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Counsel for Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

LASHANAE LITTLES, individually
and on behalf of THE ESTATE OF
MAKAI SANDERS,

Plaintiff,

v.

ABBOTT LABORATORIES, INC.;
MEAD JOHNSON & COMPANY,
LLC and/or MEAD JOHNSON
NUTRITION COMPANY,

Defendants.

Case No: 5:21-cv-2146

COMPLAINT

PARTIES, JURISDICTION, AND VENUE

1
2 1. Plaintiff LaShanae Littles, individually and on behalf of the Estate of
3 Makai Sanders, is an adult and resident of San Bernardino County, California. She
4 is the mother of Makai Sanders, who was a minor and is now deceased, and sues as
5 his successor-in-interest for causes of action that survive her baby's death.

6 2. On December 25, 2020, Makai Sanders ("Baby Sanders") was born at
7 Community Hospital of San Bernardino in San Bernardino, California.

8 3. Baby Sanders, is the son of LaShanae Littles ("Plaintiff" or "the
9 mother").

10 4. The Defendant, Mead Johnson & Company, LLC and/or Mead Johnson
11 Nutrition Company ("Mead") manufactures, designs formulates, prepares, tests,
12 provides instructions, markets, labels, packages, places into the stream of commerce
13 in all fifty states, including California, and sells premature infant formula products
14 including Enfamil Human Milk Fortifier and Enfacare Powder.

15 5. The Defendant, Abbott Laboratories, Inc. ("Abbott," together with
16 Mead, the "Defendants") manufactures, designs, formulates prepares, tests, provides
17 instructions, markets, labels, packages, places into the stream of commerce in all
18 fifty states, including California, and sells premature infant formula including
19 Similac Special Care.

20 6. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)
21 because complete diversity exists between Plaintiff and Defendants, and the matter
22 in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

23 7. This Court has personal jurisdiction over Defendants because
24 Defendants are authorized to conduct and do conduct business in the State of
25 California and Defendants have sufficient minimum contacts with this State and/or
26 sufficiently avails itself of the markets in this State through its promotion, sales,
27 distribution and marketing within this State to render the exercise of jurisdiction by
28 this Court permissible.

1 8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a) and (b)
2 because a substantial part of the events or omissions giving rise to Plaintiff's claims
3 occurred in this judicial district.

4 **GENERAL ALLEGATION**

5 9. On December 25, 2020, Baby Sanders was born prematurely with a low
6 birth weight of 4 pounds and 2 ounces.

7 10. Following the birth, Makai Sanders, was placed in the Neonatal
8 Intensive Care Unit (NICU) at Community Hospital of San Bernardino.

9 11. Baby Sanders, was intravenously fed Similac Special Case 20Fe,
10 Enfamil HMF High Protein, Enfamil Premature, and Enfamil Premium, while in the
11 NICU.

12 12. On January 25, 2021, after being fed Defendants products, Baby
13 Sanders developed Necrotizing Enterocolitis ("NEC").

14 13. On January 27, 2021, at only 34 days old, Baby Sanders passed away
15 from medical complications after developing NEC, which are the direct and
16 proximate result of consumption of Defendants unreasonably dangerous cow's milk-
17 based products.

18 **THE SCIENCE**

19 14. According to the World Health Organization ("WHO"), babies born
20 prematurely, or "preterm," are defined as being born alive before 37 weeks of
21 pregnancy are completed, like Makai Sanders. The WHO estimates that
22 approximately 15 million babies are born preterm every year and that number is
23 rising.

24 15. Nutrition for preterm babies, like Makai Sanders, is significantly
25 important. Since the United States ranks in the top ten countries in the world with
26 the greatest number of preterm births, the market of infant formula and fortifiers is
27 particularly vibrant.

