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6 *and Liaison Counsel for Defendants*

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**UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

IN RE: BABY FOOD PRODUCTS  
LIABILITY LITIGATION

Case No. 24-MD-301-JSC  
MDL 3101

This document relates to:  
ALL ACTIONS

**DEFENDANTS' SUBMISSION IN  
SUPPORT OF ENTRY OF DIRECT  
FILING ORDER**

Date: June 20, 2024  
Time: 11:00 a.m. PT  
Location: Courtroom 8  
19th Floor 450 Golden Gate Ave.  
San Francisco, CA 94102

1 Pursuant to Pretrial Order 3, Defendants Beech-Nut Nutrition Company, Gerber Products  
2 Company, Hain Celestial Group, Inc., Nurture, LLC (formerly Nurture, Inc), Plum, PBC, Sprout  
3 Foods, Inc., Walmart Inc., Amazon.com Services LLC, Campbell Soup Co., and Whole Foods  
4 Market Services, Inc., (“Defendants”) submit the following position statement in support of entry  
5 of a Direct Filing Order.

6 The parties have reached a compromise on all but one provision of a Direct Filing Order.  
7 Defendants’ proposed Order includes a prohibition against filing multi-plaintiff complaints, other  
8 than those involving derivative claimants. The disputed provision reads:

9 With the exception of any complaint that includes plaintiffs who assert solely  
10 derivative claims, no multi-plaintiff complaint may be directly filed in MDL  
11 No. 3101. Complaints including more than one non-derivative claimant shall  
12 not be dismissed, provided that any plaintiff to such complaint files an amended  
complaint within 30 days of being informed of this provision. Amendments to  
sever multi-plaintiff complaints shall not require leave of Court.

13 Plaintiffs do not want any provision restricting their ability to file multi-plaintiff complaints. The  
14 disputed provision is consistent with the Federal Rules of Civil Procedure, helpful to the parties in  
15 organizing the case and pursuing resolution, and has been adopted by other MDL courts,  
16 including most recently by Judge Cote in the Acetaminophen – ASD-ADHD MDL and Judge  
17 Rosenberg in the Zantac MDL.

18 Defendants’ proposed provision preventing multi-plaintiff complaints is aligned with  
19 Federal Rule of Civil Procedure 20. Rule 20 provides that multiple plaintiffs may be joined in a  
20 single action only if (A) they assert relief “jointly, severally, or in the alternative with respect to  
21 or arising out of the same transaction, occurrence, or series of transactions or occurrences,” and  
22 (B) the actions involve a question of law or fact common to all plaintiffs. Fed. R. Civ. Proc.  
23 20(a)(1). Courts routinely find that personal injury claims of unrelated plaintiffs are not properly  
24 joined because they do not arise out of the same transaction or occurrence; rather, they involve  
25 plaintiffs who used different products, had different medical histories, and suffered distinct  
26 injuries. *See, e.g., Adams v. I-Flow Corp.*, No. CV09–09550 R(SSx), 2010 WL 1339948, at \*8  
27 (C.D. Cal. March 30, 2010) (finding that mere use of the same medical device did not justify  
28 joinder of plaintiffs who had different medical histories, had different surgeries performed by

1 different physicians, and had different risk factors); *Ellis v. Evonik Corp.*, 604 F. Supp. 3d 356,  
2 376-79 (E.D. La. 2022) (severing claims based, in part, on the significant differences in the  
3 timing and length of each plaintiff’s exposure to a toxic substance); *In re Yasmin & Yaz*  
4 *(Drospirenone) Mktg., Sales Practices & Prods. Liab. Litig.*, 779 F. Supp. 2d 846, 856 (S.D. Ill.  
5 2011) (finding misjoinder of plaintiffs where plaintiffs “were prescribed different drugs...by  
6 different doctors at different times, have different medical histories, and utilized different  
7 pharmacies” were not properly joined); *Bartis v. Biomet, Inc.*, No. 4:13-CV-00657-JAR, 2021  
8 WL391708, at \*2 (E.D. Mo. Feb. 4, 2021) (holding that even under a “very broad” interpretation  
9 of Rule 20 joinder, plaintiffs’ claims are not “transactionally linked” if the plaintiffs’ only  
10 argument is that the plaintiffs used the same product and received the same treatment for their  
11 injury).

12 In this MDL, each of the plaintiffs ate different baby food products manufactured or sold  
13 by different entities at different times. The products contained different ingredients and  
14 accordingly, different levels of trace heavy metals. Each plaintiff has a different medical history,  
15 suffered a different purported injury, and received different treatment. Simply put, these cases  
16 involve no common transaction or occurrence.

17 Ordering Plaintiffs who have severable claims to file separate actions promotes efficiency.  
18 Because personal injury claims of unrelated plaintiffs are severable under Rule 21, preventing  
19 their filing at this juncture will save the Court the effort of deciding future motions to sever.  
20 Additionally, the filing of separate complaints is critical to the organization and resolution of the  
21 case. In coordinated proceedings with no prohibition against multi-plaintiff cases, it is  
22 Defendants’ experience that Plaintiffs’ firms routinely join dozens of plaintiffs, even plaintiffs  
23 represented by different firms. It can be difficult to identify which firm represents each plaintiff  
24 or which facts in the complaint pertain to each plaintiff. Under these circumstances, it becomes  
25 impossible to identify relevant cases for bellwether selection, to sort out which product use or  
26 other allegations pertain to each plaintiff at the summary judgment phase, or to understand  
27 exactly how many plaintiffs each firm has (and what the key allegations are as to those plaintiffs)  
28

1 when parties discuss resolution, whether by motion practice directed at all plaintiffs alleging  
2 specific facts (e.g., use of a particular type of product) or settlement.

