

The Supreme Court of South Carolina

Re: Amendments to the South Carolina Rules of Civil
Procedure

Appellate Case No. 2014-002497

ORDER

Pursuant to Article V, § 4, of the South Carolina Constitution, the South Carolina Rules of Civil Procedure are hereby amended as provided in the attachment to this order. These amendments shall be submitted to the General Assembly as provided by Art. V, § 4A of the South Carolina Constitution.

s/ Costa M. Pleicones C.J.

s/ Donald W. Beatty J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

Columbia, South Carolina
January 28, 2016

Rule 23, South Carolina Rules of Civil Procedure, is amended by adding Paragraph (e), which provides:

(e) Disposition of Residual Funds.

(1) "Residual Funds" are funds that remain after the payment of all approved class member claims, expenses, litigation costs, attorneys' fees, and other court-approved disbursements to implement the relief granted. Nothing in this rule is intended to limit the parties to a class action from suggesting, or the trial court from approving, a settlement that does not create residual funds.

(2) Any order, judgment, or approved compromise in a class action under this rule that establishes a process for identifying and compensating members of the class may provide for the disbursement of residual funds. In matters where the claims process has been exhausted and residual funds remain, not less than fifty percent of residuals must be distributed to the South Carolina Bar Foundation to support activities and programs that promote access to the civil justice system for low income residents of South Carolina. The court may disburse the balance of any residual funds beyond the minimum percentage to the South Carolina Bar Foundation to any other entity or entities for purposes that have a direct or indirect relationship to the objectives of the underlying litigation or otherwise promote the substantive and procedural interests of members of the class.

Note to 2016 Amendment:

This amendment directs that a portion of any residual funds in a class action matter be distributed to the South Carolina Bar Foundation to promote access to the civil justice system for low income residents of South Carolina. However, the rule does not require that parties create residual funds as part of any class action settlement.