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January 12, 2016

Wisconsin Supreme Court
Attention: Carrie Janto
PO Box 1688
Madison, WI 53701-1688

Re: Petition 15-06, Wisconsin Access to Justice Usage of Residual Funds

Honorable Justice of the Wisconsin Supreme Court:

On behalf of the Committee of Judges, I am submitting this letter concerning Petition 15-06 filed by the Wisconsin Access to Justice Commission. The petition requests amendment to Wisconsin Statute §803.08, in order to allocate a portion of unclaimed class action awards to support legal services to low income and indigent persons.

The chief judges heard a presentation on the proposed rule from Professor Marsha Mansfield and Attorney Jeff Brown in September 2015. They explained that the proposed amendment would require at least 50% of any residual funds to be disbursed to the Wisconsin Trust Account Foundation (WisTAF) to support legal services in non-criminal matters. The court may distribute the remaining 50% for purposes related to the objectives of the underlying litigation or otherwise promote interests of members of the certified class. The presenters requested the support of the chief judges for the proposal.

The chief judges agreed that the general goal of the petition is laudable, but they expressed concern that judicial discretion would be unnecessarily limited by requiring that 50% of the residual funds always go to WisTAF. They noted that sometimes there are local nonprofit organizations that do relevant work and that also could use the funding. They asked the presenters to consider amending the proposal to give judges the flexibility to direct more than 50% to another organization that might have a nexus to the issues, and the presenters said they would consider that point.

At their meeting in November 2015, the chief judges noted that the petition was filed without the requested amendment. The judges again expressed concern about diminishing the judge's discretion and voted unanimously to oppose the petition in its present form. Although the chief judges support the general goal of using residual funds for purposes related to the class action. They believe that judges should retain the authority to direct 100% of the funds to another eligible organization meeting the criteria described in the proposed amendments.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald Zuidmulder", with a long horizontal flourish extending to the right.

Judge Donald Zuidmulder
Chair, Committee of Chief Judges