

CIVIL PRACTICE AND REMEDIES CODE
TITLE 2. TRIAL, JUDGMENT, AND APPEAL
SUBTITLE B. TRIAL MATTERS
CHAPTER 26. CLASS ACTIONS

SUBCHAPTER A. SUPREME COURT RULES

Sec. 26.001. ADOPTION OF RULES BY SUPREME COURT. (a) The supreme court shall adopt rules to provide for the fair and efficient resolution of class actions.

(b) The supreme court shall adopt rules under this chapter on or before December 31, 2003.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 26.002. MANDATORY GUIDELINES. Rules adopted under Section 26.001 must comply with the mandatory guidelines established by this chapter.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 26.003. ATTORNEY'S FEES. (a) If an award of attorney's fees is available under applicable substantive law, the rules adopted under this chapter must provide that the trial court shall use the Lodestar method to calculate the amount of attorney's fees to be awarded class counsel. The rules may give the trial court discretion to increase or decrease the fee award calculated by using the Lodestar method by no more than four times based on specified factors.

(b) Rules adopted under this chapter must provide that in a class action, if any portion of the benefits recovered for the class are in the form of coupons or other noncash common benefits, the attorney's fees awarded in the action must be in cash and noncash amounts in the same proportion as the recovery for the class.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 1.01, eff. Sept. 1, 2003.

SUBCHAPTER B. CLASS ACTIONS INVOLVING JURISDICTION OF STATE AGENCY

Sec. 26.051. STATE AGENCY WITH EXCLUSIVE OR PRIMARY JURISDICTION. (a) Before hearing or deciding a motion to certify a class action, a trial court must hear and rule on all pending pleas to the jurisdiction asserting that an agency of this state has exclusive or primary jurisdiction of the action or a part of the action, or asserting that a party has failed to exhaust administrative remedies. The court's ruling must be reflected in a written order.

(b) If a plea to the jurisdiction described by Subsection (a) is denied and a class is subsequently certified, a person may, as part of an appeal of the order certifying the class action, obtain appellate review of the order denying the plea to the jurisdiction.

(c) This section does not alter or abrogate a person's right to appeal or pursue an original proceeding in an appellate court in regard to a trial court's order granting or denying a plea to the jurisdiction if the right exists under statutory or common law in effect at the time review is sought.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 1.01, eff. Sept. 1, 2003.