: Elaine Flores	N	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
13.	Superior Court of San Diego County By: Michael Roddy, Executive Officer	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
14.	TCPJAC/CEAC Joint Rules Working Group	N	See comments on specific provisions below.	See committee responses to comments on specific provisions below.

## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>It will be much more efficient to have both fee waivers and payment plans for those denied a full fee waiver addressed within the Rules of Court and on the same forms. We agree that there should be a method to waive the hearing when a payment plan is agreed to. We also agree that having a separate set of forms set up for payment plans is not efficient, especially when these issues are generally addressed together.</p> <p>We are also in favor of limiting the payment period time to three (3) months or less, absent good cause, and allowing for those litigants who agree to a payment plan to waive the court appearance.</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>
Hon. Janet M. Frangie Superior Court of San Bernardino County	<p>I believe the length of time for installment payments should be for up to six months instead of three months. For the court to find good cause there may be a hearing required in any event if the applicant fails to provide good cause for a longer period. In my experience the applicant may miss that he/she will have to establish "good cause" up front when submitting the fee waiver and unless I missed it I did not see a place for the applicant to list the reasons a longer period is needed. The fees can be in excess of \$400 and a longer period may be needed.</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit.</p>
<i>[joint comment by three legal aid organizations]</i> -Harriett Buhai Center for Family Law By: Betty Norwind, Executive Director and David S. Ettinger, Member Board of Directors	<p>SPR 14-05's primary focus concerns the trial court's authority to deny a fee waiver application under Government Code section 68632, subdivision (c), and instead require the fee waiver applicant to pay court fees over a period of time. For several reasons, we are opposed to most of the changes in this regard.</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit.</p>

## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
<p>-Western Center on Law &amp; Poverty By: Richard A. Rothschild, Director of Litigation -Public Counsel By: Lisa R. Jaskol Directing Attorney - Appellate Law</p>	<p>To begin with, although section 68632, subdivision (c), allows a court to require certain fee waiver applicants to pay fees over time, that is contrary to the Supreme Court’s landmark opinion in <i>Earls v. Superior Court</i> (1971) 6 Cal.3d 109. The trial court there denied a fee waiver application because the court concluded the applicant could set aside a little money over a number of months to pay the fee. The Supreme Court rejected this approach, concluding, “We know of no authority permitting a court to deny an application to proceed in forma pauperis upon the ground that, although the applicant is currently indigent, he may, over a period of months, succeed in accumulating the amount necessary to defray his costs.” (Id. at p. 117.)</p> <p>“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.” (<i>Cruz v. Superior Court</i> (2004) 120 Cal.App.4th 175, 185, emphasis added.) Because of this, and because of the holding in <i>Earls</i>, the practice of ordering payment of fees over time, even though permitted by statute, is constitutionally suspect.</p> <p>Additionally, we have always been skeptical that courts can make such a fine distinction as the payment-over-time option requires. At what point is an indigent litigant able to “afford” to pay a court fee over time, but would be sacrificing “the common necessities of life” (§ 68632, subd. (c)) if ordered to pay the entire court fee at once? Although possible in theory, such a determination in</p>	<p>The committee appreciates the thoughtful comments, but disagrees with this analysis. The fee waiver statute, which was enacted after the <i>Earl</i> decision, can be read as consistent with that decision, because it expressly authorizes a court to allow payments over time or a partial waiver only when a court has determined that a party is <u>not</u> indigent at the time of the application, and so is not eligible for a full fee waiver under the standards of the statute, and when the court provides a written statement of the reasons why not. See § 68634(c)(5). As noted above, however, the proposal will not be moving forward at this time. The committee will reconsider this comment in any future work on this issue.</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>practice is an exercise in false precision.</p> <p>Payment of fees over time is thus at the least an option that should not be encouraged. But encouraging the practice is what SPR 14-05’s proposed changes do. The following proposals are particularly objectionable:</p> <ol style="list-style-type: none"><li>1. The possibility of paying fees over time should not be mentioned at all on the fee waiver request form (FW-001). The fee waiver statutes do not state that payment over time is a type of relief that an applicant may request. (See §§ 68632, subd. (c), 68633, subd. (c).) Rather, it is an option — albeit a questionable one — given to the trial court in ruling on a fee waiver application if an applicant claims that she or he “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.” (§ 68632, subd. (c).) Moreover, there is unlikely to be any person who would apply only to pay court fees over time instead of seeking to have fees waived entirely. Therefore, including a payment-over-time option on a fee waiver request form is confusing for litigants, who are typically unrepresented.</li><li>2. The proposed form FW-001 is contradictory in instructing the applicant that she or he can ask the court to both “waive all court fees and costs” and let her or him pay the “initial Superior Court filing fees over time.” If the applicant wants all fees waived, he or she does not want to pay fees over time.</li></ol>	<ol style="list-style-type: none"><li>1. The committee agrees that permission for payments over time is indeed an alternative to be considered only in the event that a fee waiver has been denied, and has modified the text of the form to more clearly express this. See also § 68640, which authorizes the council to make rules of court to allow parties who are not eligible for a fee waiver to pay court fees in installments. The committee will consider this comment in any future work on this issue.</li><li>2. The committee will consider this comment in any future work on this issue.</li></ol>



