

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 8/30/2021

NICOLE STEWART, on behalf of themselves and all
others similarly situated, et al.,

Plaintiffs,

-against-

NURTURE, INC.

Defendant.

1:21-cv-1217-MKV

ORDER

STEPHANIE SOTO, individually and on behalf of all
others similarly situated,

Plaintiff,

-against-

NURTURE, INC.

Defendant.

1:21-cv-1271-MKV

NITA JAIN, individually and on behalf of all others
similarly situated,

Plaintiff,

-against-

NURTURE, INC., d/b/a Happy Family Brands,

Defendant.

1:21-cv-1473-MKV

JODI SMITH, Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

-against-

NURTURE, INC.,

Defendant.

1:21-cv-1534-MKV

LILLIAN HAMPTON et al.,

Plaintiffs,

-against-

NURTURE, INC., d/b/a Happy Family Organics and
Happy Baby Organics,

Defendants.

1:20-cv-1882-MKV

AMY WESTIN, individually and on behalf of all
others similarly situated,

Plaintiff,

-against-

NURTURE, INC., d/b/a Happy Family Brands,

Defendant.

1:21-cv-2101-MKV

JESSICA STROBEL, individually and on behalf of all
others similarly situated,

Plaintiff,

-against-

NURTURE, INC., d/b/a Happy Family Brands,

Defendant.

1:21-cv-2129-MKV

TIFFANIE SKIBICKI, individually and on behalf of
all others similarly situated,

Plaintiff,

-against-

NURTURE, INC., d/b/a Happy Family Organics, and
Does 1 through 10, inclusive,

Defendants.

1:21-cv-2553-MKV

ANGELA GUTIERREZ, individually and on behalf
of all others similarly situated,

Plaintiff,

-against-

NURTURE, INC.,

Defendant.

1:21-cv-3499-MKV

ALYSE GOTHOT, on behalf of herself and all others
similarly situated,

Plaintiff,

-against-

NURTURE, INC., d/b/a Happy Family Brands,

Defendant.

1:21-cv-4997-MKV

CHARLES ROBBINS, individually and on behalf of
all others similarly situated,

Plaintiff,

-against-

NURTURE, INC., d/b/a Happy Family Brands, d/b/a
Happy Family Organics,

Defendant.

1:21-cv-5344-MKV

ERIK LAWRENCE, on behalf of herself and all
others similarly situated, et al.,

Plaintiffs,

-against-

NURTURE, INC.

Defendant.

1:21-cv-5748-MKV

MYJORIE PHILIPPE, on behalf of herself and all
others similarly situated, et al.,

Plaintiffs,

-against-

NURTURE, INC.

Defendant.

1:21-cv-6632-MKV

EDELIN ALTUVE, individually, and on behalf of all
others similarly situated, et al.,

Plaintiffs,

-against-

NURTURE, INC.,

Defendant.

1:21-cv-6678-MKV

ERIN SPENCER, on behalf of herself and a class of
others similarly situated,

Plaintiff,

-against-

NURTURE INC., a New York corporation,

Defendant.

1:21-cv-6861-MKV

CAITLIN WILLIAMS, individually and on behalf of
all others similarly situated,

Plaintiff,

-against-

NURTURE INC. et al.,

Defendants.

1:21-cv-6918-MKV

MARY KAY VYSKOCIL, United States District Judge:

WHEREAS, there are currently sixteen (16) putative class actions pending in this District alleging violations of various state statutes and common law based on the same or similar facts and issues of law filed against Nurture, Inc. (“Nurture” or “Defendant”).

WHEREAS, the Court held a conference in the sixteen above-referenced cases on August 27, 2021, at which Nurture consented and no Plaintiff objected to consolidation of these actions.

WHEREAS, entry of this Order will promote judicial economy, avoid duplicative motion and discovery proceedings and streamline adjudication of related matters.

