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and the Putative Class*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ANDREA KEY, NAHSLA BLACK-
ZETINA, individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

SPROUT FOODS, INC., a Delaware
corporation, and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.:

CLASS ACTION

COMPLAINT

DEMAND FOR JURY TRIAL

1 *“Baby food manufacturers hold a special position of public trust. Consumers believe that they*
2 *would not sell products that are unsafe.”*¹

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4 - Subcommittee on Economic and Consumer
5 Policy, Committee on Oversight and
6 Reform, U.S. House of Representatives
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27 ¹ S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., BABY
28 FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY,
<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>.

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1 Plaintiffs ANDREA KEY and NAHSLA BLACK-ZETINA (“Plaintiffs”), individually
2 and on behalf of all others similarly situated, by and through their undersigned attorneys, bring
3 this Class Action Complaint based upon personal knowledge as to themselves and their own acts,
4 and as to all other matters upon information and belief, based upon, *inter alia*, the investigation
5 of their attorneys.

6 **I. SUBSTANTIVE ALLEGATIONS**

7 1. Defendant SPROUT FOODS, INC. (“Defendant” or “Sprout”), a Delaware
8 corporation headquartered in Montvale, New Jersey, formulates, develops, manufactures, labels,
9 distributes, markets, advertises, and sells baby foods under the name “Sprout Organic” throughout
10 the State of California, as well as the United States more broadly.

11 2. Plaintiffs are reasonable consumers who purchased Defendant’s baby foods
12 reasonably believing that such baby foods are safe, nutritious, and free from harmful toxins,
13 contaminants, and chemicals.

14 3. As a result of Defendant’s negligent, reckless, and/or intentional practice of
15 misrepresenting and failing to fully disclose the presence of dangerous substances in its baby
16 foods, Plaintiffs and the Class Members were induced to purchase Defendant’s baby foods, which
17 are not healthy for consumption by babies as advertised. Plaintiffs and the Class Members were
18 induced to feed their babies dangerous foods containing toxic heavy metals, such a lead, arsenic,
19 cadmium, and mercury, and the full extent of the harm caused to their babies is not yet known.

20 4. Consumers of baby foods, including Plaintiffs, place their trust in manufacturers
21 like Defendant, believing they sell baby foods that are safe, nutritious, and free from harmful
22 toxins, contaminants, and chemicals. Consumers expect that the food they feed to infants and
23 toddlers is free of toxic heavy metals such as lead, arsenic, cadmium, and mercury – substances
24 known to have significant and dangerous health consequences.

25 5. Reasonable consumers lack the scientific knowledge necessary to determine
26 whether Defendant’s products contain toxic heavy metals or to ascertain the true nature of the
27 ingredients and quality of the products Defendant sells. Reasonable consumers therefore must –
28 and do – rely on Defendant to honestly report what its various products contain.

6. On February 4, 2021, the U.S. House of Representatives' Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform ("Subcommittee"), released a report entitled "Baby Foods Are Tainted with Dangerous Levels of Arsenic, Lead, Cadmium, and Mercury."²

7. On November 6, 2019, the Subcommittee made requests for internal documents and test results from some of the biggest baby food manufacturers in the nation, including Defendant.³

8. Of the seven companies contacted, four responded to the Subcommittee's requests.⁴ Defendant was one of three manufacturers who refused to cooperate.⁵ With regard to Defendant's refusal to cooperate with the Subcommittee's request, the Subcommittee noted that it was "greatly concerned that [Sprout Foods, Inc.'s] lack of cooperation might be obscuring the presence of even higher levels of toxic heavy metals in their baby food products than their competitors' products."⁶ Indeed, the Subcommittee noted that "Sprout's evasion is concerning, as even limited independent testing has revealed the presence of toxic heavy metals in its baby food."⁷

9. After reviewing the internal documents and test results it received, the Subcommittee made the disturbing discovery that "commercial baby foods are tainted with significant levels of toxic heavy metals, including arsenic, lead, cadmium, and mercury."⁸

10. Exposure to toxic heavy metals in large amounts has been shown to cause cognitive decline and thwart cognitive development, especially in children.⁹ The report further

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² S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., BABY FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>.

³ *Id.*

⁴ *Id.* at 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 43.

⁸ *Id.* at 2.

⁹ *Id.*

1 claimed that exposure can lead to “diminished future economic productivity, and increased risk
2 of future criminal and antisocial behavior in children.”¹⁰

3 11. Arsenic is a naturally occurring element found in food, water, air, and soil.¹¹ In
4 recent years, healthcare professionals have grown “increasingly concerned about the more subtle
5 and long-range health effects of low-level exposures to humans, especially for infants and
6 children exposed to arsenic in water and some foods, such as rice-based products, during sensitive
7 windows of development.”¹² Arsenic, in general, can negatively impact one’s skin, nervous
8 system, respiratory system, cardiovascular system, liver, kidney, bladder and prostate, immune
9 system, endocrine system, and developmental processes.¹³

10 12. Lead is also a naturally occurring element.¹⁴ Lead has been used as an ingredient
11 in paint, gasoline, ceramics, plumbing pipes, and batteries.¹⁵ Lead is dangerous – so much so that
12 the federal government has phased out its use in gasoline and house paint.¹⁶ Today, lead is
13 primarily found in contaminated soil, old paint, dust, and contaminated drinking water.¹⁷ With
14 respect to lead exposure to children, the National Institute of Environmental Health Sciences
15 (“NIEHS”) warns that exposure to lead can have a wide range of effects on a child’s development
16 and behavior, and that many effects are permanent.¹⁸ According to the NIEHS, blood lead levels
17 at or less than 10 micrograms of lead per deciliter of blood (“µg/dL”) are associated with
18 “increased behavioral effects, delayed puberty, and decreased hearing, cognitive performance,
19 and postnatal growth or height.”¹⁹ Health effects are found even at low blood lead levels of less
20 than 5 µg/dL.²⁰ “Such effects may include diminished IQ scores and academic achievement, and
21

22 ¹⁰ *Id.*

23 ¹¹ *Arsenic*, NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES,
<https://www.niehs.nih.gov/health/topics/agents/arsenic/index.cfm>.

24 ¹² *Id.*

25 ¹³ *Id.*

26 ¹⁴ *Lead*, NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES,
<https://www.niehs.nih.gov/health/topics/agents/lead/index.cfm>.

27 ¹⁵ *Id.*

28 ¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* citing Jianghong Liu et al., *Blood Lead Levels and Children’s Behavioral and Emotional Problems: A Cohort Study*, JAMA PEDIATRICS, 168 (8) at 737-745 (Aug. 1, 2014),
<https://jamanetwork.com/journals/jamapediatrics/fullarticle/1884486>.

²⁰ *Id.*

1 increased behavioral problems and attention-related behaviors such as attention deficit
 2 hyperactivity disorder.”²¹ According to the Centers for Disease Control (“CDC”), any child with
 3 more than 5 µg/dL of lead in their blood may be considered at risk of these negative health effects
 4 and public health actions should be initiated.²²

5 13. According to a study published by the United Nations Children’s Fund
 6 (“UNICEF”) in 2020, lead poisoning is a serious problem affecting children globally.²³ The study
 7 found that up to 800 million children have blood lead levels at or above 5 µg/dL.²⁴

8 14. Mercury is a naturally occurring metal, and it is toxic for humans.²⁵ Metallic
 9 mercury can frequently be found in fluorescent light bulbs, thermometers, and barometers.²⁶ The
 10 NIEHS, Food and Drug Administration (“FDA”) and Environmental Protection Agency (“EPA”)
 11 have also been studying the psychological effects of methylmercury, a type of organic mercury,
 12 on humans through consumption of fish.²⁷ It has been found that consuming large quantities of
 13 mercury through foods like fish increases a person’s exposure to mercury, and pregnant women
 14 who regularly eat fish high in mercury risk permanently damaging their developing fetuses.²⁸
 15 Their children may exhibit motor difficulties, sensory problems, and cognitive deficits.²⁹ In 2004,
 16 and again in 2019, the EPA and FDA released a consumer advisory notice, advising that children
 17 avoid fish with high traces of methylmercury.³⁰

18 ///

20 ²¹ *Id.*

21 ²² *Id.* See also *Blood Levels in Children*, CDC (Feb. 9, 2021), <https://www.cdc.gov/nceh/lead/prevention/blood-lead-levels.htm>.

22 ²³ Nicholas Rees, Richard Fuller, *The Toxic Truth: Children’s Exposure to Lead Pollution Undermines a*
 23 *Generation of Future Potential*, UNICEF and PURE EARTH (Jul. 2020),
<https://www.unicef.org/sites/default/files/2020-07/The-toxic-truth-children%E2%80%99s-exposure-to-lead-pollution-2020.pdf>.

24 ²⁴ *Id.*

25 ²⁵ *Mercury*, NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES,
<https://www.niehs.nih.gov/health/topics/agents/mercury/index.cfm>.

26 ²⁶ *Id.*

27 ²⁷ *Id.*

28 ²⁸ *Id.*

²⁹ *Id.*

³⁰ *Advice about Eating Fish – For Women Who Are or Might Become Pregnant, Breastfeeding Mothers, and Young Children*, FDA and EPA (Dec. 29, 2020), <https://www.fda.gov/food/metals-and-your-food/fdaepa-2004-advice-what-you-need-know-about-mercury-fish-and-shellfish>; <https://www.fda.gov/food/consumers/advice-about-eating-fish>.

1 15. Cadmium is a metal typically obtained from zinc byproducts and “recovered from
2 spent nickel-cadmium batteries.”³¹ The Agency for Toxic Substances and Disease Registry has
3 listed cadmium as the seventh most significant potential threat to human health.³² Research has
4 associated cadmium exposure with diminished IQ and attention deficit hyperactivity disorder
5 (“ADHD”).³³

6 16. An August 16, 2018 article published by Consumer Reports
7 (ConsumerReports.Org [“CR”]) revealed that heavy metals such as lead, mercury, arsenic, and
8 cadmium are contained in many foods made just for babies and toddlers, “such as popular snacks,
9 cereals, prepared entrees, and packaged fruits and vegetables.”³⁴ James E. Rogers, Ph.D., the
10 director of food safety research and testing at Consumer Reports, stated that, “[b]abies and
11 toddlers are particularly vulnerable due to their smaller size and developing brains and organ
12 systems.”³⁵ “They also absorb more of the heavy metals that get into their bodies than adults
13 do.”³⁶

14 17. A significant number of children in the United States eat a lot of packaged baby
15 foods.³⁷ A CR national survey found that more than ninety percent (90%) of parents with children
16 three-years or younger turn to packaged baby foods at least occasionally.³⁸ Zion Market Research
17 found that annual sales of baby foods topped \$54 billion in 2018 and were projected to reach more
18 than \$76 billion by 2021.³⁹

19 18. Exposure to even small amounts of heavy metals, including cadmium, lead,
20 mercury, and arsenic, at an early age may increase the risk of several health problems, especially
21

22 _____
23 ³¹ *Cadmium*, OSHA, <https://www.osha.gov/cadmium>.

24 ³² S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., BABY
25 FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY at 12,
26 <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>.

