

# **DEFERRAL/WAIVER OF FEES & COSTS**

## **Packet #2**

*Separate forms from packet before filing.*

**SOUTHERN ARIZONA LEGAL AID, INC.**  
**DEFERRAL OR WAIVER OF COURT FEES AND COSTS**  
**INSTRUCTIONS AND FORMS**

**USE AND DISCLAIMER**

These forms shall not be used to engage in the unauthorized practice of law. Court cases can be very complicated, and even if you are representing yourself you should see a lawyer for legal advice as to how the law applies to you, and what is best in your particular situation. This might save you time, money, trips to the courthouse, and avoid serious mistakes. There are lawyers who will help you help yourself. This means that they will only charge you for giving you the help you need, and you can complete the court papers on your own or ask the lawyer for help with your papers.

There are professional mediators in the community who can help you with your problems. They help you solve your present problem, and anticipate future problems and how to solve them. Mediators work with both parties in a dispute to help resolve areas of disagreement or trouble.

**HOW TO ASSEMBLE THESE DOCUMENTS**

This packet contains court forms and instructions about deferral or waiver of court fees and costs. Be sure the documents are in the following order. Look at the lower right-hand corner of the document for the document description. Documents that end with "info" are instructions and/or general information. Documents that end with "form" are court forms that MUST be completed and filed with the court.

<b>Title</b>	<b>Form Name</b>
Use and Disclaimer (1 page)	deferral-use and disclaimer.info
Instructions to apply for deferral or waiver of court fees and costs (2 pages)	deferral-instructions.info
Application for deferral of court fees and/or costs and consent to entry of judgment (4 pages)	deferral-application for deferral/ consent to judgment.form
Current Federal Poverty Levels (1 page)	deferral-federal poverty levels.info
Affidavit in support of application for deferral or waiver of service of process costs (2 pages)	deferral-affidavit.form
Order regarding deferral or waiver of court fees and/or costs and consent to entry of judgment (3 pages)	deferral-order.form

# SOUTHERN ARIZONA LEGAL AID, INC.

## INSTRUCTIONS TO APPLY FOR DEFERRAL OR WAIVER OF COURT FEES AND COSTS

### 1. WHAT COURT FEES OR COSTS ARE CHARGED?

Fees and costs are charged under Arizona law when a court user files certain court papers or needs other court services. There are various fees and costs charged for different kinds of cases, depending on what you want or need to do. You can find out the exact fees and costs that are charged for any particular matter by contacting the Clerk of the Court at 740-3200 or at the Clerk's website: [www.cosc.co.pima.az.us](http://www.cosc.co.pima.az.us)

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

- To file a complaint, petition, answer, or response to a new court case;
- For a Domestic Relations Education on Children's Issues Course;
- To file a post-decree petition in a Family Law Case. For example, to enforce or modify a court order for child support, custody, or visitation;
- For the issuance by the Clerk of Court for a Summons or Subpoena;
- For service of process or costs of service by publication;
- To get a copy or a certified copy of any court order or judgment or paperwork;
- To file an appeal of a case to a higher court;
- To photocopy court papers for the record on appeal;
- To pay for court reporter or transcriber fees of court trials or hearings

### 2. WHO PAYS THE COURT FEES AND COSTS?

Usually the person who wants to file a certain court document, or who wants a certain court service, must pay the fees and costs at the time the filing or the service is done. At the end of the court case the judge might order that one or the other party pay some or all the costs and fees, which means the party who is ordered to do so must pay back the other party who already paid court fees or costs. If you are handling your own court case, be prepared to pay various fees and costs along the way.

### 3. WHAT ABOUT A PARTY WHO CANNOT PAY COURT FEES OR COSTS?

Sometimes a party cannot pay court fees and costs at the time of filing court papers or asking for another court service. If this happens, the party can apply for a DEFERRAL OR WAIVER of court costs and fees.

