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8 **IN THE SUPREME COURT**

9 **STATE OF ARIZONA**

10 Petition to Amend Rule 23 of the Arizona
11 Rules of Civil Procedure

Supreme Court No. R-13-0061

12 **SUPPLEMENTAL COMMENTS**
13 **TO PETITION TO AMEND RULE**
14 **23, ARIZONA RULES OF CIVIL**
15 **PROCEDURE**

16 Pursuant to Rule 28 of the Arizona Rules of the Supreme Court, the Arizona
17 Foundation for Legal Services & Education (Arizona Bar Foundation) submits these
18 supplemental comments concerning its petition to amend Rule 23 of the Arizona Rules of
19 Civil Procedure to provide direction for the distribution of residual funds in class action
20 cases. The proposed rule amendment would require that at least 50% of any residual
21 class action funds be distributed to the Arizona Bar Foundation to provide legal services
22 and access to justice for low-income residents of Arizona. In further support of the
23 petition, the Arizona Bar Foundation states the following:

24 Since the filing of the petition, two additional states have addressed this matter.
25 Kentucky enacted a rule of civil procedure concerning residual funds distribution,
26 effective January 1, 2014. Kentucky's civil rule requires that at least 25% of the residual
27 funds be disbursed to the Civil Rule 23 Account maintained by the Kentucky IOLTA
28 Fund Board of Trustees to be allocated to the legal aid organizations. The Kentucky rule
is attached as Appendix C to these supplemental comments. Also, Nebraska passed a
statute concerning residual funds distribution. The Nebraska statute also is attached as

1 Appendix C to these supplemental comments.

2 With the two additional states, currently nine states have rules of civil procedure
3 and six states have statutes that provide for the disbursement of residual funds to a bar
4 foundation and/or legal aid organization.

5 **Conclusion**

6 For the above reasons as well as those in the petition, the Arizona Foundation for
7 Legal Services & Education respectfully requests that the Court amend Rule 23 to require
8 that at least 50% of the residual funds in class action cases be distributed to the Arizona
9 Bar Foundation to provide legal services and access to the justice system for low-income
10 residents of Arizona.

11 RESPECTFULLY SUBMITTED this 20th day of May 2014.

12 Arizona Foundation for Legal Services &
13 Education

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15 By /s/Thomas J. Giallanza
16 Thomas J. Giallanza
President

17 Electronic copy filed with the Clerk
18 of the Supreme Court of Arizona this
19 20th day of May, 2014.

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21 By: /s/Thomas J. Giallanza
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