**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>3. The proposed form FW-001 should not include an item allowing the applicant to waive a hearing if the court orders payment of fees over time. There should be no prospective waiver of a right to a hearing. Instead, the court order form (FW-003) should be revised to allow the court to deny the fee waiver application and to indicate that it will permit the applicant to pay fees over time without a hearing, and to then give the applicant the option of either appearing at a scheduled hearing or agreeing to pay fees over time without a hearing. The form should also state that foregoing a hearing does not waive the applicant’s right to seek appellate review of the court’s order.</p> <p>4. The proposed form FW-003 should not include an option for the court to state that it “denies your request for payments over time.” As explained, it is confusing to include on the fee waiver application form (FW-001) a place to ask to pay fees over time, so there should be no such requests for the court to rule on.</p> <p>5. The proposed amendments of rules 3.50(a) and 3.51 should not be made. As explained, there should be no applications for leave to pay filing fees over time.</p> <p>6. The proposed changes concerning paying fees over time should not be adopted, but are incomplete in any event. The “partial initial fee waiver” permitted by section 68632, subdivision (c), and section 68643, subdivision (e)(5), includes the possibility of paying “a portion of court fees”</p>	<p>3. The committee will consider this comment in any future work on this issue.</p> <p>4. This will no longer be on form FW-003. Because the committee is not recommending any amendments relating to payments over time, the item on FW-001 will remain as it currently stands for the time being.</p> <p>5. In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time.</p> <p>6. Because the committee is not recommending any amendments relating to payments over time, the item on FW-001 will remain as it currently stands for the time being.</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	in addition to the option of paying fees over time. However, the proposed changes to rules 3.50(a) and 3.51 and to forms FW-001 and FW-003 do not mention the partial payment option. If changes are to be made, the partial payment option should be included along with the payment over time option.	
Stacy Larsen Family Law Facilitator Superior Court of Shasta County	<p>I agree that providing an option for litigants to voluntarily waive their right to a hearing in circumstances where their fee waiver is denied but the court is willing to allow them payments over time will likely eliminate unnecessary hearings. However, if the Court approves a payment schedule or amount that is not financially possible for the litigants, and they have already waived their right to a hearing on this issue, will they have the ability to request a hearing on these issues?</p> <p>Limiting payments over time, generally, to three months and payments over time to first-appearance fees creates a general rule that limits access to the courts for our most financially needy, disenfranchised, and challenged litigants. Courts already have discretion to set the monthly payment amount and to limit payments to three months or less if appropriate. My concern is that the possible result in creating this rule is an automatic setting the monthly payment at \$145 per month for a period of three months rather than carefully considering each case on its facts. While those of us with steady incomes may believe that this amount is do-able for all Californians, this is not the case. When marriages or relationships fail, the financially weaker person in the relationship may be forced to remain in the</p>	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>home with the primary breadwinner whose income makes the household members ineligible for a fee waiver. This individual is often the primary caretaker of the couple’s children, and his/her primary concern is opening a dissolution case to obtain emergency temporary custody/visitation orders due to threats that the children will be taken away. The Court would have discretion to grant a fee waiver under subsection (c) but may choose not to do so given the gross income of the household members, instead ordering payments. This proposed revision allows the Court to make a finding of “good cause” to make payments smaller than the minimum \$145 and the payment schedule to stretch beyond the three months, but the Court already has that discretion. Creating a “rule of thumb” of three months creates a “default” order for litigants allowed to make payments and given the volume of fee waivers requested in each court everyday reduces the likelihood that each litigant’s financial position will be carefully considered on its merits. If the party requesting the fee waiver and/or option to make payments checked the new box to waive hearing if the Court allows him/her to make payments, it is not clear how he/she would obtain a court hearing to request different payment arrangements than the court ordered.</p> <p>CRC 3.50(a): As discussed above, I do not agree that the option of payments over time should be limited to first-appearance fees only. However, if this proposal is adopted, it should be made clear in CRC 3.50(a) that “leave to pay filing fees over time” is only an option when paying the \$435 first-appearance fee and that payments over time are</p>	

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>not an option when paying the subsequent \$85 Request for Orders to Modify Custody/Parenting Time, etc. A possible revision would be as follows: “The rules in this division govern applications in the trial court for an initial waiver of court fees and costs or for leave to pay first-appearance filing fees over time . . .” This is particularly necessary as subdivision (b) defines “initial fee waiver” to mean the first time someone obtains a fee waiver, regardless of whether it’s at the time of first-appearance (\$435) or “at any stage of the proceedings.” For the layperson, it may not be clear that “initial fee waivers” apply to waivers of fee only and not to payments over time.</p> <p>CRC 3.51: As discussed above, I do not agree that the option of payments over time should be limited to first-appearance fees only. However, if this proposal is adopted, it should be made clear in CRC 3.51 that “leave to pay filing fees over time” is only an option when paying the \$435 first-appearance fee and that payments over time are not an option when paying the subsequent \$85 Request for Orders to Modify Custody/Parenting Time, etc. A possible revision would be as follows: “An application for initial fee waiver under rule 3.55 or for leave to pay first-appearance filing fees over time . . .”</p> <p>CRC 3.52(6): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “Any order allowing “payment of first-appearance fees over time should limit the time for payments . . .”</p>	

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>FW-001, first paragraph: If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “. . . waive your court fees or allow payment of your first-appearance fee over time.”</p> <p>FW-001, Item 7: If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. The paragraph reads awkwardly and is a bit confusing. It’s definitely not an easy rule to word clearly and concisely, but here is a possible revision: “You may request that the Court allow you to make payments instead of, or in addition to, requesting that the Court waive your first-appearance fee. If the Court denies your request for a fee waiver, you have the right to a hearing on that issue before the Court decides whether you qualify to make payments over time. You may waive this hearing in advance if you wish the Court to make a ruling on your request to make payments over time without a hearing on the denial of your fee-waiver request. Do you waive your right to come to court for a hearing before the court rules on your application to make payments toward your first-appearance fee over time?” In the alternative, the wording on FW-001-INFO, Item (3), is helpful and could be integrated in modified form here.</p> <p>FW-001-INFO, Item (3): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “You may ask to pay your first-appearance filing fee . . .”</p>	

## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>FW-003, page 2, Item (d): If the individual waives his right to a denial-of-fee-waiver hearing in advance and the Court sets the payments at an amount or on a payment schedule that is not financially possible, how does the litigant request a hearing on this issue?</p> <p>FW-003, page 2, Item (d): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “Having waived . . . you may pay your first-appearance fee over time.” It is not clear what the “other” box would be for under this proposal if payments over time would be limited to first-appearance fees.</p>	
<p>Orange County Bar Association By: Thomas Bienert, Jr., President</p>	<p>Comments: The fee waiver statutes and rules are complex and over-lapping with the Legislative findings for implementation set forth at Govt. Code §68630. With these findings in mind, we believe the proposal needs modification in the following areas:</p> <p>(1) a limit on installment payments to 3 months is too restrictive and does not allow for consideration of other factors—the justification for such limit is not sound;</p> <p>(2) Govt. Code §68634(e) requires the court to give a written statement of reasons if an application is denied in whole or part but this proposal does not advise applicants of this right nor provide a statement of reasons at all for a denial of installment payments under FW-003;</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>(3) FW-001 was inexplicably modified to delete in total a request for partial waiver of some but not all fees which request appears authorized by statute;</p> <p>(4) the proposal and specifically FW-001 asks the applicant to “waive” in advance any and all hearings without any explanation of the entitlements to an “in camera” hearing required by statute prior to any denial under Govt. Code §68633 and §68641;</p> <p>(5) FW-001—INFO adds new instructions at paragraph 3 that the court will allow only up to 3 months for installment payments “unless you can show a really good reason for a longer time”, but that language is not instructive nor helpful to the applicant; . . .</p> <p>If the stated purpose is solely to allow parties to waive rights to a hearing in exchange for installment payments then the proposal is defective as outlined above.</p>	
Superior Court of Los Angeles County	<p>Making the proposed changes in the fee waiver forms has the potential to increase the number of requests for an order permitting payment over time. Staff time for processing multiple payments over time is substantial, especially with the antiquated case management systems that many courts currently have. Moreover, collections from fee waiver applicants can be very difficult and time consuming for staff, particularly when multiple payments are involved. Many low-income individuals pay by cash rather than credit card.</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	<ul style="list-style-type: none"><li>• There were opposing viewpoints when soliciting comments by the Orange County Superior Court related to the proposed three month time frame for a payment plan. From one end of the spectrum, the opinion was that three months seemed to be too short of a time period for a person to pay in excess of \$100 each month for the filing fee. Judicial Officers in Family Law matters typically order payments of less than \$50 per month. One recommendation was to propose a one year payment plan. Another suggestion was to have a six-month time frame because it would coincide with the time frame for finalization of status in a dissolution, and provides a logical nexus to finalization time frames in family law matters. But at the other end of the spectrum, the opinion was that three months was a lenient time frame in which to pay fees on a payment plan when the party did not qualify for a fee waiver.</li><li>• For Civil Unlawful Detainer and Small Claims actions that conclude within three months (parties being unwilling to pay remaining fees due), Staff proposes maintaining the three-month timeframe with a discretionary allowance for a judicial officer to assign an altered timeframe.</li><li>▪ FW-001 and FW-001-INFO are silent as to when fees are due if a payment plan is denied. We suggest adding clarifying language on the forms for when a payment plan is denied.</li><li>• What is the penalty for non-payment of payment plan</li></ul>	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.



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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>fees? Do petitions get voided?</p> <ul style="list-style-type: none"><li>• What if a hearing document is filed after the initial fee waiver is granted?<ul style="list-style-type: none"><li>○ Is a new fee waiver required for the additional fees?</li><li>○ What if a new payment plan is ordered?</li><li>○ Please clarify how subsequently filed documents that trigger filing fees are included or considered if there is already a payment plan in place.</li></ul></li><li>• Under section 5c suggest adding wording to clarify that a party may choose both boxes with the payment plan being considered if the waiver is denied: "...waive all court fees and costs OR, if waiver is denied, let me pay my initial Superior Court filing fees over time."</li><li>• Under Section 7 the wording "in advance" is not clear to a person unfamiliar with the process (in advance of what?)<ul style="list-style-type: none"><li>○ Suggest changing text in form to read: "...you may have the right to a hearing on your request in advance which means you will need to come to court..."</li><li>○ Suggest changing the first check box to read: "Yes, I waive the right to a hearing in advance, and request that the court make its decision based on this written request."</li></ul></li><li>• FW-003: Order on Court Fee Waiver, Page 2, number</li></ul>	

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	4b(3): The denial of the request for time payments seems out of place in the section that addresses the denial of the fee waiver. Item 4b(3) would only be used if the application did not contain a request for a fee waiver.	
Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney	This proposal will eliminate unnecessary hearings where the fee waiver applicant is willing to provide installment payments and does not want to attend a hearing in order to receive authorization to do so.	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
Superior Court of Sacramento County By: Elaine Flores	6466 fee waivers filed 4121 granted w/out hearing 345 denied w/out hearing 51 granted after hearing 56 denied after hearing  In a year and 4 months, we’ve had 107 fee waiver hearings which is an average of just over 1 per week...not the biggest workload. If all of the denials without hearing were allowed to make payments, the court would have to implement account monitoring for 345 people over that same period of time. Questions regarding procedure for failure to make payments timely/failure to pay would need to be answered. Our current case management system is not developed to accommodate collections so this would need to be done outside of the CMS and manually updated until modifications to the system could be made. This expense	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue..

