IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
PALM BEACH DIVISION

Civil Case No.:

ELIZABETH S. BOHLKE, as an individual, and on behalf of all others similarly situated,	:
Plaintiff,	:
vs.	:
THE HAIN CELESTIAL GROUP, INC., a Delaware corporation,	:
Defendant.	:

CLASS ACTION COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff, Elizabeth S. Bohlke, individually, and on behalf of all others similarly situated, by and through her undersigned counsel, and pursuant to all applicable *Federal Rules of Civil Procedure*, hereby files this Class Action Complaint, and alleges against Defendant, THE HAIN CELESTIAL GROUP, INC. ("Hain" or "Defendant"), as follows:

I. INTRODUCTION

1. At all material times hereto, Defendant has unlawfully, negligently, fraudulently, unfairly, misleadingly, and/or deceptively represented that its: (1) DeBoles Gluten Free Corn Spaghetti Style Pasta; (2) DeBoles Wheat Free Corn Spaghetti Style Pasta; and (3) DeBoles Wheat Free Corn Elbow Style Pasta (collectively referred to herein as the "Products") contain "All Natural Ingredients," or in other words, that the Products are "All Natural," when they are not, because they contain unnatural, synthetic, and/or artificial ingredients, including, but not limited to yellow corn flour and/or yellow corn meal, and are thus, not "All Natural."

2. Defendant manufactures, markets, advertises, and sells the Products as being "All Natural" on the front packaging of the Products.

3. At all material times hereto, all of the Products uniformly make the exact same "All Natural" claim in the exact same prominently displayed location on the front packaging for the Products. The Products are not only substantially similar, they are nearly identical

4. The representation that the Products are "All Natural" is central to the marketing of the Products. The misrepresentations are uniform and were communicated to Plaintiff and every other member of the Class.

5. Defendant's "All Natural" claim is an unfair business practice, and is false, misleading, and likely to deceive reasonable consumers in the same respect—because the Products contain unnatural, synthetic, and/or artificial ingredients.

6. Contrary to Defendant's representations, the Products, at all material times hereto, are not "All Natural," because the Products contain yellow corn flour and/or yellow corn meal. Defendant's uniform claim is unlawful, fraudulent, unfair, deceptive, misleading, and/or likely to deceive reasonable consumers.

7. Yellow corn flour and/or yellow corn meal in the United States are prominently processed unnatural, synthetic, and/or artificial ingredients, and its presence in the Products causes the Products to not be "All Natural." Despite the presence of these unnatural ingredients, Defendant knowingly, recklessly, and/or negligently markets the Products as "All Natural."

8. As detailed herein, a reasonable consumer is misled to believe that all of the ingredients are "natural," while the ingredients are, in fact, highly-processed or synthetic, and thus unnatural.

9. As a result, Plaintiff brings this class action to secure, among other things, damages and equitable relief, declaratory relief, restitution, and in the alternative to damages, relief for unjust enrichment, for a Class of similarly situated Florida purchasers, against HAIN, for: (1) false, deceptive, unfair, and unlawful business practices in violation of Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA"), FLA. STAT. §§ 501.201, *et seq.*; (2) Negligent Misrepresentation; (3) Breach of Express Warranty; (4) Violation of Magnusson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.*; and (5) Unjust Enrichment (alleged in the alternative to Plaintiff's other causes of action).

10. Plaintiff is seeking damages individually and on behalf of the Class. In addition, Plaintiff is seeking an Order requiring Defendant to cease from representing the Products are "All Natural" on the packaging for the Products that contain unnatural, synthetic, and/or artificial ingredients.

11. Plaintiff expressly does not seek to contest or enforce any state law that has requirements beyond those required by Federal laws or regulations.

12. All allegations herein are based on information and belief and/or are likely to have evidentiary support after reasonable opportunity for further investigation and discovery.

II. JURISDICTION AND VENUE

13. This Court has jurisdiction over the subject matter presented by this Class Action Complaint because it is a class action arising under the Class Action Fairness Act of 2005 ("CAFA"), Pub. L. No. 109-2, 119 Stat. 4 (2005), which explicitly provides for the original jurisdiction of the Federal Courts of any class action in which any member of the plaintiff class is a citizen of a state different from any Defendant, and in which the matter in controversy exceeds in the aggregate the sum of $5,000,000.00, exclusive of interest and costs.

