



CALIFORNIA STATE LIBRARY
CALIFORNIA RESEARCH BUREAU

Class Action Residual Disbursements to Nonprofits

**Review and Data Tracking Mandated by
SB 847 (2018)**

December 2024



Author

Monica Stam

Mandated by

SB 847 (2018), Introduced by Senate Committee on Budget and Fiscal Review

Acknowledgements

Special thanks to Carley Herron for her invaluable assistance in extracting data and her support during the editing process, as well as to John Cornelison for his contributions, which were essential to the completion of this report.

Recommended Citation: Stam, Monica. "Class Action Residual Disbursements to Nonprofits: Review and Data Tracking Mandated by SB 847 (2018)." California Research Bureau, California State Library, December 2024. ISBN 1-58703-305-4.

Contents

EXECUTIVE SUMMARY	1
INTRODUCTION.....	2
APPLICABLE CODE AND LEGISLATIVE HISTORY.....	3
BACKGROUND/LEGISLATIVE HISTORY	3
DATA COLLECTION AND FINDINGS (2019-2023)	5
DATA ACQUISITION PROCESS	5
FINDINGS.....	5
<i>Summary of Documents Received from Judicial Council.....</i>	<i>6</i>
<i>Summary of Submitted Case Documents and Compliance with Required Fields</i>	<i>6</i>
<i>Summary of Disbursed Monies</i>	<i>7</i>
APPENDIX A: FULL TEXT OF CODE SECTIONS AMENDED BY SB 847	8
<i>Cal Gov Code § 68520</i>	<i>8</i>
<i>Cal Code Civ Proc § 382.4.....</i>	<i>8</i>
<i>Cal Code Civ Proc § 384.....</i>	<i>9</i>
<i>Cal Code Civ Proc § 384.5.....</i>	<i>9</i>

Executive Summary

The purpose of this report is to document class action residual disbursements from lawsuits filed in the State of California as governed by California Code of Civil Procedure Section 382, enacted by California Senate Bill 847 (SB 847) in 2018.

The report includes a background of the legislation, its history, and relevant impacted code sections. It provides an overview of the processes used to collect, organize, and assess data related to these residuals, with raw data included as a separate Excel file.

Key findings reveal significant challenges and inconsistencies in the data collection process, which have hindered effective management and analysis of class action residual disbursements. Issues encountered during data collection include nonfunctioning or inaccessible PDFs, duplicate or erroneously submitted documents, and a lack of required information in the submissions.

Despite SB 847's mandate specifying critical data fields, none of the submitted files contained all the required information. In addition, the absence of standardized formatting across submissions, which included judgments, orders, and other court materials, created substantial inefficiencies. The process of manually reviewing, extracting, and organizing data was labor-intensive and prone to delays, leading to workflow challenges.

These findings underscore the need for a more robust framework to standardize submissions. Such a framework would ensure the efficient handling and processing of data and result in accurate depictions of class action residual disbursements in California.

Introduction

On June 27, 2018, Governor Edmund G. “Jerry” Brown approved California Senate Bill 847 (SB 847), a courts omnibus bill introduced by the Senate Budget and Fiscal Review Committee, that enacted several changes to the courts system, including provisions related to class action residuals. This report addresses those provisions related to class action residuals found under California Code of Civil Procedure 384 (*CCP § 384*) and the guidance for the reporting structure found under California Government Code 68250 (*Gov § 68520*). (For full text of applicable codes, see Appendix A.)

These code sections require defendants in class action litigation to pay the sum of unpaid residue, plus interest, to certain nonprofit organizations. The nonprofit organizations could include, “organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the underlying cause of action, or to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent.”

The bill also requires the court to transmit a copy of the judgment to the Judicial Council of California with specified information and for the California Research Bureau (CRB) to prepare and publish a 5-year aggregate report of that information on its website.

The following report fulfills CRB’s mandate.

Applicable Code and Legislative History

BACKGROUND/LEGISLATIVE HISTORY

1993 Senate Bill 536 (ch 863) established a procedure for the distribution of residual funds from class action lawsuits remaining after all claims, costs, and attorney’s fees had been paid. This was codified in **CCP §384**, initially added as **CCP §383**.

The statute required courts to direct the payment of these residual funds in a manner “consistent with the objectives and purposes of the underlying cause of action,” in accordance with cy pres doctrine. The idea of cy pres, or “as near as” is a “gift to charity as closely to donor’s intention as possible, so that the gift does not fail.”¹ In the case of residual funds after a class action lawsuit, those funds are allocated to nonprofits whose purposes align with the original intent of the lawsuit.