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	and workload doesn't seem to outweigh the expense and workload for conducting fee waiver hearings.	
Superior Court of San Diego County By: Michael Roddy, Exexutive Officer	FW001, number 7 on the second page [re the waiver of a hearing], does not read well at all. I would suggest using the wording in #3 on FW-001-INFO as a template for number 7 on FW-001.	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
TCPJAC/CEAC Joint Rules Working Group	<p>Although the proposal is purportedly intended to save time with respect to fee waiver adjudications, the TCPJAC/CEAC Joint Rules Working Group believes that in operation, the proposal would significantly increase burdens on staff.</p> <p>General comments</p> <p>While the proposed changes may eliminate the need for some fee waiver hearings, these changes are likely to increase the number of partial payment requests and the number of partial payments that court staff must process. More applicants may be attracted to requesting installment payment plans if a hearing before a bench officer is not required, and if the forms are changed as proposed.</p> <p>Staff time for processing multiple payments over time is substantial, especially with the antiquated case management systems that many courts currently have. Moreover, collections from fee waiver applicants can be very difficult and time consuming for staff, particularly when multiple</p>	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	payments are involved. Many low- income individuals pay by cash rather than credit card, and therefore court staff must monitor compliance with progress payments. In addition, there is concern that litigants with credit cards may elect installment payments over time in lieu of single credit card payment transaction. This would result in further unnecessary court expenditure of resources used to establish, process, and follow up on payment arrangements. Unlike in criminal and minor offense cases, courts have little leverage to enforce collection efforts.	

**SPR14-05**

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Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>2. Should the chart of income amounts for eligibility under Government Code section 68632(b) be removed from the application (form FW-001) and placed on the judicial branch’s website, so that yearly changes to those amounts would not require changes to the form? Would the resulting savings to the courts offset the added burden to the parties and judicial officers in finding that information? CAJ supports the inclusion of the chart on the application at this time. While there is a concern regarding the costs to update these forms each year, CAJ supports having the chart readily accessible on the applications for the benefit of the applicants and the Court. CAJ questions whether the costs to revise these forms each year would be drastically different than the costs to update the website to show the updated income amounts each year and the costs to have a conspicuously posted form at the clerk locations available for those applicants without internet access. In fact, the ability and/or costs to monitor the availability of this chart in each of the clerk’s offices may not be efficient. Accordingly, the savings of the form costs incurred would not appear to offset the added burden to the parties and judicial officers in finding the income amount information.</p> <p>3. In light of the fact that one item on form FW-001 (the figures in the eligibility chart in item 5b) is likely to have to be revised in late February 2015, would it be helpful to make the effective date of the proposed amendments to all the rules and forms March 1, to coincide with changes to the amounts in the eligibility chart? CAJ recommends that in an effort to be as cost effective as possible, the proposed amendments to all the rules and forms should coincide with the late February 2015 date. Inasmuch as there will be necessary costs to update and</p>	<p>2. Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>3. The committees agree and are recommending a March 1 effective date for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	change the forms regardless, CAJ believes it makes economic sense to make all changes at the same time to avoid duplicative costs.	
Stacy Larsen Family Law Facilitator Shasta County Superior Court	<p>I agree that maintaining the chart showing the cut-offs for incomes above 125 percent of the current poverty guidelines on the FW-001 is a good idea. In its current location, litigants can more easily determine whether they are eligible, and the majority of self-represented litigants would find it overly burdensome, confusing, and overwhelming to access the chart online. My understanding is that fee waivers are designed to ensure equal access to the courts for our indigent litigants, many of whom have limited education, literacy skills, and resources. Litigants frequently do not file responses, erroneously allowing default to be entered against them, because they do not understand the availability of or eligibility criteria for fee waivers. Removing the chart places one more obstacle in their path to obtaining access to the courts.</p> <p>I support the alternative to make the changes to the fee-waiver forms/rules go into effect on March 1, 2015, rather than January 1, 2015. Two changes so close together leads to confusion and waste of paper. The court already has discretion to limit payments over time, etc., and the disadvantages of this brief delay are outweighed (at least in my opinion) by the benefits.</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>The committees agree and are recommending a March 1 effective date for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>
Orange County Bar Association By: Thomas Bienert, Jr., President	The chart of income amounts for eligibility should not be removed from Form FW-001 and placed on a website since applicants, court personnel, and others need that information readily available. Whether the proposed amendments are effective January 1 or March 1 depends on the amount of	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>The committees believe a March 1 effective date will achieve cost savings in eliminating a second amendment</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	associated costs savings (if any).	to the same form within a two month period..
Superior Court, County of Los Angeles (no name provided)	If, however, this proposal is adopted, every effort should be taken to (1) make the forms as short as possible, and (2) to draft the forms in such a way that they do not need regular revision. For this reason the chart in 5b of FW-001 should be eliminated. In addition to directing applicants to the website, as suggested, there should be an optional form that explains both the public benefits abbreviations (which should be removed from the information sheet) and the 5b family size/income charts. Courts can decide to hand the optional form to all applicants, to post the optional form as information in the clerk’s office or self-help center, or to use the form in some other way that would supplement information available on the website.	Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001. The committees agree with generally trying to keep the forms as short as possible, but not at the cost of leaving off information useful to the parties or the court. The committees do not agree that the income eligibility chart should be removed from the fee waiver request form. The chart should stay on the form in order to assist both the applicants and the courts in determining eligibility. The committees particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy ongoing access to the internet, and that they are asserting their eligibility based on the federal poverty guidelines under penalty of perjury.
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	2. Should the chart of income amounts for eligibility under Government Code section 68632(b) be removed from the application (form FW-001) and placed on the judicial branch’s website, so that yearly changes to those amounts would not require changes to the form? <ul style="list-style-type: none"> <li>We would not recommend removing the chart that shows the Family Size to Family Income from page 1 of the FW-001. This chart has proved to be valuable for the clerk as well as the applicant when explaining, completing and evaluating if the fee waiver can be granted under this provision.</li> </ul> 3. Would the resulting savings to the courts [by removing income form from chart] offset the added burden to the parties	Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.

