

5000.1100 CLASS ACTION SUITS.

Subpart 1. **Prerequisites.** With the permission of the charging party, the commissioner may sue on behalf of a class only if: there are questions of law or fact common to the class, and the claims of members of the class are of sufficient similarity that a fair hearing of them is possible in a class action, and the commissioner will fairly and adequately protect the interests of the class, and one of the following three conditions exists:

A. the prosecution of separate actions by the commissioner on behalf of individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

B. the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate relief that includes final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

C. the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: the interest of members of the class in individually affecting the prosecution of separate actions; the extent and nature of any litigation concerning the controversy already commenced by members of the class; the desirability or undesirability of concentrating the litigation of the claims in the administrative hearing; the difficulties likely to be encountered in the management of a class action.

Subp. 2. **Decision to maintain as class action.** After an action is brought as a class action, the administrative law judge shall determine by order whether it is to be so maintained. At the discretion of the administrative law judge, the order may be a part of the final order issued in accordance with Minnesota Statutes, section 363A.29. If the order is not part of the final order, it may be conditional and may be amended or altered before the decision on the merits.

Subp. 3. **Notice to members.** In any class action, before the hearing, the administrative law judge shall direct to the members or potential members of the class the best notice practicable under the circumstances. Notice shall be reasonably certain to inform those affected, or, where conditions do not reasonably permit the notice, the form of notice shall not be substantially less likely to give notice than other of the feasible and customary substitutes. If the complaint seeks compensatory relief, the notice shall advise each member that the member will be excluded from the class, with respect to monetary

relief, if the member so requests by a specified date, and the decision, whether favorable or not, will include all members who do not request exclusion.

Subp. 4. **Conduct of class action.** In the conduct of class actions, the administrative law judge may make appropriate orders: determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument; requiring a specific type of notice or other protections for the members of the class or for the fair conduct of the action; dealing with other procedural matters. The orders may be altered or amended as may be desirable from time to time, and they are not final decisions of the department.

Subp. 5. **Required approval.** A class action shall not be dismissed or compromised without the approval of the administrative law judge. Notice of the proposed dismissal or compromise shall be given to all members of the class in a manner as the panel or administrative law judge directs.

Subp. 6. **Order.** In a class action, the order issued in accordance with Minnesota Statutes, section 363A.29, whether or not favorable to the class, shall include and describe those persons who are members of the class. This order is a final decision of the department and is subject to judicial review.

Statutory Authority: *MS s 363.05; 363A.06*

History: *L 1984 c 640 s 32; 11 SR 740; 17 SR 1279*

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