

STATE OF MINNESOTA  
IN SUPREME COURT  
ADM04-8001

**FILED**

June 22, 2018

OFFICE OF  
APPELLATE COURTS

**ORDER PROMULGATING AMENDMENTS TO  
RULE 23.05 OF THE RULES OF CIVIL PROCEDURE**

In an order filed March 13, 2018, we promulgated amendments to the Rules of Civil Procedure, including an amendment to Rule 23.05 to provide a notice requirement, to legal services providers, when the district court considers the possible distribution of *cy pres* funds. With additional input from the advisory committee, we now promulgate further amendments to Rule 23.05, to clarify the procedures for notice regarding the possible distribution of *cy pres* funds. This order supersedes and replace the amendments approved in the order of March 13, 2018, only with respect to Minn. R. Civ. P. 23.05(a)(2)–(3). The March 13 order remains effective as to all amendments promulgated by that order other than the amendments to Rule 23.05.

Based on all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the attached amendments to Rule 23.05 of the Rules of Civil Procedure are prescribed and promulgated to be effective as of July 1, 2018. The rule as amended shall apply to all cases pending on, or filed on or after, the effective date.

Dated: June 22, 2018

BY THE COURT:



Lorie S. Gildea  
Chief Justice

## AMENDMENTS TO THE RULES OF CIVIL PROCEDURE

*[Note: In the following amendments, deletions are indicated by a line drawn through the words and additions are indicated by a line drawn under the words.]*

### RULE 23. CLASS ACTIONS

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#### **23.05. Settlement, Voluntary Dismissal, or Compromise**

- (a) Court Approval.**
  - (1) A settlement, voluntary dismissal, or compromise of the claims, issues, or defenses of a certified class is effective only if approved by the court.
  - (2) The court must direct notice in a reasonable manner to all class members who would be bound by a proposed settlement, voluntary dismissal, or compromise.
  - (3) The court may approve a settlement, voluntary dismissal, or compromise that would bind class members only after a hearing and on finding that the settlement, voluntary dismissal, or compromise is fair, reasonable, and adequate.
- (b) Disclosure Required.** The parties seeking approval of a settlement, voluntary dismissal, or compromise under Rule 23.05(a) must file a statement identifying any agreement made in connection with the proposed settlement, voluntary dismissal, or compromise.
- (c) Additional Opt-Out Period.** In an action previously certified as a class action under Rule 23.02(c), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.
- (d) Objection to Settlement.**
  - (1) Any class member may object to a proposed settlement, voluntary dismissal, or compromise that requires court approval under Rule 23.05(a)(1).

- (2) An objection made under Rule 23.05(d)(1) may be withdrawn only with the court's approval.

**(e) Distribution of Residual Funds, If Any.**

In the event there are residual funds that remain after payment of all approved class member claims (including any supplemental distributions to the class), expenses, litigation costs, attorney's fees, and other court-approved disbursements, the court shall direct notice regarding the distribution of these funds. This notice shall be provided to any potential recipient of residual funds identified by the parties or the court and to the Legal Services Advisory Committee for the purpose of informing qualified legal services programs within the meaning of Minnesota Statutes § 480.24, subdivision 3.

In approving the distribution or other disposition of residual funds, the district court shall consider all relevant factors, including the recommendations of the parties, the nexus between the nature, purpose, and objectives of the class action and the interests of the class members, and the interests of potential recipients of the residual funds.