

## MASS R. CIV. P. 23 CLASS ACTION RESIDUALS & THE MASSACHUSETTS IOLTA COMMITTEE– EXPANDING ACCESS TO JUSTICE

- ❖ Mass. R. Civ. P. 23 outlines the requirements for bringing and maintaining a class action lawsuit. Such suits often end with residual funds that cannot be distributed to class members and Rule 23 contains several important provisions about these residual funds (also called “cy pres” funds). **No class action judgment or settlement with residual funds may be entered without notice to the IOLTA Committee.**
- ❖ The Massachusetts IOLTA Committee funds charities and non-profit organizations all over Massachusetts that provide civil legal services to low-income and vulnerable residents and improve the administration of justice. Like the class action device itself, organizations that receive IOLTA funding seek to provide broad access to justice.
- ❖ Rule 23 permits the IOLTA Committee to **receive residual funds** in any class action and **requires notice to the Committee** of the proposed distribution of residual funds.
  - Rule 23(c): Before a class action is dismissed or compromised, “[t]he court shall require notice to the Massachusetts IOLTA Committee for the purpose set forth in subdivision (e)(3) of this rule.”
  - Rule 23(e)(2): Recognizes the IOLTA Committee as an appropriate beneficiary of residual funds in any class action.
  - Rule 23(e)(3): Requires notice and permits the IOLTA Committee to be heard “on whether it ought to be a recipient of any or all residual funds.”
  - When notified, the IOLTA Committee will typically file a Notice of Non-Objection or, if necessary, an Objection, in advance of the approval hearing.
- ❖ Residual funds are essential to sustaining critical programs in Massachusetts. Years of low interest rates have meant fewer IOLTA funds available to support legal aid and administration of justice programs, even as the need has increased.



Please contact Jenna Miara at the IOLTA Committee with any questions: [jmiara@maiolta.org](mailto:jmiara@maiolta.org) or 617-963-3903.