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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY: \_\_\_\_\_

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14 *Attorneys for Plaintiff*

15  
 16 IN THE UNITED STATES DISTRICT COURT  
 17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 NICOLE CRAWFORD, on behalf of  
 19 herself and all others similarly  
 situated,

20 Plaintiff,

21 v.

22 THE HAIN CELESTIAL GROUP,  
 23 INC., and DOES 1-10, inclusive,

24 Defendants.

CASE NO.: CV 10 9900-GW

CLASS ACTION (JCX)

COMPLAINT FOR EQUITABLE RELIEF AND DAMAGES

JURY TRIAL REQUESTED

25  
 26 Plaintiff, **NICOLE CRAWFORD**, by and through the undersigned counsel,  
 27 both on her own behalf and as representative of a class of purchasers similarly  
 28 situated, for her causes of action against Defendant, states and alleges as follows, all

1 on information and belief except as where specifically so identified, which allegations  
2 are likely to have evidentiary support after an opportunity for further investigation  
3 and discovery:

4 **I. NATURE OF THE CASE**

5 1. This action is brought as a class action seeking redress for Defendant’s  
6 deceptive practices in misrepresenting and/or omitting to disclose certain material  
7 facts relating to certain of its products reported to contain lead, including Earth’s  
8 Best® Organics Apple Juice (collectively, the “Products”), in connection with  
9 marketing those products for consumption by children and other consumers, in  
10 violation of California law.

11 2. On June 9, 2010, Defendant was notified by the Environmental Law  
12 Foundation (a California non-profit organization) that its Products contained lead in  
13 excess of levels established pursuant to California’s Safe Drinking Water and Toxic  
14 Enforcement Act of 1986, California Health and Safety Code §§25249, *et seq.*  
15 (“Proposition 65”).

16 3. Defendant does not provide any warning as to the presence of lead in the  
17 Products as required by Proposition 65, in violation of Proposition 65’s provision that  
18 “No person in the course of doing business shall knowingly and intentionally expose  
19 any individual to a chemical known to the state to cause cancer or reproductive  
20 toxicity without first giving clear and reasonable warning to such individual. . . .”

21 4. Lead was reportedly found in children’s and baby foods manufactured  
22 and sold by Defendant, in amounts greater than the permissible daily exposure level  
23 set forth by Proposition 65 of 0.5 micrograms per day.

24 5. By the marketing and dissemination of such Products without providing  
25 a clear and reasonable warning of the presence of lead in those Products, Defendant  
26 has violated the laws of California, as described below.

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1 **II. JURISDICTION AND VENUE**

2 6. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §1332 because:

3 a. This is a civil action filed pursuant to Fed.R.Civ.P. 23 brought by one or  
4 more representative persons as a class action, with minimal diversity between the  
5 parties;

6 b. The amount in controversy of all class members in the aggregate exceeds  
7 the sum or value of \$5,000,000, exclusive of interest and costs;

8 c. The members of the putative class are citizens of the State of California,  
9 which is not the State of citizenship for Defendant; and

10 d. All other factual conditions precedent necessary to empower this Court  
11 with subject matter jurisdiction and personal jurisdiction are satisfied.

12 7. Venue is proper in this Court pursuant to 28 U.S.C. §1391(a)(1) and (2).  
13 Substantial acts in furtherance of the alleged improper conduct occurred within this  
14 District. Plaintiff resides within this District and bought Defendant’s Products within  
15 this District.

16 **III. PARTIES**

17 8. On personal knowledge, Plaintiff, **NICOLE CRAWFORD**, is an  
18 individual consumer who, at all times material hereto, was a resident of the State of  
19 California and therefore is a “citizen” of California for purposes of diversity.  
20 Plaintiff repeatedly purchased the Products during the class period.

21 9. Defendant, **THE HAIN CELESTIAL GROUP, INC.** (“Hain”), is, and  
22 at all times herein referenced was, a Delaware corporation with its principal place of  
23 business located at 58 South Service Road, Suite 250, Melville, New York 11747  
24 based on the presence of its corporate offices and executive headquarters located  
25 there. Its registered agent, CT Corporation System, is located at 818 West Seventh  
26 Street, Los Angeles, California 90017. For purposes of diversity jurisdiction, Hain  
27 may be considered a “citizen” of either Delaware (its place of incorporation) or New  
28 York (where its executive headquarters are located). At all times relevant hereto,

1 Hain was and is doing business within this District either directly or indirectly  
2 through the sale of its products in this District. Earth's Best® Organics Apple Juice  
3 is among Hain's Products.

