Hon. Michael A. Toto, A.J.S.C.
Middlesex County Superior Court
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TOMAS VERA, JOEL VELEZ, MARGARET KENNEDY, DONNA ZIELINSKI, MICHAEL ZIELINSKI, MARCO L. NEAD, and RENEE WILLIAMS, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

MIDDLESEX WATER COMPANY,

Defendant,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

DOCKET NO. MID-L-6306-21

Civil Action

ORDER AND MEMORANDUM OF LAW

THIS MATTER having been brought before the Court by Plaintiffs seeking class certification pursuant to R. 4:32; and based upon the submissions and arguments of the parties; and for good cause shown;

IT IS ON THIS 21ST DAY OF APRIL 2022, ORDERED that this matter meets the requirements of Class Certification under Rule 4:32 and therefore Plaintiff's motion is **GRANTED**, with the Court certifying the following classes and sub-classes:

1. A main class (hereafter the "Attachment A Class") is hereby certified under R. 4:32-1(b)(2) defined as:

   All New Jersey citizens to whom Defendant sent a form notice which was identical or substantially similar to Attachment A.

2. A main class (hereafter the "Attachment B Class") is hereby certified under R. 4:32-1(b)(2) defined as:

All New Jersey citizens to whom Defendant sent a form notice which was identical or substantially similar to Attachment B.

3. A sub-class (hereafter "the Specified Conditions Sub-Class") is hereby certified under R. 4:32-1(b)(2) defined as:

All New Jersey citizens who are members of either the Attachment A Class or the Attachment B Class: who at the time of the notice had "specific health concerns, a severely compromised immune system, have an infant, are pregnant, or are elderly," as those terms are used in the Notices, and who have incurred or will incur medical expenses as a result of following the directive issued by Defendant in the form notice that directed such persons to seek advice from their health care provider.

4. A sub-class (hereafter "the Infant Bottled Water Sub-Class") is hereby certified under R. 4:32-1(b)(2) defined as:

All New Jersey citizens who are members of either the Attachment A Class or the Attachment B Class who at the time of the notice had an infant, as that term is used in the Notices.

5. A main class (hereafter the "No Notice Class") is hereby certified under R. 4:32- 1(b)(2) defined as:

All New Jersey citizens whose domestic water supply is provided by Middlesex Water Company who have not yet been sent notice by Defendant of the PFOA violation described in the Attachment A and/or Attachment B form notices.

IT IS FURTHER ORDERED that the Court also hereby appoints Stephen P. DeNittis and Joseph A. Osefchen of the law firm of DeNittis Osefchen Prince, P.C. and Michael Galpern of the law firm of Javerbaum, Wurgaft, Hicks, Kahn Wikstrom & Simms, P.C. as co-counsel to the class.

Hon. Michael A. Toto, A.J.S.C.

Vera et al. v. Middlesex Water Company,
MID-L-6306-21

MEMORANDUM

FACTS AND PROCEDURAL HISTORY

This is a class action lawsuit filed on behalf of a class of New Jersey Citizens who receive their water from Defendant Middlesex Water Company. On October 22 and November 8, 2021, Defendant sent two notices to its customers advising them that their water has levels of Perfluorooctanoic Acid (PFOA) above drinking water standards.

Perfluoroalkyl substances (PFAS) are a group of man-made chemicals that include Perfluorooctane Sulfonate (PFOS) and Perfluorooctanoic Acid (PFOA). PFOA, which is the chemical at issue in this matter, resists heat, oil, stains, grease, and water, and can remain in the human body for long periods of time. Although the CDC claims the human health effects from exposure to PFOA are unknown, the EPA reports that exposure over certain levels may result in adverse health effects such as developmental effects to fetuses or breastfed infants, cancer, liver effects, immune effects, thyroid effects, and other effects such as cholesterol changes. In May 2016, the EPA issued a notice that set the lifetime health advisory for PFOA at 0.07 µg/L, or 70 parts per trillion. This health advisory is not a regulation. In 2020, the New Jersey Department of Environmental Protection ("DEP") adopted a maximum contaminant level ("MCL") for PFOA in drinking water at 0.014 µg/L, or 14 parts per trillion, with monitoring for such beginning in the first quarter of 2021. N.J.A.C. 7:10-5.2 (a) (5) (ii).

