

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CADENCE COLLINS, individually and as  
Next Friend of her minor child K.H.,

*Plaintiff,*

v.

MEAD JOHNSON & COMPANY, LLC,  
MEAD JOHNSON NUTRITION COMPANY,  
and JESSICA MACKEY,

*Defendants.*

Case No. 2422-CC01642

Removed from: The Circuit Court for the  
City of St. Louis, State of Missouri

Jury Trial Demanded

**DEFENDANTS MEAD JOHNSON & COMPANY, LLC AND  
MEAD JOHNSON NUTRITION COMPANY'S NOTICE OF REMOVAL**

Defendants Mead Johnson & Company, LLC and Mead Johnson Nutrition Company remove this action from the Circuit Court for the City of St. Louis, State of Missouri, to the United States District Court for the Eastern District of Missouri, pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446 and based on diversity of citizenship. In support of this Notice of Removal, the Mead Johnson defendants state:

**I. INTRODUCTION**

1. Plaintiff in this case, an Illinois citizen, has sued Mead Johnson and one of its sales representatives, Jessica Mackey, alleging that her child K.H. consumed preterm products sold by Mead Johnson and developed a disease called necrotizing enterocolitis (“NEC”) as a result. Petition ¶¶ 3, 12–13. Plaintiff’s claims against Ms. Mackey (negligence, *id.* ¶¶ 71–79, intentional misrepresentation, *id.* ¶¶ 80–88, and negligent misrepresentation, *id.* ¶¶ 89–98) merely recites the same allegations as against Mead Johnson, Ms. Mackey’s employer.

2. Bedrock principles of agency law, and Missouri law on negligence, provide that an agent—like Ms. Mackey—may not be subject to suit simply because she performs her duties as a sales representative, unless she has actual or constructive knowledge that the information she is passing on is false or she has otherwise assumed an independent duty. Plaintiff has not pleaded any facts that could give rise to such an inference or duty, and therefore Ms. Mackey—the only Missouri citizen in this case—is fraudulently joined.

3. There is complete diversity between all parties—Plaintiff (Illinois); the Mead Johnson defendants (Delaware and Indiana); and Ms. Mackey (Missouri). Once Ms. Mackey’s presence in this case is disregarded as required by the fraudulent joinder doctrine, the forum-defendant rule will not prevent removal, and all other requirements for federal subject matter jurisdiction are present. Mead Johnson has filed this notice within 30 days of receipt of service of the Petition, as calculated under Fed. R. Civ. P. 6(a)(1). The amount in controversy exceeds \$75,000. And Mead Johnson will provide notice to Plaintiff and to the state court as required by 28 U.S.C. § 1446.

## **II. COMPLETE DIVERSITY OF CITIZENSHIP EXISTS BETWEEN PLAINTIFF AND THE PROPER DEFENDANTS**

4. Complete diversity of citizenship exists between the Plaintiff and all defendants.

5. Plaintiff Cadence Collins is a citizen of Illinois. *See* Petition ¶ 3. Her infant daughter is, therefore, also a citizen of Illinois. *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989) (“Since most minors are legally incapable of forming the requisite intent to establish a domicile, their domicile is determined by that of their parents.”).

6. Defendant Mead Johnson Nutrition Company is a corporation, incorporated under the laws of the State of Delaware. Its principal place of business is Evansville, Indiana. Mead Johnson & Company, LLC, is a limited liability company, organized under the laws of the State

of Delaware. Its citizenship is that of its sole member, Mead Johnson Nutrition Company.<sup>1</sup> Thus, Mead Johnson is a citizen of Delaware and Indiana. 28 U.S.C. § 1332(c)(1) (“A corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.”).

7. Defendant Jessica Mackey is a resident of Missouri. *See* Petition ¶ 5.

8. Because Plaintiff and the properly-joined Mead Johnson defendants are citizens of different states, the parties are diverse pursuant to 28 U.S.C. § 1332(a).

### **III. REMOVAL IS TIMELY**

9. Because Mead Johnson was served with the Petition on June 20, 2024, removal is timely. 28 U.S.C. § 1441(b)(1).

### **IV. THE AMOUNT IN CONTROVERSEY EXCEEDS \$75,000**

10. Diversity jurisdiction under 28 U.S.C. § 1332 requires that the amount in controversy, exclusive of interest and costs, be in excess of \$75,000.

11. The Petition alleges that K.H. was born prematurely, was given “Mead Johnson’s cow’s milk-based infant feeding products” and developed “necrotizing enterocolitis . . . a life-altering and potentially deadly disease[.]” Petition ¶ 1.