14. Pursuant to 28 U.S.C. § 1332(d)(2)(A), Plaintiff alleges that the total claims of the individual members of the Plaintiff Class in this action are in excess of $5,000,000.00, in the aggregate, exclusive of interest and costs, and as set forth below, diversity of citizenship exists under CAFA because, as more fully set forth below, Plaintiff is a citizen of Florida, and HAIN can be considered a citizen of Delaware for diversity purposes.

15. Venue in this judicial district is proper pursuant to 28 U.S.C. §1391(a) because, as set forth below, Defendant conducts business in, and may be found in, this district, and Plaintiff purchased one of the subject Products of this action in this judicial district.

III. PARTIES

16. Plaintiff, ELIZABETH S. BOHLKE, is an individual more than 18 years old, and is a citizen of Florida, who resides in Palm Beach County. Plaintiff respectfully requests a jury trial on all damage claims.

17. Defendant, The Hain Celestial Group, Inc., is a Delaware corporation with its principal place of business located at 1111 Marcus Avenue, Lake Success, New York 11042. Defendant lists with the Delaware Secretary of State a Registered Agent as The Prentice-Hall Corporation System, Inc., located at 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. Defendant promoted and marketed the Products at issue in this jurisdiction and in this judicial district.

18. The Products' advertising relied upon by Plaintiff was prepared and/or approved by HAIN and its agents, and was disseminated by HAIN and its agents through advertising containing the misrepresentations alleged herein. The advertising for the Products was designed to encourage consumers to purchase the Products and reasonably misled the reasonable consumer, i.e. Plaintiff and the Class into purchasing the Products.

19. HAIN is the owner, manufacturer and distributor of the Products, and is the company that created and/or authorized the unlawful, negligent, fraudulent, unfair, misleading and/or deceptive advertising and statements for the Products.

20. Plaintiff alleges that, at all times relevant herein, HAIN and its subsidiaries, affiliates, and other related entities, as well as their respective employees, were the agents, servants and employees of HAIN, and at all times relevant herein, each was acting within the purpose and scope of that agency and employment. Plaintiff further alleges on information and belief that at all times relevant herein, the distributors and retailers who delivered and sold the Products, as well as their respective employees, also were HAIN's agents, servants and employees, and at all times herein, each was acting within the purpose and scope of that agency and employment. In addition, Plaintiff alleges that, in committing the wrongful acts alleged herein, HAIN, in concert with its subsidiaries, affiliates, and/or other related entities and their respective employees, planned, participated in and furthered a common scheme to induce members of the public to purchase the Products by means of untrue, misleading, deceptive, and/or fraudulent representations, and that HAIN participated in the making of such representations in that it disseminated those misrepresentations and/or caused them to be disseminated. Whenever reference in this Complaint is made to any act by HAIN or its subsidiaries, affiliates, distributors, retailers and other related entities, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents, and/or representatives of HAIN committed, knew of, performed, authorized, ratified and/or directed that act or transaction on behalf of HAIN while actively engaged in the scope of their duties.

IV. FACTUAL ALLEGATIONS

A. Hain's Advertising of the "All Natural" Products

21. HAIN manufactures, distributes, markets, advertises, and sells the Products, which uniformly claim to be "All Natural," when in fact, they are not, because they contain unnatural, synthetic, and/or artificial ingredients, including, but not limited to, yellow corn flour and/or yellow corn meal.

22. As a result, Defendant's "All Natural" statement uniformly, consistently and prominently displayed on the front of the box for the Products' and on the front of each individual packaging for the Products is unfair, untrue, misleading, and likely to deceive reasonable consumers, such as Plaintiff and members of the Class.

23. Defendant unlawfully markets, advertises, sells and distributes the Products to Florida purchasers in Florida grocery stores, food chains, mass discounters, mass merchandisers, club stores, convenience stores, drug stores and/or dollar stores, as being "All Natural."