4 10. DOES 1-10 inclusive are named as fictitious defendants, whose names  
5 and roles in the controversy shall be included in the Complaint as they are  
6 ascertained. At all times herein mentioned, these DOE defendants, who may include  
7 the employees of Hain, its subsidiaries, affiliates and other related entities, were the  
8 agents, servants and employees of Hain, and at all times herein mentioned, each was  
9 acting within the purpose and scope of said agency and employment. Whenever  
10 reference in this Complaint is made to any act or transaction of Hain, such allegation  
11 shall be deemed to mean that the principals, officers, directors, employees, agents,  
12 and/or representatives of Hain committed, knew of, performed, authorized, ratified  
13 and/or directed such act or transaction on behalf of Hain while actively engaged in  
14 the scope of their duties.

#### 15 **IV. FACTUAL ALLEGATIONS**

##### 16 **A. Children are More Susceptible to Chemical Toxicity Than are Adults**

17 11. The fact that children are more susceptible to chemical toxicity than  
18 adults is widely recognized.

19 12. The National Academy of Sciences published a report in 1993 entitled  
20 "Pesticides in the Diets of Infants and Children" ("NAS Report"). NAS explained  
21 that children are not little adults with respect to potential chemical toxicities:

22 A fundamental maxim of pediatric medicine is that children are not  
23 "little adults." **Profound differences exist between children and**  
24 **adults.** Infants and children are growing and developing. Their  
25 metabolic rates are more rapid than those of adults. There are  
26 differences in their ability to activate, detoxify, and excrete xenobiotic  
27 compounds. All these differences can affect the toxicity of pesticides in  
28 infants and children, and for these reasons the toxicity of pesticides is

1 frequently different in children and adults. (NAS Report, at 3-4)  
2 [*emphasis added*].

3 13. The Natural Resources Defense Council (“NRDC”) issued a report in  
4 1997 entitled “Our Children At Risk; The 5 Worst Environmental Threats To Their  
5 Health.” NRDC explained that children are relatively more susceptible to potential  
6 chemical toxicities:

7 Pound for pound, children breathe more air, drink more water, and  
8 consume more food than adults. **This higher rate of intake means that**  
9 **children will receive higher doses of whatever contaminants are**  
10 **present** in the air, water, or food. (NRDC Report, Ch. 2) (citing  
11 International Programme on Chemical Safety, Principles for Evaluating  
12 Health Risks From Chemicals During Infancy and Early Childhood:  
13 The Need for a Special Approach, Environmental Health Criteria 59,  
14 World Health Organization, 1986) (*emphasis added*).

15 14. The United States Environmental Protection Agency (“EPA”) issued its  
16 “Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to  
17 Carcinogens,” (“EPA Supplemental Guidance”) in early 2005. EPA recognized that  
18 toxicokinetic and toxicodynamic differences between children and adults are greatest  
19 during the first two years of life. (EPA Supplemental Guidance, at 32) (citations  
20 omitted).

21 15. Later in 2005, the Intergovernmental Forum on Chemical Safety’s  
22 (“IFCS”) Children and Chemical Safety Working Group published a report titled  
23 “Chemical safety and children’s health: Protecting the world’s children from harmful  
24 chemical exposures: a global guide to resources” (“2005 IFCS Report”). IFCS  
25 concluded that children are uniquely prone to harmful chemical exposures and their  
26 adverse health effects because:

27 ///

28 ///

- 1 a. Children's **exposure begins at conception**, as chemicals in a  
2 pregnant woman's body cross the placenta and affect the embryo  
3 or fetus during critical periods of development. Some chemicals  
4 also accumulate in breast milk, compromising (though not  
5 negating) the benefits of this important food for infants.
- 6 b. Even after birth, children's **bodies remain immature**, with  
7 underdeveloped detoxification mechanisms to protect them from  
8 chemicals. Their **brains and other organ systems are**  
9 **constantly developing**, undergoing periods of particular  
10 sensitivity to damage or disruption.
- 11 c. Compared with adults, children **breathe faster and eat and drink**  
12 **more** in proportion to their bodyweight, resulting in greater  
13 exposure to chemicals in air, food, and water.
- 14 d. Children **spend more time outdoors**, and often play on the  
15 ground or the floor, where chemicals such as pesticides and heavy  
16 metals are present. In addition, young children frequently **place**  
17 **their hands or other objects in their mouths**, making ingestion  
18 of chemicals more likely. Pregnant women and young children  
19 are often at higher risk of **inhaling or coming into contact with**  
20 **chemicals used indoors**, such as cleaning solutions, paints,  
21 cosmetics, and other household and consumer products.
- 22 e. Children are **less aware of potential chemical risks around**  
23 **them**, and are therefore less likely to avoid harmful exposures.

