

NOTICE TO THE BAR

CLASS ACTION PROCEDURES -- CLARIFYING/CORRECTIVE AMENDMENTS TO COURT RULE 4:32-2(a)

The Supreme Court's July 27, 2006 omnibus rule amendment order included amendments to Rule 4:32 ("Class Action") that became effective September 1, 2006. Those amendments to the New Jersey class action rules were intended to reflect recent changes to the federal class action rules, in particular F.R.Civ.P. 23. The 2006 amendments revised R. 4:32-2(a) to read as follows: "When a person sues or is sued as a representative of a class, the court **as soon as practicable** shall determine by order whether to certify the action as a class action (emphasis added)." That language, however, differs slightly from what the Committee had recommended and from the federal rule, which reads "When a person sues or is sued as a representative of a class, the court **shall, at an early practicable time, determine** by order whether to certify the action as a class action (emphasis added)." On the subsequent recommendation of the Civil Practice Committee, the Supreme Court on October 9, 2007 adopted a corrective amendment to be effective immediately to bring R. 4:32-2(a) into conformance with the language in the federal rule and as earlier recommended by the Practice Committee. The Court's Order and the amended rule accompany this Notice.

/s/ Philip S. Carchman

Philip S. Carchman, P.J.A.D.
Acting Administrative Director of the Courts

Dated: November 19, 2007

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rule 4:32-2 of the Rules Governing the Courts of the State of New Jersey are adopted effective immediately.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: October 9, 2007

4:32-2. Determining by Order Whether to Certify a Class Action; Appointing Class Counsel; Notice and Membership in the Class; Multiple Classes and Subclasses

(a) Order Determining Maintainability; Certifying Class. When a person sues or is sued as a representative of a class, the court [as soon as practicable] shall, at an early practicable time, determine by order whether to certify the action as a class action. An order certifying a class action shall define the class and the class claims, issues or defenses, and shall appoint class counsel in accordance with paragraph (g) of this rule. The order may be altered or amended prior to the entry of final judgment.

(b) ... no change

(c) ... no change

(d) ... no change

(e) ... no change

(f) ... no change

(g) ... no change

(h) ... no change

Note: Effective September 8, 1969; paragraphs (b) and (c) amended November 27, 1974 to be effective April 1, 1975; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; caption amended, paragraphs (a) and (d) caption and text amended, paragraph (b) amended, former R. 4:32-4 deleted and readopted as amended as new paragraph (e), former R. 4:32-3 deleted and adopted as reformatted as new paragraph (f), and new paragraphs (g) and (h) adopted July 27, 2006 to be effective September 1, 2006, paragraph (a) amended October 9, 2007, to be effective immediately.