

**KENTUCKY BAR ASSOCIATION  
KENTUCKY RULES OF CIVIL PROCEDURE**

**PARTIES**

**CR 23.03 Determination by order whether class action to be maintained; notice; judgment; actions conducted partially as class actions**

(1) At an early practicable time after a person sues or is sued as a class representative, the court must determine by order whether to certify the action as a class action.

(2) An order that certifies a class action must define the class and the class claims, issues, or defenses, and must appoint class counsel under CR 23.07.

(3) An order that grants or denies class certification may be altered or amended before final judgment.

(4) If an appeal is taken from the Certification Order, as authorized by CR 23.06, notice shall not be given until a final non-appealable order has decided the issue. If no appeal is taken the court, after 11 days from the entry of its Certification Order, shall give notice as follows:

(a) For any class certified under CR 23.02(a) or 23.02(b), the court may direct appropriate notice to the class.

(b) For any class certified under CR 23.02(c), the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely 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 an attorney if the member so desires;

(v) that the court will exclude from the class any member who requests exclusion by a specified date;

(vi) the time and manner for requesting exclusion; and

(vii) the binding effect of a class judgment, whether favorable or not, on members under CR 23.03.

(5) Whether or not favorable to the class, the judgment in a class action must:

(a) for any class certified under CR 23.02(a) or (b) include and describe those whom the court finds to be class members; and

(b) for any class certified under CR 23.02(c) include and specify or describe those to whom the CR 23.02(c) notice was directed, who have not requested exclusion, and whom the court finds to be class members.

(6) When appropriate, an action may be brought or maintained as a class action with respect to particular issues.

(7) When appropriate, a class may be divided into subclasses that are each treated as a class under this rule.

HISTORY: Amended by Order 2010-09, eff. 1-1-11; prior amendment eff. 1-1-78; adopted eff. 7-1-69