27 ³³ *Id.*

28 ³⁴ Jesse Hirsch, *Heavy Metals in Baby Food: What You Need to Know*, CONSUMER REPORTS (Aug. 16, 2018),
<https://www.consumerreports.org/food-safety/heavy-metals-in-baby-food/>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

1 lower IQ and behavioral problems, and have also been linked to autism and ADHD.⁴⁰ Victor
 2 Villarreal, Ph.D., an assistant professor in the department of educational psychology at the
 3 University of Texas at San Antonio, who has researched the effects of heavy metals on childhood
 4 development, stated that, “[t]he effects of early exposure to heavy metals can have long-lasting
 5 impacts that may be impossible to reverse.”⁴¹ Researchers at Duke University looked at 565
 6 adults who had their lead levels measured as children.⁴² Those with high childhood lead readings
 7 had IQ levels that were 4.25 points lower, on average, than participants with lower childhood lead
 8 readings.⁴³ A Columbia University study of third-through fifth-graders in Maine found that
 9 students who had been exposed to arsenic in drinking water had IQ levels that were 5 to 6 points
 10 lower, on average, than students who had not been exposed.⁴⁴

11 19. The risk from heavy metals grows over time as they accumulate in the kidneys and
 12 other internal organs. Tunde Akinleye, a chemist in CR’s Food Safety Division who led the
 13 testing, stated that, “[t]hese toxins can remain in your body for years.”⁴⁵ Regular consumption of
 14 even small amounts of toxic heavy metals over a long period of time may raise the risk of bladder,
 15 lung, and skin cancer; cognitive and reproductive problems; and type 2 diabetes; among other
 16 conditions.⁴⁶ A recent study from the journal Lancet Public Health suggests that low levels of
 17 lead from food and other sources contribute to about 400,000 deaths each year, more than half of
 18 them from cardiovascular disease.⁴⁷ Getting too much methylmercury can cause nerve damage,
 19 muscle weakness, lack of coordination, and impaired vision and hearing.⁴⁸ Over time, cadmium
 20 exposure can lead to kidney, bone, and lung disease.⁴⁹

21 20. CR’s food and safety team analyzed 50 nationally distributed packaged foods,
 22 including foods made by Defendant under the name “Sprout Organic,” made for babies and
 23

24 ⁴⁰ *Id.*

25 ⁴¹ *Id.*

26 ⁴² *Id.*

27 ⁴³ *Id.*

28 ⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

1 toddlers and checked them for cadmium, lead, mercury, and inorganic arsenic, the type most
 2 harmful to health.⁵⁰ The results were troubling. Every product tested by CR had measurable
 3 levels of at least one of the following heavy metals: cadmium, inorganic arsenic, or lead.⁵¹
 4 Moreover, about two-third (68%) had “worrisome” and “concerning” levels of at least one heavy
 5 metal.⁵² Fifteen of the foods tested would pose potential health risks to children who regularly
 6 eat just one serving or less per day.⁵³ Two rice cereals contained measurable levels of
 7 methylmercury⁵⁴. Research suggests that rice cereals may be an overlooked source of mercury
 8 in infants’ diets: in a test of 119 infant cereals, researchers at Florida International University
 9 found that rice cereals had on average three times as much methylmercury as multigrain cereals
 10 and 19 times as much as other non-rice cereals.⁵⁵

11 21. Products with rice, including Defendant’s Sprout Organic Baby Food Garden
 12 Vegetables Brown Rice With Turkey and Sprout Organic Quinoa Puffs Baby Cereal Snack Apple
 13 Kale, fared worst in the CR study because they contained worrisome amounts of inorganic
 14 arsenic, lead, and cadmium.⁵⁶ As a category, snack foods – bars, cookies, crackers, crunches,
 15 crisps, rice rusks, teething biscuits, and puffs – were most problematic, generally because of their
 16 rice content.⁵⁷ This finding is especially concerning because snacks are the most common type
 17 of packaged product that babies and toddlers eat, according to CR’s survey.⁵⁸ About seventy-two
 18 percent (72%) of parents said they feed their child at least one of the types of snack foods CR
 19 tested.⁵⁹

20 22. Jay Schneider, Ph.D., a professor of anatomy, pathology, and cell biology and
 21 Thomas Jefferson University in Philadelphia, has examined hundreds of children who have
 22 suffered the effects of lead exposure.⁶⁰ Given lead’s extreme toxicity, and the inability to reverse

23 ⁵⁰ *Id.*

24 ⁵¹ *Id.*

25 ⁵² *Id.*

26 ⁵³ *Id.*

27 ⁵⁴ *Id.*

28 ⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

1 or remediate its effects, he calls it “outrageous” that there would even be the tiniest amount of
 2 lead in children’s food.⁶¹ “It’s extremely potent,” says Schneider. “We know that there is no
 3 level of lead in the blood of a child that is safe.”⁶²

4 23. Moreover, organic foods are not safer. Twenty of the products tested by CR were
 5 found to be *just as likely* to contain heavy metals as conventional foods.⁶³ In CR’s survey, thirty-
 6 nine percent (39%) of parents who purchased packaged foods sometimes bought organic food for
 7 their children, citing a desire to avoid lead, arsenic, and other heavy metals as their *primary* reason
 8 for doing it.⁶⁴

9 24. Defendant knew or should have known that its baby foods contain significant
 10 levels of toxic heavy metals, including arsenic, lead, cadmium, and mercury. Defendant knew or
 11 should have known that such toxic metals are not fit for consumption. Defendant knew or should
 12 have known that its baby foods are detrimental to the health of babies. Defendant had no
 13 reasonable ground for believing that their baby foods were free from toxic heavy metals, or that
 14 such toxic metals were appropriate for sale in baby foods.

15 25. Defendant intended to induce reasonable consumers to rely on its marketing, all
 16 of which explicitly and implicitly convey that Defendant’s organic baby foods are healthy for
 17 consumption by babies, and superior to other manufacturers’ baby foods. Such marketing
 18 includes words written on the containers of Defendant’s baby foods, including, but not limited to,
 19 the actual name of the product, “Sprout Organic,” as well as phrases such as the following:⁶⁵

- 20 ○ “Our #1 goal at Sprout Foods is to provide you and your family with the
- 21 highest quality products[]”;
- 22 ○ “Sprout believes that a meal is more than nourishment. It’s a chance to inspire
- 23 and grow together. That’s why we are committed to introducing an early love
- 24 of healthy, whole organic foods to children everywhere[]”;

25 ///

26 ⁶¹ *Id.*

27 ⁶² *Id.*

28 ⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ <http://www.sproutorganicfoods.com/> (retrieved April 1, 2021)

- “Research shows that starting babies on healthy foods early in development helps foster healthy eating habits through life. Teaching a baby to accept savory and complex flavors, like leafy greens, can be challenging when young palates naturally gravitate towards sweet fruits. That’s why we’ve grafted a variety of fruit, vegetable, and grain blends that help babies adapt to new flavors and textures and provide greater exposure to wholesome foods[]”;
- “Sprout Organic Apple Kale Plant Power Puffs are the perfect first snack for babies. Made with only 5 simple ingredients, including easy to digest ancient grain Sorghum and just the right blend of real fruits and veggies to keep little ones coming back for more. Plant Power Puffs are easy to pick up and hold and soft enough to dissolve quickly in their little mouths[]”;
- “Delicious snack that uses no artificial flavors or colors”;
- “Created to satisfy baby’s growing appetite”;
- “Free of Gluten”;
- “Nothing Artificial”;
- “Certified Organic, Non-GMO ingredients”;
- “100% BPA-Free Packaging”;
- “Whole Foods, No Concentrates”;
- “USDA Organic”;
- “Always Transparent, Non-GMO”; and
- “Prepared ONLY with ingredients found in your kitchen!”

26. The imagery used on Defendant’s products also implicitly conveys that Defendant’s baby foods are healthy for consumption by babies by depicting images of its foods’ nourishing and wholesome ingredients, such as fruits, vegetables, and grains. Below are just a few examples:

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///

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27. Plaintiffs justifiably relied on Defendant's marketing. Plaintiffs suffered damages when they unknowingly purchased baby foods that contain toxic heavy metals and other

1 undesirable toxins and contaminants. Plaintiffs' babies were harmed or placed at risk of harm by
2 consuming foods containing toxic heavy metals and other undesirable toxins and contaminants.

3 28. Defendant's false and misleading advertising deceives consumers into believing
4 that they are purchasing and feeding their babies safe and nutritious baby foods and, through this
5 deception, Defendant seeks to induce consumers to purchase Defendant's baby foods when they
6 would otherwise have purchased other baby foods that do not contain toxic heavy metals or other
7 undesirable toxins and contaminants.

8 29. Defendant was aware that it was not providing their customers with healthy baby
9 foods, yet it proceeded to advertise its baby foods as safe for consumption by babies. To this day,
10 Defendant continues to advertise its baby foods as safe for consumption by babies. Defendant
11 creates the clear impression to its customers that they are purchasing and feeding their babies food
12 that does not contain any toxic heavy metals or other undesirable toxins and contaminants. This
13 behavior is therefore materially misleading, in that reasonable consumers would not understand
14 that Sprout Organic baby foods contain any toxic heavy metals or other undesirable toxins and
15 contaminants. Thousands of consumers have purchased Defendant's baby foods under the false
16 belief that the baby foods are safe and nutritious for their babies and do not contain any toxic
17 heavy metals or other undesirable toxins and contaminants. They have been misled. They have
18 been deceived into purchasing dangerous baby food. They have inadvertently fed their babies
19 dangerous baby food containing toxic heavy metals and other undesirable toxins and
20 contaminants. Their babies were harmed or placed at risk of harm by consuming foods containing
21 toxic heavy metals and other undesirable toxins and contaminants.

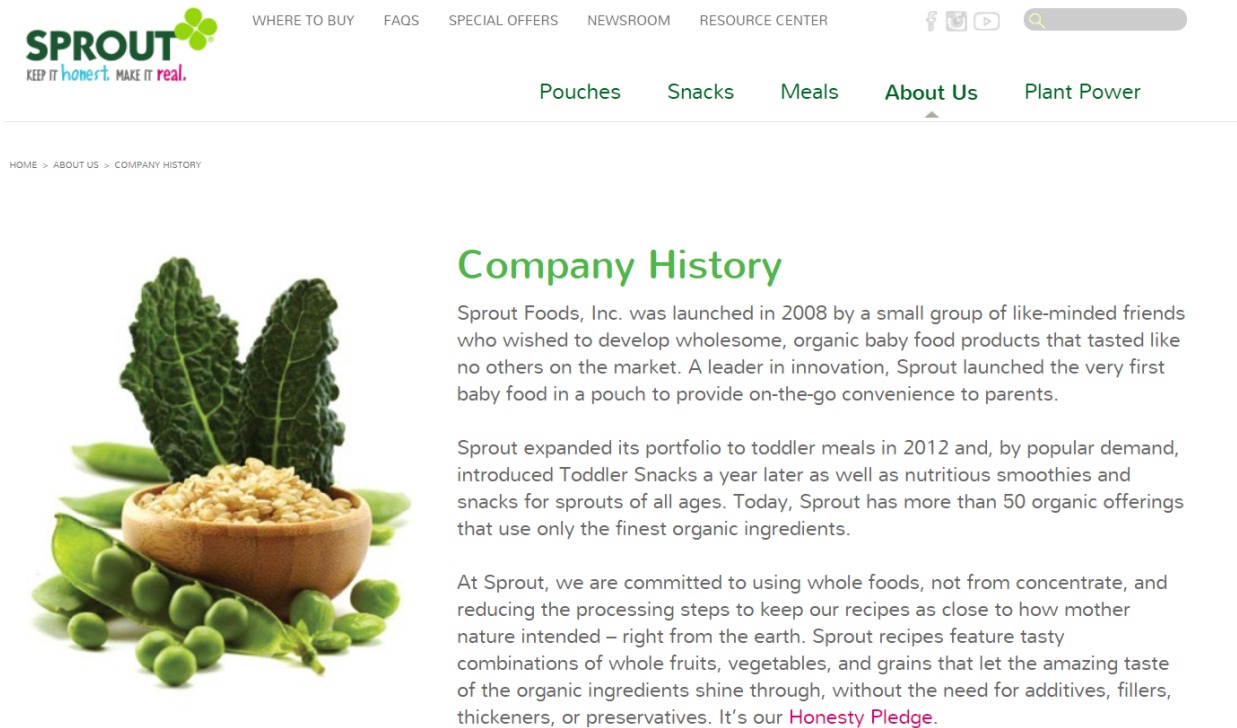
22 30. Defendant knew that its customers trust the quality of its products and that
23 customers expect Defendant's products to be free of toxic heavy metals and other undesirable
24 toxins and contaminants. Defendant also knew that certain consumers seek out and wish to
25 purchase premium organic baby foods that possess high quality ingredients free of toxins,
26 contaminants, or chemicals and that these consumers will pay more for baby foods that they
27 believe possess these qualities.

