



Suggested bankruptcy forms and procedures to implement 28 USC 1930(f)(2) and (3)

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1 Attachment



IFPFormFinal N.D. Illinois.pdf

28 USC section 1930(f)(1) is the provision that allows the district court or bankruptcy court to waive the filing fee for Chapter 7 debtors whose income is less than 150% of poverty

28 USC section 1930(f)(2) allows the court to waive "for such debtors" other fees prescribed under 28 USC section 1930(b) and (c).

28 USC section 1930(f)(3) allows the district court or the bankruptcy court to waive fees prescribed under section 1930 for "other debtors and creditors", in accordance with Judicial Conference policy.

I know of no established procedures for waiving fees under 28 USC section 1930(f)(2). I think that a form in which the debtor (a) requests that a fee be waived; and, (b) either states that the information Bankruptcy Form 3B has not changed, or provides information about changes in the debtor's income or assets since Form 3B was filed, would do the trick.

Similarly, I know of no established procedures for waiving fees under 28 USC section 1930(f)(3). Since creditors and "other debtors" would not have submitted Form 3B, a more detailed form seems appropriate. This form

could be based on Form 3B, or Appellate Form 4 "Affidavit Accompanying Motion for Permission to Appeal In Forma Pauperis". Another alternative would be to start with the IFP forms used in the District Courts. A copy of the IFP form used in the US District Court for the Northern District of Illinois is attached.

Since there are probably far fewer prisoners who would be requesting fee waivers in the bankruptcy court than are requesting permission to proceed in forma pauperis in the District Courts and on appeal to the Courts of Appeal, I think that questions about prisoner accounts should not be placed at the beginning of any such forms.

If the Bankruptcy Rules Committee would like further input on the design of a form, I would be glad to draft a proposed form for review by the committee.

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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

IN FORMA PAUPERIS APPLICATION
AND
FINANCIAL AFFIDAVIT

Plaintiff

v.

Case Number: _____

Defendant(s)

Judge: _____

Instructions: Please answer every question. Do not leave any blanks. If the answer is “none” or “not applicable (N/A),” write that response. Wherever a box is included, place an X in whichever box applies. If you need more space to answer a question or to explain your answer, attach an additional page that refers to each such question by number and provide the additional information. Please print or type your answers.

Application: I, _____, declare that I am the plaintiff petitioner movant (other _____) in the above-entitled case. This affidavit constitutes my application to proceed without full prepayment of fees, or in support of my motion for appointment of counsel, or both. I declare that I am unable to pay the costs of these proceedings, and I believe that I am entitled to the relief sought in the complaint/petition/motion/appeal. In support of my application, I answer the following questions under penalty of perjury.

1. Are you currently incarcerated? Yes No
(If “No,” go to Question 2)

I.D. #: _____ Name of prison or jail: _____

Do you receive any payment from the institution? Yes No

Monthly amount: _____

2. Are you currently employed? Yes No

a. If the answer is “yes,” state your:

Monthly salary or wages: _____

Name and address of employer: _____

b. If the answer is “no,” state your:

Beginning and ending dates of last employment: _____

Last monthly salary or wages: _____

Name and address of last employer: _____

3. Are you married? Yes No
If the answer is "yes," is your spouse currently employed? Yes No
Spouse's *monthly* salary or wages: _____
Name and address of spouse's employer: _____

4. In addition to your income stated above in response to Question 2 (which you should not repeat here), *have you or anyone else living at the same residence* received more than \$200 in the past twelve months from any of the following sources? Mark an X next to "Yes" or "No" in each of the categories a. through g, check all boxes that apply in each category, and fill in the twelve-month total in each category.

a. Salary or wages Yes No
Amount: _____ Received by: _____

b. Business, profession or other self-employment Yes No
Amount: _____ Received by: _____

c. Rental income, interest or dividends Yes No
Amount: _____ Received by: _____

d. Pensions, social security, annuities, life insurance, disability, workers' compensation, alimony or maintenance or child support Yes No
Amount: _____ Received by: _____

e. Gifts or inheritances Yes No
Amount: _____ Received by: _____

f. Unemployment, welfare or any other public assistance Yes No
Amount: _____ Received by: _____

g. Any other sources (describe source: _____) Yes No
Amount: _____ Received by: _____

5. Do you or anyone else living at the same residence have more than \$200 in cash or checking or savings accounts? Yes No
Total amount: _____
In whose name held: _____ Relationship to you: _____

6. Do you or anyone else living at the same residence own any stocks, bonds, securities or other financial instruments? Yes No
Property: _____ Current value: _____
In whose name held: _____ Relationship to you: _____

7. Do you or anyone else living at the same residence own any real estate (with or without a mortgage)? Real estate includes, among other things, a house, apartment, condominium, cooperative, two-flat, etc. Yes No

Type of property and address: _____
Current value: _____ Equity: _____ (Equity is the difference between what the property is worth and the amount you owe on it.)
In whose name held: _____ Relationship to you: _____
Amount of monthly mortgage or loan payments: _____
Name of person making payments: _____

8. Do you or anyone else living at the same residence own any automobiles with a current market value of more than \$1000? Yes No

Year, make and model: _____
Current value: _____ Equity: _____ (Equity is the difference between what the automobile is worth and the amount you owe on it.)
Amount of monthly loan payments: _____
In whose name held: _____ Relationship to you: _____
Name of person making payments: _____

9. Do you or anyone else living at the same residence own any boats, trailers, mobile homes or other items of personal property with a current market value of more than \$1000? Yes No

Property: _____
Current value: _____ Equity: _____ (Equity is the difference between what the property is worth and the amount you owe on it.)
Amount of monthly loan payments: _____
In whose name held: _____ Relationship to you: _____
Name of person making payments: _____

10. List the persons *who live with you* who are dependent on you for support. State your relationship to each person and state whether you are entirely responsible for the person's support or the specific monthly amount you contribute to his or her support. If none, check here: None.

11. List the persons *who do not live with you* who are dependent on you for support. State your relationship to each person and state how much you contribute monthly to his or her support. If none, check here: None.

I declare under penalty of perjury that the above information is true and correct. I understand that 28 U.S.C. § 1915(e)(2)(A) states that the court shall dismiss this case at any time if the court determines that my allegation of poverty is untrue.

Date: _____

Signature of Applicant

(Print Name)

NOTICE TO PRISONERS: In addition to the Certificate below, a prisoner must also attach a print-out from the institution(s) where he or she has been in custody during the last six months showing all receipts, expenditures and balances in the prisoner's prison or jail trust fund accounts during that period. Because the law requires information as to such accounts covering a full six months before you have filed your lawsuit, you must attach a sheet covering transactions in your own account – prepared by each institution where you have been in custody during that six-month period. As already stated, you must also have the Certificate below completed by an authorized officer at each institution.

CERTIFICATE
(Incarcerated applicants only)
(To be completed by the institution of incarceration)

I certify that the applicant named herein, _____, I.D.# _____, has the sum of \$ _____ on account to his/her credit at (name of institution) _____ . I further certify that the applicant has the following securities to his/her credit: _____. I further certify that during the past six months the applicant's average monthly deposit was \$ _____. (Add all deposits from all sources and then divide by number of months).

Date

Signature of Authorized Officer

(Print Name)