24. All consumers within the Class, including Plaintiff, were exposed to the same "All Natural" claim in the same location on the front box and individual packaging for the Products.

25. Unfortunately for consumers, they were charged a price premium for these alleged "All Natural" Products over and above Products that did not claim to be "All Natural."

26. Defendant's "All Natural" representations convey a series of express claims that Defendant knows are material to the reasonable consumer, and which Defendant intends for consumers to rely upon when choosing to purchase the Products.

B. Defendant Deceptively Markets the Products as "All Natural" to Induce Consumers to Purchase the Products

27. A representation that a product is "All Natural" and/or "Natural" is material to a reasonable consumer. According to Consumers Union, "Eighty-six percent of consumers expect a 'natural' label to mean processed foods do not contain any artificial ingredients."[1]

28. Defendant markets and advertises the Products as "All Natural" to increase sales derived from the Products and Defendant is well-aware that claims of food being "All Natural" are material to consumers.

29. Defendant has engaged in a widespread marketing and advertising campaign to portray the Products as being "All Natural."

30. Defendant engaged in this misleading and deceptive campaign to charge a premium for the Products and take away market share from other similar products. As stated herein, such representations and the widespread marketing campaign portraying the Products as being "All Natural" are misleading and likely to deceive reasonable consumers because the Products are not "All Natural" due to being made with unnatural ingredients.

31. Reasonable consumers rely on food label representations and information in making purchase decisions.

32. Plaintiff and the other Class members reasonably relied to their detriment on Defendant's misleading representations and omissions.

1. Notice of the Federal Trade Commission, Comments of Consumers Union on Proposed Guides for Use of Environmental Marketing Claims, 16 CFR § 260, Dec. 10, 2010, http://www.ftc.gov/os/comments/greenguiderevisions/00289-57072.pdf (last visited February 27, 2014)

33. Defendant's misleading affirmative statements about the "naturalness" of its Products obscured the material facts that Defendant failed to disclose about the unnaturalness of its Products.

34. Plaintiff and the other Class members were among the intended recipients of Defendant's deceptive representations and omissions.

35. Defendant made the deceptive representations and omissions on the Products with the negligent and/or purposeful intent to induce Plaintiff's and the other Class members' purchase of the Products.

36. Defendant's deceptive representations and omissions are material in that a reasonable person would attach importance to such information and would be induced to act upon such information in making purchase decisions.

37. Thus, Plaintiff and the other Class members' reliance upon Defendant's misleading and deceptive representations and omissions may be presumed.

38. The materiality of those representations and omissions also establishes causation between Defendant's conduct and the injuries sustained by Plaintiff and the Class.

39. Defendant's false, misleading, and deceptive misrepresentations and omissions are likely to continue to deceive and mislead reasonable consumers and the general public, as they have already deceived and misled Plaintiff and the other Class members.

40. In making the false, misleading, and deceptive representations and omissions, Defendant knew and intended that consumers would pay a premium for, and/or choose to purchase, "All Natural" labeled products over comparable products that are not labeled "All Natural" furthering Defendant's private interest of increasing sales for its Products and

decreasing the sales of products that are truthfully offered as "All Natural" by Defendant's competitors, or those that do not claim to be "All Natural."

41. As an immediate, direct, and proximate result of Defendant's false, misleading, and deceptive representations and omissions, Defendant injured Plaintiff and the other Class members in that they:

1) paid a sum of money for Products that were not as represented;

2) paid a premium price for Products that were not as represented;

3) were deprived the benefit of the bargain because the Products they purchased were different than what Defendant warranted;

4) were deprived the benefit of the bargain because the Products they purchased had less value than what was represented by Defendant;

5) did not receive Products that measured up to their expectations as created by Defendant;

6) ingested a substance that was other than what was represented by Defendant;

7) ingested a substance that Plaintiff and the other members of the Class did not expect or consent to;

8) ingested a product that was artificial, synthetic, or otherwise unnatural;

9) ingested a substance that was of a lower quality than what Defendant promised;

10) were denied the benefit of knowing what they ingested;

11) were denied the benefit of truthful food labels;

12) were denied the benefit of supporting an industry that sells natural foods and contributes to environmental sustainability; and

13) were denied the benefit of the beneficial properties of the natural foods promised.

