



ALBERTA

M.O. 22/2020

MINISTERIAL ORDER

I, **DOUG SCHWEITZER**, Minister of Justice and Solicitor General for the Province of Alberta, pursuant to

- (a) Sections 1.1 and 3.01 of the *Provincial Court Fees Regulation*,
- (b) Rules 13.32 and 14.89 of the *Alberta Rules of Court*, and
- (c) Section 44.1 of the *Surrogate Rules*,

do hereby establish the following guidelines to permit a court clerk or registrar to waive, in whole or in part, certain fees payable to court officials where the applicant is an individual who is unable to pay fees:

1. Subject to paragraph 9, the fee waiver guidelines set out herein are applicable solely to the following fees payable to court officials:
 - (a) **Provincial Court**
 - (i) the filing fees set out in subsections 1(a) to (b) and 3(a) of the *Provincial Court Fees Regulation*;
 - (b) **Court of Queen's Bench**
 - (i) the filing fees set out in items 1 to 3.4 of Schedule B, Division 1 of the *Alberta Rules of Court*;
 - (ii) the fee to set a trial date, as set out in item 4 of Schedule B, Division 1 of the *Alberta Rules of Court*;
 - (iii) the daily trial fee, as set out in item 5.1 of Schedule B, Division 1 of the *Alberta Rules of Court*;
 - (iv) the fee for an appointment for a review by a review officer as set out in item 6 of Schedule B, Division 1, of the *Alberta Rules of Court*;
 - (v) the filing fees set out in sections 2, 3, 5 and 5.1 of Schedule 2 of the *Surrogate Rules*;

(c) Court of Appeal

- (i) the filing fee for an application for permission to appeal as set out in item 30 of Schedule B, Division 6, of the *Alberta Rules of Court*;
 - (ii) the filing fee for a notice of appeal as set out in item 32 of Schedule B, Division 6, of the *Alberta Rules of Court*;
 - (iii) the filing fee for an application in the course of an appeal as set out in item 32.1 of Schedule B, Division 6, of the *Alberta Rules of Court*.
2. The court clerk or registrar (or designate) shall waive those fees set out in paragraph 1, where:
- (a) the applicant is an individual, and is not representing a business or estate in the action or proceeding;
 - (b) there are no other parties joined with the applicant in the action or proceeding who are able to pay the fees in question;
 - (c) the applicant completes an Application for Fee Waiver and Statement of Finances form set out in Schedule A, and provides copies of all documents requested by the application form; and
 - (d) the court clerk or registrar (or designate) is satisfied that the applicant's gross family income, as declared by the applicant, does not exceed the gross family income threshold set out in Schedule B.
3. A waiver of fees granted under paragraph 2 shall remain in effect for a period of 6 months from the date of granting, and shall apply to any other fees set out in paragraph 1 that might otherwise be payable by the applicant during that period.
4. A waiver of fees granted under paragraph 2 shall not apply to any fees paid by the applicant prior to the granting of the waiver.
5. Notwithstanding paragraph 2 and 3, an individual may not apply for or rely on a waiver of fees granted in accordance with these guidelines:
- (a) while the individual is subject to an order under section 23.1(1) or (4) of the *Judicature Act (Vexatious Proceedings)*, unless the individual has obtained permission from the Court under section 23.1(7) of the *Judicature Act* to institute or continue the proceedings without payment of the fee;
 - (b) while the individual is subject to restrictions on engaging in court procedures imposed under the inherent jurisdiction of the Court, unless the individual has obtained permission from the Court to institute or continue the proceedings without payment of the fee; or

