

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

JOE PISCIOTTI, individually, and on behalf
of all others similarly situated,

Plaintiff,

v.

THE J.M. SMUCKER COMPANY,

Defendant.

CASE NO.:

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff JOE PISCIOTTI (“Plaintiff”), individually, and on behalf of all others similarly situated, by and through counsel, brings this Class Action Complaint against Defendant THE J.M. SMUCKER COMPANY (“Defendant”).

INTRODUCTION

1. This consumer class action arises out of Defendant’s unlawful and unreasonable conduct directly causing a Salmonella outbreak impacting potentially thousands of U.S. consumers who purchased and/or consumed certain lots of Jif peanut butter.

2. On May 20, 2022, Defendant announced that it was “recalling select Jif® peanut butter products sold in the U.S. due to potential salmonella contamination.” See J.M. Smucker Co. Company Announcement, attached hereto as Exhibit A. “The recalled peanut butter was distributed nationwide in retail stores and other outlets” and include the lot codes 1274425–2140425. *Id.*

3. Also on May 20, 2022, the Food and Drug Administration (“FDA”) published “Outbreak Investigation of Salmonella: Peanut Butter (May 2022)”, attached hereto as Exhibit B, notifying the public of its investigation in conjunction with the U.S. Centers for Disease Control and Prevention (“CDC”) and local partners into a “multistate outbreak of *Salmonella* Senftenberg infections linked to certain Jif brand peanut butter products produced at the J.M. Smucker Company facility in Lexington, Kentucky.”

4. According to the CDC, as of May 25, 2022, there were 16 reported cases of *Salmonella* connected to Defendant’s Jif—100% of the people who were interviewed reported eating peanut butter prior to becoming ill, and 90% of those interviewed reported which brand peanut butter and all of them identified Jif. As a result, “Epidemiological evidence indicates that Jif brand peanut butter produced the strain causing illnesses” in the outbreak. *See* 2022 Recalls of Food Products Associated with Peanut Butter from J.M. Smucker Company due to the Potential Risk of Salmonella,” attached hereto as Exhibit C.

5. Other products incorporating the contaminated peanut butter are also subject to recalls, such as products sold by Fudgeamentals, Del Monte, Albertsons Companies, Coblenz Chocolate Company, Mary’s Harvest fresh Foods Inc., Garden But, LLC, TAHER, INC., Country Fresh, Cargill, and Wawa. *See* Exhibit C. These other products, as well as the recalled Jif products, are collectively referred to as the “Contaminated Products.”

6. The FDA advised purchasers of the Contaminated Products not to eat them. *See* Exhibit B.

7. However, prior to the recall, Plaintiff purchased Jif brand peanut butter and consumed it. Shortly after consuming it, Plaintiff became ill.

8. Defendant's violations of laws and regulations prohibiting the sale of contaminated and misbranded food, deviations from reasonable manufacturing and production standard practices, and failures to ensure the quality and safety of the Contaminated Products prior to sale directly caused Plaintiff's and Class members' economic and noneconomic losses.

9. Accordingly, Plaintiff brings this suit on behalf of himself and the Class of similarly situated individuals for out-of-pocket losses, compensation, personal injuries, medical and healthcare bills, emotional distress, pain and suffering, and all other relief to which they are lawfully entitled, resulting from Defendant's sale of the Contaminated Products.

PARTIES

10. Plaintiff is a citizen of Illinois.

11. Defendant is an Ohio corporation with its principal place of business in Orrville, Ohio.

JURISDICTION AND VENUE

12. This Court has personal jurisdiction over Defendant because Defendant is incorporated and at home in Ohio.

13. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(d). As set forth below, the proposed Class includes more than 100 individuals, and the amount of controversy, in the aggregate, exceeds the sum of \$5,000,000 exclusive of interest and costs, given Defendant's market reach and the approximate number of potential Class members in the United States. Based on CDC data, proposed Class members are citizens of states different from Defendant.

14. Venue is proper in this District under 28 U.S.C. § 1391, because a substantial part of the events and omissions giving rise to the claims occurred in this District.

FACTUAL ALLEGATIONS

15. According to the CDC, *Salmonella* are a group of bacteria that can cause a gastrointestinal illness and fever called salmonellosis. *Salmonella* can be spread by food handlers who do not wash their hands and/or the surfaces and tools they use between food preparation steps, and when people eat raw or undercooked foods. *Salmonella* can also spread from animals to people. People who have direct contact with certain animals, including poultry and reptiles, can spread the bacteria from the animals to food if they do not practice proper hand washing hygiene before handling food. Pets can also spread the bacteria within the home environment if they eat food contaminated with *Salmonella*.

16. Most people infected with *Salmonella* will begin to develop symptoms 12 to 72 hours after infection. Salmonellosis usually lasts four to seven days. Most people with salmonellosis develop diarrhea, fever, and abdominal cramps. More severe cases of salmonellosis may include a high fever, aches, headaches, lethargy, a rash, blood in the urine or stool, and in some cases may become fatal. The CDC estimates that approximately 450 persons in the United States die each year from acute Salmonellosis.

17. Due to the range in severity of illness, people should consult their healthcare provider if they suspect that they have developed symptoms that resemble a *Salmonella* infection. Most people who get ill from *Salmonella* have diarrhea, fever, and stomach cramps. Most people recover without specific treatment and should not take antibiotics. Antibiotics are typically used only to treat people who have severe illness or who are at risk for it. Some people's illness may be so severe that they need to be hospitalized.

18. According to the CDC's website as of the date of this filing, the CDC has connected the Contaminated Products to 16 cases in 12 states resulting in 2 hospitalizations. The CDC

cautions that “[t]he true number of sick people in an outbreak is also likely much higher than the number reported. This is because many people recover without medical care and are not tested for *Salmonella*.” <https://www.cdc.gov/salmonella/senftenberg-05-22/epi.html>.

19. The Contaminated Products are present throughout the United States.

20. The first reported case of Salmonellosis from the Contaminated Products occurred in February 20, 2022. Given the rapidly developing story, cases are likely occurring as of the filing of this Complaint.

Defendant’s Jif Peanut Butter

21. Defendant manufactures, distributes, advertises, markets, and sells Jif peanut butter (“Jif”). There are many sizes and varieties of Jif available. The contaminated varieties are listed on Exhibits A and B.



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