42. Had Defendant not made the false, misleading, and deceptive representations and omissions, Plaintiff and the other Class members would not have been economically injured.

43. Among other things, Plaintiff and the other Class members would not have been denied the benefit of the bargain, they would not have ingested a substance that they did not expect or consent to.

44. Plaintiff and the other Class members did not obtain the full value of the advertised Products due to Defendant's misrepresentations and omissions.

45. Plaintiff and the other Class members purchased, purchased more of, or paid more for, the Products than they would have done, had they known the truth about the Products' unnaturalness.

46. Accordingly, Plaintiff and the other Class members have suffered injury in fact and lost money or property as a result of Defendant's wrongful conduct.

C. Plaintiff's Purchase and Reliance on the "All Natural" Statement

47. Through a variety of advertising, including the front packaging of the Products, HAIN has made untrue and misleading material statements and representations regarding the Products, which have been relied upon by Plaintiff and members of the Class.

48. Plaintiff has purchased at least one of the Products—including, but not limited to, the DeBoles Gluten Free Corn Spaghetti Style Pasta—from a Whole Foods in Palm Beach Gardens, Florida during the Class Period, in October 2013. The DeBoles Gluten Free Corn Spaghetti Style Pasta purchased by Plaintiff claimed to be "All Natural" on the front packaging, which Plaintiff perceived, read and relied on in making Plaintiff's purchase. Plaintiff interpreted the "All Natural" claim to mean that the DeBoles Gluten Free Corn Spaghetti Style Pasta did not contain unnatural, synthetic, and/or artificial ingredients.

49. Subsequent to purchasing the DeBoles Gluten Free Corn Spaghetti Style Pasta, Plaintiff discovered that it contains unnatural, synthetic and/or artificial ingredients, including but not limited to yellow corn flour, and thus, is not "All Natural."

50. The DeBoles Gluten Free Corn Spaghetti Style Pasta is valueless or worthless because Plaintiff and members of the putative Class would not have purchased it, or in other words, would have paid zero dollars, had the Products not claimed to be "All Natural."

51. Plaintiff and members of the Class would not have purchased the Products had they known that they were not "All Natural." Likewise, if Plaintiff and members of the Class had known the Products contained unnatural, synthetic, and/or artificial ingredients, they would not have purchased them.

52. Defendant's "All Natural" statement is material to a consumer's purchase decision because reasonable consumers, such as Plaintiff and members of the Class, care whether products contain unnatural, synthetic, and/or artificial ingredients, and thus attach importance to an "All Natural" claim when making a purchasing decision.

D. Plaintiff Has Suffered Economic Damages

53. As a result of purchasing the Products that claim to be "All Natural," but contain yellow corn flour and/or yellow corn meal, Plaintiff and members of the Class have suffered economic damages.

54. Therefore, the Products are valueless, worth less than what Plaintiff and members of the Class paid for them, and/or are not what Plaintiff and members of the Class reasonably intended to receive.

55. Plaintiff and the Class seek damages equal to the aggregate purchase price paid for the Products during the Class Period because Defendant's conduct constitutes an unfair

business practice and/or the Products are worthless due to not being "All Natural." Moreover, Plaintiff and members of the Class paid a price premium for the "All Natural" Products, over other similar products that do not claim to be "All Natural."

V. CLASS ACTION ALLEGATIONS

56. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Class Action Complaint as if fully set forth herein.

57. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff brings this class action and seeks certification of the claims and certain issues in this action on behalf of a Class defined as:

> **All Florida residents who have purchased for personal use one or more of the Products from February 28, 2010, through and to the date Notice is provided to the Class.**

58. Plaintiff respectfully reserves the right to amend the Class definition if further investigation and discovery indicates that the Class definition should be narrowed, expanded, or otherwise modified. Excluded from the Class are governmental entities, Defendant, any entity in which Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

59. Defendant's practices and omissions were applied uniformly to all members of the Class, including any subclass, so that the questions of law and fact are common to all members of the Class and any subclass. All members of the Class and any subclass were and are similarly affected by the deceptive advertising for the Products, and the relief sought herein is for the benefit of Plaintiff and members of the Class and any subclass.

