

Proposal 03-06
(P.R. 0113)
Filed by Various Petitioners with the Supreme Court of Illinois

New Rule 225. Class Actions

(a) Prerequisites. A court may find, pursuant to section 2-801(4) of the Code of Civil Procedure (735 ILCS 5/2-801(4)), that a class action is an appropriate method for the fair and efficient adjudication of a controversy, only if the court determines that the putative class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the superiority determination shall include: (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of a class action; and (E) the extent to which the claims are based on Illinois law and involve Illinois parties.

(b) Procedure.

(1) *Ruling on Class Certification.* In ruling on a motion for class certification, the court shall expressly address whether the movants have met their burden of establishing each requirement contained in section 2-801 of the Code of Civil Procedure (735 ILCS 5/2-801) and this rule, and shall specify the evidence, or lack of evidence, on which the court bases its decision regarding each factor. The court's ruling must be memorialized in an order or transcript. An order certifying a class action shall define the class and the class claims, issues, or defenses, and shall outline how the case will be tried so that conformance with the foregoing requirements may be meaningfully evaluated. The order may be conditional and may be amended before a decision on the merits.

Unless all parties agree otherwise, no order certifying a class shall be issued before the court decides any pending motions to dismiss or for judgment on the pleadings. The court shall decertify a class action upon a showing that an action has ceased to satisfy the applicable prerequisites for maintaining the case as a class action.

(2) Notice. For any class certified, in exercising its discretion under section 2-803 of the Code of Civil Procedure (735 ILCS 5/2-803) to order notice necessary to protect the interests of the class and the parties, the court shall direct to class members the best notice practicable under the circumstances, including individual notice to all class members who can be identified through reasonable effort. The notice shall concisely and clearly state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through counsel if the member so desires; (v) that the court will exclude from the class any member who requests exclusion, stating when and how members may elect to be excluded, and (vi) the binding effect of a class judgment on class members.

(3) Stay of Discovery. Except as required by Rule 191(b) or the interests of justice, upon motion of any party the court shall stay all discovery directed to the merits of the claims or defenses in the action until the court has decided whether to certify the class.