

GURBIR S. GREWAL
 ATTORNEY GENERAL OF NEW JERSEY
 Richard J. Hughes Justice Complex
 25 Market Street
 P.O. Box 093
 Trenton, N.J. 08625-0093
 Attorney for Plaintiff

By: Mark S. Heinzelmänn
 Deputy Attorney General (900982012)
 (609) 984-5016
 mark.heinzelmänn@law.njoag.gov

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION - ESSEX COUNTY
 DOCKET NO.

<hr/>		:	
NEW JERSEY SCHOOLS DEVELOPMENT	:		
AUTHORITY (corporate successor to	:		
New Jersey Schools Construction	:		<u>Civil Action</u>
Corporation),	:		
	:		
Plaintiff,	:		COMPLAINT
	:		
v.	:		
	:		
CHIQUITA BRANDS INTERNATIONAL,	:		
SÀRL; CHARTER MANUFACTURING	:		
COMPANY, INC.; RUGGIERO SEAFOOD,	:		
INC.; "ABC CORPORATIONS" 1	:		
through 10 (Names Fictitious);	:		
and "JOHN DOES" 1 through 10	:		
(Names Fictitious),	:		
	:		
Defendants	:		
<hr/>		:	

Plaintiff New Jersey Schools Development Authority
 ("Plaintiff" or "SDA"), having its principal offices at 32 East
 Front Street in the City of Trenton, County of Mercer, State of
 New Jersey, by way of Complaint against the Defendants, says:

STATEMENT OF THE CASE

1. SDA brings this civil action pursuant to the Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, and the common law, for reimbursement of the costs and damages it has incurred, and will incur, as a result of the discharges of hazardous substances at the Newark-South Street Elementary School site located in the City of Newark, Essex County (as more fully described in Paragraphs 22-23), and for such other relief as this court deems just and proper.

2. For more than a century, National Lock Washer Company, Inc. ("National Lock Washer") operated a manufacturing facility in the Ironbound District of Newark, New Jersey, which resulted in discharges of petroleum and other hazardous substances into the soil and groundwater. Neither National Lock Washer nor any of its successors cleaned up the site. The site was later purchased by Ruggiero Seafood, Inc. ("Ruggiero"), and in 2004, the SDA acquired the site as the location of a new school. SDA then undertook massive remediation efforts, which included the complete excavation and disposal of contaminated soils and other debris to an average depth of 13-feet. It excavated about 60,000 tons of contaminated soil and replaced it with clean structural fill. It also de-watered, removed and treated 10.59 million gallons of

groundwater and took other protective measures. The SDA's efforts, designed and performed to ensure the safety of the future occupants of the site, were completed at substantial cost to the SDA. The SDA now seeks to recover those costs.

THE PARTIES

3. SDA is a public body corporate and politic of the New Jersey state government, and is the corporate successor to the New Jersey Schools Construction Corporation.

4. As a public body corporate and politic, established in, but not of, the New Jersey Department of the Treasury, formed in accordance with N.J.S.A. 52:18A-237, et seq., and N.J.S.A. 18A:7G-45 through -48, with amendments, SDA is vested with all powers and responsibilities contained in those statutes and the authority to implement the "Educational Facilities Construction and Financing Act," N.J.S.A. 18A:7G-1 to 44.

5. SDA is authorized to acquire lands, or rights therein, that it may determine are reasonably necessary for any project, by purchase or otherwise, or by condemnation in the manner provided in N.J.S.A. 20:3-1 to -50 and N.J.S.A. 52:18A-238.

6. SDA, as a state governmental entity, maintains a defense to liability under the Spill Act for all cleanup and removal costs for pre-existing contamination at a property it acquires through eminent domain, condemnation, or by any means for the purpose of

promoting the redevelopment of that property. N.J.S.A. 58:10-23.11g(d) (4) .

7. Defendant Charter Manufacturing Company, Inc. ("Charter") and/or Defendant Chiquita Brands International Sàrl ("Chiquita") are the corporate successors to National Lock Washer, a corporation formerly organized, existing, and doing business under the laws of the State of New Jersey.