Both notices that Defendant sent to its customers on October 22 and November 8, 2021, admitted that the MCL for PFOA in New Jersey is 14 parts per trillion (ppt), and that a sample of Defendant's system collected on August 2, 2021 found PFOA at 36.1 ppt. The notices explained that "[p]eople who drink water containing PFOA in excess of the MCL over time could experience problems with their blood serum cholesterol levels, liver, kidney, immune system, or, in males, the reproductive system." Pff. Attachments A, B. The noticed further explained that drinking water containing PFOA in excess of the MCL over time could also increase the risk of testicular and kidney cancer, and for females, could cause developmental delays in a fetus or infant which may persist through childhood. Id. Defendant advised that if customers had "specific health concerns, a severely compromised immune system, have an infant, are pregnant, or are elderly, [they] may be at higher risk than other individuals and should seek advice from [their] health care providers about drinking this water." Id. Further, Defendant recommended installing a home water filter to reduce levels of PFOA in the tap water or use bottled water for drinking, cooking, or preparing beverages for infants. Id.

Defendant is currently constructing a new plant that will allow them to bring the PFOA levels into compliance permanently, but that new plant will not be complete until mid-2023. Defendant specified that their water for the affected areas came from three sources, only one of

which is contaminated with an above-MCL level of PFOA. These three sources include the Park Avenue Plant, which accounts for 25% of the water and has above-MCL levels of PFOA; a surface water plant that accounts for 70% of the water and has single-digit ppt PFOA levels below the MCL; and the remainder of the water is provided by New Jersey American Water, also with single-digit ppt PFOA levels below the MCL.

On November 9, 2021 Defendant shut down the Park Avenue Wellfield, which was the source of the PFOA contamination. On December 22, 2021, this Court signed an Order in which the parties stipulated that Defendant does not intend to activate or operate the Park Avenue wellfields before the completion of the remediation efforts unless (1) the New Jersey Department of Environment Protection (NJDEP) requires Defendant to operate the wellfield, or (2) Defendant in its sole judgment determines that activation of the Park Avenue wellfields is "necessary for public health, adequacy of supply, or any other reason determined by Middlesex that necessitates doing so for it to provide safe and reliable drinking water service in accordance with applicable New Jersey and federal law."

In the background of this matter is Defendant's own suit against 3M Company in the U.S. District Court for the District of New Jersey. In that suit, Defendant alleges 3M Company is the polluter who put PFOA in the ground water supply. There, Defendant is seeking to recoup from 3M wellfield remediation costs for the construction of their new plant.

Plaintiffs filed suit against Defendant on October 29, 2021, and amended their complaint on November 18, 2021. There initially was a motion for an Order to Show Cause with temporary restraints and injunctive relief filed November 18, 2021. On the same date, Plaintiffs also filed their motion to certify class. The consent order filed on December 22, 2021 settled the motion for temporary restraints and adjourned the motion to certify class.

Count One of Plaintiff's complaint claims that under the principles of general equity, Defendant is required to reimburse Plaintiffs and relevant class members for costs incurred from the two written notices. Count Two seeks injunctive and equitable relief in the form of an order requiring Defendant to pay restitution to Plaintiffs for all out-of-pocket costs because of the notices. Count Two also seeks injunctive and equitable relief in an order establishing a court supervised and medically appropriate program of medical monitoring and testing at Defendant's expense. Further, Count Two seeks an order for injunctive relief requiring Defendant to conduct a program designed to provide notice of the dangers to Middlesex Water Company customers. Count Three seeks to equitably estop Defendant from denying the accuracy of the statements made in the two notices. Count Four is a negligence claim that Defendant breached a duty owed to Plaintiffs. Finally, Count Five claims Defendant was unjustly enriched by not paying the costs of medical evaluation, medical advice, bottled water, and water filters for their affected customers.

On February 14, 2022, this Court signed and filed a consent order setting a briefing schedule for Plaintiffs' motion to certify class. Defendant filed an opposition to the motion to

certify class on March 24, 2022, and Plaintiffs filed a reply on April 1, 2022. Oral argument was held April 14, 2022.

