

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION - CIVIL**

KEVIN STEINKE, et al.

Plaintiffs,

v.

AON INVESTMENTS USA, INC., et al.,

Defendants.

JUNE TERM, 2021

NO. 01197

CLASS ACTION

Control Nos.: 23035965, 23054276,
24081291

DOCKETED

SEP 11 2024

U.S. COURTELL
COMMERCE PROGRAM

ORDER

AND NOW, this 11th day of September, 2024, upon consideration of plaintiffs' Motions for Class Certification, plaintiffs' Motion to Clarify Class Definition, the responses thereto, and all other matters of record, after a hearing in this matter, and in accord with the Findings of Fact, Conclusions of Law, and Opinion issued simultaneously herewith, it is **ORDERED** that said Motions are **GRANTED** as follows:

1. Pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, 1709, and 1710, the following class is certified:

All Plan participants in the Pennsylvania Public School Employees Retirement System (PSERS) who contributed, at any time between July 1, 2021, and June 30, 2024, an increased percentage of mandatory contributions from their salary to PSERS as the result of the computation of the Shared Risk provisions of the Public School Employees' Retirement Code, which includes, and is limited to, the following:

- A. All members of PSERS' membership Class T-E who experienced withholdings of their salary (or otherwise made contributions) to the Plan at a rate of 8.00% of their salary at any time between July 1, 2021, and June 30, 2024; and
- B. All members of PSERS' membership Class T-F who experienced withholdings of their salary (or otherwise made contributions) to the Plan at a rate of 10.80% of their salary at any time between July 1, 2021, and June 30, 2024; and
- C. All members of PSERS' membership Class T-G who experienced withholdings of their salary (or otherwise made contributions) to the portion of the Plan operated like a defined benefit Plan at a rate of 6.25% of their salary at any time between July 1, 2021, and June 30, 2024; and

ORDER-Steinke Vs Aon Investments Usa, Inc. Etal [RCP]



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D. All members of PSERS' membership Class T-H who experienced withholdings of their salary (or otherwise made contributions) to the portion of the Plan operated like a defined benefit Plan at a rate of 5.25% of their salary at any time between July 1, 2021, and June 30, 2024.

2. Plaintiffs Kevin Steinke, Louis Fantini, Emily Fantini, and Daniel Reyes are appointed to serve as Class Representatives for the Class;

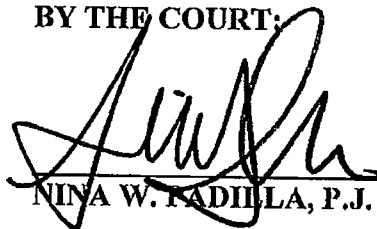
3. The law firms of Mantese Honigman, P.C. and J.J. Conway Law are appointed to serve as co-lead counsel for the Class, and the law firm of Feldman Shepherd Wohlgeleinter Tanner Weinstock Dodig LLP is appointed to serve as liaison counsel for the Class;

4. Class counsel shall work with PSERS' counsel to obtain a complete list of Class members, including the last known postal and electronic mailing address(es) and other contact information for each person meeting the definition of the Class set forth in Paragraph 1 above;

5. Within sixty (60) days from the date of entry of this Order, or such other reasonable date as the parties shall agree by stipulation filed with the Court, plaintiff shall file a Motion or Stipulation under Pa. R. Civ. P. 1712 regarding the proposed form of Notice to the Class members and the proposed means of providing such Notice to the Class members; and

6. Counsel shall appear for a virtual Case Management Conference with respect to the merits of plaintiffs' claims on October 18, 2024, at 10:00 a.m. in accord with the court's notice issued simultaneously with this Order.

BY THE COURT:



NINA W. FADILLA, P.J.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION - CIVIL**

KEVIN STEINKE, et al.	:	JUNE TERM, 2021
	:	
Plaintiffs,	:	NO. 01197
	:	
v.	:	CLASS ACTION
	:	
AON INVESTMENTS USA, INC., et al.,	:	Control Nos.: 23035965, 23054276,
	:	24081291
Defendants.	:	

FINDINGS OF FACT

1. Plaintiffs Kevin Steinke, Louis Fantini, Emily Fantini, and Daniel Reyes are all public school teachers and participants in the Public School Employees Retirement System (“PSERS”) cost-sharing multiple-employer retirement plans (the “Plan”).¹ Plaintiffs filed this putative class action on June 18, 2021, on behalf of all “current public school employees who are participants in the PSERS retirement system and who [were] required to pay additional direct contributions” from July 1, 2021 through June 30, 2023.²

