

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: ABBOTT LABORATORIES, ET AL.,
PRETERM INFANT NUTRITION PRODUCTS
LIABILITY LITIGATION**

This Document Relates to:

ALL CASES

MDL 3026

Master Docket No. 1:22-cv-00071

Judge Rebecca R. Pallmeyer

CASE MANAGEMENT ORDER NO. 14

CMO 14 (CENSUS ORDER)

Hundreds of cases are now part of this Multi-District Litigation, in which Plaintiffs allege that infant formula manufactured by Defendants caused premature infants to develop necrotizing enterocolitis (NEC). To facilitate the court's active and effective case management and promote the possibility of early resolution, the court hereby orders Plaintiffs to provide additional information as directed in this Order.

I. SCOPE OF ORDER

Except as noted below, this Order shall apply to any and all filed plaintiffs and unfilled claimants represented by any attorney of record in: (a) all actions transferred to *IN RE: ABBOTT LABORATORIES, ET AL., PRETERM INFANT NUTRITION PRODUCTS LIABILITY LITIGATION* ("MDL 3026") by the Judicial Panel on Multidistrict Litigation ("JPML") pursuant to its Order on April 8, 2022; (b) all related actions originally filed in or removed to this Court; (c) any "tag-along" actions transferred to this Court (collectively, "the Proceedings"); and (d) all other actions over which this Court has jurisdiction to compel the within. In addition, this Order is binding on all Parties and their counsel in all cases currently pending or subsequently made part of MDL 3026 and shall govern each such case and claim in MDL 3026.

THE OBLIGATIONS IN THIS ORDER DO NOT APPLY TO CASES IN WHICH AN ABBOTT ENTITY (ALL ABBOTT ENTITIES HEREINAFTER COLLECTIVELY REFERRED TO AS “ABBOTT”) IS NOT A NAMED DEFENDANT OR TO UNFILED CASES IN WHICH ABBOTT IS NOT A PRESUMED DEFENDANT.

The obligation to complete and submit an MDL Census Form and/or a Non-MDL Census Form shall be the sole obligation of the individual attorney representing their respective individual Plaintiff and/or Claimant.

The MDL Census Form and Non-MDL Census Form submissions are not discovery mechanisms and will not be used for any purpose in litigation in this MDL or any other litigation.

II. MDL CENSUS FORM AND NON-MDL CENSUS FORM

A. MDL 3026 cases in which a PPF has been filed and served: For each case that is currently pending in MDL 3026 in which Abbott is a named defendant and in which a Plaintiff Profile Form has been completed and served on Defendants, an MDL Census Form shall be completed by counsel for the Plaintiff in each such case. The MDL Census Form shall be completed via a secure web-form with the required substantive fields and documents to produce set forth and identified in the attached Exhibit A. All MDL Census Forms shall be completed in accordance with the schedule set forth in Section III below.

B. MDL 3026 cases in which a PPF has not been filed and served: For each case that is currently pending in MDL 3026 in which Abbott is a named defendant and in which a Plaintiff Profile Form (“PPF”) has not been completed and served on Defendants,¹ a PPF and an MDL Census Form shall be completed by counsel for the Plaintiff in each such case. The MDL Census Form shall be completed via a secure web-form with the required substantive fields and

¹ CMO 7 (ECF No. 190) sets out the requirements and procedure for completing and serving a Plaintiff Profile Form (“PPF”). CMO 7 remains in full force and effect in all cases filed in MDL 3026. Plaintiffs with cases pending in this MDL may be subject to a Motion to Show Cause for failure to timely and properly complete and submit the PPF.

documents to produce set forth and identified in the attached Exhibit A. All MDL Census Forms shall be completed in accordance with the schedule set forth in Section III below.