**SPR14-05**

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Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>and judicial officers in finding that information? (See discussion under Alternatives Considered, at page 12)</p> <ul style="list-style-type: none"> <li>• See number 5 below; no cost savings identified</li> </ul> <p>4. In light of the fact that one item on form FW-001 (the figures in the eligibility chart in item 5b) is likely to have to be revised in late February 2015, would it be helpful to make the effective date of the proposed amendments to all the rules and forms March 1, to coincide with changes to the amounts in the eligibility chart? (See discussion under Alternatives Considered, at page 13)</p> <ul style="list-style-type: none"> <li>• Yes, the March 1st date would be an effective timeframe.</li> </ul>	<p>The committees appreciate the response.</p> <p>The committees agree and are recommending a March 1 effective date for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>
<p>Superior Court of Riverside By: Daniel Wolfe, Managing Attorney</p>	<p>The chart of income amounts for eligibility should not be removed from the application (FW-001). If it was removed it would make it more difficult for judicial officers and clerks to process the fee waivers effectively if the chart was removed.</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p>
<p>TCPJAC/CEOC Joint Rules Working Group</p>	<p>If, however, this proposal is adopted, every effort should be taken to (1) make the forms as short as possible, and (2) to draft the forms in such a way that they do not need regular and costly revision. For this reason the chart in 5b of FW-0010 should be eliminated. In addition to directing applicants to the website, as suggested, there should be an optional form that explains both the public benefits abbreviations (which should be removed from the information sheet) and the 5b family size/income charts. Courts can decide to hand the optional form to all applicants, to post the optional form as information in the clerk's office or self-help center, or to use the form in some other way that would supplement information available on the</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001. The committees agree with generally trying to keep the forms as short as possible, but not at the cost of leaving off information useful to the parties or the court. The committees do not agree that the income eligibility chart should be removed from the fee waiver request form. The chart should stay on the form in order to assist both the applicants and the courts in determining eligibility. The committees particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy ongoing access</p>



## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	website.	to the internet, and that they are asserting their eligibility based on the federal poverty guidelines under penalty of perjury.

<b>Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	The Appellate Courts Section of the Los Angeles County Bar Association has reviewed SPR14-05 insofar as it affects appellate courts and practitioners, and supports the proposal with one suggested modification to account more clearly for a recent rule change regarding payment for appellate transcripts.	The committees note the commentator's support for the proposal.
Committee on Appellate Courts State Bar of California By: Saul Bercovitch, Staff Attorney	The Committee on Appellate Courts limited its review to issues relating to the recommendations of the Appellate Advisory Committee, and agrees with those recommendations.	The committees note the commentator's support for the proposal.
Stacy Larsen Family Law Facilitator Shasta County Superior Court	CRC 3.55(3): A recent question has arisen regarding whether waiver of "clerks fees for reasonably necessary certification and copying" includes post-judgment copies. Since post-judgment copies are often necessary to prepare pleadings to modify or enforce judgments, it would seem these fees are covered in this provision. A secondary issue that has arisen is whether this provision waives fees for copying paperwork originally submitted by the litigant who is now requesting copies. Specifically, family-law cases continue long past judgment due to ongoing child support, custody, visitation, and	The committee notes that the cost of post-judgment copies would be covered for parties with a fee waiver in place. As to the issue of amending item 3.55(3) regarding making reasonably necessary copies in order to assure consistent application throughout the state, that issue is beyond the scope of the current proposal. The committee will consider it in the future as time and resources permit.

**SPR14-05**

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Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>spousal support issues. The family-law litigants are frequently the most financially challenged litigants in our courthouses, and their issues are often urgent. This population is the most impacted when there is significant “wobble room” in fee waiver statutes. These sorts of issues will continue to arise as our budgetary constraints increase, and it would be helpful if some uniformity was obtained through guidance from the Committee. Interpretation of “reasonably necessary copying” easily varies between individuals and courts, and it is not fair for one court to implement a blanket prohibition of waiving post-judgment copy fees or fees to copy pleadings prepared/filed by the litigants when the same fees are waived in another court. Guidance is appreciated given our ongoing struggle to balance fiscal demands of maintaining a court with ensuring indigent litigants meaningful access to justice.</p> <p>FW-001-INFO, Item 1, “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p> <p>FW-003 Item (4) “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p> <p>FW-008, Item (5) “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p>	
Superior Court, County of Los Angeles	With respect to fees related to appeal to the appellate division of the Superior Court, these fees should not be referenced on	Removing this information from the fee waiver forms would be an important substantive change and thus is

## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
(no name provided)	the initial fee waiver forms but rather should be explained in the context of other information with respect to appeal on the “Information Sheet on Waiver of Appellate Court Fees.” It is simply confusing to applicants to be presented to information with respect to appeal when they are applying for a fee waiver at the outset of litigation.	not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. The committees will add this suggestion to reconsider that earlier policy decision to the list of suggestions for future consideration by the committees.
Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	Rule 3.55(7) speaks to reporter’s daily fees for attendance at hearings and trials held within 60 days of the date of the order granting the applications. However, there is no reference to the reporter fee (currently \$30.00, Gov. Code 68086(a)(1)(A)) for hearings lasting less than 1 hour). <ul style="list-style-type: none"><li>• Suggest revising rule by striking the word “daily,” and recommend removing the 60 day reference.</li><li>• Suggest referencing the same period of time for all fee waivers related to court reporter fees.</li></ul>	The committees agree with this comment, and are recommending amendment of rule 3.55 and 3.56 to reflect the change in law, along with recommending amendments to the items in forms FW-001-NFO, FW-002, FW-003, FW-005, FW-008, and FW-012 which set out the items included in those rules.-
Superior Court of San Diego County By: Michael Roddy, Executive Officer	Additional suggested question/revisions are as follows: <ol style="list-style-type: none"><li>1. Should we add the new Government Code sect. 68086 Court Reporter Fee of \$30 to FW-001?</li></ol>	The committees agrees with this suggestion, and are recommending amendment of rule 3.55 and 3.56 to reflect the change in law, along with recommending amendments to the items in forms FW-001-NFO, FW-002, FW-003, FW-005, FW-008, and FW-012 which set out the items included in those rules.-

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
TCPJAC/CEAC Joint Rules Working Group	With respect to fees related to appeal to the appellate division of the Superior Court, these fees should not be referenced on the initial fee waiver forms but rather should be explained in the context of other information with respect to appeal on the "Information Sheet on Waiver of Appellate Court Fees." It is simply confusing to applicants to be presented to information with respect to appeal when they are applying for a fee waiver at the outset of litigation.	Removing this information from the fee waiver forms would be an important substantive change and thus is not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. The committees will add this suggestion to reconsider that earlier policy decision to the list of suggestions for future consideration by the committees.

