

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KEYONNA WILLIAM, individually and on
behalf of all others similarly situated,

Civil Action No. _____

Plaintiff,

CLASS ACTION COMPLAINT

vs.

JURY TRIAL DEMAND

ABBOTT LABORATORIES D/B/A
ABBOTT NUTRITION,

Defendant.

COMES NOW, KEYONNA WILLIAM (“Plaintiff”), individually and on behalf of the Class, who states and alleges as follows:

INTRODUCTION

1. Plaintiff brings this action on behalf of herself and on behalf of a Class of similarly situated consumers against Defendant Abbott Laboratories d/b/a Abbott Nutrition (“Defendant” or “Abbott”) who purchased certain powdered infant formulas manufactured and sold by Abbott.
2. Abbott manufactures and sells infant formula products. These products include the brands Similac, Alimentum, and EleCare which parents trust and use to feed and nourish their children.
3. On February 17, 2022, the U.S. Food and Drug Administration (“FDA”) in conjunction with the U.S. Centers for Disease Control and Prevention (“CDC”) alerted consumers to avoid purchasing or using certain powdered infant formula products produced at Abbott’s Sturgis, Michigan facility.

4. Specifically, the FDA announced that it is investigating consumer complaints of *Cronobacter sakazakii* and *Salmonella* Newport infections connected to powdered infant formula products produced by Abbott.

5. On February 18, 2020, Abbott announced a recall of its powdered infant formula products, including the brands Similac, Alimentum, and EleCare because they suffer from a defect which could result in serious injury, permanent impairment, and even be life-threatening.

6. These products may contain *Cronobacter sakazakii* and *Salmonella* Newport bacteria, which when consumed, can result in serious adverse health effects, including sepsis, meningitis, poor feeding, irritability, fever, jaundice, grunting breaths, abnormal movements, and bowel damage.

7. Similac, Alimentum, and EleCare products where the first two digits of the product are 22 through 37 and the code on the container contains “K8,” “SH,” or “Z2,” and the use-by date is April 1, 2022 or later are all part of the recall (“Recalled Products”).

8. Despite the recall, Abbott is not crediting or replacing affected Recalled Products, which many parents and caretakers rely on daily to feed and care for their children. Since Abbott is now telling consumers it is not safe for their infants to consume these products, but many consumers rely on them to feed their children, Abbott leaves many consumers with no safe option but to pay full price for a newer version.

9. Plaintiff purchased Abbott’s powdered infant formula included in the recall. Plaintiff would not have purchased the product or would have paid less for it had they known about the contamination and potential health hazards.

10. As a result of Abbott’s unfair, deceptive, and/or fraudulent business practices, consumers of these products, including Plaintiff, have suffered an ascertainable loss, injury-in-fact, and otherwise have been harmed by Abbott’s conduct.

PARTIES

11. Plaintiff is a resident of the City of Wayne, County of Wayne, Michigan.
12. Defendant is an Illinois corporation with its principal place of business in Illinois.
13. Defendant is engaged in the business of manufacturing and selling medical devices and products, including powdered infant formulas through its Abbott Nutrition division.
14. Defendant may accept service via its registered agent The Corporation Company at 40600 Ann Arbor Road East, Suite 201, Plymouth, Michigan 48170.

JURISDICTION AND VENUE

15. This Court has original jurisdiction of this action under the Class Action Fairness Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d), this Court has original jurisdiction because the aggregate claims of the members of the putative class exceeds \$5 million, exclusive of costs, and at least one of the Class members is a citizen of a different state than Abbott.
16. Abbott regularly and systematically conducts business and sells its products in this District to customers in this District, including to Plaintiff and the Class. As such, Abbott is subject to the jurisdiction of this Court.
17. Venue is likewise proper in this district pursuant to 28 U.S.C. § 1391 because Abbott is subject to personal jurisdiction in this District and regularly conducts business in this District.