28 ///

31. Defendant's knowledge that its customers trust the quality of its products, their expectations that Defendant's products will be free of toxic heavy metals and other undesirable toxins and contaminants, and their willingness to pay more for premium organic baby foods that are free from toxins, contaminants, or chemicals is evident in Defendant's business practices.

32. Defendant's promises, warranties, pricing, statements, claims, packaging, labeling, marketing, and advertising center on representations and pictures that are intended to, and do, convey to consumers that Defendant's baby foods possess certain qualities and characteristics that justify a premium price. Even the name of Defendant's baby food conveys that Sprout's baby food is superior to other baby foods that are not made using organic ingredients.

33. Defendant's website contains the following webpages, making countless claims that Defendant's baby foods are not only healthy and safe for babies, but also implying that Defendant's organic baby foods are comparative if not superior to other baby foods:⁶⁶



⁶⁶ *Company History*, SPROUT, <http://www.sproutorganicfoods.com/about-us/company-history>; *Values & Guarantee*, SPROUT, <http://www.sproutorganicfoods.com/about-us/values-guarantee>; *Sourcing*, SPROUT, <http://www.sproutorganicfoods.com/about-us/sourcing>.

1 34. Reasonable consumers seeing Defendant's marketed products would not expect
2 the baby foods to contain toxic heavy metals or other undesirable toxins or contaminants.

3 35. Furthermore, reasonable consumers, including Plaintiffs, would consider the mere
4 inclusion of heavy metals or other undesirable toxins or contaminants a material
5 misrepresentation when considering which baby food to purchase.

6 36. Defendant intended for consumers to rely on its marketing, and reasonable
7 consumers, including Plaintiffs, did in fact so rely. Defendant's marketing and advertising is
8 deceptive, misleading, unfair, false, and/or fraudulent because, among other things, the baby
9 foods include undisclosed toxic heavy metals or other undesirable toxins or contaminants.

10 37. Defendant's baby foods do not have a disclaimer regarding the presence of toxic
11 heavy metals or other undesirable toxins or contaminants that would inform consumers that the
12 foods contain toxic heavy metals and/or that toxic heavy metals can accumulate overtime in a
13 child's body to the point where poisoning, injury, and/or disease can occur.

14 38. Instead, Defendant's baby foods create the impression, by the content and images
15 on their labels, as well as by other marketing material created and distributed by Defendant, that
16 they are healthy for consumption, and preferable over other brands of baby foods.

17 39. Defendant's wrongful marketing and advertising, which includes misleading,
18 deceptive, unfair, and false claims and omissions, allowed it to capitalize on, and reap enormous
19 profits from, consumers who paid the purchase price or a price premium for baby foods that were
20 not sold as advertised. Defendant continues to wrongfully induce consumers to purchase its baby
21 foods that are not as advertised.

22 40. Defendant created, allowed, negligently oversaw, and/or authorized the unlawful,
23 fraudulent, unfair, misleading, and/or deceptive labeling and advertising for its baby foods. The
24 marketing for the baby foods, relied upon by Plaintiff, was prepared, reviewed, and/or approved
25 by Defendant and its agents and was disseminated by Defendant and its agents through marketing,
26 advertising, packaging, and labeling that contained the misrepresentations alleged herein. The
27 marketing for the baby foods was designed to encourage consumers to purchase the baby foods
28 and reasonably misled the reasonable consumer into purchasing the baby foods.

1 41. Defendant continues to wrongfully induce consumers to purchase its baby foods
2 that are not as advertised. Plaintiffs would like to purchase healthy, wholesome food for their
3 children in the future from manufacturers including Defendant, but cannot do so with any degree
4 of certainty that these foods will not contain toxic heavy metals or other undesirable toxins or
5 contaminants.

6 42. Plaintiffs bring this proposed consumer class action individually and on behalf of
7 all other members of the Class, who, from the applicable limitations period up to and including
8 the present, purchased for use and not resale any of Defendant's tainted baby foods.

9 43. As a result of Defendant's negligent, reckless, and/or knowingly deceptive
10 conduct as alleged herein, Plaintiffs were injured when they paid the purchase price or a price
11 premium for baby foods that did not deliver what they promised. They paid the purchase price
12 on the assumption that the labeling of the baby foods was accurate and that it was free of toxic
13 heavy metals and safe to ingest. Plaintiffs would not have paid this money or fed their baby food
14 containing toxic heavy metals had they known the truth that Defendant's baby foods contain
15 excessive degrees of toxic heavy metals. Damages can be calculated through expert testimony at
16 trial.

17 **II. THE PARTIES**

18 44. Plaintiffs are, and at all times relevant hereto have been, citizens of the state of
19 California.

20 45. Plaintiff Andrea Key ("Plaintiff Key") is a California resident residing in
21 Campbell, California. Plaintiff Key purchased Sprout Organic baby foods repeatedly, including
22 from Amazon.com, from 2019 through 2020, with her last purchase in September 2020. Plaintiff
23 Key believed she was feeding her baby healthy, nutritious food. Due to Defendant's false and
24 misleading claims and omissions, Plaintiff Key was unaware that the baby food she fed her baby
25 contained any level of toxic heavy metals. Plaintiff Key would not have purchased Defendant's
26 baby food if she knew that Sprout Organic baby food contains toxic heavy metals and other
27 undesired toxins and contaminants. Plaintiff Key inadvertently fed her baby foods that contain
28 toxic heavy metals and other undesired toxins and contaminants. Plaintiff Key's baby was

1 harmed or was placed at risk of harm by consuming foods containing toxic heavy metals and
2 other undesirable toxins and contaminants.

3 46. Plaintiff Nahsla Black-Zetina (“Plaintiff Black-Zetina”) is a California resident
4 residing in Antioch, California. Plaintiff Black-Zetina purchased Sprout Organic baby foods
5 repeatedly, including from Amazon.com, from 2019 through 2021, with her last purchase in
6 March 2021. Plaintiff Black-Zetina believed she was feeding her baby healthy, nutritious food.
7 Due to Defendant’s false and misleading claims and omissions, Plaintiff Black-Zetina was
8 unaware that the baby food she fed her baby contained any level of toxic heavy metals. Plaintiff
9 Black-Zetina would not have purchased Defendant’s baby food if she knew that Sprout Organic
10 baby food contains toxic heavy metals and other undesired toxins and contaminants. Plaintiff
11 Black-Zetina inadvertently fed her baby foods that contain toxic heavy metals and other undesired
12 toxins and contaminants. Plaintiff Black-Zetina’s baby was harmed or was placed at risk of harm
13 by consuming foods containing toxic heavy metals and other undesirable toxins and
14 contaminants.

15 47. Defendant is incorporated in Delaware. Its headquarters are located at 50 Chestnut
16 Ridge Road, Suite 205, Montvale, New Jersey 07645.

17 48. Plaintiffs are unaware of the true names, identities, and capacities of the
18 defendants sued herein as DOES 1 to 100. Plaintiffs will seek leave to amend this complaint to
19 allege the true names and capacities of DOES 1 to 100 if and when ascertained. Plaintiffs are
20 informed and believe, and thereupon allege, that each of the defendants sued herein as a DOE is
21 legally responsible in some manner for the events alleged herein and that each of the Defendants
22 sued herein as a DOE proximately caused injuries and damages to Plaintiffs, Class Members, and
23 their babies as set forth below.

24 **III. JURISDICTION AND VENUE**

25 49. This Court has subject matter jurisdiction over this action pursuant to the Class
26 Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §§ 1332(d), 1453. The matter in controversy,
27 exclusive of interest and costs, exceeds the sum or value of \$5,000,000, and there is diversity of
28 citizenship between Plaintiffs and Defendant.

50. The Court has personal jurisdiction over Defendant because Plaintiffs' and the Class Members' claims arise out Defendant's business activities conducted in the State of California.

51. Venue is appropriate in the Northern District of California under 28 U.S.C. § 1391(b)(2) because Plaintiffs reside within it, a substantial part of the events or omissions giving rise to the claim occurred within this district, and Defendant caused harm to Class Members residing in this district.

IV. FACTUAL ALLEGATIONS

52. Baby food manufacturers are free to set their own internal standards for toxic heavy metal content of their products. They have set those standards at dangerously high levels and have often sold foods that exceed even those levels.

53. On February 4, 2021, the U.S. House of Representatives' Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform ("Subcommittee"), published a report detailing its findings that toxic heavy metals—including arsenic, cadmium, lead, and mercury—were present in significant levels in numerous commercial baby food products.

54. Defendant was one of seven baby food manufacturers from whom the Subcommittee requested internal documents and test results, but Defendant "refused to cooperate with the Subcommittee's investigation."⁶⁷

Findings from the Subcommittee's Report:

55. As of now, there is no established safe level of inorganic arsenic consumption for babies.⁶⁸ However, organizations like Healthy Babies Bright Futures advocate for no measurable amount of inorganic arsenic in baby food.⁶⁹ Consumer Reports suggests setting inorganic arsenic

⁶⁷ S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., BABY FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY at 2, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>.

⁶⁸ *Id.* at 51.

⁶⁹ *Id.* at 13. See also *What's in My Baby's Food? A National Investigation Finds 95 Percent of Baby Foods Tested Contain Toxic Chemicals That Lower Babies' IQ, Including Arsenic and Lead*, HEALTHY BABIES BRIGHT FUTURES (Oct. 2019), www.healthybabyfood.org/sites/healthybabyfoods.org/files/201910/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf.

1 levels as low as 3 parts per billion (“ppb”).⁷⁰ The FDA has already set maximum inorganic arsenic
 2 levels at 10 ppb for bottled water.⁷¹ The EPA has similarly set a 10 ppb inorganic arsenic cap on
 3 drinking water,⁷² as have the European Union (“EU”)⁷³ and the World Health Organization
 4 (“WHO”)⁷⁴.

5 56. There is no federal standard for lead in baby food, but the FDA has set a 5 ppb
 6 lead standard for bottled water,⁷⁵ the WHO has set 10 ppb lead as a provisional guideline for
 7 drinking water,⁷⁶ and the EPA has set an action level of 15 ppb for lead in drinking water.⁷⁷ The
 8 FDA has also set standards for lead in juice (50 ppb) and candy (100 ppb).⁷⁸ The European Union
 9 has set the maximum lead level in infant formula to 20 ppb.⁷⁹

10 57. Outside the context of baby food, some regulations have taken action against
 11 cadmium.⁸⁰ The EPA has a limit of 5 ppb in drinking water,⁸¹ the FDA has set a limit of 5 ppb
 12 in bottled water,⁸² and the WHO set a 3 ppb limit for cadmium in drinking water.⁸³ Groups like
 13 Healthy Babies Bright Futures have set a goal of no measurable amount of cadmium in baby

14 ///

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 16 ⁷⁰ *Id.* at 13. See also *Arsenic in Some Bottled Water Brands at Unsafe Levels*, *Consumer Reports Says*, CONSUMER
 17 REPORTS, (June 28, 2019), www.consumerreports.org/water-quality/arsenic-in-some-bottled-water-brands-at-unsafe-levels/; *Arsenic and Lead Are in Your Fruit Juice: What You Need to Know*, CONSUMER REPORTS (Jan. 30, 2019), www.consumerreports.org/food-safety/arsenic-and-lead-are-in-your-fruit-juice-what-you-need-to-know/.