2. In the latest iteration of their complaint, plaintiffs assert claims against defendants Aon Investments USA, Inc., Hewitt Ennisknupp, Inc., Aon Hewitt Investment Consulting, Inc., Portfolio Advisors LLC, Hamilton Lane Advisors, L.L.C., and Aksia LLC for breach of fiduciary duty, aiding and abetting breach of fiduciary duty, and breach of third-party beneficiary contract.³

¹ See Docket (“Dkt.”) at September 6, 2022, Third Amended Class Action Complaint (hereinafter, the “Complaint”), ¶¶ 3-18.

² See *id.*, ¶ 19.

³ See *id.*, ¶¶ 20-36, Counts I - XI.

3. In support of their claims, plaintiffs allege that “[d]efendants are professional investment consultants and advisors who had an obligation to review, vet, recommend, and monitor prudent investments and investment managers; to provide the information, insight, and know-how needed to compute, monitor, and evaluate investment expenses and returns; and to recommend how PSERS should allocate its investments across various categories, among other services. PSERS executed one or more long-term contracts with each [d]efendant, and paid millions of dollars to each [d]efendant, to secure each [d]efendant’s expertise for the benefit of [PSERS’] Plan participants. . . . On [d]efendants’ watch, PSERS’ Plan paid exorbitant fees and expenses to private investment managers; financed/leveraged some of its investments to acquire more investments (a risky and disfavored practice); overpaid for investments; and invested in a higher percentage of expensive, non-traditional investments than almost any other public pension plan in the country, all while posting among the lowest returns of all comparably-sized public pension plans. Defendants’ actions and inactions caused the Class members to suffer millions of dollars in damages.”⁴

4. Plaintiffs also claim that the “class members’ damages arise here from an involuntary percentage surcharge imposed on their salaries by PSERS due to the poor performance of PSERS’ investments. PSERS’ investment performance is measured every three years, and any resultant surcharge amount is then adjusted for a three year-period.”⁵

⁴ Dkt. at May 17, 2023, plaintiffs’ Supplemental and Amended Motion for Class Certification (hereinafter, “Motion to Certify”), ¶¶ 4-5.

⁵ Dkt. at Aug. 5, 2024, plaintiffs’ Motion to Clarify Class Definition (hereinafter, “Motion to Clarify”), ¶ 3. *See also* Dkt. at Aug. 26, 2024, defendants’ Response to Motion to Clarify, ¶ 3 (“Admitted that, in addition to the regular daily, weekly, monthly, yearly, and other monitoring of PSERS’ investment returns, PSERS’ investment performance is also evaluated every three years for the risk-share certification as required by statute. Further admitted that as of

5. Plaintiffs further allege that: “due to PSERS’ poor investment returns for the nine-year period ended June 30, 2020, [the class members’] percentage contributions [to the Plan] increased, effective July 1, 2021[;] approximately 120,000 PSERS’ Plan participants have been affected by the increased percentage of their salary that is withheld and contributed to PSERS, as a result of the July 1, 2021 increase[; and] these increases . . . exceed \$75 million.”⁶

6. Defendants admit that “[t]hose ‘shared risk’ increases took effect on July 1, 2021, and they differed by PSERS member class. The contribution rate of Class T-E members increased by 0.50%, or from 7.50% to 8.00%. The contribution rate of Class T-F members increased by 0.50%, or from 10.30% to 10.80%. The contribution rate of Class T-G members to PSERS’ defined benefit plan increased by 0.75%, or from 5.50% to 6.25%. And the contribution rate of Class T-H members to PSERS’ defined benefit plan increased by 0.75%, or from 4.50% to 5.25%. These shared increases [we]re in effect until the next shared risk evaluation of PSERS, which . . . examine[d] the investment performance of the PSERS Defined Benefit Plan for the period ending June 30, 2023.”⁷

7. Plaintiffs admit that “in December 2023 (three years after the prior evaluation), PSERS conducted its next investment performance evaluation. That evaluation revealed that PSERS’ investment returns had improved to the point that the surcharge would be discontinued.

July 1, 2021, certain PSERS members paid an increased contribution rate as required by statute after evaluation of PSERS’ investment performance through June 30, 2020.”)

