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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

NC, a minor

Plaintiff,

v.

Hain Celestial Group, Inc.; Beech-Nut
Nutrition Company; Nurture, Inc.; Plum,
PBC, d.b.a. Plum Organics; Gerber Products
Company; Walmart, Inc.; Sprout Foods, Inc.;
Ralphs Grocery Company; and DOES 1
through 100 inclusive

Defendants.

Case No. 21STCV22822

Judge: Hon. Amy D. Hogue

Department: 7

**FIRST AMENDED COMPLAINT
DEMAND FOR JURY TRIAL**

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INTRODUCTION

1. This case involves a group of manufacturers—namely, Hain Celestial Group, Inc., Beech-Nut Nutrition Company, Nurture, Inc., Plum, PBC, Walmart, Inc.; Sprout Foods, Inc.; and Gerber Products Company (“Defendants”, “Defendant Baby Food Manufacturers”, or “Manufacturer Defendants”)—that *knowingly* sold baby food products (“Baby Foods”) which contain dangerous levels of toxic heavy metals—mercury, lead, arsenic, and cadmium (collectively “Toxic Heavy Metals”), which are all known to be severe neurotoxins—and how such toxic exposures substantially contributed to Plaintiff developing lifelong brain damage and neurodevelopmental disorders. The products of these Baby Food Manufacturers were retailed by Ralphs Grocery Company (“Defendant” or “Retailer Defendant”). Plaintiff NC (“Plaintiff”), represented in this lawsuit by his mother and guardian *ad litem*, is a seven-year-old boy who lives with debilitating Autism Spectrum Disorder (“ASD”) and Attention Deficit Hyperactive Disorder (“ADHD”) because he consumed poisonous Baby Foods manufactured and sold by these Defendants. This case seeks to hold the Defendant Baby Food Manufacturers accountable for their reprehensible conduct and ensure they are punished for permanently affecting Plaintiff’s ability to live a fulfilling life.

2. That Defendants’ Baby Foods are laced with staggering amounts of Toxic Heavy Metals recently made headlines following research and a Congressional investigation. In February 2021, the U.S. House of Representatives’ Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform released a report containing shocking details of Defendants’ tainted Baby Foods based on the submission of internal test results and company documents. Specifically, the Subcommittee found that Defendants sell Baby Foods containing as much as 180 parts per billion (“ppb”)¹ inorganic arsenic, 6441 ppb lead, 10 ppb mercury, and manufacture their Baby Foods using ingredients containing as much as 913.4 ppb arsenic, 886.9 ppb lead, and 344.55 ppb cadmium, far eclipsing domestic and international regulatory standards. By way of comparison,

¹ Ppb (or ppbm) is used to measure the concentration of a contaminant in soils, sediments, and water. 1 ppb equals 1 µg (microgram) of substance per kg of solid (µg/kg). For the average baby weighing approximately 3kg, the quantities of Toxic Heavy Metals found in Defendants’ Baby Foods, as explained below, pose significant health risks.

1 the U.S. Food and Drug Administration (“FDA”) has set the maximum allowable levels in bottled
2 water at 10 ppb inorganic arsenic, 5 ppb lead, and 5 ppb cadmium, and the U.S. Environmental
3 Protection Agency (“EPA”) has capped the allowable level of mercury in drinking water at 2 ppb.
4 With a chilling note the Subcommittee concluded that “[m]anufacturers *knowingly* sell these products
5 to unsuspecting parents, in spite of internal company standards and test results, and without any
6 warning labeling whatsoever.”² (emphasis added). Indeed, following the Congressional findings and
7 subsequent public uproar, Defendant Beech-Nut recalled one of its baby food product lines from the
8 market, citing dangerous levels of arsenic in its single grain rice cereal, and exited the rice cereal
9 market altogether.³

10 3. The high levels of Toxic Heavy Metals found in Defendants’ Baby Foods are, in part,
11 a function of the ingredients used by Defendants to manufacture their Baby Foods, the setting of
12 dangerously inflated internal limits which Defendants willingly flouted, disregard of regulatory
13 standards, and corporate policies which failed to test finished products before market distribution,
14 purchase by unknowing parents, and consumption by vulnerable infants.

15 4. Defendants’ malicious recklessness and callous disregard for human life has wreaked
16 havoc on the health of countless vulnerable children, all so that Defendants could maximize profits
17 while deliberately misleading parents regarding the safety of their Baby Foods. Accordingly, this
18 lawsuit will not only ensure that Plaintiff is duly compensated for his tragic injuries and Defendants
19 punished, but that future generations are protected from the poisonous products that Defendants
20 pander as “food”.
21
22
23

24 ² Staff Report, Subcommittee on Economic and Consumer Policy Committee on Oversight and Reform U.S.
25 House of Representatives, *Baby Foods Are Tainted with Dangerous Levels of*
26 *Arsenic, Lead, Cadmium, and Mercury* (Feb. 4, 2021) (“Subcommittee Report”) at 59, available at:
[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)
[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).

27 ³ FDA, *Beech-Nut Nutrition Company Issues a Voluntary Recall of One Lot of Beech-Nut Single Grain Rice*
28 *Cereal and Also Decides to Exit the Rice Cereal Segment*, available at:
[https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/beech-nut-nutrition-company-issues-](https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/beech-nut-nutrition-company-issues-voluntary-recall-one-lot-beech-nut-single-grain-rice-cereal-and)
[voluntary-recall-one-lot-beech-nut-single-grain-rice-cereal-and](https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/beech-nut-nutrition-company-issues-voluntary-recall-one-lot-beech-nut-single-grain-rice-cereal-and)

PARTIES

I. Plaintiff

5. Plaintiff is a citizen of California and no other state.

II. Defendants

6. Defendant Hain Celestial Group, Inc. (“Hain”) is a citizen of Delaware and New York with its principal place of business located at 1111 Marcus Ave., Lake Success, NY 11042. Hain sells Baby Foods under the brand name Earth’s Best Organics. Hain offers infant and baby formula and foods as well as toddler foods covering products from “organic infant cereal” to “organic snacks for toddlers and kids on the go”. At all relevant times, Hain has conducted business and derived substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of Baby Foods within the State of California and Los Angeles County.

7. Defendant Beech-Nut Nutrition Company (“Beech-Nut”) is a citizen of Delaware and New York with its principal place of business located at 1 Nutritious Pl., Amsterdam, NY 12010. Beech-Nut sells Baby Foods under the brand name Beech-Nut. Beech-Nut produces Baby Foods aimed at infants 4+ months up to 12+ months and includes a variety of cereals, “jars”, and “pouches” for these age groups. At all relevant times, Beech-Nut has conducted business and derived substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of Baby Foods within the State of California and Los Angeles County.

8. Defendant Nurture, Inc (“Nurture”), is a citizen of Delaware and New York with its principal place of business located at 40 Fulton St, 17th Floor, New York, NY 10038-1850. Nurture owns Happy Family Brands (including Happy Family Organics) and sells Baby Foods under the brand name HappyBaby. Nurture classifies its HappyBaby range of products according to three categories: “baby”, “tot”, and “mama”. The “baby” category is comprised of foods, including “starting solids”, intended for age groups 0-7+ months, the “tot” category covers 12+ months, and “mama” includes infant formulas for newborn babies. At all relevant times, Nurture has conducted business and derived substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of HappyBaby within the State of California and Los Angeles County.

9. Defendant Plum, PBC (“Plum”) is a citizen of Delaware and California with its

principal place of business located at 1485 Park Avenue, Emeryville, California 94608. Plum sells Baby Foods under the brand name Plum Organics. Plum’s products are divided into groups according to the targeted infant or toddler age and/or type of food product. For example, there are five groups designated for the youngest infants: Stage 1 (4+ months old), Stage 2 (6+ months old), Stage 3 (6+ months old), “Super Puffs”, and “Little Teethers”. At all relevant times, Plum has conducted business and derived substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of Baby Foods within the State of California and Los Angeles County.

10. Defendant Gerber Products Company (“Gerber”) is a citizen of Michigan with its principal place of business located at 445 State Street, Fremont, MI 49413-0001. Gerber sells Baby Foods under the brand name Gerber. Gerber organizes its products into broad categories of “formula”, “baby cereal”, “baby food”, “snacks”, “meals & sides” “beverages” and “organic”. At all relevant times, Gerber has conducted business and derived substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of Baby Foods within the State of California and Los Angeles County.

11. Defendant Walmart, Inc. (“Walmart”) is a citizen of Delaware and Arkansas with its principal place of business located at 702 S.W. 8th St. Bentonville, AK 72716. Walmart sells Baby Foods under the brand name Parent’s Choice. Walmart’s Parent’s Choice offers a wide selection of baby foods ranging from “sweet potatoes & corn” to “toddler cookies” and “yogurt bites”. At all relevant times, Walmart has conducted business and derived substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of Baby Foods within the State of California and Los Angeles County.

12. Defendant Sprout Foods, Inc. (“Sprout”) is a citizen of Delaware and New Jersey with its principal place of business located at 50 Chestnut Ridge Rd, Montvale, NJ 07645. Sprout sells Baby Foods under the brand name Sprout Organic Foods. Sprout organizes its Baby Foods selection according to three categories: Stage 2 (6 months+); Stage 3 (8 months+); and Toddler. At all relevant times, Sprout has conducted business and derived substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of Baby Foods within the State of California and Los Angeles County.

13. Defendant Ralphs Grocery Store (“Ralphs”) is a citizen of Ohio and California with its principal place of business located at 1100 W. Artesia Blvd., Compton, CA 90220. At all relevant times, Ralphs retailed the Manufacturer Defendants’ Baby Foods. At all relevant times, Ralphs has conducted business and derived substantial revenue from its retailing of Baby Foods within the State of California and Los Angeles County.

14. The true names and/or capacities, whether individual, corporate, partnership, associate, governmental, or otherwise, of Defendants DOES 1 through 100, inclusive, and each of them, are unknown to Plaintiff at this time, who therefore sue said Defendants by such fictitious names. Plaintiff is informed and believe, and thereon allege, that each Defendant designated herein as a DOE caused injuries and damages proximately thereby to Plaintiff as hereinafter alleged; and that each DOE Defendant is liable to the Plaintiff for the acts and omissions alleged herein below, and the resulting injuries to Plaintiff, and damages sustained by Plaintiff. Plaintiff will amend this Complaint to allege the true names and capacities of said DOE Defendants when that same is ascertained. At all relevant times, Defendants and DOES 1 through 100, inclusive, and each of them, expected or should have expected that their acts would have consequences within the United States of America including the State of California and including Los Angeles County, said Defendants derived and derive substantial revenue therefrom.

JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to the California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except those given by statute to other trial courts.” The Statutes under which this action is brought do not specify any other basis for jurisdiction.

16. This Court has personal jurisdiction over Plum and Ralphs because these Defendants are citizens of the State of California. The Court has personal jurisdiction over Hain, Beech-Nut, Nurture, Gerber, Walmart, and Sprout and Plum insofar as each Defendant is authorized and licensed to conduct business in the State of California, maintains and carries on systematic and continuous contacts in the State of California, regularly transacts business within the State of California, and regularly avails itself of the benefits of the State of California, including Los Angeles County.

17. Additionally, Defendants caused tortious injury by acts and omissions in this judicial jurisdiction and caused tortious injury in this jurisdiction by acts and omissions outside this jurisdiction while regularly doing and soliciting business, engaging in a persistent course of conduct, and deriving substantial revenue from goods used or consumed and services rendered in this jurisdiction.

18. Venue is proper in this Court pursuant to California Code of Civil Procedure Section 395(a) in that Ralphs is located in Los Angeles County.

19. Plaintiff seeks relief that is within the jurisdictional limits of the Court. Plaintiff has reviewed their potential legal claims and causes of action against the Defendants and have intentionally chosen only to pursue claims based on state law. Any reference to any federal agency, regulation or rule is stated solely as background information and does not raise a federal question. Plaintiff has chosen to only pursue claims based on state law and are not making any claims which raise federal questions. Moreover, there is no complete diversity between the parties, providing another ground for the absence of federal jurisdiction. Accordingly, Plaintiff contends that California State jurisdiction and venue is proper.