24 (2005 IFCS Report, at 3) (emphasis in original) (footnote omitted).

25 16. Based on empirical data and the fact that Defendant's conduct of selling  
26 the Products for consumption is directed at children who are more susceptible to such  
27 chemical exposures as Earth's Best® Organics products are particularly marketed

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1 toward children,<sup>1</sup> Defendant needed to be particularly vigilant to ensure that its food  
2 products did not contain harmful chemicals that might potentially have both short and  
3 long term health effects.

4 **B. The Products are Hazardous to Children's Health**

5 17. The Products reportedly contain lead, which is widely recognized to act  
6 as a reproductive toxin as well as other short term and long term deleterious effects.

7 18. For example, the substance profile for lead and lead compounds  
8 prepared by the National Toxicology Program ("NTP") states, in part:

- 9 a. Lead and lead compounds are *reasonably anticipated to be*  
10 *human carcinogens* based on limited evidence from studies in  
11 humans and sufficient evidence from studies in experimental  
12 animals. Lead exposure has been associated with increased risk of  
13 lung, stomach, and bladder cancer in diverse human populations  
14 (Fu and Boffetta 1995, Steenland and Boffetta 2000, NTP 2003).
- 15 b. **Absorption of lead is affected by age**, the chemical form of the  
16 lead, and minerals in the diet (e.g., iron, calcium, and zinc)  
17 (ATSDR 1999). **Gastrointestinal absorption of lead is greater**  
18 **in children than in adults** (Hammad *et al.* 1996). Once  
19 absorbed, lead is distributed to blood plasma, the nervous system,  
20 and soft tissues. It subsequently is redistributed and accumulates  
21 in bone; approximately 75% to 90% of the lead body burden is  
22 found in bones and teeth. (emphasis added).
- 23 c. Lead concentrations in U. S. drinking water generally are below 5  
24 µg/L. Lead also is found in food, cigarette smoke, and alcoholic  
25 beverages. Levels in food have declined since the elimination of  
26 lead-soldered food cans between 1979 and 1989 (ATSDR 1999).

27  
28 <sup>1</sup> See <http://www.earthbest.com/> (accessed 7/7/10).

1 In 1990, the estimated daily intake of lead from consumption of  
2 food, water, and beverages was approximately 4 µg for children 2  
3 years of age and younger, 6 to 9 µg for children aged 14 to 16, 6  
4 to 9 µg for adults aged 25 to 30, and 2 to 8 µg for adults aged 60  
5 to 65. For young children, the most common source of  
6 environmental lead exposure is direct ingestion of paint chips and  
7 lead-laden dusts and soils released from aging painted surfaces.  
8 These sources can contribute an additional daily intake of 5 µg for  
9 a toddler engaging in normal hand-to-mouth activity (CDC 1997,  
10 Lanphear *et al.* 1998).

11 19. A monograph prepared by the International Agency for Research on  
12 Cancer (“IARC”) regarding lead states, in part:

13 a. **A considerable body of evidence suggests that children are**  
14 **more sensitive than adults to the neurotoxic properties of lead.**

15 Although clinical symptoms of toxicity generally become apparent  
16 at blood lead concentrations of 70 µg/dL, many important  
17 disturbance occur at much lower concentrations. These include  
18 electrophysiological anomalies of evoked brain potential in  
19 response to auditory stimuli and reduced peripheral nerve  
20 conduction. Both cross-sectional and prospective studies of  
21 children have found impairments in cognition, attention, and  
22 language function at concentrations of lead previously thought to  
23 be harmless.

24 b. In studies with larger samples, better measures of lead burden and  
25 neuro-behavioural function, and more advanced statistical  
26 techniques, effects are detectable at blood lead concentrations  
27 below 10 µg/dL. The relative effect is greater below 10 µg/dL  
28 than above this level. Recently, attention has shifted from the



1 impact of lead on cognition to its effects on behaviour. Exposure  
2 to lead has been found to be associated with attentional  
3 dysfunction, aggression and delinquency.