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<sup>1</sup> While Plaintiff alleges that Mead Johnson Nutrition Company’s principal place of business is in Illinois, *see* Petition ¶ 4, this is incorrect. As multiple courts have concluded, Mead Johnson’s principal place of business is in Indiana. *See Grosshuesch v. Mead Johnson & Co., LLC*, 2022 WL 179041, at \*2 (S.D. Ill. Jan. 20, 2022) (“In deciding whether to remand a case, the Court assumes the truth of the factual allegations of the complaint *unless they are contradicted by evidence* (such as affidavits) submitted by the defendant. This Court has no doubt that the Mead defendants have shown they are citizens of Delaware and Indiana, not Illinois.” (citations omitted, emphasis in original)); *see also Harden v. Mead Johnson & Co., LLC*, No. 24 CV 108, 2024 WL 2882214, at \*5 (N.D. Ill. June 7, 2024); *Alexander v. Mead Johnson & Co., LLC*, 2022 WL 2156140, at \*2–3, n. 1 (S.D. Ill. June 15, 2022) (citing *Koeth v. Mead Johnson & Co., LLC*, 1:21-cv-06234, ECF Doc. # 30 (N.D. Ill. Feb. 23, 2022)); *Dowswell v. Mead Johnson & Co., LLC*, 2022 WL 2801018, at \*2 (S.D. Ill. July 18, 2022).

12. The Petition alleges as damages “compensatory damages,” “damages for past, present, and future emotional distress, loss of enjoyment of life, pain and suffering, mental anguish, and other non-economic losses,” and “past, present, and future out-of-pocket costs, lost income and/or lost revenue, and/or lost profits, and/or lost business opportunity, lost earning capacity, and costs related to medical or mental health treatment.” *Id.* ¶¶ 99–101. The Petition also requests punitive damages. *Id.* ¶¶ 63, 70, 79, 88, 98.

13. Mead Johnson believes that Plaintiff’s claims are without merit, and that Plaintiff is not entitled to any damages. But facially, the Petition establishes that it is more likely than not that the damages sought by Plaintiff will exceed \$75,000, exclusive of interest and costs. Courts have routinely held that when plaintiffs allege serious, permanent injuries and significant medical expenses, it is obvious from the face of the complaint that the plaintiffs’ damages exceeded the jurisdictional amount. *See, e.g., Quinn v. Kimble*, 228 F. Supp. 2d 1036, 1037 (E.D. Mo. 2002) (“Given the allegation in the complaint that plaintiffs suffered head, neck, and back injuries, incurred medical expenses and will incur further such expenses . . . [and] that their ability to work, labor, and enjoy life has been and will be impaired . . . the court finds [that the amount in controversy requirement was satisfied.]”).

14. That is particularly true here, given that a jury recently awarded \$60 million on the basis of nearly identical claims. *See Watson v. Mead Johnson*, Case No. 2021-L-1032; *see also Motal v. Allstate Property and Casualty Ins. Co.*, 2021 WL 2173860, at \*1 (E.D. Ark. Feb. 24, 2021) (“Damages awards from similar causes of action may be considered.”).

15. Where the removing party has established that it is more likely than not that the amount in controversy exceeds \$75,000, “remand is only appropriate if the plaintiff can establish to a legal certainty that the claim is for less than the requisite amount.” *Bell v. Hershey Co.*, 557

F.3d 953, 956 (8th Cir. 2009). Plaintiff cannot establish “to a legal certainty” that her claims are for less than \$75,000. Otherwise, it is apparent from the face of the Petition that more than \$75,000, exclusive of interest and costs, is in controversy in this case.<sup>2</sup>

V. **JESSICA MACKEY IS FRAUDULENTLY JOINED BECAUSE PLAINTIFF FAILED TO STATE ANY VIABLE CLAIMS AGAINST HER**

16. As a Missouri resident, Jessica Mackey’s presence as a defendant would ordinarily defeat removal under the forum-defendant rule, which provides that a case “otherwise removable solely on the basis of [diversity of citizenship] may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2). However, “a plaintiff cannot use the forum-defendant rule to ‘defeat a defendant’s right of removal by fraudulently joining a defendant who has no real connection with the controversy.’” *Hayden v. Monsanto Co.*, 2024 WL 1253824, at \*2 (E.D. Mo. Mar. 25, 2024) (quoting *Knudson v. Sys. Painters, Inc.*, 634 F.3d 968, 976 (8th Cir. 2011)); *see also Santoyo v. Bear Lake Holdings, Inc.*, 2010 WL 2522745, at \*1 (W.D. Mo. June 15, 2010) (denying remand because “[t]he right of an out-of-state defendant to remove to federal court cannot be defeated by fraudulent joinder of a resident defendant.” (citing *Simpson v. Thomure*, 484 F.3d 1081, 1083 (8th Cir. 2007)); *Bailey v. Zimmer Biomet Holdings, Inc.*, 2018 WL 10498464, at \*3 n.2 (E.D. Mo. Oct. 24, 2018) (“[T]he forum defendant rule does not prohibit removal where the plaintiff has fraudulently joined a citizen of the forum state as a defendant.” (citing *Couzens v. Donohue*, 854

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<sup>2</sup> Mead Johnson does not concede that Plaintiff is entitled to recover more than \$75,000, and denies that Plaintiff is entitled to recover any damages. *See Hartis v. Chicago Title Ins. Co.*, 694 F.3d 935, 945 (8th Cir. 2012) (“The removing party need not confess liability in order to show that the controversy exceeds the threshold.”) (internal quotations and citation omitted).