FACTUAL ALLEGATIONS

I. Rising Concerns Regarding the Presence of Toxic Heavy Metals in Baby Foods

20. In October 2019, an alliance of nonprofit organizations, scientists and donors named “Happy Babies Bright Futures” (“HBBF”), dedicated to designing and implementing “outcomes-based programs to measurably reduce babies’ exposures to toxic chemicals”⁴, published a report investigating the presence of Toxic Heavy Metals in baby foods.⁵ The HBBF Report tested 168 different baby foods sold on the U.S. market and concluded that “[n]inety-five percent of baby foods tested were contaminated with one or more of four toxic heavy metals—arsenic, lead, cadmium and mercury. All but nine of 168 baby foods contained at least one metal; most contained more than

⁴ <https://www.hbbf.org/solutions>.

⁵ Healthy Babies Bright Futures, *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* (Oct. 2019) ("HBBF Report"), available at: www.healthybabyfood.org/sites/healthybabyfoods.org/files/2019-10/BabyFoodReport_FULLREPORT_ENGLISH_R5b.pdf).

one.”⁶ Specifically, the HBBF report identified “puffs and other snacks made with rice flour”, “[t]eething biscuits and rice rusks”, “infant rice cereal”, “apple, pear, grape and other fruit juices”, and “carrots and sweet potatoes” manufactured by the Defendant Baby Food Companies as particularly high in Toxic Heavy Metals.⁷

21. The results of the HBBF report were consistent with that of the FDA which had, in 2017, detected one or more of the four Toxic Heavy Metals in 33 of 39 types of baby food tested.⁸ However, the HBBF reported that “[f]or 88 percent of baby foods tested by HBBF—148 of 168 baby foods—FDA has failed to set enforceable limits or issue guidance on maximum safe amounts.”⁹ The HBBF’s findings were by no means an outlier. Eight months prior to publication of the HBBF report, a study conducted by scientists at the University of Miami and the Clean Label Project “examined lead and cadmium concentrations in a large convenience sample of US baby foods.”¹⁰ The study detected lead in 37% of samples, and cadmium in 57%.¹¹ This was consistent with findings by researchers examining baby food products in other parts of the world.

II. Congressional Investigation Finds Substantial Presence of Heavy Metals in Baby Foods Sparking National Outrage

22. On February 4, 2021, the U.S. House of Representatives’ Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform, 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.¹² Four companies—Hain, Gerber, Nurture, and Beech-Nut —produced internal testing policies, test results for ingredients and finished products, and documentation about what the companies did with ingredients and/or finished products

⁶ *Id.* at 6.

⁷ *Id.* at 10-11

⁸ *Id.* at 6.

⁹ *Id.* at 6.

¹⁰ Gardener, et al., *Lead and cadmium contamination in a large sample of United States infant formulas and baby foods*, 651 SCI. TOTAL ENVIRON. 1, 822-827 (2019), available at:

<https://www.sciencedirect.com/science/article/abs/pii/S0048969718334442?via%3Dihub>.

¹¹ *Id.*

¹² See generally Subcommittee Rpt.

1 that exceeded their internal testing limits. Three companies—Plum,¹³ Walmart, and Sprout—refused
2 to cooperate.¹⁴

3 23. The Subcommittee reported that the data submitted by the companies unequivocally
4 revealed that a substantial number of Defendants’ finished products and/or ingredients used to
5 manufacture the Baby Foods are tainted with significant levels of Toxic Heavy Metals, namely
6 inorganic arsenic, lead, cadmium, and mercury.¹⁵

7 24. Specifically, the Congressional committee concluded that arsenic was present in baby
8 foods. Nurture (HappyBABY) sold baby foods after tests showed they contained as much as 180
9 parts per billion (ppb) inorganic arsenic. Over 25% of the products Nurture tested before sale
10 contained over 100 ppb inorganic arsenic. Nurture’s testing shows that the typical baby food product
11 it sold contained 60 ppb inorganic arsenic. Hain (Earth’s Best Organic) sold finished baby food
12 products containing as much as 129 ppb inorganic arsenic. Hain typically only tested its ingredients,
13 not finished products. Documents show that Hain used ingredients testing as high as 309 ppb arsenic.
14 Beech-Nut used ingredients after they tested as high as 913.4 ppb arsenic. Beech-Nut routinely used
15 high-arsenic additives that tested over 300 ppb arsenic to address product characteristics such as
16 “crumb softness.” On June 8, 2021, four months following the Congressional findings, Beech-Nut
17 issued a voluntary recall of its infant single grain rice cereal and exited the rice cereal market
18 completely.¹⁶ In its recall, Beech-Nut confirmed that its products exceed regulatory arsenic limits.¹⁷
19 Gerber used high-arsenic ingredients, using 67 batches of rice flour that had tested over 90 ppb
20 inorganic arsenic.

21
22 ¹³ Plum’s parent corporation, Campbell’s, responded to the Subcommittee’s inquiries, and the Subcommittee
23 Report references the parent corporation as opposed to Plum. However, as Plum is the Defendant in this
24 lawsuit, any references to the Subcommittee’s findings regarding Campbell are attributed to Plum. The same
25 Baby Foods are at issue.

26 ¹⁴ Subcommittee Rpt. at 2.

27 ¹⁵ *Id.* at 2-3.

28 ¹⁶ FDA, *Beech-Nut Nutrition Company Issues a Voluntary Recall of One Lot of Beech-Nut Single Grain Rice Cereal and Also Decides to Exit the Rice Cereal Segment*, available at:

<https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/beech-nut-nutrition-company-issues-voluntary-recall-one-lot-beech-nut-single-grain-rice-cereal-and>

¹⁷ *Beech-Nut to stop selling baby rice cereal after finding high arsenic levels* (CNN, June 9, 2021), available at: <https://www.cnn.com/2021/06/09/health/beech-nut-baby-food-recall-wellness/index.html>.

1 25. Lead was present in baby foods made by all responding companies. Nurture
2 (HappyBABY) sold finished baby food products that tested as high as 641 ppb lead. Almost 20% of
3 the finished baby food products that Nurture tested contained over 10 ppb lead. Beech-Nut used
4 ingredients containing as much as 886.9 ppb lead. Beech-Nut used many ingredients with high lead
5 content, including 483 that contained over 5 ppb lead, 89 that contained over 15 ppb lead, and 57 that
6 contained over 20 ppb lead. Hain (Earth's Best Organic) used ingredients containing as much as 352
7 ppb lead. Hain used many ingredients with high lead content, including 88 that tested over 20 ppb
8 lead and six that tested over 200 ppb lead. Gerber used ingredients that tested as high as 48 ppb lead;
9 and used many ingredients containing over 20 ppb lead.

10 26. Cadmium was present in baby foods made by all responding companies. Beech-Nut
11 used 105 ingredients that tested over 20 ppb cadmium. Some tested much higher, up to 344.55 ppb
12 cadmium. Hain (Earth's Best Organic) used 102 ingredients in its baby food that tested over 20 ppb
13 cadmium. Some tested much higher, up to 260 ppb cadmium. Sixty-five percent of Nurture
14 (HappyBABY) finished baby food products contained more than 5 ppb cadmium. Seventy-five
15 percent of Gerber's carrots contained cadmium in excess of 5 ppb, with some containing up to 87 ppb
16 cadmium.

17 27. Moreover, Nurture (HappyBABY) sold finished baby food products containing as
18 much as 10 ppb mercury. Beech-Nut and Hain (Earth's Best Organic) do not even test for mercury in
19 baby food. Gerber rarely tests for mercury in its baby foods and Hain (Earth's Best Organic) does
20 not even test for mercury in baby food.¹⁸ However, independent testing by HBBF of Hain's Baby
21 Foods confirm that Hain's products contain as much as 2.4 ppb of mercury.¹⁹

22 28. These levels greatly surpass the limits allowed by U.S. regulatory agencies. Upon
23 information and belief, there are no FDA regulations governing the presence of Toxic Heavy Metals
24 in Baby Foods specifically; to the extent such regulations exist, the quantities of Toxic Heavy Metals
25 in Defendants' Baby Foods far exceed any permissible FDA levels. To be sure, the FDA has set the
26

27
28 ¹⁸ *Id.* at 2-4.

¹⁹ *See* HBBF Rpt. at 19.

1 maximum contaminant levels (“MCL”) in bottled water at 10 ppb inorganic arsenic, 5 ppb lead, and 5
2 ppb cadmium, and the EPA has capped the allowable level of mercury in drinking water at 2 ppb.
3 However, these limits were created in reference to *adult* exposure, not infants. Compared to these
4 thresholds, the test results of the Defendants’ Baby Foods and their ingredients are 91 times greater
5 than permitted arsenic levels, 177 times greater than permitted lead levels, 69 times greater than
6 permitted cadmium levels, and 5 times greater than permitted mercury levels.

7 29. Moreover, compounding these troubling findings, the Manufacturer Defendants set
8 internal limits for the presence of Toxic Heavy Metals in their foods that were, themselves,
9 dangerously high and then routinely failed to abide by those inadequate standards, as discussed
10 below. For example, the Subcommittee found that Hain (Earth’s Best Organic) set an internal
11 standard of 200 ppb for arsenic, lead, and cadmium in some of its ingredients. But Hain routinely
12 exceeded its internal policies, using ingredients containing 353 ppb lead and 309 ppb arsenic. Hain
13 justified these deviations based on “theoretical calculations,” even after Hain admitted to FDA that its
14 testing *underestimated* final product toxic heavy metal levels.²⁰

15 30. As found by the Subcommittee, the Manufacturer Defendants have willfully sold—
16 and continue to sell—contaminated Baby Foods notwithstanding their full awareness of these
17 unacceptably high levels of Toxic Heavy Metals in their products. In August 2019, Hain held a
18 closed-door meeting with the FDA during which Hain delivered a presentation to the agency
19 acknowledging the Toxic Heavy Metal problem in its Baby Food.²¹ In the PowerPoint slides
20 presented during the meeting—only made public by the Subcommittee—Hain confirmed that some
21 of the ingredients in its Baby Food contain as much as between 108 to 129 ppb of arsenic,
22 specifically noting “[p]reliminary investigation indicates Vitamin/Mineral Pre-Mix may be a major
23 contributing factor.”²²

24 31. Moreover, although Walmart, Plum, and Sprout refused to cooperate with the
25

26 ²⁰ *Id.* at 4-5.

27 ²¹ Hain, *PowerPoint Presentation to Food and Drug Administration: FDA Testing Result Investigation* (Aug.
1, 2019) (“2019 Hain & FDA Meeting”), available at:

28 <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2.pdf>.

²² *Id.* at *9.

1 Subcommittee’s investigation, independent data confirms that the Baby Food of these companies is
2 similarly tainted. For example, the HBBF Report observed that Walmart’s Parent’s Choice brand
3 products contain 66 ppb inorganic arsenic, 26.9 ppb lead, 26.1 ppb cadmium, and 2.05 ppb
4 mercury.²³

5 32. Instead of producing any substantive information, Plum provided the Subcommittee
6 with a self-serving spreadsheet declaring that every one of its products “meets criteria”,²⁴ while
7 declining to state what those criteria were. Disturbingly, Plum admitted that, for mercury (a powerful
8 neurotoxin), the company has *no criterion* whatsoever, stating: “No specific threshold established
9 because no high-risk ingredients are used.”²⁵ However, despite Plum having no mercury threshold, it
10 still marked every food as “meets criteria” for mercury. The Subcommittee noted that “[t]his
11 misleading framing—of meeting criteria that do not exist—raises questions about what [Plum’s]
12 other thresholds actually are, and whether they exist.”²⁶ This suspicion is confirmed by HBBF’s
13 independent testing which confirms the presence of Toxic Heavy Metals in Plum’s Baby Food, which
14 found excess levels of lead, cadmium, arsenic, and mercury in Plum’s Just Sweet Potato Organic
15 Baby Foods; Just Peaches Organic Baby Food; Just Prune Organic Baby Food; Pumpkin Banana
16 Papaya Cardamom; Apple, Raisin & Quiona Organic Baby Food; Little Teethers Organic Multigrain
17 Teething Wafers-Banana with Pumpkin; and Mighty Morning Bar-Blueberry Lemon-Tots.