3 For these reasons, MDL courts routinely include a prohibition against multi-plaintiff  
4 complaints. *In re: Acetaminophen – ASD-ADHD Prods. Liab. Litig.*, MDL 3043, Dkt. 238 (Dec.  
5 2, 2022) (“With the exception of complaints that include plaintiffs who are immediate family  
6 members or who solely assert derivative claims, no multi-plaintiff complaints may be directly  
7 filed in the MDL.”) (attached as Exhibit C); *In re: Zantac (Ranitidine) Prods. Liab. Litig.*, MDL  
8 2924, Dkt. 422 (“With the exception of complaints that include plaintiffs who solely assert  
9 derivative claims, no multi-plaintiff complaints may be directly filed in MDL No. 2924.”)  
10 (attached as Exhibit D). Other MDL courts have noted the problems which can arise by permitted  
11 multi-plaintiff complaints, which may disguise jurisdictional and venue shortcomings. *See In re:*  
12 *Roundup Prods. Liab. Litig.*, MDL 2741, Dkt. 7196 (discussing multi-plaintiff lawsuit, which  
13 permitted plaintiffs to file claims in violation of the rules of personal jurisdiction and venue).

14 Defendants respectfully request that the Court enter the direct filing order proposed by  
15 Defendants, which includes a prohibition against multi-plaintiff complaints in Paragraph I(B).

16 Respectfully submitted,

17  
18 Dated: June 13, 2024

DLA PIPER LLP (US)

19 By: /s/ Brooke Killian Kim  
20 Brooke Killian Kim (CA Bar No. 239298)  
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*Liaison Counsel for Defendants*

# Exhibit A

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 IN RE: BABY FOOD PRODUCTS  
LIABILITY LITIGATION

Case No. 24-md-03101-JSC

[PROPOSED]

5  
6 This Document Relates To:  
7 ALL ACTIONS

PRETRIAL ORDER NO. \_\_\_\_\_  
DIRECT FILING ORDER

8  
9 **I. Direct Filing of Cases in MDL 3101**

10 **A. Direct Filing.** To eliminate delays associated with transfer of cases filed in or removed from  
11 other federal district courts to this Court, and to promote judicial efficiency, any plaintiff whose  
12 case would be subject to transfer as a tag-along action to MDL No. 3101 may file their case directly  
13 in MDL No. 3101 in the United States District Court for the Northern District of California in  
14 accordance with the procedures set forth herein. Nothing in this Order shall constitute a  
15 determination by the Court or an admission by any party that venue in this or any other jurisdiction  
16 is proper. Any references to “defendants” or “all defendants” herein shall not constitute an  
17 appearance by or for any defendant not properly served.

18 **B. Claims Subject to Direct Filing.** A case is subject to direct filing under this order if it  
19 qualifies as a tag-along action to MDL No. 3101 because the plaintiff alleges personal injuries and  
20 alleges that he or she was “exposed to elevated quantities of toxic heavy metals (namely, arsenic,  
21 lead, cadmium, and mercury) from consuming defendants’ baby food products and, as a result,  
22 suffered brain injury that manifested in diagnoses of autism spectrum disorder (ASD) and/or  
23 attention deficit hyperactivity disorder (ADHD).” *In re Baby Food Mktg., Sales Practs. & Prod.*  
24 *Liab. Litig. (No. II)*, No. MDL 3101, 2024 WL 1597351, at \*1 (J.P.M.L. Apr. 11, 2024). With the  
25 exception of any complaint that includes plaintiffs who assert solely derivative claims, no multi-  
26 plaintiff complaint may be directly filed in MDL No. 3101. Complaints including more than one  
27 non-derivative claimant shall not be dismissed, provided that any plaintiff to such complaint files  
28 an amended complaint within 30 days of being informed of this provision. Amendments to sever

1 multi-plaintiff complaints shall not require leave of Court. Class actions or claims solely for  
2 economic injury may not be directly filed in MDL 3101.

3 **C. Process for Direct Filing.** Directly filed complaints should *not* be filed under the MDL case  
4 number. To directly file an action, the plaintiff must open a new case and pay the standard filing  
5 fee. Filing a complaint in this District requires completion of a Civil Cover Sheet, which can be  
6 found here: [https://www.cand.uscourts.gov/wp-content/uploads/forms/civil-forms/JS-CAND-](https://www.cand.uscourts.gov/wp-content/uploads/forms/civil-forms/JS-CAND-44_fillable_10-2020.pdf)  
7 [44\\_fillable\\_10-2020.pdf](https://www.cand.uscourts.gov/wp-content/uploads/forms/civil-forms/JS-CAND-44_fillable_10-2020.pdf). When filing a complaint in this District under this Order, each plaintiff's  
8 counsel must identify the MDL case name and number in Section VIII of the Civil Cover Sheet to  
9 ensure the case is included as a member case of the MDL.

10 **D. Designation in Complaint.** For cases filed pursuant to this Order, the complaint must use  
11 the caption set forth in Paragraph J below and include (1) a statement indicating that it is being filed  
12 in accordance with Case Management Order No. \_\_\_\_ (Direct Filing Order); (2) a designation of  
13 venue ("Original Venue"), which will be the presumptive place of remand absent a showing by the  
14 plaintiff in the action or any defendant that the place of remand should be elsewhere, pursuant to  
15 Section E below. Should the Court enter a pretrial order governing the filing of short form  
16 complaints after the entry of this Order, the directly filed complaints will be subject to those  
17 provisions, which may modify this paragraph.

18 **E. Failure to Designate Original Venue.** If a plaintiff fails to designate an Original Venue,  
19 any defendant to the action may provide notice to the plaintiff and the plaintiff shall have 30 days  
20 to designate an Original Venue through a notice filed with the Court and served on all parties in the  
21 action. If the plaintiff fails to do so, defendants shall provide notice to the Court and request that the  
22 Court enter an order to show cause why the case should not be dismissed for failure to comply with  
23 this Order. The plaintiff shall have 30 days to respond to the order to show cause.

