

## FW INSTRUCTION 1 REQUESTING A WAIVER OF FILING AND SERVICE FEES

The law allows for a waiver of the fees payable to the court for filing paperwork and to the local sheriff for serving paperwork on the other party if the judge assigned to your case decides you are truly unable to afford those fees. (This is often called filing “in forma pauperis.”) You must get an order waiving the fees. To get a fee waiver order, you must complete a Motion and Affidavit for Fee Waiver and prepare an Order Re: Fee Waiver for the judge to sign. In the Affidavit, you will answer many questions about your income from all sources, your property, the number of people relying on you for support, and your ordinary and extraordinary living expenses. (Often a person seeking divorce is living apart from his or her spouse and has no access to the spouse’s income and assets. If that is your situation, remember to include only income, property and those resources that actually are available to you. Do not include income and property of your spouse to which you have no access.) If you have long-standing debts, regardless of whether you are making payments on them now, be sure to list them. Also remember to include such expenses as driver’s licenses, automobile license plates, and car insurance. Divide the total of those occasional expenses so you know what they would be each month. Your total list of expenses and your total list of income must demonstrate to the Court that, once you have met your other expenses, you have no money left over to file your paperwork.

1. Complete the form, Motion and Affidavit for Fee Waiver. Fill in ALL BLANKS. The judge may not consider your request if you do not answer all the questions. Complete the form, Order Re: Fee Waiver. Complete the top part of the form. Check the box to indicate if you are the Plaintiff or Defendant. Fill in your name and mailing address in the Clerk’s Certificate of Service.
2. Sign and date the Motion and Affidavit certifying that the information is true and accurate, subject to the penalty of perjury if it is not. Make a copy of each document.
3. Prepare an envelope addressed to yourself with a postage stamp affixed. The copy of the Order Re: Fee Waiver, either granted or denied, can then be mailed to you by the judge’s clerk.
4. Take the signed Motion and Affidavit for Fee Waiver, the completed Order Re: Fee Waiver, and the self-addressed postage paid envelope, your copies, and the document(s) you need to file (for example a Complaint with Summons or an Answer), to the District Court Clerk’s office. Ask the clerk to submit the documents to a judge. The judge may sign the Order without a hearing. If the judge has any questions, you may have to appear for a court hearing. The court clerk will schedule your case before the judge at the earliest opportunity. On the date scheduled for your hearing, be sure to arrive at the courthouse a few minutes early. Check in with the court clerk to find out which courtroom you should be in. When the bailiff calls your case to be heard, you will then step forward, be sworn in, and be questioned by the judge about your Affidavit. If you are receiving public assistance, you should be prepared to provide the court with copies of the documents showing what assistance you receive. The judge may ask you questions about your expenses and lifestyle. Answer all questions respectfully and to the best of your ability. If the judge signs the Order, return to the court clerk after your hearing with the Order and The Clerk will file your original paperwork.
5. If the judge orders the waiver of prepaid fees, the clerk will file your paperwork.

If you are filing a Complaint, you will need to go to the courthouse and pick up your copies for service on the defendant (or you can provide a large self-addressed envelope with enough postage for the clerk to mail the copies of the Summons and Complaint to you so you can arrange service). **or**

If the judge denies your request for the fee waiver you will be required to pay the filing fee before your paperwork is filed.

If you need to file a response, be aware of the time limits. You should allow sufficient time to request the fee waiver before the expiration of any time limitations you need to meet. It is your responsibility to allow enough time for the process of getting the fees waived or to pay the filing fee within the time limit. Only you are responsible for making sure time limits are met. Requesting a fee waiver will not stop the time from running, and a default can be entered against you if the time limit allowed to file a response expires. You could then be prevented from filing your response.

\_\_\_\_\_  
Full Name of Party Filing Document

\_\_\_\_\_  
Mailing Address (Street or Post Office Box)

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Email Address (if any)

IN THE DISTRICT COURT FOR THE \_\_\_\_\_ JUDICIAL DISTRICT  
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_,  
Plaintiff,  
vs.  
\_\_\_\_\_,  
Defendant.

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

MOTION AND AFFIDAVIT FOR FEE  
WAIVER

Plaintiff  Defendant asks to start or defend this case without paying fees, Idaho Code Section 31-3220, and certify:

1. This is an action for (type of case) \_\_\_\_\_.
2. I am unable to pay the court costs. I verify that the statements made in this Affidavit are true and correct. I understand that a false statement in this Affidavit is perjury and I could be sent to prison for one to 14 years. The waiver of payment does not prevent the court from later ordering me to pay costs and fees.

(Do not leave any items blank. If any item does not apply, write "N/A". Attach additional pages if more space is needed for any response.)

**IDENTIFICATION AND RESIDENCE:**

Name: \_\_\_\_\_ Other name(s) I have used: \_\_\_\_\_

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

How long at that address? \_\_\_\_\_ Phone: \_\_\_\_\_

Year and place of birth: \_\_\_\_\_

Education completed (years): \_\_\_\_\_

**FAMILY:**

Marital Status:  Single  Married  Divorced  Widowed  Separated

The following minor children live with me:

Name (use initials only)	Age	Relationship	Child Support Received (\$/month)
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**EMPLOYMENT:**

Occupation: \_\_\_\_\_ Employed by: \_\_\_\_\_

Position: \_\_\_\_\_ Salary: \$ \_\_\_\_\_ or \$ \_\_\_\_\_ per hour

Monthly gross income \$ \_\_\_\_\_ If your current position is temporary what are the start and end dates? \_\_\_\_\_

Phone number to use to verify: \_\_\_\_\_ If you have held this job less than one year, previous employer: \_\_\_\_\_

