

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

MICHAEL P. MCGEE
TEL (313) 496-7599
FAX (313) 496-8450
E-MAIL mcgee@millercanfield.com

Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
TEL (313) 963-6420
FAX (313) 496-7500
www.millercanfield.com

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August 20, 2019

Larry S. Royster, Esq.
Clerk
Michigan Supreme Court
P.O. Box 30052
Lansing, Michigan 48909
ADMcomment@courts.mi.gov

Re: ADM File No. 2018-02

Dear Mr. Royster:

I am the CEO of Miller, Canfield, Paddock and Stone, PLC and am writing for the Firm in support of adoption of the amendment to MCR 3.501 proposed by the Court in ADM File No. 2018-02.

The proposed amendment would require any order approving compensation of members of a class to mandate distribution of at least 50% of any residual funds to support activities and programs that promote access to the civil justice system for low income Michigan residents, or for another appropriate purpose approved by the court. This is a salutary rule that will benefit low income residents and improve Michigan's system of justice. It is consistent with the voluntary pro bono policy of the State Bar of Michigan and this Firm's long commitment to pro bono legal representation of low-income individuals and organizations representing their interests.

The proposed amendment has its origin in a Resolution adopted by the ABA House of Delegates in 2016 urging states to "adopt court rules or legislation authorizing the award of class action residual funds to non-profit organizations that improve access to civil justice for persons living in poverty." This Resolution has led to the adoption of similar to court rules and statutes in at least 24 other states. See "American Bar Association Cy Pres Resolution (2016)" and "Legislation and Court Rules Providing for Legal Aid to Receive Class Action Residuals," both available at https://www.americanbar.org/groups/legal_aid_indigent_defendants/resource_center_for_access_to_justice/resources---information-on-civil-legal-aid-funding/.

Justice Markman's concurrence requests input on the advisability of "cy pres" class action settlements. In response, we respectfully note that the proposed amendment deals only with the disposition of residual funds which inevitably will remain in class actions after

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distributions to class members. We do not believe the amendment would either require or encourage “cy pres” settlements, which can be evaluated in particular cases.

We very much appreciate the Court’s attention to this significant matter.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: 
Michael P. McGee