60. Based on the annual sales of the Products and the popularity of the Products, it is readily apparent that the number of consumers in both the Class and any subclass is so large as to make joinder impractical, if not impossible.

61. Questions of law and fact common to the Plaintiff Class and any subclass exist that predominate over questions affecting only individual members, including, *inter alia*:

a. Whether Defendant's business practices violated FDUTPA, Fla. Stat. §§ 501.201, *et seq.*;

b. Whether the Products are "All Natural;"

c. Whether the ingredients contained in the Products are "All Natural;"

d. Whether the claim "All Natural" on the Products' packaging and advertising is material to a reasonable consumer;

e. Whether the claim "All Natural" on the Products' packaging and advertising is false to a reasonable consumer.

f. Whether the claim "All Natural" on the Products' packaging and advertising is likely to deceive a reasonable consumer;

g. Whether the claim "All Natural" on the Products' packaging and advertising is misleading to a reasonable consumer;

h. Whether a reasonable consumer is likely to be deceived by a claim that a product is "All Natural" where the product contains unnatural, synthetic, and/or artificial ingredients;

i. Whether a reasonable consumer is likely to be deceived by a claim that a product is "All Natural" where the product contains yellow corn flour and/or yellow corn meal which are unnatural, synthetic, and/or artificial ingredients;

j. Whether Defendant was unjustly enriched by the sale of the Products; and

k. Whether Defendant's conduct as set forth above injured consumers and if so, the extent of the injury.

62. The claims asserted by Plaintiff in this action are typical of the claims of the members of the Plaintiff Class and any subclass, as the claims arise from the same course of conduct by Defendant, and the relief sought within the Class and any subclass is common to the members of each.

63. Plaintiff will fairly and adequately represent and protect the interests of the members of the Plaintiff Class and any subclass. Plaintiff has retained counsel competent and experienced in both consumer protection and class action litigation.

64. Certification of this class action is appropriate under Federal Rule of Civil Procedure 23 because the questions of law or fact common to the respective members of the Class and any subclass predominate over questions of law or fact affecting only individual members.

65. This predominance makes class litigation superior to any other method available for a fair and efficient decree of the claims.

66. Absent a class action, it would be highly unlikely that the representative Plaintiff or any other members of the Class or any subclass would be able to protect their own interests because the cost of litigation through individual lawsuits might exceed expected recovery.

67. Certification also is appropriate because Defendant acted, or refused to act, on grounds generally applicable to both the Class and any subclass, thereby making appropriate the relief sought on behalf of the Class and any subclass as respective wholes.

68. Further, given the large number of consumers of the Products, allowing individual actions to proceed in lieu of a class action would run the risk of yielding inconsistent and conflicting adjudications.

69. A class action is a fair and appropriate method for the adjudication of the controversy, in that it will permit a large number of claims to be resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship that would result from the prosecution of numerous individual actions and the duplication of discovery, effort, expense and burden on the courts that individual actions would engender.

70. The benefits of proceeding as a class action, including providing a method for obtaining redress for claims that would not be practical to pursue individually, outweigh any difficulties that might be argued with regard to the management of this class action.

VI. FIRST CAUSE OF ACTION: FOR VIOLATIONS OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE PRACTICES ACT, FLA. STAT. §§ 501.201, *ET SEQ*.

71. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

72. This cause of action is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Sections 501.201 to 201.213, *Florida Statutes*. The express purpose of the Act is to "protect the consuming public...from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce" Section 501.202(2).

73. The sale of the Products at issue in this cause was a "consumer transaction" within the scope of the Florida Deceptive and Unfair Trade Practices Act, Sections 501.201 to 201.213, *Florida Statutes*.

74. Plaintiff is a "consumer" as defined by Section 501.203, *Florida Statutes*. Each of Defendant's Products is a "good" within the meaning of the Act. Defendant is engaged in trade or commerce within the meaning of the Act.

75. Section 501.204(1), *Florida Statutes* declares as unlawful "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce."