- 4 c. Exposure to lead is associated with cardiovascular effects and with  
5 changes in endocrine and immune functions.
- 6 d. Many of the effects of lead exposure in humans have been  
7 confirmed in experimental systems. At the cellular level, lead has  
8 mitogenic properties; it affects various regulatory proteins,  
9 including those that depend on the presence of zinc.
- 10 e. Inorganic lead compounds are *probably carcinogenic to humans*  
11 *(Group 2A)*. Organic lead compounds are *not classifiable as to*  
12 *their carcinogenicity to humans (Group 3)*.
- 13 f. Organic lead compounds are metabolized, at least in part, to ionic  
14 lead both in humans and animals. To the extent that ionic lead,  
15 generated from organic lead, is present in the body, it will be  
16 expected to exert the toxicities associated with inorganic lead.<sup>2</sup>

17 20. The Agency for Toxic Substances and Disease Registry (“ATSDR”)  
18 published a Case Study in Environmental Medicine (“CSEM”) concerning lead  
19 toxicity that was released on August 20, 2007. The CSEM’s environmental alert  
20 states:

- 21 a. Children of all races and ethnic origins are at risk of lead toxicity  
22 throughout the U. S.
- 23 b. Lead may cause irreversible neurological damage, as well as renal  
24 disease, cardiovascular effects, and reproductive toxicity.
- 25 c. Blood lead levels once considered safe are now considered  
26 hazardous, with no known threshold.

27  
28 <sup>2</sup> IARC Monograph Volume 87, pp. 375 - 378.

- 1 d. Lead poisoning is a wholly preventable disease.<sup>3</sup>
- 2 21. The CSEM also states that lead exposure in the general population
- 3 (including children) occurs primarily through ingestion<sup>4</sup> and further explains:
- 4 a. Because of their behavior and physiology, **children are more**
- 5 **affected** by exposure to lead than are adults.
- 6 b. Children absorb more ingested lead than do adults.
- 7 c. In addition, the percent of lead absorbed in the gut, especially in
- 8 an empty stomach, is estimated to be as much as five to 10 times
- 9 greater in infants and young children than in adults. (Alexander *et*
- 10 *al.* 1974; Chamberlain *et al.* 1978; James *et al.* 1985; Ziegler *et al.*
- 11 1978 as cited in ATSDR 1999).
- 12 d. Gastrointestinal absorption of lead in children is increased by iron,
- 13 calcium, zinc, and ascorbate deficiency. (Mahaffey *et al.* 1990 as
- 14 cited in AAP 1993).
- 15 e. **Children are more sensitive** than adults are to elevated blood
- 16 lead levels ("BLLs"). Children's **developing brains** and **nervous**
- 17 **system** (and other organ systems) are very sensitive to lead.
- 18 f. **Childhood lead exposure** has been associated with:
- 19 i. higher absenteeism in high school;
- 20 ii. lower class rank;
- 21 iii. poorer vocabulary and grammatical reasoning scores;
- 22 iv. longer reaction time;
- 23 v. poorer hand-eye coordination (AAP, 1993);
- 24 vi. The incomplete development of the blood-brain barrier in
- 25 fetuses and in very young children (up to 36 months of age)
- 26

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27 <sup>3</sup> CSEM, p.1.

28 <sup>4</sup> *Id.*, p. 16.

- 1 increases the risk of lead's entry into the developing  
2 nervous system, which can result in prolonged or permanent  
3 neurobehavioral disorders;
- 4 vii. Children's renal, endocrine, and hematological systems may  
5 also be adversely affected by lead exposure.
- 6 g. There is **no known safe threshold exposure level** (as indicated  
7 by BLLs) for many of these effects. No blood lead threshold for  
8 adverse health effects has been identifie[d] in children.
- 9 h. Children suffer neurological effects at much lower exposure  
10 levels.
- 11 i. Neurological effects may begin at low (and, relatively  
12 speaking, more widespread) BLLs, at or below 10 µg/dL in  
13 some cases, and it may not be possible to detect them on  
14 clinical examination.
- 15 ii. Some studies have found, for example, that for every 10  
16 µg/dL increase in BLL, children's IQ was found to be lower  
17 by four to seven points. (Yule *et al.*, 1981; Schroeder *et al.*,  
18 1985; Fulton *et al.*, 1987; Landsdown *et al.*, 1986; Hawk *et*  
19 *al.*, 1986; Winneke *et al.*, 1990 as cited in AAP 1993).
- 20 iii. There is a large body of evidence that associates decrement  
21 in IQ performance and other neuropsychological defects  
22 with lead exposure.
- 23 iv. There is also evidence that attention deficit hyperactivity  
24 disorder (ADHD) and hearing impairment in children  
25 increase with increasing BLLs, and that lead exposure may  
26 disrupt balance and impair peripheral nerve function.  
27 (ATSDR 2005).