18 ⁷¹ *Arsenic in Food and Dietary Supplements*, FDA, www.fda.gov/food/metals-and-your-food/arsenic-food-and-dietary-supplements.

19 ⁷² *Drinking Water Requirements for States and Public Water Systems*, EPA, www.epa.gov/dwreginfo/chemical-contaminant-rules.

20 ⁷³ *Arsenic (Q&A)*, EUROPEAN FOOD INFORMATION COUNCIL, www.eufic.org/en/food-safety/article/arsenic-qa.

21 ⁷⁴ *Arsenic*, WHO (Feb. 15, 2018), www.who.int/news-room/fact-sheets/detail/arsenic.

22 ⁷⁵ *Lead in Food, Foodwares, and Dietary Supplements*, FDA (Feb. 27, 2020), <https://www.fda.gov/food/metals-and-your-food/lead-food-foodwares-and-dietary-supplements#:~:text=The%20FDA%2C%20through%20its%20regulatory,is%20set%20at%205%20ppb>.

23 ⁷⁶ *Lead in Drinking-Water* at 14, WHO (2011), www.who.int/water_sanitation_health/dwq/chemicals/lead.pdf.

24 ⁷⁷ *Drinking Water Requirements for States and Public Water Systems*, EPA, www.epa.gov/dwreginfo/lead-and-copper-rule.

25 ⁷⁸ <https://www.fda.gov/food/metals-and-your-food/lead-food-foodwares-and-dietary-supplements>

26 ⁷⁹ S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., *BABY FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY* at 21, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf>.

27 ⁸⁰ *Id.* at 29.

28 ⁸¹ *Ground Water and Drinking Water*, EPA, www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations.

⁸² 21 C.F.R. § 165 (2019), www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/cfrsearch.cfm?fr=165.110.

⁸³ *Cadmium in Drinking-Water* at 6, WHO (2011) (online at www.who.int/water_sanitation_health/water-quality/guidelines/chemicals/cadmium.pdf?ua=1)

1 food.⁸⁴ Consumer Reports has called for a limit of 1 ppb cadmium in fruit juices.⁸⁵ The EU has
2 set a limit ranging from 5–20 ppb cadmium for infant formula.⁸⁶

3 58. Outside the context of baby food, some regulatory bodies have taken action against
4 industries using excessive mercury in commonly used products.⁸⁷ For example, the EPA set a
5 maximum for mercury content in drinking water at 2 ppb,⁸⁸ and consumer advocates urge even
6 stricter standards for baby food. Indeed, Healthy Babies Bright Futures has called for a goal of
7 no measurable amount of mercury in baby food.⁸⁹

8 59. As previously mentioned, a study of 50 nationally distributed packaged baby foods
9 by Consumer Reports, including foods made by Defendant, found that every product tested had
10 measurable levels of at least one of the following heavy metals: cadmium, inorganic arsenic, or
11 lead.⁹⁰ The report found that products with rice, including Defendant's baby foods, fared worst
12 in the CR study because they contained worrisome amounts of inorganic arsenic, lead, and
13 cadmium.⁹¹

14 60. Additionally, although Defendant refused to cooperate with the Subcommittee's
15 investigation, limited independent testing conducted by Healthy Babies Bright Futures indicates
16 that Defendant's baby foods do, indeed, contain toxic heavy metals.⁹² The table below, divided
17

18 ⁸⁴ Healthy Babies Bright Futures, *What's in My Baby's Food? A National Investigation Finds 95 Percent of Baby*
19 *Foods Tested Contain Toxic Chemicals That Lower Babies' IQ, Including Arsenic and Lead* at 9 (Oct. 2019)
(online at [www.healthybabyfood.org/sites/healthybabyfoods.org/files/2019-](http://www.healthybabyfood.org/sites/healthybabyfoods.org/files/2019-10/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf)
20 [10/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf](http://www.healthybabyfood.org/sites/healthybabyfoods.org/files/2019-10/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf)).

21 ⁸⁵ *Consumer Reports Letter to FDA On Reducing Heavy Elements Like Arsenic, Lead, and Cadmium in Fruit*
22 *Juices*, CONSUMER REPORTS (Jan. 30, 2019), [https://advocacy.consumerreports.org/research/consumer-reports-](https://advocacy.consumerreports.org/research/consumer-reports-letter-to-fda-on-reducing-heavy-elements-like-arsenic-lead-and-cadmium-in-fruit-juices/)
23 [letter-to-fda-on-reducing-heavy-elements-like-arsenic-lead-and-cadmium-in-fruit-juices/](https://advocacy.consumerreports.org/research/consumer-reports-letter-to-fda-on-reducing-heavy-elements-like-arsenic-lead-and-cadmium-in-fruit-juices/).

24 ⁸⁶ *Setting Maximum Levels for Certain Contaminants in Foodstuffs* at 28-9, EUROPEAN UNION (Dec. 19, 2006),
25 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02006R1881-20150521>.

26 ⁸⁷ *Id.* at 32.

27 ⁸⁸ *Ground Water and Drinking Water*, EPA, [www.epa.gov/ground-water-and-drinking-water/national-primary-](http://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations)
28 [drinking-water-regulations](http://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations).

29 ⁸⁹ *What's in My Baby's Food? A National Investigation Finds 95 Percent of Baby Foods Tested Contain Toxic*
30 *Chemicals That Lower Babies' IQ, Including Arsenic and Lead*, HEALTHY BABIES BRIGHT FUTURES (Oct. 2019),
31 [www.healthybabyfood.org/sites/healthybabyfoods.org/files/2019-](http://www.healthybabyfood.org/sites/healthybabyfoods.org/files/2019-10/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf)
32 [10/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf](http://www.healthybabyfood.org/sites/healthybabyfoods.org/files/2019-10/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf).

33 ⁹⁰ Jesse Hirsch, *Heavy Metals in Baby Food: What You Need to Know*, CONSUMER REPORTS (Aug. 16, 2018),
34 <https://www.consumerreports.org/food-safety/heavy-metals-in-baby-food/>.

35 ⁹¹ *Id.*

36 ⁹² S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., *BABY*
37 *FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY* at 46-47,
38 [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf)
39 [04%20ECP%20Baby%20Food%20Staff%20Report.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-02-04%20ECP%20Baby%20Food%20Staff%20Report.pdf).

into two halves and enlarged for ease of reference, breaks down the toxic heavy metal contents of two Sprout Organic products examined through independent testing:⁹³

*Data from Healthy Babies Bright Futures Report: What's in My Baby's Food?*¹²⁵

Brand	Food	Food type	Arsenic (total, ppb)	Arsenic (inorganic, ppb)	Lead (ppb)	Cadmium (ppb)	Mercury (total, ppb)	Metro area where purchased	Retailer
Sprout	Organic Quinoa Puffs Baby Cereal Snack - Apple Kale	Snack - puffs, contains rice	107	47	39.3	41.5	1.31	Washington, DC	amazon.com

Data from Healthy Babies Bright Futures Report: What

Brand	Food	Food type	Arsenic (total, ppb)	Arsenic (inorganic, ppb)
Sprout	Organic Quinoa Puffs Baby Cereal Snack - Apple Kale	Snack - puffs, contains rice	107	47

Report: What's in My Baby's Food?

Arsenic (total, ppb)	Arsenic (inorganic, ppb)	Lead (ppb)	Cadmium (ppb)	Mercury (total, ppb)	Metro area where purchased	Retailer
107	47	39.3	41.5	1.31	Washington, DC	amazon.com

61. As shown in the table, Sprout Organic's Organic Quinoa Puffs Baby Cereal Snack in apple kale flavor contains 47 ppb inorganic arsenic, 39.3 ppb lead, 41 ppb cadmium, and 1.31 ppb mercury.

62. This limited independent testing shows that Sprout Organic's baby foods contain toxic heavy metals in dangerously high amounts. As discussed, these four toxic heavy metals, when present and consumed in high amounts, have been shown to wreak havoc on developing children's cognitive development and physical health. Although Healthy Babies Bright Futures has advocated for absolutely no measurable amount of inorganic arsenic in baby food, Defendant's Organic Quinoa Puffs Baby Cereal Snack in apple kale flavor contains 47 ppb

⁹³ *Id.*

1 inorganic arsenic. Given that this limited testing has revealed that Defendant’s baby foods contain
2 four toxic heavy metals in dangerously high amounts, and given Defendant’s refusal to cooperate
3 with the Subcommittee’s investigation, there is a great likelihood that additional comprehensive
4 testing will show that other Sprout Organic baby foods also contain high traces of toxic heavy
5 metals.

6 63. This concern is not merely speculative. For example, Sprout Organic’s Apple
7 Oatmeal Raisin with Cinnamon puree for babies ages six months old and up contains oats, raisins,
8 and cinnamon.⁹⁴ One of the major baby food manufacturers that did cooperate with the
9 Subcommittee, Hain Celestial Group, Inc. (“Hain”), admitted that one of its used ingredients that
10 tested dangerously high in cadmium was oat flour, which is made from ground oats.⁹⁵ Hain further
11 admitted that the raisins it used tested high for the presence of arsenic, and its cinnamon tested
12 high for arsenic and cadmium.⁹⁶ These findings raise concern that Sprout Organic’s Apple
13 Oatmeal Raisin with Cinnamon puree, and other Sprout foods, containing flour, raisins, or
14 cinnamon, may also contain high amounts of inorganic arsenic, and perhaps other toxic heavy
15 metals, too.

16 64. Hain also admitted that its whole wheat flour tested high for lead.⁹⁷ The
17 Subcommittee has also reported that organic brown rice was the ingredient that tested highest in
18 inorganic arsenic—309 ppb. Indeed, the majority of one cooperating entity’s ingredients that
19 exceeded 100 ppb inorganic arsenic in testing were organic brown rice flour.⁹⁸ This finding raises
20 concern that any Sprout Organic baby foods containing whole wheat flour, brown rice, and brown
21 rice flour may contain high amounts of inorganic arsenic and/or other toxic heavy metals.

22 65. Overall, Defendant’s refusal to comply with governmental investigations and
23 requests raise serious concerns as to whether its diverse array of baby foods contain unhealthy
24 amounts of toxic heavy metals and put babies in danger.

25 _____
26 ⁹⁴ *Apple Oatmeal Raisin with Cinnamon*, SPROUT, <http://www.sproutorganicfoods.com/babies/6-months-and-up/organic-baby-food-fruit-grain-blend/apple-oatmeal-raisin-cinnamon>.

27 ⁹⁵ S. COMM. ON ECONOMIC AND CONSUMER POLICY, COMM. ON OVERSIGHT AND REFORM, 117TH CONG., *BABY FOODS ARE TAINTED WITH DANGEROUS LEVELS OF ARSENIC, LEAD, CADMIUM, AND MERCURY* at 30-31.

28 ⁹⁶ *Id.* at 16, 41.

⁹⁷ *Id.* at 27.

⁹⁸ *Id.* at 57.

66. Defendant's packages, labels, markets, advertises, formulates, manufactures, distributes, and sells its baby foods throughout the United States, including California.

67. Defendant's baby foods are sold under the brand "Sprout Organic," implying that Defendant's organic ingredients will ensure that Sprout baby foods are the healthiest choice for growing children.