**DEFERRAL** is a postponement of an obligation to pay fees and/or costs or the establishment of a schedule for payment of fees and/or costs. It means that even though the party cannot pay now, he or she can pay in the future or can possibly pay the fees and/or costs on a payment schedule. The court may grant a deferral of the fees and/or costs at any time before the conclusion of the case. If a deferral has been granted at the beginning of the case, a waiver or further deferral may be requested at the conclusion of the case if you are still unable to pay the fees and/or costs.

In deferral cases the court will consider:

- whether you have to file the papers or get the service now or whether you can wait until you get the money to pay for the filing or service, OR
- whether you can pay a certain amount now and the rest later on, AND
- when you can pay the remainder that is owed.

**WAIVER** means that the party does not have financial resources to pay now, and will not be able to do so in the future. In most cases, a waiver will only be granted at the conclusion of the case.

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

**A. APPLICATION FOR DEFERRAL OF COURT FEES AND/OR COSTS:** Complete and file the Application For Deferral of Court Fees and or Costs. Check the boxes that apply to your situation.

- On page 1, check the blocks for what fees or costs you want to have deferred.
- On Page 2, if you are receiving governmental assistance from **Temporary Assistance to Needy Families (TANF), Food Stamps, Supplemental Security Income (SSI) or General Assistance (GA)**, check which block(s) apply. Complete the rest of this form. Go to the last page and date and sign the Application in front of the court clerk or a notary public. You **will** receive a deferral if you are receiving assistance from one or more of these programs. You must provide proof of participation in these programs.
- If you **do not** receive governmental assistance from one of these four programs, check one of the other blocks on page 2 and complete the rest of this form, including the **Financial Questionnaire** portion of the form. In completing the **Financial Questionnaire**, list only income and assets that you have access to. For example, if your spouse has monthly income of \$2000 but you cannot access this money, do not list this as part of your monthly income. You should provide proof of income, such as a copy of your most recent paycheck or other proof of income.
- PLEASE NOTE: If your financial condition changes, you must tell the court this, so that even if you cannot pay now, you must pay later if you have the money to do so.
- Part of the Application includes a **Consent to Judgment**. This means that when you sign this application you also consent to a judgment being entered against you for all fees and costs that are deferred and not taxed to another party but that remain unpaid after thirty (30) calendar days following entry of the final judgment or decree.
- If, at the end of the case you are still unable to pay these fees and/or costs, see the Clerk of the Court for forms to ask the judge for further deferral or waiver.

**B. AFFIDAVIT IN SUPPORT OF APPLICATION FOR DEFERRAL OR WAIVER OF SERVICE OF PROCESS COSTS:**

If the circumstances of your case require that you have the court papers served on the other party by a sheriff or constable OR if you do not know where the other party is located and you must serve by publication, you must complete this Affidavit and file it with your Application. Keep in mind that before using either of these methods of serving the papers on the other party, you must attempt to have the other party voluntarily accept the papers unless it would be useless or dangerous for you to do so. For more information on serving the papers on the other party, see the packet entitled Serving Papers on the Other party.

**C. ORDER REGARDING DEFERRAL OF COURT FEES AND/OR COSTS AND CONSENT TO ENTRY OF JUDGMENT:**

Although not required, it is helpful if you submit an Order Regarding Deferral for the judge to sign. You only need to fill out the names of the Petitioner and the Respondent on this form and give it to the Clerk of the Court when you file your papers.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Daytime Telephone No: \_\_\_\_\_

Representing Self, Without a Lawyer

## ARIZONA SUPERIOR COURT, PIMA COUNTY

\_\_\_\_\_  
Petitioner/Plaintiff

and

\_\_\_\_\_  
Respondent/Defendant

Case No. \_\_\_\_\_

### APPLICATION FOR DEFERRAL/ WAIVER OF COURT FEES AND/ OR COSTS AND CONSENT TO ENTRY OF JUDGMENT

#### **IMPORTANT**

This Application for deferral of court fees and/or costs includes a Consent to Entry of Judgment. By signing this Consent, you agree that a judgment may be entered against you for all fees and/or costs that are deferred, but that remain unpaid after thirty (30) calendar days following the entry of final judgment. At the conclusion of the case you will receive a Notice indicating how much is owed and what steps you must take to avoid a judgment against you if you are still unable to pay. Additional details about this process are discussed in Statement 5 of this Application.