8. Charter is a corporation organized and existing under the laws of the State of Wisconsin, with a principal place of business at 1212 West Glen Oaks Lane, Mequon, Wisconsin 53092.

9. In 1968, Charter Wire, Inc., a predecessor to Charter, acquired National Lock Washer from the American Seal-Kap Corporation of Delaware, later renamed "AMK Corporation," which had itself acquired all rights to and merged with National Lock Washer on approximately June 30, 1956, American Seal-Kap Corporation surviving.

10. In 1970, Charter Wire, Inc., merged with National Lock Washer, as well as several of its other subsidiaries, to form Charter.

11. As a result of its acquisition of and later merger with National Lock Washer, Charter is, through operation of law, a corporate successor to National Lock Washer and all of its

liabilities arising out of the discharges of hazardous substances at the Newark-South Street Elementary School site.

12. Chiquita is an international corporation with headquarters in Switzerland and with subsidiaries organized and existing under the laws of the State of Delaware and doing business in the State of New Jersey.

13. Chiquita is the corporate successor to United Fruit Company, later renamed United Brands Company.

14. On about June 30, 1970, AMK Corporation merged into United Fruit Company.

15. In 1984, United Brands Company, formerly United Fruit Company, underwent a corporate change of name, becoming Chiquita.

16. As a result of its merger with AMK Corporation, formerly known as American Seal-Kap Corporation of Delaware, which had itself merged with National Lock Washer in 1956, Chiquita is, through operation of law, a corporate successor to National Lock Washer and all of its liabilities arising out of the discharges of hazardous substances at the Newark-South Street Elementary School site.

17. Defendant Ruggiero is a corporation organized and existing under the laws of the State of New Jersey, with a principal place of business at 474 Wilson Avenue, Newark, New Jersey 07105.

18. Defendants "ABC Corporations" 1 through 5, these names being fictitious, are entities with identities that cannot be ascertained or confirmed as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, tenants of, or are otherwise related to the named defendants.

19. Defendants "ABC Corporations" 6 through 10, these names being fictitious, are entities with identities that cannot be ascertained and/or whose continued existence cannot be confirmed as of the filing of this complaint that are dischargers or in any way responsible for the discharges of hazardous substances at the Newark-South Street Elementary School site.

20. Defendants "John Does" 1 through 5, these names being fictitious, are individuals who owned businesses that are dischargers or in any way responsible for the discharges of hazardous substances at the Newark-South Street Elementary School site with identities that cannot be ascertained or confirmed as of the filing of this Complaint.

21. Defendants "John Does" 6 through 10, these names being fictitious, are individuals who are dischargers or in any way responsible for the discharges of hazardous substances at the Newark-South Street Elementary School site, with identities that cannot be ascertained as of the filing of this Complaint.

SITE HISTORY

22. The Newark-South Street Elementary School site consists of approximately 1.81 acres of real property located at 146-162 Pennington Street, Newark, Essex County, being also known as Block 929, Lot 1, on the Tax Map of the City of Newark ("Property"), and all other areas where any hazardous substances discharged there have come to be located ("Site"), with the exception of the McWhorter Street Properties, discussed below.

23. As part of the Newark-South Street Elementary School project, SDA also acquired 0.77 acres of real property located at 241-253 McWhorter Street, Newark, Essex County, being also known and designated as Block 922, Lots 1, 2, & 3, on the Tax Map of the City of Newark ("McWhorter Street Properties"). As the McWhorter Street Properties, and any hazardous substances that may be located there, are separate and apart from the Site, they are not addressed further in this Complaint. To the extent it is required, SDA reserves any and all rights available to it related to the remediation of the contamination at the McWhorter Properties.

24. National Lock Washer, or a corporate variation thereof, owned and/or operated at the Property from approximately 1892 until October 1979, during which time "hazardous substances," as defined in N.J.S.A. 58:10-23.11b, were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b, which substances included

petroleum, chlorinated volatile organic compounds ("CVOCs"), tetrachloroethylene ("PCE"), trichloroethylene ("TCE"), cis-1,2-dichloroethene ("cis-1,2-DCE"), vinyl chloride and metals.

25. National Lock Washer's operations included all aspects related to the manufacture of lock washers, nut locks, and numerous other metal products.