<b>Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Stacy Larsen Family Law Facilitator Shasta County Superior Court	FW-001, first paragraph, second line: There seems to be a word (“your”) missing before “household’s basic needs” in both this and the current version.  FW-001, subsection (5)(c): It seems redundant to direct the litigant that he/she “must fill out page 2” in the first checkbox item and then tell him/her to “complete item 7 on page 2, along with all other items on that page” in the second checkbox item. Perhaps the first checkbox item on (c) should state that they	The committee has modified the form in light of this comment.  This instruction has been modified in light of the removal of the circulated item 7.

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>must “fill out page 2 with the exception of item 7” and the second should remain as is (?).</p> <p>FW-001, page 2, Directions: If the litigant checked 5c, he/she needs to complete only all of page 2 except Item 7. If he/she is requesting payments, he/she must complete Item 7. Can this be clarified?</p> <p>FW-001, page 2, Item (8): The wording “fill out below” is a bit awkward. A possible revision is as follows: “Fill out the remainder of this page based on your . . .”</p> <p>FW-001, page 2, Item (9): It’s a great idea to group all income in one category and one side of the page, and then all deductions/expenses in another category on the other side of the page. This will help litigants to fill out the page more correctly.</p> <p>FW-002, page 2, box at bottom of page: It reads awkwardly to start the second sentence with the conjunction “Or.” It could be combined with the first sentence (with a comma before the “or”), or it could be made into two sentences separated by a period or semicolon, starting the second sentence with “In the alternative, attach a sheet of paper . . .”</p> <p>FW-003, Item (1): In this, and the current, version of this form, the litigant must provide his/her name and address but is not required to provide his/her telephone number. Is this an omission?</p> <p>FW-008, Item (1): In this, and the current, version of this form,</p>	<p>This instruction has been modified in light of the removal of the circulated item 7.</p> <p>The committee has modified the form in light of this comment.</p> <p>The committee agrees.</p> <p>The committee has modified the form in light of this comment.</p> <p>This form is an order, and the information regarding party’s name and address is to identify who the order applies to, not to provided contact information.</p> <p>See above.</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	the litigant must provide his/her name and address but is not required to provide his/her telephone number. Is this an omission?	
Orange County Bar Association By: Thomas Bienert, Jr., President	. (6) FW-003 at paragraph 4.a(3) and generally at App-001 have deleted all references to the waiver of appellate fees without explanation and contrary to Govt. Code §68634.5.	As explained in the Invitation to Comments, current item 4a(3), Fee Waiver for Appeal, has been deleted, because the items listed were duplicative of those already listed in item 4a(1).
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	<p>Form FW-001: Request to Waive Court Fees</p> <ul style="list-style-type: none"> <li>Under Section 9, the first sentence is confusing: “List the source and amount of any other income you get each month;” Other than what income? At this point the party has not listed any income. Suggest rewording as follows: “List the source and amount of all income you get each month.</li> <li>Under Section 10 the first sentence is confusing: “List all other persons living in your home and their income; include only your spouse and all individuals who depend...” The party is first asked to list ALL other persons and then to include ONLY a select group of persons. The sentence seems to be contradictory. Suggest changing text to read as follows: “List your spouse and all individuals who live in your home and depend in whole or in part on you for support,...”</li> </ul> <p>FW-001-INFO: Information Sheet on Waiver of Superior Court Fees and Costs</p> <ul style="list-style-type: none"> <li>Recommend aligning all bullet points with the left margin throughout the form.</li> </ul>	<p>The committee has modified the form in light of this comment.</p> <p>The committee has modified the form in light of this comment.</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<ul style="list-style-type: none"><li>• Under the first bullet under “IMPORTANT INFORMATION”: Suggest the word “Please” be removed. To answer “truthfully, accurately, and completely” should not be a request.</li></ul> <p>FW-003: Order on Court Fee Waiver</p> <ul style="list-style-type: none"><li>• Page 3, ,Clerk’s Certificate of Service should include language to allow for electronic service.</li></ul>	<p>The fee waiver application, generally filed by self-represented parties, does not have a space for a party to include information regarding electronic addresses or to agree to electronic service. Amending the forms to allow for such information and such service will be considered in the future.</p>

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

All comments are verbatim unless indicated by an asterisk (\*).

<b>Other Comments/Suggestions – Form APP-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	<p>SPR14-05 includes certain proposed revisions to Judicial Council appellate form APP-001, which provides general information regarding appellate procedures in unlimited civil cases. Page 2 of that form contains information about the designation of the reporter’s transcript, stating that “the appellant must deposit the approximate cost of transcribing the proceedings designated,” which may be “calculated at \$650 per day (more than three hours of court time) or \$325 per fraction of a day (less than three hours of court time).” SPR14-05 would add “for proceedings that were not previously transcribed” to this description of the statutory deposit amounts.</p> <p>This new language hints at a recent addition to rule 8.130 of the California Rules of Court that provides for a lesser deposit “[f]or proceedings that have previously been transcribed: \$80 per fraction of the day’s proceedings that did not exceed three hours, or \$160 per day or fraction that exceeded three hours.” (Cal. Rules of Court, rule 8.130(b)(1)(B)(ii).) However, the new language proposed by SPR14-05 does not go far enough, because it obscures the fact that a lesser deposit is required for proceedings that were previously transcribed, and it does not state what those lesser amounts are. A practitioner not already familiar with rule 8.130 would not be alerted to the availability of a lesser deposit amount from the new language that is proposed by SPR14-05.</p> <p>To make APP-001 more helpful to practitioners, the Appellate Courts Section suggests that after the new proposed language “for proceedings that were not previously transcribed,” the following sentence be inserted: “For previously transcribed</p>	The committee has revised its proposal to include the sentence suggested by the commentator in the proposed revisions to form APP-001.