IT IS HEREBY ORDERED THAT:

1. Other than as described in paragraph two (2) below, the sixteen (16) above-referenced actions, only to the extent they name Nurture as the sole baby food manufacturer defendant, are hereby consolidated before the Honorable Mary Kay Vyskocil and shall hereafter be identified as: *In re Nurture Baby Food Litigation*, Master File No. 1:21-cv-01217-MKV (the “Consolidated Actions”).

2. Any and all personal injury and product liability claims for damages for bodily injuries (collectively, the “Personal Injury Claims”) asserted against Nurture in the above-captioned actions and any future actions, if any, shall not be asserted in the Consolidated Actions; instead, any and all such Personal Injury Claims against Nurture that arise out of the same or similar facts as alleged in the Consolidated Actions shall proceed separately.

3. Any actions asserting consumer protection type claims against Nurture hereafter filed in, or transferred or removed to, this District which arise out of the same or similar facts—namely, allegations that Nurture’s baby food products are and were tainted with toxic heavy metals—shall, when the Court is apprised of them, and the case is assigned to me, be consolidated for all purposes with the Consolidated Actions, to the extent such cases allege consumer protection type claims against Nurture.

4. The parties shall notify the Court of any other action which is pending or filed outside of this District which may be related to the subject matter of the Consolidated Actions and/or the Personal Injury Claims if and when they become aware of such actions.

5. To the extent they are deemed related and/or are otherwise assigned to me, absent further Order of the Court, any cases asserting Personal Injury Claims hereafter filed in, or transferred or removed to, this District which arise out of the same or similar facts shall be consolidated or coordinated with each other (and not the Consolidated Actions), as appropriate, with any other action alleging Personal Injury Claims against Nurture only to the extent they contain Personal Injury Claims, and discovery and other pretrial proceedings in those cases shall proceed separately.

6. Every pleading in *In re Nurture Baby Food Litigation*, Master File No. 1:21-cv-01217-MKV, shall bear the following caption:

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re NURTURE BABY FOOD LITIGATION)	
)	Master File No.: 1:21-cv-01217-MKV
)	
)	
This Document Relates To:)	

7. When a pleading is intended to be applicable to all actions to which this Order is applicable, the words “All Actions” shall appear immediately after the words “This Document Relates to:” in the caption set out above. When a pleading is intended to be applicable only to some, but not all, of such actions, this Court’s docket number for each individual action to which the pleading is intended to be applicable and the last name of the first-named plaintiff in said action shall appear immediately after the words “This Document Relates to:” in the caption described above.

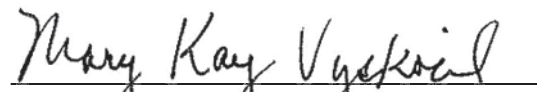
8. The deadline for the filing of any motions in the Consolidated Actions seeking interim lead counsel appointment pursuant to Fed. R. Civ. P. 23(g) is September 28, 2021. Omnibus papers in response to the Fed. R. Civ. P. 23(g) motions shall be filed on or before October 19, 2021. The deadline for the filing of any reply briefs is October 26, 2021.

9. Absent further Order of the Court, the deadline for the filing of a consolidated complaint in the Consolidated Actions is sixty (60) days following the entry of an order under Fed. R. Civ. P. 23(g). The deadline for the filing of Defendant's response to the consolidated complaint is forty-five (45) days after the filing of the consolidated complaint. The Court GRANTS Defendant leave to file a motion to dismiss the consolidated complaint and waives the requirement in the Court's Individual Practice Rules that Defendant file a letter requesting a pre-motion conference. Should Defendant move to dismiss the consolidated complaint, the deadline for the filing of Plaintiffs' papers in opposition is forty-five (45) days following the filing of the motion to dismiss. Defendant's reply papers shall be filed twenty-one (21) days after the filing of Plaintiffs' opposition papers.

10. The parties shall consult the Court's Individual Practice Rules and ensure compliance therewith. **Failure to comply with the deadlines or other terms of this Order may result in sanctions, including preclusion or dismissal of claims or defenses.**

SO ORDERED.

Date: August 30, 2021
New York, NY



MARY KAY VYSKOCIL
United States District Judge