26. After its acquisition of National Lock Washer in approximately 1968, Charter continued National Lock Washer's operations at the Property.

27. Hardwick and Hindle Inc., a subsidiary of National Lock Washer, occupied a four-story building located at the Property during National Lock Washer's operations, where Hardwick and Hindle, Inc. manufactured rheostats (a variable resistor used to control the flow of electric currents).

28. In 1979, Ironbound Housing Associates and Louis M. Turcom acquired the Property.

29. Ironbound Housing Associates and Louis M. Turcom owned the Property until approximately February 1985; during their ownership, they razed the buildings that formerly housed National Lock Washer's manufacturing operations.

30. In approximately February 1985, Ruggiero purchased the Property from Ironbound Housing Associates and Louis M. Turcom, at which time the Property was the location of soil and groundwater

contamination of various hazardous substances, including petroleum, CVOCs, PCE, TCE, cis-1,2,-DCE, vinyl chloride, and metals.

31. Ruggiero constructed a one-story corrugated steel building at the Property, which included a raised floor slab and loading dock, directly on top of the foundations and construction debris from National Lock Washer's operations and the hazardous substances existing there.

32. Ruggiero operated a squid processing facility at the Property until approximately November 2004.

33. Defendants ABC Corporations 1-10 and/or John Does 1-10 contributed to the contamination present at the Property and/or owned, leased, or operated at the Property at the time that "hazardous substances," as defined in N.J.S.A. 58:10-23.11b, were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b.

34. Defendants Charter, Chiquita, Ruggiero, the ABC Corporations 1-10, and the John Does 1-10 discharged hazardous substances at the Property within the meaning of N.J.S.A. 58:10-23.11b and/or are "in any way responsible" for the discharged hazardous substances pursuant to N.J.S.A. 58:10-23.11g(c).

GENERAL ALLEGATIONS

35. In 2002, prior its acquisition, SDA retained JCA Associates, Inc. ("JCA") to perform a preliminary assessment at

the Property pursuant to N.J.S.A. 58:10-23.11f and N.J.A.C. 7:26E; JCA uncovered historic fill and petroleum hydrocarbon and volatile organic compound ("VOC") discharges at the Property.

36. In January 2003, an initial groundwater investigation was conducted as part of a supplemental site investigation at the Property, which revealed TCE, acetone, lead, and mercury in the groundwater above the Department of Environmental Protection's ("DEP") Groundwater Quality Standards; free petroleum product was also observed.

37. In 2003, JCA developed a Property Acquisition Environmental Cost Estimate Report ("PAECER") for SDA, which estimated that it would cost \$420,175 to complete the remediation at the Site.

38. On or about October 28, 2004, SDA and Ruggiero entered into an agreement for the purchase of the Property ("Purchase Agreement") pursuant to and in lieu of condemnation proceedings under the Eminent Domain Act of 1971, N.J.S.A. 20:3-1, et seq., wherein Ruggiero agreed to complete a remedial investigation at the Site, remediate the discharges of hazardous substances, and perform monitoring to DEP's satisfaction.

39. Though the Purchase Agreement expressly recognized the presence of known, and potentially unknown, unremediated contamination existing at the Property, the parties agreed to a

purchase price of \$4,551,145 ("Purchase Price"), which reflected the value of the Property as-if remediated.

40. Pursuant to Paragraph 13 of the Purchase Agreement, SDA and Ruggiero agreed that, at closing, \$420,175, which constituted the anticipated cost of the remediation, would be deducted from the Purchase Price and placed into escrow until the remediation was completed.

41. The parties closed title on November 23, 2004, at which time they entered into an Escrow Agreement, and \$420,175 was placed into escrow.

42. Paragraph 13 of the Purchase Agreement, which expressly survived closing of title, stipulated that if the escrowed sum was insufficient to complete the remediation at the Property, Ruggiero would be responsible for any and all additional remediation costs.

