KING LAW

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

SARAH COLLIER, *individually and on behalf of her minor child* ***P.C.*****,** *Plaintiffs*, v. *MEAD JOHNSON & COMPANY, LLC.,* *MEAD JOHNSON NUTRITION COMPANY.,* *Defendants*.	**MDL No. 3026** **Master Docket No. 1:22-cv-00071** **Case No.** **Hon. Rebecca R. Pallmeyer**

County

PLAINTIFF'S COMPLAINT AND JURY DEMAND

Plaintiff, Sarah Collier (hereinafter "Plaintiff"), by and through undersigned counsel, Wallace Miller, by way of complaint against Mead Johnson & Company, LLC and Mead Johnson Nutrition Company. (hereinafter "Defendants") allege as follows upon information and belief:

INTRODUCTION

1. This action arises out of the injuries suffered by Plaintiff's premature infant, who was fed Defendants' cow's-milk-based infant formula and/or fortifier. Necrotizing Enterocolitis (hereinafter "NEC") is a deadly intestinal disease characterized by inflammation and injury of the gut wall barrier that may advance to necrosis and perforation of the gut. Advanced cases of NEC may lead to surgery and to death. Significantly higher rates of NEC have been found in premature or preterm babies with low birth weights who are fed cow's milk-based formula or fortifier products. The companies who manufacture these products often intentionally mislabel and

misrepresent the contents of the products both to the public at-large and to the health care community, passing off these deadly products as something similar to or even superior to human breast milk. Tragically, Baby P.C. (hereinafter "Baby P.C."), who was premature at birth, was fed these cow's milk-based products, developed NEC, and suffered significant injuries as a result.

2. Plaintiff, Sarah Collier, as Parent, Natural Guardian, and Next Friend of Baby P.C., brings this cause of action against Defendants for claims arising from the direct and proximate result of Defendants' negligent, willful, and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, failure to warn, and/or sale of the Defendants' cow's milk-based products (hereinafter "Cow's milk-based Formula," "Cow's milk-based Fortifier," or collectively "Cow's Milk-Based Products").

JURISDICTION AND VENUE

3. This Court has jurisdiction over this case pursuant to 28 U.S.C. §1332, as complete diversity exists between Plaintiff and the Defendants, and the matter in controversy, exclusive of interest and costs, exceeds the sum or value of $75,000.00.

4. Plaintiff resides and is domiciled in Oregon.

5. Venue is proper in the United States District Court in the Northern District of Illinois, Eastern Division, under 28 U.S.C. §1391 Defendants, at all time relevant hereto, conducted and continue to conduct business in this District, are subject to jurisdiction in this District, and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this judicial district.

6. Notwithstanding, this Complaint is filed in the Northern District of Illinois, Eastern Division pursuant to Case Management Order No. 11 of MDL 3026, stating that any Plaintiff

whose action against the Mead Johnson Defendants qualifies for transfer to MDL 3026 may file directly in the Northern District of Illinois, Eastern Division as a member case of the MDL. (See Dkt 296, 1:22-00071) The filing of this Complaint in the Northern District of Illinois is not intended as a waiver of any rights relating to *Lexecon*, venue, or choice of law. Plaintiffs expressly reserve any *Lexecon* rights or rights relating to venue or choice of law.

PLAINTIFF

7. Baby P.C. was born prematurely on September 8th, 2016. Baby P.C. developed NEC after being fed Defendant's Milk-Based Products while in the Newborn Intensive Care Unit ("NICU"). At all times material hereto, Baby P.C. was domiciled in and a citizen of the State of Oregon.

8. Plaintiff, Sarah Collier, the mother of Baby P.C., (hereinafter "Baby P.C.'s Mother"), is domiciled in and a citizen of State of Oregon, and resides in Josephine County, Oregon. Baby P. C's Mother brings this action to recover for Baby P.C.'s injuries, which are the direct and proximate result of consumption of Defendant's unreasonably dangerous cow's milk-based preterm infant nutrition products.

DEFENDANT

9. Defendant Mead Johnson & Company, LLC is a Delaware limited liability corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville, Indiana 47721.

10. Defendant Mead Johnson Nutrition Company is a Delaware corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville, Indiana 47721.

11. Defendants Mead Johnson & Company, LLC, and Mead Johnson Nutrition Company ("collectively Mead") are companies based in Indiana that manufacture, design,

formulate, prepare, test, provide instructions for, market, label, package, sell, and/or place into the stream of commerce in all fifty states, including Oregon, premature infant formula including Enfamil and Enfamil Human Milk Fortifiers, including Enfamil A+, Enfamil NeuroPro, Enfamil Enspire, and EnfaCare Powder.

12. Defendant Mead Johnson Nutrition Company self-proclaims to be recognized as "a world leader in pediatric nutrition" and traces its history back to the company's founding in 1905 by Edward Mead Johnson, Sr. It claims to be the "only global company focused primarily on infant and child nutrition" and that its "singular devotion has made our flagship 'Enfa' line the leading infant nutrition brand in the world." Boasting "more than 70 products in over 50 countries," it claims that its "products are trusted by millions of parents and healthcare professionals around the world." It is this trust that Defendants Mead have intentionally exploited for their own pecuniary gain at the expense of vulnerable families throughout the United States and the world.

FACTUAL ALLEGATIONS

The Science and Scope of the Problem

13. According to the World Health Organization ("WHO"), babies born prematurely, or "preterm," are defined as being born alive before 37 weeks of pregnancy are completed, like Baby P.C. The WHO estimates that approximately 15 million babies are born preterm every year and that this number is rising.

