

AMENDED IN SENATE APRIL 23, 2001

SENATE BILL

No. 1218

Introduced by Senator Romero

March 19, 2001

An act to repeal Section 6034 of the Business and Professions Code, and to amend Section 384 of the Code of Civil Procedure, relating to class action lawsuits.

LEGISLATIVE COUNSEL'S DIGEST

SB 1218, as amended, Romero. Class actions: unpaid residuals.

Existing law requires the State Bar to establish the California Legal Corps, and specifies the staffing, duties, and funding thereof.

This bill would eliminate these provisions.

Existing law requires that, prior to the entry of any judgment in a class action, the court determine the total amount that will be payable to all class members. The court is also required to set a date when the parties are to report to the court the total amount that was actually paid to the class members. After the report is received, the court is required to amend the judgment to direct the defendant to pay the sum of the unpaid residue, plus interest, in any manner the court determines is consistent with the objectives and purposes of the underlying cause of action.

~~This bill would require the court to direct the defendant in class action litigation to pay any unpaid residual in a manner that furthers the interests of California consumers. Further, this bill would require the court to give priority for distribution of these funds to organizations based in California specify the types of persons or organizations to which such unpaid residue, plus interest, shall be paid; would eliminate the requirement that notice of the court order be given to the State Bar; and would make corresponding changes.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 384 of the Code of Civil Procedure is~~
2 ~~SECTION 1. Section 6034 of the Business and Professions~~
3 ~~Code is repealed.~~
4 ~~6034.—(a) The State Bar shall establish the California Legal~~
5 ~~Corps, which shall provide funding and support for preventive law~~
6 ~~projects, alternative dispute resolution efforts, legal support for~~
7 ~~victims of disasters, and other activities designed to help improve~~
8 ~~access to justice for all Californians. The California Legal Corps~~
9 ~~shall include law school students, active and retired attorneys, and~~
10 ~~recent law school graduates, participating as volunteers or for a~~
11 ~~stipend. Members of the California Legal Corps shall conduct~~
12 ~~preventive law and pro per clinics, community legal education~~
13 ~~activities, school legal education programs, promote the use of~~
14 ~~alternative dispute resolution, and otherwise promote access to the~~
15 ~~legal system.~~
16 ~~(b) No funds received by the California Legal Corps pursuant~~
17 ~~to Section 383 of the Code of Civil Procedure shall be allocated for~~
18 ~~any of the following:~~
19 ~~(1) To pay for any personal service or communication~~
20 ~~specifically intended or designed to influence (A) the passage or~~
21 ~~defeat of any state or local ballot initiative, (B) the election or~~
22 ~~defeat of any candidate for elective political office, (C) any~~
23 ~~decision of an elected federal, state, or local official, or (D) the~~
24 ~~passage or defeat of any particular federal, state, or local~~
25 ~~legislation, except when legal assistance is provided by a~~
26 ~~California Legal Corps member, fellow, or volunteer on behalf of~~
27 ~~a recipient of California Legal Corps services on a particular~~
28 ~~application, claim, or case relating to his or her legal rights or~~
29 ~~responsibilities.~~
30 ~~(2) To institute or promote a class action.~~
31 ~~(e) The California Legal Corps shall be administered by the~~
32 ~~California Legal Corps Commission. The commission shall be~~
33 ~~composed of 11 members, of whom seven members shall be~~
34 ~~named by the Board of Governors, two members shall be named~~
35 ~~by the Governor, one member named by the Senate Rules~~



1 ~~Committee, and one member named by the Speaker of the~~
2 ~~Assembly.~~

3 ~~(d) The California Legal Corps Commission shall oversee the~~
4 ~~allocation of funds received pursuant to Section 383 of the Code~~
5 ~~of Civil Procedure, subject to oversight by the Board of~~
6 ~~Governors. When utilizing these funds pursuant to this section,~~
7 ~~appropriate dispute resolution methods that do not involve~~
8 ~~litigation shall be attempted prior to the initiation of litigation. The~~
9 ~~commission shall, pursuant to this section and dependent upon the~~
10 ~~amount of funds received, establish appropriate priorities for the~~
11 ~~allocation of funds and projects to be funded; provided, however,~~
12 ~~that programs providing legal assistance and representation for~~
13 ~~children shall be a high priority of the California Legal Corps.~~

14 ~~(e) The Board of Governors shall adopt the regulations and~~
15 ~~procedures necessary to implement this section and to ensure that~~
16 ~~the funds allocated to the State Bar pursuant to Section 383 of the~~
17 ~~Code of Civil Procedure are utilized for the purposes specified in~~
18 ~~this section. However, no regulations adopted by the Board of~~
19 ~~Governors that pertain to the California Legal Corps shall be~~
20 ~~effective until approved by the California Supreme Court.~~

21 ~~(f) No member of the California Legal Corps shall engage in~~
22 ~~the unauthorized practice of law.~~