⁶ Dkt. at May 17, 2023, plaintiffs’ Memorandum in support of Motion to Certify, pp. 57-58. See Dkt. at Aug. 30, 2023, plaintiffs’ Reply Memorandum in support of Motion to Certify (hereinafter, “Plaintiffs’ Reply”), pp. 7-9 (describing number of class members as more than 118,000); *id.*, p. 16 (estimating class-wide damages at more than \$137 million).

⁷ Dkt. at May 30, 2023, defendants’ Omnibus Memorandum in support of their Response to the Motion to Certify (hereinafter “Defendants’ Response”), p. 11.

Thus, [p]laintiffs now know that their damages will be limited to a three-year period (July 1, 2021, through June 30, 2024) and will not extend to the following three-year period (July 1, 2024, through June 30, 2027).⁸

8. Plaintiffs' preliminary calculations of their own damages indicate that each of them and each class member may have suffered more than \$1,000 in damages during that three-year period.⁹

CONCLUSIONS OF LAW

1. The numerosity requirement is met because there appear to be approximately 118,000 or more people who fall within the definition of the class.

2. There appear to be questions of law and fact common to all class members and those common questions predominate over individual questions of law and fact.

3. The named plaintiffs' claims appear to be typical of the claims of the other class members.

4. Named plaintiffs and their counsel will adequately represent the class.

5. This class action appears to be the fairest and most efficient method for adjudicating the approximately 118,000 class members' claims against defendants based on their involvement in the alleged mismanagement of the PSERS Plan funds.

OPINION

The court will certify an action as a class action when all the following requirements are met:

- (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;

⁸ Dkt. at Aug. 5, 2024, Motion to Clarify, ¶ 6.

⁹ Dkt. at Aug. 30, 2023, Plaintiffs' Reply, pp. 12-17.

(3) The claims or defenses of the representative parties are typical of the claims or defenses of the class;

(4) The representative parties will fairly and adequately assert and protect the interests of the class under the criteria set forth in [Pa. R. Civ. P.] 1709; and

(5) A class action provides a fair and efficient method for adjudication of the controversy under the criteria set forth in [Pa. R. Civ. P.] 1708.¹⁰

“[T]he trial court [should] decide whether certification is proper based on the parties’ allegations in the complaint and answer, on depositions or admissions supporting these allegations, and any testimony offered at the class certification hearing. The court may review the substantive elements of the case only to envision the form that a trial on those issues would take.”¹¹

At this early stage in the proceedings, it appears that plaintiff has met all of the criteria for certifying this action as a class action.¹² The arguments against certification raised by defendants are predominantly merit-based and cannot be resolved now as part of the certification process.¹³

¹⁰ Pa. R. Civ. P. 1702.

¹¹ *Samuel-Bassett v. Kia Motors Am., Inc.*, 613 Pa. 371, 397, 34 A.3d 1, 15–16 (2011).

¹² “An order under this rule may be conditional and, before a decision on the merits, may be revoked, altered or amended by the court on its own motion or on the motion of any party.” Pa. R. Civ. P. 1710(d).

¹³ See Pa. R. Civ. P. 1707, Explanatory Comment – 1977 (“The [certification] hearing is confined to a consideration of the class action allegations and is not concerned with the merits of the controversy or with attacks on the other averments of the complaint. Its only purpose is to decide whether the action shall continue as a class action or as an action with individual parties only. In a sense, it is designed to decide who shall be the parties to the action and nothing more. Viewed in this manner, it is clear that the merits of the action and the right of the plaintiff to recover are to be excluded from consideration.”).

I. The Numerosity Requirement Is Satisfied.

Whether the number [of potential class members] is so large as to make joinder impracticable is dependent not upon an arbitrary limit, but rather upon the circumstances surrounding each case. . . . The class representative need not plead or prove the number of class members so long as she is able to define the class with some precision and affords the court with sufficient indicia that more members exist than it would be practicable to join.¹⁴

The class model serves as the most efficient and fair way to adjudicate the claims of this class of approximately 118,000 contributing members of the PSERS Plan. The joinder of so many thousands of individual class members as plaintiffs would clearly be impracticable, and it is obviously more efficient to hear the class members' claims together rather than in multiple, separate actions.

