IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
District Judge S. Kato Crews

Civil Action No. 1:25-cv-01425-SKC-CYC

STACY TYMAN, *et al.*,

Plaintiffs,

v.

CCRM PARENT HOLDINGS, INC., *et al.*,

Defendants.

ORDER

Before the Court is Defendants' Motion to Dismiss (Dkt. 12). Plaintiffs filed a Response (Dkt. 27) and Defendants filed a Reply (Dkt. 28). As discussed in detail below, the Court finds that Plaintiffs do not have standing,[1] so the Motion to Dismiss is GRANTED.

BACKGROUND

Defendants market and sell PGT-A testing as an add-on to people going through the in vitro fertilization (IVF) process. Dkt. 2, ¶9. PGT-A testing "purports to screen embryos for chromosomal abnormalities to determine which embryos are

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[1] Defendants articulate a variety of reasons why the Complaint should be dismissed, but because the Court agrees the Plaintiffs do not have standing, it will not address any other arguments.

'euploid' or best suited for implantation and which embryos are 'aneuploid' or abnormal and not suited for implantation." *Id.* Plaintiffs allege Defendants made false and misleading statements regarding the testing, including that PGT-A: (1) has some of the highest success rates in the nation, (2) significantly reduces the risk of miscarriage (less than 5%), (3) increases live birth rates, (4) increases the chances of successful pregnancy, (5) delivers the highest rate of chromosomally normal embryos, (6) provides the fastest path to a successful live birth, and (7) is 95-98% accurate. *Id.* at ¶¶196, 199–238.

The named Plaintiffs all purchased and used PGT-A testing. *Id.* at ¶¶265, 268, 271. They allege they would not have purchased PGT-A testing absent Defendants' false and misleading representations. *Id.* at ¶¶ 266, 269, 272. Plaintiffs do not allege the PGT-A testing they received operated contrary to the marketed benefits. For example, no Plaintiff alleges they suffered a miscarriage or had an inaccurate test.

Plaintiffs asserted numerous causes of action on behalf of themselves and others similarly situated. The Plaintiffs identify three classes: (1) the Nationwide Class, (2) the Colorado Class, and (3) the New York Class. The classes consist of people who have purchased PGT-A testing from Defendants in the United States, Colorado, or New York. *Id.* at ¶¶273–278.

LEGAL PRINCIPLES

Article III standing is a "bedrock constitutional requirement."[2] *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 378 (2024) (quoting *United States v. Texas*, 599 U.S. 670, 675 (2023)). Article III of the Constitution limits federal courts' jurisdiction to cases and controversies. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 337 (2016).

To possess Article III standing, a plaintiff must have suffered an (1) injury in fact that is (2) fairly traceable to the defendant's challenged conduct and is (3) likely to be redressed by a favorable judicial decision. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). These requirements are an "essential and unchanging part of the case-or-controversy requirement of Article III." *Id.* at 560. And they help to ensure that a plaintiff is not "a mere bystander, but instead [has] a 'personal stake' in the dispute." *All. for Hippocratic Med.*, 602 U.S. at 379 (quoting *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021)).

An injury in fact is "a harm suffered by the plaintiff that is concrete and actual or imminent, not conjectural or hypothetical." *Hutchinson v. Pfeil*, 211 F.3d 515, 521

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[2] Defendants purport to bring their entire Motion under Rule 12(b)(6), and while this is not the proper vehicle to bring a challenge to standing, "[b]ecause standing 'raises jurisdictional questions,' it cannot be waived, and 'we are required to consider the issue sua sponte to ensure that there is an Article III case or controversy before us.'" *Hudson v. Boppy Co., LLC*, No. 24-1322, 2025 WL 1806182, at *4 (10th Cir. July 1, 2025) (quoting *Rector v. City & Cnty. of Denver*, 348 F.3d 935, 942 (10th Cir. 2003)). In addition, Defendants raised the standing argument in their Motion and Plaintiffs had a full and fair opportunity to address the issue. Thus, the Court considers whether Plaintiffs have standing.

(10th Cir. 2000). In the class action context, the named plaintiff(s) "must allege and show that they personally have been injured, not that injury has been suffered by other, unidentified members of the class to which they belong and which they purport to represent." *Warth v. Seldin*, 422 U.S. 490, 502 (1975).