18 33. Sprout did not respond to the Subcommittee at all. Again, the testing conducted by
19 HBBF confirms that Sprout’s Baby Foods - specifically the “Organic Quiona Puffs Baby Cereal
20 Snack-Apple Kale and Carrot Apple Mango Organic Baby Food – are similarly tainted by substantial
21 amounts of Toxic Heavy Metals.

22 34. Discovery will flesh out in greater detail the extent of Toxic Heavy Metals in the Baby
23 Food sold by Plum, Walmart and Sprout.

24
25
26 ²³ See HBBF Report at 21, 22, 25-27.

27 ²⁴ Campbell, *Product Heavy Metal Test Results* (Dec. 11, 2019), available at:
<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/12.pdf>).

28 ²⁵ *Id.* at 00046.

²⁶ Subcommittee Report at 45.

III. Dangers of Toxic Heavy Metals to Babies and Children

35. According to the World Health Organization (“WHO”), Toxic Heavy Metals, specifically arsenic, cadmium, lead, and mercury, pose a “major public health concern” for children.²⁷ The Occupational Safety and Health Administration (“OSHA”) has warned that these metals “may build up in biological systems and become a significant health hazard.”²⁸ Indeed, the Department of Health and Human Services’ Agency for Toxic Substances and Disease Registry (“ATSDR”) ranks arsenic as number *one* among substances present in the environment that pose the most significant potential threat to human health, followed by lead (second), mercury (third), and cadmium (seventh).²⁹

36. The threat presented by Toxic Heavy Metals to children’s health is widely shared by the global scientific community. As one recent study observed, “[t]he implications of heavy metals with regards to children’s health have been noted to be more severe compared to adults. The elements’ harmful consequences on children health include mental retardation, neurocognitive disorders, behavioral disorders, respiratory problems, cancer and cardiovascular diseases. Much attention should be given to heavy metals because of their high toxicity potential, widespread use, and prevalence.”³⁰ Children and, even more so, babies have higher exposure to metals compared to adults because they consume more food in relation to their body weight and absorb metals more readily than adults by 40 to 90%.³¹ And, the mechanisms needed to metabolize and eliminate heavy metals are comparatively undeveloped in childhood, with babies having weaker detoxifying mechanisms and poorer immune systems than adults.³² For example, liver pathways that in

²⁷ World Health Organization, *Children’s Health and the Environment WHO training Package for the Health Sector* (October 2011), available at: https://www.who.int/ceh/capacity/heavy_metals.pdf.

²⁸ OSHA, *Toxic Metals*, available at: <https://www.osha.gov/toxic-metals>.

²⁹ ATSDR, *ATSDR’s Substance Priority List* (2019), available at: www.atsdr.cdc.gov/spl/index.html#2019spl.

³⁰ Osman, et al., *Exposure routes and health effects of heavy metals on children*, 32 BIOMETALS 563–573 (2019), available at: <https://link.springer.com/article/10.1007%2Fs10534-019-00193-5#citeas>.

³¹ Stein, et al., *In harm’s way: toxic threats to child development*, 23 J DEV BEHAV PEDIATR.1 S13–S22 (2002).

³² Gorini, et al., *The Role of Heavy Metal Pollution in Neurobehavioral Disorders: a Focus on Autism* 1 REV. J. AUTISM DEV. DISORD. 1, 354–372 (2014), available at: <https://link.springer.com/article/10.1007/s40489-014-0028-3>.

adulthood metabolize absorbed arsenic do not mature until mid-childhood; un-excreted arsenic thus continues to circulate and is deposited in other organs.³³ According to Linda McCauley, Dean of the Nell Hodgson Woodruff School of Nursing at Emory University, who studies environmental health effects, “[n]o level of exposure to these [heavy] metals has been shown to be safe in vulnerable infants.”³⁴ Thus, “the major windows of developmental vulnerability occur during infancy and early childhood due to continuing brain development after birth.”³⁵ In short, even small amounts of exposure to Toxic Heavy Metals can have devastating health outcomes for babies and children.

A. Exposure to Toxic Heavy Metals Has Been Consistently Associated with Autism in Pediatric Populations

37. Multiple studies, reviews, and meta-analyses conducted throughout various parts of the world over the last decade have consistently observed a positive association between exposure to Toxic Heavy Metals and the development of ASD in children and infant populations.

38. Three meta-analyses published in 2014, 2019 and 2020, respectively, all observed a consistent association between exposure to arsenic, mercury and cadmium and ASD in children; with the authors in all three studies recommending – based on the data – that exposure to such metals in children be reduced as much as possible.³⁶

39. Moreover, such results have been replicated in studies throughout the world, including China, Korea, the U.S., Europe, and Egypt, implicating arsenic, mercury, lead and cadmium in pediatric diagnoses of autism and autistic behaviors, with a 2018 Chinese study concluding: “[t]he

³³ Del Rio, et al., *A comparison of arsenic exposure in young children and home water arsenic in two rural West Texas communities* 17 BMC PUBLIC HEALTH 850 1-13 (2017), available at: <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-017-4808-4>.

³⁴ Roni Caryn Rabin, *Some Baby Food May Contain Toxic Metals*, U.S. Reports (NY TIMES, Feb 4. 2021), available at: <https://www.nytimes.com/2021/02/04/health/baby-food-metals-arsenic.html>

³⁵ Gorini, et al. *supra*.

³⁶ Wang, et al., *Exposure to Inorganic Arsenic and Lead and Autism Spectrum Disorder in Children: A Systematic Review and Meta-Analysis*, 21 CHEM RES. TOXICOL. 32, 1904-1919 (2019), available at: <https://pubmed.ncbi.nlm.nih.gov/31549506/>; Sulaiman, et al., *Exposure to Aluminum, Cadmium, and Mercury and Autism Spectrum Disorder in Children: A Systematic Review and Meta-Analysis*, 33 Chem. Res. Toxicol. 11, 2699-2718 (2020), available at: <https://pubmed.ncbi.nlm.nih.gov/32990432/>; Yoshimasu, et al., *A meta-analysis of the evidence on the impact of prenatal and early infancy exposures to mercury on autism and attention deficit/hyperactivity disorder in the childhood*, 44 NEURO TOXICOL. 121-131 (2014), available at: <https://pubmed.ncbi.nlm.nih.gov/24952233/>.

1 results of this study are consistent with numerous previous studies, supporting an important role for
2 heavy metal exposure, particularly mercury, in the etiology of ASD.³⁷ Indeed, a 2015 Egyptian study
3 noted “[e]nvironmental exposure to these toxic heavy metals, *at key times in development*, may play
4 a causal role in autism.” (emphasis added).³⁸

5 40. The fact that such results have been observed in multiple studies, conducted by
6 different researchers, at different times, in different parts of the world, in children of multiple ages,
7 and measuring a variety of end-points (including hair, blood, and urine), strongly supports a causal
8 relationship between exposure to Toxic Heavy Metals and the development of ASD in children.

9 **B. Exposure to Toxic Heavy Metals Has Been Consistently Associated with ADHD**
10 **in Pediatric Populations**

11 41. Exposure to Toxic Heavy Metals has also been repeatedly associated with the
12 development of ADHD in children, as demonstrated by numerous studies.

13 42. No fewer than four large meta-analyses, conducted in four different continents (North
14 America, South America, Europe and Asia), and some employing a cross-sectional design, have
15 observed a consistent associated association between arsenic, mercury, lead and cadmium and ADHD
16 in children.³⁹ Indeed, the authors of the meta-analysis from Spain noted that “the evidence from the
17

18
19 ³⁷ Li, et al., *Blood Mercury, Arsenic, Cadmium, and Lead in Children with Autism Spectrum Disorder*, 181
20 BIOL TRACE ELEM RES 31-37 (2018), available at: <https://pubmed.ncbi.nlm.nih.gov/28480499/>; Ryu, et al.,
21 *Associations of prenatal and early childhood mercury exposure with autistic behaviors at 5 years of age: The*
22 *Mothers and Children's Environmental Health (MOCEH) study*, 15 SCI. TOTAL ENVIRON. 251-257 (2017),
23 available at: <https://www.sciencedirect.com/science/article/abs/pii/S0048969717316479>; Dickerson, et al.,
24 *Autism spectrum disorder prevalence and associations with air concentrations of lead, mercury, and arsenic*,
25 188 ENVIRON MONIT. ASSESS. 407 (2016); Mohamed, et al., *Assessment of Hair Aluminum, Lead, and*
26 *Mercury in a Sample of Autistic Egyptian Children: Environmental Risk Factors of Heavy Metals in Autism*
27 *BEHAV. NEUROL.* (2015), available at: <https://pubmed.ncbi.nlm.nih.gov/26508811/>; Adams, et al.,
28 *Toxicological Status of Children with Autism vs. Neurotypical Children and the Association with Autism*
Severity, 151 BIOL. TRACE ELEM. RES 171-180 (2013), available at:
<https://pubmed.ncbi.nlm.nih.gov/23192845/>.

³⁸ Mohamed, et al.

³⁹ Muñoz, et al., *Attention deficit hyperactivity disorder and its association with heavy metals in children from*
northern Chile, 226 INT. J. HYG. ENVIRON. HEALTH (2020), available at:
<https://europepmc.org/article/med/32106053>; Yoshimasu, et al., *supra*; Donzelli, et al., *The Association*
between Lead and Attention-Deficit/Hyperactivity Disorder: A Systematic Review, 16 INT. J. ENVIRON. RES.
PUBLIC HEALTH 382, 1-14 (2019), available at: <https://pubmed.ncbi.nlm.nih.gov/30700018/>; Goodland, et al.,

studies allowed us to establish that there is an association between lead and ADHD and that even *low levels of lead raise the risk.*” (emphasis added).⁴⁰

43. The findings from the meta-analyses have been replicated in several Chinese studies from 2006, 2014 and 2018, respectively.⁴¹ Notably, the authors of the 2014 Chinese study observed that “[e]xposure to lead even at low levels correlates with attention-deficit/hyperactivity disorder (ADHD). However, lead-contaminated environments are often *contaminated with other heavy metals that could exacerbate lead-induced ADHD.*” (emphasis added).⁴² This is particularly relevant—and disturbing—as children who consumed Defendants’ Baby Food were repeatedly exposed to a cocktail of Toxic Heavy Metals that, synergistically, further increased their risk of developing ADHD.

44. Moreover, studies have observed a dose-response relationship between exposure to Toxic Heavy Metals and ADHD, as demonstrated by the 2016 Spanish study Donzelli, *et al.* discussed *supra*. Another 2016 cross-sectional study from Spain was conducted on 261 children aged 6-9 to examine the association between exposure to arsenic and ADHD.⁴³ After adjusting for potential confounders, the authors observed a dose-response relationship between urine arsenic levels and inattention and impulsivity scores, concluding that “[urine arsenic] levels were associated with impaired attention/cognitive function, *even at levels considered safe*. These results provide additional evidence that postnatal arsenic exposure impairs neurological function in children.”⁴⁴ (emphasis added).

Lead and Attention-Deficit/Hyperactivity Disorder (ADHD) symptoms: A meta-analysis, 33 CLIN. PSYCHOL. REV. 3, 417-242 (2013), available at: <https://pubmed.ncbi.nlm.nih.gov/23419800/>.

⁴⁰ Donzelli et al, *supra*.