F.3d 508, 513 (8th Cir. 2017)). Ms. Mackey is fraudulently joined, and this suit is accordingly removable.<sup>3</sup>

17. Specifically, a plaintiff may not defeat diversity jurisdiction by asserting a “frivolous” claim against a non-diverse defendant. *Halsey v. Townsend Corp. of Indiana*, 20 F.4th 1222, 1226 (8th Cir. 2021). Rather, where there is “no reasonable basis in fact and law” for claims against the non-diverse party, removal is appropriate. *Id.* Here, Plaintiff fails to plead any reasonable basis for Plaintiff’s claims against Ms. Mackey because Ms. Mackey cannot be held liable for the allegedly tortious conduct of her employer, Mead Johnson, and Plaintiff has failed to plead any facts pursuant to which Ms. Mackey could be independently liable.

18. Plaintiff pleaded three claims against Ms. Mackey: negligence (count III), intentional misrepresentation (count IV), and negligent misrepresentation (count V). Petition. ¶¶ 71–98. But to support those claims, Plaintiff merely realleges the same conclusory assertions as those she makes against Mead Johnson, Ms. Mackey’s employer: specifically, that Ms. Mackey convinced hospital personnel and parents to use Mead Johnson products, *id.* ¶ 40, and that Ms. Mackey misrepresented the risks and benefits of those products, *id.* ¶ 41. Those allegations cannot, as a matter of law, establish a claim against Ms. Mackey as Mead Johnson’s agent.

19. Under Missouri law, an agent—such as a sales representative—may be liable “*only* if he commits acts which would constitute an *independent* tort.” *State ex rel. William Ranni Assocs., Inc. v. Hartenbach*, 742 S.W.2d 134, 139 (Mo. 1987) (emphases added); *cf., e.g., Cluck*

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<sup>3</sup> In *Mellenthin v. Mead Johnson & Co., LLC*, this Court remanded on grounds that have no bearing here. *See* 2023 WL 7017721, at \*6–9 (E.D. Mo. Oct. 25, 2023) (granting remand where case was removed after the one-year mark and removal was based on original plaintiff’s failure to disclose that her parental rights had terminated years prior, and therefore she could not bring a claim on behalf of her minor child). The Court in *Mellenthin* did not consider issues of agent liability.

*v. Union Pacific R. Co.*, 367 S.W.3d 25, 29 (Mo. 2012) (under doctrine of respondeat superior, an employer is liable for an employee's tortious conduct if that conduct is "within the course and scope of employment" (emphases added)). In other words, a sales representative cannot be held liable in tort for her actions carrying out her duties *as a sales representative* unless she has actual or constructive knowledge that she is committing a wrong or otherwise separately assumed a duty to the plaintiff. Thus, Missouri courts have held that even "holding a corporate office will not subject one to personal liability for the misdeeds of the corporation" unless the corporate officer has "actual or constructive knowledge of" an actionable wrong. *Grothe v. Helterbrand*, 946 S.W.2d 301, 304 (Mo. Ct. App. 1997); *see also Omaha Indem. Co. v. Royal Am. Managers, Inc.*, 777 F. Supp. 1488, 1492 (W.D. Mo. 1991) ("A corporate officer may be liable to a third party for damages caused by his wrongful actions if he had actual or constructive knowledge of the actionable wrong and participated therein.").

20. Consistent with that principle, the Restatement (Third) of Agency, which has been adopted by the Missouri Supreme Court, has explained that "[a]n agent who makes an untrue statement to a third party based on information provided by the principal is not subject to liability . . . provided that the agent does not have notice that the statement is untrue." Restatement (Third) of Agency § 7.01 cmt. d (2006); *id.* (illustrating that "[salesperson] is not subject to liability to [buyer] because [salesperson] neither knew nor had reason to know that [employer's] statement was false"); *see also Emerson Elec. Co. v. Marsh & McLennan Companies*, 362 S.W.3d 7, 15 (Mo. 2012) (Missouri Supreme Court adopting principles from the Restatement (Third) of Agency).