- (c) if a judge of the Court directs that the individual is not entitled to rely on a waiver of fees with respect to a specified or possible court procedure without receiving a fiat in advance.
6. If, after the applicant has been granted a waiver of fees under paragraph 2 above, the court clerk or registrar (or designate) determines that the information or documentation provided by the applicant in support of his or her application was incorrect or false, or that the waiver of fees was erroneously given, the court clerk or registrar (or designate) shall revoke the waiver of fees.
7. Upon the revocation of the waiver of fees under paragraph 6:
- (a) the court clerk or registrar (or designate) shall send written notice by regular mail to the applicant, at the address provided on the Application for Fee Waiver and Statement of Finances, that the waiver of fees has been revoked; and
- (b) any filing fees which have been waived under paragraphs 2 or 3 become immediately payable by the applicant.
8. If the court clerk or registrar (or designate) does not grant a waiver fees under paragraph 2, the applicant may request that the application be reviewed by the applicable supervisor or manager of the individual who considered the application. On the request of the applicant, a further review may be conducted by the Assistant Deputy Minister, Resolution and Court Administration Services, or their designate, however the decision reached following this review is final.
9. Despite any other provision of this order, if the court clerk or registrar (or designate) is of the opinion that a person is unable to pay an applicable court fee due to an inability to attend at the court location to arrange for payment, or resulting from the temporary closure of, or other restrictions on access to the court location during its regular hours of business, the court clerk or registrar (or designate) may permit the document to be filed without the advance payment of the court fee, and may defer payment of the applicable court fee until a later date to be determined by the court clerk or registrar (or designate).

This authorization cancels and replaces all previous authorizations on this matter, including Ministerial Order 18/2015.

Dated at the City of ^{Calgary} Edmonton, in the Province of Alberta, this 27th day of March, 2020.



Doug Schweitzer
Minister of Justice and Solicitor General

COURT FILE NUMBER _____

COURT Court of Appeal of Alberta
 Court of Queen's Bench of Alberta
 Provincial Court of Alberta

LOCATION / JUDICIAL CENTRE _____

APPLICANT _____

DOCUMENT **Application for Fee Waiver and Statement of Finances**

CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Name: _____

Address: _____

Phone: (Home) _____
(Work) _____

File No.: _____

For Court use only:	
<ul style="list-style-type: none"> • Has a recognized legal clinic confirmed the applicant qualifies for the fee waiver? <input type="checkbox"/> Yes, or <input type="checkbox"/> No • Is the applicant subject to a vexatious litigant order that is binding on this court? <input type="checkbox"/> Yes, or <input type="checkbox"/> No • Is the applicant an individual and a party to the action for which they are seeking to waive fees (e.g., not on behalf of a corporation or estate)? <input type="checkbox"/> Yes, or <input type="checkbox"/> No • Are other parties to the action with similar status to the applicant able to pay? <input type="checkbox"/> Yes, or <input type="checkbox"/> No 	
Senior Judicial Clerk Review:	Application for Fee Waiver:
_____	<input type="checkbox"/> Granted and valid until:
(signature)	_____
_____	(date – which is six months from date of granting)
(printed name)	or
	<input type="checkbox"/> Denied: _____
	(reasons)
Supervisor/Manager Review (if requested):	<input type="checkbox"/> I confirm that the senior judicial clerk's findings as set out above are correct,
_____	or
(signature)	<input type="checkbox"/> Application for Fee Waiver granted, and valid until:
_____	_____
(printed name)	(date – which is six months from date of granting)

	(reasons for change)

Schedule A

The following information is needed to determine whether you are eligible for a waiver of certain fees payable to court officials. Please note that this Statement of Finances must be completed in full and proof of income provided.

Failure to provide complete or accurate information will result in your request for waiver of filing fees being rejected.

I, _____, declare that:

1. I am not representing a business or an estate in the action or proceeding.
2. There are no other parties joined with me in the action or proceeding who are able to pay the applicable court fees.
3. I am (*check applicable box*):

<input type="checkbox"/> married	<input type="checkbox"/> living in an adult interdependent relationship
<input type="checkbox"/> single	<input type="checkbox"/> living common law
4. The number of people in my household, including me, my spouse or adult interdependent (common law) partner, dependent children, and any other family members is: (*specify the number of persons living in the same dwelling and related by blood, marriage, common-law or adult interdependent relationship, or adoption*):

<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6	<input type="checkbox"/> 7+
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5. Listed below is an accurate statement of finances for my household, which includes all income received in my household during approximately **the past three months**, from _____ to _____.