⁴¹ Lee, et al., *Heavy Metals’ Effect on Susceptibility to Attention-Deficit/Hyperactivity Disorder: Implication of Lead, Cadmium, and Antimony*, 15 INT. J. ENVIRON. RES. PUBLIC HEALTH. 6, 1-2 (2018), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6025252/>; Liu, et al., *Sl00β in heavy metal-related child attention-deficit hyperactivity disorder in an informal e-waste recycling area*, 45 NEURO TOXICOL. 185-191 (2014), available at: <https://www.sciencedirect.com/science/article/abs/pii/S0161813X14001831>; Wong, V.C.N, *Attention-Deficit Hyperactivity Disorder and Blood Mercury Level: a Case-Control Study in Chinese Children*, 37 NEUROPEDIATRICS 4, 234-40 (2006), available at: https://www.researchgate.net/publication/6623327_Attention-Deficit_Hyperactivity_Disorder_and_Blood_Mercury_Level_a_Case-Control_Study_in_Chinese_Children.

⁴² Liu, et al. *supra*

⁴³ Rodriguez-Barranco, et al., *Postnatal arsenic exposure and attention impairment in school children*, 74 CORTEX 370-382 (2016).

⁴⁴ *Id.*

1 **IV. Defendants Knowingly Sold Baby Foods Containing Dangerous Levels of Toxic Heavy**
2 **Metals and Knew or Should Have Known of the Risks of Such Exposures in Children**

3 45. During the time that Defendants manufactured and sold Baby Foods in the United
4 States, the weight of evidence showed that Defendants' Baby Foods exposed babies and children to
5 unsafe levels of Toxic Heavy Metals. Defendants failed to disclose this risk to consumers through
6 any means.

7 46. As discussed above, both independent testing, the Manufacturer Defendants' internal
8 evaluations of their Baby Foods, and the Manufacturer Defendants' representations and disclosures to
9 the Subcommittee and FDA reveal the presence of substantial amounts of Toxic Heavy Metals in
10 Defendants' products. As such, Defendants knew or should have known that their Baby Foods
11 contain dangerous of Toxic Heavy Metals.

12 47. Indeed, independent testing performed in early 2019 demonstrated elevated amounts
13 of such Toxic Heavy Metals in Baby Food products on the U.S. market,⁴⁵ and the HBBF Report
14 further confirmed such contamination of Defendants' Baby Foods.⁴⁶ And, as the Subcommittee
15 found, the Manufacturer Defendants continued to sell their Baby Foods even after testing of both
16 ingredients and finished products revealed the presence of substantial amounts of Toxic Heavy
17 Metals.⁴⁷

18 48. Moreover, the scientific literature on the dangers of Toxic Heavy Metals—particularly
19 as it relates to adverse effects on the neurodevelopment of children—have been well known for
20 decades. Defendants, as manufacturers and retailers of Baby Foods, are held to the standard of
21 experts responsible for keeping abreast of the latest scientific developments related to the dangers of
22 contaminants in their products. Furthermore, as alleged in more detail below, the Retailer Defendant
23 is strictly liable for selling the Baby Foods which caused Plaintiff's harm. Defendants failed to take
24 action in protecting vulnerable children from exposure to the Toxic Heavy Metals in their foods and,
25 thus, subjected them to the risk of developing neurodevelopmental disorders such as ASD and
26

27 ⁴⁵ See Gardener, et al., *supra*.

28 ⁴⁶ See HBBF Report, *supra*.

⁴⁷ See, e.g., Subcommittee Report at 13-14.

ADHD.

49. To be clear, the Manufacturer Defendants are able to manufacture Baby Foods that do not pose such a dangerous risk to the health of infants and children by using alternative ingredients, not adding certain pre-mix minerals and vitamins high in Toxic Heavy Metals, or sampling their ingredients from other sources, as specifically acknowledged by Hain in its August 2019 presentation to the FDA: “Explore alternatives for Brown Rice ingredient to reduce risk.”⁴⁸ At the very least, Defendants were under a duty to warn unsuspecting parents of the presence of Toxic Heavy Metals in their Baby Foods. However, Defendants took no action, continued to sell their products with full knowledge of the risks posed by their Baby Foods, and misled consumers regarding the safety of their products, all to the harm of children.

V. Exemplary / Punitive Damages Allegations (Against Manufacturer Defendants)

50. Defendants’ conduct as alleged herein was done with reckless disregard for human life, oppression, and malice. Defendants’ conduct is particularly reprehensible given that their toxic foods were directed at vulnerable babies—a population group far more susceptible than adults to the neurotoxic dangers of heavy metals.

51. Defendants were fully aware of the safety risks of Baby Foods, particularly the dangerous potential of their Baby Foods given the high content of Toxic Heavy Metals that have all been associated with neurodevelopmental disorders in children. Nonetheless, Defendants deliberately crafted their label, marketing, and promotion to mislead consumers. Indeed, Defendants repeatedly market their Baby Foods as safe for consumption and go so far as claiming that they adhere to “the strictest standards in the world”; and provide “baby’s food full of nutrition while meeting standards strict enough for tiny tummies” as well as other statements and representations that hold out their Baby Foods as safe for consumption by infants. In actual fact, as discussed above, Defendants routinely sold Baby Foods containing astronomical amounts of Toxic Heavy Metals, regularly flouted their own internal limits of Toxic Heavy Metals in Baby Foods and failed to disclose to consumers that their products contained such dangerous contaminants.

⁴⁸ 2019 Hain & FDA Meeting at *10.

52. This was not done by accident or through some justifiable negligence. Rather, Defendants knew they could profit by convincing consumers that their Baby Foods were harmless to humans, and that full disclosure of the true risks of the Toxic Heavy Metals present in the Baby Foods would limit the amount of money Defendants would make selling the products. Defendants' object was accomplished not only through a misleading label, but through a comprehensive scheme of selective misleading research and testing, failure to test, false advertising, and deceptive omissions as more fully alleged throughout this pleading. Parents were denied the right to make an informed decision about whether to purchase and Defendants' Baby Food for their children, knowing the full risks attendant to that use. Such conduct was done with conscious disregard of Plaintiff's rights.

53. Accordingly, Plaintiff requests punitive damages against the Manufacturer Defendants for the harms caused to Plaintiff.

PLAINTIFF-SPECIFIC ALLEGATIONS

54. Plaintiff was diagnosed with ASD in 2016 at approximately 2 years and nine months of age. In early 2020, Plaintiff's treating physician opined that Plaintiff is also suffering from ADHD.

55. Plaintiff started consuming the below-identified Baby Food products in approximately May 2014 and consumed all of the below-identified Baby Food products at various times prior to his ASD diagnosis in 2016. Plaintiff continued to consume the below-identified Baby Food products until approximately 2019.

56. Plaintiff consumed substantial quantities of the Baby Food products manufactured by Defendants. Indeed, Plaintiff would, at times, consume up to 8 Baby Food pouches in a day.

57. Plaintiff has not finished his investigation of the case. Accordingly, the Baby Foods identified below may not be exhaustive of the products manufactured by Defendants and consumed by Plaintiff.

Nurture (HappyFamily). Jars: Apple & Spinach; Apples, Oats & Cinnamon; Bananas & Strawberries; Bananas, Blueberries & Beets; Carrots; Pears; Green Beans; Pears & Kale; Carrots & Peas; Pears, Mangos & Spinach; Pears & Prunes; Sweet Potatoes; Pears, Pineapple & Avocado; Apples, Mangos & Beets; Apples & Blueberries. **Teethers:** Pea & Spinach; Blueberry & Purple Carrot; Sweet Potato & Banana. **Greek Yogis:** Strawberry; Mixed Berry; Banana Mango; Strawberry Banana. **Pouches (baby):** Mangos; Prunes; Pear, Raspberries & Oats; Pears, Mangos &

Spinach; Bananas, Beets & Blueberries; Pears, Peas & Broccoli; Squash, Pears & Apricots; Peas, Bananas & Kiwi; Apples & Carrots; Apple, Kale & Oats; Green Beans, Spinach & Pears; Sweet Potatoes, Mangos & Carrots; Apples, Pumpkin & Carrots; Apples, Blueberries & Oats; Pears, Squash & Blackberries; Pears, Kale & Spinach; Bananas, Sweet Potatoes & Papayas; Pears, Pumpkin & Passion Fruit; Pears, Pumpkin, Peaches & Granola; Bananas, Pineapple, Avocado & Granola. **Pouches (tot):** Pears, Raspberries, Carrots & Butternut Squash; Pears, Blueberries & Spinach; Pears, Kiwi & Kale; Pears, Peaches, Pumpkin & Apples; Bananas, Spinach & Blueberries; Pears, Beets & Blackberries; Bananas, Carrots & Strawberries; Bananas, Mangos & Spinach; Bananas, Beets & Strawberries; Carrots, Bananas, Mangos & Sweet Potatoes; Bananas, Beets, Squash & Blueberries; Spinach, Apples, Sweet Potatoes & Kiwi; Zucchini, Pears, Chickpeas & Kale; Bananas, Blueberries, Yogurt & Oats; Apples, Cinnamon, Yogurt & Oats. **Puffs:** Apple & Broccoli; Banana & Pumpkin; Kale & Spinach; Sweet Potato & Carrot; Strawberry & Beet. **Cookies:** Cinnamon & Sweet Potato + Flaxseed Multi-grain; Vanilla Oat + Flaxseed Multi-grain.

58. Upon information and belief, the Baby Food products identified above manufactured by Nurture and consumed by Plaintiff were all contaminated with substantial quantities of Toxic Heavy Metals, namely arsenic, mercury, lead, and cadmium – exceeding that of any regulatory limits.

59. Upon information and belief, as a direct and proximate result of consuming Nurture’s Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals, namely mercury, lead, cadmium, and arsenic.

60. As a direct and proximate result of consuming Nurture’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff was diagnosed with ASD. As a direct and proximate result of consuming Nurture’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff developed ADHD.

Beech-Nut. Jars (Stage 1): Apple; Banana; Butternut Squash; Carrots; Green Beans; Pear; Sweet Potato; **Jars (Stage 2):** Pumpkin & Cinnamon; Banana, Orange & Pineapple; Apple & Blackberries; Apple & Kale; Carrots, Sweet Corn & Pumpkin; Guava, Pear & Strawberries; Mango; Mango, Apple & Avocado; Pear & Blueberries; Apple & Banana; Apple & Blueberries; Apple, Pear & Banana; Apple; Banana & Strawberries; Banana; Peach; Pear & Pineapple; Pear & Raspberries; Pear; Squash; Sweet Carrots; Sweet Peas; Organic Banana. **Pouches (Stage 2):** Carrot, Apple & Pineapple; Apple, Pumpkin & Cinnamon; Banana, Apple & Blueberries; Banana, Apple & Strawberry; Peach, Apple & Banana; Pear, Mango & Squash; Apple, Mango & Carrot; Apple, Sweet Potato & Pineapple; Banana, Pear & Sweet Potato; Apple, Peach & Strawberries; Pear, Banana & Raspberries; Carrot Zucchini & Pear; **Pouches (Stage 4):** Yogurt, Banana & Mixed Berry; Yogurt, Banana & Strawberry. **Yogurt Melts:** Strawberry, Apple & Yogurt.

61. Upon information and belief, the Baby Food products identified above manufactured by Beech-Nut and consumed by Plaintiff were all contaminated with substantial quantities of Toxic

Heavy Metals, namely arsenic, mercury, lead, and cadmium – exceeding that of any regulatory limits.

62. Upon information and belief, as a direct and proximate result of consuming Beech-Nut's Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals, namely mercury, lead, cadmium, and arsenic.

63. As a direct and proximate result of consuming Beech-Nut's Baby Foods– and the exposure to the Toxic Heavy Metals therein – Plaintiff was diagnosed with ASD. As a direct and proximate result of consuming Beech-Nut's Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff developed ADHD

Hain (Earth's Best Organics). Jars (Stage 2): Apples & Apricots; Apples & Plums; Pears & Mangos; Sweet Potato Apricot; Bananas Peaches & Raspberries; Apples & Blueberries; Pears; Bananas; Carrots; Apples; Peas. **Pouches (Stage 2):** Apple Strawberry Baby Food Puree; Wholesome Breakfast Sweet Potato Cinnamon; Wholesome Breakfast Blueberry Banana; Peach Mango Baby Food Puree; Apple Peach Oatmeal Fruit and Grain Puree; Sweet Potato Apple Baby Food Puree; Orange Banana Baby Food Puree; Butternut Squash Pear Baby Food Puree; Banana Raspberry Brown Rice Fruit and Grain Puree; Banana Blueberry Banana Food Puree; Apple Sweet Potato Pumpkin Blueberry Baby Food Puree. **Infant Cereals:** Organic Whole Grain Oatmeal Cereal; Organic Rice Cereal Babies First Solid Food; Organic whole Grain Multi – Grain Cereal. **Grain-Based Snacks:** Organic Crunchin' Crackers; Oatmeal Cinnamon Organic Letter of the Day Cookies; Honey Crunchin' Grahams; Strawberry Sunny Days Snack Bars; Blueberry Breakfast Biscuits.

64. Upon information and belief, the Baby Food products identified above manufactured by Hain and consumed by Plaintiff were all contaminated with substantial quantities of Toxic Heavy Metals, namely arsenic, mercury, lead, and cadmium – exceeding that of any regulatory limits.

65. Upon information and belief, as a direct and proximate result of consuming Hain's Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals, namely mercury, lead, cadmium, and arsenic.

66. As a direct and proximate result of consuming Hain's Baby Foods and the exposure to the Toxic Heavy Metals therein – Plaintiff was diagnosed with ASD. As a direct and proximate result of consuming Hain's Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff developed ADHD.

Gerber. Jars & Tubs (Stage 1): Banana (tub); Apple (tub); Sweet Potato (tub); Prune (tub); Natural Banana (jar); Natural Apple (jar); Pear (tub); Carrot (tub); Butternut Squash (tub); Peach (tub); Green Bean (tub); Pea (tub); **Jars (Stage 2):** Banana (tub); Sweet Potato (tub); Apple Strawberry Banana (tub); Apple (tub); Banana Blackberry Blueberry (tub); Pear (tub); Apple Banana

with Oatmeal (tub); Banana Apple Pear (tub); Butternut Squash (tub); Banana Orange Medley (tub); Carrot (tub); Apple Blueberry (tub); Peach (tub); Banana Carrot Mango (tub); Mango (tub); Apricot Mixed Fruit (tub); Banana Plum Grape (tub); Natural Pear Guava (jar). **Pouches (toddler):** Banana Pear Zucchini; Fruit & Yogurt Strawberry Banana; Banana Blueberry; Apple Mango Strawberry; Fruit & Yogurt Very Berry; Natural Apple Pear Peach; Natural Apple Sweet Potato with Cinnamon; Organic Banana Raspberry & Yogurt with Vanilla; Fruit & Yogurt Peaches & Cream; Organic Mango Peach Carrot Sweet Potato Oatmeal; Organic Banana Strawberry Beet Oatmeal; **Pouches (Stage 2):** Organic Pear Peach Strawberry; Organic Apple Blueberry Spinach; Organic Carrot Apple Mango; Apple Strawberry Banana; Organic Banana Mango; Organic Apple Carrot Squash; Natural Banana; Organic Apple Peach. **Single Grain and Multi-Grain Cereals:** Single Grain Rice Cereal; Oatmeal; Multigrain Cereal; Whole Wheat Cereal; Organic Oatmeal. **Puffs & Crunchies:** Mild Cheddar Lil' Crunchies; Strawberry Apple Puffs; Veggie Dip Lil' Crunchies; Banana Puffs; Garden Tomato Lil' Crunchies; Apple Sweet Potato Lil' Crunchies; Blueberry Puffs; Sweet Potato Puffs; Apple Cinnamon Puffs; Vanilla Puffs; Peach Puffs; Organic Apple Puffs. **Biscuits and Cookies:** Animal Crackers; Organic Honey Biscuits; Banana Cookies. **Grain Bars:** Strawberry Banana Soft Baked; Apple Cinnamon Soft Baked. **Teethers/Wafers:** Mango Raspberry Teethers; Mango Banana Carrot Organic Teethers; Apple Harvest Teether Wheels; Banana Peach Teethers; Strawberry Apple Spinach Teethers; Peach Yogurt Melts; Banana Yogurt Blends Snacks; Blueberry with Whole Grains Yogurt Blends Snack; Strawberry Banana Yogurt Blends Snack; Banana Cream Teether Wheels.

67. Upon information and belief, the Baby Food products identified above manufactured by Gerber and consumed by Plaintiff were all contaminated with substantial quantities of Toxic Heavy Metals, namely arsenic, mercury, lead, and cadmium – exceeding that of any regulatory limits.

68. Upon information and belief, as a direct and proximate result of consuming Gerber's Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals, namely mercury, lead, cadmium, and arsenic.

69. As a direct and proximate result of consuming Gerber's Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff was diagnosed with ASD. As a direct and proximate result of consuming Gerber's Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff developed ADHD.

Plum Organics. Pouches (Stage 1): Peaches; Sweet Potato; Mangos; Prunes. **Pouches (Stage 2):** Peach, Banana & Apricot; Sweet Potato, Apple & Corn; Apple & Carrot; Guava, Pear & Pumpkin; Apple, Spinach & Avocado; Banana & Pumpkin; Pea, Kiwi, Pear & Avocado; Pear & Mango; Apple & Broccoli; Apple, Plum, Berry & Barley; Pear, Spinach & Pea; Pear, Purple Carrot & Blueberry. **Pouches (Stage 3):** Carrot, Spinach, Turkey, Corn, Apple & Potato. **Pouches (Mighty 4):** Banana, Peach, Pumpkin, Carrot, Greek Yogurt & Oats ; Guava, Pomegranate, Black Bean, Carrot & Oat; Mango, Pineapple, White Bean, Butternut Squash & Oats; Pear, Cherry, Blackberry, Strawberry, Black Bean, Spinach & Oats; Sweet Potato, Banana & Passion Fruit, Greek Yogurt & Oats. **Mighty Morning Food Pouch:** Banana, Blueberry, Oat, Quinoa. **Mighty Veggie Food**

Pouch: Carrot, Pear, Pomegranate & Oats; Spinach, Grape, Apple & Amaranth; Sweet Potato, Apple, Banana & Carrot. **Super Puffs:** Apple with Spinach; Strawberry with Beet; Mango with Sweet Potato; Blueberry with Purple Sweet Potato. **Little Teethers:** Apple with leafy Greens; Banana with Pumpkin; Blueberry. **Mashups:** Applesauce Blueberry Carrot; Applesauce Carrot & Mango; Applesauce Strawberry & Banana; Applesauce Strawberry & Beet. **Teensy Soft Fruit Snacks:** Berry; Peach.

70. Upon information and belief, the Baby Food products identified above manufactured by Plum and consumed by Plaintiff were all contaminated with substantial quantities of Toxic Heavy Metals, namely arsenic, mercury, lead, and cadmium – exceeding that of any regulatory limits.

71. Upon information and belief, as a direct and proximate result of consuming Plum’s Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals, namely mercury, lead, cadmium, and arsenic.

72. As a direct and proximate result of consuming Plum’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff was diagnosed with ASD. As a direct and proximate result of consuming Plum’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff developed ADHD.

Walmart (Parent’s Choice): Jars and Tubs (Stage 1): Pear Baby Food; Carrot Baby Food; Apple Baby Food; Banana Baby Food; **Jars and Tubs (Stage 2):** Apple Strawberry Baby Food; Butternut Squash Pineapple Baby Food; Sweet Potato Baby Food. **Pouches:** Pear; Banana Berry Burst; Apple; Butternut Squash; Root Veggies & Apple; Tropical Burst; Banana; Blueberry Yogurt; Strawberry Banana Yogurt; Strawberry Yogurt. **Puffed Grain Snacks:** Banana Puffs; Blueberry Puffs; Strawberry Yogurt Puffs; Strawberry Apple Puffs; Sweet Potato Puffs. **Rice Snacks:** Organic Banana Rice Rusks; Organic Strawberry Rice Rusks; Blueberry Rice Rusks; Organic Apple Rice Rusks. **Yogurt Bites:** Mixed Berry Yogurt Bites; Strawberry Yogurt Bites; Peach Yogurt Bites; Cherry Vanilla Yogurt Bites; Banana Yogurt Bites.

73. Upon information and belief, the Baby Food products identified above manufactured by Walmart and consumed by Plaintiff were all contaminated with substantial quantities of Toxic Heavy Metals, namely arsenic, mercury, lead, and cadmium – exceeding that of any regulatory limits.

74. Upon information and belief, as a direct and proximate result of consuming Walmart’s Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals, namely mercury, lead, cadmium, and arsenic.

75. As a direct and proximate result of consuming Walmart’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff was diagnosed with ASD. As a direct and

proximate result of consuming Walmart’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff developed ADHD.

Sprouts Foods: Pouches (Stage 2): Apple Banana Butternut Squash; Apple Blueberry; Apricot Peach, Pumpkin; Carrot, Apple, Mango; Pear, Kiwi, Peas, Spinach; Strawberry, Pear, Banana; Sweet Potato, Apple, Spinach; Apple, Oatmeal Raisin with Cinnamon; Blueberry, Banana Oatmeal; Mixed Berry Oatmeal. **Plant Power Puffs:** Apple Kale Power Puffs; Carrot Peach Mango Plant. **Toddler Snacks:** Curlz Broccoli; Curlz Sweet Potato & Cinnamon. **Crispy Chews:** Crispy Chews Orchard Fruit & Carrot; Crispy Chews Apples & Strawberry.

76. Upon information and belief, the Baby Food products identified above manufactured by Sprouts and consumed by Plaintiff were all contaminated with substantial quantities of Toxic Heavy Metals, namely arsenic, mercury, lead, and cadmium – exceeding that of any regulatory limits.

77. Upon information and belief, as a direct and proximate result of consuming Sprout’s Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals, namely mercury, lead, cadmium, and arsenic.

78. As a direct and proximate result of consuming Sprout’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff was diagnosed with ASD. As a direct and proximate result of consuming Sprout’s Baby Foods – and the exposure to the Toxic Heavy Metals therein – Plaintiff developed ADHD.

79. Based on prevailing scientific evidence, exposure to the Toxic Heavy Metals at the levels contained in Defendants’ Baby Foods can cause ASD and ADHD in humans.

80. Had any Defendant warned Plaintiff’s parents that Defendants’ Baby Foods could lead to exposure to Toxic Heavy Metals or, in turn, ASD and ADHD, Plaintiff would not have consumed the Baby Foods.

81. Plaintiff alleges that as a direct and proximate result of Plaintiff’s consumption of Baby Foods supplied and distributed by Defendants, Plaintiff suffered significant harm, conscious pain and suffering, physical injury and bodily impairment including, but not limited to ASD and ADHD and other *sequelae*.

\\

\\

1 **CAUSES OF ACTION**

2 **COUNT I: STRICT PRODUCTS LIABILITY – FAILURE TO WARN**

3 **(Against Manufacturer Defendants)**

4 82. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs as
5 if fully stated herein.

6 83. At all relevant times, Defendants engaged in the business of researching, testing,
7 developing, designing, manufacturing, labeling, marketing, selling, inspecting, distributing, and
8 promoting Baby Foods, which are defective and unreasonably dangerous to consumers, including
9 Plaintiff, because they do not contain adequate warnings or instructions concerning the dangerous
10 characteristics of Baby Foods and Toxic Heavy Metals. These actions were under the ultimate
11 control and supervision of Defendants. At all relevant times, Defendants registered, researched,
12 manufactured, distributed, marketed, and sold Baby Foods and aimed at a consumer market.

13 84. Defendants researched, tested, developed, designed, manufactured, labeled, marketed,
14 sold, inspected, distributed, and promoted, and otherwise released into the stream of commerce their
15 Baby Foods, and in the course of same, directly advertised or marketed the products to consumers
16 and end users, including Plaintiff, and therefore had a duty to warn of the risks associated with the
17 consumption of Baby Foods.