68. Defendant's advertised mission is to teach children at a young age to love healthy, organic foods.

69. Defendant claims that "Sprout believes that a meal is more than nourishment. It's a chance to inspire and grow together. That's why we are committed to introducing an early love of healthy, whole organic foods to children everywhere."⁹⁹ It further claims that it "rigorously source[s] the ingredients used in our recipes to ensure that the cleanest and safest food is delivered to your family. Learn more about the organic farms and farmers we've partnered with and how Sprout is committed to procuring ingredients that are certified organic, non-GMO, and preservative-free."¹⁰⁰ The images below depict traditional advertising on Sprout Organic baby food products:



⁹⁹ Values & Guarantee, SPROUT, <http://www.sproutorganicfoods.com/about-us/values-guarantee>.

¹⁰⁰ About Us, SPROUT ORGANIC FOODS, <http://www.sproutorganicfoods.com/about-us/sourcing>.



70. Based on Defendant's decision to advertise, label, and market its baby foods as healthy, nutritious, and safe for consumption, it had a duty to ensure that these statements and the message portrayed by its labels' imagery were true and not misleading. As such, Defendant knew or should have known the baby foods included nondisclosed, dangerous levels of heavy metals, and that these toxins can accumulate over time.

71. The baby foods are available at Defendant stores around the country, as well as other retail stores, and are widely advertised. The marketing of the baby foods fails to disclose they contain or are at risk of containing any level of toxic heavy metals or other undesirable toxins or contaminants. Defendant intentionally omitted these warnings to induce and mislead reasonable consumers to purchase its baby foods.

72. As a result of Defendant's omissions, a reasonable consumer would have no reason to suspect the presence of toxic heavy metals in the baby foods without conducting his or her own scientific tests or reviewing third party scientific testing of these products.

Defendant's Marketing Unequivocally Misleads and Deceives Consumers.

73. Defendant's marketing wrongfully conveys to consumers that its baby foods have certain superior quality and characteristics that they do not actually possess. While Defendant

1 misleadingly causes consumers to believe its baby foods do not contain toxic heavy metals
 2 through its advertising statements and omissions, its baby foods do in fact contain undisclosed
 3 toxic heavy metals. This is, without a doubt, material information to reasonable consumers in
 4 that it would impact a consumer's decision to purchase the baby food in question.

5 74. Independent testing shows that at least some of Defendant's baby food products
 6 were found to contain dangerous levels of heavy toxic metals.

7 75. Defendant's marketing wrongfully fails to disclose to consumers the presence of
 8 toxic heavy metals in its baby foods.

9 76. Based on Defendant's deceiving marketing tactics, a reasonable consumer would
 10 not suspect the presence of toxic heavy metals, nor would a reasonable consumer be able to detect
 11 the presence of toxic heavy metals in Defendant's baby foods without conducting his or her own
 12 scientific tests or reviewing scientific testing conducted on said baby foods.

13 77. Reasonable consumers must and do rely on Defendant to honestly report what its
 14 baby foods contain.

15 78. Defendant knew or should have known its baby foods contained toxic heavy
 16 metals.

17 79. Defendant intended for consumers to rely on its marketing, and reasonable
 18 consumers did in fact so rely.

19 80. Pursuant to the foregoing, Defendant's marketing tactics are deceptive,
 20 misleading, unfair, and false to Plaintiff and other consumers, including under the consumer
 21 protection laws of California.

22 **Defendant Breached the Duties it Owes to Consumers.**

23 81. Defendant had a duty to ensure the baby foods were as they were represented and
 24 not deceptively, misleadingly, unfairly, and falsely marketed.

25 82. Defendant breached this duty.

26 83. At all times during the Class Period, Defendant knew or should have known its
 27 baby foods contained toxic heavy metals and/or were not sufficiently tested for the presence of
 28 toxic heavy metals.

1 84. Defendant knew or should have known that it owed consumers a duty of care to
2 adequately test for toxic heavy metals in its baby foods.

3 85. Defendant breached this duty.

4 86. Defendant's baby foods had a risk of containing toxic heavy metals due to
5 Defendant's failure to monitor for its presence in the ingredients and finished products.

6 87. Defendant knew or should have known that it owed consumers a duty of care to
7 prevent, or at the very least, minimize the presence of toxic heavy metals in its baby foods to the
8 extent reasonably possible.

9 88. Defendant breached this duty.

10 89. Defendant knew or should have known that consumers purchased its baby foods
11 based on the reasonable expectation that Defendant manufactured the baby foods to the highest
12 standards. Based on this expectation, Defendant knew or should have known consumers
13 reasonably inferred that Defendant would hold the baby foods to the highest standards for
14 preventing the inclusion of toxic heavy metals in its baby foods.

15 90. Defendant knew that toxic heavy metals are dangerous contaminants that pose
16 health risks to humans, especially children.

17 91. Defendant was aware of this risk and failed to disclose it to Plaintiff and the Class.

18 92. Defendant acted negligently, recklessly, unfairly, and/or intentionally with its
19 deceptive, misleading, unfair, and false marketing tactics and omissions.

20 93. Reasonable consumers, like Plaintiff, would consider the inclusion of toxic heavy
21 metals a material fact when considering which baby food to purchase.

22 94. Defendant knew that properly and sufficiently monitoring for toxic heavy metals
23 in its ingredients was not only important, but critical.

24 95. Defendant also knew that monitoring toxic heavy metals was likewise important
25 to its health-conscious consumers.

26 96. Finally, Defendant knew or should have known it could control the levels of toxic
27 heavy metals in its baby foods by properly monitoring its ingredients for toxic heavy metals and
28 ///

1 adjusting any formulation or diet to reduce ingredients that contained higher levels of toxic heavy
2 metals.

3 97. Defendant also knew it was not properly and sufficiently testing for toxic heavy
4 metals in its baby foods. Defendant knew its failure to properly and sufficiently test its baby
5 foods for toxic heavy metals continued throughout the Class Period and constituted a breach of
6 the duties Defendant owes to consumers.

7 98. Defendant's marketing tactics were misleading due to Defendant's failure to
8 properly and sufficiently monitor for, and to disclose the risk of, the presence of toxic heavy
9 metals in Defendant's baby foods.

10 99. Defendant knew or should have known consumers paid premium prices and
11 expected Defendant to regularly test for toxic heavy metals and sufficiently monitor the presence
12 of toxic heavy metals in finished baby food products and ingredients.

13 100. At all times during the Class Period, Defendant did not consistently
14 monitor or test for toxic heavy metals in its baby foods and ingredients, in breach of the duties
15 Defendant owes to consumers.

16 101. Defendant knew or should have known that consumers reasonably
17 expected it to test for and monitor the presence of toxic heavy metals in its baby foods and
18 ingredients.

19 102. Defendant knew or should have known its baby foods contained
20 unmonitored levels of toxic heavy metals that were inconsistent with its marketing practices and
21 representations to consumers.

22 103. Defendant knew or should have known that consumers expected it to
23 ensure its baby foods were monitored and tested for toxic heavy metals to ensure compliance with
24 its marketing practices and representations to consumers.

25 104. Defendant knew but failed to disclose its lack of regular testing and
26 knowledge of the risk or presence of toxic heavy metals in its baby foods and ingredients, in
27 breach of the duties Defendant owes to consumers.

28 ///

Defendant Misled Consumers, in Breach of its Duties, for its Own Financial Benefit.

105. Defendant's above-referenced statements, representations, partial disclosures, and omissions are false, misleading, and crafted to deceive the public as they create an image that Defendant's baby foods are healthy, nutritious, and made from the best ingredients, are subject to stringent quality control, and are free of toxic heavy metals.

106. Reasonable consumers, such as Plaintiff and the Class Members, would have no reason to doubt Defendant's statements regarding the quality of its baby foods.

107. As a result of Defendant's wrongful misrepresentations, which include misleading, deceptive, unfair, and false statements and omissions, Defendant has generated substantial sales of its baby foods.

108. Defendant's wrongful misrepresentations, which include misleading, deceptive, unfair, and false representations and omissions, allowed it to capitalize on and reap enormous profits from consumers who paid the purchase price or premium for products that were not as advertised. This is not surprising given that annual sales of baby foods topped \$54 billion in 2018 and were projected to reach more than \$76 billion by 2021.¹⁰¹

109. Moreover, the organic baby food industry was valued at \$1.9 billion in the U.S. in 2018 and is expected to reach \$3.32 billion by 2024.¹⁰² The incredible rise in consumer demand for organic baby food, such as the organic baby foods sold by Defendant, is "driven by the growing awareness among consumers to limit that baby's exposure to the harmful chemicals used in conventional food production and the awareness of the benefits of organic products."¹⁰³

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¹⁰¹ Jesse Hirsch, *Heavy Metals in Baby Food: What You Need to Know*, CONSUMER REPORTS (Aug. 16, 2018), <https://www.consumerreports.org/food-safety/heavy-metals-in-baby-food/>.

¹⁰² Laura Wood, *North America Organic Baby Food Market Expected to Reach a Value of \$3.32 Billion by 2024 with a CAGR of 9.6%*, BUSINESS WIRE (Jan. 20, 2020, 12:10 PM),

<https://www.businesswire.com/news/home/20200120005436/en/North-America-Organic-Baby-Food-Market-Expected-to-Reach-a-Value-of-3.32-Billion-by-2024-with-a-CAGR-of-9.6--->

ResearchAndMarkets.com#:~:text=The%20publisher%20expects%20the%20market,using%20any%20chemicals%20or%20preservatives.

¹⁰³ *Organic Baby Food Market – Growth, Trends, COVID-19 Impact, and Forecasts (2021-2016)*, MORDOR INTELLIGENCE (2020), <https://www.mordorintelligence.com/industry-reports/organic-baby-food-market>.

V. CLASS ACTION ALLEGATIONS

110. Plaintiffs bring this action individually and on behalf of the following

Class:

All consumers residing in California who purchased Sprout Organic baby foods from four years prior to the filing of this Complaint through entry of final judgment. (the “Class”).

111. Excluded from the Class are (a) Defendants, including any entity in which any of the Defendants have a controlling interest, is a parent or a subsidiary of, or which is controlled by any of the Defendant; (b) the officers, directors, and legal representatives of Defendants; and (c) the judge and the court personnel in this case as well as any members of their immediate families. Plaintiff reserves the right to amend the definition of the Class if discovery, further investigation and/or rulings by the Court dictate that it should be modified.

112. *Numerosity.* The members of the Class are so numerous that joinder of all Class Members is impractical. While the exact number of Class Members is unknown to Plaintiffs at this time, given the number of consumers of Defendant’s baby food products in California, it stands to reason that the number of Class Members is at least in the thousands. Class Members are readily identifiable from information and records in Defendant’s possession, custody, or control, such as sales records.

