

1 **Rule 4-508. Guidelines for Ruling on a Motion to Waive Fees.**
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3 **Intent:**
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5 To promote statewide consistency in deciding motions to waive fees in civil cases and in the
6 expungement of criminal records in which the moving party is not incarcerated.
7

8 **Applicability:**
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10 This rule applies to all civil and small claims cases and in the expungement of criminal records
11 in which the moving party is not incarcerated.
12

13 This rule applies to all juvenile court cases in which the moving party is not incarcerated.
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15 As used in this rule “fee waiver” and similar phrases include waiving the court filing fee and any
16 ancillary fees in full or in part, as may be ordered by the judge.
17

18 **Statement of the Rule:**
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20 (1) **Motion to waive fees.** The moving party must complete a Motion to Waive Fees approved
21 by the Judicial Council’s Standing Committee on Court Forms. If requested by the court, the
22 moving party must provide supporting documentation of the claims made in the affidavit. In
23 juvenile court, the minor or a minor’s parent, guardian or authorized representative may move to
24 waive fees.
25

26 (~~12~~)**(A)** Upon the filing of a Motion to Waive Fees, the court, sheriff or any other provider
27 of a service offered by or through a government entity shall do what is necessary and
28 proper as promptly as if the fee had been fully paid.
29

30 (~~13~~)**(B)** A motion to waive fees may be decided without notice to the other parties,
31 requires no response, request to submit for decision or hearing. The court will review the
32 affidavit and make an independent determination whether the fees should be waived.
33 The court should apply a common sense standard to the information and evaluate
34 whether the information is complete, consistent and true. Section 78A-2-304 requires a
35 party to pay a full or partial fee if the financial affidavit and any further questioning
36 demonstrate the party is reasonably able to pay a fee.
37

38 (~~24~~) **Ability to pay.** A party is unable to pay a fee if the moving party:
39

40 (~~24~~)**(A)** receives gross monthly income that is at or below 150% of the poverty guidelines
41 updated periodically in the Federal Register by the U.S. Department of Health and
42 Human Services under the authority of 42 U.S.C. 9902(2);
43

44 (~~24~~)**(B)** receives benefits from a means-tested government program, including the
45 Family Employment Program, Temporary Assistance to Needy Families, Supplemental
46 Security Income, the Supplemental Nutrition Assistance Program, or Medicaid;
47

48 (~~24~~)**(C)** receives legal services from a nonprofit provider or a pro bono attorney through
49 the Utah State Bar; or
50

51 (24)(D) has insufficient income or other means to pay the necessary fees and costs or
52 security without depriving the individual's family of food, shelter, clothing, or other
53 necessities.
54

55 ~~(35)~~ **Insufficient income.** If the reason for the moving party's inability to pay is insufficient
56 income under paragraph ~~(24)~~(D), the court must consider the moving party's:
57

58 ~~(53)~~(A) identity and residence;
59

60 ~~(35)~~(B) amount of income, including any government financial support, alimony, or child
61 support (but not government programs where it would be unlawful to do so, such as the
62 Supplemental Nutrition Assistance Program under 7 CFR 272.1(a));
63

64 ~~(35)~~(C) assets owned, including real and personal property;
65

66 ~~(35)~~(D) business interests;
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68 ~~(35)~~(E) accounts receivable;
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70 ~~(35)~~(F) securities, checking and savings account balances;
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72 ~~(35)~~(G) debts; and;
73

74 ~~(35)~~(H) monthly expenses.
75

76 ~~(46)~~ **Inquiry.** At the time of hearing the cause, the court must question the moving party as to
77 the moving party's ability to pay.
78

79 ~~(57)~~ **Private counsel.** If the moving party is represented by private counsel, the motion to waive
80 fees may be granted in proportion to the attorney's discount of the attorney fee. The moving
81 party's attorney must provide an affidavit describing the fee agreement and what percentage of
82 the attorney's normal, full fee is represented by the discounted fee.
83

84 ~~(68)~~ **Ruling.** A motion to waive fees should be ruled upon within ten days after being filed.
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86 ~~(68)~~(A) If the fee is fully waived, the court, sheriff or any other provider of a service
87 offered by or through a government entity shall do what is necessary and proper as
88 promptly as if the fee had been fully paid.
89

90 ~~(68)~~(B) If the fee is not fully waived, the court, sheriff or any other provider of a service
91 offered by or through a government entity may require payment of the fee before doing
92 what is necessary and proper. If the service has already been performed, the court,
93 sheriff or service provider may do what is necessary and proper to collect the fee,
94 including dismissal of the case.
95

96 ~~(68)~~(C) If the fee is not fully waived, the court shall notify the party in writing of the fee
97 amount, the procedure to challenge the fee, and the consequences of failing to pay the
98 fee.
99

100 ~~(68)~~(D) If the motion is rejected because of a technical error, such as failure to complete
101 a form correctly or to attach supporting documentation, the court shall notify the moving

102 party, and the moving party may file a corrected motion and affidavit within 14 days after
103 being notified of the decision.

104

105 **(79) Review.** In addition to any statutory remedies, an order granting a fee waiver may be
106 reviewed at any time if the court has jurisdiction of the case. If the court determines, after
107 waiving a fee, that the moving party is reasonably able to pay the fee, including from the
108 proceeds of a judgment, the court may modify its previous order. The court may allocate the fee
109 among the parties under Utah Rule of Civil Procedure 54, Utah Code Section ~~30-3-3~~ 81-1-203,
110 or as otherwise provided by law.

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112 *Effective: ~~August 19, 2022~~ November 1, 2024*

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