

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

**NICOLE STEWART, ELIZABETH
AGRAMONTE and SUMMER
APICELLA, on behalf of themselves
and all others similarly situated,**

Plaintiffs,

v.

HAIN CELESTIAL GROUP, INC.,

Defendant.

Case No. 21-678

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs Nicole Stewart, Elizabeth Agramonte and Summer Apicella (“Plaintiffs”), by and through their counsel, on their own behalf and on behalf of all others similarly situated, bring this Class Action Complaint against Defendant Hain Celestial Group, Inc. (“Hain” or “Defendant”) and allege the following facts in support of their claims against Hain based upon personal knowledge, where applicable, information and belief, and the investigation of counsel:

I. INTRODUCTION

1. Parents and other caregivers, including Plaintiffs, reasonably believe that the baby food they purchase for their babies will be healthy, nutritious, and non-toxic, and that is what Hain wanted them to think. Alarming, parents and Plaintiffs were wrong. A recent report by the U.S. House of Representatives’ Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform (“House Subcommittee”) reveals that certain brands of commercial baby food – including Defendant Hain’s Earth’s Best Organic baby food (the “Tainted Baby Foods”) – are tainted with significant and dangerous levels of toxic heavy metals, including arsenic, lead,

cadmium, and mercury. *See Baby Foods Are Tainted with Dangerous Levels of Arsenic, Lead, Cadmium and Mercury*, Staff Report Dated February 4, 2021, Subcommittee on Economic and Consumer Policy Committee on Oversight and Reform, U.S. House of Representatives (the “Congressional Report”).¹ Exposure to toxic heavy metals causes permanent decreases in IQ and endangers neurological development and long-term brain function, among numerous other deleterious alarming conditions and problems.

2. Plaintiffs bring this class action against Defendant Hain for deceptive business practices, including misrepresentations and omissions, regarding the presence of dangerous levels of toxic heavy metals and other contaminants contained within its Earth’s Best Organic baby foods that Plaintiffs purchased. Plaintiffs seek injunctive and monetary relief on behalf of the proposed Class including (i) requiring full disclosure of all such substances and ingredients in Defendant’s marketing, advertising, and labeling; (ii) requiring testing of all ingredients and final products for such substances; and (iii) restoring monies to the members of the proposed Class.

3. No reasonable consumer purchasing baby foods or seeing Defendant’s representations in advertising would expect the baby foods to contain dangerous levels of heavy metals or other undesirable toxins or contaminants. Furthermore, reasonable consumers, like Plaintiffs, would consider the inclusion of dangerous levels of heavy metals or other undesirable toxins or contaminants a material fact when considering what baby food to purchase.

4. Defendant intended for consumers to rely on its representations, and reasonable consumers did in fact so rely. However, Defendant’s business practices, representations and omissions were deceptive, misleading, unfair, and/or false because, among other things, the

¹ Available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf> (last accessed February 8, 2021).

Tainted Baby Foods contained undisclosed dangerous levels of toxic heavy metals or other undesirable toxins or contaminants.

5. Plaintiffs bring this proposed consumer class action individually and on behalf of all other members of the Class (as defined herein), who, from the applicable limitations period up to and including the present, purchased for personal/household use and not resale any of Defendant's Tainted Baby Foods. Through this action, Plaintiffs assert claims for unjust enrichment, and violations of New York General Business Law §§ 349 and 350 and the Florida Deceptive and Unfair Trade Practices Act, §501.201, *et. seq.*, seeking monetary damages, injunctive relief, and all other relief as authorized in equity or by law.

Parties

Plaintiffs

6. Plaintiff Nicole Stewart is a citizen and resident of the State of New York, residing in Hauppauge, New York. During the applicable statute of limitations period, Plaintiff purchased Tainted Baby Foods that were manufactured and produced by Defendant Hain that have been found to contain dangerous levels of toxic heavy metals, including Earth's Best Organic Sweet Potato Cinnamon Flax & Oat Baby Meal.

7. Plaintiff Elizabeth Agramonte is a citizen and resident of the State of Florida, residing in Naples, Florida. During the applicable statute of limitations period, Plaintiff purchased Tainted Baby Foods that were manufactured and produced by Defendant Hain that have been found to contain dangerous levels of toxic heavy metals, including Earth's Best Organic Whole Grain Oatmeal Cereal.

8. Plaintiff Summer Apicella is a citizen and resident of the State of New York, residing in Holbrook, New York. During the applicable statute of limitations, Plaintiff purchased

Tainted Baby Foods that were manufactured and produced by Defendant Hain that have been found to contain dangerous levels of toxic heavy metals, including Earth's Best Organic Banana Raspberry & Brown Rice Pouch.