**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Other Comments/Suggestions – Form APP-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	proceedings, the cost is calculated at \$160 per day (more than three hours of court time) or \$80 per fraction of a day (less than three hours of court time).”	

## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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All comments are verbatim unless indicated by an asterisk (\*).

<b>Other Comments/Suggestions – General</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>Our comments in response to specific questions that are asked are as follows:</p> <p>1. Does the proposal appropriately address the stated purpose? Yes, the proposal is an appropriate response to address the stated purpose. The forms will adequately address the concerns and with the amendments will efficiently allow a waived hearing for payment plans and will also effectively include the new \$50 court reporter fee deposit.</p>	The committee agrees.
Magda Conant Oceanside, California	<p>Why not also allow the Judge discretion to decide whether a “reduced” fee be allowed in lieu of waiving the entire amount, based upon review of the income of the applicant?</p> <p>Perhaps a matriculation of reduced fees would be available to the court/applicant for a clear determination of the reduced amount they qualify to pay based on the amount of applicant's income.</p> <p>This coincides with the suggested “payment plan” which affords the courts some income as opposed to waiving the fee entirely.</p>	That discretion to grant a partial fee waiver is already provided for in Government Code section 68634(c)(5), which allows a court to grant a partial waiver if a full waiver has been denied. See also form FW-008, order after hearing on fee waiver application.
Stacy Larsen Family Law Facilitator Shasta County Superior Court	Although beyond the scope of this “Invitation to Comment” cycle, it would be helpful to provide guidance on these forms regarding how litigants can prepare/submit an amended fee-waiver request for use when they are granted payments over time but then their financial situation dramatically changes such that they wish to request that the remaining unpaid fees be waived.	If a party’s financial circumstances change after a fee waiver has been denied, he or she may apply again for a waiver. The only additional requirement is to inform the court if a prior request had been made within 6 months and to attach the previous request. See form FW-001, item 6.

## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Other Comments/Suggestions – General</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	<p>SPR 14-05: Request for Specific Comments</p> <p>1. Does the proposal appropriately address the stated purpose?</p> <ul style="list-style-type: none"><li>• Yes</li></ul> <p>[¶¶]</p> <p>5. Would the proposal provide cost savings? If so, please quantify.</p> <ul style="list-style-type: none"><li>• No</li></ul> <p>6. What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</p> <ul style="list-style-type: none"><li>• Brief staff training sessions and procedural updates; no case management system updates.</li></ul> <p>7. Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <ul style="list-style-type: none"><li>• Yes</li></ul>	The committee appreciates the responses to the specific questions asked.

### Computation Sheet

<b>Number in Family</b>	<b>2015 Federal Poverty Guidelines (A)</b>	<b>125% of Poverty Guidelines (B) (B = A x 125%)</b>	<b>2015 California Monthly Income (C) (C = B / 12)*</b>
1	\$11,770.00	\$14,712.50	\$1,226.05
2	15,930.00	19,912.50	1,659.38
3	20,090.00	25,112.50	2,092.71
4	24,250.00	30,312.50	2,526.05
5	28,410.00	35,512.50	2,959.38
6	32,570.00	40,712.50	3,392.71
Each additional person	4,160.00	5,200.00	433.34

\*Figures are rounded up to the nearest cent.

By Order of the Federal Maritime Commission.

Dated: January 16, 2015.

**Rachel E. Dickon,**  
Assistant Secretary.

[FR Doc. 2015-01033 Filed 1-21-15; 8:45 am]

**BILLING CODE 6730-01-P**

## FEDERAL RESERVE SYSTEM

### Federal Open Market Committee; Domestic Policy Directive of December 16-17, 2014

In accordance with Section 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 16-17, 2014.<sup>1</sup>

Consistent with its statutory mandate, the Federal Open Market Committee seeks monetary and financial conditions that will foster maximum employment and price stability. In particular, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range from 0 to 1/4 percent. The Committee directs the Desk to undertake open market operations as necessary to maintain such conditions. The Committee directs the Desk to maintain its policy of rolling over maturing Treasury securities into new issues and its policy of reinvesting principal payments on all agency debt and agency mortgage-backed securities in agency mortgage-backed securities. The Committee also directs the Desk to engage in dollar roll and coupon swap transactions as necessary to facilitate settlement of the Federal Reserve's agency mortgage-backed securities transactions. The System Open Market Account manager and the secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

By order of the Federal Open Market Committee, January 9, 2015.

**William B. English,**  
Secretary, Federal Open Market Committee.

[FR Doc. 2015-01008 Filed 1-21-15; 8:45 am]

**BILLING CODE 6210-01-P**

<sup>1</sup> Copies of the Minutes of the Federal Open Market Committee at its meeting held on December 16-17, 2014, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's Annual Report.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Decision To Evaluate a Petition To Designate a Class of Employees From the Westinghouse Electric Corp. in Bloomfield, New Jersey, To Be Included in the Special Exposure Cohort

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, HHS.

**ACTION:** Notice.

**SUMMARY:** NIOSH gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from the Westinghouse Electric Corp. in Bloomfield, New Jersey, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

*Facility:* Westinghouse Electric Corp.