113. *Commonality and Predominance.* There are questions of law and fact common to Class Members, which predominate over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

- a. Whether Defendant owns, manufactures, distributes, and creates the marketing and advertising for Sprout Organic baby foods;
- b. The level of toxic heavy metals and other undesirable toxins and contaminants contained in Defendant’s baby foods;
- c. Whether Defendant represented and continues to represent that its baby foods are healthy, nutritious, and safe for consumption;
- d. Whether Defendant represented and continues to represent that the manufacturing of its products is subjected to rigorous quality standards;

- e. Whether Defendant owed a duty of care to its customers to ensure that its baby foods do not contain any toxic heavy metals or other undesirable toxins or contaminants;
- f. Whether Defendant owed a duty to investigate that its baby foods do not contain any toxic heavy metals or other undesirable toxins or contaminants;
- g. Whether Defendant had a policy of ensuring that its baby foods do not contain any toxic heavy metals or other undesirable toxins or contaminants;
- h. Whether Defendant had a practice of ensuring that its baby foods do not contain any toxic heavy metals or other undesirable toxins or contaminants;
- i. Whether Defendant had a procedure for ensuring that its baby foods do not contain any toxic heavy metals or other undesirable toxins or contaminants;
- j. Whether Defendant knew or should have known that its baby foods contained toxic heavy metals and other undesirable toxins and contaminants;
- k. Whether Defendant owed a duty of care to ensure that its advertising, warranties, packaging, and labeling do not contain any false representations that Defendant's baby foods are healthy, nutritious, and safe for consumption;
- l. Whether Defendant's representations in advertising, warranties, packaging, and/or labeling are false, deceptive, and misleading;
- m. Whether Defendant's representations in advertising, warranties, packaging, and/or labeling are likely to deceive a reasonable consumer;
- n. Whether Defendant had knowledge that its representations regarding the in advertising, warranties, packaging, and/or labeling were false, deceptive, and misleading;
- o. Whether Defendant continues to disseminate representations that its baby foods are healthy, nutritious, and safe for consumption despite knowledge that the representations are false, deceptive, and misleading;
- p. Whether a representation that baby food is healthy, nutritious and safe for consumption and does not contain toxic heavy metals is material to a reasonable consumer;

- 1 q. Whether Defendant's marketing tactics and representations of its baby foods are likely
2 to mislead, deceive, confuse, or confound consumers acting reasonably;
- 3 r. The nature of the relief, including equitable relief, to which Plaintiff and Class
4 Members are entitled; and
- 5 s. Whether Plaintiff and Class Members are entitled to damages, civil penalties and/or
6 injunctive relief.

7 114. *Typicality.* Plaintiffs' claims are typical of those of other Class Members
8 because Plaintiffs, like the other Class Members, purchased Defendant's baby foods based on the
9 reasonable belief that they were healthy, nutritious, and safe for consumption by babies.
10 Plaintiffs, as with other Class Members, were deceived by Defendant's misrepresentations and
11 omissions of fact.

12 115. *Adequacy of Representation.* Plaintiffs will fairly and adequately represent
13 and protect the interests of the Class Members. Plaintiffs have retained competent counsel
14 experienced in litigation of class actions, including consumer class actions. Plaintiffs intend to
15 prosecute this action vigorously. Plaintiffs and Class Members have a unified and non-conflicting
16 interest in pursuing the same claims and obtaining the same relief. Therefore, all Class Members
17 will be fairly and adequately represented by Plaintiffs and their counsel.

18 116. *Superiority of Class Action.* A class action is superior to other available
19 methods for the fair and efficient adjudication of the claims alleged in this action. The
20 adjudication of this controversy through a class action will avoid the possibility of inconsistent
21 and potentially conflicting adjudications of the asserted claims. There will be no difficulty in the
22 management of this action as a class action, and the disposition of the claims of the Class
23 Members in a single action will provide substantial benefits to all parties and to the Court.
24 Damages for any individual Class Member are likely insufficient to justify the cost of individual
25 litigation so that, in the absence of class treatment, Defendant's violations of law inflicting
26 substantial damages in the aggregate would go un-remedied.

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117. Class certification is also appropriate because Defendant has acted or refused to act on grounds generally applicable to the Class Members, such that final injunctive relief or corresponding declaratory relief is appropriate as to the Class as a whole.

VI. CAUSES OF ACTION

A. FIRST CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION

118. Plaintiffs, individually and on behalf of the Class, repeat and allege Paragraphs 1-117, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf of any potential Subclasses.

119. Plaintiffs reasonably placed their trust and reliance in Defendant's representations that its baby foods were as advertised to Plaintiffs and the Class, and were healthy, nutritious, safe for consumption, and did not contain toxic heavy metals.

120. Because of the relationship between the parties, Defendant owed a duty to use reasonable care to impart correct and reliable disclosures concerning the presence of toxic heavy metals in its baby foods or, based upon its superior knowledge, to say enough to not be misleading.

121. Defendant breached its duty to Plaintiffs and the Class by providing false, misleading, and/or deceptive information regarding the nature of its baby foods.

122. Plaintiffs and the Class reasonably and justifiably relied upon the information supplied to them by Defendant. A reasonable consumer would have relied on Defendant's warranties, statements, representations, advertising, packaging, labeling, and other marketing as to the quality, make-up, and included ingredients of the baby foods.

123. As a result of these misrepresentations, Plaintiffs and the Class purchased the baby foods containing toxic heavy metals at a premium.

124. Defendant failed to use reasonable care in its communications and representations to Plaintiffs and the Class, especially in light of its knowledge of the risks and importance of considering ingredients to consumers when purchasing baby food.

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1 125. By virtue of Defendant's negligent misrepresentations, Plaintiffs and
2 the Class have been damaged in an amount to be proven at trial.

3 **B. SECOND CAUSE OF ACTION**

4 **FRAUDULENT MISREPRESENTATION**

5 126. Plaintiffs, individually and on behalf of the Class, repeat and allege
6 Paragraphs 1-125, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf
7 of any potential Subclasses.

8 127. At all relevant times, Defendant was engaged in the business of designing,
9 manufacturing, distributing, and selling various types of baby food.

10 128. Defendant, acting through its representatives or agents, delivered baby
11 foods to its retail stores, distributors, and various other distribution channels.

12 129. Defendant willfully, falsely, and knowingly misrepresented various
13 material facts regarding the quality and contents of its baby foods.

14 130. Rather than inform consumers of the truth regarding the existence of toxic
15 heavy metals in its baby foods, Defendant engaged in misrepresentation. Defendant
16 misrepresented its baby foods as healthy and safe for consumption for developing babies.
17 Defendant assured consumers that by buying its products, consumers were investing in the best
18 quality products for their growing children.

19 131. Defendant made these material misrepresentations to boost or maintain
20 sales of its baby foods, and to falsely assure purchasers that by buying its products, consumers
21 were purchasing foods superior to those made by competitors. Defendant made false
22 representations with knowledge of their falsity, as it was in the unique position to know exactly
23 how its products were made and to what degree did those products contain toxic heavy metals.
24 The false representations were material to consumers because the representations played a
25 significant role in consumers' decision to invest in certain baby foods.

26 132. Plaintiffs and the Class Members reasonably relied on Defendant's claims
27 pertaining to its baby foods' healthfulness, quality, and safety, as all consumers who purchase
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1 baby foods reasonably rely on the manufacturer's representations with regards to the
2 manufacturer's products.

3 133. Plaintiffs and Class Members had no way of knowing that Defendant was
4 misrepresenting its baby foods' actual contents.

5 134. Plaintiffs and Class Members could not have discovered the misleading
6 nature of Defendant's misrepresentations on their own, because Defendant was in exclusive
7 possession of such information, and/or continued to advertise its products as safe, healthy, and
8 nutritious for consumption by babies.

9 135. Plaintiffs and the Class Members had no reason to suspect Defendant of
10 misrepresenting material information in its advertisements.

11 136. Plaintiffs and the Class Members did not have an independent duty to
12 investigate Defendant's representations.

13 137. Although Defendant, as the manufacturer and distributor of its baby foods,
14 had a duty to ensure the accuracy of the representations it disseminated regarding its products'
15 contents, Defendant did not fulfill these duties.

16 138. Defendant was in a superior position to know the falsity and/or misleading
17 nature of its representations. As the manufacturer, Defendant is in sole possession of rigorous
18 testing of its products and knew or should have known that its products contained dangerously
19 high amounts of toxic heavy metals.

20 139. Defendant misrepresented material facts partly to pad and protect its
21 profits. The benefits of falsely touting its baby foods as healthy and safe to eat came at the
22 expense of Plaintiffs and Class Members.

23 140. Plaintiffs and Class Members were unaware of these material
24 misrepresentations, and they would not have acted as they did had they known the truth.
25 Plaintiffs' and Class Members' actions were justified given Defendant's misrepresentations.
26 Defendant was in exclusive control of material facts, and/or such facts were not known to average
27 members of the public.

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1 141. Plaintiffs and Class Members sustained injury due to the purchase of baby
2 foods that did not live up to representations. Plaintiffs and Class Members sustained injury when
3 they inadvertently fed their babies foods containing dangerous heavy metals.

4 142. Plaintiffs and Class Members are entitled to recover full or partial refunds
5 due to Defendant's misrepresentations, amounts to be proven at trial. Plaintiffs and Class
6 Members are also entitled to recover the costs and expenses they incurred in purchasing
7 alternative baby foods due to Defendant's misrepresentations, also amounts to be determined at
8 trial. Plaintiffs and Class members are entitled to recover costs and expenses associated with
9 ensuring that their babies have not been harmed, as well as any costs and expenses associated
10 with any treatments for Plaintiffs' and Class Members' babies, amounts to be determined at trial.

11 143. Defendant's acts were done maliciously, oppressively, deliberately, with
12 intent to defraud, in reckless disregard of Plaintiffs' and Class Members' rights and well-being,
13 as well as the well-being of Plaintiffs' and Class Members' babies, and in part to enrich itself in
14 California at the expense of consumers. Defendant's acts were done to gain commercial
15 advantage over competitors, and to drive consumers away from consideration of competitor baby
16 foods. Defendant's conduct warrants an assessment of punitive damages in an amount sufficient
17 to deter such conduct in the future.

18 **C. THIRD CAUSE OF ACTION**

19 **VIOLATION OF THE CONSUMER LEGAL REMEDIES ACT**

20 *Cal. Civ. Code § 1750, et seq.*

21 144. Plaintiffs, individually and on behalf of the Class, repeat and allege
22 Paragraphs 1-143, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf
23 of any potential Subclasses.

24 145. The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, et seq.
25 ("CLRA"), is a comprehensive statutory scheme that is to be liberally construed to protect
26 consumers against unfair and deceptive business practices in connection with the conduct of
27 businesses providing goods, property, or services to consumers primarily for personal, family, or
28 household use.

1 146. In accordance with the liberal application and construction of the CLRA,
2 application of the CLRA to all Class Members is appropriate, given that Defendant's conduct as
3 described herein originated from California, and consumers purchased or used the involved baby
4 foods in California.

5 147. Defendant is a "person" as defined by Civil Code §§ 1761(c) and 1770 and
6 has provided "goods" as defined by Civil Code §§ 1761(a) and 1770.

7 148. Plaintiffs and the Class Members are "consumers" as defined by Civil
8 Code §§ 1761(d) and 1770 and have engaged in a "transaction" as defined by Civil Code §§
9 1761(e) and 1770.

10 149. Defendant's acts and practices were intended to and did result in the sales
11 of products to Plaintiffs and the Class Members in violation of Civil Code § 1770, including:

- 12 i. Representing that goods or services have characteristics and uses that they
13 do not have;
- 14 ii. Representing that goods or services are of a particular standard, quality, or
15 grade when they are not;
- 16 iii. Advertising goods or services with intent not to sell them as advertised;
17 and
- 18 iv. Representing that the subject of a transaction has been supplied in
19 accordance with a previous representation when it has not.

20 150. Defendant's representations and omissions were material because they
21 were likely to deceive reasonable consumers.

22 151. Had Defendant disclosed to Plaintiffs and Class Members that its baby
23 foods contained toxic heavy metals, often in amounts surpassing those recommended or deemed
24 safe by multiple regulatory bodies, Plaintiffs and the Class Members would have made different
25 purchasing decisions.

26 152. Had Defendant disclosed the truth, it would have been unable to continue
27 in the same course of business. So, Defendant represented that its baby foods were healthy,
28 nutritious and safe for consumption by babies, who have been shown to be extremely susceptible

1 to the harsh effects of exposure to toxic heavy metals. Plaintiffs and the Class Members acted
 2 reasonably in relying on Defendant's misrepresentations and omissions, the truth of which they
 3 could not have discovered.