24 **F. Objections to Inclusion of Directly Filed Cases in MDL No. 3101.** Plaintiffs, through Co-  
25 Lead Counsel, and defendants in the applicable directly filed case, shall have 30 days to object to the  
26 inclusion of any directly filed case in MDL No. 3101. Defendants shall lodge their objection by  
27 filing a "Notice of Objection to Inclusion of Directly Filed Case" with the Court. The Notice must  
28 be served on all parties to the applicable directly filed case. Upon filing of a Notice of Objection to

1 Inclusion of Directly Filed Case, the parties shall have 14 days to meet and confer. If the parties are  
2 able to resolve the objection, defendants shall file and serve a notice of withdrawal of the objection.  
3 If the parties are unable to resolve the objection, the plaintiff shall have 30 days to refile the action  
4 in an appropriate District Court. If the action is refiled within 30 days, defendants agree not to raise  
5 as a defense any statute of limitations that lapsed between the day of filing and the day of refileing.  
6 Defendants expressly retain all statute of limitations defenses that existed prior to the initial filing.

7 **G. No *Lexecon* Waiver.** Each case filed pursuant to this Order will be centralized for pretrial  
8 proceedings only, consistent with the Judicial Panel on Multidistrict Litigation’s April 11, 2024  
9 Transfer Order. Nothing in this Order constitutes a waiver of any party’s rights under *Lexecon, Inc.*  
10 *v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998) or right to challenge personal or  
11 subject matter jurisdiction, the effectiveness of service, choice of law, statutes of limitations, *forum*  
12 *non conveniens*, venue, the location of any trials to be held, or any other legal rights and remedies.

13 **H. Transfer for Trial to Federal District Court of Proper Venue.** Upon completion of all  
14 pretrial proceedings applicable to a case filed directly before this Court in MDL 3101 pursuant to  
15 this Order, this Court, pursuant to 28 U.S.C. § 1404(a), will transfer that case to the identified  
16 Original Venue, absent an objection by one or more parties or unless the plaintiff and defendants in  
17 that action jointly advise the Court that the case should be transferred to another District in which  
18 venue and jurisdiction is proper. Objections regarding a plaintiff’s designated Original Venue may  
19 be raised by motion and/or stipulation by the parties, or other means permitted by the Court, within  
20 30 days following notification by the Court of a pending transfer or as otherwise agreed by the  
21 parties. The inclusion of any action in this MDL shall not constitute a determination by this Court  
22 that venue is proper in this district.

23 **I. Choice of Law.** The fact that a case was filed pursuant to this Order will have no impact on  
24 choice of law, including the statute of limitations, that would otherwise apply to an individual case  
25 had it been filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407.  
26 This Paragraph does not limit or foreclose plaintiffs’ rights to amend their venue selection as  
27 permitted under the law or this Order. The parties’ agreement to this Order shall also have no effect  
28 on the substantive law applicable to a plaintiff’s case.



1 **J. Caption.** The caption for any complaint that is directly filed in MDL No. 3101 pursuant to  
2 this Order shall bear the following caption:

3 **UNITED STATES DISTRICT COURT**  
4 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
5 **SAN FRANCISCO DIVISION**

6 IN RE: BABY FOOD PRODUCTS 7 LIABILITY LITIGATION	Case No. 24-MD-3101-JSC  MDL 3101
8 This Document Relates To:  9 [Plaintiff’s name],  10 <i>Plaintiff,</i> 11 v.  12 [List of all Defendants]  13 <i>Defendants.</i>	Hon. Jacqueline Scott Corley  <b>COMPLAINT AND JURY DEMAND</b>  <b>Case No. [INSERT CASE NUMBER]</b>

14 **K. Filing Under this Order.** When utilizing and invoking this Order to file a case directly in  
15 this MDL, Plaintiff shall assert the following paragraph in their complaint, as it relates to  
16 allegations of venue:

17 Plaintiff(s) file this Complaint pursuant to CMO No. \_\_\_\_, and are to be bound by the rights,  
18 protections, and privileges, and obligations of that CMO and other Order of the Court. Further,  
19 in accordance with CMO No. \_\_\_\_, Plaintiff(s) hereby designate the United States District  
20 Court for the [District and Division] as Plaintiff’s designated venue (“Original Venue”).

21 Plaintiff makes this selection based upon one (or more) of the following factors (check the  
22 appropriate box(es))

23 \_\_\_\_Plaintiff currently resides in \_\_\_\_\_ (City/State);

24 \_\_\_\_Plaintiff purchased and consumed Defendant(s) products in \_\_\_\_\_ (City/State).

25 \_\_\_\_The Original Venue is a judicial district in which Defendant \_\_\_\_\_ resides, and all  
26 Defendants are residents of the State in which the district is located (28 U.S.C. 1391(b)(1)).

1        \_\_\_The Original Venue is a judicial district in which a substantial part of the events or  
2 omissions giving rise to the claim occurred, specially (28 U.S.C. 1391 (b)(2)):

\_\_\_\_\_.

3        \_\_\_There is no district in which an action may otherwise be brought under 28 U.S.C. 1391,  
4 and the Original Venue is a judicial district in which Defendant \_\_\_\_\_ is subject  
5 to the Court’s personal jurisdiction with respect to this action (28 U.S.C. 1391 (b)(3)).

6        \_\_\_Other reason (please explain): \_\_\_\_\_.

7        **L. Electronic Filing.** Prior to filing a complaint in this District pursuant to this Order, the  
8 filing attorney must register for an/or have a Northern District of California ECF user ID and  
9 password.