18 85. At all relevant times, Defendants had a duty to properly test, develop, design,
19 manufacture, inspect, package, label, market, promote, sell, and distribute, maintain, supply, provide
20 proper warnings, and take such steps as necessary to ensure their Baby Foods did not cause users and
21 consumers to suffer from unreasonable and dangerous risks. Defendants had a continuing duty to
22 warn Plaintiff of dangers associated with Baby Foods. Defendants, as a manufacturer, seller, or
23 distributor of food, are held to the knowledge of an expert in the field.

24 86. At the time of manufacture, Defendants could have provided the warnings or
25 instructions regarding the full and complete risks of Baby Foods because they knew or should have
26 known of the unreasonable risks of harm associated with the use of and/or exposure to such products.

27 87. At all relevant times, Defendants failed and deliberately refused to investigate, study,
28 test, or promote the safety or to minimize the dangers to users and consumers of their product and to

1 those who would foreseeably use or be harmed by Defendants' Baby Foods.

2 88. Even though Defendants knew or should have known that Baby Foods posed a grave
3 risk of harm, they failed to exercise reasonable care to warn of the dangerous risks associated with
4 use and exposure to the products. The dangerous propensities of their products and the neurotoxic
5 characteristic of Toxic Heavy Metals contained in Defendants' Baby Foods, as described above, were
6 known to Defendants, or scientifically knowable to Defendants through appropriate research and
7 testing by known methods, at the time they distributed, supplied or sold the product, and were not
8 known to end users and consumers, such as Plaintiff. The product warnings for Baby Foods in effect
9 during the time period Plaintiff consumed Baby Foods were vague, incomplete or otherwise
10 inadequate, both substantively and graphically, to alert consumers to the severe health risks
11 associated with Baby Foods consumption.

12 89. Defendants knew or should have known that their products created significant risks of
13 serious bodily harm to consumers, as alleged herein, and Defendants failed to adequately warn or
14 instruct consumers, i.e., the reasonably foreseeable users, of the risks of exposure to their products.
15 Defendants failed to warn and have wrongfully concealed information concerning the dangerous
16 level of Toxic Heavy Metals in their Baby Foods and the potential for consumed Baby Foods to
17 expose children to Toxic Heavy Metals, and further, have made false and/or misleading statements
18 concerning the safety of Baby Foods.

19 90. At all relevant times, Defendants' Baby Foods reached the intended consumers,
20 handlers, and users or other persons coming into contact with these products, including Plaintiff,
21 without substantial change in their condition as designed, manufactured, sold, distributed, labeled,
22 and marketed by Defendants.

23 91. Plaintiff was exposed to Defendants' Baby Foods without knowledge of their
24 dangerous characteristics.

25 92. At all relevant times, Plaintiff was exposed to Defendants' Baby Foods while using
26 them for their intended or reasonably foreseeable purposes, without knowledge of their dangerous
27 characteristics.

28 93. Plaintiff could not have reasonably discovered the defects and risks associated with

1 Baby Foods prior to or at the time of Plaintiff consuming Baby Foods. Plaintiff relied upon the skill,
2 superior knowledge, and judgment of Defendants to know about and disclose serious health risks
3 associated with using Defendants' products.

4 94. Defendants knew or should have known that the information disseminated with their
5 Baby Foods were inadequate, failed to communicate adequate information on the dangers
6 consumption, and failed to communicate warnings and instructions that were appropriate and
7 adequate to render the products safe for their ordinary, intended and reasonably foreseeable uses.

8 95. The information that Defendants did provide or communicate failed to contain
9 relevant warnings, hazards, and precautions that would have enabled consumers such as Plaintiff to
10 avoid consuming the products. Instead, Defendants disseminated information that was inaccurate,
11 false, and misleading, and which failed to communicate accurately or adequately the comparative
12 severity, duration, and extent of the risk of injuries with use of and/or exposure to Baby Foods;
13 continued to aggressively promote the safety of their products, even after they knew or should have
14 known of the unreasonable risks from use or exposure; and concealed, downplayed, or otherwise
15 suppressed, through aggressive marketing and promotion, any information or research about the risks
16 and dangers of consuming Baby Foods.

17 96. This alleged failure to warn is not limited to the information contained on Baby Foods
18 labeling. The Defendants were able, in accord with federal law, to comply with relevant state law by
19 disclosing the known risks associated with Baby Foods through other non-labeling mediums, *i.e.*,
20 promotion, advertisements, public service announcements, and/or public information sources. But
21 the Defendants did not disclose these known risks through any medium. The ability to provide such
22 warnings is not prohibited by any federal law.

23 97. Furthermore, Defendants possess a First Amendment Right to make truthful
24 statements about the products they sell, and no law could lawfully restrict that constitutional right.

25 98. Had Defendants provided adequate warnings and instructions and properly disclosed
26 and disseminated the risks associated with their Baby Foods, Plaintiff could have avoided the risk of
27 developing injuries and could have obtained or used alternative products. However, as a result of
28 Defendants' concealment of the dangers posed by their Baby Foods, Plaintiff could not have averted

1 his injuries.

2 99. Defendants' conduct, as described above, was reckless. Defendants risked the lives of
3 babies and children, including Plaintiff, with knowledge of the safety problems associated with Baby
4 Foods, and suppressed this knowledge from the general public. Defendants made conscious decisions
5 not to redesign, warn or inform the unsuspecting public. Defendants' reckless conduct warrants an
6 award of punitive damages.

7 100. The Defendants' lack of adequate warnings and instructions accompanying their Baby
8 Foods were a substantial factor in causing Plaintiff's injuries.

9 101. As a direct and proximate result of the Defendants' failure to provide an adequate
10 warning of the risks of Baby Foods, Plaintiff has been injured, sustained severe and permanent pain,
11 suffering, disability, impairment, loss of enjoyment of life, economic loss and damages including, but
12 not limited to past and future medical expenses, lost income, and other damages.

13 102. **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in
14 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and all such
15 other and further relief as this Court deems just and proper.

16 **COUNT II: STRICT PRODUCTS LIABILITY – DESIGN DEFECT**

17 **(Against Manufacturer Defendants)**

18 103. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs as
19 if fully stated herein.

20 104. At all times herein mentioned, Defendants designed, manufactured, tested, marketed,
21 sold, handled, and distributed the Baby Foods consumed by Plaintiff. These actions were under the
22 ultimate control and supervision of Defendants.

23 105. At all relevant times, Defendants' Baby Food products were manufactured, designed,
24 and labeled in an unsafe, defective, and inherently dangerous manner that was dangerous for use by
25 or exposure to infants and babies, including Plaintiff.

26 106. Defendants' Baby Food products as researched, tested, developed, designed, licensed,
27 manufactured, packaged, labeled, distributed, sold, and marketed by Defendants were defective in
28 design and formulation in that, when they were placed into the stream of commerce, they were

1 unreasonably dangerous and dangerous to an extent beyond that which an ordinary consumer would
2 contemplate.

3 107. Defendants' Baby Food products, as researched, tested, developed, designed, licensed,
4 manufactured, packaged, labeled, distributed, sold, and marketed by Defendants were defective in
5 design and formulation in that, when they left the hands of Defendants', the foreseeable risks
6 exceeded the alleged benefits associated with their design and formulation.

7 108. At all relevant times, the Baby Food products consumed by Plaintiff was expected to
8 and did reach Plaintiff without a substantial change in its condition as manufactured, handled,
9 distributed, and sold by Defendants.

10 109. At all relevant times, Defendants knew or had reason to know that their Baby Food
11 products were defective and were inherently dangerous and unsafe when used in the manner
12 instructed and provided by Defendants.

13 110. Therefore, at all relevant times, Defendants' Baby Food products, as researched,
14 tested, developed, designed, registered, licensed, manufactured, packaged, labeled, distributed, sold
15 and marketed by Defendants were defective in design and formulation, in one or more of the
16 following ways:

17 When placed in the stream of commerce, Defendants' Baby Food products were unreasonably
18 dangerous in that they were hazardous and posed a grave risk of neurodevelopmental disorders—
19 specifically ASD and ADHD—when used in a reasonably anticipated manner due to the substantial
20 quantities of Toxic Heavy Metals in the Baby Foods; When placed in the stream of commerce,
21 Defendants' Baby Food products contained unreasonably dangerous design defects and were not
22 reasonably safe when used in a reasonably anticipated or intended manner; Defendants did not
23 sufficiently test, investigate, or study their Baby Food products; Exposure to the Toxic Heavy Metals
24 in Defendants' Baby Food products present a risk of harmful effects that outweigh any potential
25 utility stemming from their use; Defendants knew or should have known at the time of marketing
26 Baby Food products that exposure to their Baby Food products could result in neurodevelopmental
27 disorders—specifically ASD and ADHD—in children; Defendants did not conduct adequate post-
28 marketing surveillance of their Baby Food products; and Defendants could have employed safer

1 alternative designs and formulations.

2 111. Plaintiff consumed Defendants' Baby Food products in an intended or reasonably
3 foreseeable manner without knowledge of their dangerous characteristics.

4 112. Defendants' Baby Food products were and are more dangerous than alternative
5 products, and Defendants could have designed their Baby Food products to avoid harm to children.
6 Indeed, at the time Defendants designed the Baby Food products, the state of the industry's scientific
7 knowledge was such that a less risky design or formulation was attainable.

8 113. At the time the Baby Food products left Defendants' control, there was a practical,
9 technically feasible and safer alternative design that would have prevented the harm without
10 substantially impairing the reasonably anticipated or intended function of Defendants' Baby Foods,
11 as for example, demonstrated by Hain's presentation to the FDA wherein Hain acknowledges the risk
12 posed by specific ingredients in its Baby Foods.

13 114. Defendants have intentionally and recklessly defectively designed the Baby Foods
14 with wanton and willful disregard for the rights and health of the Plaintiff, and with malice, placing
15 their economic interests above the health and safety of the Plaintiff.

16 115. The design defects in Defendants' Baby Foods were substantial factors in causing
17 Plaintiff's injuries.

18 116. As a direct and proximate result of the Defendants' defective design of the Baby
19 Foods, Plaintiff has been injured, sustained severe and permanent pain, suffering, disability,
20 impairment, loss of enjoyment of life, economic loss and damages including, but not limited to
21 medical expenses, lost income, and other damages.

22 **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in Plaintiff's
23 favor for damages, together with interest, costs herein incurred, attorneys' fees and all such other and
24 further relief as this Court deems just and proper.

25 **COUNT III: STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT**
26 **(Against Manufacturer Defendants)**

27 117. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs as
28 if fully stated herein.

1 118. At all times herein mentioned, Defendants designed, manufactured, tested, marketed,
2 sold, handled, and distributed the Baby Foods consumed by Plaintiff.

3 119. At all relevant times, the Baby Foods consumed by Plaintiff was expected to and did
4 reach Plaintiff without a substantial change in its condition as manufactured, handled, distributed, and
5 sold by Defendants.

6 120. At all relevant times, the Baby Foods consumed by Plaintiff was used in a manner that
7 was foreseeable and intended by Defendants.

8 121. The Baby Foods consumed by Plaintiff was not reasonably safe for their intended use
9 and were defective with respect to their manufacture, as described herein, in that Defendants deviated
10 materially from their design and manufacturing specifications and/or such design and manufacture
11 posed an unreasonable risk of harm to Plaintiff.

12 122. The Defendants' Baby Foods are inherently dangerous and defective, unfit and unsafe
13 for its intended and reasonably foreseeable uses, and do not meet or perform to the expectations of
14 parents or children.

