

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

GENNARO ROCCO AND LORETTA)
SCHWEINSBURG, individually and on)
behalf of all others similarly situated,)
) Case No.:
Plaintiffs,)
)
v.)
)
KRAFT HEINZ FOODS COMPANY,) **JURY TRIAL DEMANDED**
)
Defendant.)

CLASS ACTION COMPLAINT

Plaintiffs Gennaro Rocco and Loretta Schweinsburg (“Plaintiffs”), individually and on behalf of all others similarly situated, bring this action against Defendant Kraft Heinz Foods Company (“Kraft Heinz” or “Defendant”). Plaintiffs make the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to the allegations specifically pertaining to themselves, which are based on personal knowledge.

NATURE OF THE ACTION

1. This is a putative class action lawsuit on behalf of purchasers of Maxwell House coffee products (collectively, the “Coffee Products”) against Defendant for manufacturing, distributing, and selling underfilled Coffee Products.

2. Kraft Heinz is the fifth-largest food and beverage company in the world.¹ Kraft Heinz nets nearly \$25 billion in annual sales by manufacturing, distributing, and marketing an extensive line of processed food products through supermarkets, restaurants, and on-the-go establishments in 200 countries. Kraft Heinz brands include Kraft, Heinz, Maxwell House, ABC, Capri Sun, Classico, Jell-O, Kool-Aid, Lunchables, Ore-Ida, Oscar Meyer, Philadelphia,

¹ <https://www.investopedia.com/news/history-behind-kraft-heinz-co/> (last accessed June 22, 2020).

Planters, Plasmon, Quero, Weight Watchers, Smart Ones, and Velveeta. Maxwell House is the second-largest coffee brand in the United States, with U.S. sales totaling \$475 million in 2019.²

3. Kraft Heinz engages in widespread false and deceptive advertising on its Maxwell House Coffee Products. In a practice that offends reasonable consumer expectations, Defendant employs a classic bait-and-switch scheme that causes unsuspecting consumers to spend more money for less than the advertised amount of coffee they believe they are purchasing. The packaging and labeling of the Coffee Products prominently advertise that they will produce a certain number of servings when, in fact, they do not.

4. In this case, Plaintiffs purchased Maxwell House Coffee Products that prominently advertise on their front labels that they “MAKE[] UP TO 240 6 FL OZ CUPS.” One serving of Maxwell House Coffee consists of one (1) tablespoon of ground coffee and one (1) serving of water (“6 FL OZ (3/4 CUP)”). To make the advertised 240 servings, the Coffee Products would have to contain approximately 240 tablespoons of ground coffee. But the Coffee Products purchased by Plaintiffs contained only approximately ~170 tablespoons of ground coffee.

5. Defendant’s other Maxwell House Coffee Products feature the same deceptive advertising. These include Defendant’s 100% Colombian Roast, Breakfast Blend, Dark Roast, French Roast, Gourmet Roast, Vanilla, Half Caff. On each of these Coffee Products, the bottom of the front label prominently and conspicuously states the number of six-fluid-ounce servings of coffee the cannister will produce. As shown below, for example, the front label of the Maxwell House 100% Colombian Medium Roast states that the 24.5-ounce cannister “MAKES UP TO 210 6 FL OZ CUPS.”

² <https://www.statista.com/statistics/188315/top-ground-coffee-brands-in-the-united-states/> (last accessed June 25, 2020).



One serving of Maxwell House Coffee consists of one (1) tablespoon of ground coffee and one (1) serving of water (“6 FL OZ (3/4 CUP)”). This yields one (1) six-fluid-ounce serving of coffee. To make the advertised 210 servings, therefore, the 100% Colombian Roast would have to contain approximately 210 tablespoons of ground coffee. But it contains only approximately 134 tablespoons of ground coffee.”

6. As explained above, and detailed in the chart below, the Coffee Products do not yield the number of cups advertised by Defendant. Consumers reasonably expect that the Coffee Products will produce the number of cups promised on the label. However, they do not. Defendant uniformly and systematically misrepresents the actual contents of its Coffee Products. Independent testing has revealed that the Coffee Products do not, and cannot, yield the advertised amount of coffee. Plaintiffs’ counsel commissioned an independent laboratory to perform

testing of Defendant's Coffee Products. The testing showed that the Coffee Products are significantly underfilled:

Product	Weight	Advertised Cups	Measured Cups (1)	% Underfill (1)	Measured Cups (10) ³	% Underfill (10)
Original Roast	869 g	240	174.12	27.45%	217.65	9.3%
Original Roast	326 g	90	67.27	25.25%	84.09	6.5%
Original Roast	1.20 kg	325	222.66	31.4%	278.33	14.36%
Original Roast	1.04 kg	288	190.80	33.75%	238.5	17.18%
Wake Up Roast	869 g	240	168.57	29.7%	209.46	12.7%

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Subclass Members relied to their detriment on Defendant's representations regarding the number of servings each Coffee Product would yield. Plaintiffs and Class and Subclass Members would not have paid to purchase Defendant's Coffee Products – or would not have paid as much as they did to purchase them – had they known the truth about the products' actual serving yields. Plaintiffs and Class and Subclass Members thus suffered monetary damages as a result of Defendant's deceptive and false representations.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d) in that: (1) this is a class action involving more than 100 Class Members; (2) Plaintiff Rocco is a citizen of the State of New York, Plaintiff Schweinsburg is a citizen of the

³ The directions for many Maxwell House Coffee Products include two different manners of preparation: single serving or ten servings. For a single serving, Defendant directs the consumer to use one tablespoon of coffee. For ten servings, Defendant directs the consumer to use eight tablespoons of coffee. Regardless of the preparation method utilized, Defendant's Coffee Products are underfilled and do not provide the advertised number of cups of coffee.

State of California, and Defendant is a citizen of the State of Illinois; and (3) the amount in controversy exceeds the sum of \$5,000,000.00, exclusive of interests and costs.

9. This Court has personal jurisdiction over Defendant because Defendant has its corporate headquarters and principal place of business in this judicial district.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Defendant is headquartered in this judicial district and, therefore, a substantial part of the decisions that led to the events or omissions giving rise to Plaintiffs' claims occurred in this judicial district.

PARTIES

11. Plaintiff Gennaro Rocco resides in Manhattan, New York. On or about December 10, 2019, Mr. Rocco purchased a cannister of Maxwell House Original Roast, 30.65 oz, for approximately \$6.00 from a ShopRite grocery store located in Yonkers, New York. Mr. Rocco read the Coffee Product's labeling stating that the cannister "makes up to 240" six-fluid-ounce cups of coffee before purchasing the Coffee Product. In reliance on this representation, Mr. Rocco purchased the Coffee Product for his own personal use.

12. Plaintiff Loretta Schweinsburg resides in Costa Mesa, California. On or about May 15, 2020, Ms. Schweinsburg purchased a cannister of Maxwell House Wake Up Roast, 30.65 oz, for approximately \$4.99 from an 99 Cents Store located in Costa Mesa, California. Ms. Schweinsburg read the Coffee Product's labeling stating that the cannister "makes up to 240" six fluid-ounce cups of coffee before purchasing the Coffee Product. In reliance on this representation, Ms. Schweinsburg purchased the Coffee Product for her own personal use.

13. Plaintiffs would not have purchased the Maxwell House Coffee Products – or would not have paid as much as they did for such products – had they known that Defendant misrepresented the number of servings each cannister would produce. Plaintiffs were further

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