Initially, one of the frustrations with the enactment of **CCP §384** was the limited guidance it gave on disbursements. “[C]ourts attempting to comply with its objectives have expressed frustration over its lack of clear guidelines, and have been criticized for some of their choices for distribution of funds ... courts have not complied with the provision’s requirement that orders directing payment of class action residuals be reported to the State Bar; accordingly, no monitoring of such payments has been made.”²

2001 Senate Bill 1218 (ch 96)³ addressed these issues by clarifying the code language, removing the State Bar reporting requirement, and stating “the court shall amend the judgment to direct the defendant to pay the sum of the unpaid residue ... to nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent.”⁴

¹ Black's Law Dictionary (12th ed. 2024)

² California State Archives, Senate Judiciary File, 2001 Senate Bill 1218 (Retrieved 9/27/24)

³ California Legislative Information. 2001 Senate Bill 1218 (ch 96). Retrieved from https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200120020SB1218

⁴ *ibid*

2017 Assembly Bill 103 (ch 17)¹ diverted 50% of unpaid cash residue to purposes outside of cy pres nonprofits. Specifically, 25% to the Trial Court Improvement and Modernization Fund and 25% to the Equal Access Fund.²

2018 Senate Bill 847 (ch 45)³ reversed changes implemented the previous year by removing the allocations to the Trial Court Improvement and Modernization Fund and the Equal Access Fund and restoring the full disbursement amount to nonprofits. This legislation also added a reporting stipulation requiring CRB to report “information regarding the distribution of money or any other thing of value pursuant to a judgment in a class action.” For the full text of code sections amended by this bill, please see Appendix A.

¹ California Legislative Information. 2017 Assembly Bill 103 (ch 17). Retrieved from https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB103

² Judicial Council of California, ‘Summary of Court-Related Legislation’, November 2018.

³ California Legislative Information. 2018 SB 847 (ch 45). Retrieved from https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB847

Data Collection and Findings (2019-2023)

The following section outlines the data acquisition process used to collect and analyze submitted legal documents on cy pres disbursements, highlighting the methods, tools, and steps taken to ensure accuracy, consistency, and relevance of data.

DATA ACQUISITION PROCESS

- (1) CRB created a dedicated SB 847 library email account to receive data from the Judicial Council.
- (2) Judicial Council emailed batches of CCP 384.5 court submissions, in a zip file format, typically every other month.
- (3) CRB staff downloaded submissions to the California State Library server space.
- (4) CRB staff created an Excel spreadsheet to store key pieces of data from submitted court materials.
- (5) CRB staff reviewed each document, extracted relevant information, and entered it into the spreadsheet.

FINDINGS

Per SB 847, required fields are: (1) The name of the case. (2) The cause of action resolved by the judgment, with a summary of the underlying allegations or supporting factual findings. (3) The name of, and the amount distributed to, each nonparty person or entity. (4) The name of the judge ordering the distribution. (5) The purpose of the distribution to the nonparty person or entity and how the nonparty person or entity plans to expend the funds or proceeds received, if known.

The Excel spreadsheet appended to this report contains all mandated data CRB was able to collect from the submitted court materials.

None of the files submitted included all the required fields. In addition, the lack of consistent formatting or structure in the variety of documents submitted made it significantly more time-consuming for data collectors to extract and organize the data. On average, CRB staff spent 20 minutes reviewing each document submitted to identify and pull out the required data points and enter them into the Excel spreadsheet.

The following summaries provide an overview of the collected data and highlight key issues encountered:

- documents lacked required information.
- nonfunctioning PDFs.
- duplicate documents submitted.
- erroneously submitted documents where no funds were distributed.

Summary of Documents Received from Judicial Council

Total number of documents received	210
Total number of documents with all required information	0
Documents containing at least one field of required information	157
Expired documents (no access to PDFs)*	37
Duplicate documents (exact copies)	14

* PDFs contained time-stamps which prevented CRB staff from accessing them.

Summary of Submitted Case Documents and Compliance with Required Fields

Required Field (as per SB 847)	Documents Including Information
Case Documents Identifying “Name of the Case” (not including duplicates)	142
Case Documents Identifying Cause of Action and/or summary of underlying allegations	44
Case Documents Identifying Name of Judge	135
Case Documents Stating Amount Disbursed to Nonprofit	108
Case Documents Identifying Name of Nonprofit or Other Entity	128
Case Documents Identifying “Purpose of Distribution”	0
Case Documents Identifying “How the Nonprofit Plans to Expend the Funds”	5

Summary of Disbursed Monies

For a complete list of all nonprofits receiving funds, see data sheet. CRB noted over 100 individual nonprofit organizations receiving cy pres disbursements. Below is a summary of the monies received. Added together, distributed monies from 2019 to 2023 amount to **\$12,583,836**.