STATE OF ARIZONA            )  
  )ss  
COUNTY OF PIMA            )

**STATEMENTS MADE TO THE COURT UNDER OATH. I swear or affirm that the information in this application is true and correct. I make this statement under penalty of prosecution for perjury if it is determined that I did not tell the truth.**

**I am requesting a deferral of the following fees and/or costs in my case:**

- Any or all of the following: All filing fees, fees for issuance of summonses and subpoenas, fees for obtaining one certified copy of a temporary order in a domestic relations case, a final order, judgment or decree in all civil proceedings, child support payment history and fees for attending the Domestic Relations Education on Children's Issues Program, pursuant to A.R.S. § 25-355.
- Fees for service of process by a sheriff, marshal, constable or local law enforcement agency (fill out separate affidavit form).
- Fees for service by publication (fill out separate affidavit form).
- Filing fees and photocopy fees for preparation of the record on appeal.
- Court reporter's fees of reporters or transcribers employed by the court for the preparation of the transcript.

The basis for the deferral request is that I receive governmental assistance from the state/federal program(s) checked below:

- Temporary Assistance to Needy Families (TANF)
- Supplemental Security Income (SSI)
- Food Stamps
- General Assistance (GA)

**IF YOU CHECKED ONE OF THE BOXES ABOVE, you must complete the Financial Questionnaire. You must sign this application in front of the court clerk or a notary public, if submitted by mail or a third party. You must also submit proof that you receive governmental assistance. If you are submitting this application by mail or a third party, you must attach a photocopy of that proof (i.e. Food Stamps Card, etc.).**

**OR**

The basis for the deferral request is:

- My income is insufficient or barely sufficient to meet the daily essentials of life, and includes no allotment that could be budgeted for the fees and costs that are required to gain access to the court. **You must fill out the Financial Questionnaire below.**

To determine whether income is insufficient or barely sufficient, the court will review your income and expenses. Among the factors the court may consider are:

1. Whether your gross income as computed on a monthly basis is 150% or less of the current federal poverty level. (To see if you qualify, a table showing 150% of the poverty levels by family size is attached.) Gross monthly income includes your share of community property income if available to you.
2. If your income exceeds 150% of the poverty level, but you have proof of extraordinary expenses, including medical expenses, costs of care for elderly or disabled family members or other expenses that the court finds are extraordinary and that reduce your gross monthly income to 150% of the poverty level or below.

**OR**

**IF NONE OF THE ABOVE REASONS APPLY, you still may request a deferral of court fees and/or costs for good cause shown. If granted, the court either will postpone payment until the conclusion of the case or establish a schedule for you to make payments.**

The basis for the deferral request is:

- I do not have the money to pay court filing fees and/or costs now. I can pay the filing fees and/or costs at a later date. Explain.

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**You must fill out the Financial Questionnaire below.**

**FINANCIAL QUESTIONNAIRE**

**SUPPORT RESPONSIBILITIES:** List the individuals who you support (including paying child support and/or spousal maintenance):

NAME	RELATIONSHIP
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

**STATEMENT OF INCOME AND EXPENSES**

**ASSISTANCE:** I receive assistance from:

- Arizona Health Care Cost Containment System (AHCCCS)
- Arizona Long Term Care System (ALTCS)
- Other (explain): \_\_\_\_\_

**MONTHLY INCOME:**

Employer's name: \_\_\_\_\_

Employer's address: \_\_\_\_\_

Employed since (month/year): \_\_\_\_\_

Monthly gross income: \$ \_\_\_\_\_

Other current monthly income, including spousal maintenance, retirement, rental, interest, pensions, scholarships, grants, royalties, lottery winnings (explain amount and source): \$ \_\_\_\_\_

