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<p>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,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>MIDDLESEX WATER COMPANY,</p> <p style="text-align: right;">Defendant.</p>	<p>SUPERIOR COURT OF NEW JERSEY MIDDLESEX COUNTY LAW DIVISION</p> <p>DOCKET NO. MID-L-6306-21</p> <p>ANSWER TO SECOND AMENDED CLASS ACTION COMPLAINT AFFIRMATIVE DEFENSE, DEMANDS, DESIGNATION OF TRIAL COUNSEL, JURY DEMAND AND CERTIFICATION</p>
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PLEASE TAKE NOTICE, that Defendant, MIDDLESEX WATER COMPANY (“Defendant”), by and through its attorneys, COZEN O’CONNOR, hereby answers the Plaintiffs’ Second Amended Complaint as follows:

1. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 1 of the Complaint and respectfully refers all questions of Law to this Honorable Court.

2. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 2 of the Complaint and respectfully refers all questions of Law to this Honorable Court.

3. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 3 of the Complaint and respectfully refers all questions of Law to this Honorable Court.

4. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 4 of the Complaint and leaves Plaintiffs to their proof.

5. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 5 of the Complaint and leaves Plaintiffs to their proof.

6. Defendant denies the notice referenced in paragraph 6 of the Complaint was a “form” “notice.

7. Defendant denies the notice referenced in paragraph 7 of the Complaint was a “form” “notice

8. Admit.

9. Admit.

10. Admit.

11. Admit.

12. Admit.

13. Admit.

14. Admit.

15. Admit.
16. Defendant denies the allegations contained in paragraph 16 of the Complaint.
17. Defendant denies the allegations contained in paragraph 17 of the Complaint.
18. Defendant denies the allegations contained in paragraph 18 of the Complaint.
19. Defendant denies the allegations contained in paragraph 19 of the Complaint.
20. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 20 of the Complaint and leaves Plaintiffs to their proof.
21. Defendant denies the allegations contained in paragraph 21 of the Complaint.
22. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 22 of the Complaint and leaves Plaintiffs to their proof.
23. Defendant denies the allegations contained in paragraph 23 of the Complaint.
24. Defendant denies the allegations contained in paragraph 24 of the Complaint.
25. Defendant denies the allegations contained in paragraph 25 of the Complaint.
26. Defendant denies the allegations contained in paragraph 26 of the Complaint.
27. Defendant denies the allegations contained in paragraph 27 of the Complaint.
28. Defendant denies the allegations contained in paragraph 28 of the Complaint.
29. Defendant denies the allegations contained in paragraph 29 of the Complaint.

30. Defendant denies the allegations contained in paragraph 30 of the Complaint.

31. Defendant denies the allegations contained in paragraph 31 of the Complaint.

32. Defendant denies the allegations contained in paragraph 32 of the Complaint.

33. Defendant denies the allegations contained in paragraph 33 of the Complaint.

34. Defendant denies the allegations contained in paragraph 34 of the Complaint.

35. Defendant denies the allegations contained in paragraph 35 of the Complaint.

36. Defendant denies the allegations contained in paragraph 36 of the Complaint.

THE PARTIES

37. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 37 and leaves Plaintiffs to their proof.

38. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 38 and leaves Plaintiffs to their proof.

39. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 39 and leaves Plaintiffs to their proof.

40. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 40 and leaves Plaintiffs to their proof.

41. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 41 and leaves Plaintiffs to their proof.

42. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 42 and leaves Plaintiffs to their proof.

43. Admit.

JURISDICTION AND VENUE

44. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 44 and leaves Plaintiffs to their proof.

45. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 45 and respectfully refers all questions of Law to this Honorable Court.

46. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 46 and respectfully refers all questions of Law to this Honorable Court.

FACTUAL BASIS FOR THE RELIEF REQUESTED

47. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 47 and leaves Plaintiffs to their proof.

48. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 48 and leaves Plaintiffs to their proof.

49. Admit.

50. Defendant denies the notice referenced in paragraph 50 of the Complaint was a “form” “notice.

51. Defendant denies the notice referenced in paragraph 51 of the Complaint was a “form” “notice.

52. Defendant denies the notice referenced in paragraph 52 of the Complaint was a “form” “notice.

53. Admit.

54. Admit.

55. Admit.

56. Admit

57. Admit

58. Admit

59. Admit

60. Admit.

61. Admit.

62. Admit.

63. Defendant denies the allegations contained in paragraph 63 of the Complaint.

64. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 64 and leaves Plaintiffs to their proof.

65. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 65 and leaves Plaintiffs to their proof.

66. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 66 and leaves Plaintiffs to their proof.