The Top 10 nonprofit recipients in terms of amount received

Youth Law Center	\$2,074,002
Bay Area Legal Aid	\$1,308,346
Legal Aid at Work	\$1,190,048
Habitat for Humanity Orange County	\$1,043,749
Disability Rights Legal Center	\$781,258
UCSF/UC Hastings Consortium on Law, Science & Health Policy	\$781,258
Neighborhood Legal Services of Los Angeles County	\$354,015
Consumer Federation of America	\$323,795
National Consumer Law Center	\$192,026
Worksafe	\$143,775

Three government recipients received monies

State Trial Court Improvement and Modernization Fund	\$1,009,874
Equal Access Fund of the Judicial Branch	\$881,958
California State Controller's Unclaimed Property Fund	\$301,741

Appendix A: Full Text of Code Sections Amended by SB 847

This appendix contains the complete text of codes amended by Senate Bill 847 in relation to the disbursement of class action residual funds.

Cal Gov Code § 68520

(a) On January 1, 2024, and on January 1 of every fifth year thereafter, the California Research Bureau shall prepare and publish on its Internet Web site a report containing information regarding the distribution of money or any other thing of value pursuant to a judgment in a class action established pursuant to Section 382 of the Code of Civil Procedure, if the judgment provides for a distribution to a person or entity that is not a party to the class action. The report shall cover judgments entered in class actions during the five-year period before the date of the filing of the report and shall contain, at a minimum, the following information:

- (1) The name of the case.
 - (2) The cause of action resolved by the judgment, with a summary of the underlying allegations or supporting factual findings.
 - (3) The name of, and the amount distributed to, each nonparty person or entity.
 - (4) The name of the judge ordering the distribution.
 - (5) The purpose of the distribution to the nonparty person or entity and how the nonparty person or entity plans to expend the funds or proceeds received, if known.
- (b) At the request of the California Research Bureau, the Judicial Council shall provide to the bureau copies of orders, judgments, and decrees that are necessary for the bureau to complete the report.

Cal Code Civ Proc § 382.4

If a proposed settlement in a class action established pursuant to Section 382, including a consent judgment, decree, or settlement agreement, provides for the distribution of money or any other thing of value to a person or entity that is not a party to the action, an attorney for a party to the action shall, in connection with the hearing for preliminary approval pursuant to subdivision (c) of Rule 3.769 of the California Rules of Court, notify the court if the attorney has a connection to or a relationship with a nonparty recipient of the distribution that

could reasonably create the appearance of impropriety as between the selection of the recipient of the money or thing of value and the interests of the class.

Cal Code Civ Proc § 384

(a) It is the policy of the State of California to ensure that the unpaid cash residue and unclaimed or abandoned funds in class action litigation are distributed, to the fullest extent possible, in a manner designed either to further the purposes of the underlying class action or causes of action, or to promote justice for all Californians. The Legislature finds that the use of funds for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes.

(b) Except as provided in subdivision (c), before the entry of a judgment in a class action established pursuant to Section 382 that provides for the payment of money to members of the class, the court shall determine the total amount that will be payable to all class members if all class members are paid the amount to which they are entitled pursuant to the judgment. The court shall also set a date when the parties shall report to the court the total amount that was actually paid to the class members. After the report is received, the court shall amend the judgment to direct the defendant to pay the sum of the unpaid residue or unclaimed or abandoned class member funds, plus any interest that has accrued thereon, to nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent. The court shall ensure that the distribution of any unpaid residue or unclaimed or abandoned class member funds derived from multistate or national cases brought under California law shall provide substantial or commensurate benefit to California consumers. For purposes of this subdivision, “judgment” includes a consent judgment, decree, or settlement agreement that has been approved by the court.

(c) This section shall not apply to any class action brought against any public entity, as defined in Section 811.2 of the Government Code, or against any public employee, as defined in Section 811.4 of the Government Code. However, this section shall not be construed to abrogate any equitable cy pres remedy that may be available in any class action with regard to all or part of the cash residue or unclaimed or abandoned class member funds.

Cal Code Civ Proc § 384.5

If a judgment in a class action established pursuant to Section 382, including a consent judgment, decree, or settlement agreement that has been approved by a court, provides for a distribution of money or any other thing of value to a

person or entity that is not a party to the action, the court shall transmit a copy of the order, judgment, or decree to the Judicial Council. The order, judgment, or decree shall contain, at a minimum, the information necessary for the California Research Bureau to complete the report required by Section 68520 of the Government Code.