

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

DEONDRICK BROWN, SR., Individually
and on behalf of THE ESTATE OF
DEONDRICK W. BROWN, JR.; and
REBEKAH ETIENNE, Individually and on
behalf of THE ESTATE OF DEONDRICK
W. BROWN, JR.

Plaintiffs,

v.

ABBOTT LABORATORIES, INC.; MEAD
JOHNSON & COMPANY, LLC,

Defendants.

Case No.

COMPLAINT

COMPLAINT

Plaintiffs bring this Complaint and Demand for Jury Trial (“the Complaint”) against Abbott Laboratories, Inc. and Mead Johnson & Company, LLC (“Defendants”). As more specifically set forth below, Plaintiffs allege the following based upon personal knowledge as to Plaintiffs’ own acts and experiences and upon information and belief, including investigation conducted by Plaintiffs’ attorneys, as to all other matters.

This is a survival claim and wrongful death action as well as individual actions brought by DEONDRICK W. BROWN, SR. and REBEKAH ETIENNE the biological parents and legal heirs of DEONDRICK W. BROWN, JR., as a direct and proximate result of Defendants’ negligent and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of Similac products and Enfamil products (at times referred to herein as “the subject products”), which products were

prescribed/administered to and consumed by their minor child, DEONDRICK W. BROWN, JR., and which products caused the suffering and death of DEONDRICK W. BROWN, JR.

PARTIES, JURISDICTION, AND VENUE FACTS

1. Plaintiff Deondrick Brown, Sr., individually and on behalf of the Estate of Deondrick W. Brown, Jr., is an adult and resident of New Iberia, Iberia Parish, Louisiana. He is the biological and legal father of Deondrick W. Brown, Sr., who was a minor and is now deceased, and sues as his successor-in-interest for causes of action that survive Deondrick W. Brown, Jr.'s death. Deondrick Brown, Sr. also brings this suit individually, for all causes of action and damages outlined herein.

2. Plaintiff Rebekah Etienne, individually and on behalf of the Estate of Deondrick W. Brown, Jr., is an adult and resident of New Iberia, Iberia Parish, Louisiana. She is the biological and legal mother of Deondrick W. Brown, Jr., who was a minor and is now deceased, and sues as his successor-in-interest for causes of action that survive Deondrick W. Brown Jr.'s death. Rebekah Etienne also brings this suit individually, for all causes of action and damages outlined herein.

3. On July 7, 2021, Deondrick Willie Brown, Jr. ("the baby" or "Deondrick, Jr.") was born at Our Lady of Lourdes Hospital in Lafayette, Louisiana.

4. The baby, Deondrick Jr., was the son of Deondrick Brown, Sr. ("the father") and Rebekah Etienne ("the mother") (collectively, the "Plaintiffs").

5. On September 16, 2021, baby Deondrick Jr. died at Lady of Lourdes Hospital in Lafayette, Louisiana as a result of ingesting Defendants' fortified milk baby formula for infants and preemies, namely Similac Special Care (all varieties), Similac NeoSure Enfamil Human Milk fortifier, EnfaCare Powders and Enfamil Human Milk Fortifiers.

6. Defendant, Abbott Laboratories, Inc. (“Abbott”) manufactures, designs, formulates, prepares, tests, provides instructions, markets, labels, packages, places into the stream of commerce in all fifty states, including Louisiana, and sells premature infant formula including Similac Special Care and Similac NeoSure formulas. At all material times herein, including from 2016 through present, Abbott solely or jointly designed, developed, manufactured, packaged, labeled, promoted, marketed, distributed and/or sold Similac products specifically targeting medical providers and parents of preterm infants, including but not limited to Liquid Protein Fortifier, Similac NeoSure, Similac Human Milk Fortifiers, and “Similac Special Care Formulas” such as Similac Special Care 20, Similac Special Care 24, Similac Special Care 24 High Protein, and Similac Special Care 30.