My spouse's monthly gross income (if available to me): \$ \_\_\_\_\_

**TOTAL MONTHLY INCOME:** \$ \_\_\_\_\_

**MONTHLY EXPENSES AND DEBTS:** My monthly expenses and debts are:

	<b>PAYMENT AMOUNT</b>	<b>LOAN BALANCE</b>
Rent/Mortgage Payment	\$ _____	\$ _____
Car Payment	\$ _____	\$ _____
Credit Card Payments	\$ _____	\$ _____
Explain:		
Other Payments & Debts:	\$ _____	\$ _____
Explain:		
Food/Household Supplies	\$ _____	
Utilities/Telephone	\$ _____	
Clothing	\$ _____	
Medical/Dental/Drugs	\$ _____	
Health Insurance	\$ _____	
Nursing Care	\$ _____	
Laundry	\$ _____	
Child Support	\$ _____	
Child Care	\$ _____	
Spousal Maintenance actually paid	\$ _____	
Car Insurance	\$ _____	
Gasoline/Bus Fare	\$ _____	
Contributions to Employer or Other Retirement Account	\$ _____	

**TOTAL MONTHLY PAYMENTS** \$ \_\_\_\_\_

**STATEMENT OF ASSETS:** Equity is defined as market value minus any liens or loans. List only those assets available to you and are accessible without financial penalty.

	<b>ESTIMATED VALUE</b>	
Cash & Bank Accounts	\$ _____	
Credit Union Accounts	\$ _____	
Equity in:		
1. Home	\$ _____	
2. Other Property	\$ _____	
3. Cars/Other Vehicles	\$ _____	
Retirement Accounts	\$ _____	
Other, including stocks, bonds, etc.	\$ _____	
<b>TOTAL ASSETS:</b>		<b>\$ _____</b>

**EXTRAORDINARY EXPENSES:** Other facts that support this application are: (For example, describe and provide proof of unusual medical needs, financial hardship, costs of care of elderly or disabled family members)

<b>DESCRIPTION</b>	<b>AMOUNT</b>	
_____	\$ _____	
_____	\$ _____	
<b>TOTAL EXTRAORDINARY EXPENSES</b>		<b>\$ _____</b>

5. **CONSENT TO JUDGMENT:** By signing this application, you agree that a judgment may be entered against you for all fees and/or costs not taxed to another party that are deferred, but that remain unpaid after thirty (30) calendar days following entry of final judgment. Judgment automatically will be entered against you unless any one of the following applies:
- A. Fees and costs are taxed to another party;
  - B. You make a supplemental application for waiver or further deferral of fees and/or costs and a decision by the court is pending;
  - C. The court orders that the fees and costs be waived or further deferred; or
  - D. Within twenty (20) days of the date the court denies the supplemental application, you either:
    - 1. Pay the fees and/or costs; or
    - 2. Request a hearing on the court's order denying waiver or further deferral. If you request a hearing, the court cannot enter the consent judgment unless a hearing is held, waiver or further deferral is denied and payment has not been made within the time prescribed by the court.

At the end of your case, you will receive a notice reminding you that you may submit a supplemental application for further deferral or waiver if you believe you still cannot afford to pay your court fees and/or costs. The court will decide at that time whether or not you must pay.

**ACKNOWLEDGMENT AND SIGNATURE UNDER OATH**

Today's Date: \_\_\_\_\_ Signature: \_\_\_\_\_

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

SUBSCRIBED AND SWORN or affirmed and acknowledged before me on (date) \_\_\_\_\_

By \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

Judicial Officer, Clerk or Notary Public

TABLE OF INCOME LEVELS EQUALING 150%  
 OF THE CURRENT FEDERAL POVERTY LEVELS  
 AS OF JANUARY 24, 2006  
 For the 48 Contiguous States and D.C.

Household Size (all related individuals)	Gross Monthly Income Level
1	\$1,225.00
2	\$1,650.00
3	\$2,075.00
4	\$2,500.00
5	\$2,925.00
6	\$3,350.00
7	\$3,775.00
8*	\$4,200.00

\*For family units with more than 8 members, add \$425.00 for each additional member.