II. There are Questions of Law and Fact Common to the Class.

"[A] common issue of fact or law will generally exist if the class members' legal grievances are directly traceable to the same practice or course of conduct on the part of the class opponent. The common question of fact requirement means precisely that the facts must be substantially the same so that proof as to one claimant would be proof as to all."¹⁵ Plaintiffs are "not required to prove that the claims of all class members [a]re identical; the existence of distinguishing individual facts is not fatal to certification."¹⁶

At this early stage in the litigation, it is alleged that defendants engaged in the same course of conduct by failing to properly "review, vet, recommend, and monitor prudent

¹⁴ *Janicik v. Prudential Insurance Co. of America*, 305 Pa. Super. 120, 131-132, 451 A.2d 451, 456 (1982).

¹⁵ *Sommers v. UPMC*, 185 A.3d 1065, 1076 (Pa. Super. 2018).

¹⁶ *Samuel-Bassett*, 613 Pa. at 409, 34 A.3d at 23.

investments and investment managers; . . . provide the information, insight, and know-how needed to compute, monitor, and evaluate investment expenses and returns; and . . . recommend how PSERS should allocate its investments across various categories[.]”¹⁷ thereby damaging the class members who are participants in the PSERS Plan. To the extent that defendants by their actions and inactions breached their fiduciary duties to, and/or assisted others to breach their fiduciary duties to, the class members, and/or breached contracts of which the class members are the beneficiaries, it appears that proof as to one class member would be proof as to all.

Defendants claim damages are an individualized inquiry that defeats commonality,¹⁸ although they admit that groups, or sub-classes, of class members suffered the same shared risk increases effective July 1, 2021.¹⁹ “Regarding damage amounts or scope of individual relief, it has been well established that if a common source of liability has been clearly identified, varying amounts of damages among the plaintiffs will not preclude class certification.”²⁰ Class certification is appropriate where damages can be determined by a “mathematical or formula calculation.”²¹

¹⁷ Dkt. at May 17, 2023, Motion to Certify, ¶ 4. Each defendant allegedly committed a subset of such wrongful acts; it does not appear that all defendants are accused of committing all such acts.

¹⁸ Dkt. at May 30, 2023, Defendants’ Response, pp. 16-20.

¹⁹ *Id.*, p. 11 (“The contribution rate of Class T-E members increased by 0.50%, or from 7.50% to 8.00%. The contribution rate of Class T-F members increased by 0.50%, or from 10.30% to 10.80%. The contribution rate of Class T-G members to PSERS’ defined benefit plan increased by 0.75%, or from 5.50% to 6.25%. [T]he contribution rate of Class T-H members to PSERS’ defined benefit plan increased by 0.75%, or from 4.50% to 5.25%”). See also Dkt. at August 20, 2024, Plaintiffs’ Reply, p. 16.

²⁰ *Samuel-Bassett*, 613 Pa. at 417, 34 A.3d at 28.

²¹ *Cambanis v. Nationwide Ins. Co.*, 501 A.2d 635, 641 (Pa. Super. 1985).

If damages are awarded based on the class members' shared risk contribution increases, then, at worst, four recalculations, one for each affected PSERS' membership (sub) class, would have to be made, and it is possible that only two are needed – one for the class members whose contributions increased 0.50% and one for the class members whose contributions increased 0.75%. If the finder of fact determines that some portion of the 0.50% and 0.75% increases should be awarded as damages, then the amount due to each class member should be readily calculable based on his/her contributions during the operative class period.²²

In their opposition to the motion for class certification, defendants assert several defenses to plaintiffs' claims, many of which raise questions of law and fact that will have to be decided at an appropriate later stage in these proceedings either with respect to all class members or for subsets of class members.²³ For instance, defendants claim "that alleged underperformance of a defined benefit plan is not a viable damages theory."²⁴ They also claim that "the massive market disruption of June 30, 2020," rather than defendants allegedly "recommending private, alternative investments that had higher fees associated," caused the increase in Plan contributions imposed on class members.²⁵ If the Court determines later in the merits-focused portion of these proceedings, upon motion or otherwise, that any such argument or defense eliminates the claim

²² See Dkt. at Aug. 30, 2023, Plaintiffs' Reply, pp. 12-17 (calculating the named plaintiffs' alleged damages).

²³ See Pa. R. Civ. P. 1710(c)(2) ("When appropriate, in certifying, refusing to certify or revoking a certification of a class action the court may order that . . . a class be divided into subclasses and each subclass treated as a class for purposes of certifying, refusing to certify or revoking a certification[.]")

²⁴ Dkt. at May 30, 2023, Defendants' Response, p. 20, nt. 20.