*Location:* Bloomfield, New Jersey.

*Job Titles and/or Job Duties:* All employees who worked in any plant production area.

*Period of Employment:* January 1, 1950 through March 1, 2011.

**FOR FURTHER INFORMATION CONTACT:** Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C-46, Cincinnati, OH 45226-1938, Telephone 877-222-7570. Information requests can also be submitted by email to [DCAS@CDC.GOV](mailto:DCAS@CDC.GOV).

**John Howard,**

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2015-01056 Filed 1-21-15; 8:45 am]

**BILLING CODE 4163-19-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Annual Update of the HHS Poverty Guidelines

**AGENCY:** Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** This notice provides an update of the Department of Health and Human Services (HHS) poverty guidelines to account for last calendar year's increase in prices as measured by the Consumer Price Index.

**DATES:** *Effective Date:* January 22, 2015, unless an office administering a program using the guidelines specifies a different effective date for that particular program.

**ADDRESSES:** Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201.

**FOR FURTHER INFORMATION CONTACT:** For information about how the guidelines are used or how income is defined in a particular program, contact the Federal, state, or local office that is responsible for that program. For information about poverty figures for immigration forms, the Hill-Burton Uncompensated Services Program, and the number of people in poverty, use the specific telephone numbers and addresses given below.

For general questions about the poverty guidelines themselves, contact Kendall Swenson, Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201, telephone: (202) 690-7507, or visit <http://aspe.hhs.gov/poverty/>.

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I-864, Affidavit of Support, contact U.S. Citizenship and Immigration Services at 1-800-375-5283.

For information about the Hill-Burton Uncompensated Services Program (free or reduced-fee health care services at certain hospitals and other facilities for persons meeting eligibility criteria involving the poverty guidelines), contact the Health Resources and Services Administration Information Center at 1-800-275-4772. To receive a Hill-Burton information package, call 1-800-638-0742 (for callers outside Maryland) or 1-800-492-0359 (for callers in Maryland). You also may visit <http://www.hrsa.gov/gethealthcare/affordable/hillburton/>.

For information about the number of people in poverty, visit the Poverty section of the Census Bureau's Web site at <http://www.census.gov/hhes/www/poverty/poverty.html> or contact the Census Bureau's Customer Service Center at 1-800-923-8282 (toll-free) or visit <https://ask.census.gov> for further information.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of

the Department of Health and Human Services to update the poverty guidelines at least annually, adjusting them on the basis of the Consumer Price Index for All Urban Consumers (CPI-U). The poverty guidelines are used as an eligibility criterion by the Community Services Block Grant program and a number of other Federal programs. The *poverty guidelines* issued here are a simplified version of the *poverty thresholds* that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty.

As required by law, this update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI-U). The guidelines in this 2015 notice reflect the 1.6 percent price increase between calendar years 2013 and 2014. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes. The same calculation procedure was used this year as in previous years. (Note that these 2015 guidelines are roughly equal to the poverty thresholds for calendar year 2014 which the Census Bureau expects to publish in final form in September 2015.)

The poverty guidelines continue to be derived from the Census Bureau's current official poverty thresholds; they are not derived from the Census Bureau's new Supplemental Poverty Measure (SPM).

The following guideline figures represent annual income.

**2015 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA**

Persons in family/household	Poverty guideline
1 .....	\$11,770
2 .....	15,930
3 .....	20,090
4 .....	24,250
5 .....	28,410
6 .....	32,570
7 .....	36,730
8 .....	40,890

For families/households with more than 8 persons, add \$4,160 for each additional person.

**2015 POVERTY GUIDELINES FOR ALASKA**

Persons in family/household	Poverty guideline
1 .....	\$14,720
2 .....	19,920
3 .....	25,120

**2015 POVERTY GUIDELINES FOR ALASKA—Continued**

Persons in family/household	Poverty guideline
4 .....	30,320
5 .....	35,520
6 .....	40,720
7 .....	45,920
8 .....	51,120

For families/households with more than 8 persons, add \$5,200 for each additional person.

**2015 POVERTY GUIDELINES FOR HAWAII**

Persons in family/household	Poverty guideline
1 .....	\$13,550
2 .....	18,330
3 .....	23,110
4 .....	27,890
5 .....	32,670
6 .....	37,450
7 .....	42,230
8 .....	47,010

For families/households with more than 8 persons, add \$4,780 for each additional person.

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. (Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii.) The poverty guidelines are not defined for Puerto Rico or other outlying jurisdictions. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is generally responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.

Due to confusing legislative language dating back to 1972, the poverty guidelines sometimes have been mistakenly referred to as the “OMB” (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as “the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).”

Some federal programs use a percentage multiple of the guidelines

(for example, 125 percent or 185 percent of the guidelines), as noted in relevant authorizing legislation or program regulations. Non-Federal organizations that use the poverty guidelines under their own authority in non-Federally-funded activities also may choose to use a percentage multiple of the guidelines.

The poverty guidelines do not make a distinction between farm and non-farm families, or between aged and non-aged units. (Only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.)

Note that this notice does not provide definitions of such terms as “income” or “family,” because there is considerable variation in defining these terms among the different programs that use the guidelines. These variations are traceable to the different laws and regulations that govern the various programs. This means that questions such as “Is income counted before or after taxes?”, “Should a particular type of income be counted?”, and “Should a particular person be counted as a member of the family/household?” are actually questions about how a specific program applies the poverty guidelines. All such questions about how a specific program applies the guidelines should be directed to the entity that administers or funds the program, since that entity has the responsibility for defining such terms as “income” or “family,” to the extent that these terms are not already defined for the program in legislation or regulations.

Dated: January 16, 2015.

**Sylvia M. Burwell,**  
*Secretary of Health and Human Services.*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[60Day–15–15KX]

**Proposed Data Collections Submitted for Public Comment and Recommendations**

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction