

**STATE OF WEST VIRGINIA**

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 25<sup>th</sup> day of October, 2016, the following order was made and entered:

**IN RE:           REQUEST FOR PUBLIC COMMENT ON PROPOSED AMENDMENT  
TO RULE 23, CLASS ACTIONS, OF THE WEST VIRGINIA RULES OF  
CIVIL PROCEDURE, Docket No. 16-RULES-18**

On this day came the Court on motion of Chief Justice Menis E. Ketchum, II and proceeded to consider a proposed amendment to Rule 23, Class Actions, of the West Virginia Rules of Civil Procedure.

Upon Consideration whereof, the Court is of the opinion and does hereby approve a period of public comment on the proposed amendment to conclude on January 31, 2017. Justice Loughry would not amend the rule. Comments are to be filed in writing with the Clerk of this Court. Proposed insertions to the rule are indicated by underscoring to read as follows:

**Rule 23. Class actions.**

\* \* \*

(f) Residual funds. – When the claims process has been exhausted in class actions and residual funds remain, then fifty percent (50%) of the amount of the residual funds shall be disbursed to Legal Aid of West Virginia. The court may, after notice to counsel of record and a hearing, distribute the remaining fifty percent (50%) to one or more West Virginia nonprofit organizations, schools within West Virginia universities or colleges, or foundations, which support programs that will benefit the class consistent with the objectives and purposes of the underlying causes of action upon which relief was based.

A True Copy

Attest: //s// Edythe N. Gaiser  
Deputy Clerk