67. Defendant denies the allegations contained in paragraph 67 of the Complaint.

68. Defendant denies the allegations contained in paragraph 68 of the Complaint.

69. Defendant denies the allegations contained in paragraph 69 of the Complaint.

70. Defendant denies the allegations contained in paragraph 70 of the Complaint.

71. Defendant denies the allegations contained in paragraph 71 of the Complaint.

72. Defendant denies the allegations contained in paragraph 72 of the Complaint.

73. Admit.

74. Defendant denies the allegations contained in paragraph 74 of the Complaint.

75. Defendant denies the allegations contained in paragraph 75 of the Complaint.

76. Defendant denies the allegations contained in paragraph 76 of the Complaint.

77. Defendant denies the allegations contained in paragraph 77 of the Complaint.

CLASS ACTION ALLEGATIONS

78. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 78 and respectfully refers all questions of Law to this Honorable Court.

79. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 79 and respectfully refers all questions of Law to this Honorable Court.

80. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 80 and respectfully refers all questions of Law to this Honorable Court.

81. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 81 and respectfully refers all questions of Law to this Honorable Court

82. Defendant denies the allegations contained in paragraph 82 of the Complaint.

83. Defendant denies the allegations contained in paragraph 83 of the Complaint.

84. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 84 and leaves Plaintiffs to their Proof.

85. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 85 and leaves Plaintiffs to their Proof.

86. Defendant denies the allegations contained in paragraph 86 of the Complaint.

87. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 87 and leaves Plaintiffs to their Proof.

88. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 88 and leaves Plaintiffs to their Proof.

89. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 89 and leaves Plaintiffs to their Proof.

90. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 90 and leaves Plaintiffs to their Proof.

91. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 91 and leaves Plaintiffs to their Proof.

92. Defendant is without knowledge or information to confirm the truth of the allegations contained in paragraph 92 and leaves Plaintiffs to their Proof.

93. Defendant denies the allegations contained in paragraph 93 of the Complaint.

94. Defendant denies the allegations contained in paragraph 94 of the Complaint.

95. Defendant denies the allegations contained in paragraph 95 of the Complaint.

96. Defendant denies the allegations contained in paragraph 96 of the Complaint.

AS AND FOR AN ANSWER TO COUNT ONE

GENERAL EQUITY/EQUITABLE INDEMNITY/RESTITUTION

97. Defendants repeat and reiterate each and every response to paragraphs “1” through “96” of Complaint as if more fully set forth at length herein.

98. Admit.

99. Defendant denies the allegations contained in paragraph 99 of the Complaint.

100. Defendant denies the allegations contained in paragraph 100 of the Complaint.

101. Defendant denies the allegations contained in paragraph 101 of the Complaint.

102. Defendant denies the allegations contained in paragraph 102 of the Complaint.

103. Defendant denies the allegations contained in paragraph 103 of the Complaint.

104. Defendant denies the allegations contained in paragraph 104 of the Complaint.

AS AND FOR AN ANSWER TO COUNT TWO OF THE COMPLAINT

INJUNCTIVE RELIEF AND MEDICAL MONITORING

105. Defendants repeat and reiterate each and every response to paragraphs “1” through “104” of Complaint as if more fully set forth at length herein.

106. Defendant denies the allegations contained in paragraph 106 of the Complaint.

107. Defendant denies the allegations contained in paragraph 107 of the Complaint.

108. Defendant denies the allegations contained in paragraph 108 of the Complaint.

109. Defendant denies the allegations contained in paragraph 109 of the Complaint.

110. Defendant denies the allegations contained in paragraph 110 of the Complaint.

111. Admit.

112. Defendant denies the allegations contained in paragraph 112 of the Complaint.

113. Defendant denies the allegations contained in paragraph 113 of the Complaint.

114. Defendant denies the allegations contained in paragraph 114 of the Complaint.

115. Defendant denies the allegations contained in paragraph 115 of the Complaint.

AS AND FOR AN ANSWER TO COUNT THREE

EQUITABLE ESTOPPEL

116. Defendants repeat and reiterate each and every response to paragraphs “1” through “115” of Complaint as if more fully set forth at length herein.

117. Defendant denies the allegations contained in paragraph 117 of the Complaint.

118. Defendant denies the allegations contained in paragraph 118 of the Complaint.

119. Defendant denies the allegations contained in paragraph 119 of the Complaint.

120. Defendant denies the allegations contained in paragraph 120 of the Complaint.

AS AND FOR AN ANSWER TO COUNT FOUR
NEGLIGENCE

121. Defendants repeat and reiterate each and every response to paragraphs “1” through “120” of Complaint as if more fully set forth at length herein.

122. Defendant denies the allegations contained in paragraph 122 of the Complaint and respectfully refers all questions of Law to this Honorable Court.

123. Defendant denies the allegations contained in paragraph 123 of the Complaint.

124. Defendant denies the allegations contained in paragraph 124 of the Complaint.

AS AND FOR AN ANSWER TO COUNT FIVE

UNJUST ENRICHMENT

125. Defendants repeat and reiterate each and every response to paragraphs “1” through “124” of Complaint as if more fully set forth at length herein.

