

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2009-038 PA/PI-CIR

RE: INDIGENT DETERMINATIONS AND FEE WAIVERS IN CIVIL CASES

Filing fees are important revenues of the State of Florida and its State Court System. The fees, which are set in statute, help fund the courts and their clerks and enable them to perform their required court-related functions. Filing fees also help apportion the costs of the judicial system onto those who directly use those services. Accordingly, where case filing fees and costs are due, it is important to collect all of the fees required by Florida law.

Chapter 2009-61, Laws of Florida, amends section 57.081, Florida Statutes to provide for the waiver of filing fees in some civil actions beginning July 1, 2009, for persons determined indigent under sections 27.52 or 57.082, Florida Statutes.^{1,2} It is important that the Court monitor when plaintiffs are determined indigent and when filing fees are waived.

Pursuant to Rule of Judicial Administration 2.215, and section 43.26, Florida Statutes, the Chief Judge has the authority to adopt administrative orders necessary to administer the court's affairs. Therefore, in order to: provide for the efficient and proper administration of justice and to ensure that statutorily mandated filing fees are assessed and collected; and provide direction to the Clerks of the Circuit Court; and provide information to the Chief Judge regarding the collection of filings fees, it is

ORDERED:

1. The Clerk of the Circuit Court shall review applications for indigent status in civil cases and make an initial determination of indigence for purposes of waiver of a filing fee or deferring prepayment of a cost under section 57.081, Florida Statutes.
2. When the Clerk makes an initial determination that the applicant is indigent, the Clerk will immediately forward the application to the Court. The Clerk will include a form for the Court to indicate the Court's action on the Clerk's initial determination. The form shall be substantially as provided in Attachment (A). The form may be attached to the application, or typed or stamped on the original application. The judge will promptly review the application and: (a) find the applicant is indigent, (b) find that the applicant is not indigent, (c) find that the applicant is not indigent but give leave for the applicant to submit a more-recent application for indigent status, or (d) take other appropriate action under section 57.082, Florida Statutes. The Clerk may then waive or defer fees or costs if the judge finds the applicant indigent.
3. When the Clerk makes an initial determination that the applicant is not indigent, the applicant may request court review of that determination in accordance with Administrative Order 2005-040.
4. The Clerks of the Circuit Court shall report monthly to the Chief Judge and the Trial Courts Administrator the cases, sorted by division, where a party has sought waiver of filing fees


¹ In appellate proceedings, filing fees may be deferred for indigent persons, but not waived. *See* section 28.241(2), Florida Statutes, as amended by Chapter 2009-61, Laws of Florida and Chapter 2009-204, Laws of Florida. Filing fees for indigent prisoners are also not waived. *See* section 57.085, Florida Statutes.

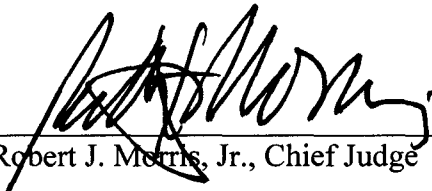
² All statutory cites in this Administrative Order are to the statutes as recently amended and effective July 1, 2009.

or deferral of costs under section 57.081, Florida Statutes. This report shall be substantially in the format of Attachment B and include the following:

- a. The cases where a person applied for a determination of indigent status for purposes of waiving filing fees, deferral of costs, or both in a civil case.
- b. Indication of the Clerk's initial determination of indigence, either "indigent" or "not indigent."
- c. Where the Clerk initially determined that the applicant was "not indigent," indication of whether the applicant sought further review by the Court.
- d. The court's finding on review of the above circumstances, either "indigent" or "not indigent."
- e. The value of any filing fees waived in those instances where a court determined the applicant was indigent.
- f. The total numbers of the above occurrences and the total value of waived filing fees, also sorted by division.

In addition, the Clerks shall report on all filing fees and costs that became due during the month, under section 57.081(3), Florida Statutes, and any such amounts collected during the reported-on month. The reports required by this Administrative Order shall continue until further order of the Court.

 **DONE AND ORDERED** in Chambers at Clearwater, Pinellas County, Florida on this day of June 2009.



Robert J. Morris, Jr., Chief Judge

Attachment (A) Form—Court's Action on Clerk's Determination of Indigent Status
Attachment (B) Report of civil indigence determinations

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Paula S. O'Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Debbie Gay, Assistant Court Services Director, Pasco County Clerk's Office
Suzanne Mucklow, Executive Director, Pinellas County Clerk's Office
Gay Inskip, Trial Courts Administrator
Kerry L. Rice, Deputy Court Administrator, Pasco County
Bar Associations, Pasco and Pinellas County
Law Libraries, Pasco and Pinellas County

Attachment A

Court's Action on Clerk's Determination of Indigent Status

[Case style and case number if submitted as a separate document]

_____ Approved, the applicant is indigent

_____ Denied, the applicant is not indigent

_____ Denied, the Applicant may update his or her application for indigent status and reapply for determination

_____ Other _____.

Date: _____

Judge

ATTACHMENT B

MONTHLY REPORT ON WAIVER OF FILING FEES OR COSTS IN CIVIL CASES

| MONTH AND YEAR | | | | | | |
|---------------------|---|-----------------------------------|---|-----------------------|-----------------------|-----------------------------|
| JULY 2009 | APPLIED FOR WAIVER OF CIVIL FILING FEES | APPLIED FOR WAIVER OF CIVIL COSTS | INITIAL DETERMINATION OF INDIGENCE BY CLERK | PETITIONED FOR REVIEW | COURT'S DETERMINATION | VALUE OF WAIVED FILING FEES |
| Family | 50 | 25 | 49 | 1 | 46 | \$13,570 |
| Case no. | | | | | | |
| 09-xxxxfd | YES | YES | INDIGENT | N/A | INDIGENT | \$295 |
| 09-xxxxfd | YES | YES | NOT INDIGENT | YES | NOT INDIGENT | 0 |
| (list all) | | | | | | |
| | | | | | | |
| | | | | | | |
| Civil | 45 | 25 | 45 | 0 | 45 | \$ |
| Case no. | | | | | | |
| 09-xxxxci | YES | NO | INDIGENT | N/A | INDIGENT | \$395 |
| 09-xxxxci | | | | | | |
| (list all) | | | | | | |
| | | | | | | |
| | | | | | | |
| Probate | 5 | 5 | 2 | 3 | 3 | \$ |
| Case no. | | | | | | |
| 09-xxxin | YES | YES | INDIGENT | N/A | NOT INDIGENT | |
| (list all) | | | | | | |
| | | | | | | |
| | | | | | | |
| Total for July 2009 | 100 | 55 | 96 | 4 | 94 | |