

APPENDIX A

Proposed Rule of Civil Procedure 23(g)
(new language is underlined)

Rule 23(g). Disposition of Residual Funds in Class Action Cases.

(1) “Residual Funds” are (a) the 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, or (b) if it is impossible or economically impractical to distribute the settlement or judgment funds to the class at all, the funds remaining after the payment of all approved expenses, litigation costs, attorneys’ fees, and other court-approved disbursements to implement the relief granted. Nothing in this rule is intended to limit the trial court from approving a settlement or order that does not create residual funds.

(2) Any order entering a judgment or approving a proposed compromise or settlement of a class action certified under this rule that establishes a process for identifying and compensating members of the class, or where such process is impossible or economically impractical, shall provide for the disbursement of residual funds. In matters where the claims process has been exhausted or where a claims process is impossible or economically impractical and residual funds remain, not less than fifty percent (50%) of the residual funds shall be disbursed to the Arizona Foundation for Legal Services and Education to provide legal services and access to the justice system for low-income residents of Arizona. The court may disburse the remaining residual funds 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 to either the Arizona Foundation for Legal Services and Education or any other entity.