28 ///

1 v. Some of the neurological effects of lead in children may  
2 persist into adulthood.<sup>5</sup>

3 22. Several States have specifically recognized the dangers posed by lead.  
4 For example, in California, lead was one of the first items placed in the Governor's  
5 list of chemicals known to the State of California to cause reproductive toxicity on  
6 February 27, 1987. It is specifically identified under three subcategories:  
7 "developmental reproductive toxicity," which means harm to the developing fetus,  
8 "female reproductive toxicity," which means harm to the female reproductive system,  
9 and "male reproductive toxicity," which means harm to the male reproductive  
10 system. (Cal. Code Regs., tit. 22, §12000, subd. (c)) "Lead and lead compounds"  
11 was placed in the Governor's list of chemicals known to the State of California to  
12 cause cancer on October 1, 1992. (Cal. Code Regs., tit. 22, §12000, subd. (b))

13 23. The Colorado Department of Public Health and Environment conducted  
14 a survey of blood lead levels among children during 1995 and published its Final  
15 Report entitled "Denver Childhood Blood Lead Survey" in January, 1996, in which  
16 the Department recognized potential adverse health effects to children associated with  
17 exposure to lead, including:

- 18 a. "Lead is a poison that affects virtually every system in the body."
- 19 b. "It is particularly harmful to the developing brain and nervous  
20 system of fetuses and young children."
- 21 c. "Lower levels cause adverse effects on the central nervous system,  
22 kidney, and hematopoietic system."
- 23 d. "Blood lead levels as low as 10 µg/dL, which do not cause  
24 distinctive symptoms, are associated with decreased intelligence  
25 and impaired neurobehavioral development."

26 ///

27  
28 <sup>5</sup> *Id.*, pp. 18 – 31 [emphasis added].

1 e. “Many other effects begin at these low blood lead levels,  
2 including decreased stature or growth, decreased hearing acuity,  
3 and decreased ability to maintain a steady posture.”

4 24. New Jersey’s Department of Health and Senior Services has published a  
5 Right to Know Hazardous Substance Fact Sheet that states in part:

6 a. Lead can affect you when inhaled or swallowed.

7 b. Lead is a CARCINOGEN and may be a TERATOGEN[...].

8 c. Lead may damage the nervous system.

9 d. Exposure may cause kidney and brain damage, and anemia.

10 e. Lead is a PROBABLE CARCINOGEN in humans and may be a  
11 TERATOGEN in humans. There may be no safe level of  
12 exposure to a carcinogen, so all contact should be reduced to the  
13 lowest possible level.

14 f. Lead is a PROBABLE CARCINOGEN in humans. There is some  
15 evidence that Lead and Lead compounds cause lung, stomach,  
16 brain and kidney cancers in humans and they have been shown to  
17 cause kidney cancer in animals.

18 g. Many scientists believe there is no safe level of exposure to a  
19 carcinogen.

20 25. New York, Connecticut, and Georgia (among other States) also  
21 recognize that lead is hazardous.

22 **C. Defendant Either Was Aware or Reasonably Should Have Known the**  
23 **Food Products were Defective and Potentially Unsafe for Children.**

24 26. At all relevant times, Defendant was in a superior position (relative to  
25 consumers) to know, or reasonably should have known, that certain of its food  
26 products contained lead in amounts that could harm children and/or require a  
27 Proposition 65 warning.

28 ///

1           27. Defendant consistently promotes the quality and safety, excellence and  
2 reliability of its Products.

3           28. However, Defendant does not adequately disclose, if at all, the material  
4 fact that the Products contained lead or provided any clear and reasonable warning  
5 concerning the potential adverse health effects associated with ingestion of lead.

6           29. For example, Hain warrants and advertises on its Earth's Best® website:  
7 "Earth's Best produces food with the highest degree of attention to quality and safety.  
8 Each ingredient is tested for pesticides and potentially harmful residues. No product  
9 is released until our quality assurance department approves laboratory results,  
10 ensuring we meet the strict standards for organic certification."<sup>6</sup> As indicated by the  
11 presence of lead in the Products, however, Hain failed to properly test and screen the  
12 Products during and after the manufacturing process in a manner that ensures the  
13 Products were safe before placing the Products into the stream of commerce, and as a  
14 result, to the extent such Products contained lead sold adulterated and mislabeled  
15 food products to the consumer public targeted by such products, as that term is  
16 defined by, *inter alia*, Cal. Health & Safety Code §§110545 *et seq.* and 113732.

17 **D. Plaintiff's Allegations**

18           30. On personal knowledge, Plaintiff purchased the Products for herself and  
19 her child regularly during the class period from various stores, including Toys R Us  
20 and Ralph's, in Ventura County, California.

