

### 83.7 FILING FEES FOR INDIGENT PERSONS

- (a) **Written Request to Proceed In Forma Pauperis.** An individual may request leave to commence a civil action without being required to prepay fees or costs by filing with the complaint an affidavit requesting leave to proceed in forma pauperis. The affidavit must either be on the form provided by the Clerk, or else contain the same information requested on the Clerk's form.
- (b) **Materials Reviewed.** The Court must review the affidavit and any other information the applicant provides that is relevant to his or her ability to prepay the filing fees and costs. If the applicant is incarcerated, the Court may request a copy of the applicant's inmate account, if it is not filed with the affidavit. In calculating the applicant's average monthly income, the Court must exclude gifts of \$5.00 or less, unless the applicant has received a sufficient number of such gifts that it is reasonable to include them in the applicant's average income. The Court may give the defendants the opportunity to show cause why the applicant should not be granted leave to proceed in forma pauperis.
- (c) **Standards for Granting In Forma Pauperis Status.** The Court must determine whether the applicant is capable of paying the initial filing fee. An applicant is not capable of paying the initial filing fee if doing so will cause him or her to give up the basic necessities of life. Unless the applicant shows good cause, an incarcerated applicant is capable of paying the initial filing fee if his or her average monthly income or the balance in the inmate account is \$1,200.00. If the Court concludes the applicant is capable of paying the initial filing fee, the Court may require the fee to be paid before the case proceeds or may grant the applicant leave to pay the filing fee within a specified time period no shorter than 30 days. If the applicant then fails to timely pay the filing fee, the Court may dismiss the complaint. The Court may grant leave to proceed in forma pauperis after the applicant has paid the filing fee.
- (d) **Partial Filing Fees.** Except in cases filed under 28 U.S.C. §§ 2254 and 2255, if the Court concludes that the applicant is not capable of paying the full filing fee, the Court may require the applicant to pay a partial filing fee of at least \$1.50. The partial fee required may not cause the applicant to give up the basic necessities of life. If the applicant is confined in an institution which provides the basic necessities of life, the Court may impose a partial filing fee of 10% of the applicant's average monthly income for the six months immediately preceding the filing of the complaint. If the Court concludes the applicant is capable of paying the partial filing fee, the Court may require the fee to be paid before the case proceeds or may grant the applicant leave to pay the filing fee within a specified time period no fewer than 30 days. If the applicant then fails to timely pay the partial filing fee, the Court may dismiss the complaint.
- (e) **Objections to In Forma Pauperis Status.** If a filing fee is imposed on a person who has requested leave to proceed in forma pauperis, any party to the case may, within 21 days after being notified of the fee imposed, file written objections to the fee, to correct the information that may have been considered in setting the fee, or to demonstrate special circumstances justifying the payment of a lower or higher fee. The Court must

review promptly the objections and rule on the application for leave to proceed in forma pauperis.

- (f) **Review and Rescission of In Forma Pauperis Status.** The Court may review and rescind in forma pauperis status at any time for any reason, such as if the party becomes capable of paying the complete filing fee, if the Court determines the case is frivolous, or if the Court determines that the applicant has willfully misstated information in his or her application.
- (g) **Payment of Attorney's Fees and Costs from Recovery.** By applying for in forma pauperis status, the applicant and his or her attorney consents that a portion of any recovery, as directed by the Court, must be paid to the Clerk, who will pay therefrom all unpaid attorney's fees and costs taxed against the applicant.