23 ~~(g) The State Bar of California shall report annually prior to~~
24 ~~April 1 to the Governor and to the judiciary committees of the~~
25 ~~Legislature on the amount of funds received and expended~~
26 ~~pursuant to Section 383 of the Code of Civil Procedure, the~~
27 ~~programs supported by those funds, the amount of funding~~
28 ~~allocated to each program, and other pertinent information.~~

29 ~~(h) Expenditure of any funds granted to the California Legal~~
30 ~~Corps pursuant to Section 383 of the Code of Civil Procedure shall~~
31 ~~be periodically audited by the Judicial Council.~~

32 *SEC. 2. Section 384 of the Code of Civil Procedure is amended*
33 *to read:*

34 384. (a) It is the intent of the Legislature in enacting this
35 section to ensure that the unpaid residuals in class action litigation
36 are distributed, to the extent possible, in a manner designed either
37 to further the purposes of the underlying causes of action, or to
38 promote justice for all Californians. The Legislature finds that the
39 use of funds collected by the State Bar pursuant to this section for



1 these purposes is in the public interest, is a proper use of the funds,
2 and is consistent with essential public and governmental purposes.

3 (b) Except as provided in subdivision (d), prior to the entry of
4 any judgment in a class action established pursuant to Section 382,
5 the court shall determine the total amount that will be payable to
6 all class members, if all class members are paid the amount to
7 which they are entitled pursuant to the judgment. The court shall
8 also set a date when the parties shall report to the court the total
9 amount that was actually paid to the class members. After the
10 report is received, the court shall amend the judgment to direct the
11 defendant to pay the sum of the unpaid residue, plus interest on that
12 sum at the legal rate of interest from the date of entry of the initial
13 judgment, ~~in any manner the court determines is to nonprofit~~
14 ~~organizations or foundations to support projects that will benefit~~
15 ~~the class or similarly situated persons, or that promote the law~~
16 consistent with the objectives and purposes of the underlying
17 cause of action, ~~including to child advocacy programs and to the~~
18 ~~California Legal Corps, as established, or to legal services~~
19 ~~programs eligible to receive funding pursuant to Section 6034~~
20 ~~Article 14 (commencing with Section 6210) of Chapter 4 of~~
21 ~~Division 3 of the Business and Professions Code. The court shall~~
22 ~~ensure that notice is given to the State Bar of California of any such~~
23 ~~order.~~

24 (c) ~~Nothing in this section shall create an obligation or pledge~~
25 ~~of the credit of the State Bar of California. Neither the State Bar~~
26 ~~nor its officers and employees shall be liable for damage or injury~~
27 ~~arising out of any act or omission in the implementation or~~
28 ~~administration of this section.~~

29 (d) ~~This section shall not apply to any class action brought~~
30 ~~against any public entity, as defined in Section 811.2 of the~~
31 ~~Government Code, or against any public employee, as defined in~~
32 ~~Section 811.4 of the Government Code. Provided, however, that~~
33 ~~However,~~ this section shall not be construed to abrogate any
34 equitable cy pres remedy which may be available in any class
35 action with regard to all or part of the residue.

36 ~~amended to read:~~

37 384. (a) ~~It is the intent of the Legislature in enacting this~~
38 ~~section to ensure that the unpaid residuals in class action litigation~~
39 ~~are distributed, to the extent possible, in a manner designed either~~
40 ~~to further the purposes of the underlying causes of action, or to~~



1 promote justice for all Californians. The Legislature finds that the
2 use of funds collected by the State Bar pursuant to this section for
3 these purposes is in the public interest, is a proper use of the funds,
4 and is consistent with essential public and governmental purposes.

5 (b) Except as provided in subdivision (d), prior to the entry of
6 any judgment in a class action established pursuant to Section 382,
7 the court shall determine the total amount that will be payable to
8 all class members, if all class members are paid the amount to
9 which they are entitled pursuant to the judgment. The court shall
10 also set a date when the parties shall report to the court the total
11 amount that was actually paid to the class members. After the
12 report is received, the court shall amend the judgment to direct the
13 defendant to pay the sum of the unpaid residue, plus interest on that
14 sum at the legal rate of interest from the date of entry of the initial
15 judgment, in any manner the court determines is consistent with
16 the objectives and purposes of the underlying cause of action,
17 including to child advocacy programs and to the California Legal
18 Corps, as established pursuant to Section 6034 of the Business and
19 Professions Code. The court shall direct the defendant in consumer
20 class action litigation to pay any unpaid residual in a manner that
21 furthers the interests of California consumers. The court shall give
22 priority for distribution of these funds to organizations based in
23 California. The court shall ensure that notice is given to the State
24 Bar of California of any such order.

25 (c) Nothing in this section shall create an obligation or pledge
26 of the credit of the State Bar of California. Neither the State Bar
27 nor its officers and employees shall be liable for damage or injury
28 arising out of any act or omission in the implementation or
29 administration of this section.

30 (d) This section shall not apply to any class action brought
31 against any public entity, as defined in Section 811.2 of the
32 Government Code, or against any public employee, as defined in
33 Section 811.4 of the Government Code. Provided, however, that
34 this section shall not be construed to abrogate any equitable cy pres
35 remedy which may be available in any class action with regard to
36 all or part of the residue.