21           31. On personal knowledge, concerned about her child's safety having heard  
22 reports on the potential presence of lead in the Products, Plaintiff had a test conducted  
23 on her child for traces of lead. The first test was performed April 8, 2010 and  
24 resulted in a lead level of six (6) µg/dl. It is commonly accepted that lead poisoning  
25 occurs at levels above five (5) µg/dl. As a result of the test results, Plaintiff stopped  
26 feeding her baby products manufactured by Defendant. Subsequently, Plaintiff had  
27

28 <sup>6</sup> <http://www.earthsbest.com/why-earths-best/product-testing> (accessed 7/7/10).

1 another lead test conducted on June 14, 2010, which resulted in a significantly  
2 decreased lead level in her child of three (3) µg/dl.

3 32. As a result of Defendant's deceptive acts and practices, Plaintiff was  
4 misled into purchasing the Products, thereby resulting in her suffering injury in fact  
5 and a loss of money or property as a result of Defendant's conduct. Had adequate  
6 warnings concerning the presence and levels of lead in the Products been provided by  
7 Defendant in proximity to the placement of the Products, which they were not,  
8 Plaintiff would not have purchased the Products and would have been a substantial  
9 factor in her decision making process as to whether to purchase the Products.

10 **E. Defendant's Actionable Practices**

11 33. Defendant advertised, marketed, and caused to be packaged, labeled,  
12 distributed and sold Products that were intended to be consumed by children.

13 34. However, Defendant did not disclose the presence of lead in the  
14 Products in a clear and reasonable manner in its stores, even where it was obligated  
15 by the law to do so.

16 35. Defendant also did not disclose the presence of lead in the Products in  
17 any of the promotional or advertising materials it disseminated to the consuming  
18 public. Such conduct is on-going and continues to this date.

19 **V. CLASS ALLEGATIONS**

20 36. Pursuant to Fed.R.Civ.P. 23, Plaintiff brings this action on behalf of  
21 herself and a Class of persons comprised of all consumers who purchased the  
22 Products for personal, family or household purposes in California from Defendant  
23 during the past four years (the "Class").

24 37. Based on the annual sales of the Products, the number of purchasers of  
25 the Products would likely be in the many thousands, thereby making it so numerous  
26 that individual joinder is impossible. Questions of law and fact detailed herein are  
27 also common to all members of the Class. All Class members were and are similarly  
28 affected by having purchased the Products for their intended and foreseeable purpose

1 as promoted, marketed, advertise, packaged and labeled by Defendant and as set forth  
2 in detail above. Questions of law and fact common to the Class exist and  
3 predominate over questions affecting only individual members, including, *inter alia*:

- 4 (a) Whether Defendant's practices in connection with the  
5 manufacturing, marketing, distribution, and sale of the Products  
6 were illegal, deceptive or unfair in any respect, thereby violating  
7 California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof.  
8 Code §§17200, *et seq.*;
- 9 (b) Whether Defendant concealed the material risks associated with  
10 its marketing, distribution, and sale of the Products;
- 11 (c) Whether Defendant breached warranties in the sale of the  
12 Products;
- 13 (d) Whether Defendant's acts and practices in connection with the  
14 promotion, marketing, advertising, packaging, labeling and sale of  
15 the Products unjustly enriched Defendant at the expense of, and to  
16 the detriment of, Plaintiff and other Class members; and
- 17 (e) Whether Defendant's conduct as set forth above injured  
18 consumers and if so, the extent of such injury.

19 38. The claims asserted by Plaintiff in this action are typical of the claims of  
20 other Class members as her claims arise from the same course of conduct by  
21 Defendant as detailed above in terms of purchasing the Products without being aware  
22 of the material undisclosed fact of the presence of lead in such Products, and the  
23 relief she seeks for all Class members is common.

24 39. Plaintiff will fairly and adequately represent and protect the interests of  
25 the Class members. Plaintiff has retained counsel competent and experienced in both  
26 consumer protection and class action litigation.

27 40. Certification of this class action is appropriate under F.R.C.P. 23(b)(2)  
28 and (3) because the questions of law or fact common to the Class members as



1 detailed above predominate over questions of law or fact affecting only individual  
2 members. This predominance makes class litigation superior to any other methods  
3 available for the fair and efficient group-wide adjudication of these claims. Absent a  
4 class action remedy, it would be highly unlikely that other Class members would be  
5 able to protect their own interests because the cost of litigation through individual  
6 lawsuits would exceed any expected recovery. Certification is also appropriate  
7 because Defendant has acted or refused to act, and continues to act, on grounds  
8 generally applicable to the Class, thereby making appropriate final injunctive relief  
9 with respect to the Class as a whole. Further, given the large number of consumers of  
10 the Products, allowing individual actions to proceed in lieu of a class action would  
11 run the risk of yielding inconsistent and conflicting adjudications.