14. Nutrition for preterm babies, especially those who have a very low birth weight (under 1500 grams) or extremely low birth weight (under 1000 grams), is significantly important. Since the United States ranks in the top ten countries in the world with the greatest number of preterm births, the market of infant formula and fortifiers is particularly vibrant.

15. Science and research have advanced in recent years confirming strong links between cow's milk-based products and NEC causing and/or substantially contributing to death in

preterm and severely preterm, low-weight infants, along with many other health complications and long-term risks to these babies. Additionally, advances in science have created alternative fortifiers that are derived from human milk and non-cow's milk-based products, however, the manufacturers of the Cow's Milk-Based Products continue to promote and sell the Cow's Milk-Based Product versions.

16. As far back as 1990, a prospective, multicenter study on 926 preterm infants found that NEC was six to ten times more common in exclusively formula-fed babies than in those fed breast milk alone and **three times more common** than in those who received formula plus breast milk. The study also found that NEC was rare in babies born at more than 30 weeks gestation whose diet included breast milk, but was **20 times more common** in those fed cow's milk-based formula only. A. Lucas, T. Cole, *Breast Milk and Neonatal Necrotizing Enterocolitis*, LANCET, 336: 1519-1523 (1990) (emphasis added).

17. A study published in 2009 evaluated the health benefits of an exclusively human milk-based diet as compared to a diet with both human milk and cow's milk-based products in extremely premature infants. The results show that preterm babies fed an exclusively human milkbased diet were **90% less likely** to develop surgical NEC as compared to a diet that included some cow's milk-based products. S. Sullivan, *et al*, *An Exclusively Human Milk-Based Diet Is Associated with a Lower Rate of Necrotizing Enterocolitis than a Diet of Human Milk and Bovine Milk-Based Products*, JOURNAL OF PEDIATRICS, 156: 562-7 (2010) (emphasis added).

18. In 2011, the U.S. Surgeon General published a report titled, "The Surgeon General's Call to Action to Support Breastfeeding." In it, the Surgeon General warned that "for vulnerable premature infants, **formula feeding is associated with higher rates** of necrotizing enterocolitis (NEC)." U.S. Dep't of Health & Human Serv., Off. of Surgeon Gen., "The Surgeon General's Call

to Action to Support Breastfeeding," p.1, (2011) (emphasis added). This same report stated that premature infants who are not breast-fed are **138% more likely** to develop NEC. *Id*.

19. In 2012, the American Academy of Pediatrics issued a policy statement that all premature infants should be fed an exclusive human milk diet because of the risk of NEC associated with the consumption of Cow's Milk-Based Products. The Academy stated that "[t]he potent benefits of human milk are such that all preterm infants should receive human milk... If the mother's own milk is unavailable ...pasteurized donor milk should be used." *Breastfeeding and the Use of Human Milk*, PEDIATRICS, 129:e827-e841 (2012).

20. Further, a study published in 2013 showed that all 104 premature infants participating in the study receiving an exclusive human-milk based diet exceeded targeted growth standards and length and weight and head circumference gain. The authors concluded that "this study provides data showing that **infants can achieve and mostly exceed targeted growth standards when receiving an exclusive human milk-based diet**." A. Hair, *et al*, *Human Milk Feeding Supports Adequate Growth in Infants ≤1250 Grams Birthweight*, BMC RESEARCH NOTES, 6:459 (2013) (emphasis added). Thus, inadequate growth was proven to be a poor excuse for feeding Cow's Milk-Based Formula, but the practice has largely continued due to extensive and aggressive marketing campaigns conducted by infant formula such as the Defendants.

21. Another study published in 2013 reported the first randomized trial in extremely premature infants of exclusive human milk versus preterm cow's milk-based formula. The study found a **significantly higher rate** of surgical NEC in infants receiving the cow's milk-based preterm formula and supported the use of exclusive human milk diet to nourish extremely preterm infants in the NICU. E.A. Cristofalo, *et al*, *Randomized Trial in Extremely Preterm Infants*, J PEDIATR., 163(6):1592-1595 (2013) (emphasis added).

22. In another study published in 2014, it was reported that NEC is "a devastating disease of premature infants and is associated with **significant morbidity and mortality**. While the pathogenesis of NEC remains incompletely understood, it is well established that the risk is increased by the administration of infant formula and decreased by the administration of breast milk." Misty Good, *et al*., *Evidence Based Feeding Strategies Before and After the Development of Necrotizing Enterocolitis*, EXPERT REV. CLIN. IMMUNOL., 10(7): 875-884 (2014 July) (emphasis added). The same study found that NEC "is the **most frequent and lethal gastrointestinal disorder** affecting preterm infants and is characterized by intestinal barrier disruption leading to intestinal necrosis, multi-system organ failure and death. *Id.* The study noted that "NEC affects 712% of preterm infants weighing less than 1500 grams, and the frequency of disease appears to be either stable or rising in several studies. *Id.* The typical patient who develops NEC is a premature infant who displays a rapid progression from mild feeding intolerance to systemic sepsis, and **up to 30% of infants will die from this disease**." *Id.* Advances in formula development have made it possible to prevent necrotizing enterocolitis, and the "exclusive use of human breast milk is recommended for all preterm infants and is associated with a significant decrease in the incidence of NEC." *Id.*

23. In yet another study published in 2014 it was reported that an exclusive human milk diet, devoid of Cow's Milk-Based Products, was associated with "lower mortality and morbidity" in extremely preterm infants without compromising growth and should be considered as an approach to nutritional care of these infants. Steven Abrams, *et al*., *Greater Mortality and Morbidity in Extremely Preterm Infants Fed a Diet Containing Cow Milk Protein Products*, BREASTFEEDING MEDICINE, 9(6):281-286 (2014).