C. All other Preterm Infant Nutrition NEC cases: In addition to II.A. and II.B. above, in accordance with the schedule set forth in Section III below, Plaintiffs' Counsel shall:

1. Complete and submit a Non-MDL Census Form for every individual who Plaintiffs' Counsel currently represents who is not a Plaintiff in MDL 3026, and who alleges necrotizing enterocolitis ("NEC") related to Abbott's preterm infant nutrition products as of the date of entry of this CMO (regardless of whether such individual has filed a case or not). The Non-MDL Census Form shall be completed via a secure web-form with the required substantive fields and documents to produce set forth and identified in the attached Exhibit B. All Non-MDL Census Forms shall be completed in accordance with the schedule set forth in Section III below.
2. Complete and submit a Non-MDL Census Form for each Claimant or Plaintiff who Plaintiffs' Counsel is retained to represent anytime in the future, or who is otherwise in Plaintiffs' Counsel's inventory of potential future Plaintiffs or Claimants alleging necrotizing enterocolitis ("NEC") related to Abbott's preterm infant nutrition products ("Future Claimant"). The Non-MDL Census Form shall be completed via a secure web-form with the required substantive fields and documents to produce set forth and identified in the attached Exhibit B. All Non-MDL Census Forms shall be completed in accordance with the schedule set forth in Section III below.

D. The MDL Census Forms and Non-MDL Census Forms shall be completed without objections to the questions posed therein.

III. DEADLINE FOR SERVICE OF MDL CENSUS FORMS AND NON-MDL CENSUS FORMS

A. Cases Pending in MDL 3026

1. For all cases currently pending in MDL 3026 in which Abbott is a named defendant ("MDL 3026 Plaintiffs") in which PPFs have been completed and served on Defendants, an MDL Census Form for each Plaintiff shall be completed and submitted no later than thirty (30) days after the entry of Amended CMO 14 (see Section E below). If Plaintiffs are unable to sign the MDL Census Form within that time period, their counsel shall submit the MDL Census Form without signature no later than thirty (30) days after the entry of Amended CMO 14 (see Section E below) and shall submit the signature (which may be electronic) no later than sixty (60) days after the entry of Amended CMO 14 (see Section E below).
2. For all cases currently pending in MDL 3026 in which Abbott is a named defendant ("MDL 3026 Plaintiffs") in which PPFs have not been completed

and served on Defendants, a PPF² and an MDL Census Form for each Plaintiff shall be completed and submitted no later than thirty (30) days after the entry of Amended CMO 14 (see Section E below). If Plaintiffs are unable to sign the PPF and/or MDL Census Form within that time period, their counsel shall submit the PPF and/or MDL Census Form without signature no later than thirty (30) days after the entry of Amended CMO 14 (see Section E below) and shall submit the signature(s) (which may be electronic) no later than sixty (60) days after the entry of Amended CMO 14 (see Section E below).

3. For all cases that are filed in MDL 3026 in which Abbott is a named defendant (“MDL 3026 Plaintiffs”) after entry of Amended CMO 14 (see Section E below), a PPF³ and an MDL Census Form for each Plaintiff shall be completed and submitted no later than thirty (30) days after that Plaintiff’s case is filed.

B. Cases Pending in Courts Other than the MDL 3026 Court

All Plaintiffs’ Counsel subject to this CMO shall complete and submit a Non-MDL Census Form for every Plaintiff alleging necrotizing enterocolitis (“NEC”) related to Abbott’s preterm infant nutrition products who Plaintiffs’ Counsel represents in cases pending in courts other than the MDL 3026 Court (“Non-MDL 3026 Plaintiffs”) no later than sixty (60) days after the entry of Amended CMO 14 (see Section E below). For all cases that are filed by Plaintiffs’ Counsel subject to this CMO in courts other than the MDL 3026 Court after entry of Amended CMO 14 (see Section E below), a Non-MDL Census Form for each Plaintiff shall be completed and submitted no later than the longer of thirty (30) days after that Plaintiff’s case is filed or sixty (60) days after the entry of Amended CMO 14 (see Section E below).

C. Unfiled Claims

All Plaintiffs’ Counsel subject to this CMO shall complete and submit a Non-MDL Census Form for every Claimant alleging necrotizing enterocolitis (“NEC”) related to Abbott’s preterm infant nutrition products who Plaintiffs’ Counsel represents who has not filed a case in any court (“Unfiled Claimants”) no later than ninety (90) days after the entry of Amended CMO 14 (see

² See footnote 1 above.

³ See footnote 1 above.

Section E below). For all Unfiled Claimants that are represented by Plaintiffs' Counsel subject to this CMO after entry of this CMO, a Non-MDL Census Form for each Claimant shall be completed and submitted no later than thirty (30) days after that Claimant's representation is signed or ninety (90) days after the entry of Amended CMO 14 (see Section E below), whichever day is later.