10        **II. Service of Process**

11        **A. No Summons Required for Specified Defendants.** As to defendants Beech-Nut Nutrition  
12 Company, Gerber Products Company, Hain Celestial Group, Inc., Nurture, LLC (formerly Nurture,  
13 Inc), Plum, PBC, Sprout Foods, Inc., and Walmart, Inc. (“Specified Defendants”), plaintiffs are not  
14 be required to request issuance of a summons or to serve a summons to initiate actions filed pursuant  
15 to this Order. The Clerk’s office is directed not to issue summonses to the Specified Defendants in  
16 cases directly filed in MDL 3101. Summons must be issued and served as to any defendant other  
17 than the Specified Defendants.

18        **B. Accomplishing Service.** To expedite and streamline the service process for cases filed  
19 pursuant to this Order, the Specified Defendants have agreed to establish, maintain, and monitor an  
20 email address for each Specified Defendant for the express purpose of accepting service of  
21 complaints directly filed in MDL 3101. Service may be accomplished through this Paragraph once  
22 a case has been transferred to this MDL. Plaintiffs who directly file a case in this MDL may  
23 effectuate service via email on the following email addresses:

- 24        • Beech-Nut Nutrition Company: [BeechnutBabyFoodMDL3101Service@kslaw.com](mailto:BeechnutBabyFoodMDL3101Service@kslaw.com)
- 25        • Gerber Products Company: [GerberBabyFoodMDL3101Service@whitecase.com](mailto:GerberBabyFoodMDL3101Service@whitecase.com)
- 26        • Hain Celestial Group, Inc.: [HainNoticeofService@cov.com](mailto:HainNoticeofService@cov.com)
- 27        • Nurture, LLC: [NurtureBabyFoodMDL3101Service@us.dlapiper.com](mailto:NurtureBabyFoodMDL3101Service@us.dlapiper.com)

- 1 • Plum PBC: [PlumMDLservice@dechert.com](mailto:PlumMDLservice@dechert.com)
- 2 • Sprout Foods, Inc.: [SproutBabyFoodMDL3101Service@grsm.com](mailto:SproutBabyFoodMDL3101Service@grsm.com)
- 3 • Walmart, Inc.: [WalmartBabyFoodMDL3101Service@kslaw.com](mailto:WalmartBabyFoodMDL3101Service@kslaw.com)

4 The subject line of the email should include the caption and civil action number of the case being  
5 served. The Specified Defendants shall send a responsive email via auto-reply accepting service and  
6 include the statement: “Service of this responsive email shall serve as proof that Defendant is  
7 waiving service as set out in CMO No. \_\_\_\_, has received actual notice of the legal action brought  
8 against it, and service of process is complete.” If the auto-reply is not received by the plaintiff, then  
9 the plaintiff shall so notify counsel of record for the applicable Specified Defendant. No default  
10 shall be entered where a defendant did not receive actual notice of the complaint and the plaintiff  
11 cannot provide evidence of the auto-reply notification.

12 **C. Service on Other Defendants.** Service of potential additional Defendants other than the  
13 Specified Defendants, including Amazon.com Services LLC, Campbell Soup Co., Danone S.A.,  
14 Nestle S.A., and Whole Foods Market Services, Inc., shall be the subject of a future Pretrial Order.

# **Exhibit B**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: BABY FOOD PRODUCTS  
LIABILITY LITIGATION

Case No. 24-md-03101-JSC

**[PROPOSED]**

This Document Relates To:  
ALL ACTIONS

**PRETRIAL ORDER NO. \_\_\_\_\_**  
**DIRECT FILING ORDER**

**I. Direct Filing of Cases in MDL 3101**

**A. Direct Filing.** To eliminate delays associated with transfer of cases filed in or removed from other federal district courts to this Court, and to promote judicial efficiency, any plaintiff whose case would be subject to transfer as a tag-along action to MDL No. 3101 may file their case directly in MDL No. 3101 in the United States District Court for the Northern District of California in accordance with the procedures set forth herein. Nothing in this Order shall constitute a determination by the Court or an admission by any party that venue in this or any other jurisdiction is proper. Any references to “defendants” or “all defendants” herein shall not constitute an appearance by or for any defendant not properly served.

**B. Claims Subject to Direct Filing.** A case is subject to direct filing under this order if it qualifies as a tag-along action to MDL No. 3101 because the plaintiff alleges personal injuries and alleges that he or she was “exposed to elevated quantities of toxic heavy metals (namely, arsenic, lead, cadmium, and mercury) from consuming defendants’ baby food products and, as a result, suffered brain injury that manifested in diagnoses of autism spectrum disorder (ASD) and/or attention deficit hyperactivity disorder (ADHD).” *In re Baby Food Mktg., Sales Pract. & Prod. Liab. Litig. (No. II)*, No. MDL 3101, 2024 WL 1597351, at \*1 (J.P.M.L. Apr. 11, 2024). With the exception of any complaint that includes plaintiffs who assert solely derivative claims, no multi-plaintiff complaint may be directly filed in MDL No. 3101. Complaints including more than one non-derivative claimant shall not be dismissed, provided that any plaintiff to such complaint files an amended complaint within 30 days of being informed of this provision. Amendments to sever

1 [multi-plaintiff complaints shall not require leave of Court.](#) Class actions or claims solely for  
2 economic injury may not be directly filed in MDL 3101.

3 **C. Process for Direct Filing.** Directly filed complaints should *not* be filed under the MDL case  
4 number. To directly file an action, the plaintiff must open a new case and pay the standard filing  
5 fee. Filing a complaint in this District requires completion of a Civil Cover Sheet, which can be  
6 found here: [https://www.cand.uscourts.gov/wp-content/uploads/forms/civil-forms/JS-CAND-](https://www.cand.uscourts.gov/wp-content/uploads/forms/civil-forms/JS-CAND-44_fillable_10-2020.pdf)  
7 [44\\_fillable\\_10-2020.pdf](https://www.cand.uscourts.gov/wp-content/uploads/forms/civil-forms/JS-CAND-44_fillable_10-2020.pdf). When filing a complaint in this District under this Order, each plaintiff's  
8 counsel must identify the MDL case name and number in Section VIII of the Civil Cover Sheet to  
9 ensure the case is included as a member case of the MDL.