12 41. A class action is an appropriate method for the group-wide adjudication  
13 of this controversy in that it will permit a large number of claims to be resolved in a  
14 single forum simultaneously, efficiently, and without the unnecessary hardship that  
15 would result from the prosecution of numerous individual actions and the duplication  
16 of discovery, effort, expense and burden on the courts that such individual actions  
17 would engender. The benefits of proceeding as a class action, including providing a  
18 method for obtaining redress for claims that would not be practical to pursue  
19 individually, outweigh any difficulties that might be claimed with regard to the  
20 management of this action.

## 21 **VI. CAUSES OF ACTION**

### 22 **FIRST CAUSE OF ACTION**

#### 23 **(Violation of Cal. Bus. & Prof. Code §§17200, *et seq.*)**

24 42. Plaintiff repeats and realleges all preceding paragraphs as if fully set  
25 forth herein.

26 43. This cause of action is brought on behalf of Plaintiff pursuant to Cal.  
27 Bus. & Prof. Code §§17200, *et seq.*, which provides that “unfair competition shall  
28 mean and include any unlawful, unfair or deceptive business act or practice and

1 unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter  
2 I (commencing with this Section) as Part of the Division of the Business and  
3 Professions Code.” Defendant committed unfair business acts and/or practices as the  
4 utility of Defendant’s practices related to the marketing, distribution and sale of the  
5 Products without disclosing the material fact of the presence of lead in such  
6 Products, is negligible, if any, when weighed against the potential harm to the  
7 general public, Plaintiff, and members of the Class.

8 44. The harmful impacts upon members of the general public and members  
9 of the Class who purchased such Products for their intended and foreseeable purpose  
10 far outweighs any reasons or justifications by Defendant for its practices related to  
11 the marketing, and distribution of the Products, as set forth in detail above,  
12 particularly considering the reasonably available alternatives of disclosing the  
13 presence of lead. Disclosures of such material facts is tied to a legislatively declared  
14 policy adopted by the People of the State of California that compels the disclosure the  
15 presence of toxic chemicals in the products they consume or provide to their children  
16 for consumption.

17 45. The utilization of such unfair business acts and practices was and is  
18 under the sole control of Defendant, and was concealed from the general public such  
19 that it could not be reasonably discovered by them prior to the purchase and  
20 consumption of such Products.

21 46. As a purchaser and consumer of Defendant’s Products who was injured  
22 in fact and lost money or property as a result of the purchase of such Products absent  
23 disclosure of the material facts detailed herein, Plaintiff has standing to bring these  
24 claims seeking all available remedies under the UCL, including declaratory,  
25 injunctive, restitutionary and other equitable relief.

26 47. Defendant also committed unlawful and/or deceptive business acts or  
27 practices by failing to make known the presence of lead in its Products as set forth in  
28 detail above. Such conduct violates Proposition 65, and other provisions of the

1 Health and Safety Code including Cal. Health & Safety Code §§110545 *et seq.* and  
2 113732, the California Food, Drug and Cosmetic Act, including but not limited to  
3 Health & Safety Code §110620, *et seq.* and analogous laws that prohibit the sale of  
4 adulterated or misbranded food products, as well as principles or warranty that  
5 prohibit the sales of adulterated or mislabeled food products or products that would  
6 not pass without objection in the trade or industry. Such business acts and practices  
7 also have a capacity, tendency, and/or likelihood to deceive or mislead reasonable  
8 consumers in that such consumers had a good faith basis for believing the Products  
9 would not be disseminated for sale to the public without containing harmful  
10 chemicals, including lead.

11 48. Defendant's practices related to the marketing, distribution and sale of  
12 the Products in such manner as set forth in detail above, therefore constitute unlawful,  
13 unfair and/or deceptive business practices within the meaning of California Bus. &  
14 Prof. Code §§17200, *et seq.*

15 49. Pursuant to California Bus. & Prof. Code §17203, Plaintiff, on behalf of  
16 herself and members of the Class and for the benefit of the general public, seeks an  
17 order of this Court:

18 (a) Enjoining Defendant from continuing to engage, use, or employ  
19 any unlawful, unfair and/or deceptive business acts or practices  
20 related to the marketing, distribution and sale of the Products for  
21 the purpose of selling its Products without disclosing the material  
22 facts set forth in detail above; and

23 (b) Restoring all monies that have been acquired by Defendant as a  
24 result of its committing such unlawful, unfair and/or deceptive  
25 acts or practices.

26 50. Plaintiff and members of the Class and the general public may be  
27 irreparably harmed and/or denied an effective and complete remedy if such an order  
28 is not granted.



