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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

GILLIAN DAVIDSON and SAMUEL
DAVIDSON, on behalf of themselves and those
similarly situated,

Plaintiffs,

v.

SPROUT FOODS INC.,

Defendant.

Case No.: _____

**CLASS ACTION COMPLAINT FOR
VIOLATION OF THE CALIFORNIA
UNFAIR COMPETITION LAW; FAL;
COMMON LAW FRAUD; CONSUMERS
LEGAL REMEDIES ACT; AND UNJUST
ENRICHMENT**

JURY TRIAL DEMANDED

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I. INTRODUCTION

1. Plaintiffs Gillian Davidson and Samuel Davidson, by and through their counsel, bring this class action against Defendant Sprout Foods Inc. d/b/a Sprout (“Defendant”) to seek redress for Defendant’s deceptive and unlawful practices in labeling and marketing the Sprout brand baby and toddler food products.

2. Parents are increasingly aware of the need to provide healthy food for their children, especially at the critical age of less than 2 years old. To make healthy food choices for their children, parents rely on nutritional information on food product labels.

3. Intending to profit from parents’ increasing desire to purchase health food for their young children, Defendant misbrands its baby and toddler food products by making nutrient content claims on the product packages that are strictly prohibited by the Food and Drug Administration (“FDA”), and by misleading purchasers into believing that its products are healthier than other products for children under two years of age in order to induce parents into purchasing Defendant’s products.

4. Defendant’s misbranding caused Plaintiffs and members of the class to pay a price premium for the products.

II. PARTIES

5. Gillian Davidson is, and at all times alleged in this Class Action Complaint was, an individual and a resident of Oakland, California.

6. Samuel Davidson is, and at all times alleged in this Class Action Complaint was, an individual and a resident of Oakland, California. Samuel Davidson and Gillian Davidson are spouses.

7. Defendant Sprout Foods Inc. d/b/a Sprout, is a corporation existing under the laws of the State of Delaware, having its principal place of business in the State of New Jersey.

1 introduced to the market over a decade ago, and as of 2018, accounted for 25 percent of baby
2 food sales in the United States.

3 15. FDA regulations explicitly prohibit certain nutrient content claims on foods
4 intended for children under the age of two. 21 C.F.R. § 101.13(b)(3).

5 16. An ever-growing industry, there is seemingly no limit to the combination of
6 foods that can go into baby food pouches, as evidenced by the wide array of flavors of the
7 Products. Looking for a way to differentiate itself in the growing market, Defendant has turned
8 to making nutrient content claims on the front of the Product labels.

9 17. For example, Defendant has a line of “Power Pak” baby food pouches called that
10 states on the front label, “3g of Protein, 5g of Fiber and 300mg Omega-3 from Chia ALA” and
11 “12 Months & Up.” An exemplar is shown below:



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23 18. Another line of pouches advertises “plant protein power” and states on the front
24 label “2 grams of Plant Protein Power” and “6 Months & Up.” An exemplar is shown below.



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11 19. As described in detail below, Defendant’s advertising and labeling of the
12 Products with express nutrient content claims is unlawful, misleading, deceptive, and intended
13 to induce consumers to purchase the Products at a premium price. These claims deceive and
14 mislead reasonable consumers into believing that the Products will provide more benefits than
15 its competitors, and induces parents to purchase the Products despite a lack of evidence that an
16 increased intake for the nutrients advertised are appropriate or recommended for infants and
17 toddlers less than 2 years of age.

18 **Federal and State Regulations Governing Food Labeling**

19 20. The Food and Drug Administration regulates nutrition content labeling.
20 According to these regulations, “no nutrient content claims may be made on food intended
21 specifically for use by infants and children less than 2 years of age,” subject to certain
22 exceptions not applicable here. 21 C.F.R. § 101.13(b)(3).

23 21. According to the regulations, nutrient content claims can be expressed or implied.
24 21 C.F.R. § 101.13(b)(1), 21 C.F.R. § 101.13(b)(2).

25 22. An express nutrient content claim is “any direct statement about the level (or
26 range) of a nutrient in the food.” 21 C.F.R. § 101.13(b)(1). Further, where information that is
27 required or permitted to be “declared in nutrition labeling, and that appears as part of the
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