76. Section 501.204(2), *Florida Statutes* states that "due consideration be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a)(1) of the Trade Commission Act." Defendant's unfair and deceptive practices are likely to mislead – and have misled – the consumer acting reasonably under the circumstances and, therefore, violate Section 500.04, Florida Statutes and 21 U.S.C. Section 343.

77. Defendant have violated the Act by engaging in the unfair and deceptive practices described above, which offend public policies and are immoral, unethical, unscrupulous and substantially injurious to consumers. Specifically, Defendant has represented that their Products are "All Natural," when in fact the Products contain unnatural, synthetic, and/or artificial ingredients.

78. Plaintiff and Class Members have been aggrieved by Defendant's unfair and deceptive practices in that they purchased and consumed Defendant's Products.

79. Reasonable consumers rely on Defendant to honestly represent the true nature of their ingredients.

80. As described in detail above, Defendant has represented that its products are "All Natural," when in reality they contain unnatural, synthetic, and/or artificial ingredients.

81. Defendant has deceived reasonable consumers, like Plaintiff and the Class, into believing its Products were something they were not—"All Natural."

82. The knowledge required to discern the true nature of Defendant's Products is beyond that of the reasonable consumer—namely that the Products contain unnatural, synthetic, and/or artificial ingredients, such as yellow corn flour and/or yellow corn meal.

83. Federal and State Courts decide omission and misrepresentation matters regularly, including those involving a reasonable consumer's understanding of the meaning of "All Natural." Accordingly, the issue of whether the "All Natural" label is misleading to a reasonable consumer is well within the jurisdiction of the Court.

84. The damages suffered by the Plaintiff and the Class were directly and proximately caused by the deceptive, misleading and unfair practices of Defendant, as described above.

85. Pursuant to Section 501.211(1), *Florida Statutes*, Plaintiff and the Class seek a declaratory judgment and court order enjoining the above described wrongful acts and practices of the Defendant, and for restitution and disgorgement.

86. Additionally, pursuant to sections 501.211(2) and 501.2105, *Florida Statutes*, Plaintiff and the Class make claims for damages, attorney's fees and costs.

VII. SECOND CAUSE OF ACTION: NEGLIGENT MISREPRESENTATION

87. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

88. Defendant has negligently represented that the Products have nothing artificial and are all "All Natural," when in fact, they are not because they contain unnatural, synthetic, and/or artificial ingredients such as yellow corn flour and/or yellow corn meal.

89. Defendant has misrepresented a material fact to the public, including Plaintiff and Class Members, about its Products; specifically, that the Products are "All Natural" when they contain unnatural, synthetic, and/or artificial ingredients.

90. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time is leaves Defendant's possession until it arrives in stores to be advertised and sold to consumers.

91. Defendant knew or should have known that these omissions would materially affect Plaintiff's and Class members' decisions to purchase the Products.

92. Defendant has omitted the fact that the Products contain unnatural, synthetic, and/or artificial ingredients in the Products, despite claiming that the Products are "All Natural."

93. Plaintiff and other reasonable consumers, including the Class members, reasonably relied on Defendant's representations set forth herein, and, in reliance thereon, purchased the Products. The reliance by Plaintiff and Class members was reasonable and justified in that Defendant appeared to be, and represented itself to be, a reputable business, and it distributed the Products through reputable companies. Plaintiff would not have been willing to pay for Defendant's Products if they knew that they contained unnatural, synthetic, and/or artificial ingredients.

94. As a direct and proximate result of these misrepresentations, Plaintiff and members of the Class were induced to purchase and consume Defendant's Products, and have suffered damages to be determined at trial in that, among other things, they have been deprived

of the benefit of their bargain in that they bought Products that were not what they were represented to be, and they have spent money on Products that had less value than was reflected in the premium purchase price they paid for the Products.

95. Plaintiff seeks all available remedies, damages, and awards as a result of Defendant's negligent misrepresentations and/or omissions.

VIII. THIRD CAUSE OF ACTION: BREACH OF EXPRESS WARRANTY

96. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

97. Defendant has expressly represented that the Products are "All Natural," when in fact, they are not because they contain unnatural, synthetic, and/or artificial ingredients, such as yellow corn flour and/or yellow corn meal.

98. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time is leaves Defendant's possession until it arrives in stores to be advertised and sold to consumers.

99. Plaintiff is informed and believes, and thereon alleges, that Defendant made an express warranty, including, but not limited to, that the Products were "All Natural."

100. Defendant breached its claimed "All Natural" express warranty because the Products contain unnatural, synthetic, and/or artificial ingredients, such as yellow corn flour and/or yellow corn meal.

101. As a proximate result of the failure of the Products to perform as expressly warranted by Defendant, Plaintiff and members of the Class have suffered actual economic damages in an amount to be determined at trial in that they were induced to purchase products

they would not have purchased had they known the true facts about, and have spent money on Products that were not what they were represented to be, and that lack the value Defendant represented the Products to have.

102. Plaintiff and Class members gave timely notice to Defendant of this breach on behalf of themselves and all members of the Plaintiff Class directly through a Notice letter sent to Defendant on December 9, 2013.

103. Plaintiff seeks all available remedies, damages, and awards as a result of Defendant's breach of express warranty.

IX. FOURTH CAUSE OF ACTION: VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT (15 U.S.C. §§ 2301 *et seq.*)

104. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

105. Defendant has breached express warranties regarding the Products, as described in the third cause of action above.

106. Plaintiff and the Class are consumers as defined in 15 U.S.C. § 2301(3).

107. Defendant is a supplier and warrantor as defined in 15 U.S.C. § 2301(4)(5).

108. The Products are consumer products as defined in 15 U.S.C. § 2301(6).

109. By reason of Defendant's breach of express warranty, Defendant has violated the statutory rights due to Plaintiff and members of the Class pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C.§§ 2301 *et seq.*, thereby economically damaging Plaintiff and the Class.

110. Therefore, Plaintiff and the Class seek all available remedies, damages, and awards under the Magnuson-Moss Warranty Act.

X. FIFTH CAUSE OF ACTION:
UNJUST ENRICHMENT

111. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

112. In its marketing and advertising, Defendant has made false and misleading statements and/or omissions regarding the Products, as described herein.

113. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time is leaves Defendant's possession until it arrives in stores to be advertised and sold to consumers.

114. Plaintiff and Class Members conferred a benefit on Defendant by purchasing the Products. Defendant accepted and retained the benefit in the amount of the purchase price and/or profits it earned from sales of the Products to Plaintiff and other Class members.

115. Defendant profited from its unlawful, unfair, misleading, and deceptive practices and advertising at the expense of Plaintiff and Class members, under circumstances in which it would be unjust for Defendant to be permitted to retain said benefit.

116. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact and has lost money or property as a result of Defendant's actions, as set forth herein.

117. Defendant is aware that the claims and/or omissions that it makes about the Products are false, misleading, and likely to deceive reasonable consumers, such as Plaintiff and members of the Class.

118. Plaintiff and Class members do not have an adequate remedy at law against Defendant (in the alternative to the other causes of action alleged herein).

119. Accordingly, the Products are valueless such that Plaintiff and Class members are entitled to restitution in an amount not less than the purchase price of the Products paid by Plaintiff and Class members during the Class Period.

120. Plaintiff and Class members are entitled to restitution of the excess amount paid for the Products, over and above what they would have paid if the Products had been adequately advertised, and Plaintiff and Class members are entitled to disgorgement of the profits Defendant derived from the sale of the Products.

XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all others similarly situated, prays for relief pursuant to each cause of action set forth in this Complaint as follows:

1. For an order certifying that the action may be maintained as a class action, certifying Plaintiff as representative of the Class, and designating Plaintiff's attorneys Class counsel;

2. For an award of equitable relief for all causes of action as follows:

(a) Enjoining Defendant from continuing to engage, use, or employ any unfair and/or deceptive business acts or practices related to the design, testing, manufacture, assembly, development, marketing and advertising of the Products for the purpose of selling the Products in such manner as set forth in detail above or making any claims found to violate FDUTPA or the other causes of action as set forth above;

(b) Requiring Defendant to make full restitution of all monies wrongfully obtained as a result of the conduct described in this Complaint;

(c) Restoring all monies that may have been acquired by Defendant as a result of such unfair and/or deceptive act or practices; and

(d) Requiring Defendant to disgorge all ill-gotten gains flowing from the conduct described herein.