10 **D. Designation in Complaint.** For cases filed pursuant to this Order, the complaint must use  
11 the caption set forth in Paragraph J below and include (1) a statement indicating that it is being filed  
12 in accordance with Case Management Order No. \_\_\_\_ (Direct Filing Order); (2) a designation of  
13 venue ("Original Venue"), which will be the presumptive place of remand absent a showing by the  
14 plaintiff in the action or any defendant that the place of remand should be elsewhere, pursuant to  
15 Section E below. Should the Court enter a pretrial order governing the filing of short form  
16 complaints after the entry of this Order, the directly filed complaints will be subject to those  
17 provisions, which may modify this paragraph.

18 **E. Failure to Designate Original Venue.** If a plaintiff fails to designate an Original Venue,  
19 any defendant to the action may provide notice to the plaintiff and the plaintiff shall have 30 days  
20 to designate an Original Venue through a notice filed with the Court and served on all parties in the  
21 action. If the plaintiff fails to do so, defendants shall provide notice to the Court and request that the  
22 Court enter an order to show cause why the case should not be dismissed for failure to comply with  
23 this Order. The plaintiff shall have 30 days to respond to the order to show cause.

24 **F. Objections to Inclusion of Directly Filed Cases in MDL No. 3101.** Plaintiffs, through Co-  
25 Lead Counsel, and defendants in the applicable directly filed case, shall have 30 days to object to the  
26 inclusion of any directly filed case in MDL No. 3101. Defendants shall lodge their objection by  
27 filing a "Notice of Objection to Inclusion of Directly Filed Case" with the Court. The Notice must  
28 be served on all parties to the applicable directly filed case. Upon filing of a Notice of Objection to

1 Inclusion of Directly Filed Case, the parties shall have 14 days to meet and confer. If the parties are  
2 able to resolve the objection, defendants shall file and serve a notice of withdrawal of the objection.  
3 If the parties are unable to resolve the objection, the plaintiff shall have 30 days to refile the action  
4 in an appropriate District Court. If the action is refiled within 30 days, defendants agree not to raise  
5 as a defense any statute of limitations that lapsed between the day of filing and the day of refileing.  
6 Defendants expressly retain all statute of limitations defenses that existed prior to the initial filing.

7 **G. No *Lexecon* Waiver.** Each case filed pursuant to this Order will be centralized for pretrial  
8 proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's April 11, 2024  
9 Transfer Order. Nothing in this Order constitutes a waiver of any party's rights under *Lexecon, Inc.*  
10 *v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998) or right to challenge personal or  
11 subject matter jurisdiction, the effectiveness of service, choice of law, statutes of limitations, *forum*  
12 *non conveniens*, venue, the location of any trials to be held, or any other legal rights and remedies.

13 **H. Transfer for Trial to Federal District Court of Proper Venue.** Upon completion of all  
14 pretrial proceedings applicable to a case filed directly before this Court in MDL 3101 pursuant to  
15 this Order, this Court, pursuant to 28 U.S.C. § 1404(a), will transfer that case to the identified  
16 Original Venue, absent an objection by one or more parties or unless the plaintiff and defendants in  
17 that action jointly advise the Court that the case should be transferred to another District in which  
18 venue and jurisdiction is proper. Objections regarding a plaintiff's designated Original Venue may  
19 be raised by motion and/or stipulation by the parties, or other means permitted by the Court, within  
20 30 days following notification by the Court of a pending transfer or as otherwise agreed by the  
21 parties. The inclusion of any action in this MDL shall not constitute a determination by this Court  
22 that venue is proper in this district.

23 **I. Choice of Law.** The fact that a case was filed pursuant to this Order will have no impact on  
24 choice of law, including the statute of limitations, that would otherwise apply to an individual case  
25 had it been filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407.  
26 This Paragraph does not limit or foreclose plaintiffs' rights to amend their venue selection as  
27 permitted under the law or this Order. The parties' agreement to this Order shall also have no effect  
28 on the substantive law applicable to a plaintiff's case.

1 **J. Caption.** The caption for any complaint that is directly filed in MDL No. 3101 pursuant to  
2 this Order shall bear the following caption:

3 **UNITED STATES DISTRICT COURT**  
4 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
5 **SAN FRANCISCO DIVISION**

<p>6 IN RE: BABY FOOD PRODUCTS LIABILITY LITIGATION</p> <hr/>	<p>Case No. 24-MD-3101-JSC MDL 3101 Hon. Jacqueline Scott Corley <b>COMPLAINT AND JURY DEMAND</b> <b>Case No. [INSERT CASE NUMBER]</b></p>
<p>8 This Document Relates To:</p> <p>9 [Plaintiff’s name], 10 <i>Plaintiff,</i> 11 v. 12 [List of all Defendants] 13 <i>Defendants.</i></p>	

14 **K. Filing Under this Order.** When utilizing and invoking this Order to file a case directly in  
15 this MDL, Plaintiff shall assert the following paragraph in their complaint, as it relates to  
16 allegations of venue:

17 Plaintiff(s) file this Complaint pursuant to CMO No. \_\_\_\_, and are to be bound by the rights,  
18 protections, and privileges, and obligations of that CMO and other Order of the Court. Further,  
19 in accordance with CMO No. \_\_\_\_, Plaintiff(s) hereby designate the United States District  
20 Court for the [District and Division] as Plaintiff’s designated venue (“Original Venue”).

21 Plaintiff makes this selection based upon one (or more) of the following factors (check the  
22 appropriate box(es))

23 \_\_\_\_Plaintiff currently resides in \_\_\_\_\_ (City/State);

24 \_\_\_\_Plaintiff purchased and consumed Defendant(s) products in \_\_\_\_\_ (City/State).