126. Defendant denies the allegations contained in paragraph 126 of the Complaint.

127. Defendant denies the allegations contained in paragraph 127 of the Complaint.

128. Defendant denies the allegations contained in paragraph 128 of the Complaint.

129. Defendant denies the allegations contained in paragraph 129 of the Complaint.

**AS AND FOR THEIR AFFIRMATIVE DEFENSES,
DEFENDANTS PLEAD, AS FOLLOWS:**

Defendants set forth below their affirmative defenses. By setting forth their affirmative defenses below, Defendants do not assume the burden of proving any facts, issues or elements of a claim where such burden properly belongs to Plaintiffs. For their affirmative defenses, Defendants allege, upon information and belief, the following:

First Affirmative Defense

130. The Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

131. Plaintiffs' and/or putative class members' claims are barred, in whole or in part, because they lack standing to sue for the injuries and/or damages, if any, of which they now complain.

Third Affirmative Defense

132. Plaintiff's Complaint fails to state a claim for negligent or tortious conduct because Defendants complied with all applicable law.

Fourth Affirmative Defense

133. Insofar as Plaintiffs and/or putative class members suffered any losses or damages, those losses or damages were not proximately caused by any act or omission of Defendants.

Fifth Affirmative Defense

134. Named-Plaintiffs cannot meet the requirements of Under New Jersey Statutes to maintain a class action in that the alleged classes do not have sufficient numerosity, common issues of law and fact do not sufficiently predominate, the alleged classes do not have sufficient commonality of injuries and damages, the Named-Plaintiff does not adequately represent the alleged classes, there is no benefit to litigants or the Court in maintaining this action as a class action, and/or class action status is not superior to maintaining this action as an individual action in the normal course of the judicial system.

Sixth Affirmative Defense

135. Plaintiffs' and/or putative class members' claims are barred in whole or in part to the extent such claims have been compromised, released or settled or that Plaintiff and/or putative class members have entered into accords and satisfaction.

Seventh Affirmative Defense

136. Plaintiffs' and/or putative class members' damages , all of which are denied, have been mitigated, in whole or in part, by reimbursement from collateral sources.

Eighth Affirmative Defense

137. With respect to Plaintiffs' demand for punitive damages, the imposition of punitive damages would violate Defendants right to due process and equal protection under the United States Constitution and Constitution of the State of New York.

Ninth Affirmative Defense

138. Plaintiffs' and/or putative class members' claims are barred to the extent that such claims and their alleged damages are too speculative to be recoverable at law.

Tenth Affirmative Defense

139. Defendant presently has insufficient knowledge and/or information with which to form a belief as to whether they may have additional as yet unstated affirmative defenses. Defendants, therefore, reserve their right to amend their Answer to add additional affirmative defenses.

AS AND FOR A COUNTER-CLAIM FOR EQUITABLE RELIEF

The maintenance of this action by Plaintiffs is causing Defendant to incur fees and costs. In the absence of this action, the money now being expended on fees and costs would be utilized to remediate the subject water treatment plant that was polluted by a third-party, 3M. This is detrimental to both the interests of Defendant and the very Plaintiffs pursuing this action. Equity requires that this matter be tolled until such time as the water treatment plant at issue is remediated at the expense of the third-party polluter, 3M.

DEMAND FOR STATEMENT OF DAMAGES

Pursuant to R. 4:5-2, plaintiffs are hereby requested and required to furnish the undersigned, within five (5) days of receipt of this pleading, a written statement of the amount of damages claimed in this action.

DEMAND FOR ANSWERS TO INTERROGATORIES

Pursuant to R. 4:17-1(b)(ii) of the New Jersey Rules Governing Civil Practice, Defendants hereby demand that Plaintiff provide answers to Form A Interrogatories contained in Appendix II of the Rules of Court Governing the Courts of the State of New Jersey, as well as the Supplemental Interrogatories to be provided under separate cover, within the time period prescribed by R. 4:17-4.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Vincent P. Pozzuto, Esq. is hereby designated as trial counsel for this defendant.

JURY DEMAND

Defendant demands a trial by jury on all issues so triable.

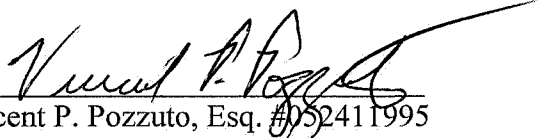
CERTIFICATION

I hereby certify within Answer to the Second Amended Complaint and Case Information Statement has been filed via electronic filing and that a copy has been served on all attorneys of record, via efileing on the same date.

I hereby certify that this pleading has been filed within the time period prescribed under R. 4:6-1(d).

Pursuant to R. 4:5-1, I further certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, no other action or arbitration is contemplated, and that no other parties should be joined in this action at the present time.

Dated: May 3, 2022



Vincent P. Pozzuto, Esq. #052411995
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MIDDLESEX WATER COMPANY

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