

July 1 2014

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 07-0157

FILED

IN THE MATTER OF THE MONTANA )  
RULES OF CIVIL PROCEDURE )

O R D E R

JUL 01 2014

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CLERK OF THE SUPREME COURT  
STATE OF MONTANA

On June 25, 2014, the Montana Access to Justice Commission submitted for consideration by this Court a proposed amendment to Rule 23 of the Montana Rules of Civil Procedure, regarding the disposition of residual funds in class action cases. The language proposed to be added is as follows:

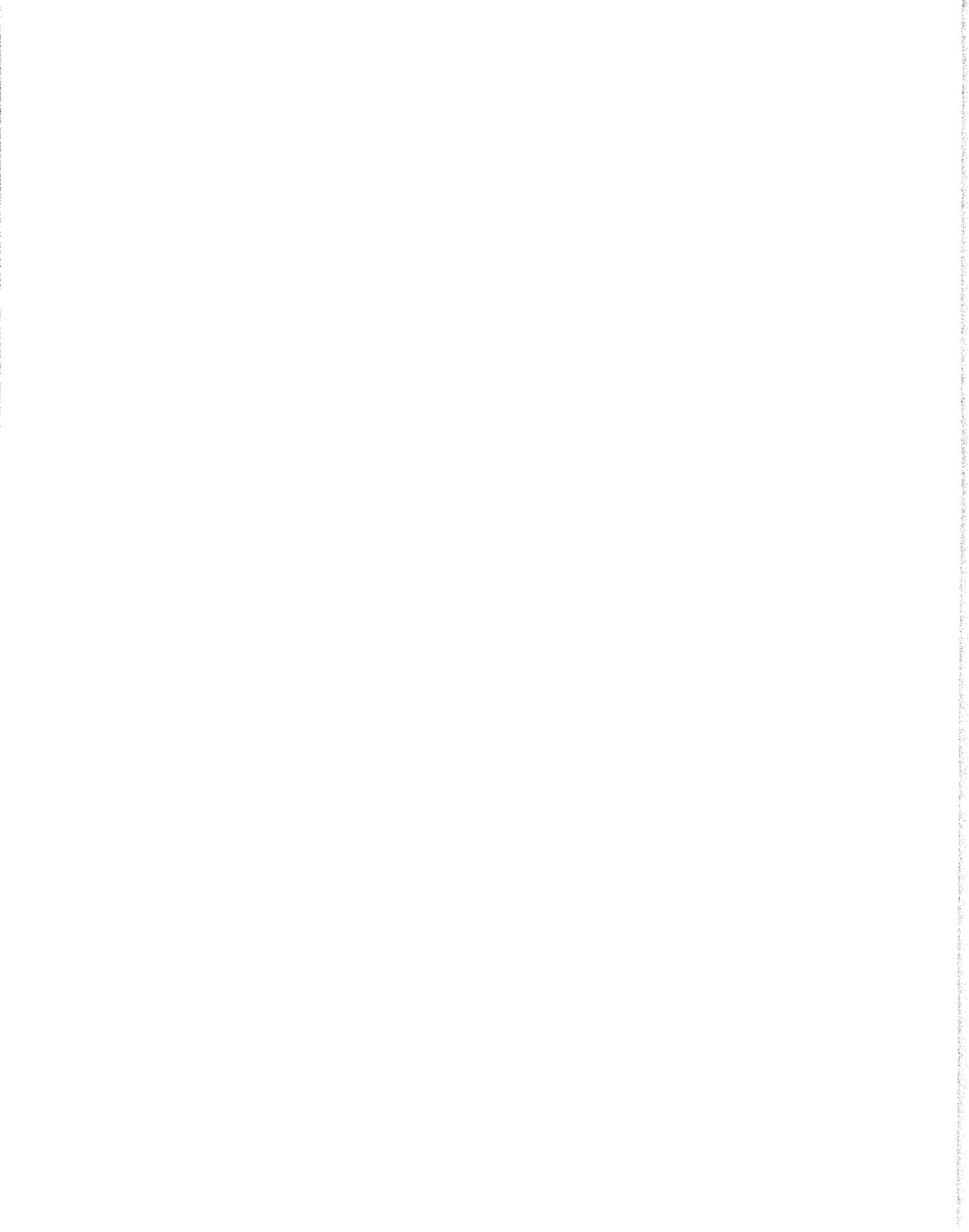
**(i) Disposition of Residual Funds.**

(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. This rule does not prohibit the trial court from approving a settlement that does not create residual funds.

(2) Any order entering a judgment or approving a proposed compromise of a class action certified under this rule that establishes a process for identifying and compensating members of the class shall provide for disbursement of residual funds. In matters where the claims process has been exhausted and residual funds remain, not less than fifty percent (50%) of the residual funds shall be disbursed to the Montana Justice Foundation to support activities and programs that promote access to the Montana civil justice system. The court may disburse the balance of any residual funds beyond the minimum percentage either to the Montana Justice Foundation or to another non-profit entity for purposes that have a direct or indirect relationship to the objectives of the underlying litigation or otherwise promote the substantive or procedural interests of members of the certified class.

Therefore,

IT IS ORDERED that public comment will be accepted on the proposed amendment to M. R. Civ. P. 23 for a period of sixty (60) days following the date of this Order. Such comments shall be filed, in writing, with the Clerk of this Court.



IT IS FURTHER ORDERED that this Order shall be published on the Montana Supreme Court website and that notice of this Order shall be posted on the website of the State Bar of Montana and in the next available issue of the *Montana Lawyer*.

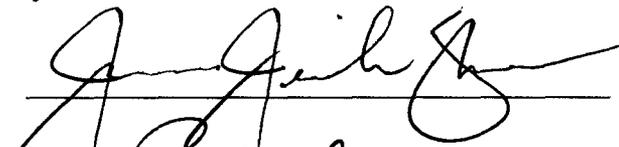
The Clerk is directed to provide copies of this Order to the Montana State Law Library and the State Bar of Montana. The Clerk is further directed to provide copies of this Order to the Chairs of the Montana Supreme Court Access to Justice Commission and the Uniform District Court Rules Commission and to the Directors of the Montana Trial Lawyers Association and the Montana Defense Trial Lawyers Association.

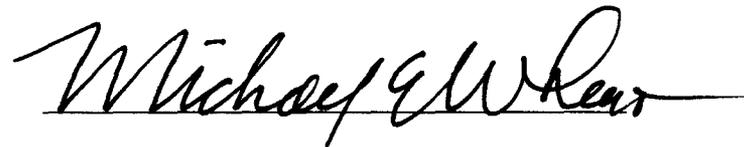
DATED this 15<sup>th</sup> day of July, 2014.

  
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Chief Justice

  
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Patricia Cotter

  
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Justices