24. In 2016, a large study supported previous findings that an exclusive human milk diet in extreme preterm infants dramatically decreased the incidence of both medical and surgical NEC. This was the first study to compare rates of NEC after a feeding protocol implementation at multiple institutions and years of follow-up using an exclusive human milk diet. The authors concluded that the use of an **exclusive human milk diet is associated with "significant benefits"** for extremely preterm infants and while evaluating the benefits of using an exclusive human milkbased protocol, "it appears that there were **no feeding-related adverse outcomes**." Hair, *et al*, *Beyond Necrotizing Enterocolitis Prevention: Improving Outcomes with an Exclusive Human Milk Based Diet,* BREASTFEEDING MEDICINE, 11-2 (2016) (emphasis added).

25. A publication by the American Society for Nutrition, in 2017, noted that human milk has "been acknowledged as the best source of nutrition for preterm infants and those at risk for NEC." The study compared the results from two randomized clinical trials on preterm infants with severely low weight (between 500 and 1250 grams at birth) and compared the effect of cow's milk-based preterm infant formula to human milk as to the rate of NEC. Both trials found that an **exclusive human milk diet resulted in a much lower incidence of NEC**. While the study noted that cow's milk-based preterm formulas provided consistent calories and were less expensive than human milk-based products, the **cow's milk-based products significantly increase the risk of NEC and death**. The study also noted the **"exponential" health care costs** associated with NEC and noted data from the U.S. from 2011-2012 that showed that the cost of NEC is $180,000 to $198,000 per infant and nearly doubles to $313,000 per infant for surgically treated NEC. Further, NEC survivors accrue substantially higher outpatient costs. Jocelyn Shulhan, *et al*, *Current Knowledge of Necrotizing Enterocolitis in Preterm Infants and the Impact of Different Types of Enteral Nutrition Products*, ASN ADV. NUTR., 8(1):80-91 (2017) (emphasis added).

26. The WHO and United Nation's International Children's Emergency Fund (UNICEF) held a meeting more than two decades ago to address concerns over the marketing of breast-milk substitutes. The WHO Director concluded the meeting with the following statement, "**In my opinion, the campaign against bottle-feed advertising is unbelievably more important than the fight against smoking advertisement**." Jules Law, *The Politics of Breastfeeding:* Assessing Risk, Dividing Labor, JSTOR SIGNS, vol. 25, no. 2: 407-50 (2000) (emphasis added).

27. Recognizing the abuse and dangers of the marketing of infant formula, in 1981, the World Health Assembly ("WHA"), the decision-making body of the world's Member States, developed the International Code of Marketing of Breast-milk Substitutes ("the Code"), which required companies to acknowledge the superiority of breast milk and outlawed any advertising or promotion of breast milk substitutes to the general public. Pursuant to Article 5.1 of the Code, advertising of breast-milk substitutes is specifically prohibited: "**There should be no advertising or other form of promotion to the general public** [of breast milk substitutes]." (emphasis added). In Article 5.2, the Code states that "manufacturers and distributors should not provide, **directly or indirectly**, to pregnant women, mothers or members of their families, samples of products within the scope of this Code." In addition, the Code expressly prohibits, "point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales…" *See* Int'l Code of Marketing of Breast-Milk Substitutes, May 21, 1981, WHA 34/1981/REC/2, Art.5.3.

28. The World Health Organization's 2018 Status Report on this issue noted that "despite ample evidence of the benefits of exclusive and continued breastfeeding for children, women, and society, far too few children are breastfed as recommended." The Status Report states that "**a major factor undermining efforts to improve breastfeeding rates is continued and**

aggressive marketing of breast-milk substitutes," noting that in 2014, the global sales of breastmilk substitutes amounted to **US $44.8 billion** and "is expected to rise to **US $70.6 billion** by 2019." *Marketing of Breast-milk Substitutes: Nat'l Implementation of the Int'l Code, Status* Report 2018. Geneva: World Health Org., 2018, p.21 (emphasis added).

29. Recognizing a shift in the medical community towards an exclusive human based diet for preterm infants, Defendant began heavily promoting "human milk fortifiers," a name which misleadingly suggests that the product is derived from human milk, instead of being derived from Cow's Milk.

30. The Defendant has designed competing, systematic, powerful, and misleading marketing campaigns to persuade physicians and parents to believe that: (1) Cow's Milk-based formula and fortifiers are safe; (2) Cow's Milk-Based Products are equal, or even superior, substitutes to breastmilk; and (3) physicians consider their Cow's Milk-Based Products a first choice. Similarly, the Defendant markets its products for preterm infants as necessary for growth, and perfectly safe for preterm infants, despite knowing of the extreme risks posed by Cow's Milk-Based Products and failing to warn of the deadly disease of NEC.

31. Thus, despite the existence of alternative and safe human milk-based fortifiers, the Defendant continues to market and/or sell the Cow's Milk-Based Products under the guise of being a safe product for newborns and despite knowing the significant health risk posed by ingesting these products, especially to preterm, low weight infants like Baby P.C.

The Inadequate Warnings

32. Defendant promotes the use of its preterm infant Cow's Milk-Based Products to parents, physicians, hospitals, and medical providers as safe products that are specifically needed by preterm infants for adequate growth.

32. Despite the knowledge of the significant health risks posed to preterm infants ingesting the Cow's Milk-Based Products, including the significant risk of NEC, Defendant did not warn parents or medical providers of the risk of NEC in preterm infants, nor did Defendant provide any instructions or guidance on how to properly use its Cow's Milk-Based Products so as to lower the risk or avoid NEC.

33. In fact, Defendant did not provide any warning in its labeling, websites, or marketing that warns that its Cow's Milk-Based Products exponentially increase the risk of NEC in preterm infants, or that human breast milk, donor breast milk, and human breast milk-based formulas and fortifiers are much safer for preterm babies than its Cow's Milk-Based Products.