ANALYSIS

Defendants argue that Plaintiffs have not suffered an injury in fact because they "fail to allege ***their*** PGT-A tests were inaccurate or that they received services that did not meet the applicable standard of care." Dkt. 12, ECF p.25 (emphasis in original). Plaintiffs argue they were denied the benefit of their bargain as "PGT-A testing did not confer the various benefits that Defendants advertised." Dkt. 27, ECF p.18.

The Tenth Circuit has "never fully embraced or rejected a 'benefit of the bargain' theory of injury in fact for purposes of Article III standing." *Hudson,* 2025 WL 1806182, at *4. Other courts have, however, so this Court considers them for their possible persuasive utility. Under the benefit of the bargain theory of injury, "the economic injury is calculated as the difference in value between what was bargained for and what was received." *Huertas v. Bayer US LLC*, 120 F.4th 1169, 1174 (3d Cir. 2024). But

> [a] plaintiff alleging an economic injury as a result of a purchasing decision must do more than simply characterize that purchasing decision as an economic injury. The plaintiff must instead allege facts that would permit a factfinder to determine, without relying on mere conjecture, that the plaintiff failed to receive the economic benefit of her bargain.

In re Johnson & Johnson Talcum Powder Litig., 903 F.3d 278, 281 (3d Cir. 2018).

Even after a court has determined that plaintiffs have plausibly alleged an economic injury, the court "must still determine whether they sufficiently alleged that *their* products were defectively manufactured." *Huertas*, 120 F.4th at 1178 (emphasis in original). This is because "allegations that a product is [flawed] as to others are not relevant to determining whether named plaintiffs have standing themselves." *Klosowski v. FPG Labs, LLC*, No. 24-1210 (MN), 2025 WL 2532500, at *3 (D. Del. Sept. 3, 2025); *see also Lujan*, 504 U.S. at 563 ("[T]he 'injury in fact' test requires more than an injury to a cognizable interest. It requires that the party seeking review be himself among the injured."); *In re Recalled Abbott Infant Formula Prods. Liab. Litig.*, 97 F.4th 525, 529 (7th Cir. 2024) ("Plaintiffs' claimed injury is also not particularized because they do not allege that any of the products they purchased were contaminated.").

A court in the District of Delaware addressed a nearly identical case as the one before this Court and concluded the plaintiffs did not have standing. *See Klosowski*, 2025 WL 2532500, at *4. In *Klosowksi*, the complaint provided studies that purported to undermine the scientific efficacy of PGT-A testing; however, the complaint did not allege that any of the plaintiffs "failed to become pregnant, suffered a miscarriage, or experienced a medically compromised pregnancy – notwithstanding [Defendant's] alleged marketing statements that PGT-A mitigates all of those problems." *Id.* at *3. The court held: "[B]ecause the Complaint lacks 'any allegation that Plaintiffs received

a product that failed to work for its intended purpose or was worth objectively less than what one could reasonably expect, they have not demonstrated a concrete injury-in-fact.'" *Id.* (quoting *Koronthaly v. L'Oreal USA, Inc.*, 374 F. App'x 257, 259 (3d Cir. 2010)).

The Court finds the reasoning from the Third Circuit and *Klosowksi* persuasive. While Plaintiffs point to studies that allegedly undermine the marketing claims made by Defendants, they make no allegations that they suffered any injury because of the alleged false advertising beyond simply purchasing PGT-A testing. For example, none of the Plaintiffs allege that their PGT-A testing was inaccurate, or that they failed to become pregnant or suffered a miscarriage. Because Plaintiffs have not alleged an injury they personally suffered because of PGT-A testing, they have not demonstrated an injury in fact and lack Article III standing.

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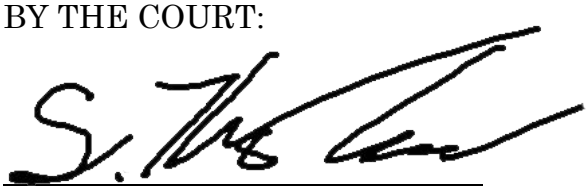
For the reasons shared above, Defendants' Motion to Dismiss (Dkt. 12) is GRANTED, and Plaintiffs' Complaint (Dkt. 2) is DISMISSED WITHOUT PREJUDICE.

Dated: June 17, 2026

BY THE COURT:



S. Kato Crews
United State District Judge