PLAINTIFFS/MOVANTS' REQUESTED RELIEF

Plaintiffs ask this Court to certify the following classes and sub-classes:

1. A main class (hereafter the "Attachment A Class") defined as: All New Jersey citizens to whom Defendant sent a form notice which was identical or substantially similar to Attachment A.

2. A main class (hereafter the "Attachment B Class") defined as: All New Jersey citizens to whom Defendant sent a form notice which was identical or substantially similar to Attachment B.

3. A sub-class (hereafter "the Specified Conditions Sub-Class") defined as: All New Jersey citizens who are members of either the Attachment A Class or the Attachment B Class: who at the time of the notice had "specific health concerns, a severely compromised immune system, have an infant, are pregnant, or are elderly," as those terms are used in the Notices, and who have incurred or will incur medical expenses as a result of following the directive issued by Defendant in the form notice that directed such persons to seek advice from their health care provider.

4. A sub-class (hereafter "the Infant Bottled Water Sub-Class") defined as: All New Jersey citizens who are members of either the Attachment A Class or the Attachment B Class who at the time of the notice had an infant, as that term is used in the Notices.

5. A main class (hereafter the "No Notice Class") defined as: All New Jersey citizens whose domestic water supply is provided by Middlesex Water Company who have not yet been sent notice by Defendant of the PFOA violation described in the Attachment A and/or Attachment B form notices.

PLAINTIFFS' ARGUMENT

Plaintiffs argue that overall, New Jersey law strongly favors class certification, unless there is a clear showing that class certification would be improper. Further, Plaintiffs allege that the prerequisites of class certification under R. 4:32-1(a), including numerosity, commonality, typicality, and adequacy of representation, are met here for all proposed classes and sub-classes. Plaintiffs claim the numerosity requirement is satisfied for all classes because Defendant serves as many as 300,000 residents, where the numerosity requirement is typically met over 40 members. As to commonality, Plaintiffs claim that while the situations of certain class members differ slightly, they all share many common questions of law and fact for this Court to consider. Plaintiffs

emphasize that the typicality requirement is not demanding, and even so, the class representatives' claims here arise from the same course of conduct that gave rise to the claims of other class members—that course of conduct being the written admissions of Defendant included in the two notices. Additionally, Plaintiffs argue that pursuant to R. 4:32-1(a)(4), the named plaintiffs and plaintiffs' counsel are able to fairly and adequately protect the interests of the class without any conflicts of interest. Plaintiffs' proposed class counsel have collectively lead or co-lead over 300 certified class actions and are otherwise substantially involved with and aware of developing class action law.

Plaintiffs go on to argue that the further requirements of R. 4:32-1(b) are met because under R. 4:32-1(b)(2), injunctive or declaratory relief is one of the primary goals of the case at bar, and that relief would benefit the entire class. Alternatively, the Plaintiffs argue that the class should be certified under R. 4:32-1(b)(4) because (1) common questions of law or fact predominate over individual issues, and (2) a class action is the superior method to decide the issues before this Court. Alternatively, Plaintiffs also argue that the requirements of R. 4:32-1(b)(1)(A) are also met because the prosecution of separate actions by class members would create a risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for the Defendant.

DEFENDANT'S ARUGMENT

Defendant does not contest that Plaintiffs satisfy numerosity, commonality, typicality, and adequacy of representation for their proposed classes and sub-classes. Defendant only argues that Plaintiffs' motion fails to satisfy any of the further requirements for class certification pursuant to R. 4:32-1(b). Defendant claims that the proposed classes fail under R. 4:32-1(b)(3) because common issues of law and fact do not predominate over individual issues of the class members. Defendant further claims that class certification under R. 4:32-1(b)(2) is improper because each of Plaintiffs' claims for injunctive relief are either moot or without merit. Finally, Defendant argues that the proposed classes cannot be maintained under R. 4:32-1(b)(1)(A) because there are many individualized issues at play in the case. Defendant also emphasizes that subpart (A) is designed to protect the party opposing the class action, and it is not applicable when it has not been asserted by the defendants.