4 153. As a direct and proximate result of Defendant's violations of California
 5 Civil Code § 1770, Plaintiffs, Class Members, and their babies have suffered and will continue to
 6 suffer injury, ascertainable losses of money or property, and monetary and non-monetary
 7 damages. Such monetary and non-monetary damages have arisen and will arise from not receiving
 8 the benefit of the bargain in purchasing Defendant's baby foods, and increased time and expense
 9 in having to purchase safer alternatives, determining whether their children have been negatively
 10 affected by consuming Defendant's baby foods, and medical, behavioral, educational, or other
 11 types of treatment for children who have been negatively affected by consuming Defendant's
 12 baby foods.

13 154. In satisfaction of the requirements of California Civil Code § 1782(a),
 14 Plaintiffs will send written notice to Defendant via certified or registered mail contemporaneously
 15 with the filing of this Complaint. Plaintiffs will seek to amend the Complaint to seek relief under
 16 this cause of action once the requisite 30-day notice period has expired and to state that Plaintiffs
 17 gave Defendant proper notice.

18 **D. FOURTH CAUSE OF ACTION**

19 VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW

20 Cal. Bus. & Prof. Code § 17500 et. seq.

21 155. Plaintiffs, individually and on behalf of the Class, repeat and allege
 22 Paragraphs 1-154, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf
 23 of any potential Subclasses.

24 156. Defendant's acts and practices, as described herein, have deceived and/or
 25 are likely to continue to deceive class members and the public. As discussed, Defendant
 26 misrepresented its baby foods and the fact that they are healthy, nutritious and safe for babies to
 27 consume. It concealed the fact that its baby foods contain high traces of toxic heavy metals such
 28 as arsenic, lead, cadmium and/or mercury.

1 157. Defendant disseminated uniform advertising regarding the contents of its
2 baby foods in California. The advertising was inherently unfair, deceptive, untrue, and
3 misleading within the meaning of Cal. Bus. & Prof. Code § 17500, et seq. Such advertisements
4 were intended to and likely did deceive the public for the reasons detailed herein.

5 158. The above-described false, misleading, and deceptive advertising
6 Defendant disseminated continues to have a likelihood to deceive in that Defendant continues to
7 conceal the true nature of its baby foods. Not only has Defendant refused to cooperate with the
8 Subcommittee's efforts to investigate the true nature of baby foods on the market, even after it
9 was revealed through independent testing that Defendant baby foods do contain toxic heavy
10 metals, Defendant failed to remove its tainted products from distribution, failed to let consumers
11 know precisely what reforms, if any, it has been making to its standards to ensure that its baby
12 foods will contain less-to-no toxic heavy metals, and failed to instigate a public information
13 campaign to alert consumers of the fact that its baby foods contain toxic heavy metals. As such,
14 Defendant continues to misrepresent the true nature of its products and continues to deceive
15 consumers.

16 159. In making and disseminating the statements alleged herein, Defendant
17 knew or should have known that its advertisements were untrue and misleading in violation of
18 California law. Plaintiffs and other Class Members based their purchasing decisions on
19 Defendant's omitted and misrepresented material facts. The revenues to Defendant attributable
20 to products sold in those false and misleading advertisements amount to millions of dollars.
21 Plaintiffs and Class Members were injured in fact and lost money and property as a result.

22 160. The misrepresentations and non-disclosures by Defendant of the material
23 facts described and detailed herein constitute false and misleading advertising and, therefore,
24 constitute violations of Cal. Bus. & Prof Code § 17500, *et seq.*

25 161. As a result of Defendant's wrongful conduct, Plaintiffs and the Class
26 Members were induced to purchase Defendant's baby foods. Plaintiffs and the Class Members
27 are therefore entitled to restitution as appropriate for this cause of action.

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162. Plaintiffs and Class Members seek all monetary and non-monetary relief allowed by law, including restitution of all profits stemming from Defendant's unfair, unlawful, and fraudulent business practices; declaratory relief; reasonable attorneys' fees and costs under California Code of Civil Procedure § 1021.5; injunctive relief; and other appropriate equitable relief.

E. FIFTH CAUSE OF ACTION

VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW

Cal. Bus. & Prof. Code § 17200, et seq.

163. Plaintiffs, individually and on behalf of the Class, repeat and allege Paragraphs 1-162, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf of any potential Subclasses.

164. In accordance with the liberal application and construction of the Unfair Competition Law ("UCL"), application of the UCL to all Class Members is appropriate, given that Defendant's conduct as described originated in California and Class Members purchased, used, and/or sustained damage to the baby foods involved in California.

165. Defendant is a "person" as defined by Cal. Bus. & Prof. Code § 17201.

166. Defendant violated Cal. Bus. & Prof. Code §§ 17200, *et seq.* ("UCL") by engaging in unlawful, unfair, or fraudulent business acts or practices and unfair, deceptive, untrue, or misleading advertising, including:

- i. Knowingly formulating, manufacturing, advertising, and selling baby foods touted as healthy, nutritious and safe for consumption when, in reality, the baby foods contain toxic heavy metals;
- ii. Misrepresenting material information to consumers regarding Defendant's baby food products and their purported ability to offer a dose of nutrition to a baby's diet;
- iii. Concealing material information from consumers regarding the fact that the baby foods contain high levels of toxic heavy metals, so that consumers would not know that the baby foods pose a health risk to babies; and

iv. Using uniform, deceptive business practices, such as telling consumers via its websites or otherwise implying that the baby foods involved are safe to consume and have undergone thorough testing, without transparently disclosing Defendant's testing standards and ultimate results.

167. Defendant has engaged in "unlawful" business practices by violating multiple laws, including the CLRA, Cal. Civ. Code §§ 1750, *et seq.*, which include:

i. Knowingly formulating, manufacturing, advertising, and selling baby foods touted as healthy, nutritious and safe for consumption when, in reality, the baby foods contain toxic heavy metals;

ii. Misrepresenting material information to consumers regarding Defendant's baby food products and their purported ability to offer a dose of nutrition to a baby's diet;

iii. Concealing material information from consumers regarding the fact that the baby foods contain high levels of toxic heavy metals, so that consumers would not know that the baby foods pose a health risk to babies; and

iv. Using uniform, deceptive business practices, such as telling consumers via its websites or otherwise implying that the baby foods involved are safe to consume and have undergone thorough testing, without transparently disclosing Defendant's testing standards and ultimate results.

168. Defendant violated § 17200's prohibition against engaging in unlawful acts and practices by engaging in false and misleading advertising and by omitting material facts from purchasers of its baby foods. As alleged more fully herein, Defendant's marketing and sale of baby foods, and more specifically its failure to inform customers of the presence of toxic heavy metals in said baby foods, violated Cal. Civ. Code § 1750, *et seq.*, common law, and other statutory violations as alleged herein. Plaintiffs reserve the right to allege other violations of the law, which constitute other unlawful business acts and practices. Defendant's conduct is ongoing and continues to this date.

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169. Defendant violated § 17200's prohibition against unfair conduct by failing to inform its customers about the true nature of its baby foods, and engaging in a pattern or practice of concealing those facts and urging its customers to purchase more of its baby foods based on the false belief that the foods remain safe to consume for babies, thereby depriving consumers of sufficient information to make an informed decision when purchasing baby food. This conduct is substantially injurious to consumers, offends public policy, is immoral, unethical, oppressive, and unscrupulous as the gravity of the conduct – selling baby foods that, in many instances, put children at risk for severe developmental and health problems. The impact of the practice against Plaintiffs and the Class Members far outweighs any possible justification or motive on the part of Defendant. The impact on Plaintiffs and Class Members has been described. Defendant can have no possible justification for including a false inducement to purchase its products. Plaintiffs and Class Members could not reasonably have avoided this injury because they relied on Defendant's advertising as to the quality and characteristics of the products being sold, as all consumers who rely on the verity of product advertising must do. Defendant's false advertising is also violative of public policy, as expressed in the CLRA.

170. Specifically, Plaintiffs and Class Members paid hefty prices for Defendant's baby food products, believing that they were the most optimal options for growing children. Defendant has refused to admit that its products are indeed dangerous, and it continues to market and sell its products in California. Defendant has engaged in this conduct at the expense of its customers' rights – Defendant could have provided customers with full information about its baby foods' actual contents, but it did not.

171. Defendant engaged in this conduct to gain an unfair commercial advantage over its competitors. It misrepresented critical and material information to, and omitted critical and material information from, Plaintiffs and Class Members, its competitors, and the marketplace – all to its unfair competitive advantage.

172. Defendant's business practices also constitute fraudulent conduct because they were likely to deceive, and did deceive, Class Members into purchasing certain baby foods with ingredients that could not allow for the baby foods to benefit children as advertised.

1 173. Defendant's business practices, as alleged herein, also constitute
2 fraudulent conduct because Defendant did not deliver the product it advertised.

3 174. Defendant's representations and omissions in California were material
4 because they were likely to deceive reasonable consumers.

5 175. Plaintiffs and Class Members did not know that the baby foods contained
6 toxic heavy metals. Accordingly, Defendant should not have omitted and/or misrepresented the
7 facts surrounding the baby food's true contents.

8 176. Defendant omitted and misrepresented material information pertaining to
9 its baby foods' true contents to defraud the Class Members' by, among other things, maintaining
10 market share, convincing Plaintiffs and Class Members to purchase more of its products, and to
11 otherwise ensure that Plaintiffs and Class Members would not discover Defendant's underlying
12 fraud regarding its omissions and misrepresentations regarding the baby food products. As a
13 result, Defendant violated Cal. Penal Code § 502.

14 177. Defendant's fraud led to consumers paying for products that did not live
15 up to reasonable expectations. Consumers likely paid more for baby foods than they otherwise
16 should have, and/or purchased baby foods manufactured by Defendant instead of one of
17 Defendant's competitors. None of this would have been necessary had consumers known the
18 truth.

19 178. As a direct and proximate result of Defendant's unfair, unlawful, and
20 fraudulent acts and practices, Plaintiffs and Class Members were injured and lost money or
21 property. They did not receive the benefit of the bargain in purchasing the baby foods, and they
22 spent their own time and money dealing with purchasing safer baby food alternatives.
23 Additionally, Plaintiffs' and Class Members' babies were harmed or placed at risk of harm by
24 consuming foods containing toxic heavy metals and other undesirable toxins and contaminants.

25 179. Defendant acted intentionally, knowingly, and maliciously to violate
26 California's Unfair Competition Law. It recklessly disregarded Plaintiffs' and Class Members'
27 rights, and the health of Plaintiffs' and Class Members' babies. Defendant's knowledge of its
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1 baby foods containing toxic heavy metals put it on notice that its foods were not being sold as
2 advertised.

3 180. Plaintiffs and Class Members seek all monetary and non-monetary relief
4 allowed by law, including restitution of all profits stemming from Defendant's unfair, unlawful,
5 and fraudulent business practices, declaratory relief, reasonable attorneys' fees and costs under
6 California Code of Civil Procedure § 1021.5, injunctive relief, and other appropriate equitable
7 relief.

8 **F. SIXTH CAUSE OF ACTION**

9 **FRAUD**

10 181. Plaintiffs, individually and on behalf of the Class, repeat and allege
11 Paragraphs 1-180, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf
12 of any potential Subclasses.

13 182. At the time Plaintiffs and Class Members purchased Defendant's baby
14 foods, Defendant did not disclose, but instead concealed and misrepresented, the true contents of
15 its baby foods as discussed herein.