Baby P.C. and the Dangerous, Defective Products

35. Baby P.C. was born prematurely on September 8th, 2016.

36. Baby P.C. was fed Defendant's formula while in the NICU.

37. After being fed Enfamil NeuroPro Enfacare, Baby P.C. was diagnosed with NEC.

38. At the time of Baby P.C.'s injury, Baby P.C.'s parents were unaware of the fact that the Defendants' Cow's Milk-Based Products Baby P.C. was fed caused or substantially contributed to her development of NEC and ultimately to Baby P.C.'s injury.

COUNT I: STRICT LIABILITY DESIGN DEFECT

39. Plaintiff incorporates by reference each of the preceding paragraphs as if fully set forth herein.

40. At all times material to this action, Defendant Mead Johnson was engaged in the sale, and/or marketing and/or design, and/or manufacture, and/or distribution of Cow's Milk-Based Products, which are defectively designed and/or unreasonably dangerous to consumers, including Baby P.C.

41. Defendant Mead Johnson, as a manufacturer, has a duty to hold the knowledge and skill of an expert and is obliged to keep abreast of any scientific discoveries and are presumed to know the result of all such advances.

42. At all times material to this action, the Cow's Milk-Based Products manufactured, distributed and/or sold by Defendant Mead Johnson, were in a defective and/or unreasonably dangerous condition at the time the products were placed in the stream of commerce for nutritional use for preterm infants.

43. Defendant Mead Johnson specifically marketed and created its Cow's Milk-Based Products for use as nutrition and nutritional supplements for preterm infants, like Baby P.C.

44. Defendant Mead Johnson's Cow's Milk-Based Products are expected to and do reach the user without substantial change affecting that defective and/or unreasonably dangerous condition.

45. Prior to Baby P.C.'s birth, Defendant Mead Johnson was aware or should have been aware that its Cow's Milk-Based Products were not safe for use, as they were used, with nutrition or nutritional support in preterm infants, yet took no steps to prevent the use of these products in such situations.

46. Defendant Mead Johnson knew or should have known that the use of its Cow's Milk-Based Products with preterm infants was unreasonably dangerous in that its Cow's Milk-Based Products significantly increased the risk of NEC.

47. Furthermore, scientific data and well-researched studies have concluded that the Cow's Milk-Based Products of the Defendant carried unreasonable risks of NEC, which far outweighed the products' benefits for preterm infants like Baby P.C.

48. Despite the foregoing, the Defendant continued to sell and market its defective

and/or unreasonably dangerous products to preterm infants.

49. The products were defectively manufactured and/or designed and/or unreasonably dangerous, including, but not limited to the following particulars:

a. The products did not perform as safely as an ordinary consumer would expect when used in the intended or reasonably foreseeable manner, such that the use of Cow's Milk-Based Products as nutrition or nutritional supplements in preterm infants significantly increased the risk of NEC;

b. The products contained hidden and dangerous design defects and were not reasonably safe as intended to be used, subjecting preterm infants, such as Baby P.C., to risks of serious bodily injury;

c. The products failed to meet legitimate, commonly held, minimum safety expectations of that product when used in an intended or reasonably foreseeable manner;

d. Defendant failed to utilize economical and technically available safer design alternatives for preterm infant formula and fortifiers which were available for use here;

e. The products were manifestly unreasonable in that the risk of harm so clearly exceeded the products' utility that a reasonable consumer, informed of those risks and utility, would not purchase the product;

f. Defendant failed to adopt an adequate or sufficient quality control program; and/or

g. Defendant failed to inspect or test its products with sufficient care.

50. As a direct and proximate cause of the Cow's Milk-Based Product's unreasonable dangerous condition, Baby P.C. suffered serious bodily injury.

51. Defendant's actions were willful and malicious in that Defendant's conduct was carried on with a conscious disregard for the safety and rights of Plaintiff and others. Defendant's unconscionable conduct thereby warrants an assessment of exemplary and punitive damages against Defendant in an amount appropriate to punish Defendant, and deter similar conduct in the future.

WHEREFORE, Plaintiff, by and through undersigned counsel, demands judgment against Defendant Mead Johnson & Company for all applicable damages, costs of this action, post-judgment interest, and trial by jury.

COUNT II: NEGLIGENCE

52. Plaintiff incorporates by reference each of the preceding paragraphs as if fully set forth herein.

53. Defendant Mead Johnson, as the manufacturer and/or seller of Cow's Milk-Based Products, owed a duty to the consuming public in general, and Plaintiff in particular, to exercise reasonable care to design, test, manufacture, inspect, and distribute products free of unreasonable risk of harm to users and patients, when said product is used in its intended manner.

54. Defendant Mead Johnson, as a manufacturer, has a duty to hold the knowledge and skill of an expert, and is obliged to keep abreast of any scientific discoveries and are presumed to know the result of all such advances.

55. Defendant Mead Johnson, directly or indirectly, negligently, and/or defectively made, created, manufactured, designed, assembled, tested, marketed and/or sold the subject Cow's Milk-Based Products.