Defendant Hain Celestial Group, Inc.

9. Defendant Hain Celestial Group, Inc. is a Delaware corporation with its principal place of business and headquarters located at 111 Marcus Avenue, #1, Lake Success, NY 11042. Defendant is a citizen of the State of New York.

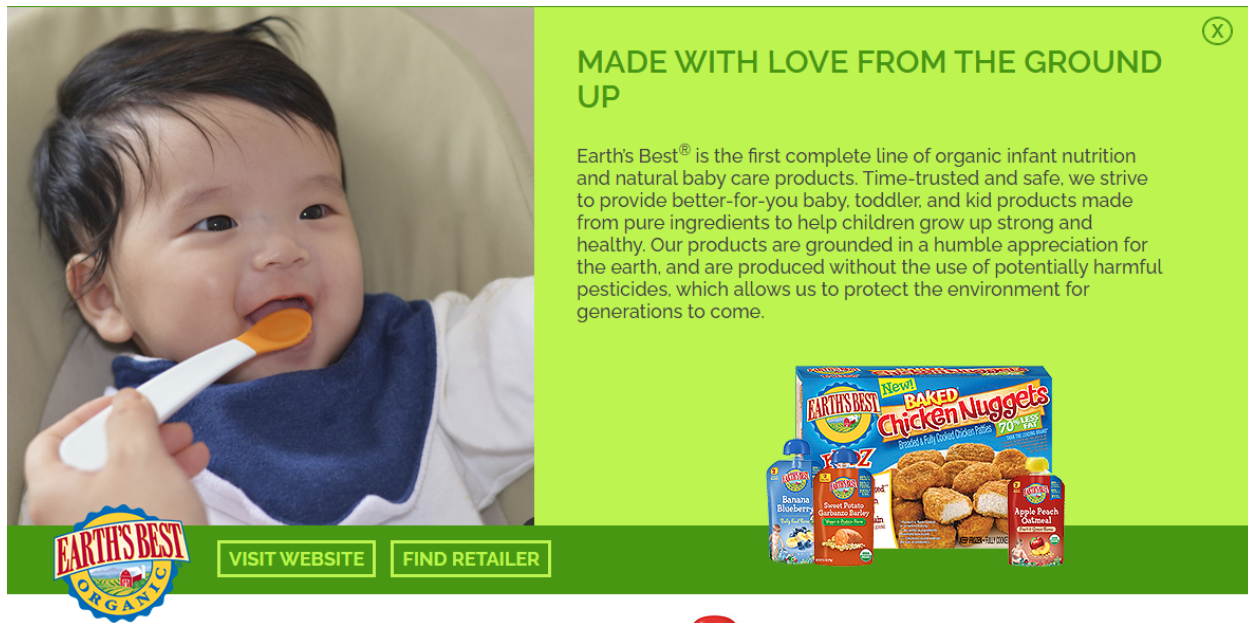
10. Defendant packages, labels, markets, advertises, formulates, manufactures, distributes, and sells its Tainted Baby Foods throughout the United States, including New York and Florida.

11. Defendant's advertised mission is to "to be the leading marketer, manufacturer and seller of organic and natural better-for-you products." Defendant repeatedly touts its commitment to and use of organic and non-GMO ingredients in its products, including the Tainted Baby Foods. Defendant emphasizes its ability to create and inspire "A Healthier Way of Life" for children through its products.²

12. Defendant sells baby food products under the brand name "Earth's Best Organic." On its website, Defendant Hain describes its "Earth's Best Organic" line of products as "time-

² <http://www.hain.com/company/> (last accessed February 8, 2021).

trusted and safe” and claims said products “are made from pure ingredients to help children grow up strong and healthy.”³



13. Defendant’s products for infants include three (3) categories of food items: Organic Infant Cereal, Organic Baby Food Puree Pouches, and Organic Baby Food in Glass Jars. The Organic Infant Cereal line of products includes Earth’s Best Whole Grain Organic Oatmeal Cereal, Organic Rice Cereal, and Whole Grain Organic Multi-Grain Cereal. Earth’s Best makes numerous baby food products with ingredients that are tainted and contain dangerous levels of toxic heavy metals.

Jurisdiction and Venue

14. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §1332(d)(2), because at least one Class Member is of diverse

³ <http://www.hain.com/brands/#c5> (last accessed February 8, 2021).



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