1 **THIRD CAUSE OF ACTION**

2 **(Assumpsit and Common Counts/Unjust Enrichment)**

3 57. Plaintiff repeats and realleges all preceding paragraphs, as if fully set  
4 forth herein.

5 58. By virtue of its sales of the Products, Defendant entered into a series of  
6 implied at law contractual obligations. In purchasing the Products, plaintiff and the  
7 Class members conferred a benefit on Defendant. Defendant has benefitted from its  
8 unlawful acts pursuant to those obligations by receiving excessive revenue derived  
9 from the sales of the Products. Defendant appreciated and/or knew the benefit of the  
10 receipt of such excessive revenue. This excessive revenue has been had and received  
11 by Defendant at the expense of Plaintiff and other members of the Class. Defendant  
12 under the circumstances detailed above retained such benefits at the expense of  
13 plaintiff and the class. Under such circumstances it would be unjust for Defendant to  
14 be permitted to retain such benefits.

15 59. The monies, revenues and profits derived from the sale of the Products  
16 were unlawfully had and received by Defendant to the detriment of Plaintiff and the  
17 Class. These excessive revenues and profits have been received by Defendant at its  
18 request based on the promotion of the Products based on and resulting from monies  
19 paid, laid out and expended by Plaintiff and other members of the Class, under  
20 circumstances in which it would be unjust for Defendant to be permitted to retain  
21 these benefits based on its misleading and deceptive conduct as detailed above.  
22 Defendant did not provide Plaintiff or other members of the Class what they  
23 bargained for, either explicitly or implicitly in terms of a product that was free from  
24 toxic chemical contaminants. The Products were worthless when compared to what  
25 Plaintiff and other members of the Class paid for them because the Products  
26 contained lead.

27 60. Plaintiff and other members of the Class are entitled to an order  
28 requiring Defendant to return all monies by which it was unjustly enriched and to the

1 establishment of a constructive trust consisting of the benefit conferred upon  
2 Defendant in the form of its excessive revenue derived from the sale of the Products  
3 from which Plaintiff and other Class members may make claims for restitution.

4 **FOURTH CAUSE OF ACTION**

5 **(Injunctive and Declaratory Relief)**

6 61. Plaintiff repeats and realleges all preceding paragraphs, as if fully set  
7 forth herein.

8 62. As set forth above, through the improper practices described above,  
9 Defendant has misrepresented the content of the Products to Plaintiff and other  
10 members of the Class.

11 63. A dispute has arisen between the parties as to the scope of their  
12 respective obligations, rights and responsibilities. Defendant's practices described  
13 herein are unlawful and against public policy. Therefore, Defendant's practices  
14 should be declared to be unlawful and Defendant should be prohibited and enjoined  
15 from engaging in these practices and from failing and refusing to pay full restitution  
16 and damages, as warranted under the law.

17  
18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays for judgment as follows, as applicable to the  
20 particular Cause of Action:

21 (a) Certification of the Class, certifying Plaintiff as representative of the  
22 Class, and designating her counsel as counsel for the Class;

23 (b) For a declaration that Defendant has committed the violations of law  
24 alleged herein;

25 (c) For an injunction prohibiting Defendant from engaging in the conduct  
26 alleged herein;

27 (d) For damages based on the violations of law alleged herein, the amount of  
28 which is to be determined at trial;


- 1 (e) For restitution;
- 2 (f) For all other available forms of equitable monetary relief;
- 3 (g) For pre- and post-judgment interest at the legal rate on the foregoing
- 4 sums; and
- 5 (h) For such further relief as this Court may deem just and proper.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff demands a trial by jury on all claims so triable.

8 DATED: December 21, 2010

THE CONSUMER LAW GROUP

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22 (*pro hac vice* pending)

23 Attorneys for Plaintiff  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge George H. Wu and the assigned discovery Magistrate Judge is Jacqueline Chooljian.

The case number on all documents filed with the Court should read as follows:

**CV10- 9900 GW (JCx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



Name & Address:

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NICOLE CRAWFORD, on behalf of herself and all  
others similarly situated,

PLAINTIFF(S)

v.

THE HAIN CELESTIAL GROUP, INC., and DOES  
1-10, inclusive,

DEFENDANT(S).

CASE NUMBER

CV 10 9900 - GLE JCA

SUMMONS

TO: DEFENDANT(S): THE HAIN CELESTIAL GROUP, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Alan M. Mansfield, whose address is 9466 Black Mountain Road, Suite 225, San Diego, CA 92126. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 23 DEC 2010

By: Marilyn Auer  
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT CALIFORNIA**  
**CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
 If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
 If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Ventura	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Delaware and New York

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
All counties throughout California	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): *Anthony Marshall* Date December 21, 2010

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))