43. On or about December 23, 2005, SDA and Ruggiero entered into a Combined First Amendment to Use and Occupancy Agreement and Escrow Agreement (Including Pledge) ("Amendment to the Escrow Agreement"), wherein the parties recognized that: (1) various amounts had been withdrawn from the escrow that reduced the total sum to \$361,366.78; (2) approximately \$35,000 would be deducted from the escrow shortly after execution of the Amendment to the Escrow Agreement; (3) once a Remedial Action Work Plan was approved by the DEP and a budget for the completion of the remediation was

established, Ruggiero would be required to supplement the escrow in an amount equal to the difference between the cost of the remaining remediation and the existing balance in the escrow; (4) whether Ruggiero or SDA were to perform the remediation, the escrow is not a ceiling on Ruggiero's liability; and (5) pending completion of the remediation, SDA would not be required to pay to Ruggiero relocation benefits totaling \$298,855, and Ruggiero would pledge those benefits as security for its obligations under the Purchase Agreement and the Escrow Agreement.

44. Between 2003 and 2006, Hydroqual, Inc. ("Hydroqual"), on behalf of Ruggiero, conducted a remedial investigation at the Property that revealed petroleum hydrocarbons and CVOCs above DEP's soil and groundwater cleanup criteria.

45. Ruggiero did not fully delineate the soil and groundwater contamination at the Property; its failure to do so prevented an area of concern from being identified until much later.

46. In 2006 and 2007, a joint remedial investigation was conducted by SDA, Ruggiero and the New Jersey Institute of Technology ("NJIT") that confirmed the presence of soil and groundwater contamination at the Property and identified National Lock Washer's historical use of underground storage tanks ("USTs")

located at the Property and its use of various hazardous substances as the origin of the discharges.

47. In or around 2008, as permitted by the Purchase Agreement, the Escrow Agreement, and the Amendment to the Escrow Agreement, SDA took control of the remediation from Ruggiero, and the vast majority of the cleanup and removal costs for the discharges at the Property were thereafter borne by SDA.

48. SDA demolished Ruggiero's building in 2008 and 2009.

49. In 2008, URS Corporation ("URS"), on behalf of SDA, conducted a remedial investigation at the Property ("2008 RI").

50. During the 2008 RI, URS uncovered eight additional USTs, several of which showed signs of corrosion, and confirmed that those USTs were sources of the petroleum contamination at the Property; URS further confirmed the presence of CVOCs, including cis-1,2,-DCE, at the Property and in the ground water.

51. In 2012, SDA retained Whitman Corporation ("Whitman") to conduct an additional remedial investigation at the Site ("2012 RI").

52. Through the 2012 RI, Whitman established 22 areas of concern ("AOCs"), which included historic fill and other debris, floor drains, storage areas, sewers, loading areas, the locations of historic operations, the locations of former USTs, and the ground water.

53. SDA's environmental contractors conducted soil and groundwater sampling at the Property prior to and during the 2012 RI, which confirmed contamination of various hazardous substances, including petroleum hydrocarbons, PCE, TCE, vinyl chloride, polycyclic aromatic hydrocarbons ("PAHs"), polychlorinated biphenyls ("PCBs"), benzene, lead, mercury, and zinc in excess of DEP's soil and groundwater cleanup criteria.

54. In 2013, Whitman prepared a Remedial Investigation Report and Remedial Action Workplan recommending additional remedial actions for 13 of the 22 AOCs, including further sampling and investigation, full delineation of soil and groundwater contamination, soil excavation, capping, offsite disposal, backfill, vapor mitigation, and dewatering.

55. The remedial actions taken by SDA included removal of the USTs and pumping of significant amounts of petroleum-contaminated water from recovery wells installed at the Property.

56. SDA anticipates that additional remediation will be required at the Site, including operation and maintenance of the remedial actions.

57. SDA's cleanup and removal costs are currently \$8,764,175.75, and they may continue to increase.

FIRST COUNT

SPILL ACT

58. SDA repeats each allegation of paragraph numbers 1 through 57 above as though fully set forth herein.

59. SDA is authorized by the Spill Act to seek recovery of its costs and damages. N.J.S.A. 58:10-23.11g(c).

60. Defendants are "persons" within the meaning of N.J.S.A. 58:10-23.11b.

61. SDA has incurred, and will continue to incur, costs and damages as a result of the contamination at the Site.

62. The costs that SDA has incurred, and will incur, at the Site are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

63. Any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs SDA has incurred and will incur to remediate the contamination at the Site. N.J.S.A. 58:10-23.11g(c).

