

FILED

September 20, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM04-8001

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

In an order filed on March 13, 2018, we promulgated amendments to the Rules of Civil Procedure, including specifically Rule 23.05. The amendments to Rule 23.05 established procedures to provide notice regarding a potential distribution of unclaimed, residual funds from a settlement or compromise reached in a class action, i.e., *cy pres* funds. As we explained, the amendments to Rule 23.05 require the district court to provide notice to qualified legal services providers and if appropriate based on the individual case, to other potential recipients of the *cy pres* funds. *Order Promulgating Amendments to the Rules of Civil Procedure*, No. ADM04-8001, Mem. at 9 (Minn. filed Mar. 13, 2018). The notice procedure, we explained, would allow potential recipients to decide whether to request distribution of the funds, and allow the district court to decide based on relevant factors how to distribute those funds. *Id.* We clarified the procedures for providing notice to the Legal Services Advisory Committee in an order filed on June 22, 2018. *Order Promulgating Amendments to the Rules of Civil Procedure*, No. ADM04-8001 (Minn. filed June 22, 2018).

With the benefit of some experience in the district court in implementing the notice procedures in Rule 23.05, it appears that minor amendments regarding the notice requirements will provide clarity to the district court, the parties, and those who receive

notice regarding the potential distribution of *cy pres* funds. Specifically, the notice provided to potential recipients should include a deadline by which an assertion of eligibility as recipient of the funds should be made and for the Legal Services Advisory Committee, the notice should be given using the form provided by State Court Administration.

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

IT IS HEREBY ORDERED that Rule 23.05 of the Rules of Civil Procedure is amended as set forth on the following page. Rule 23.05 as amended by this order shall apply to all notices regarding distribution of *cy pres* funds that are ordered to be made on, or that are sent to potential recipients on or after, October 1, 2021.

Dated: September 20, 2021

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.]

23.05. Settlement, Voluntary Dismissal, or Compromise

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(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 and establish a deadline by which potential recipients must submit a statement asserting a basis to designate the organization as a recipient of the residual funds. This notice shall be provided as directed by the court 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. The notice must include the deadline established by the court for submission of statements by potential recipients. Notice given to the Legal Services Advisory Committee shall be made using the form and delivery method required by State Court Administration.

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.