

How Can the Alabama Civil Justice Foundation Help You With *Cy Pres* Awards?

by Rebekah McKinney, 2010 ACJF President, Attorney with Watson McKinney, Huntsville

Many of us handle class actions and/or mass torts which oftentimes result in settlements with funds which cannot be distributed to the rightful party for various reasons. The person due the settlement may not be someone who can be located or could have passed away or simply cannot be identified. In those instances, courts overseeing such settlements will often authorize *cy pres* distribution of these “left-over” funds. *Cy pres* distributions are intended to provide a mechanism to distribute these funds to the “next best” or “nearest use,” which is what the French phrase generally means.

ALAJ’s official charity, The Alabama Civil Justice Foundation (“ACJF”) is an organization which we should all give consideration to when deciding what organizations to designate as recipients of *cy pres* awards in our settlements. In determining what is the “next best” or “nearest use,” it is important to find an organization which has ties or some type of relationship to the issue being litigated. As many of you reading this article are aware, ACJF’s mission is to assist in removing barriers to a civil and just society for Alabama children, families and seniors. The ACJF Board and participants believe that civil justice embodies the opportunity for all citizens to have adequate food and shelter, good healthcare, a safe environment in which to live and work, a sense of well-being, a quality education, the chance to work and earn a living, and access to justice through the court system. This broad mission of removing barriers to civil justice both inside and outside the courtroom for the less fortunate makes it a perfect match for class action *cy pres* awards, as the underlying premise for class actions is to make justice a reality to the extent possible for those who have been harmed.

ACJF can work with the courts and lawyers handling cases with *cy pres* funds to direct those funds to specific organizations or to the types of needs within a community or state-wide. ACJF makes grants in the following areas: Access to Justice, which includes legal aid for the poor, pro bono and volunteer lawyer programs and citizen support through the court system; Children, Families and Seniors, which includes supporting efforts that build stronger families, nurture children and youth, as well as offer children and youth exemplary learning opportunities, and efforts to enhance the lives of seniors in addition to persons with mental and physical challenges; Community, which includes efforts that foster thriving communities, encourage citizen involvement and develop partnerships among public and private organizations, including quality education, healthcare and housing services for all Alabamians; Responsibility and Accountability, which includes supporting efforts to enhance the accountability, transparency and ethics of government, corporations and other entities; and Safety and Security, which includes efforts to ensure the overall safety of Alabamians through direct services, public awareness and public policy involvement.

ACJF has a proven track record of successfully distributing funds for charitable purposes. Over the past 17 years, ACJF has awarded \$9 million to support programs in every county in the state and is recognized as a leader among the state’s philanthropic organizations. ACJF has received two *cy pres* awards, one for consumer protection projects and another to support the foundation itself.

In 2003 after the Tolbert vs. Solutia case was settled, the four plaintiff firms made a \$1 million donation to ACJF with the agreement that the Foundation would strategically direct and manage the awarding of these funds to improve the educational opportunities in the affected areas of Anniston.

For more information about how you can make an impact by directing a *cy pres* award to the ACJF, contact Sue McInnish, the Executive Director of the Alabama Civil Justice Foundation, at (334) 263-3003 or sue@acjf.org.