56. Defendant breached the duty owed to Plaintiff and acted negligently in its actions, including, but not limited to, the following:

a. Designed the products such that there are latent and not obvious dangers for consumers and patients while the products are being used in a foreseeable and intended manner;

b. The products contained hidden and dangerous design defects and were not reasonably safe as intended to be used, subjecting preterm infants to risks of serious bodily injury in that the products' design and/or manufacture amounted to and/or resulted in a defect failure mode of the products;

c. Failing to collect data to determine if its products were safe for preterm infants;

d. Failing to collect data to determine when and how its products could be used safely;

e. Failing to utilize the significant peer reviewed research to develop instructions;

f. Failing to develop evidence-based guidelines or instructions to decrease the risk of its products causing NEC;

g. Failing to provide evidence-based guidelines or instructions to decrease the risk of its products causing NEC;

h. Failing to stop or deter its products from being fed to extremely preterm infants like Baby P.C.;

i. Failing to provide evidence-based instructions or guidance on when or how a preterm infant should be transitioned to the products;

j. Failing to continuously and vigorously study its cow's milk-based products in order to avoid NEC in premature infants;

k. Failing to utilize economical and technically available safer manufacturing and/or design alternatives for the preterm infant formula and fortifier;

l. Failing to adopt an adequate or sufficient quality control program;

m. Failing to inspect or test its products with sufficient care; and/or

n. Failing to properly and adequately warn of the risks of NEC with use of its products.

57. Defendant Mead Johnson knew or should have known that its products were to be used as nutrition and nutritional supplements with preterm infants, like Baby P.C.

58. Defendant Mead Johnson knew or should have known that the use of its Cow's Milk-Based Products with preterm infants was unreasonably dangerous in that its Cow's Milk-Based Products significantly increased the risk of NEC.

59. Furthermore, scientific data and well researched studies have concluded that the Cow's Milk-Based Products of the Defendant carried unreasonable risks of NEC, which far outweighed the products' benefits for premature infants like Baby P.C.

60. As a direct and proximate result of the negligence of Defendant Mead Johnson, Baby P.C. suffered serious bodily injury.

61. Defendant's actions were willful and malicious in that Defendant's conduct was carried on with a conscious disregard for the safety and rights of Plaintiff and others. Defendant's unconscionable conduct thereby warrants an assessment of exemplary and punitive damages against Defendant in an amount appropriate to punish Defendant, and deter similar conduct in the future.

WHEREFORE, Plaintiff, by and through undersigned counsel, demands judgment against Defendant Mead Johnson & Company for all applicable damages, costs of this action, post-judgment interest, and trial by jury.

COUNT III: STRICT LIABILITY FAILURE TO WARN

62. Plaintiff incorporates by reference each of the preceding paragraphs as if fully set forth herein.

63. Defendant Mead Johnson, as the manufacturer and/or seller of Cow's Milk-Based Products, owed a duty to the consuming public in general, and Plaintiff in particular, to properly warn and provide adequate warnings or instructions about the dangers and risks associated with the use of Cow's Milk-Based Products with preterm infants, specifically including but not limited to the risk of NEC.

64. Defendant Mead Johnson, as the manufacturer and/or seller of Cow's Milk Product, was unreasonable in relying upon any intermediary, including physicians, other health care providers or health care staff, to fully warn the end user of the hidden dangers and risks in its Cow's Milk-Based Products, as the magnitude of the risk involved is using Defendant's Cow's Milk-Based Products with preterm infants is significant and involves the real danger of serious bodily injury.

65. Defendant Mead Johnson, as the manufacturer and/or seller of Cow's Milk Products, owed a duty to fully warn and instruct any intermediary, including physicians, other health care providers or health care staff, of the significant dangers of its Cow's Milk-Based Products.

66. Defendant owed a duty to provide warnings and instructions on its Cow's Milk-Based Products marketed and/or sold for use with preterm infants that adequately communicated information on the dangers and safe use of the product to health care providers and staff using these products in a NICU, taking into account the characteristics of, and the ordinary knowledge common to, such prescribing health care providers and administering health care staff and to specifically warn of the risks and danger associated with the use of Cow's Milk-Based Products with preterm infants, specifically including but not limited to the risk of NEC.

67. Rather than provide adequate warnings, Defendant Mead Johnson developed relationships which included incentives and financial gain to health care providers and facilities for using its Cow's Milk-Based Products within the NICU, such that health care providers and facilities had an incentive to withhold any instructions and/or warnings from the end user.

68. In addition and/or in the alternative, if healthcare providers and health care staff had been properly instructed and warned of the risks associated with the use of Cow's Milk-Based Products with preterm infants, they would have not used such a dangerous product.

69. Defendant Mead Johnson, as a manufacturer, has a duty to hold the knowledge and skill of an expert and is obliged to keep abreast of any scientific discoveries and are presumed to know the result of all such advances.

70. Defendant Mead Johnson, through its own testing and studies, consultants and experts, and/or knowledge of the scientific literature, as more specifically set forth in **The Science and Scope of the Problem** Section knew of the significant risk of NEC with preterm infants.

71. Defendant Mead Johnson, through its knowledge, review, and survey of the scientific literature, as detailed in **The Science and Scope of the Problem** Section, knew that the use of Cow's Milk-Based Products with preterm infants could cause severe injury, including but not limited to NEC.

72. Defendant Mead Johnson breached the foregoing duties and failed to provide proper warnings and/or instructions of its Cow's Milk-Based Products, including but not limited to the following acts:

a. Providing **no warnings** regarding the risk of NEC;

b. Providing inadequate labeling that failed to warn of the risks of use of Cow's Milk-Based Products with preterm infants, including but not limited to NEC;

c. Failed to provide proper instructions or guidelines or studies, or data on when and how to feed its products to preterm infants in order to decrease the risk of NEC;

d. Failed to insert a warning or instruction that parents needed to be provided an informed choice between the safety of human milk versus the dangers of the Defendant's Cow's Milk Product;

e. Failed to provide instructions to consumers and health care providers that the Defendant's products carried a significant risk that its Cow's Milk-Based Products exponentially increased their baby's risk of developing NEC;

f. The warnings and instructions are severely inadequate, vague, confusing, and provide a false sense of security in that they warn and instruct on certain conditions, but do not warn that the use of Cow's Milk-Based Products significantly increasing the risk of NEC, and they fail to provide any details on how to avoid such harm;

