

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

ALYSSA MAYS,  
*individually and on behalf of all others  
similarly situated,*

Plaintiffs,

v.

HAIN CELESTIAL GROUP, INC.,

Defendant.

CASE NO.:

**CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

**CLASS ACTION COMPLAINT**

Plaintiff ALYSSA MAYS (“Plaintiff”), on behalf of herself and all others similarly situated, by her undersigned attorneys, against Defendant, HAIN CELESTIAL GROUP, INC. (hereafter “Hain” or “Defendant”), alleges the following based upon personal knowledge as to herself and her own action, and, as to all other matters, alleges, upon information and belief and investigation of her counsel, as follows:

**INTRODUCTION**

1. This is a consumer class action brought individually by the Plaintiff individually and on behalf of all persons in the below-defined proposed Class, all of whom purchased one or more of certain baby foods manufactured by Hain.<sup>1</sup>

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<sup>1</sup> The products at issue are all baby foods sold by Defendant that contain one or more of the following ingredients: organic barley flour, organic chopped broccoli, organic date paste, organic cinnamon powder, organic brown flax milled, organic yellow papaya puree, organic whole what fine, organic red lentils, organic oat flakes, organic oat flour; organic vitamin pre-mix, organic brown rice flour, organic whole raisins, organic soft white wheat flour, organic spelt flour, organic barley malt extract, organic yellow split pea powder, medium grain whole rice, organic butternut squash puree, and organic blueberry puree, and include, Stage 1: Baby Chicken & Chicken Broth, Stage 2: Sweet Potato and Chicken Dinner; Stage 2: Chicken & Rice (the “Products”). Discovery may reveal additional products at issue.

2. Hain manufactures, markets, advertises, labels, distributes, and sells baby food products under the brand name Earth's Best throughout the United States, including in this District.

3. Hain states that “it ensures a high degree of attention to both ingredient and product quality and safety – from procuring, handling, storing, blending, and packaging through distributing Earth's Best® products to our consumer.”<sup>2</sup>

4. Hain further states it “ensures the best ingredients for our food and ultimately the best food for your children.”<sup>3</sup>

5. Hain does not list heavy metals as an ingredient on the Products' labels nor does it warn of the potential presence of heavy metals in the Products. Hain also does not disclose that the ingredients of its supposedly organic Products contain inorganic arsenic.

6. Unbeknown to Plaintiff and members of the Class, and contrary to the representations on the Products label, the Products contain heavy metals, including inorganic arsenic, cadmium and lead at levels above what is considered safe for babies, which, if disclosed to Plaintiff and members of the Class prior to purchase, would have caused Plaintiff and members of the Class not to purchase or consume the Products.

7. As a result, the Products' labeling is deceptive and misleading.

8. Plaintiff and the Class, as defined below, thus bring claims for consumer fraud and seek damages, injunctive and declaratory relief, interest, costs, and attorneys' fees.

### **THE PARTIES**

9. Plaintiff Alyssa Mays is a citizen of the State of Ohio and is a member of the Class defined herein. She purchased the Products, including Stage 1: Baby Chicken & Chicken Broth,

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<sup>2</sup> See <https://www.earthsbest.com/why-earths-best/>.

<sup>3</sup> *Id.*

Stage 2: Sweet Potato and Chicken Dinner, and Stage 2: Chicken & Rice. Plaintiff purchased the Products primarily from Kroger in Mount Orab, Ohio from around March of 2020, until she became concerned about the presence of heavy metals in February 2021.

10. Prior to purchasing the Products, Plaintiff Mays saw Defendant's nutritional claims on the packaging, including "Earth's Best," "organic" and "nurturing baby the purest way," which she relied on in deciding to purchase the Products. During that time, based on Defendant's omissions and the false and misleading claims, warranties, representations, advertisements and other marketing by Defendant, Plaintiff Mays was unaware that the Products contained any level of heavy metals, including inorganic arsenic, and would not have purchased the food if that was fully disclosed, or she would not have paid as much for the Products if that information was fully disclosed. She stopped purchasing the Products in February 2021, when she became aware that the Products contained heavy metals. Plaintiff Mays was injured by paying a premium for the Products that have no or de minimis value—or whose value was at least less than what she paid for the Products—based on the presence of the alleged heavy metals.

11. Defendant Hain Celestial Group, Inc. is an American food company with its headquarters located in Lake Success, New York.

### **JURISDICTION AND VENUE**

12. This Court has subject matter jurisdiction under the Class Action Fairness Act of 2005 (hereinafter referred to as "CAFA") codified as 28 U.S.C. § 1332(d)(2) because the claims of the proposed Class members exceed \$5,000,000 and because Defendant is a citizen of a different state than most Class members.

13. This Court has personal jurisdiction over Defendant because Defendant regularly sells and markets products and conducts business in this District and/or under the stream of commerce doctrine by allowing products to be sold in this District, including the Products.

14. Venue is proper in this Court because a substantial portion of the events complained of took place in this District and this Court has jurisdiction over the Defendant.

### **FACTUAL ALLEGATIONS**

15. The market for baby foods is exploding. The baby foods market worldwide is projected to grow by \$22.7 billion by the year 2025.<sup>4</sup>

16. Along with the exploding baby food market is a surge in popularity of baby food products that are organic and otherwise ‘healthy’ for babies.<sup>5</sup>

17. Defendant manufactures, markets, advertises, labels, distributes, and sells Products, both in the past and currently. Defendant has advertised and continues to advertise the Products through television commercials, print advertisements, point-of-sale displays, product packaging, Internet advertisements, and other promotional materials.

18. On the label of each of the Products, Hain prominently boasts that the Products are derived from ingredients that are: (i) “Earth’s Best,” (ii) “organic” and (iii) “nurturing baby the purest way.”

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<sup>4</sup> [https://www.researchandmarkets.com/reports/338658/baby\\_foods\\_and\\_infant\\_formula\\_global\\_market?utm\\_source=dynamic&utm\\_medium=BW&utm\\_code=b559sk&utm\\_campaign=138612+-+Global+Baby+Foods+and+Infant+Formula+Market+Assessment+2020-2025&utm\\_exec=jo ca220bwd](https://www.researchandmarkets.com/reports/338658/baby_foods_and_infant_formula_global_market?utm_source=dynamic&utm_medium=BW&utm_code=b559sk&utm_campaign=138612+-+Global+Baby+Foods+and+Infant+Formula+Market+Assessment+2020-2025&utm_exec=jo ca220bwd).

<sup>5</sup> *Id.*



19. Defendant's packaging of the Products also does not disclose the presence, or risk of, heavy metals.

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