

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

**Honorable Ronald H. Sargis**  
Chief Bankruptcy Judge  
Sacramento, California

**October 12, 2022 at 1:30 p.m.**

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<b>1.</b>	<b><u>22-22159-E-7</u></b>	<b>JESSICA CASADAY</b> <b>Michael Noble</b>	<b>MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR OTHER FEE</b> <b>8-29-22 [4]</b>
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**Final Ruling: No appearance at the October 12, 2022 Hearing is required.**

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Debtor's Atty: Michael M. Noble

Notes:

Set by order of the court filed 9/20/22 [Dckt 22]. Supplemental pleadings, if any, to be filed and served on or before 10/7/22.

The Order Setting Hearing was served by the Clerk of the Court on Debtor, Debtor's Attorney, Chapter 13 Trustee, and U.S. Trustee as stated on the Certificate of Service on September 22 and 23, 2022. The court computes that 19 and 20 days' notice has been provided.

**The hearing on the Application for Fee Waiver is removed from the Calendar,** the court having entered an order for the payment of filing fee by installments. Order, Dckt. 26.

On August 29, 2022, Jessica Casaday ("Debtor") commenced this voluntary Chapter 7 Bankruptcy Case. Debtor has filed an Application requesting that the Chapter 7 filing fee be waived. Dckt. 4. In the Application, Debtor states that her monthly take home income is \$4,158.00, and that she has a family unit of one (1) person (the Debtor).

On the Application, in response to the question as to why Debtor would be unable to pay the filing fee in installments within 120 days, Debtor states:

I am recovering from a stroke and have been on disability leave since March and I just started back to work. I am not sure how much I will be able to work in the future.

Application, ¶ 5; Dckt. 4.

On the Statement of Financial Affairs, Debtor states having \$53,940.00 in gross income in 2020, \$63,757.00 in gross income in 2021, and \$16,121.00 in gross income and \$3,800.00 in disability insurance in January - August, 2022. Dckt. 8 at 2. Debtor also states that she is owed an additional \$9,900.00 in disability back pay. App. for Fee waiver, ¶ 16; Dckt. 4.

On the face of the Application, Schedules, and Statement of Financial Affairs, it appears that Debtor has income (whether salary or disability insurance) well in excess of the \$1,699.00 maximum to qualify for a fee waiver.

Rather than denying the Fee Waiver Application based upon the information filed, the court sets a hearing on the Application to be conducted after the scheduled First Meeting of Creditors. This will allow Debtor and Debtor's counsel to address for the court any factors which would indicate that Debtor's income (including disability benefits) would fall below the \$1,699.00 ceiling for such relief.

### **October 12, 2022 Hearing**

On October 5, 2022, Debtor filed an Application to pay the Filing Fee in installments. Application, Dckt. 25. The court has issued an order granting the Application and ordering the Filing Fee in installments. Order, Dckt. 26.

The filing of the Application to pay the Filing Fee in installments was a *de facto* dismissal of the Application to waive the Filing Fee.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Application for Fee Waiver (Dckt. 4) having been presented to the court, Debtor having filed a second Application to pay the Filing Fee in installments and the court ordering (Dckt. 26) that the Filing Fee be paid in installments, the filing of the second Application being a *de facto* dismissal of the Application for Filing Fee Waiver, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Application for the Waiver of the Filing Fee (Dckt. 4) is dismissed without prejudice.