PLAINTIFFS' REPLY

In reply, Plaintiffs point out that Defendant concedes that the four prerequisites of class certification under R. 4:32-1(a) are all met. As to R. 4:32-1(b)(3), Plaintiffs argue that Defendant ignores the rule itself by misconstruing the "predominance" requirement. Plaintiffs point to a similar Superior Court case from Camden County last year, in which nearly identical proposed classes were certified after class members were sent a form notice about the quality of their drinking water. Contrary to Defendant's argument, Plaintiffs claim that the need for individual damage calculations does not defeat the appropriateness of class certification when questions of liability predominate.

Plaintiffs counter Defendant's arguments as to R. 4:32-1(b)(2) by asserting Defendant improperly seeks to defeat class certification based on the merits of the complaint. Moreover, Plaintiffs claim that even if Defendant was able to defeat class certification by attacking the merits of the complaint, Defendant would still be incorrect that the proposed classes do not need the requested injunctive relief. Plaintiffs do not make any comment in reply to Defendant's arguments as to Rule 4:32-1(b)(1)(A).

ANALYSIS

New Jersey Court Rule 4:32-1 establishes the requirements for maintaining a class actions. While Rule 4:32-1(a) lays out the general prerequisites, Rule 4:32-1(b) explains how a class action can be maintained in one of three ways. Defendant here does not contest that Plaintiffs satisfy the four pre-requisites, but instead argues that Plaintiffs do not satisfy any of the three further requirements under subsection (b).

The New Jersey class action rule "helps to equalize adversaries, a purpose that is even more compelling when the proposed class consists of people with small claims." Iliadis v. Wal-Mart Stores, Inc., 191 N.J. 88, 104 (2007). New Jersey Courts have held that the class action rule "should be liberally construed." Id., at 103 (quoting Delgozzo v. Kenny, 266 N.J. Super 169, 179 (App Div. 1993)). Specifically, a class action "should lie unless it is clearly infeasible." Iliadis, 191 N.J. at 103-104 (quoting Riley v. New Rapids Carpet Center, 61 N.J. 218, 225 (1972)). At the class certification stage of litigation, the Court must "accept as true the allegations asserted in plaintiff's complaint" and "view the pleadings in a light most favorable to plaintiff." Lee v. Carter-Reed Co., L.L.C., 203 N.J. 496, 505 (2010). Generally, "the merits of a complaint are not involved in the determination as to whether a class action may be maintained, unless of course the allegations are patently frivolous." Olive v. Graceland Sales Corp., 61 N.J. 182, 189 (1972).

1. Pre-requisites of Rule 4:32-1(a)

A Court may certify a class only if:

> (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

R. 4:32-1(a). Defendant does not dispute that Plaintiffs have satisfied all four of these requirements. Nonetheless, this Court briefly analyze each one to assure that they are fulfilled for all proposed classes and sub-classes.

a. Numerosity

Rule 4:32-1(a) does not mention a specific number of class members that satisfies the numerosity requirement. Likewise, New Jersey Courts "frequently describe the numerosity requirement without numerical precision." Baskin v. P.C. Richard & Son, LLLC, 246 N.J. 157, 173-74 (2021). Courts have, however, looked to federal jurisprudence surrounding F.R.C.P. 23(a), which served as the model for Rule 4:32-1. In re Cadillac V8-6-4 Class Action, 93 N.J. 412, 424-25 (1983). In that respect, "classes of 20 are too small, classes of 20-40 may or may not be big enough depending on the circumstances of each case, and classes of 40 or more are numerous enough." Baskin, 246 N.J. at 174 (quoting In re Toys "R" Us, 300 F.R.D. 347, 367-68 (C.D. Cal. 1988)).

In terms of numerosity, Courts do not require that every class member be ascertainable before certification be permitted. Daniels v. Hollister Co., 440 N.J. Super. 359, 365 (App. Div. 2015). Instead, the class must only be "properly defined" such that it will be "administratively feasible" to determine if an individual is a member of the class. Iliadis, 191 N.J. at 106, n.2.