You may qualify for a deferral of court fees while your case is pending or a waiver after your case has concluded if your gross income is at or below these levels, or you have extraordinary expenses that bring your income to these levels or below.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Daytime Telephone No: \_\_\_\_\_

Representing Self, Without a Lawyer

## ARIZONA SUPERIOR COURT, PIMA COUNTY

\_\_\_\_\_  
Petitioner/Plaintiff

and

\_\_\_\_\_  
Respondent/Defendant

Case No. \_\_\_\_\_

### AFFIDAVIT IN SUPPORT OF APPLICATION FOR DEFERRAL OR WAIVER OF SERVICE OF PROCESS COSTS

STATE OF ARIZONA )  
                                  )ss  
COUNTY OF PIMA )

**STATEMENTS MADE TO THE COURT UNDER OATH. I swear or affirm that the information in this application is true and correct. I make this statement under penalty of prosecution for perjury if it is determined that I did not tell the truth.**

**I have requested a deferral of the following fees in my case:**

**Fees for service of process by a sheriff, marshal, constable or local law enforcement agency:** In support of my request, I state that **(check and complete any that apply):**

I have attempted, without success, to obtain voluntary acceptance of service of process on the person to be served.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It would be useless or dangerous for me to try to obtain voluntary acceptance of service by the person to be served because (explain):

There is an enforceable Order of Protection or Injunction Against Harassment between the parties.

**Fees for publication:** In support of my request, I state that I have attempted to locate the person to be served but I have been unable to locate that person **(check and complete any that apply):**

This is what I did to try and find the other party (explain):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have contacted the person(s) listed below to try to find the location of the other party:

**NAME**

**ADDRESS**

_____	_____
_____	_____
_____	_____

**ACKNOWLEDGMENT AND SIGNATURE UNDER OATH**

Today's Date: \_\_\_\_\_ Signature: \_\_\_\_\_

SUBSCRIBED AND SWORN or affirmed and acknowledged before me on (date) \_\_\_\_\_

by \_\_\_\_\_.

My Commission Expires:

Clerk or Notary Public: \_\_\_\_\_

**INFORMATION FOR SERVICE BY LAW ENFORCEMENT**

**You must answer this if you want a sheriff, marshal, constable or local law enforcement agency to serve papers on the other party:**

To the best of my knowledge, as of (date) \_\_\_\_\_, the last known address of the person to be served was: \_\_\_\_\_.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Daytime Telephone No: \_\_\_\_\_

Representing Self, Without a Lawyer

## ARIZONA SUPERIOR COURT, PIMA COUNTY

\_\_\_\_\_  
Petitioner/Plaintiff

and

\_\_\_\_\_  
Respondent/Defendant

Case No. \_\_\_\_\_

### ORDER REGARDING DEFERRAL/ WAIVER OF COURT FEES AND/ OR COSTS AND CONSENT TO ENTRY OF JUDGMENT

**THE COURT FINDS** that the applicant (print name): \_\_\_\_\_:

1.  **IS NOT ELIGIBLE FOR A DEFERRAL** of court fees and/or costs; **OR**
2.  **IS ELIGIBLE FOR A DEFERRAL** of fees and costs based on financial eligibility. As required by state law, the applicant has signed a consent to entry of judgment; **OR**
3.  **IS ELIGIBLE FOR A DEFERRAL** of fees and costs at the court's discretion (A.R.S. §12-302(L)); **OR**
4.  **IS ELIGIBLE FOR A DEFERRAL** of court fees and/or costs based on good cause shown. As required by state law, the applicant has signed a consent to entry of judgment; **OR**
5.  **IS ELIGIBLE FOR A WAIVER** of fees and costs because the applicant is permanently unable to pay; **OR**
6.  **IS ELIGIBLE FOR WAIVER** of fees and costs at the court's discretion (A.R.S. §12-302(L)); **OR**
7.  **IS NOT ELIGIBLE FOR A WAIVER** of court fees and/or costs.