g. Failed to contain a large and prominent "black box" type warning that its Cow's Milk-Based Products are known to significantly increase the risk of NEC when compared to Human Milk in preterm infants;

h. Failed to provide well researched and well-established studies that linked its Cow's Milk-Based Products to NEC in preterm infants;

i. Failed to cite to or utilize current up-to-date medical data on the proper and safe use of its products;

j. Failed to otherwise warn physicians, and healthcare providers of the extreme risks associated with feeding preterm infants Cow's Milk-Based Products;

k. Failed to send out "Dear Dr." letters warning of the risks of NEC and the current scientific research and data to better guide the hospitals and physicians to better care for the extremely preterm infants;

l. Failed to advise physicians and healthcare providers that Cow's Milk-Based Products are not necessary to achieve growth and nutritional targets for preterm infants; and/or

m. Failed to contain sufficient instructions and warnings on the Cow's Milk-Based Products such that health care providers and health care staff were not properly warned of the dangers of NEC with use of Cow's Milk-Based Products and preterm infants.

73. As a direct and proximate result of Defendant Mead Johnson's failure to warn, Baby P.C. suffered serious bodily injury. Defendant's actions were willful and malicious in that Defendant's conduct was carried on with a conscious disregard for the safety and rights of Plaintiff and others.

74. Defendant's unconscionable conduct thereby warrants an assessment of exemplary and punitive damages against Defendant in an amount appropriate to punish Defendant, and deter similar conduct in the future.

WHEREFORE, Plaintiff, by and through undersigned counsel, demands judgment against Defendant Mead Johnson & Company for all applicable damages, costs of this action, post-judgment interest, and trial by jury.

COUNT IV – PARENTAL CLAIM FOR LOSS OF FILIAL CONSORTIUM, LOSS OF SERVICES, AND LOSS OF MEDICAL EXPENSES

75. At all relevant times, Sarah Collier was the Parent and Legal Guardian of Baby P.C., a minor.

76. As a proximate result of one or more of the aforesaid wrongful acts and/or omissions of the above named Defendants, Sarah Collier, as the Parent and Next Friend of Baby P.C., a minor, has incurred certain necessary medical expenses and costs for medical care and treatment rendered to Baby P.C., a minor, as a result of her injuries.

77. As a result of Defendants' tortious conduct, Plaintiff Sarah Collier suffered a loss of affection, companionship, society, and consortium of his child.

78. Plaintiff, Sarah Collier, brings this loss of filial consortium as a derivative claim of each of the claims and allegations above.

WHEREFORE, Plaintiff, Sarah Collier, individually and as the Parent and next friend of Baby P.C., seeks recovery for all damages permitted by law against Defendants, and for whatever further relief this Court deems appropriate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For compensatory damages in an amount to be proven at trial;

2. For damages for past, present, and future emotional distress, loss of enjoyment of life, pain and suffering, mental anguish, loss of consortium, and other non-economic losses sustained as a result of Defendants' conduct;

3. For past, present, and future out-of-pocket costs, lost income and/or lost revenue, and/or lost profits, and/or lost business opportunity, lost earning capacity, and costs related to medical or mental health treatment which have or may be recommended;

4. For exemplary and punitive damages against Defendant in an amount to be proven at trial, and sufficient to punish or deter Defendant and others from repeating the injurious conduct alleged herein;

5. For interest as permitted by law;

6. For attorney's fees, expenses, and recoverable costs incurred in connection with this action; and

7. For such other and further relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury on all issues triable by jury.

Respectfully submitted,

/s/ *Edward A. Wallace*
Edward A. Wallace
WALLACE MILLER
200 W. Madison St., #3400
Chicago, IL 60606
Telephone: 312.261.6193
eaw@wallacemiller.com

EXHIBIT A

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	**MDL NO. 3026** **Master Docket No. 1:22-cv-00071**
This Document Relates to: **ALL ACTIONS**	**Hon. Rebecca R. Pallmeyer**

COVER SHEET FOR DIRECTLY FILED COMPLAINTS

Pursuant to Case Management Order No. 11, any Plaintiff who resides outside the territorial confines of the Northern District of Illinois who directly files an action against Mead Johnson & Co. LLC and/or Mead Johnson Nutrition Company (collectively "Mead Johnson") in MDL No. 3026 must concurrently fill out and file this Cover Sheet.

1. Plaintiff hereby states the U.S. District Court, outside of the Northern District of Illinois, to which this case shall be remanded at the conclusion of pretrial proceedings is United States District Court for the District of Oregon - Melford Division because that is the location where the preterm infant allegedly developed necrotizing enterocolitis after ingesting cow's milk-based preterm formula.

2. Plaintiff stipulates that Defendant Mead Johnson & Company, LLC is a Delaware limited liability corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville, Indiana 47721; and (2) Defendant Mead Johnson Nutrition Company is a Delaware corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville,

Indiana 47721.

3. Plaintiff further stipulates that personal jurisdiction over Mead Johnson is lacking in Illinois except to the extent that Plaintiffs' alleged use of Mead Johnson products and resulting injuries occurred in Illinois.

Dated: October 7, 2026

/s/Edward A. Wallace
Edward A. Wallace

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

IN RE: ABBOTT LABORATORIES, ET AL., PRETERM INFANT NUTRITION PRODUCTS LIABILITY LITIGATION	**Case No. 1:22-cv-00071**
This Document Relates to:	**CASE MANAGEMENT ORDER NO. 11 DIRECT FILING ORDER**
ALL ACTIONS	**Judge Rebecca R. Pallmeyer**

CASE MANAGEMENT ORDER NO. 11

I. Scope of Order

This Order shall govern all actions in the above-captioned MDL proceeding (MDL No. 3026) that are directly filed in this District against Mead Johnson & Company, LLC and/or Mead Johnson Nutrition Company ("the Mead Johnson Defendants"), either individually or in cases filed jointly against the Mead Johnson Defendants and Abbott Laboratories, after the date of this Order. For purposes of this Order, "the Parties" shall include only the Plaintiffs and the Mead Johnson Defendants, not Abbott Laboratories.

