

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**FILED**  
12/16/2024  
Clerk of the  
Appellate Courts

**IN RE: PROPOSED AMENDMENT TO TENNESSEE RULES OF CIVIL  
PROCEDURE**

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**No. ADM2024-01134**

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**ORDER**

The Court adopts the attached amendment effective July 1, 2025 subject to approval by resolution of the General Assembly. The rule amended is as follows:

*RULE 23 CLASS ACTIONS*

The text of the amendment is set out in the attached Appendix.

IT IS SO ORDERED.

FOR THE COURT:

  
\_\_\_\_\_  
HOLLY KIRBY  
CHIEF JUSTICE

**APPENDIX**

***AMENDMENT TO THE  
RULES OF CIVIL PROCEDURE***

**[Deleted text is indicated by overstriking,  
and new text is indicated by underlining.]**

# TENNESSEE RULES OF CIVIL PROCEDURE

## RULE 23

### CLASS ACTIONS

[Amend Rule 23 as indicated below:]

**23.08. Disposition of Residual Funds.** Any order entering a judgment or approving a proposed compromise of a class action certified under this rule may provide for the disbursement of residual funds. 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 or order entering a judgment that does not create residual funds.

It shall be within the discretion of the court to approve the timing and method of distribution of residual funds and to approve the recipient(s) of residual funds. ~~A distribution of residual funds to a program or fund which serves the pro bono legal needs of Tennesseans including, but not limited to, the Tennessee Voluntary Fund for Indigent Civil Representation is permissible but not required.~~ Residual funds shall be distributed to one or more entities for purposes that have a direct or indirect relationship to the objective of the underlying litigation or

otherwise promote the substantive or procedural interests of members of the certified class, or to the Administrative Office of the Courts to support activities and programs that promote access to the civil justice system for low income residents of Tennessee.

Upon motion of any party to a settlement or judgment of a class action certified under this rule or upon the court's own initiative, orders may be entered after an approved settlement or judgment to address the disposition and disbursement of residual funds in a manner consistent with this rule.

*Advisory Commission Comment [2025]*

The prior rule allowed complete discretion to use residual funds for any purpose whatsoever, with only a notation that use for indigent representation was permitted. The prevailing view among legal scholars and courts is that use of residual funds should target some combination of programs that advance the class members' interests and/or programs that advance access to justice for indigent citizens. Some jurisdictions direct that residual funds should be used exclusively for the interests of the class members and only for indigent representation purposes if advancing the class members' interests is not feasible. See generally Me. R. Civ. P. 23(f)(2). Many jurisdictions direct that a prescribed percentage of the funds should be used to provide legal help to indigent persons, with the remainder paid to organizations that reflect the class's interests. See generally S.C. R. Civ. P. 23(e)(2) (minimum 50% to access to civil justice activities or programs).