#### IT IS ORDERED:

**DEFERRAL DENIED** for the following reason(s):

The application is incomplete because \_\_\_\_\_  
\_\_\_\_\_

**You are encouraged to submit a complete application before a consent judgment is entered against you.**

The applicant does not meet the financial criteria for fee deferral because \_\_\_\_\_  
\_\_\_\_\_

**A deferral MUST BE granted if the applicant is receiving public assistance benefits or has an income that is insufficient or barely sufficient to meet the daily essentials of life and that includes no allotment that could be budgeted to pay the fees and/or costs necessary to gain access to the court or if the applicant demonstrates other good cause.**

- DEFERRAL GRANTED** for the following fees and/or costs in this court:
  - Any or all filing fees for the issuance of summonses and subpoenas, fees for obtaining one certified copy of a temporary order in a domestic relations case, or a final order, judgment or decree in all civil proceedings, child support payment history report or fees for attending Domestic Relations Education on Children's Issues Program pursuant to A.R.S. §25-352.
  - Fees for service of process by a sheriff, marshal, constable or local law enforcement agency
  - Fees for service by publication
  - Filing fees and photocopy fees for the preparation of the record on appeal
  - Court reporter's fees of reporters or transcribers employed by the court for the preparation of the transcript.

**IF A DEFERRAL IS GRANTED, PLEASE CHECK ONE OF THE FOLLOWING BOXES.**

- NO PAYMENTS WILL BE DUE UNTIL FURTHER NOTICE (Only applies to Finding #2 or #3).**
- SCHEDULE OF PAYMENTS (Only applies to Finding #3).**  
The applicant shall pay \$\_\_\_\_\_ each \_\_\_\_\_ (week, month etc.) until paid in full, beginning \_\_\_\_\_.
- WAIVER DENIED** for all court fees and costs of this case that may be waived under A.R.S. §12-302(l) because of:
  - Applicant's lack of proof of a permanent inability to pay court fees and/or costs.
  - Reasons determined by the court.
- WAIVER GRANTED** for all fees and/or costs of this case that may be waived under A.R.S. §12-302(l) because:
  - Applicant's proof of a permanent inability to pay court fees and/or costs.
  - Reasons determined by the court.

**Right to judicial review.** If the application is denied or a payment schedule is set by a special commissioner, you may request the decision be reviewed by a judge or judicial officer. The request must be made within twenty (20) days of the day the order was mailed or delivered to you. If a schedule of payments has been established, payments shall be suspended until a decision is made after the judicial review. The judicial review shall be held as soon as possible.

**CONSENT TO ENTRY OF JUDGMENT.** In accordance with state law and procedures adopted by the Arizona Supreme Court, a consent judgment shall be entered against the applicant for all fees and costs that are deferred and not taxed to another party, but that remain unpaid after thirty (30) calendar days following the entry of final judgment unless any one of the following applies:

- A. Fees and costs are taxed to another party;
- B. A supplemental application for waiver or further deferral remains pending;
- C. The court orders that the fees and costs be waived or further deferred; or
- D. Within twenty days of the date the court denies the supplemental application, the applicant:
  1. Pays the fees; or,
  2. Requests a hearing on the court's order denying waiver or further deferral. If the applicant requests a hearing, the court shall not enter the consent judgment unless a hearing is held. Waiver or further deferral is denied and payment has not been made within the time prescribed by the court.

If an appeal is taken, a consent to judgment for deferred fees and costs that remain unpaid in the lower court shall not be entered until thirty (30) days after the appeals process is concluded. The procedures for notice of court fees and costs and for entry of a consent judgment continues to apply.

If a consent judgment is signed and the applicant pays the fees and costs in full, the court is required to comply with the provisions of A.R.S. §33-964(C).

**DUTY TO REPORT CHANGE IN FINANCIAL CIRCUMSTANCES.** An applicant who is granted a deferral shall promptly notify the court of the change in financial circumstances during the pendency of the case that would affect the applicant's ability to pay court fees and costs. Any time the applicant appears before the court on this case, the court may inquire as to the applicant's financial circumstances.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature, Judicial Officer