25 \_\_\_\_The Original Venue is a judicial district in which Defendant \_\_\_\_\_ resides, and all  
26 Defendants are residents of the State in which the district is located (28 U.S.C. 1391(b)(1)).



1            \_\_\_The Original Venue is a judicial district in which a substantial part of the events or  
2 omissions giving rise to the claim occurred, specially (28 U.S.C. 1391 (b)(2)):

3  
4            \_\_\_There is no district in which an action may otherwise be brought under 28 U.S.C. 1391,  
5 and the Original Venue is a judicial district in which Defendant \_\_\_\_\_ is subject  
6 to the Court’s personal jurisdiction with respect to this action (28 U.S.C. 1391 (b)(3)).

7            \_\_\_Other reason (please explain): \_\_\_\_\_.

8            **L. Electronic Filing.** Prior to filing a complaint in this District pursuant to this Order, the  
9 filing attorney must register for an/or have a Northern District of California ECF user ID and  
10 password.

11            **II. Service of Process**

12            **A. No Summons Required for Specified Defendants.** As to defendants Beech-Nut Nutrition  
13 Company, Gerber Products Company, Hain Celestial Group, Inc., Nurture, LLC (formerly Nurture,  
14 Inc), Plum, PBC, Sprout Foods, Inc., and Walmart, Inc. (“Specified Defendants”), plaintiffs are not  
15 be required to request issuance of a summons or to serve a summons to initiate actions filed pursuant  
16 to this Order. The Clerk’s office is directed not to issue summonses to the Specified Defendants in  
17 cases directly filed in MDL 3101. Summons must be issued and served as to any defendant other  
18 than the Specified Defendants.

19            **B. Accomplishing Service.** To expedite and streamline the service process for cases filed  
20 pursuant to this Order, the Specified Defendants have agreed to establish, maintain, and monitor an  
21 email address for each Specified Defendant for the express purpose of accepting service of  
22 complaints directly filed in MDL 3101. Service may be accomplished through this Paragraph once  
23 a case has been transferred to this MDL. Plaintiffs who directly file a case in this MDL may  
24 effectuate service via email on the following email addresses:

- 25            • Beech-Nut Nutrition Company: [BeechnutBabyFoodMDL3101Service@kslaw.com](mailto:BeechnutBabyFoodMDL3101Service@kslaw.com)
- 26            • Gerber Products Company: [GerberBabyFoodMDL3101Service@whitecase.com](mailto:GerberBabyFoodMDL3101Service@whitecase.com)
- 27            • Hain Celestial Group, Inc.: [HainNoticeofService@cov.com](mailto:HainNoticeofService@cov.com)
- 28            • Nurture, LLC: [NurtureBabyFoodMDL3101Service@us.dlapiper.com](mailto:NurtureBabyFoodMDL3101Service@us.dlapiper.com)

- 1 • Plum PBC: [PlumMDLservice@dechert.com](mailto:PlumMDLservice@dechert.com)
- 2 • Sprout Foods, Inc.: [SproutBabyFoodMDL3101Service@grsm.com](mailto:SproutBabyFoodMDL3101Service@grsm.com)
- 3 • Walmart, Inc.: [WalmartBabyFoodMDL3101Service@kslaw.com](mailto:WalmartBabyFoodMDL3101Service@kslaw.com)

4 The subject line of the email should include the caption and civil action number of the case being  
5 served. The Specified Defendants shall send a responsive email via auto-reply accepting service and  
6 include the statement: “Service of this responsive email shall serve as proof that Defendant is  
7 waiving service as set out in CMO No. \_\_\_\_, has received actual notice of the legal action brought  
8 against it, and service of process is complete.” If the auto-reply is not received by the plaintiff, then  
9 the plaintiff shall so notify counsel of record for the applicable Specified Defendant. No default  
10 shall be entered where a defendant did not receive actual notice of the complaint and the plaintiff  
11 cannot provide evidence of the auto-reply notification.

12 **C. Service on Other Defendants.** Service of potential additional Defendants other than the  
13 Specified Defendants, including Amazon.com Services LLC, Campbell Soup Co., Danone S.A.,  
14 Nestle S.A., and Whole Foods Market Services, Inc., shall be the subject of a future Pretrial Order.

# Exhibit C

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	22md3043 (DLC)
IN RE: Acetaminophen - ASD-ADHD	:	22mc3043 (DLC)
Products Liability Litigation	:	
	:	<u>ORDER: DIRECT</u>
-----	X	<u>FILING</u>

DENISE COTE, District Judge:

To eliminate delays associated with the transfer to this Court of cases filed in or removed to other federal district courts and to promote judicial efficiency, it is hereby

ORDERED:

1. This Order applies only to personal injury claims brought by United States residents and filed directly in the MDL.

2. Any plaintiff whose case would be subject to transfer to this MDL may directly file his or her complaint against any or all defendants in the United States District Court for the Southern District of New York as related to the MDL.

3. Any complaint that is filed directly in the Southern District of New York pursuant to this Order shall be deemed directly filed in the MDL and filed as a new civil action in the Court's electronic filing system. At the time of filing, the complaint shall bear the caption set forth in Paragraph 4(c) of this Order and be accompanied by a civil cover sheet and summons. The civil cover sheet shall be completed in accordance with the instructions set forth therein. The filing party shall use the

origin code 8 on the civil cover sheet. The Clerk of Court is directed to assign the action to the MDL Judge's docket. After review by the Clerk of Court's office, the case will be automatically consolidated for pretrial purposes in the MDL and listed as a Member Case. If counsel have any questions regarding opening a civil case, contact the Civil Case Openings unit of the Southern District of New York at 212-805-0632 or [case\\_openings@nysd.uscourts.gov](mailto:case_openings@nysd.uscourts.gov).