Phone number to use to verify: \_\_\_\_\_

Spouse's Occupation: \_\_\_\_\_ Employed by: \_\_\_\_\_

Position: \_\_\_\_\_ Salary: \$ \_\_\_\_\_ or \$ \_\_\_\_\_ per hour

Monthly gross income \$ \_\_\_\_\_ If your spouse's current position is temporary what are the start and end dates? \_\_\_\_\_

I receive assistance or support from the following sources and in the following monthly amounts:

Spouse: \$ \_\_\_\_\_ Welfare: \$ \_\_\_\_\_ Food Stamps: \$ \_\_\_\_\_ Relatives: \$ \_\_\_\_\_

Unemployment Compensation: \$ \_\_\_\_\_ Social Security: \$ \_\_\_\_\_ Retirement: \$ \_\_\_\_\_

Former Spouse: \$ \_\_\_\_\_ Other (identify) \_\_\_\_\_ \$ \_\_\_\_\_

If unemployed, how long since your last regular employment? \_\_\_\_\_

List all places where you have applied for work in the last six months:

Company	Last Applied	Reason for Rejection
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Are you willing to work now? \_\_\_\_\_ What work can you do? \_\_\_\_\_

What is the minimum wage for which you are willing to work? \$ \_\_\_\_\_

List all employers you worked for during the last three years.

Company	Date Terminated	Ending Salary	Reason for Termination
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Are you capable of working now?  Yes  No If no, why not? \_\_\_\_\_

If a health problem keeps you from working, provide the name of your treating doctor: \_\_\_\_\_

\_\_\_\_\_. Is your health problem permanent?  Yes  No

When will you be released to work? \_\_\_\_\_

**ASSETS:**

List all real property (land and buildings) owned or being purchased by you.

<b>Address</b>	<b>City</b>	<b>State</b>	<b>Legal Description</b>	<b>Value</b>	<b>Your Equity</b>
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List all other property owned by you and state its value.

<b>Description</b> (provide description for each item)	<b>Value</b>
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Cash \_\_\_\_\_

Notes and Receivable \_\_\_\_\_

Vehicles \_\_\_\_\_

Bank/Credit Union/Savings/Checking Accounts \_\_\_\_\_

Stocks/Bonds/Investments/Certificates of Deposit \_\_\_\_\_

Trust Funds \_\_\_\_\_

Retirement Accounts/IRAs/401(k)s \_\_\_\_\_

Cash Value Insurance \_\_\_\_\_

Motorcycles/Boats/RVs/Snowmobiles \_\_\_\_\_

Furniture/Appliances \_\_\_\_\_

Jewelry/Antiques/Collectibles \_\_\_\_\_

TVs/Stereos/Computers/Electronics \_\_\_\_\_

Tools/Equipment \_\_\_\_\_

Sporting Goods/Guns \_\_\_\_\_

Horses/Livestock/Tack \_\_\_\_\_

Other (describe) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**EXPENSES:** (List all of your monthly expenses.)

<b>Expense</b>	<b>Average Monthly Payment</b>
Rent/House Payment	_____
Vehicle Payment(s)	_____
Credit Cards (List last 4 digits of each account number.)	
_____	_____
_____	_____
_____	_____
_____	_____
Loans (name of lender and reason for loan)	
_____	_____
_____	_____
_____	_____
_____	_____
Electricity/Natural Gas _____	_____
Water/Sewer/Trash _____	_____
Phone _____	_____
Cellular Phone _____	_____
Cable/Satellite TV/Internet _____	_____
Groceries _____	_____
Dining Out _____	_____
Clothing _____	_____
Auto Fuel/Transportation _____	_____
Auto Maintenance _____	_____
Cosmetics/Haircuts/Salons _____	_____
Entertainment/Books/Magazines _____	_____
Home Insurance _____	_____
Auto Insurance _____	_____

Life Insurance _____	_____
<b>Expense (continued)</b>	<b>Average Monthly Payment</b>
Medical Insurance _____	_____
Medical Expense _____	_____
Child Care _____	_____
Other (describe) _____	_____
_____	_____
_____	_____

**MISCELLANEOUS:**

How much can you borrow? \$ \_\_\_\_\_ From whom? \_\_\_\_\_  
 When did you file your last income tax return? \_\_\_\_\_ Amount of refund: \$ \_\_\_\_\_

**PERSONAL REFERENCES:** (These persons must be able to verify information provided.)

Name	Address	Phone	Years Known
_____	_____	_____	_____
_____	_____	_____	_____

**CERTIFICATION UNDER PENALTY OF PERJURY**

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

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

\_\_\_\_\_  
 Typed/printed

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
Full Name of Party Filing Document

\_\_\_\_\_  
Mailing Address (Street or Post Office Box)

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Email Address

IN THE DISTRICT COURT FOR THE \_\_\_\_\_ JUDICIAL DISTRICT  
FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
Plaintiff,  
vs.  
\_\_\_\_\_  
Defendant.

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

ORDER RE: FEE WAIVER

Having reviewed  Plaintiff's  Defendant's Motion and Affidavit for Fee Waiver,

THIS COURT ORDERS the waiver of prepaid fees.

THIS COURT DENIES the waiver because the Court finds the applicant is not indigent pursuant to Idaho Code §31-3220.

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

\_\_\_\_\_  
Judge



CLERK'S CERTIFICATE OF SERVICE

I certify that a copy of this Order was served:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Street or Post Office Address)

\_\_\_\_\_  
(City, State, and Zip Code)

- By United States mail
- By personal delivery
- By fax (number) \_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Street or Post Office Address)

\_\_\_\_\_  
(City, State, and Zip Code)

- By United States mail
- By personal delivery
- By fax (number) \_\_\_\_\_

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

\_\_\_\_\_  
Deputy Clerk