The three proposed classes and two proposed sub-classes here are adequately numerous. Plaintiff's Attachment E includes Defendant's Corporate Sustainability Report from 2018-2019, in which Defendant claims to serve a population of over 300,000 in Middlesex County. Pff. Att. E. Defendant does not contest this information. The Attachment A Class would include customers in Edison, Metuchen, Woodbridge, and Rahway, while the Attachment B Class would include customers from South Plainfield, Clark, Edison, Metuchen, Woodbridge, and Carteret. The Specified Conditions Sub-Class and the Infant Bottled Water Sub-Class would include individuals in any of these townships that either have specific health conditions or have an infant. Finally, the No-Notice Class would include anyone in these townships that reside in apartment complexes, elderly homes, etc., who would not have received the notice directly. While these classes represent only fractions of Defendant's total customer base, it is easy to speculate that each class or sub-class would have thousands of members. Further, while not currently ascertainable, each class is properly defined such that class members could be identified. Thus, the three Classes and two Sub-classes satisfy the numerosity requirement of Rule 4:32-1(a)(1)

b. Commonality

A proposed class satisfies Rule 4:32-1(a) if there are "questions of law or fact common to the class." R. 4:32-1(a)(2). It is not necessary that "*all* questions of fact or law raised be common," but instead "a single common question is sufficient." West Morris Pediatrics, P.A. v. Henry Schein, Inc., 385 N.J. Super. 581, 600 (Law Div. 2004) (quoting Delgozzo v. Kenny, 266 N.J. Super. 169, 185 (Law Div. 1993)). However, "simply alleging the same theory of recovery for all class members does not guarantee the existence of legal or factual commonality." West Morris Pediatrics, 385 N.J. Super. at 600.

Here, Plaintiffs explain that the claims of the Attachment A Class, the Attachment B Class, the Infant Bottled Water Sub-Class and the Specified Conditions Sub-Class all arose from the factual admissions in the two form notices. The claims of the No Notice Class all arise from a lack of notice from Defendant. Plaintiffs list a series of questions that are common to all class members, including (1) whether Defendant is legally bound by or equitably estopped from denying the admissions made in the two Notices, as to the applicable PFOA standard and that there was a violation of that standard; (2) whether law or equity requires Defendant to deliver water to class members that meets PFOA requirements, and (3) whether the PFOA violation necessitates a Court-administered program of injunctive and equitable relief of medical monitoring. The Infant Bottled Water Sub-Class also has the common question of whether it is entitled to a class-wide order for injunctive relief. Further, the No Notice Class poses the common question of whether Defendant owed a legal or equitable duty to provide reasonable notice of the violation to persons not directly billed for Defendant's water. Defendant does not contest that there exists common questions of law or fact within each class. Thus, the proposed classes satisfy the commonality requirement of 4:32-1(a)(2).

c. Typicality

A proposed class satisfies the typicality requirement if its claims "have the essential characteristics common to the claims of the class." In re Cadillac, 93 N.J. at 425. The typicality requirement is "not highly demanding," as the claims need only "share the same essential characteristics" and "need not be identical." Laufer v. U.S. Life Ins. Co. in City of N.Y., 385 N.J. Super. 172, 180 (App. Div. 2006) (quoting 5 James W. Moore et al., Moore's Federal Practice § 23.24[4] (3d ed. 1997)). As referenced in Laufer, a proposed class "usually satisfy[ies] the typicality requirement irrespective of the varying fact patterns underlying the individual claims" when the claims challenge the "same unlawful conduct which affects both the named plaintiffs and the putative class." Baby Neal v. Casey, 43 F.3d 48, 58 (3d Cir. 1994).

Here, the claims of Plaintiffs and the proposed class members all arise out of Defendant providing customers with water out of compliance with the PFOA standards. Plaintiffs seek the same relief as the rest of the prospective class members. Without opposition from Defendant, the classes and sub-classes satisfy the typicality requirement of Rule 4:32-1(a)(3).

d. Adequacy of Representation

The final pre-requisite for class action certification is that "the representative parties will fairly and adequately protect the interests of the class." R. 4:32-1(a)(4). This includes both the named representatives and the class counsel. Laufer, 385 N.J. Super. at 181. The class counsel must be "qualified, experienced, and generally able to conduct the proposed litigation," while the named Plaintiffs "must not have interest antagonistic to those of the class." Delgozzo, 266 N.J. Super. at 188 (quoting In re Asbestos School Litigation, 104 F.R.D. 422, 430 (E.D. Pa. 1984)).

The defendant "bears the burden of demonstrating that the proposed representation will be adequate." Id.