FACTUAL BACKGROUND AND GENERAL ALLEGATIONS

I. ABBOTT'S INFANT FORMULA.

18. Similac is a brand of powdered infant formula produced by Abbott which Abbott promises will “give babies a strong start by helping to keep them fed, happy, and healthy.” *See Why Similac*, <https://www.similac.com/why-similac.html> (last visited February 18, 2022).

According to Abbott, Similac “is the #1 Pediatrician Recommended Brand for Immune Support.”
Id.

19. Alimentum is a brand of powdered infant formula produced by Abbott for infants with lactose sensitivity which Abbott claims is “the #1 infant formula brand fed for cow’s milk protein allergy in the US.” See *Alimentum Product Description*, <https://www.similac.com/products/baby-formula/alimentum-powder/19-8oz-can-4pack.html> (last visited February 18, 2022).

20. EleCare is a brand of powdered infant formula produced by Abbott for infants who cannot tolerate intact or hydrolyzed protein due to conditions such as severe food allergies or short bowel syndrome. See *EleCare Product Information*, <https://elecare.com/> (last visited February 18, 2022).

21. The worldwide market for powdered infant formula was valued at \$27.7 billion in 2019.¹

22. The powdered infant formula market in the United States was valued at \$3.65 billion in 2019.²

23. In 2016, Abbott’s Similac Advance product accounted for 21.2% of the powdered infant formula market share, with two other Similac products in the top 10.³

¹ See *Infant Formula Milk Powder Market Size 2021*, <https://www.marketwatch.com/press-release/infant-formula-milk-powder-market-size-2021-global-industry-trends-future-growth-regional-overview-market-share-by-prominent-players-developing-technologies-tendencies-revenue-cagr-of-42-and-forecast-outlook-till-2024-2021-12-09> (last visited February 18, 2022).

² See *U.S. Baby Infant Formula Market to Reach \$5.81 Bn, Globally, by 2027 at 5.8% CAGR: Allied Market Research*, <https://www.prnewswire.com/news-releases/us-baby-infant-formula-market-to-reach-5-81-bn-globally-by-2027-at-5-8-cagr-allied-market-research-301273688.html> (last visited February 18, 2022).

³ See *Market share of the leading baby formula (powder) brands of the United States in 2016, based on dollar sales*, <https://www.statista.com/statistics/443950/market-share-of-the-leading-us-baby-formula-powder-brands/> (last visited February 18, 2022).

24. Abbott distributes its powdered infant formula products nationwide and internationally.

25. According to Abbott, Recalled Products were distributed to the following countries: Australia, Bahrain, Barbados, Bermuda, Canada, Chile, China, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Guam, Guatemala, Hong Kong, India, Indonesia, Israel, Jordan, Kuwait, Lebanon, Malaysia, Mexico, New Zealand, Oman, Peru, Puerto Rico, Qatar, Saudi Arabia, Singapore, South Africa, Sudan, Taiwan, Thailand, United Arab Emirates, United Kingdom, United States, and Vietnam ANI South.

II. CURRENT CASES LINKED TO ABBOTT'S INFANT FORMULA

26. Currently, four infant illnesses from three states are linked Abbott's infant formula products. All four required hospitalization and one resulted in death.

27. The four cases include infants from Minnesota, Ohio, and Texas.

28. The first known hospitalization occurred in and around September 6, 2021.

29. All four cases are reported to have consumed powdered infant formula produced from Abbott's Sturgis, Michigan facility.

30. These cases include three reports of *Cronobacter sakazakii* infections and one report of *Salmonella* Newport infection in infants.

31. *Cronobacter sakazakii*, formerly known as *Enterobacter sakazakii*, is a germ that can live in dry foods, such as powdered infant formula, powdered milk, herbal teas, and starches.

32. *Cronobacter* can cause diarrhea and urinary tract infections in people of all ages, but infection can be very serious in infants. *Cronobacter* germs can cause a dangerous blood infection (sepsis) or make the linings surrounding the brain and spinal cord swell (meningitis). Infants two months of age and younger are most likely to develop meningitis if they get sick from *Cronobacter*.

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