15 123. The Baby Foods create risks to the health and safety of babies that are far more
16 significant and devastating than the risks posed by other baby food products, and which far outweigh
17 the utility of the Baby Foods products because of Defendants' manufacturing defects, which included
18 but were not limited to: Failure to adequately inspect/test the Baby Foods during the manufacturing
19 process; Failure to implement procedures that would reduce or eliminate the levels of Toxic Heavy
20 Metals in Baby Foods; Failure to avoid using ingredients free from, or which contain far less, Toxic
21 Heavy Metals to manufacture Baby Foods.

22 124. Defendants have intentionally and recklessly manufactured the Baby Foods with
23 wanton and willful disregard for the rights and health of the Plaintiff, and with malice, placing their
24 economic interests above the health and safety of the Plaintiff.

25 125. The manufacturing defects in Defendants' Baby Foods were substantial factors in
26 causing Plaintiff's injuries.

27 126. As a direct and proximate result of the Defendants' defective manufacture of the Baby
28 Foods, Plaintiff has been injured, sustained severe and permanent pain, suffering, disability,

1 impairment, loss of enjoyment of life, economic loss and damages including, but not limited to
2 medical expenses, lost income, and other damages.

3 **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in Plaintiff's
4 favor for damages, together with interest, costs herein incurred, attorneys' fees and all such other and
5 further relief as this Court deems just and proper.

6 **COUNT IV: NEGLIGENCE – FAILURE TO WARN**

7 **(Against Manufacturer Defendants)**

8 127. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs as
9 if fully stated herein.

10 128. At all relevant times, Defendants engaged in the business of testing, developing,
11 designing, manufacturing, marketing, selling, distributing, and promoting Baby Foods. Defendants
12 knew or by the exercise of reasonable care should have known that their Baby Foods are not
13 accompanied with adequate warnings concerning the dangerous characteristics of Baby Foods and
14 Toxic Heavy Metals. These actions were under the ultimate control and supervision of Defendants.

15 129. Defendants researched, developed, designed, tested, manufactured, inspected, labeled,
16 distributed, marketed, promoted, sold, and otherwise released into the stream of commerce their Baby
17 Foods, and in the course of same, directly advertised or marketed the products to consumers and end
18 users, including Plaintiff, and therefore had a duty to warn of the risks associated with the use of
19 Baby Foods.

20 130. At all relevant times, Defendants had a duty to properly test, develop, design,
21 manufacture, inspect, package, label, market, promote, sell, distribute, maintain, supply, provide
22 proper warnings, and take such steps as necessary to ensure their Baby Foods did not cause users and
23 consumers to suffer from unreasonable and dangerous risks. Defendants had a continuing duty to
24 warn Plaintiff of dangers associated with Baby Foods. Defendants, as a manufacturer, seller, or
25 distributor of food products, are held to the knowledge of an expert in the field.

26 131. At the time of manufacture, Defendants could have provided warnings regarding the
27 full and complete risks of Baby Foods and Toxic Heavy Metals because they knew or should have
28 known use of Baby Foods was dangerous, harmful and injurious when used by Plaintiff in a

1 reasonably foreseeable manner.

2 132. At all relevant times, Defendants failed and deliberately refused to investigate, study,
3 test, or promote the safety or to minimize the dangers to users and consumers of their product and to
4 those who would foreseeably use or be harmed by Defendants' Baby Foods.

5 133. Defendants knew or should have known that Baby Foods posed a grave risk of harm,
6 but failed to exercise reasonable care to warn of the dangerous risks associated with use and exposure
7 to the products. The dangerous propensities of their products and the characteristics of Toxic Heavy
8 Metals contained in substantial amounts in their Baby Foods, as described above, were known to
9 Defendants, or scientifically knowable to Defendants through appropriate research and testing by
10 known methods, at the time they distributed, supplied or sold the product, and were not known to end
11 users and consumers, such as the Plaintiff.

12 134. Defendants further breached their duty by failing to use reasonable care to adequately
13 warn or instruct consumers (*i.e.*, the reasonably foreseeable users) of the risks of exposure to their
14 products. Defendants failed to warn and have wrongfully concealed information concerning the
15 dangerous level of Toxic Heavy Metals in their Baby Foods and the potential for consumed Baby
16 Foods to expose babies and toddlers to Toxic Heavy Metals, and further, have made false and/or
17 misleading statements concerning the safety of Baby Foods.

18 135. At all relevant times, Plaintiff was exposed to excessive levels of Toxic Heavy Metals
19 through consumption of Toxic Heavy Metals while using them for their intended or reasonably
20 foreseeable purposes, without knowledge of their dangerous characteristics.

21 136. Defendants knew or should have known that the minimal warnings disseminated with
22 their Baby Foods were inadequate, failed to communicate adequate information on the dangers and
23 safe use/exposure, and failed to communicate warnings and instructions that were appropriate and
24 adequate to render the products safe for their ordinary, intended and reasonably foreseeable uses.

25 137. The information that Defendants did provide or communicate failed to contain
26 relevant warnings, hazards, and precautions that would have enabled consumers such as Plaintiff to
27 avoid using the product. Instead, Defendants disseminated information that was inaccurate, false, and
28 misleading, and which failed to communicate accurately or adequately the comparative severity,

1 duration, and extent of the risk of injuries with use of and/or exposure to Baby Foods; continued to
2 aggressively promote the efficacy of their products, even after they knew or should have known of
3 the unreasonable risks from use or exposure; and concealed, downplayed, or otherwise suppressed,
4 through aggressive marketing and promotion, any information or research about the risks and dangers
5 of consuming Baby Foods.

6 138. A reasonable company under the same or similar circumstance would have warned
7 and instructed of the dangers of Baby Foods and Toxic Heavy Metals contained therein.

8 139. This alleged failure to warn is not limited to the information contained on the labeling
9 of Defendants' Baby Foods. Defendants were able, in accord with federal law, to comply with
10 relevant state law by disclosing the known risks associated with Baby Foods and Toxic Heavy Metals
11 through other non-labeling mediums, *i.e.*, promotion, advertisements, public service announcements,
12 and/or public information sources. But the Defendants did not disclose these known risks through
13 any medium.

14 140. Furthermore, Defendants possess a First Amendment Right to make truthful
15 statements about the products they sell, and no law could lawfully restrict that constitutional right.

16 141. Had Defendants provided adequate warnings and instructions and properly disclosed
17 and disseminated the risks associated with their Baby Foods, Plaintiff could have avoided the risk of
18 developing injuries and could have obtained or used alternative products. However, as a result of
19 Defendants' concealment of the dangers posed by their Baby Foods, Plaintiff could not have averted
20 his injuries.

21 142. Defendants' conduct, as described above, was reckless. Defendants risked the lives of
22 consumers and users of their products, including Plaintiff, with knowledge of the safety problems
23 associated with Baby Foods, and suppressed this knowledge from the general public. Defendants
24 made conscious decisions not to redesign, warn or inform the unsuspecting public. Defendants'
25 reckless conduct warrants an award of punitive damages.

26 143. The Defendants' lack of adequate warnings and instructions accompanying their Baby
27 Foods were a substantial factor in causing Plaintiff's injuries.

28 144. As a direct and proximate result of the Defendants' failure to provide an adequate

1 warning of the risks of Baby Foods, Plaintiff has been injured, sustained severe and permanent pain,
2 suffering, disability, impairment, loss of enjoyment of life, economic loss and damages including, but
3 not limited to past and future medical expenses, lost income, and other damages.

4 145. **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in
5 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and all such
6 other and further relief as this Court deems just and proper.

7 **COUNT V: NEGLIGENT PRODUCT DESIGN**

8 **(Against Manufacturer Defendants)**

9 146. The Defendants knew or, by the exercise of reasonable care, should have known,
10 ordinary consumers such as Plaintiff would not have realized the potential risks and dangers of Baby
11 Foods.

12 147. The Defendants owed a duty to all reasonably foreseeable users to design a safe
13 product.

14 148. The Defendants breached their duty by failing to use reasonable care in the design of
15 Baby Foods because the product exposed users to unsafe levels of Toxic Heavy Metals.

16 149. The Defendants breached their duty by failing to use reasonable care in the design of
17 Baby Foods by negligently designing the Baby Foods with ingredients and/or components high in
18 Toxic Heavy Metals.

19 150. The Defendants breached their duty by failing to use reasonable care in the design of
20 Baby Foods by negligently designing and formulation, in one or more of the following ways:

21 When placed in the stream of commerce, Defendants' Baby Foods were defective in design
22 and formulation, and, consequently, dangerous to an extent beyond that which an ordinary consumer
23 would contemplate;

24 When placed in the stream of commerce, Defendants' Baby Foods were unreasonably
25 dangerous in that they were hazardous and posed a grave risk of neurodevelopmental disorders and
26 other serious illnesses when used in a reasonably anticipated manner;

27 When placed in the stream of commerce, Defendants' Baby Foods contained unreasonably
28 dangerous design defects and were not reasonably safe when used in a reasonably anticipated or

intended manner;

Defendants did not sufficiently test, investigate, or study their Baby Foods and, specifically, the content of Toxic Heavy Metals in the ingredients used to manufacture the foods and/or the finished products;

Defendants did not sufficiently test, investigate, or study their Baby Foods and, specifically, the ability for Baby Foods to expose babies to high amounts of Toxic Heavy Metals;

Exposure to Baby Foods presents a risk of harmful effects that outweigh any potential utility stemming from the use of the products;

Defendants knew or should have known at the time of marketing Baby Foods that exposure to Toxic Heavy Metals contained in the Baby Foods could result in neurodevelopmental disorders—specifically ASD and ADHD—and other severe illnesses and injuries;

a. Defendants did not conduct adequate post-marketing surveillance of their Baby Foods; and

b. Defendants could have employed safer alternative designs and formulations.

For example, the Defendants could have avoided use of certain ingredients high in Toxic Heavy Metals, avoided using pre-mix vitamins high in Toxic Heavy Metals, and/or sampled their ingredients from other sources.

151. The Defendants breached their duty by failing to use reasonable care by failing to use cost effective, reasonably feasible alternative designs. There was a practical, technically feasible, and safer alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of Defendants' Baby Foods.

152. A reasonable company under the same or similar circumstances would have designed a safer product.

153. Plaintiff was harmed directly and proximately by the Defendants' failure to use reasonable care in the design of their Baby Foods. Such harm includes significant exposure to a Toxic Heavy Metals, which can cause or contribute to the development of neurodevelopmental disorders such as ASD and ADHD.

154. Defendants' defective design of Baby Foods was willful, wanton, malicious, and

1 conducted with reckless disregard for the health and safety of consumers of the Baby Foods,
2 including Plaintiff.

3 155. The defects in Defendants' Baby Foods were substantial factors in causing Plaintiff's
4 injuries.

5 156. As a direct and proximate result of the Defendants' defective design of the Baby
6 Foods, Plaintiff has been injured, sustained severe and permanent pain, suffering, disability,
7 impairment, loss of enjoyment of life, economic loss and damages including, but not limited to past
8 and future medical expenses, lost income, and other damages.

9 157. **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in
10 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and all such
11 other and further relief as this Court deems just and proper.

12 **COUNT VI: NEGLIGENT MANUFACTURING**

13 **(Against Manufacturer Defendants)**

14 158. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs as
15 if fully stated herein.

16 159. At all relevant times, the Defendants manufactured, tested, marketed, sold, and
17 distributed the Baby Foods that Plaintiff consumed.

18 160. The Defendants had a duty to exercise reasonable care, in the manufacturing, testing,
19 marketing, sale, and distribution of Baby Foods.

20 161. The Defendants knew or, by the exercise of reasonable care, should have known, use
21 of Baby Foods were carelessly manufactured, dangerous, harmful and injurious when used by
22 Plaintiff in a reasonably foreseeable manner.

23 162. The Defendants knew or, by the exercise of reasonable care, should have known,
24 ordinary consumers such as Plaintiff would not have realized the potential risks and dangers of Baby
25 Foods improperly manufactured, tested, marketed, distributed, and sold.