16 183. Defendant affirmatively misrepresented its baby foods' contents by telling
17 Plaintiffs and the Class Members that its baby foods were healthy, nutritious, and safe for babies
18 and children to eat, all of which are not true.

19 184. Defendant omitted and concealed the fact that testing showed that its foods
20 contained toxic heavy metals such as arsenic, lead, cadmium, and/or mercury.

21 185. Defendant knew, or should have known, that its advertisements falsely
22 portrayed to the consuming public that its baby foods were safe for consumption.

23 186. Defendant knew that its omissions and misrepresentations regarding the
24 contents of its baby foods were material since it dedicated advertising to create such
25 advertisements. Further, a reasonable consumer would rely upon Defendant's representations in
26 making purchasing decisions.

27 187. Defendant, through its advertisements, has proven that it in fact intended
28 to deceive Plaintiffs and Class Members.

1 188. Plaintiffs and Class Members did not know, nor could they have known
2 through reasonable diligence, about Defendant's fraud. They also could not have known that
3 companies as large as Defendant would repeatedly lie to the consuming public about its products'
4 true nature without facing consequences. They also could not have known that baby food
5 manufacturers like Defendant produce baby foods containing toxic heavy metals. Only after
6 purchasing Defendant's products and the release of the February 2021 Subcommittee report did
7 Plaintiffs and the Class Members become aware of Defendant's fraud.

8 189. Plaintiffs and Class Members are reasonable in relying on Defendant's
9 misrepresentations in making their purchasing decisions.

10 190. Plaintiffs and Class Members had a right to rely upon Defendant's
11 representations because Defendant maintained monopolistic control over the true circumstances
12 of its products' contents. Defendant selected the information available to the public regarding the
13 contents of its products.

14 191. Plaintiffs and Class Members sustained damages in relying on Defendant's
15 omissions and misrepresentations. Plaintiffs and Class Members have sustained actual losses and
16 damages in a sum to be determined at trial, including punitive damages.

17 **G. SEVENTH CAUSE OF ACTION**

18 CONSTRUCTIVE FRAUD

19 192. Plaintiffs, individually and on behalf of the Class, repeat and allege
20 Paragraphs 1-191, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf
21 of any potential Subclasses.

22 193. At the time Plaintiffs and Class Members purchased Defendant's baby
23 foods, Defendant did not disclose the true contents of its baby foods – namely, the presence of
24 toxic heavy metals.

25 194. Further, Defendant affirmatively represented that its baby foods were
26 healthy, nutritious and safe for consumption.

27 195. Defendant knew, or should have known, that the contents and safety of its
28 baby foods were falsely portrayed to the consumer public.

1 196. Defendant also knew that its omissions and misrepresentations regarding
2 its baby foods were material, and that a reasonable consumer would rely upon Defendant's
3 representations in making purchasing decisions.

4 197. Defendant had an obligation not to omit or misrepresent its baby foods'
5 true contents because: (a) it had sole possession of information regarding the true contents of its
6 baby foods; (b) it made affirmative misrepresentations regarding its baby foods' safety that misled
7 consumers; (c) Plaintiffs and Class Members reasonably relied upon Defendant to make full
8 disclosures based upon the relationship between Plaintiffs and Class Members; (d) Defendant had
9 a duty to ensure the accuracy of the representations it disseminated regarding the baby foods' true
10 contents; (e) Plaintiffs and the Class Members had no way of knowing about Defendant's fraud
11 until after purchasing the baby foods and the release of the February 2021 Subcommittee report;
12 (f) Defendant was on notice of its baby food's toxicity as it was aware of the included toxic heavy
13 metals in its baby foods; and (g) Defendant was further put on notice of its baby food's toxicity
14 when the House Subcommittee released reports in February 2021 indicating the presence of toxic
15 heavy metals in its baby foods.

16 198. Plaintiffs and Class Members did not know—nor could they have known
17 through reasonable diligence—about the presence of toxic heavy metals, nor could they have
18 known about this fact when Defendant repeatedly advertised that its foods were healthy, natural
19 and safe for consumption.

20 199. Plaintiffs and Class Members would have been reasonable in relying on
21 Defendant's misrepresentations (and corresponding omissions) in making their purchasing
22 decisions and inadvertently or intentionally exposing babies and children to toxic heavy metals.

23 200. Plaintiffs and Class Members had a right to rely upon Defendant's
24 representations (and corresponding omissions) because Defendant maintained monopolistic
25 control over what information regarding its baby foods was made known to the public.

26 201. Defendant breached its duty to Plaintiffs and Class Members to make full
27 disclosures of the fact that its baby foods do, in fact, contain dangerous, heavy toxic metals in
28 varying quantities.

202. Plaintiffs and Class Members sustained damages as a result of their reliance on Defendant's omissions, misrepresentations, and breach of its duty. Plaintiffs and Class Members have sustained actual losses and damages in a sum to be determined at trial.

H. EIGHTH CAUSE OF ACTION

BREACH OF EXPRESS WARRANTY

Cal. Comm. Code § 2313, et seq.

203. Plaintiffs, individually and on behalf of the Class, repeat and allege Paragraphs 1-202, as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf of any potential Subclasses.

204. As set forth herein, Defendant made express representations to Plaintiffs and the Class that its baby foods were healthy, nutritious, and safe for consumption.

205. These promises became part of the basis of the bargain between the parties and thus constituted express warranties.

206. There was a sale of goods from Defendant to Plaintiffs and the Class Members.

207. On the basis of these express warranties, Defendant sold to Plaintiffs and the Class Members baby foods.

208. Defendant knowingly breached the express warranties by including toxic heavy metals in its baby foods.

209. Defendant was on notice of this breach as it was aware of the included toxic heavy metals in its baby foods.

210. Defendant was also on notice of this breach when the House Subcommittee released reports in February 2021 indicating the presence of toxic heavy metals in its baby foods.

211. Privity exists because Defendant expressly warranted to Plaintiffs and the Class that its baby foods were healthy, nutritious, and safe for consumption.

212. Plaintiffs and the Class members reasonably relied on the express warranties by Defendant.

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1 213. As a result of Defendant's breaches of its express warranties, Plaintiffs and
2 the Class sustained damages as they paid money for the baby foods that were not what Defendant
3 represented.

4 214. Plaintiffs, on behalf of themselves and the Class, seek actual damages for
5 Defendant's breach of warranty.

6 **I. NINTH CAUSE OF ACTION**

7 BREACH OF IMPLIED WARRANTY

8 *Cal. Comm. Code § 2314, et seq.*

9 215. Plaintiffs, individually and on behalf of the Class, repeat and allege
10 Paragraphs 1-214 as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf
11 of any potential Subclasses.

12 216. Defendant is a merchant engaging in the sale of goods to Plaintiffs and the
13 Class members.

14 217. There was a sale of goods from Defendant to Plaintiffs and the Class
15 members.

16 218. As set forth herein, Defendant marketed its baby foods to Plaintiffs and the
17 Class as healthy, nutritious and safe options for babies. But the baby foods did not conform to
18 these affirmations and promises because they contained toxic heavy metals at undisclosed,
19 alarming levels. These very promises became part of the basis of the bargain between the parties
20 and thereby constituted a series of implied warranties.

21 219. Defendant breached the implied warranties by selling the baby foods that
22 failed to conform to the promises or affirmations of fact made on containers or in advertisements
23 because each product contained toxic heavy metals.

24 220. Defendant was on notice of this breach as it was aware of the inclusion of
25 toxic heavy metals in its baby foods.

26 221. Defendant was also on notice of this breach when the House Subcommittee
27 released reports in February 2021 indicating the presence of toxic heavy metals in its baby foods.

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222. Privity exists because Defendant impliedly warranted to Plaintiffs and the Class members through the warranting, packaging, advertising, marketing, and labeling that its baby foods were healthy, nutritious, and safe for consumption and by failing to make any mention of toxic heavy metals. Plaintiffs and the Class then relied on these implied warranties in making their purchases.

223. As a result of Defendant's breach of its implied warranties of merchantability, Plaintiffs and the Class sustained damages as they paid money for the baby foods that were not what Defendant represented.

224. Plaintiffs, on behalf of herself and the Class, seek actual damages for Defendant's breach of warranty.

J. TENTH CAUSE OF ACTION

QUASI-CONTRACT / UNJUST ENRICHMENT

225. Plaintiffs, individually and on behalf of the Class, repeat and allege Paragraphs 1-224 as if fully alleged herein. In the alternative, Plaintiffs bring this claim on behalf of any potential Subclasses.

226. Plaintiffs and Class Members purchased Defendant's baby foods, and those baby foods were not as Defendant represented them to be, enticing Plaintiffs and the Class to purchase the baby foods. Had Plaintiffs and the Class known of the fact that the baby foods contained toxic heavy metals such as arsenic, lead, cadmium, and/or mercury, they would not have purchased Defendant's baby food, but would rather purchase baby foods manufactured by one of Defendant's competitors. Furthermore, Plaintiffs would not have had to pay for safer alternatives after learning of the true contents of Defendant's baby foods.

227. Accordingly, Plaintiffs and Class Members were damaged, and Defendant was unjustly enriched, due to fraud, by the purchase price of those baby foods containing toxic heavy metals.

228. Plaintiffs and Class Members are entitled to damages in the amount Defendant was unjustly enriched, to be determined at trial.

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229. Furthermore, Defendant's conduct was willful, intentionally deceptive, and intended to cause economic injury to Plaintiffs and the Class. Defendant is therefore liable to pay punitive damages under California law.

VII. PRAYER FOR RELIEF

230. WHEREFORE, Plaintiffs, individually and on behalf of all other Class Members, respectfully requests that the Court enter an Order:

- i. Declaring that this action is a proper class action, certifying the Classes and/or Subclasses as requested herein, designating Plaintiffs as Class Representatives, and appointing Plaintiffs' attorneys as Class Counsel;
- ii. Enjoining Defendant from continuing the unfair business practices alleged in this Complaint;
- iii. Ordering Defendant to pay actual and statutory damages (including punitive damages) and restitution to Plaintiffs and the other Class Members, as allowable by law;
- iv. Ordering Defendant to pay both pre- and post-judgment interest on any amounts awarded;
- v. Ordering Defendant to pay attorneys' fees and costs of suit; and
- vi. Ordering such other and further relief as may be just and proper.

VIII. DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves and all others similarly situated, hereby demand a jury trial for all claims so triable.

Dated: April 1, 2021

WILSHIRE LAW FIRM

By /s/ Cinela Aziz
Cinela Aziz
Attorney for Plaintiffs and the Putative Class

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
ANDREA KEY, NAHSLA BLACK-ZETINA, individually, and on behalf of all others similarly situated,

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010

DEFENDANTS
SPROUT FOODS, INC., a Delaware corporation, and DOES 1 through 100, inclusive,

County of Residence of First Listed Defendant Delaware
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys *(If Known)*

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)*

	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3

	PTF	DEF
Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment Of Veteran's Benefits <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury -Medical Malpractice CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities--Employment <input type="checkbox"/> 446 Amer. w/Disabilities--Other <input type="checkbox"/> 448 Education	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS HABEAS CORPUS <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty OTHER <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee--Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC § 158 <input type="checkbox"/> 423 Withdrawal 28 USC § 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent--Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS--Third Party 26 USC § 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation--Transfer ☐ 8 Multidistrict Litigation--Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
Class Action Fairness Act of 2005 (CAFA), 28 U.S.C. §§ 1332(d), 1453
Brief description of cause:
Sprout Foods, Inc. sold baby food containing toxic heavy metals and other contaminants

VII. REQUESTED IN COMPLAINT: ☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S), IF ANY *(See instructions):* JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only) ☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA-MCKINLEYVILLE