# Wigdor LLP & PETA Foundation Attorneys File Landmark Consumer Fraud Class Action Lawsuit Against Nellie's Free Range Eggs

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On March 6, 2019, attorneys at Wigdor LLP and the PETA Foundation together filed a proposed Class Action lawsuit alleging claims of consumer fraud against Nellie's Free Range Eggs and its parent company, Pete and Gerry's Organics (together, "Nellie's"). Nellie's is one of the largest distributors of eggs from free-range laying hens in the United States and sells eggs at large retailers such as Walmart and Whole Foods.

The Complaint alleges that Nellie's engages in unlawful and fraudulent consumer practices by intentionally misrepresenting to the public that it provides eggs from laying hens that are raised humanely — with adequate access to the outdoors and space to engage in natural, instinctive behaviors. As alleged, Nellie's false advertising led Plaintiffs to believe that by paying a premium price for Nellie's eggs, they were making an ethical purchasing decision that supported the humane treatment of farm animals.

## Nellie's Falsely Advertises on its Egg Cartons and on its Website

As alleged in the Complaint, Nellie's makes claims on its egg cartons such as "WE LOVE OUR HENS, YOU'LL LOVE OUR EGGS," "BETTER LIVES FOR HENS MEANS BETTER EGGS FOR YOU" and "BLUE SKY ABOVE, GREEN GRASS BELOW. JUST LIVIN' THE DREAM," alongside images of hens frolicking in lush, open fields:The lawsuit alleges that if consumers have any doubts about Nellie's treatment of hens, Nellie's egg cartons invite them to visit Nellie's website to learn more. According to the Complaint, a consumer visiting Nellie's website in the past year would find messaging and imagery similar to those displayed on Nellie's egg cartons — hens enjoying happy, stress-free lives and the ability to socialize with other hens in open, green pastures:

## The Reality of Life as a Chicken on a Nellie's Free Range Farm

As alleged, contrary to Nellie's claims on its egg cartons and on its website, eyewitness footage from a Nellie's egg supplier obtained by People for the Ethical Treatment of Animals (PETA) showed around 20,000 hens crammed into a single crowded shed with severely restricted access to the outdoors — which they could reach only by fighting their way to small hatchways. According to the Complaint, the hens had just 1.2 square feet of floor space each, barely larger than their bodies, and the tips of their beaks were seared or cut off to prevent aggressive behavior and cannibalism caused by crowding stress.

The Complaint further alleges that Nellie's condones its suppliers killing all male newborn chicks. After Nellie's has prematurely depleted hens of calcium after only 13 months of egg-laying, it sells the hens to be gathered up and to be killed, scared and in pain, at slaughterhouses and live markets alongside their supposedly less fortunate factory-farmed peers, according to the lawsuit.

In the fall, PETA released a reaction video in which Whole Foods shoppers who had bought Nellie's eggs watched PETA's eyewitness footage. Responses included "betrayed," "false advertising," "really deceptive," "disgusting" and "another big lie."Plaintiffs in the Class Action are seeking injunctive relief, including by requiring Nellie's to cease its unlawful deceptive practices, as well as compensatory and punitive damages.

Plaintiffs are represented by Wigdor LLP Partner Jeanne M. Christensen, and PETA Foundation Litigation Counsel Asher Smith.

Statement of Jeanne M. Christensen, Partner at Wigdor LLP:

> "The sale of eggs generates billions of dollars annually. Consumers pay a premium for eggs they believe come from laying hens subjected to humane treatment with labels such as 'free-range' and 'cage-free.' This proposed class action lawsuit is against the largest producers of advertised "free-range" eggs in the country — Pete and Gerry's Organics and Nellie's Free Range Eggs — that advertise that their laying hens are treated humanely. As the allegations show, consumers are buying eggs from an egg producer that subjects its laying hens to horrific conditions. This lawsuit is filed to hold Nellie's accountable for its betrayal of both consumers and the hens that are suffering from unnecessary pain and distress."

PETA is a globally-recognized nonprofit animal rights organization that has won landmark victories to help combat the abuse of animals. The PETA Foundation provides general and administrative support to PETA and other charitable animal protection organizations.

Read the Full Complaint Here

**ABC News**
*"Proposed class-action lawsuit filed against Nellie's eggs over 'free range' label"*
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**New York Business Journal**
*"Nellie's hens are mistreated and eggs aren't free-range, lawsuit says"*

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**The Guardian**
*"Free-range eggs producer accused of deceiving US consumers"*
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**New York Post**
*"'Free Range Eggs' actually cooped up: lawsuit"*
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