7. Defendant, Mead Johnson & Company, LLC (“Mead Johnson”) manufactures, designs, formulates, prepares, tests, provides instructions, markets, labels, packages, places into the stream of commerce in all fifty states, including Louisiana, and sells premature infant formula including Enfamil Human Milk Fortifiers and EnfaCare formulas. At all material times herein, including from 2016 through present, Abbott solely or jointly designed, developed, manufactured, packaged, labeled, promoted, marketed, distributed and/or sold Enfamil products specifically targeting medical providers and parents of preterm infants, including but not limited to Enfamil Human Milk Fortifiers including, Enfamil A+, Enfamil NeuroPro, Enfamil Enspire and EnfaCare Power.

8. The Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a) because complete diversity exists between Plaintiffs and Defendant, and the matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

9. The Court has personal jurisdiction over Defendants, because they conduct business in Louisiana, purposefully direct and/or directed their actions toward Louisiana, consented to being

sued in Louisiana by registering an agent for service of process in Louisiana, and/or consensually submitted to the jurisdiction of Louisiana when obtaining a manufacturer or distributor license, and have the requisite minimum contacts with Louisiana necessary to constitutionally permit this Court to exercise jurisdiction. Moreover, Defendants' actions and/or inactions described herein were purposefully directed at and/or within the State of Louisiana, the damages were sustained by Plaintiff within the State of Louisiana, and the damages sustained by Plaintiff were a result of Defendants' actions and/or inactions—described herein—that were purposefully directed at and/or within the State of Louisiana.

10. Venue is appropriate in this court, as defendants herein are registered to do business in the judicial district in which this matter is filed, may be served in this judicial district, conduct the business activities described herein in this judicial district, and various actions and/or inactions sued upon occurred in this judicial district. 28 U.S.C. §1391(b)(2).

BACKGROUND FACTS

11. The protein ingredients most often found in Defendants' infant formulas are nonfat milk and whey protein concentrate from cow's milk. In recent years, there has been a growing scientific link between the use of cow's milk in infant formulas like Similac and Enfamil and an increased risk of necrotizing enterocolitis ("NEC").

12. If developed in premature infants, NEC can result in serious injuries, including death.

13. NEC causes the intestinal tissues to become inflamed, then perforated, which allows bacteria to leak into the abdomen or infiltrate the bloodstream. Once NEC develops, the condition can progress rapidly from mild intolerance to fatal sepsis.

14. Preterm and low-birth-weight infants are especially susceptible to NEC because of their underdeveloped digestive systems. Scientific research, including randomized controlled trials, has

confirmed that cow's milk-based feeding products cause NEC in preterm and low-birth-weight infants.

15. According to the American Academy of Pediatrics, premature infants should be fed human breast milk, in part because premature babies fed human breast milk have lower incidences of NEC.

16. In 2010 the Journal of Pediatrics published a study that established premature babies fed exclusive diets of mother's milk, donor milk, and human milk fortifier were 90% less likely to develop surgical NEC. Sullivan, S., et al, *An Exclusively Human Milk-Based Diet Is Associated with a Lower Rate of Necrotising Enterocolitis than a Diet of Human Milk and Bovine Milk-Based Products*. (J Pediatr 2010; 156:562-7, doi: 10.1016/j.jpeds.2009.10.040)

17. The Surgeon General's Call to Action to Support Breastfeeding, 2011, warned that, "[f]or vulnerable premature infants, formula feeding is associated with higher rates of necrotizing enterocolitis (NEC)." U.S. Department of Health and Human Services. *The Surgeon General's Call to Action to Support Breastfeeding*. Washington, DC: U.S. Department of Health and Human Services, Office of the Surgeon General; 2011, p. 1, available at <https://www.ncbi.nlm.nih.gov/books/NBK52682/>.

18. A 2014 published study reported that diets for extremely premature babies that exclusively consisted of human milk "should be considered as an approach to nutritional care of these infants." Abrams, Steven, et al. *Greater Mortality and Morbidity in Extremely Preterm Infants Fed a Diet Containing Cow Milk Protein Products*. (Breastfeeding Medicine. 2014, Jul-Aug.; 9(6):281-285, doi: 10.1089/bfm.2014).

19. Another 2014 study observed, "Necrotizing enterocolitis (NEC) is the most frequent and lethal gastrointestinal disorder affecting preterm infants [1,2], and is characterized by intestinal

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