4. The process for direct filing will be as follows:

a. Attorneys who are subject to the Local Rules of this District must file the complaint in accordance with the Local Rules. Attorneys who are not admitted to practice in the United States District Court for the Southern District of New York shall seek admission prior to the direct filing of the cases in accordance with this Court's October 19, 2022 Order: Attorney Admissions.

b. All plaintiffs directly filing in the MDL are required to pay the standard New Action Filing Fee to initiate the case.

c. Any complaint that is directly filed in the MDL shall bear following caption:

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	22md3043 (DLC)
	:	
IN RE: Acetaminophen - ASD-ADHD	:	
Products Liability Litigation	:	
	:	DIRECT FILED COMPLAINT [&
This Document Relates To:	:	JURY DEMAND] PURSUANT TO
	:	ORDER: DIRECT FILING
	:	
_____,'	:	
	:	CIVIL ACTION NO.
Plaintiff/s,	:	_____
	:	
-v-	:	
	:	
_____,'	:	
	:	
Defendant/s.	:	
-----	X	

d. Each case filed directly in the MDL that emanates from a district outside the Southern District of New York will be filed in the MDL for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's October 5, 2022 Transfer Order.

e. Any complaint directly filed pursuant to this Order shall plead the federal district in which each plaintiff resides.

f. Any complaint directly filed pursuant to this Order shall plead the following in the leading paragraph of the complaint:

This Complaint is filed pursuant to Order: Direct Filing. Plaintiff/s hereby designate/s the United States District Court for the \_\_\_\_\_ as plaintiff/s' home

venue ("Home Venue"), as this case may have originally been filed there because

Plaintiff/s currently reside/s in \_\_\_\_\_(city), \_\_\_\_\_(state);

The APAP product/s plaintiff-mother took while pregnant with plaintiff-minor were purchased and/or used in \_\_\_\_\_(city), \_\_\_\_\_(state);

Plaintiff-minor was born in \_\_\_\_\_(city), \_\_\_\_\_(state);

A substantial part of other events or omissions giving rise to the claims occurred there, to wit: \_\_\_\_\_;

At least defendant \_\_\_\_\_ is a resident of the district and all defendants are residents of the State in which that district is located.

g. Upon completion of all pretrial proceedings applicable to a case directly filed in this Court, pursuant to 28 U.S.C. § 1404(a), if the Court determines that transfer of a given case is warranted, the Court will transfer each such case to the identified Home Venue unless that designation is subject to challenge, pursuant to Paragraph 4(i) of this Order, or to another district which the parties to the action jointly request that the case be transferred.

h. Plaintiffs, through Co-Lead Counsel, and defendants in the applicable Member Case shall have fourteen (14) days from the date the action is listed as a Member Case, pursuant to Paragraph 3, supra, to confer and object by letter motion to the inclusion of the case in the MDL. The party in

favor of inclusion in the MDL shall then have three (3) days to file a response to any such objection. Failure to object as set forth herein shall constitute a waiver of any objection to inclusion of the case in the MDL for pretrial proceedings.

i. Plaintiffs, through Co-Lead Counsel, and defendants shall have fourteen (14) days from the date the action is listed as a Member Case to object to a plaintiff's designation of Home Venue in any directly filed complaint. Objections regarding a plaintiff's designated Home Venue may be raised by letter motion at any time thereafter upon a showing of good cause, but no later than the deadline for the conclusion of fact discovery in the individual directly filed action.

j. With the exception of complaints that include plaintiffs who are immediate family members or who solely assert derivative claims, no multi-plaintiff complaints may be directly filed in the MDL. To the extent any case already filed in or transferred to this MDL asserts claims on behalf of multiple plaintiffs who are not immediate family members or who solely assert derivative claims, the parties shall meet and confer within fourteen (14) days of entry of this Order to agree upon the voluntary dismissal and refiling of any such multi-plaintiff complaints as individual and distinct actions.

5. Nothing contained in this Order shall preclude the parties from agreeing, at a future date, to try cases filed



pursuant to this Order in the Southern District of New York.

6. All defendants currently before this Court as of the date of this Order have agreed that they will not assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) as to any Member Case filed directly in the Southern District of New York where the plaintiff has designated in the complaint another district as the plaintiff's Home Venue unless and until the Court determines that the Member Case is ready for transfer.

7. Any choice of law determination in a directly filed action will treat that action as if it had been originally filed in the Home Venue. This Court, as a multidistrict litigation transferee court, will apply the substantive state law, including choice-of-law rules, of the jurisdiction of the Home Venue.

8. The direct filing of a case in the MDL shall not constitute a determination by this Court that venue is proper in this district, nor a waiver of personal jurisdiction or service by any named defendant. Nor shall the filing of an action directly in the MDL constitute, for any party, a waiver pursuant to Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach, 523 U.S. 26 (1998). The Court understands that defendants expressly reserve all rights pursuant to Lexecon.

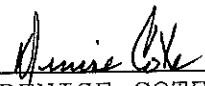
9. The filing of a complaint directly in the MDL pursuant to this Order shall stop the running of any statute of

limitations or prescriptive or preemptive period as if the complaint had been filed in an appropriate venue.

10. Defendants reserve all rights to move to dismiss any directly filed individual complaint under Rule 12 or Rule 9, consistent with a schedule to be entered by the Court.

11. The references to "defendants" herein shall not constitute an appearance by or for any defendant not yet named in the MDL and/or not properly served.