D. Appointment of Census Special Master and Census Liaison Counsel

The Court hereby appoints Randi S. Ellis as Census Special Master. Following consultation with Special Master Ellis, the Court hereby appoints Timothy J. Becker and C. Andrew Childers as Plaintiffs' Census Liaison Counsel, and Sean P. Fahey, Rebecca Fitzpatrick, and James F. Hurst as Abbott Census Liaison Counsel.

E. Manner of Completion and Service of MDL Census Forms and Non-MDL Census Forms

Within 10 days of the entry of this Order, Plaintiffs' and Abbott Census Liaison Counsel shall retain a third-party entity to design, host, and provide a secure web form submission system for Plaintiffs' and Claimants' Counsel to utilize for completion and submission of all MDL Census Forms and Non-MDL Census Forms. The Court will issue an Amended CMO 14 with instructions for use of the secure web form submission system following Census Liaison Counsels' retention of said third-party entity.

IV. "COMPLETE" MDL CENSUS FORMS AND/OR NON-MDL CENSUS FORMS

For an MDL Census Form and/or Non-MDL Census Form to be complete, it must provide responses to all fields in the form and must include the requested medical records. By submitting the MDL Census Form and/or Non-MDL Census Form, Counsel represents that they have conducted a diligent investigation and are making a good faith representation of facts currently known to them. To the extent a Plaintiff or Claimant is represented by more than one Counsel jointly litigating as co-Counsel, such Counsel shall coordinate to ensure that the Plaintiff or Claimant is only reflected on a single submission and duplication is avoided. MDL Census Forms and Non-MDL Census Forms may be electronically signed. Plaintiffs' and/or Abbott Census

Liaison Counsel or the Census Special Master shall raise any issues and/or disputes pertaining to this Court-imposed process with the Court as necessary, including at the regularly scheduled Case Management Conferences. The Census Special Master shall also have authority to correspond directly with Plaintiff's/Claimant's Counsel regarding un-submitted or deficient MDL Census Forms and/or Non-MDL Census Forms and shall copy Plaintiffs' Census Liaison Counsel and Abbott Census Liaison Counsel on any such correspondence.

ENTER:

Date: July 15, 2025

A handwritten signature in black ink, appearing to read "Rebecca R. Pallmeyer", written over a horizontal line.

REBECCA R. PALLMEYER
United States District Judge

MDL CENSUS FORM

- A. Please review your original Plaintiff Profile Form. Based on that review, please identify all corrections or updates you are currently aware of that you need to make.

- B. Please identify the date and approximate time of the infant's NEC diagnosis in the box below and produce with this document the medical records showing the timing of the infant's NEC diagnosis.

- C. Did the infant undergo any surgery(ies) to treat his/her NEC?

Circle one: Yes No

- D. Was Mother's Own Milk (expressed or via breastfeeding) given to the infant before he/she was diagnosed with NEC?

Circle one: Yes No

- E. Was Mother's Own Milk (expressed or via breastfeeding) available to the infant at the time he/she was fed formula?

Circle one: Yes No I don't know

- F. Did the infant's NICU have donor breast milk available for the infant before his/her NEC diagnosis?

Circle one: Yes No I don't know

- G. If you answered "I don't know" in response to question F above, was donor breast milk ever discussed or mentioned to you at the infant's NICU?

Circle one: Yes No

If Yes, please explain:

- H. Was there enough human milk—either Mother’s Own Milk or donor milk—available to the infant to avoid the use of any cow-milk based formula while the infant was in the NICU?

Circle one: Yes No I don’t know

- I. Please produce with this document the “Intake and Output” medical records for the infant for the period between birth and the date and time of NEC diagnosis.
- J. If you do not have the “Intake and Output” medical records, please produce with this document all medical records in your possession showing the type and volume of mother’s own breast milk, donor breast milk, formula, and fortifier fed to the infant from birth through the date and approximate time of NEC diagnosis. In addition to producing the records, you may also describe your understanding of the composition of such feedings in the space provided below.

- K. Your signature below constitutes your affirmation that the statements made in this document are true and correct to the best of your knowledge, information, and belief.

Date

Signature of Plaintiff

Printed Name of Plaintiff

NON-MDL CENSUS FORM

Background Information:

1. Claimant's name: _____
If minor, name and address of parents: _____

Parent address:	Child address (if different):

2. Date of Birth: _____ Date of Death (if applicable): _____
3. State of Residence: _____ State of Death (if applicable): _____
4. Gestational age of infant at birth: _____
5. Weight of infant at birth: _____

Diagnosis, Treatment

1. Was infant diagnosed with NEC?
Circle one: Yes No
2. Please identify the date and approximate time of the infant's NEC diagnosis in the box below and produce with this document the medical records showing the timing of the infant's NEC diagnosis.