3. For actual damages in an amount to be determined at trial for all causes of action;

4. For an award of attorney's fees pursuant to, *inter alia*, FDUTPA;

5. For an award of costs and any other award the Court might deem just, appropriate, or proper; and

6. For pre- and post-judgment interest on any amounts awarded**.**

XII. DEMAND FOR JURY TRIAL

Plaintiff respectfully demands a jury trial on all issues so triable.

Respectfully Submitted By,

Dated: February 28, 2014

/s/ Joshua H. Eggnatz
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(800) 436-6437
(415) 692-6607 (fax)
Email: *howardr@pdq.net*

Attorneys for Plaintiff and the Proposed Class

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)* **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

ELIZABETH BOHLKE as an individual, and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Palm Beach County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
The Eggnatz Law Firm, P.A.
1920 N. Commerce Parkway, Ste. 1, Weston, FL 33326, (954)634-4355

DEFENDANTS

THE HAIN CELESTIAL GROUP, INC., a Delaware corporation

County of Residence of First Listed Defendant New Castle County, DE
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

(d) Check County Where Action Arose: ☐ MIAMI- DADE ☐ MONROE ☐ BROWARD ☑ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question *(U.S. Government Not a Party)*
☐ 2 U.S. Government Defendant
☑ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff) and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☑ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☑ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☒ 195 Contract Product Liability
☐ 196 Franchise

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury
☐ 362 Personal Injury - Med. Malpractice

PERSONAL INJURY
☐ 365 Personal Injury - Product Liability
☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 440 Other Civil Rights
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/ Accommodations
☐ 445 Amer. w/Disabilities - Employment
☐ 446 Amer. w/Disabilities - Other
☐ 448 Education

PRISONER PETITIONS
Habeas Corpus:
☐ 463 Alien Detainee
☐ 510 Motions to Vacate Sentence
Other:
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prison Condition
☐ 560 Civil Detainee – Conditions of Confinement

FORFEITURE/PENALTY
☐ 625 Drug Related Seizure of Property 21 USC 881
☐ 690 Other

LABOR
☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 740 Railway Labor Act
☐ 751 Family and Medical Leave Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
☐ 462 Naturalization Application
☐ 465 Other Immigration Actions

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
☐ 375 False Claims Act
☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 480 Consumer Credit
☐ 490 Cable/Sat TV
☐ 850 Securities/Commodities/ Exchange
☐ 890 Other Statutory Actions
☐ 891 Agricultural Acts
☐ 893 Environmental Matters
☐ 895 Freedom of Information Act
☐ 896 Arbitration
☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed **(See VI below)** ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district *(specify)* ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment ☐ 8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐YES ☐ NO b) Related Cases ☐YES ☑ NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. 1332 (d)(2): Claims for Violations of Florida's Deceptive & Unfair Trade Practices Act, et al.

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☑ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $ 5,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☑ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE February 28, 2014

SIGNATURE OF ATTORNEY OF RECORD /s/ Joshua H. Eggnatz

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ IFP _____ JUDGE _____ MAG JUDGE _____

Save As... Print Reset

JS 44 Reverse (Rev. 12/12)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity**.
Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

ELIZABETH BOHLKE as an individual, and on behalf of all others similarly situated

Plaintiff(s)

v.

THE HAIN CELESTIAL GROUP, INC., a Delaware corporation

Defendant(s)

Civil Action No. 9:14cv80300

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* THE HAIN CELESTIAL GROUP, INC
c/o The Prentice-Hall Corporation System, Inc.
2711 Centerville Road
Suite 400
Wilmington, Delaware 19808

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Joshua H. Eggnatz, Esq
THE EGGNATZ LAW FIRM, P.A.
1920 N. Commerce Parkway
Suite 1
Weston, FL 33326

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No. 9:14cv80300

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset