In the Judicial Court of the Tohono O'odham Nation
In the State of Arizona

IN RE: Inclusion of Fee Waivers in the General Rules of Practice as Rules 10	ADMINISTRATIVE ORDER No.: 2016-01

The Tohono O'odham General Rules of Practice are hereby amended to codify the procedure for the waiver of court fees. This Administrative Order is effective May 9, 2016, and supersedes and rescinds any prior practice, order, or rule.

Dated and entered this 4 day of May, 2016.

Donald Harvey
Chief Judge

Rule 10. Court Fees.

(a) Court Fees.

(1) When Due. All court fees are due at the time of filing.
(2) Exemption. The fees apply to all parties, individuals, and entities, unless exempted by Tohono O'odham law. No court fees apply to a party sued in both an official capacity and in a personal capacity in the same litigation.
(3) Deferral, Waiver, Reduction. Court fees may be waived, reduced, or deferred by a court order pursuant to this Rule based on financial need.

(b) Financial Affidavit and Request for Deferral, Reduction, or Waiver of Court Fees.

(1) Filing. A party or individual subject to a court fee may file with the Court a sworn financial affidavit requesting a deferral, reduction, or a waiver of the court fee. Notwithstanding Rule 6 of these Rules, the financial affidavit is not required to be notarized. The financial affidavit and request shall be submitted with the other filing(s), and shall be in substantial compliance with the form in these Rules, and as may be updated.
(2) By Whom Determined. In all matters in which a court fee may be assessed, the financial affidavit and request shall be reviewed and decided by a judge at the time the request is filed.

(c) Deferral of Fees.

(1) Contents of Financial Affidavit. A request for a deferral must indicate a date certain by which the applicant shall have paid the fee.
(2) No Hearing Required. If only a deferral is requested, the Court may order the deferral without a hearing.
(3) Effect of Failure to Pay. Failure to pay the fee on the date specified may result in the pleading being stricken from the record. If the filing is a petition or complaint, the case may be dismissed without prejudice.

(d) Waiver or Reduction of Fees.

(1) Contents of Financial Affidavit. Applicants seeking a waiver or reduction of court fees must indicate the applicant's income and debts to certify he or she is financially unable to pay the court fees. An applicant seeking a reduction of fees with a deferral of payment shall also indicate a date certain by which the applicant shall pay the fee.
(2) Waiver or Reduction Without a Hearing. The court may, without a hearing and based upon the information provided in the Financial Affidavit, find good cause to grant a waiver or reduction of the fees, and any deferral pay-by date requested by the applicant.
(3) Hearing; When Hearing Required. The court may set the request for an immediate hearing to obtain additional information to determine whether a waiver or reduction should be granted. The court shall set an immediate hearing if the court is considering denying the request for waiver or reduction of the fees. If the applicant is not available for an immediate hearing, the court shall set a hearing within five

(5) business days, permit filing, and defer payment pending the hearing. Any hearing pursuant to this Section shall be *ex parte*.

(4) Reduction of the Fees; Deferral of Fees. After the hearing, and upon a finding of good cause based upon the financial affidavit and the information provided at the hearing, the court may grant the waiver, deny the waiver, or reduce the fee to one half of the regular fee. If the court determines that it is appropriate to defer payment of either the full fee or a reduced fee, the court shall order a date certain by which applicant shall pay the fee.

(5) Effect of Failure to Pay. If the court deferred payment of the fee, failure to pay the fee on the date specified may result in the pleading being stricken from the record. If the filing is a petition or complaint, the case may be dismissed without prejudice.

(e) Final Judgment Shall Not be Withheld. The court shall not withhold entry of final judgment for nonpayment of deferred court fees.

(f) Waiver of Fees for Case on Appeal. A waiver or reduction of court fees at the trial court level does not automatically transfer should a party file an appeal. A new financial affidavit and request for deferral or waiver must be submitted with the other filing(s) pursuant to Subsection (b) of this Rule.

IN THE JUDICIAL COURT OF THE TOHONO O'ODHAM NATION
_____ COURT

_____, Plaintiff/Petitioner,	)	Case No.: _____
V.	)	FINANCIAL AFFIDAVIT AND REQUEST FOR DEFERRAL, REDUCTION, OR WAIVER OF COURT FEES
_____, Defendant/Respondent.	)	

INSTRUCTIONS: If you are simply requesting a deferral, check the box for "deferral" and only fill in your name, the date when you are able to pay the fee, and sign and date the form. If you are requesting a waiver or a reduction (with or without a deferral), check the appropriate box(es), fill out all sections, and sign and date the form.

I,_____, request a ☐ waiver of all court fees, or a ☐ deferral until _____ (date) and/or a ☐ reduction of all court fees and submit the following information.

1.	**APPLICANT'S FULL NAME:**	
2.	**RESIDENCE:** ☐ Rent ☐ Own ☐ Live with Family ☐ Room/Board	
3.	**MARITAL STATUS:** ☐ Single ☐ Married ☐ Divorced ☐ Separated	
4.	**DEPENDENTS (number):**	
5.	**EMPLOYMENT INCOME** (employer name, city):	
	Average take-home pay: $_____	☐ weekly ☐ monthly ☐ every two weeks
6.	**OTHER INCOME:** (State monthly amount and source, *i.e.*, DSS, VA, rent, pensions, spouse income, unemployment, etc.) $_____	
7.	**ASSETS**: (car, home, bank deposits, inmate accounts, bonds, stocks, livestock, etc.)	
8.	**OBLIGATIONS:** (Itemize monthly rent, other monthly payments, mortgage payments, child support, etc.) $_____	
9.	**PUBLIC ASSISTANCE:** Please indicate which benefits you currently receive: ☐ General assistance ☐ Food Stamps ☐ Poverty related veteran's benefits ☐ Temporary assistance for needy families (TANF) ☐ Medicaid ☐ Supplemental security income ☐ Other (describe):	
10.	**OTHER INFORMATION:**	
11.	**CERTIFICATION:** UNDER PENALTY OF PERJURY, I declare that I have examined the above statement made by me, and to the best of my knowledge, information, and belief swear that each and all are true and correct.	

Print Name	Signature	Date