

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

ELLEN ALLICKS, et al., on behalf of )  
themselves and others similarly situated; )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
OMNI SPECIALTY PACKAGING, LLC, )  
O'REILLY AUTOMOTIVE STORES, INC., )  
d/b/a O'REILLY AUTO PARTS, and )  
OZARK AUTOMOTIVE )  
DISTRIBUTORS, INC. )  
 )  
Defendants. )

Case No.: 4:19-cv-1038-DGK

**ORDER REQUESTING SUPPLEMENTAL BRIEFING**

Now before the Court is the parties' Joint Motion to Approve the *Cy Pres* Distribution. ECF No. 47. The parties inform the Court that the settlement administrator has completed the settlement funds distribution process to the class, and that \$1,322,024.38 out of the \$8,601,361.10 set aside for class distributions and settlement administration costs remains for distribution to the designated *cy pres* recipient, Legal Aid of Western Missouri ("Legal Aid"). *Id.* The parties briefly outline of the class distribution process, and then request that the Court distribute the remainder to Legal Aid. *Id.*

The parties have not provided the Court with enough information and analysis for it to rule upon the motion. Before approving *cy pres* distributions, the Court applies a rigorous standard to ensure that no further distributions to the class are feasible and/or warranted and, if further distributions are not feasible and/or warranted, that the proposed *cy pres* recipient is the most appropriate under the circumstances. *See In re BankAmerica Corp. Secs. Litig.*, 775 F.3d 1060, 1063–67 (8th Cir. 2015) (outlining the standard that applies for approval of *cy pres* distributions);

*see also Jones v. Monsanto Co.*, 38 F.4th 693, 698–99 (8th Cir. 2022). The parties do not cite this standard, much less analyze how it is satisfied here. The Court must have more information and analysis before it can rule upon the motion.

By requesting supplemental briefing, the Court is not signaling that Legal Aid is not a worthy recipient in these circumstances. The Court is simply ruling that, on the current record, the parties have not provided a sufficient basis for the Court to determine that the *cy pres* distribution standard has been met. Accordingly, the parties are ORDERED to provide a supplemental brief applying *BankAmerica* as well as other controlling Eighth Case caselaw to demonstrate that the *cy pres* distribution standard has been met. The parties shall file their brief on or before December 16, 2022, and it shall not exceed ten double-spaced pages. The Court will then promptly rule upon their pending motion.

**IT IS SO ORDERED.**

Dated: December 5, 2022

/s/ Greg Kays  
GREG KAYS, JUDGE  
UNITED STATES DISTRICT COURT