

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**CHARLENE DZIELAK, SHELLEY BAKER,
FRANCIS ANGELONE, BRIAN MAXWELL,
JEFFERY REID, KARI PARSONS,
CHARLES BEYER, JONATHAN COHEN,
JENNIFER SCHRAMM, and ASPASIA
CHRISTY on behalf of themselves and all
others similarly situated,**

Civ. No. 2:12-89 (KM)(JBC)

ORDER

Plaintiffs,

v.

**WHIRLPOOL CORPORATION, SEARS
HOLDINGS CORPORATION, THE HOME
DEPOT, INC., FRY'S ELECTRONICS,
INC., APPLIANCE RECYCLING CENTERS
OF AMERICA, INC., and LOWE'S HOME
CENTER, LLC,**

Defendants.

KEVIN MCNULTY, U.S.D.J.:

THIS MATTER having come before the Court upon plaintiffs' motion for class certification (ECF no. 162); and the Court having considered the moving papers, the papers in opposition and reply (ECF nos. 241-1, 251, 254, 256, 257, 281); and the court having conducted a hearing in open court on November 16, 2017; for the reasons set forth in the accompanying Opinion, and for good cause appeared therefor;

IT IS this 20th day of December, 2017,

ORDERED that the motion (ECF no. 162) is **GRANTED IN PART AND DENIED IN PART**, as follows:

A. Plaintiffs' motion to certify the class as against defendant retailers—SEARS HOLDINGS CORPORATION, THE HOME DEPOT, INC., FRY'S ELECTRONICS, INC., APPLIANCE RECYCLING CENTERS OF AMERICA, INC., and LOWE'S HOME CENTER, LLC—is **DENIED**.

B. Plaintiffs' motion to certify the class on the energy-expense theory is **DENIED**.

C. As against defendant WHIRLPOOL CORPORATION only, on the price-premium theory only, the Court hereby **GRANTS** plaintiffs' motion to certify the Rule 23(b)(3) class consisting of the following seven subclasses:

1. All persons in New Jersey who purchased a Maytag Centennial MVWC6ESWW0, MVWC6ESWW1, or MVWC7ESWW0 clothes washer, excluding persons who purchased for the purpose of resale (the "New Jersey class");
2. All persons in California who purchased a Maytag Centennial MVWC6ESWW0, MVWC6ESWW1, or MVWC7ESWW0 clothes washer, excluding persons who purchased for the purpose of resale (the "California class");
3. All persons in Florida who purchased a Maytag Centennial MVWC6ESWW0, MVWC6ESWW1, or MVWC7ESWW0 clothes washer, excluding persons who purchased for the purpose of resale (the "Florida class");
4. All persons in Texas who purchased a Maytag Centennial MVWC6ESWW0, MVWC6ESWW1, or MVWC7ESWW0 clothes washer, excluding persons who purchased for the purpose of resale (the "Texas class");
5. All persons in Ohio who purchased a Maytag Centennial MVWC6ESWW0, MVWC6ESWW1, or MVWC7ESWW0 clothes

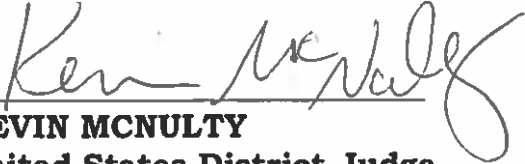
washer, excluding persons who purchased for the purpose of resale (the "Ohio class");

6. All persons in Virginia who purchased a Maytag Centennial MVWC6ESWW0, MVWC6ESWW1, or MVWC7ESWW0 clothes washer, excluding persons who purchased for the purpose of resale (the "Virginia class");
7. All persons in Indiana who purchased a Maytag Centennial MVWC6ESWW0, MVWC6ESWW1, or MVWC7ESWW0 clothes washer, excluding persons who purchased for the purpose of resale (the "Indiana class").

D. The Court hereby **APPOINTS** plaintiffs Charlene Dzielak, Francis Angelone, Shelley Baker, Brian Maxwell, Jeffery Reid, Kari Parsons, Charles Beyer, Jonathan Cohen, Jennifer Schramm, and Apasia Christy as class representatives.

E. The Court hereby **APPOINTS** Bursor & Fisher, P.A., Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C., and Vozzolo LLC as class counsel.

F. Within 30 days after the entry of this order, class counsel shall meet and confer with counsel for defendant WHIRLPOOL CORPORATION regarding the proposed method and form of class notice. Any agreed-upon notice shall be presented to the Court for approval within 21 days thereafter. In the event the plaintiffs and defendant cannot agree upon the form of the notice, each side shall file its proposal, with areas of disagreement highlighted, within 60 days after this order.


KEVIN MCNULTY
United States District Judge