6-05/900.00 In Forma Pauperis (Fee Waiver)

The Judicial Council has formulated and adopted uniform forms and rules of court for indigent litigants proceeding in forma pauperis. The court has also made an effort to remove “in forma paperis” from their nomenclature and used the term” fee waiver” in all cases where fees have been waived. A request for a Fee Waiver is automatically granted unless acted upon by the court within five court days after it is filed. In this event the clerk shall execute a Notice: Waiver of Court Fees (FW-005). If the court does act on the application, then the granting of the application would be done by an Order on Court Fee Waiver (FW-003). If an application is granted, various court fees are automatically waived, including levying officer’s fees. Although not waived by the initial application, an additional application may be made to waive further expenses and costs, including witness fees of peace officers. (GC 26720.5; Rules 3.50 to 3.58)

In any action or proceeding in which the litigant whose fees and costs have been waived would have been entitled to recover those fees and costs from another party to the action or proceeding had they been paid, the court may assess the amount of the waived fees and costs against the other party and order the other party to pay that sum to the county. An execution may be issued on the order in the same manner as on a judgment in a civil action.

Please note: if a party provides a fee for service and it is determined later that the court issued a Fee Waiver, the fees must be refunded to the party.