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3. Name and address of facility where born:

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4. Name and address of facility where diagnosed with NEC, if different:

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5. Type(s) of Injuries:

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6. Type(s) of treatment:**Dates (Start, End):**

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7. Did the infant undergo any surgery(ies) to treat his/her NEC?

Circle one: Yes No

8. Name and address of all healthcare providers who diagnosed and treated NEC:

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9. Describe any ongoing medical problems or treatments related to NEC and identify any healthcare providers providing treatment for such medical problems.

Medical Problems
Treating Providers

10. Please indicate whether you are aware of the Infant having been diagnosed with any of the following conditions or procedures or receiving any of the following medications during the Infant's hospitalization for his/her birth or in the NICU (if transferred), whichever is later.

Condition, Procedure, or Medication:	Yes	No	Don't Know/ Recall	Healthcare Provider
Prematurity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Low birth weight	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sepsis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Congenital heart disease	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Assisted ventilation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Patent ductus arteriosus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Anemia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Administration of Indomethacin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Administration of glucocorticoids	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Gastroschisis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Red blood cell transfusion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Hypoxia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Hypotension	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Hypoalbuminemia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Family history of necrotizing enterocolitis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Please produce the medical records of the Healthcare Providers and institutions identified above and any other of the Infant's medical records collected by or provided to your attorneys that are in counsel's possession as of the date this Non-MDL Census Form is executed.

11. Please indicate whether Mother's medical history includes any of the following conditions, procedures, or medications during her pregnancy with the Infant.

Condition, Procedure, or Medication:	Yes	No	I don't recall/ know	Date(s) of Condition, Procedure, or Medication	Treating Physician(s)
Chorioamnionitis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Pre-eclampsia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
In utero growth restriction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Placental abruption	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Prenatal antibiotics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Prenatal corticosteroids	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Intrahepatic cholestasis during pregnancy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Premature rupture of membranes (water breaking early)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Smoking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Cocaine use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Methamphetamine use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Amphetamine use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Alcohol use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
HIV	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

Please produce the medical records of the Healthcare Providers and institutions identified above that are in counsel's possession as of the date this Non-MDL Census Form is executed.

Feeding Information

A. Was cow-milk based formula given to the infant:

Circle one: Yes No I don't know

B. Was cow-milk based fortifier given to the infant:

Circle one: Yes No I don't know

C. Name of facility where cow-milk based formula or fortifier was given the infant:

- D. Please list all brands and specific names of formula/fortifier administered to the infant, if**

known at this time:

- E. Was Mother's Own Milk (expressed or via breastfeeding) given to the infant before he/she was diagnosed with NEC?**

Circle one: Yes No

- F. Was Mother's Own Milk (expressed or via breastfeeding) available to the infant at the time he/she was fed formula?**

Circle one: Yes No I don't know

- G. Was infant given donor breast milk?**

Circle one: Yes No I don't know

- H. Did the infant's NICU have donor breast milk available for the infant before his/her NEC diagnosis?**

Circle one: Yes No I don't know

- I. If you answered "I don't know" in response to question C above, was donor breast milk ever discussed or mentioned to you at the infant's NICU?**

Circle one: Yes No

If Yes, please explain:

- J. Was there enough human milk—either Mother's Own Milk or donor milk—available to the infant to avoid the use of any cow-milk based formula while the infant was in the NICU?**

Circle one: Yes No I don't know

- K. Please produce with this document the "Intake and Output" medical records for the infant for the period between birth and the date and time of NEC diagnosis.**

- L. If you do not have the “Intake and Output” medical records, please produce with this document all medical records in your possession showing the type and volume of mother’s own breast milk, donor breast milk, formula, and fortifier fed to the infant from birth through the date and approximate time of NEC diagnosis. In addition to producing the records, you may also describe your understanding of the composition of such feedings in the space provided below.**

- M. Your signature below constitutes your affirmation that the statements made in this document are true and correct to the best of your knowledge, information, and belief.**

Date

Signature of Claimant

Printed Name of Signing Claimant