²⁵ *Id.*, p. 24.

or claims of the entire class, then defendants may prevail on a class-wide basis. If the court determines later that any such defense eliminates the claim or claims of some portion of the class, then the class definition may be modified accordingly.

Defendants also argue that named plaintiffs lack standing to assert claims for misconduct occurring before they became members of the PSERS Plan.²⁶ Similarly, defendants assert the statute of limitations as a defense to plaintiffs' claims.²⁷ However, that defense, if applicable, appears to apply to many class members, not just a few individual ones. Plaintiffs counter with a delayed injury argument: "All four Defendants recommended investments that PSERS held for lengthy portions of the nine-year risk-share period and the investment returns from those holdings were included in the risk-sharing computations that led to Plaintiffs' shared risk surcharges" beginning July 1, 2021.²⁸ According to plaintiffs, neither they nor any other "class member experienced any injury until April 19, 2021, when the PSERS Board passed Board Resolution 2021-16, recertifying the member contribution rates, and declaring that rate increases would become effective for the period from July 1, 2021 through June 30, 2024."²⁹ The question of when the plaintiffs' and the class members' claims accrued for statute of limitations purposes is an affirmative defense that cannot be decided in conjunction with the decision whether to certify the class.³⁰

²⁶ Dkt. at May 30, 2023, Defendants' Response, pp. 21-22.

²⁷ *Id.*, pp. 22-24.

²⁸ Dkt. at Aug. 20, 2023, Plaintiffs' Reply, p. 24.

²⁹ *Id.*, pp. 27-28.

³⁰ See Pa. R. Civ. P. 1030(a) (listing affirmative defenses, including statute of limitations, that should be pleaded as New Matter); *Samuel-Bassett*, 613 Pa. at 407, 34 A.3d at 22 (Plaintiff "was not required to prove [defendant's] liability at the certification stage and the trial court was

At this point, it appears there are many significant common questions of law and fact with respect to the class members' claims, and the defenses to them, that justify the certification of this class.

III. Plaintiffs' Claims are Typical of the Claims of the Class.

The purpose of the typicality requirement is to ensure that the class representative's overall position on the common issues is sufficiently aligned with that of the absent class members to ensure that her pursuit of her own interests will advance those of the proposed class members. Typicality exists if the class representative's claims arise out of the same course of conduct and involve the same legal theories as those of other members of the putative class. The requirement ensures that the legal theories of the representative and the class do not conflict, and that the interests of the absentee class members will be fairly represented. But, typicality does not require that the claims of the representative and the class be identical, and the requirement may be met despite the existence of factual distinctions between the claims of the named plaintiff and the claims of the proposed class.³¹

Plaintiffs allege they suffered the same injury, *i.e.*, increased Plan contributions, due to the same actions and inactions of defendants, *e.g.*, failure to properly advise PSERS, as the rest of the class members. Therefore, the named plaintiffs' claims appear to be typical of the class.

IV. Plaintiffs and Class Counsel Will Fairly and Adequately Assert and Protect the Interests of the Class.

To determine whether named plaintiffs "will fairly and adequately assert and protect the interests of the class, the court shall consider[:]"³²

- 1) whether the attorney for the representative parties will adequately represent the interests of the class;
- 2) whether the representative parties have a conflict of interest in the maintenance of the class action; and

prohibited from factoring the perceived adequacy of the underlying merits of the class's claims into the certification decision.").

³¹ *Samuel-Bassett*, 613 Pa. at 421-2, 34 A.3d at 30-1.

³² Pa. R. Civ. P. 1709.

3) whether the representative parties have or can acquire adequate financial resources to assure that the interests of the class will not be harmed.³³

In this case, class counsel are experienced attorneys who will adequately represent the interests of the class, and their firms appear to have adequate financial resources to pursue these claims on behalf of the class. In a footnote, defendants note that class counsel “appear to lack experience in litigating retirement plan class actions involving complex investment allegations.”³⁴ Class counsel are not required to have tried an identical case in order to qualify. Since they appear capable of meeting the demands of litigating a class action and hiring appropriate experts to analyze the class’s substantive claims and damages, and the defenses thereto, counsel meets the adequacy of representation requirement of the rule.³⁵

Defendants assert that named plaintiffs’ interests as not-yet-vested members of PSERS differ significantly from the interests of those members of the class who are vested members of PSERS because, if the named plaintiffs leave their current jobs with Pennsylvania public schools before they become vested in the PSERS Plan, they may demand “a refund of all their contributions – including their shared risk contributions – plus interest, upon departure,” but the vested class members cannot obtain such a refund.³⁶ Until such time as any of the named plaintiffs change employers and/or demand a refund, and so long as they, like the vested members, are required to make contributions to the Plan amounting to a certain percentage of

³³ Pa. R. Civ. P. 1709.

