

## Organic Valley Takes Calves From Cows, False Ad Suit Says

By **Gina Kim**

Law360 (July 20, 2022, 7:48 PM EDT) -- Farmer-owned cooperative Organic Valley has been hit with a proposed class action in California by an Oroville woman accusing the dairy giant of falsely claiming that its products are made with the highest standards of animal care practices, when in reality it prematurely separates calves from their mothers.

According to the **34-page complaint** filed Tuesday in Alameda County Superior Court by the PETA Foundation and attorneys from Schonbrun Seplow Harris Hoffman & Zeldes LLP on behalf of customer Amber Takahashi-Mendoza, Organic Valley deceives customers into buying its dairy products at a premium price by falsely claiming on its product labels that it treats their cows "with love."



Organic Valley faces a proposed class action filed by a California woman and the PETA Foundation in Alameda County Superior Court. The complaint accuses the dairy company of using inhumane and cruel practices by separating calves from their mothers before natural weaning occurs. (Court Documents)

In reality, Organic Valley employs the practice of prematurely separating newborn calves from their mothers, who have been seen struggling against the removal of their calves, and crying and chasing after them, according to the suit.

Takahashi-Mendoza also accused Organic Valley of isolating calves without allowing them to socialize or receive natural stimulation. Calves that are isolated and housed in individual hutches remain there until they reach an appropriate age where they can rejoin the herd, get pregnant and produce milk, the suit states.

Organic Valley is also accused of depriving newborn calves of adequate milk, which often is associated with poor growth and chronic hunger and is why third-party animal welfare standards for cows used in dairy production often instruct sellers not to wean them until they reach an appropriate age, Takahashi-Mendoza alleged.

"These practices are not 'humane' and do not comport with established 'highest standards' of animal care 'above and beyond other standards' — including provision of 'social' settings — that defendant touts on its labels, but instead, renders them false and misleading to reasonable consumers such as plaintiff," Tuesday's filing states. "This is especially true given the context of the representations — including, for example, cartons showing a mother cow and calf together in an open field, in direct contrast to defendant's actual practices."

According to the complaint, Organic Valley, headquartered in La Farge, Wisconsin, is one of the world's biggest organic dairy sellers. The company distributes and sells its dairy products in all 50 states and exports them to 25 countries. Organic Valley made \$1.1 billion in annual sales and more than \$1.2 billion in recorded sales for 2020, the suit states.

The company capitalizes on the increasing demand in the dairy production market among customers who want humane alternatives and humane treatment of dairy animals, Takahashi-Mendoza alleged.

Takahashi-Mendoza said she pays extra for certain dairy brands to ensure that she is supporting companies that utilize humane husbandry and high standards of animal care. She said she relied on Organic Valley's representations on its product labels that it is committed to the highest levels of animal care practices in its dairy production.

Organic Valley's milk cartons include statements such as "Cows are social and so are we," "We hold ourselves to the highest standards," "Organic Valley Farms are growing real food the right way" and "Organic Valley raises cows with love," according to the complaint. The phrases on the cartons are often accompanied by idyllic imagery of human parents with their own children in green pastures, the suit states.

"Defendant's representations misled plaintiff into believing defendant does not engage in needless, inhumane cruelty toward farmed animals, such as by separating cow mothers and babies within days or hours of birth, or by raising calves in a manner that deprives them of vital social bonding, health and natural sustenance, or by engaging in practices beneath the requirements of other prominent third-party animal welfare standards," the suit states.

One prominent animal-welfare certifier recommended allowing calves to remain with their mothers until natural weaning occurs, Takahashi-Mendoza alleged. To reach the top two tiers of another certifier's six levels of certification, sellers must let calves remain with their mothers for at least 168 days or let them be fostered with another nursing cow, according to the suit.

The practice of early separation of cows from their calves results in serious physical, emotional and mental health issues, illness and suffering, especially because calves form strong emotional connections immediately after birth and newborns are dependent on their mothers, the suit states.

There is nothing to justify Organic Valley's practices, and there are alternatives to separation, including methods in which cows and their calves have unlimited access to one another or at least daily contact, the suit states.

Takahashi-Mendoza and the proposed class of customers seek compensatory and exemplary damages and disgorgement of profits against Organic Valley for violating California's Legal Remedies Act and Unfair Competition Law for its allegedly unlawful, unfair and fraudulent business practices.

Takahashi-Mendoza also wants the court certify a class consisting of California residents who bought Organic Valley dairy products for which the company claimed to use the highest humane husbandry practices, and seeks appoint herself as class representative and her attorneys as class counsel.

The customers seek declaratory judgment finding that Organic Valley violates California's statutes by depriving calves of adequate milk, isolating and separating them from their mothers before natural weaning. They also want the court to stop Organic Valley from stating on its labels and advertisements that it employs humane practices and to stop the company from continuing isolation and early separation practices.

Representatives for Organic Valley did not immediately respond to inquiries for comment Wednesday afternoon.

The customers are represented by Helen I. Zeldes, Joshua A. Fields and Aya Dardari of Schonbrun Seplow Harris Hoffman & Zeldes LLP, and Asher Smith and Tala DiBenedetto of the PETA Foundation.

The case is Takahashi-Mendoza v. Cooperative Regions of Organic Producer Pools et al., case number 22-cv-014564, in the Superior Court of California, County of Alameda.

--Editing by Rich Mills.