Gross Income from All Sources for Three Month Period <i>(Before income taxes, and other mandatory deductions)</i>	
Description	Amount
Employment	\$
Employment Insurance	\$
Workers Compensation / Disability Pension	\$
Social Assistance (Support for independence)	\$
Maintenance	\$
Income from children (if any)	\$
Rental Income	\$
Investment Income	\$
Other (<i>specify</i>): _____	\$
_____	\$
Gross income of spouse / common law partner / adult interdependent partner living with me	\$
TOTAL GROSS INCOME for Three Month Period	\$
Average Gross Monthly Family Income	\$

6. Below is additional financial information I believe is relevant:

I solemnly declare that the above information is correct. I make this solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

WARNING: A false declaration constitutes a criminal offence and is punishable by law.

Signature of Declarant

Declared before me at _____, Alberta,
this _____ day of _____, 20_____.

Commissioner for Oaths in and for the
Province of Alberta

You **must** bring proof of your household income, including the following items:

- 1. Proof of your income, including either:
 - A copy of your income tax return or notice of assessment/reassessment for the most recent taxation year, or pay stubs or income statements for the last 3 months from all of your sources of income; OR
 - If you are not employed, proof of the source and amount of your income for the last 3 months; OR
 - If you currently receive government financial assistance, proof of current receipt of benefits such as:
 - Employment Insurance (EI) from the Government of Canada; or
 - Canada Pension Plan Disability Benefit, or Guaranteed Income Supplement (GIS) from the Government of Canada; or
 - Income Support Benefits, Alberta Works, or Assured Income for the Severely Handicapped from the Government of Alberta, or your current Alberta Health Benefits Card.
- 2. Copies of your spouse's / common law partner's / adult interdependent partner's pay stubs or income statements for the last 3 months from all of their sources of income;
- 3. Any other documents necessary to establish your financial situation.

Note: Please advise the clerk if you are unable to produce the applicable documents.

The Court Clerk or Registrar (or their designate) will review your request and determine if your gross family income is below the income threshold set out in the Ministerial Order establishing the guidelines for an applicant to be granted a waiver of certain fees payable to court officials

Schedule A

The personal information collected on this form will be used for the purpose of determining if you qualify for a waiver of court filing fees. This collection of personal information is in compliance with section 33(c) of the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection of personal information please contact the Executive Director, Organizational Strategy and Transformation at 780 427 4992 or write to: Executive Director, Organizational Strategy and Transformation, Resolution and Court Administration, Alberta Justice and Solicitor General, 9th Floor J.E Brownlee Building, 10365 – 97th Avenue, Edmonton, AB, T5J5A6.

Income Thresholds

Number of Persons in Family Residing in Household (including applicant)	Gross Family Income	
	\$ Monthly	\$ Annually
1	2230	26,760
2	2776	33,315
3	3413	40,957
4	4144	49,727
5	4700	56,400
6	5301	63,609
7+	5902	70,819

The term "Gross Family Income" means all monies received by the family before income taxes or deductions.

"Family" includes all persons living in the same dwelling and related by blood, marriage, common-law or adult interdependent relationship, or adoption. In the case of common-law and adult interdependent relationships, common law spouses, adult interdependent partners and their dependents are considered family. In the case of a minor, unless the young person lives independently, it is the income of the minor's parents or guardians which determines eligibility.

Review Process

A Senior Judicial Clerk can only grant a fee waiver if the applicant qualifies to apply for a fee waiver and their Gross Family Income falls within the Income Threshold set out above. If the applicant disagrees with the Senior Judicial Clerk's findings, the applicant may ask that the findings be reviewed by a Supervisor/Manager. However, the Supervisor/Manager is governed by the same guidelines as the Senior Judicial Clerk.