³⁴ Dkt. at May 30, 2023, Defendants’ Response, p. 31, nt. 24.

³⁵ See Dkt. at Aug. 20, 2023, Plaintiffs’ Reply, pp. 33-34; Pa R. Civ. P. 1709(1).

³⁶ Dkt. at May 30, 2023, Defendants’ Response, p. 16.

their salary, their interests do not appear to conflict with those of the already vested class members.

Defendants also argue that “there are many differences among the four PSERS classes plaintiffs seek to represent—including the time period and duration of participants’ employment, average salary, base contribution rate, pension multiplier, shared risk increase, and the proportion attributed to defined benefit versus defined contribution. Plaintiffs cannot adequately represent the interests of the many proposed class members who have been invested in different PSERS classes for different time periods and have larger or smaller accounts and different career plans, making their financial interests potentially at odds with plaintiffs’ financial interests. Indeed, some putative class members openly disagree with plaintiffs.”³⁷

To the extent that any class members do not want to be part of the class, they will be permitted to opt-out after the form of notice is finalized and delivered to them.³⁸ The purported employment and financial differences between named plaintiffs and the other class members do not, at this juncture, appear relevant to a decision to certify the plaintiffs’ claims against defendants for increased contributions paid between July 1, 2021 and June 30, 2024. If any of these differences should later prove to be significant and insurmountable, the decision to certify the class and appoint the named plaintiffs may be revisited.³⁹ At this early stage in the

³⁷ Dkt. at May 30, 2023, Defendants’ Response, p. 27.

³⁸ See Pa. R. Civ. P. 1711(a).

³⁹ See Pa. R. Civ. P. 1710(d) (“An order under this rule may be conditional and, before a decision on the merits, may be revoked, altered or amended by the court on its own motion or on the motion of any party.”)

proceedings, the court approves named plaintiffs as representatives of the class and plaintiffs' counsel as counsel for the class.

V. A Class Action is a Fair and Efficient Method by Which to Try This Case.

"In determining whether a class action is a fair and efficient method of adjudicating the controversy, the court shall consider[.]"⁴⁰

1) whether common questions of law or fact predominate over any question affecting only individual members;

2) the size of the class and the difficulties likely to be encountered in the management of the action as a class action;

3) whether the prosecution of separate actions by or against individual members of the class would create a risk of

i) inconsistent or varying adjudications with respect to individual members of the class which would confront the party opposing the class with incompatible standards of conduct;

* * *

(6) whether in view of the complexities of the issues or the expenses of litigation the separate claims of individual class members are insufficient in amount to support separate actions; [and]

(7) whether it is likely that the amount which may be recovered by individual class members will be so small in relation to the expense and effort of administering the action as not to justify a class action.⁴¹

At this point in the proceedings, the common questions as to defendants' liability for causing class members to have to contribute more to their pension Plan and the class-wide defenses thereto predominate over any individual claims and defense. The management of this class action should not be more difficult than the management of any other class action. If necessary, many of the purported problems raised by defendants may be resolved by creating sub-classes. Individual actions would run the risk of inconsistent results at the trial court level, necessitating multiple, costly appeals.

⁴⁰ Pa. R. Civ. P. 1708.

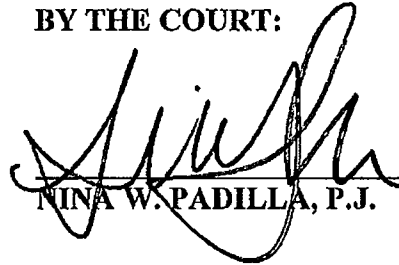
⁴¹ Pa. R. Civ. P. 1708(a).

The damages potentially recoverable by each of the class members appears to be slightly more than \$1,000, which is an insufficient amount to support separate actions given the complexity of the issues involved, but it is a large enough amount in relation to the expense and effort of administering the class to justify this action proceeding as a class action.

CONCLUSION

For all the foregoing reasons, plaintiffs' Motions for Class Certification and plaintiffs' Motion to Clarify Class Definition are granted, and counsel shall draft an appropriate Notice to the class members for court approval.

BY THE COURT:



NINA W. PADILLA, P.J.