

Plaintiff,

v.

KRAFT HEINZ FOODS COMPANY

Defendant.

CLASS ACTION
COMPLAINT

JURY TRIAL DEMANDED

X

Plaintiff, Michelle Francione (hereinafter “Plaintiff”), brings this action individually and on behalf of all others similarly situated against Defendant Kraft Heinz Foods Company (“Kraft” or “Defendant”) for making, processing, manufacturing, marketing, distributing and selling its Kraft Macaroni & Cheese products (hereinafter, the “Products” or “Kraft Mac & Cheese Products”). Plaintiff asserts the following allegations pursuant to the investigation by her counsel and based upon information and belief, except as to the allegations pertaining to herself, which are based on personal knowledge:

NATURE OF THE ACTION

1. This class action concerns the presence of harmful chemicals known as ortho-phthalates (“phthalates”) in Defendant’s popular Macaroni & Cheese products (i.e., the Products).

adverse health effects as described below.

4. Reasonable consumers, like Plaintiff, trust manufacturers like Defendant to manufacture, make, process, distribute and sell food that is healthy, nutritious, and free from harmful toxins, contaminants, and chemicals.

5. Reasonable consumers, like Plaintiff, expect that the food they eat and feed their family will be free from phthalates, substances known to have adverse health consequences.

6. Consumers lack the scientific knowledge necessary to determine whether the Products do in fact contain (or have a risk of containing) phthalates, or other undesirable toxins or contaminants, or to ascertain the true nature of the ingredients and quality of the Products. Reasonable consumers therefore must and do rely on Defendant to be transparent and not affirmatively misrepresent the true quality of the Products. However, public reports and articles, including in the recesses of Defendant's own website, reveal that the Kraft Mac & Cheese Products contain (or are at risk of containing) phthalates.

7. Plaintiff brings this class action against Defendant for breach of warranty and unjust enrichment, regarding the presence (or risk) of dangerous phthalates in the Kraft Mac & Cheese Products, including those that Plaintiff purchased. Plaintiff seeks injunctive and monetary relief on behalf of the proposed Class including (i) requiring testing of all ingredients and final Products for such substances; (ii) removal of false and misleading statements and representations on the Products' packaging as described below; and (iii) restoring monies to the members of the

8. Plaintiff Michelle Francione is, and at all times relevant to this action has been, a resident of North Andover, Massachusetts. On several occasions during the last three years, including within the last several months, Plaintiff purchased Kraft Macaroni & Cheese from a Market Basket store located in North Andover, Massachusetts. Specifically, among Plaintiff's purchases of Products in the last several months, Plaintiff made purchases of two types of Kraft Macaroni & Cheese Products ("Plaintiff's Product") from a Market Basket grocery store in North Andover, Massachusetts. The first purchase consisted of two boxes of Kraft EZ MAC CUP 3CH at a purchase price of \$ 1.99 per box. The second purchase consisted of four boxes of KRAFT MAC&CHEESE BOWL ORIGINAL at a price of \$ 2.39 per box.

9. Had Plaintiff known of the existence of the unsafe and dangerous levels of phthalates in Defendant's Products, she would not have purchased any of the Products, or at the very least, would have paid significantly less for them. After learning of the presence of phthalates in the Products, Plaintiff stopped purchasing the Products. However, Plaintiff regularly visits stores where Defendant's Products are sold and remains interested in purchasing safe macaroni and cheese products. She would purchase Defendant's Products in the future if Defendant removed the phthalates.

10. Defendant Kraft Heinz Foods Company is a Pennsylvania-organized entity with its principal place of 1 PPG Place, Suite 3400, Pittsburgh, PA. Defendant makes, processes,

§ 1332(d) because there are more than 100 class members and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest, fees, and costs, and at least one Class member is a citizen of a state different from Defendant.

12. This Court has personal jurisdiction over Defendant because Defendant conducts substantial business within Massachusetts such that Defendant has significant, continuous, and pervasive contacts within Massachusetts.

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendant does substantial business in this District, a substantial part of the events giving rise to Plaintiff's claims took place within this District because Plaintiff purchased one or more of the Products in this District and was therefore injured in this District.

COMMON FACTUAL ALLEGATIONS

Background on Phthalates

14. Phthalates are synthetic chemicals used to make plastics flexible.

15. Phthalates are dangerous and harmful chemicals when consumed, especially by pregnant women and children.

16. Phthalates can migrate into food products during processing, packaging, and preparation. Although not intentionally added to food, phthalates are "indirect" food additives.

17. Because phthalates bind with fats, they tend to be found at higher levels in highly processed or fatty foods, such as the Products.

18. It is not necessary to use phthalates in the processing and packaging of Defendant's Products and the use of phthalates can be avoided entirely by Defendant through the use of good manufacturing practices.

19. Within the scientific community, phthalates are called "endocrine disruptors" because they affect the body's hormones by mimicking them or blocking them. Specifically, they interfere with the body's natural levels of estrogen, testosterone, and other hormones, which is why they are called "disruptors."

20. In the past few years, researchers have linked phthalates to asthma, attention-deficit hyperactivity disorder, breast cancer, obesity and type II diabetes, low IQ, neurodevelopmental issues, behavioral issues, autism spectrum disorders, altered reproductive development and male fertility issues.¹

21. Even short-term exposure to phthalates has now been linked to developmental deficits. Researchers have found that children in intensive care units who were exposed to the phthalates through plastic tubing and catheters had 18 times as much of the chemicals in their blood compared to children who had not spent time in the ICU. Four years later, the children who had been exposed to the phthalates had more problems with attention and motor

¹ <https://www.theguardian.com/lifeandstyle/2015/feb/10/phthalates-plastics-chemicals-research-analysis>.

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