26 163. Without limitation, examples of the manner in which Defendants breached their duty
27 to exercise reasonable care in manufacturing Baby Foods, included:

- 28 a. Failure to adequately inspect/test the Baby Foods during the manufacturing

process;

b. Failure to implement procedures that would reduce or eliminate levels of Toxic Heavy Metals in Baby Foods; and

c. Failure to avoid using ingredients free from, or which contain far less, Toxic Heavy Metals to manufacture Baby Foods.

164. A reasonable manufacturer under the same or similar circumstances would have implemented appropriate manufacturing procedures to better ensure the quality and safety of their product.

165. Plaintiff was harmed directly and proximately by the Defendants' failure to use reasonable care in the manufacture of their Baby Foods. Such harm includes significant exposure to a Toxic Heavy Metals, which can cause or contribute the development of neurodevelopmental disorder such as ASD and ADHD.

166. Defendants' improper manufacturing of Baby Foods was willful, wanton, malicious, and conducted with reckless disregard for the health and safety of users of the Baby Foods, including Plaintiff.

167. The defects in Defendants' Baby Foods were substantial factors in causing Plaintiff's injuries.

168. As a direct and proximate result of the Defendants' improper manufacturing of Baby Foods, Plaintiff has been injured, sustained severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, economic loss and damages including, but not limited to past and future medical expenses, lost income, and other damages.

169. **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and all such other and further relief as this Court deems just and proper.

COUNT VII: NEGLIGENT MISREPRESENTATION

(Against Manufacturer Defendants)

170. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs as if fully stated herein.

1 171. At all relevant times, Defendants designed, manufactured, tested (or not), packaged,
2 labeled, marketed, advertised, promoted, supplied, distributed, sold and/or otherwise placed Baby
3 Foods into the stream of commerce, and therefore owed a duty of reasonable care to avoid causing
4 harm to those that consumed Baby Foods, such as Plaintiff.

5 172. Defendants were negligent, reckless, and careless and owed a duty to Plaintiff to make
6 accurate and truthful representations regarding Baby Foods, Defendants breached their duty, thereby
7 causing Plaintiff to suffer harm.

8 173. Defendants represented to Plaintiff via the media, advertising, website, social media,
9 packaging, and promotions, among other misrepresentations described herein that:

10 174. Baby Foods were both safe and effective for the lifetime of the product, when in fact,
11 the foods contain unsafe levels of Toxic Heavy Metals far in excess of regulatory standards; and

12 175. Consumption of Baby Foods would not expose babies to any harmful ingredients; and

13 176. Baby Foods were safe for their intended use when, in fact, Defendants knew or should
14 have known the products were not safe for their intended purpose.

15 177. These representations were false. Because of the presence and/or unsafe levels of
16 Toxic Heavy Metals in Baby Foods, the products presented an unacceptable risk of causing
17 neurodevelopmental disorders, specifically ASD and ADHD.

18 178. Defendants knew or should have known these representations were false and
19 negligently made them without regard for their truth.

20 179. Defendants had a duty to accurately provide this information to Plaintiff. In concealing
21 this information from Plaintiff, Defendants breached their duty. Defendants also gained financially
22 from, and as a result of their breach.

23 180. Defendants intended for Plaintiff to rely on these representations.

24 181. Each of these misrepresentations were material at the time they were made. In
25 particular, each of the misrepresentations concerned material facts that were essential to the analysis
26 undertaken by Plaintiff as to whether to purchase or consume Baby Foods.

27 182. Defendants have yet to correct these misrepresentations about Baby Foods.

28 183. Plaintiff reasonably relied on these representations and were harmed as described

1 herein. Plaintiff's reliance on Defendants' representation was a substantial factor in causing
2 Plaintiff's harms. Had Defendants told Plaintiff the truth about the safety and composition of Baby
3 Foods, Plaintiff would not have consumed or purchased them.

4 184. Defendants' acts and omissions as described herein were committed in reckless
5 disregard of Plaintiff's rights, interests, and well-being to enrich Defendants.

6 185. Plaintiff was injured as a direct and proximate result of Defendants' negligent
7 misrepresentations regarding Baby Foods as described herein.

8 186. **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in
9 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and all such
10 other and further relief as this Court deems just and proper.

11 **COUNT VIII: STRICT LIABILITY**

12 **(Against Retailer Defendant)**

13 187. Plaintiff incorporates by reference each allegation set forth in preceding paragraphs as
14 if fully stated herein.

15 188. At all relevant times, the Retailer Defendant engaged in the business of marketing,
16 selling, inspecting, handling, storing, distributing, and promoting Baby Foods, which are defective
17 and unreasonably dangerous to babies, including Plaintiff, because they do not contain adequate
18 warnings concerning the dangerous characteristics of Toxic Heavy Metals and neurodevelopmental
19 disorders such as ASD and ADHD. These actions were under the ultimate control and supervision of
20 the Retailer Defendant. At all relevant times, the Retailer Defendant distributed, marketed, and sold
21 Baby Foods and aimed at a consumer market.

22 189. The Retailer Defendant marketed, sold, inspected, handled, stored, distributed, and
23 promoted, and otherwise released into the stream of commerce Baby Foods, and in the course of
24 same, directly advertised or marketed the products to consumers and end users, including Plaintiff,
25 and therefore had a duty to warn of the risks associated with the use of Baby Foods.

26 190. At all relevant times, the Retailer Defendant had a duty to properly inspect, package,
27 label, market, promote, sell, handle, store, distribute, maintain, supply, provide proper warnings, and
28 take such steps as necessary to ensure their Baby Foods did not cause users and consumers to suffer

1 from unreasonable and dangerous risks. Retailer Defendant had a continuing duty to warn Plaintiff of
2 dangers associated with Baby Foods. Retailer Defendant, as a seller, or distributor of Baby Foods,
3 are held to the knowledge of an expert in the field.

4 191. At the time of manufacture and sale, Retailer Defendant could have provided the
5 warnings or instructions regarding the full and complete risks of Baby Foods because they knew or
6 should have known of the unreasonable risks of harm associated with the consumption of such
7 products. The ability to provide such warnings is not prohibited by any federal law.

8 192. Even though the Retailer Defendant knew or should have known that Baby Foods
9 posed a grave risk of harm as the products were sold in their stores, they failed to exercise reasonable
10 care to warn of the dangerous risks associated with consumption of the Baby Foods. The dangerous
11 propensities of their products and the neurotoxic potential of Toxic Heavy Metals to which Plaintiff
12 was exposed as a result of consuming the Baby Foods, as described above, were known to Retailer
13 Defendant, or scientifically knowable to Defendants through appropriate research and testing by
14 known methods, at the time they distributed, supplied or sold the product, and were not known to end
15 users and consumers, such as Plaintiff.

16 193. The Retailer Defendant knew or should have known that its products created
17 significant risks of serious bodily harm to consumers, as alleged herein, and the Retailer Defendant
18 failed to adequately warn or instruct consumers, i.e., the reasonably foreseeable users, of the risks of
19 exposure to their products. Retailer Defendant failed to warn and have wrongfully concealed
20 information concerning the dangerous quantities of Toxic Heavy Metals in the Baby Foods and the
21 potential for ingested Baby Foods to expose babies to neurotoxic Heavy Metals, and further, have
22 made false and/or misleading statements concerning the safety of Baby Foods.

23 194. At all relevant times, the Baby Food products sold by the Retailer Defendant and
24 consumed by Plaintiff was defective in design – namely the presence of Toxic Heavy Metals posing
25 risks of neurodevelopmental disorders such as ASD and ADHD – and the products did not perform as
26 safely as an ordinary consumer would have expected them to perform when used in an intended or
27 reasonably foreseeable way.

28 195. At all relevant times that the Retailer Defendant sold the Baby Foods, the products

1 contained a manufacturing defect when the products left the possession of the Retailer Defendant.

2 196. At all relevant times, Retailer Defendant's Baby Foods reached the intended
3 consumers, handlers, and users or other persons coming into contact with these products, including
4 Plaintiff, without substantial change in their condition as sold, distributed, labeled, and marketed by
5 the Retailer Defendant.

6 197. Plaintiff was exposed to the Retailer Defendant's Baby Foods without knowledge of
7 their dangerous characteristics.

8 198. At all relevant times, Plaintiff consumed the Retailer Defendant's Baby Foods while
9 using them for their intended or reasonably foreseeable purposes, without knowledge of their
10 dangerous characteristics.

11 199. Plaintiff could not have reasonably discovered the defects and risks associated with
12 Baby Foods prior to or at the time of Plaintiff consuming the Baby Foods. Plaintiff relied upon the
13 skill, superior knowledge, and judgment of the Retailer Defendant to know about and disclose serious
14 health risks associated with using the Retailer Defendant's products.

15 200. The Retailer Defendant knew or should have known that the representations
16 disseminated with its Baby Foods were inadequate, failed to communicate adequate information on
17 the dangers of consumption, and failed to communicate warnings regarding the dangers of Toxic
18 Heavy Metals present in the Baby Foods.

19 201. The information that the Retailer Defendant did provide or communicate failed to
20 contain relevant warnings, hazards, and precautions that would have enabled consumers such as
21 Plaintiff to avoid consuming the Baby Foods. Instead, Retailer Defendant disseminated information
22 that was inaccurate, false, and misleading, and which failed to communicate accurately or adequately
23 the comparative severity, duration, and extent of the risk of injuries with consumption of Baby Foods;
24 continued to aggressively promote the safety of their products, even after they knew or should have
25 known of the unreasonable risks from use or exposure; and concealed, downplayed, or otherwise
26 suppressed, through aggressive marketing and promotion, any information or research about the risks
27 and dangers of consuming the Baby Foods.

28 202. This alleged failure to warn is not limited to the information contained on the Baby

1 Foods' labeling. The Retailer Defendant was able, in accord with federal law, to comply with
2 relevant state law by disclosing the known risks associated with Baby Foods through other non-
3 labeling mediums, i.e., promotion, advertisements, public service announcements, and/or public
4 information sources. But the Retailer Defendant did not disclose these known risks through any
5 medium.

6 203. Furthermore, the Retailer Defendant possesses a First Amendment Right to make
7 truthful statements about the products they sell, and no law could lawfully restrict that constitutional
8 right.

9 204. Had the Retailer Defendant provided adequate warnings and instructions and properly
10 disclosed and disseminated the risks associated with its Baby Foods, Plaintiff could have avoided the
11 risk of developing injuries and could have obtained and/or consumed alternative foods. However, as
12 a result of the Retailer Defendant's concealment of the dangers posed by their Baby Foods, Plaintiff
13 could not have averted his injuries.

14 205. The Retailer Defendant's lack of adequate warnings and instructions accompanying
15 their Baby Foods were a substantial factor in causing Plaintiff's injuries.

16 206. As a direct and proximate result of the design and manufacturing defects of the Baby
17 Food products sold by the Retailers Defendants, and the Retailer Defendant's failure to provide an
18 adequate warning of the risks of Baby Foods, Plaintiff has been injured, sustained severe and
19 permanent pain, suffering, disability, impairment, loss of enjoyment of life, economic loss and
20 damages including, but not limited to past and future medical expenses, lost income, and other
21 damages.

22 207. **WHEREFORE**, Plaintiff respectfully requests this Court to enter judgment in
23 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and all such
24 other and further relief as this Court deems just and proper.

25 **JURY TRIAL DEMAND**

26 208. Plaintiff demand a trial by jury on all the triable issues within this pleading.

27 **PRAYER FOR RELIEF**

28 209. WHEREFORE, Plaintiff request the Court to enter judgment in Plaintiff's favor and

1 against the Defendants for:

- 2 a. actual or compensatory damages in such amount to be determined at trial and as
3 provided by applicable law;
4 b. exemplary and punitive damages sufficient to punish and deter the Defendants and
5 others from future wrongful practices;
6 c. pre-judgment and post-judgment interest;
7 d. costs including reasonable attorneys' fees, court costs, and other litigation expenses;
8 and
9 e. any other relief the Court may deem just and proper.

10
11 Dated: September 7, 2021

BAUM HEDLUND ARISTEI & GOLDMAN, P.C.

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