Here, Plaintiffs explain that the named Plaintiffs have no conflict of interest with the proposes classes and sub-classes. Plaintiffs have not brought any individual claims, and instead seek the same relief as their respective classes. Further, Plaintiffs lay out the extensive experience of class counsel, specifically within the realm of class action litigation. Attorneys Stephen P. DeNittis, Joseph A. Osefchen, and Michael Galpern are all experienced and competent counsel. Defendant has not opposed the adequacy of either the named plaintiffs or the class counsel. Thus, the proposed classes and sub-classes satisfy the last pre-requisite under Rule 4:32-1(a).

2. Additional Requirements of Rule 4:32-1(b)

In addition to all four pre-requisites to class certification under Rule 4:32-1(a), a proposed class must also meet one of the three requirements set forth in Rule 4:32-1(b). Plaintiffs primarily argue that the proposed classes here should be maintained under Rule 4:32-1(b)(2). Alternatively, Plaintiffs argue the class should be maintained under Rule 4:32-1(b)(3) or Rule 4:32-1(b)(1)(A), respectively. Defendant argues that Plaintiffs' proposed classes fail under all three of these alternatives.

a. Rule 4:32-1(b)(2)

A class action may be maintained if "the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole." R. 4:32-1(b)(2). The Appellate Division has looked to federal jurisprudence on this topic "given the federal counterpart for guidance." Laufer, 385 N.J. Super. at 183 (quoting Delgozzo, 266 N.J. Super at 188.). The requirement of Rule 4:32-1(b)(2) "is almost automatically satisfied in actions primarily seeking injunctive relief." Neal v. Casey, 43 F.3d 48, 58 (3d Cir. 1994). Generally, "what is important is that the relief sought by the named plaintiffs should benefit the entire class." Id. at 59. To obtain class certification under (b)(2), "(1) the relief sought must be injunctive; and (2) the defendant 'must have acted in a consistent manner towards members of the class so that its actions may be viewed as a pattern of activity.'" Goasdone v. American Cyanamid Corp., 354 N.J. Super. 519, 531 (Law Div. 2002) (quoting Dhamer v. Bristol-Myers Squibb Co., 183 F.R.D. 520, 527-28 (N.D. Ill. 1998)). In that respect, "[a] (b)(2) class must be cohesive in order to meet the requirement that the defendant has acted or refused to act on grounds generally applicable to the class." Goasdone, 354 N.J. Super. at 533. Further, a (b)(2) class certification is not proper if "the relief sought is entirely or predominately damages," or if it includes a medical monitoring claim that is incidental to monetary damages." Id. at 531-32.

Plaintiffs here argues that certification under (b)(2) is proper because the prospective classes seek primarily injunctive relief. Defendant argues that there are many individual issues

that make class certification here improper, and that it would be unfair to bind absent class members to a (b)(2) action. Further, Defendant claims that the primary injunctive relief Plaintiffs seek is moot because Defendant already stopped providing water from the contaminated Park Avenue Wellfield. Defendant goes on to attack the merits of the complaint, which is not warranted at this stage of litigation. In reply, Plaintiffs argue that the primary injunctive relief it seeks—namely, an order barring Defendant from selling drinking water to the class in the future in violation of the New Jersey PFOA standards—is not moot. Specifically, Plaintiffs emphasize that the consent order entered in December still allows Defendant to turn on the contaminated wellfield based on Defendant's sole judgment or any other reason Defendant deems fit.

Boiling the claim down to its core, Plaintiffs are primarily seeking injunctive relief and medical monitoring, as well as other monetary damages. Further, Defendant "acted in a consistent manner towards members of the class" by addressing them all either in a form notice or not at all. This Court need not grapple with the merits of Plaintiff's claims beyond finding that its requests for injunctive relief are not frivolous. It does not seem that the injunctive relief or medical monitoring claims are incidental to monetary damages, but rather that monetary damages are incidental to the requested equitable relief. Thus, this court maintains the class action for all classes and sub-classes under Rule 4:32-1(b)(2).

As a result, this Court need not explore the alternatives in Rule 4:32-1(b)(1)(A) or Rule 4:32-1(b)(3).

Accordingly, this Court certifies the Attachment A Class, Attachment B Class, Specified Conditions Sub-Class, Infant Bottled Water Sub-Class, and No-Notice Class. The Court maintains these classes under Rule 4:32-1(b)(2).