64. As the corporate successors to National Lock Washer, the person who owned, operated at, and otherwise controlled the Property at the time hazardous substances were discharged there, Charter and/or Chiquita are dischargers and/or persons in any way

responsible for the discharged hazardous substances, and are strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs that SDA has incurred, and will incur, to remediate the contamination at the Site. N.J.S.A. 58:10-23.11g(c).

65. As a person who knowingly purchased the contaminated Property, and subsequently owned, operated at, and otherwise controlled the Property at the time of or subsequent to discharges of hazardous substance discharges, and/or as a person who contributed to or exacerbated the contamination at the Site, and/or as a person who agreed and failed to complete the remediation, Ruggiero is a discharger and/or a person in any way responsible for the hazardous substances, and is strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs that SDA has incurred, and will incur, to remediate the contamination at the Site. N.J.S.A. 58:10-23.11g(c).

66. As persons, or successors to persons, who owned, operated at, or otherwise controlled the Property at the time hazardous substances were discharged there, or as persons who contributed to or exacerbated the contamination at the Site, the ABC Corporation defendants are dischargers and/or persons in any way responsible for the discharged hazardous substances, and are strictly liable, jointly and severally, without regard to fault,

for all cleanup and removal costs that SDA has incurred, and will incur, to remediate the contamination at the Site. N.J.S.A. 58:10-23.11g(c).

67. As persons that owned, operated at, or otherwise controlled the Property at the time hazardous substances were discharged there, or as persons who contributed to or exacerbated the contamination at the Site, the John Doe defendants are persons in any way responsible for the discharged hazardous substances, and are strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs that SDA has incurred, and will incur, to remediate the contamination at the Site. N.J.S.A. 58:10-23.11g(c).

WHEREFORE, Plaintiff SDA demands judgment in its favor:

- a) Ordering Defendants to reimburse SDA, jointly and severally, without regard to fault, for all cleanup and removal costs that SDA has incurred to remediate the contamination at the Site, with applicable interest;
- b) Entering declaratory judgment against Defendants, jointly and severally, without regard to fault, for all cleanup and removal costs that SDA will incur to remediate the contamination at the Site;
- c) Awarding SDA its costs and fees in this action; and

- d) Awarding SDA such other relief as this court deems appropriate. SDA is not seeking, and this Complaint should not be characterized or interpreted as asserting a claim for, the costs and damages incurred by SDA as a result of the discharges of hazardous substances at the McWhorter Properties. SDA reserves its right to bring a claim in the future for those costs and damages.

SECOND COUNT

BREACH OF CONTRACT - RUGGIERO

68. SDA repeats each allegation of paragraph numbers 1 through 67 above as though fully set forth herein.

69. SDA and Ruggiero entered into the Purchase Agreement in 2004, which required Ruggiero to complete and fully fund the remediation required for the contamination at the Site.

70. As required by the Purchase Agreement, \$420,175 was deducted from the Purchase Price after closing and placed into escrow for the completion of the remediation; that sum proved to be insufficient.

71. Under the Purchase Agreement, the Escrow Agreement, and the Amendment to the Escrow Agreement, Ruggiero was required to maintain the escrow in an amount sufficient for the remediation.

72. SDA was permitted by the Purchase Agreement, the Escrow Agreement, and the Amendment to the Escrow Agreement to withhold

relocation benefits from Ruggiero pending the completion of the remediation.

73. Ruggiero breached the Purchase Agreement, the Escrow Agreement, and the Amendment to the Escrow Agreement by failing to complete and fully fund the remediation at the Property and failing to maintain the escrow in an amount sufficient for the remediation.

74. As a direct result of Ruggiero's breach, SDA was required to complete the remediation at the Property.

75. Pursuant to the terms of the Purchase Agreement, the Escrow Agreement, and the Amendment to the Escrow Agreement, Ruggiero is now obligated to: (1) reimburse SDA for all cleanup and removal costs; (2) complete and/or pay for the completion of all remaining remediation required at the Property, including operation and maintenance of the remedial action; (3) pay to SDA any remaining sums in the escrow; and (4) forfeit any right to relocation benefits from SDA.