28 ///

1 16. Originally, cow's milk-based products were believed to be good for the
2 growth of premature, low birth weight babies; however, science and research have
3 advanced for decades confirming the significant dangers of the Defendants' cow's
4 milk-based products in causing Necrotizing Enterocolitis ("NEC") and/or
5 substantially contributing to death in preterm and severely preterm, low-weight
6 infants, along with many other health complications and long-term risks to babies,
7 yet, the Defendants did nothing to change their product, packaging, guidelines,
8 instructions, and/or warnings. Additionally, advances in science have created
9 alternative formulas and fortifiers that are derived from human milk and non-bovine
10 based products; however, the Defendants continue to promote and sell their defunct
11 cow's milk-based products.

12 17. As early as 1990, a prospective, multicenter study on 926 preterm
13 infants found that NEC was six to ten times more common in exclusively formula-
14 fed babies than in those fed breast milk alone and three times more common than in
15 those who received formula plus breast milk. Babies born at more than 30 weeks
16 gestation confirmed that NEC was rare in those whose diet included breast milk, but
17 it was 20 times more common in those fed formula only. A. Lucas, T. Cole, *Breast*
18 *Milk and Neonatal Necrotizing Enterocolitis*, LANCET, 336: 1519-1523 (1990).

19 18. In a study published in 2007 it was reported: "The use of an
20 exclusive HUM [Human] diet is associated with significant benefits for
21 extremely premature infants <1259 g BW. The benefits include decreased NEC
22 rates, mortality, late-onset sepsis, PDA, BPD, ventilator days, and ROP.
23 Importantly, while evaluating the benefits of using an exclusive HUM-based
24 protocol, it appears that there were no feeding-related adverse outcomes. This
25 study demonstrates that an exclusive HUM diet provides important benefits
26 beyond NEC." Hair, Amy, et al. *Beyond Necrotizing Enterocolitis Prevention:*
27 *Improving Outcomes with an Exclusive Human Milk-Based Diet*. (Breastfeeding
28 Medicine. 2016, Nov 2., 11(2):70-75.)

1 19. A study published in 2010 established that when premature babies were
2 fed an exclusive diet of mother's milk, donor milk, and human milk fortifier, these
3 babies were 90% less likely to develop surgical NEC. Sullivan, S., et al., An
4 Exclusively Human Milk-Based Diet Is Associated with a Lower Rate of Necrotising
5 Enterocolitis than a Diet of Human Milk and Bovine Milk-Based Products.
6 (Journal of Pediatrics 2010; 156:562-7.)

7 20. In 2011, the U.S. Surgeon General published a report titled, "The
8 Surgeon General's Call to Action to Support Breastfeeding." In it, the Surgeon
9 General warned that "for vulnerable premature infants, formula feeding is associated
10 with higher rates of [NEC]." U.S. Dep't. of Health & Human Serv., Off. of Surgeon
11 Gen., "The Surgeon General's Call to Action to Support Breastfeeding," p. 1, (2011).
12 This same report stated that premature infants who are not breast fed are 138% more
13 likely to develop NEC. Id., Table 1, p. 2.

14 21. In 2012, the American Academy of Pediatrics issued a policy statement
15 that all premature infants should be fed an exclusive human milk diet because of the
16 risk of NEC associated with the consumption of cow's milk-based products. The
17 Academy stated that "[t]he potent benefits of human milk are such that all pre-term
18 infants should receive human milk ... If the mother's own milk is
19 unavailable...pasteurized donor milk should be used." Breastfeeding and the Use
20 of Human Milk, PEDIATRICS, 129:e827-e841 (2012).

21 22. A study published in 2013 showed that, out of 104 the premature infants
22 participating in the study receiving an exclusive human-milk based diet, all 104
23 exceeded targeted growth standards, as well as length, weight, and head
24 circumference gain. The authors concluded that "this study provides data showing
25 that infants can achieve and mostly exceed targeted growth standards when receiving
26 an exclusive human milk-based diet." A. Hair, et al., *Human Milk Feed Supports*
27 *Adequate Growth in Infants \leq 1250 Grams Birthweight*, BMC RESEARCH NOTES,
28 6- 459 (2013). Thus, inadequate growth was proven to be a poor excuse for feeding



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