A. Direct Filing of Actions into the MDL: To eliminate potential delays associated with transfer to this Court of actions filed in or removed from other federal district courts, and to promote judicial efficiency, any Plaintiff whose action qualifies for transfer to the MDL may, subject to the provisions set forth below, file his or her action against one or both of the Mead Johnson Defendants directly in this District as a member case of the MDL. Nothing in this Order prohibits (1) any plaintiff from filing a complaint in another court of proper venue and jurisdiction, (2) any plaintiff or the Mead Johnson Defendants from filing a notice of tag-along action to the JPML, or (3) any plaintiff or the Mead Johnson Defendants from objecting to a conditional transfer

order with the JPML. Moreover, as set forth in the JPML's April 8, 2022 Transfer Order, plaintiffs seeking to directly file cases into this MDL may only do so for cases in which plaintiffs contend that cow's-milk-based preterm infant formula products caused necrotizing enterocolitis in premature babies. *See* MDL No. 3026, ECF No. 119, Apr. 8, 2022.

Cases filed directly in this MDL pursuant to this Order shall not name more than a single plaintiff in each directly filed case, provided, however, that any case may include consortium plaintiff(s), as permitted by law, or the appropriate representative(s) of an Estate or Incapacitated Plaintiff.

Should the volume of cases being filed present an undue burden on the Parties or the Court, the Parties reserve the right to approach the Court on that issue.

B. Pretrial Proceedings Only; No *Lexecon* Waiver: Each action filed directly in this District will be deemed related to and become a member case in this MDL for pretrial proceedings only, consistent with the JPML's April 8, 2022, Transfer Order. Plaintiffs' and Defendants' agreement to this Order does not constitute a waiver under *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998) ("*Lexecon*") by any party of that party's right to challenge jurisdiction, choice of law, statutes of limitation, *forum non conveniens*, the location of any trials to be held, or any other legal rights and remedies. However, nothing in this Order shall preclude the parties from agreeing to such waivers in the future. Moreover, this Court shall not be deemed to be the "transferor court" simply by virtue of the complaint having been directly filed into this MDL.

C. Designated Forum – Mead Johnson Defendants. Any Plaintiff who resides outside the territorial confines of the Northern District of Illinois who directly files an action against Mead Johnson & Co. LLC and/or Mead Johnson Nutrition Company pursuant to this Order

must file the Cover Sheet, attached hereto as Exhibit A, and include all information requested therein. Specifically, any Plaintiff who directly files an action against Mead Johnson & Co. LLC and/or Mead Johnson Nutrition Company pursuant to this Order, must identify a U.S. District Court outside the Northern District of Illinois to which the case shall be remanded at the conclusion of pretrial proceedings. Any Plaintiff who directly files a Complaint pursuant to this Order agrees and stipulates that (1) Defendant Mead Johnson & Company, LLC is a Delaware limited liability corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville, Indiana 47721; (2) Defendant Mead Johnson Nutrition Company is a Delaware corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville, Indiana 47721; and (3) that personal jurisdiction over the Mead Johnson Defendants is lacking in Illinois except to the extent that Plaintiffs' alleged use of Mead Johnson products and resulting injuries occurred in Illinois. The Designated Forum shall not, standing alone, constitute a determination by this Court that jurisdiction or venue is proper in the designated forum.

At the completion of all pretrial proceedings applicable to such cases, and subject to any agreement that may be reached concerning a waiver of the requirements for transfer pursuant to *Lexecon*, this Court will transfer such cases to a federal district court outside of the Northern District of Illinois where personal jurisdiction exists as to Mead Johnson, and where venue is proper as defined by 28 U.S.C. § 1391, which presumptively shall be the federal district in which a preterm infant allegedly developed necrotizing enterocolitis after ingesting a cow's-milk-based preterm infant formula. The parties reserve all challenges to personal jurisdiction, venue, *forum non conveniens*, and any post-remand jurisdictional, venue, or *forum non conveniens* challenges or motions, including pursuant to 28 U.S.C. § 1404(a).

D. Procedure for Improper or Incomplete Directly Filed Complaints. Any directly

filed complaint that does not comply with the foregoing provisions, including by failing to attach or properly fill out the Cover Sheet included with this Direct Filing Order, is subject to dismissal and/or presumptive transfer to the District in which the pre-term infant allegedly developed necrotizing enterocolitis after ingesting cow's-milk-based preterm formula. Upon receiving an improper or incomplete directly filed complaint, Defendants' counsel will attempt to meet and confer with plaintiff's counsel, and if the parties cannot reach a resolution, Defendants may file a motion to dismiss and/or transfer before this Court.

E. Choice of Law. Directly filing an action as a member case of the MDL pursuant to this Order will not determine the applicable choice of law, including the choice of law for any of the claims in the action and/or for statute of limitations purposes. The parties' agreement to this Order shall not constitute a waiver of or agreement to the application of any choice of law principles or substantive choice of law applicable to a particular Plaintiff's action. The fact that an action was filed in this District as a member case of the MDL pursuant to this Order will have no impact on choice of law. Choice of law issues are reserved and shall be briefed, as appropriate, at a later date.