Dated: New York, New York  
December 2, 2022

  
\_\_\_\_\_  
DENISE COTE  
United States District Judge

# Exhibit D

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**IN RE: ZANTAC (RANITIDINE)  
PRODUCTS LIABILITY  
LITIGATION**

**MDL NO. 2924  
20-MD-2924**

**JUDGE ROBIN L. ROSENBERG  
MAGISTRATE JUDGE BRUCE E. REINHART**

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**THIS DOCUMENT RELATES TO: ALL CASES**

**PRETRIAL ORDER # 11**

**Stipulated Order Setting Forth Procedures for Direct Filed Personal Injury Cases**

**I. SCOPE OF THE ORDER**

This stipulated Order shall govern the direct filing of actions in *In re Zantac (Ranitidine) Products Liability Litigation*, MDL No. 2924, in the Southern District of Florida and applies only to personal injury claims brought by Plaintiffs based on usage or purchase of Zantac or ranitidine in the United States.

**II. DIRECT FILING OF CASES INTO MDL NO. 2924**

1. To eliminate delays associated with the transfer to this Court of cases filed in or removed to other federal district courts and to promote judicial efficiency, any plaintiff whose case would be subject to transfer to MDL No. 2924 may file his or her complaint against all Defendants directly in MDL No. 2924 in the United States District Court for the Southern District of Florida.<sup>1</sup>

2. Any complaint that is filed directly in the Southern District of Florida pursuant to this Order shall be deemed directly filed in MDL No. 2924 and filed as a new civil action through the Court's electronic filing system. At the time of filing, the complaint shall bear the caption set

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<sup>1</sup> This Order shall apply to any complaints filed directly in the Southern District of Florida on or after February 20, 2020.

forth in Paragraph 13 of this Order and be accompanied by a civil cover sheet and summons. The civil cover sheet shall specify under the “Related Case(s)” section that the case is related to MDL No. 2924. Once the case is filed, it shall be assigned a civil case number. After review by the Clerk of Court’s office, the case will be automatically consolidated in MDL No. 2924.

The process for direct filing will be as follows. Attorneys who are subject to the Local Rules of this District must file the complaint in accordance with the Local Rules.<sup>2</sup> Attorneys who are not admitted to practice in the United States District Court for the Southern District of Florida and who have not obtained local counsel shall be allowed electronic filing privileges and permitted to file and receive service of documents electronically according to this Court’s CM/ECF Administrative Procedures, notwithstanding language to the contrary in Special Rule 4 of the Local Rules of the United States District Court for the Southern District of Florida. Such attorneys shall file the Certificate of Understanding attached at Schedule C. The Court directs the Court Administrator-Clerk of Court to assign CM/ECF usernames and passwords to such attorneys following the receipt by the Clerk of Court of properly executed Certificates of Understanding.

3. With the exception of any complaints that include plaintiffs who solely assert derivative claims, no multi-plaintiff complaints may be directly filed in MDL No. 2924.

4. Each case filed directly in MDL No. 2924 that emanates from a district outside the Southern District of Florida will be filed in MDL No. 2924 for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation’s February 6, 2020, Transfer Order (DE 1).

5. In any complaint directly filed in the Southern District of Florida pursuant to this Order, Plaintiff shall identify his or her federal district of residence in which the action otherwise

---

<sup>2</sup> Pursuant to Rule 1 of the Rules Governing Admission in this District, an attorney is eligible for admissions if the attorney is currently a member in good standing with the Florida Bar. Pursuant to Rule 4, attorneys who reside within this District and practice before this Court are expected to be members of the bar of this Court.

would have been filed absent the direct filing procedure. Upon completion of all pretrial proceedings applicable to a case directly filed in this Court, pursuant to 28 U.S.C. § 1404(a), this Court will transfer each case to the identified federal district of residence unless the parties jointly advise the Court that a case should be transferred to another district in which venue is proper.

6. Nothing contained in this Order shall preclude the parties from agreeing, at a future date, to try cases filed pursuant to this Order in the Southern District of Florida.

7. All Defendants stipulate and agree that they will not assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) as to any ranitidine-related cases filed directly in the Southern District of Florida that emanate from districts outside the Southern District of Florida and that are filed in this multidistrict litigation for pretrial proceedings.

8. The inclusion of any action in this MDL No. 2924, whether such action was or will be filed originally or directly in the Southern District of Florida, shall not constitute a determination by this Court that venue is proper in this district. Likewise, nothing in this Order shall be construed as a waiver of personal jurisdiction by any named Defendant, served or unserved.

9. Filing an action directly into MDL No. 2924 shall not constitute, for any party, a waiver pursuant to *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

10. All parties stipulate and agree that a case that was filed directly in MDL No. 2924 pursuant to this Order will have no impact on choice of law that otherwise would apply to an individual case had it been originally filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407.

11. All Defendants stipulate and agree that the filing of a complaint directly in MDL No. 2924 pursuant to this Order shall stop the running of any statute of limitations or prescriptive or preemptive period as if the complaint had been filed in an appropriate venue.

12. The references to “all Defendants” herein shall not constitute an appearance by or for any Defendant not properly served.

13. The caption for any complaint that is directly filed in MDL No. 2924 before this Court shall bear the following caption:

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**IN RE: ZANTAC (RANITIDINE)  
PRODUCTS LIABILITY  
LITIGATION**

**MDL NO. 2924  
20-MD-2924**

**JUDGE ROBIN L. ROSENBERG  
MAGISTRATE JUDGE BRUCE E. REINHART**

\_\_\_\_\_ ,

Plaintiff(s),

COMPLAINT [& JURY DEMAND]

vs.

**CIVIL ACTION NO.** \_\_\_\_\_

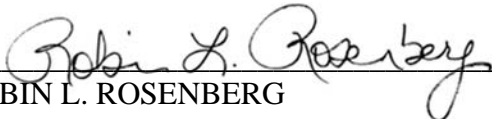
\_\_\_\_\_ ,

Defendants.

\_\_\_\_\_ /

**THIS DOCUMENT RELATES TO: *CASE NAME***

**DONE and ORDERED** in Chambers, West Palm Beach, Florida, this 20th day of  
March, 2020.

  
\_\_\_\_\_  
ROBIN L. ROSENBERG  
UNITED STATES DISTRICT JUDGE