WHEREFORE, Plaintiff SDA demands judgment in its favor:

- a) Declaring that Ruggiero has breached the Purchase Agreement, the Escrow Agreement, and the Amendment to the Escrow Agreement;
- b) Ordering Ruggiero to reimburse SDA for all cleanup and removal costs it has incurred and may incur in the future for the remediation at the Site;

- c) Ordering that any remaining sums held in escrow pursuant to the Escrow Agreement and the Amendment to the Escrow Agreement be paid to SDA as partial satisfaction of SDA's cleanup and removal costs;
- d) Ordering that Ruggiero's right pursuant to the Purchase Agreement to relocation benefits is hereby forfeited and those benefits shall be retained by SDA as partial satisfaction of SDA's cleanup and removal costs;
- e) Awarding SDA all other compensatory and consequential damages arising from Ruggiero's breach; and
- f) Awarding SDA such other relief as this court deems appropriate.

THIRD COUNT

UNJUST ENRICHMENT - RUGGIERO

76. SDA repeats each allegation of paragraph numbers 1 through 75 above as though fully set forth herein.

77. The Purchase Price paid by SDA to Ruggiero was \$4,551,145, which was calculated by the value of the Property as-if remediated.

78. As evidenced by the Purchase Agreement, the Escrow Agreement, and the Amendment to the Escrow Agreement, Ruggiero and SDA agreed that any compensation Ruggiero might receive from the transfer of the Property would be offset by its duty to complete

and pay for the remediation.

79. By retaining the Purchase Price for the Property without complying with its obligation to complete and pay for the remediation, which ultimately exceeded the value of the Property Ruggiero has been unjustly enriched in the amount \$4,551,145.00.

WHEREFORE, Plaintiff SDA demands judgment in its favor:

- a) Declaring that Ruggiero has been unjustly enriched;
- b) Entering judgment against Ruggiero in the amount \$4,551,145;
- c) Ordering that any remaining sums held in escrow pursuant to the Escrow Agreement and the Amendment to the Escrow Agreement be paid to SDA as partial satisfaction of SDA's cleanup and removal costs
- d) Ordering that Ruggiero's right pursuant to the Purchase Agreement to relocation benefits is hereby forfeited and those benefits shall be retained by SDA as partial satisfaction of SDA's cleanup and removal costs;
- e) Awarding SDA all other compensatory and consequential damages; and
- f) Awarding SDA such other relief as this court deems appropriate.

FOURTH COUNT

UNJUST ENRICHMENT - CHARTER & CHIQUITA

80. SDA repeats each allegation of paragraph numbers 1 through 79 above as though fully set forth herein.

81. Defendants Charter and Chiquita have failed to fully perform or fund the remediation required to address the contamination at the Site.

82. SDA has used and will continue to use public funds to remediate the contamination at the Site.

83. SDA's expenditure of public funds for the remediation at the Site, which otherwise would be Charter's and Chiquita's obligation to fully fund or perform, has unjustly enriched Charter and Chiquita, and they are required by law and equity to reimburse SDA accordingly.

WHEREFORE, Plaintiff SDA demands judgment in its favor:

- a) Declaring that Charter and Chiquita have been unjustly enriched;
- b) Ordering Charter and Chiquita to reimburse and indemnify SDA for the costs SDA has incurred and will incur to perform the remediation at the Site, with applicable interest;
- c) Awarding SDA all other compensatory and consequential damages; and

d) Awarding SDA such other relief as this court deems appropriate.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Mark S. Heinzelmann
Mark S. Heinzelmann
Deputy Attorney General

Dated: August 1, 2018

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the court is advised that Mark S. Heinzelmann, Deputy Attorney General, is hereby designated as trial counsel for the Plaintiff in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to the Plaintiff at this time, nor is any non-party known to the Plaintiff at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to the Plaintiff, an amended

certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b) (2) .

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Mark S. Heinzelmann
Mark S. Heinzelmann
Deputy Attorney General

Dated: August 1, 2018