F. Electronic Filing of Complaints. All complaints must be filed electronically. Filing of a complaint in this District requires the completion of a Civil Cover Sheet which can be found here: https://www.ilnd.uscourts.gov/_assets/_documents/_forms/_online/js44-05fill.pdf. When filing a complaint in this District pursuant to this Order, plaintiff's counsel must identify the MDL Case name and number in Section VIII of the Civil Cover Sheet to ensure the case is included as a member case of the MDL.

G. Attorney Admission: In accordance with Case Management Order No. 1, any attorney admitted to practice and in good standing in any United States District Court is admitted

pro hac vice in this litigation. Association of local co-counsel for purposes of litigation, including direct filing pursuant to this Order, is not required.

H. Attorney Filing: Prior to any Plaintiff's attorney filing a complaint in the United States District Court for the Northern District of Illinois or directly in the MDL Proceedings pursuant to this Order, that attorney must register for and/or have a Northern District of Illinois CM/ECF log in name and password.

I. Service of Process. For Complaints that are properly filed in, removed to, or transferred to this MDL, Defendants Mead Johnson & Company, LLC and Mead Johnson Nutrition Company agree to waive formal service of summons pursuant to Rule 4 of the Federal Rules of Civil Procedure. Service upon these entities will be deemed complete upon providing copies of the Complaint, Summons, Civil Cover Sheet and copies of this Order to the following email addresses:

For the Mead Johnson Defendants: sjnecmdl@steptoe.com

J. Filing Fees. Internet credit card payments shall be required for all electronically filed complaints and made online through pay.gov. Plaintiff's counsel will be prompted to pay the required filing fee. Information regarding filing fees may be found at https://www.cand.uscourts.gov/ecf/payments.

K. Response to Complaint. The Mead Johnson Defendants need not move, plead, or otherwise respond to any Complaint directly filed in this District as a member case of the MDL until so ordered by the Court

IT IS SO ORDERED.

Dated: January 6, 2023

HON. REBECCA R. PALLMEYER
UNITED STATES DISTRICT JUDGE

EXHIBIT A

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	**MDL NO. 3026** **Master Docket No. 1:22-cv-00071**
This Document Relates to: **ALL ACTIONS**	**Hon. Rebecca R. Pallmeyer**

COVER SHEET FOR DIRECTLY FILED COMPLAINTS

Pursuant to Case Management Order No. 11, any Plaintiff who resides outside the territorial confines of the Northern District of Illinois who directly files an action against Mead Johnson & Co. LLC and/or Mead Johnson Nutrition Company (collectively "Mead Johnson") in MDL No. 3026 must concurrently fill out and file this Cover Sheet.

1. Plaintiff hereby states the U.S. District Court, outside of the Northern District of Illinois, to which this case shall be remanded at the conclusion of pretrial proceedings is _____ because that is the location where the preterm infant allegedly developed necrotizing enterocolitis after ingesting cow's milk-based preterm formula.

2. Plaintiff stipulates that Defendant Mead Johnson & Company, LLC is a Delaware limited liability corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville, Indiana 47721; and (2) Defendant Mead Johnson Nutrition Company is a Delaware corporation with its principal place of business located at 2400 W. Lloyd Expwy., Evansville, Indiana 47721.

3. Plaintiff further stipulates that personal jurisdiction over Mead Johnson is lacking in Illinois except to the extent that Plaintiffs' alleged use of Mead Johnson products and resulting injuries occurred in Illinois.

DATED: _____

BY: _____
Counsel for Plaintiff

CIVIL COVER SHEET

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. ***(See instructions on next page of this form.)***

I. (a) PLAINTIFFS

SARAH COLLIER, individually and on behalf of her minor child P.C.

(b) County of Residence of First Listed Plaintiff Josephine County, Ore
(Except in U.S. plaintiff cases)

(c) Attorneys *(firm name, address, and telephone number)*

Edward A. WALLACE MILLER, 200 W. Madison suite 3

DEFENDANTS

MEAD JOHNSON & COMPANY, LLC, MEAD JOHN

County of Residence of First Listed Defendant Vanderburgh County
(In U.S. plaintiff cases only)
Note: In land condemnation cases, use the location of the tract of land involved.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Check **one** box, only.)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government not a party.)*
- ☐ 2 U.S. Government Defendant
- ■ 4 Diversity *(Indicate citizenship of parties in Item III.)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(For Diversity Cases Only.)*

*(Check **one** box, only for plaintiff and **one** box for defendant.)*

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	■ 2	☐ 2	Incorporated *and* Principal Place of Business in Another State	☐ 5	■ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Check **one** box, only.)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loan (Excludes Veterans)
- ☐ 153 Recovery of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ■ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

PROPERTY RIGHTS
- ☐ 820 Copyright
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016 (DTSA)

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729 (a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 485 Telephone Consumer Protection Act (TCPA)
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Arts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 445 Amer. w/ Disabilities-Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus – Alien Detainee (Prisoner Petition)
- ☐ 465 Other Immigration Actions

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAXES
- ☐ 870 Taxes (U.S. Plaintiff or Defendant
- ☐ 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Check **one** box, only.)*

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ■ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

(Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

28 U.S. Code § 1332 - Product Liability

VII. PREVIOUS BANKRUPTCY MATTERS

(For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:

☐ Check if this is a **class action** under Rule 23, F.R.CV.P.

Demand $

CHECK Yes only if demanded in complaint:

Jury Demand: ■ Yes ☐ No

IX. RELATED CASE(S) IF ANY *(See instructions):*

Judge Rebecca R. Pallmeyer Case Number 1:22-cv-00071

X. Is this a previously dismissed or remanded case?

☐ Yes ☐ No **If yes, Case #** **Name of Judge**

Date: 10/7/2026

Signature of Attorney of Record /s/ Edward A. Wallace

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.