

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

Kendra Anderson and Marla Micks,
individually and on behalf of all others similarly
situated,

Plaintiffs,

- against -

The Hain Celestial Group, Inc.,

Defendant

2:21-cv-01621

Class Action Complaint

Jury Trial Demanded

Plaintiffs allege upon information and belief, except for allegations pertaining to plaintiffs, which are based on personal knowledge:

1. The Hain Celestial Group, Inc. (“Defendant”) manufactures, distributes, labels and sells baby food products in numerous forms, i.e., pouches, purees, snacks, etc., under its Earth’s Best Organic brand, which consist mainly of rice and other ingredients. (“Products”).

2. Parents trust manufacturers like Defendant to sell baby food that is safe, nutritious, and free from harmful toxins, contaminants, and chemicals.

3. They expect the food they feed their infants and toddlers to be free from heavy metals, substances known to have significant and dangerous health consequences.

4. However, consumers lack the scientific knowledge necessary to determine whether such products contain heavy metals, relying on Defendant to truthfully disclose whether their products pose a potential risk to children.

5. A recent report by the U.S. House of Representatives’ Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform, reveals that Defendant has violated the trust of this nation’s parents.

6. The Subcommittee’s investigation was spurred by “reports alleging high levels of

toxic heavy metals in baby foods” and the knowledge that “[e]ven low levels of exposure can cause serious and often irreversible damage to brain development.”

7. The report revealed that “[i]nternal company standards permit dangerously high levels of toxic heavy metals, and... that the manufacturers have often sold foods that exceeded these levels.”

8. The Food and Drug Administration (“FDA”) and the World Health Organization (“WHO”) declared arsenic, lead, cadmium, and mercury “dangerous to human health, particularly to babies and children, who are most vulnerable to their neurotoxic effects.”¹

9. These four heavy metals “can harm a baby’s developing brain and nervous system” and cause negative impacts such as the “permanent loss of intellectual capacity and behavioral problems like attention-deficit hyperactivity disorder (ADHD).”²

10. Even in trace amounts, these heavy metals can alter the developing brain and erode a child’s IQ and increase risk of future criminal and antisocial behavior in children.³

11. Defendant’s front and back labels tout its health attributes through pictures of fresh raspberries, bananas and rice, and the statements, “Earth’s Best Organic,” “Organic Banana Raspberry & Brown Rice,” “Fruit & Grain Puree,” “Non-GMO Project Verified” and “USDA Organic.”⁴

¹ See *Baby Foods Are Tainted with Dangerous Levels of Arsenic, Lead, Cadmium, and Mercury*, Staff Report (“House Report”), Subcommittee on Economic and Consumer Policy of the Committee on Oversight and Reform, at 2, February 4, 2021, available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>.

² Healthy Babies Bright Futures Report, at 6.

³ *Id.*

⁴ This product is an example of the numerous, similarly labeled products which are believed to contain high levels of heavy metals.



12. The ingredient list gives consumers no cause for concern:

INGREDIENTS: ORGANIC BANANA PUREE, WATER, ORGANIC RASPBERRY PUREE, ORGANIC BROWN RICE FLOUR, CITRIC ACID (VITAMIN C).

INGREDIENTS: ORGANIC BANANAS, WATER, ORGANIC RASPBERRY, ORGANIC WHOLE GRAIN BROWN RICE FLOUR, CITRIC ACID.

13. However, nowhere in the labeling, advertising, statements, warranties, and/or packaging does Defendant disclose that the Product contains significant, non-trace levels of

arsenic, mercury, lead, cadmium, and perchlorate⁵ – all known to pose health risks to humans and especially infants.

A. Arsenic

14. When children are exposed to arsenic early in life, it causes “cognitive deficits among school-age children exposed early in life, and neurological problems in adults who were exposed to arsenic-poisoned milk as infants.”⁶

15. Arsenic exposure also creates a risk of “respiratory, gastrointestinal, hematological, hepatic, renal, skin, neurological and immunological effects, as well as damaging effects on the central nervous system.”⁷

16. The FDA has set the maximum allowable arsenic levels in bottled water at 10 ppb of inorganic arsenic and is also considering limiting the action level of arsenic in rice cereal for infants to 100 ppb.⁸

17. The FDA has set 100 ppb inorganic arsenic as the limit in infant rice cereal, though Defendant’s internal standard is 15% higher than the FDA limit, at 115 ppb.

18. Defendant sold baby food products with as much as 129 ppb inorganic arsenic.

19. Documents show that Hain used ingredients testing as high as 309 ppb arsenic.

20. In all baby food products tested by Defendant, inorganic arsenic levels were higher than estimated based on individual ingredient testing.

21. Inorganic arsenic was between 28% and 93% more in the finished products than it

⁵ Healthy Babies Bright Future, What’s In My Baby’s Food?, [What's In My Baby's Food?](#), (January 10, 2021).

⁶ *Id.*

⁷ House Report, at 10 (quoting Miguel Rodríguez-Barranco et al., *Association of Arsenic, Cadmium and Manganese Exposure with Neurodevelopment and Behavioural Disorders in Children: A Systematic Review and Meta-Analysis* (June 1, 2013) (online at <https://pubmed.ncbi.nlm.nih.gov/23570911/>)).

⁸ FDA, Draft Guidance for Industry: Inorganic Arsenic in Rice Cereals for Infants: Action Level (Apr.2016), <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/UCM493152.pdf>.

was in the ingredients.

22. Half of Defendant's brown rice baby foods had over 100 ppb inorganic arsenic; and the average brown rice baby food had 97.62 ppb inorganic arsenic.

B. Lead

23. Lead exposure can seriously harm children's brain and nervous systems and is associated with a range of negative health outcomes including "behavioral problems, decreased cognitive performance, delayed development, and reduced postnatal growth."⁹

24. Young children are particularly vulnerable to lead because the physical and behavioral effects of lead occur at lower exposure levels in children than in adults.

25. In children, low levels of lead exposure have been linked to damage to the central and peripheral nervous system, learning disabilities, shorter stature, impaired hearing, and impaired formation and function of blood cells.¹⁰

26. EPA has set the maximum contaminant level goal for lead in drinking water at zero because lead is toxic metal that can be harmful to human health even at low exposure levels.

27. Lead can bioaccumulate in the body over time, leading to the development of chronic poisoning, cancer, developmental, and reproductive disorders, as well as serious injuries to the nervous system, and other organs and body systems.¹¹

28. The Agency for Toxic Substances and Disease Registry states that there may be no threshold for lead with regards to developmental impact on children.

29. Defendant used ingredients with up to 352 ppb lead.

30. Defendant's ingredients had high lead content.

⁹ House Report, at 11.

¹⁰ See <https://www.cdc.gov/nceh/lead/prevention/pregnant.htm>.

¹¹ See <https://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinkingwater>.

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