

From: Karolis Doniela
To: RulesCommittee Secretary
Subject: Suggestion for Rule 23 Amendment or Guidance Regarding Electronic Requests for Exclusion in Class Action Settlements
Date: Monday, May 18, 2026 11:04:09 AM

Dear Members of the Advisory Committee on Civil Rules,

I am writing as a frequent recipient of class action settlement notices to respectfully suggest that the Committee consider updating Rule 23 (or issuing guidance) to address the current asymmetry between electronic claim submission and the process for requesting exclusion (opting out).

In many recent class action settlements, class members can submit claim forms and additional information **entirely electronically** through online portals. However, when a class member wishes to exercise their right to opt out and be excluded from the settlement, they are often required to send a physical letter by mail. This creates an unnecessary burden: the person must print the letter, pay for postage, and ensure timely delivery by mail.

This imbalance is problematic for several reasons:

1. **Automatic inclusion by default** — Under Rule 23(b)(3), individuals are included in the class unless they affirmatively opt out, even if they never asked to participate or had no prior relationship with the litigation.
2. **Notice delivery problems** — Settlement administrators frequently send notices by email. A large percentage of these emails land in spam or junk folders, meaning many class members are unaware they are part of a class action and unaware of their right to opt out or file a claim.
3. **Unequal accessibility** — It is inconsistent to make participation (filing a claim) simple and electronic while making exclusion more difficult and costly. The right to opt out is a fundamental due process protection. Creating friction around exercising that right undermines the fairness of the process.
4. **Outdated in the digital age** — Rule 23 was amended in 2018 to explicitly allow electronic notice. Many settlements already use sophisticated online claim systems. It is reasonable to expect that requests for exclusion should also be permitted through the same or similarly convenient electronic means (such as a dedicated online form, email submission of a signed request, or verified portal) when the settlement administrator already has the class member's email address or other digital contact information.

I respectfully request that the Advisory Committee consider:

- Amending Rule 23(c)(2) or Rule 23(e) to require or strongly encourage that requests for exclusion be permitted by electronic means when the notice and claim processes are conducted electronically; or
- Issuing best practices or guidance for courts and settlement administrators that the method for requesting exclusion should be no more burdensome than the method for

submitting a claim.

Modernizing the opt-out process would improve access to justice, reduce the risk that class members unknowingly lose important rights due to spam filters or mailing requirements, and increase public confidence in class action procedures.

Thank you for your time and for the important work the Committee does in maintaining fair and effective civil rules. I would be happy to provide additional examples or participate in any public comment process or hearing on this issue.

Sincerely,

Karolis Doniela
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