21. Likewise, courts across the country have held that sales representatives may not be subject to suit for passing on information provided by their employer or for not independently verifying the safety of the products they sell. *See, e.g., Legg v. Wyeth*, 428 F.3d 1317, 1324–25

(11th Cir. 2005) (no reasonable basis to hold pharmaceutical sales representative liable “in the absence of evidence that [the salesperson] knew or should have known of [the product’s] allegedly dangerous effects”); *Garcia v. Thorek Memorial Hosp.*, 2022 WL 5086224, at \*4 (Ill. Cir. Ct. 2020) (pharmaceutical sales representative had no duty to substantiate claims made in marketing brochures because plaintiff “d[id] not provide any factual allegations that the representative had sufficient knowledge that the [product] information being marketed was indeed false”); *Sobkowski v. Wyeth, Inc.*, 2004 WL 3581799, at \*1 (M.D. Fla. June 24, 2004) (holding that joinder of pharmaceutical sales representative was fraudulent because “[t]here is only a theoretical possibility, devoid of factual basis, that the sales representative had or should have had advance or special knowledge about the drug and failed to communicate that knowledge to the doctor”); *Hobbs v. Wyeth, Inc.*, 2004 WL 6005569, at \*7 (E.D. Ark. July 13, 2004) (“Imposing a duty on sales representatives to independently verify the safety of each product they market for their employers is nothing short of absurd.”).

22. That is precisely what Plaintiff attempts to do here, and therefore there is “no reasonable basis in fact and law” for claims against Ms. Mackey. *Halsey*, 20 F.4th at 1226. Plaintiff’s only allegations—threadbare as they are—against Ms. Mackey are based on her carrying out her role as a sales representative for Mead Johnson, in which she sold Mead Johnson’s products and passed on information provided by Mead Johnson. Plaintiff has not adequately alleged that Ms. Mackey had any knowledge—either actual or constructive—of any alleged danger or misrepresentation regarding Mead Johnson’s products.

23. The closest Plaintiff comes is the conclusory allegation that Ms. Mackey “knew or reasonably should have known” that Mead Johnson’s products allegedly increased the risk of NEC. Compl. ¶¶ 76, 85. But federal courts, including the Eastern District of Missouri, routinely treat



“bare allegations that a defendant ‘knew or should have known’ a key fact as conclusory.” *Owens v. Boston Scientific Corp.*, 642 F. Supp. 3d 907, 912 (E.D. Mo. 2022) (collecting cases); *see also Hobbs*, 2004 WL 6005569, at \*6 (finding fraudulent joinder of non-diverse pharmaceutical sales representative and denying motion to remand because plaintiff “conclusively alleg[ed] that [the sales representative] ‘knew or should have known’ of the dangers of the diet drugs”).

24. Plaintiff offers no plausible factual basis to support the allegation that Ms. Mackey had any notice whatsoever that any claim regarding any Mead Johnson product was allegedly false or misleading. Indeed, though the Petition’s “Factual Allegations” section is replete with references to Mead Johnson, Ms. Mackey is mentioned only three times. Petition ¶¶ 40, 41. The only substantive allegation found in either of the paragraphs mentioning Ms. Mackey is that Ms. Mackey “routinely misrepresented the risks and benefits of Mead Johnson’s products.” *Id.* But that is a conclusion, not a fact that can be credited toward stating a plausible claim. The rest of the Petition fares no better. Though Plaintiff formulaically recites the elements of her claims against Ms. Mackey, nowhere does Plaintiff provide any factual basis to sufficiently plead that Ms. Mackey had the requisite actual or constructive knowledge to sustain Plaintiff’s claims against her. *See generally id.* ¶¶ 71–97.

25. To the contrary, Ms. Mackey recently offered sworn trial testimony that contradicts Plaintiff’s allegations, and this Court may properly consider that testimony here. *In re Genetically Modified Rice Litigation*, 618 F. Supp. 2d 1047, 1052 (E.D. Mo. 2009) (“In resolving a fraudulent joinder issue, I may consider materials outside the pleadings.”). Ms. Mackey was asked under oath how she would handle a health care provider’s questions about NEC. Ex. B, *Watson v. Mead Johnson*, No. 2021-L-1032 (Mo. Cir. Ct.), 3/1/2024 Trial Tr. at 2538:4–7. She testified that she would not answer it herself, but rather, “[w]e have experts within Mead Johnson that I could refer

their question directly to[.]” specifically a “team of clinical peers” that she could “connect [the provider] to” in order to address their questions. *Id.* at 2538:10–18. Leaving little doubt, Ms. Mackey agreed that “answering the specifics of those questions [was] something that someone else might do.” *Id.* at 2539:1–4.<sup>4</sup>

26. This Court’s denial of a motion to remand in *Owens v. Boston Scientific Corp.* is instructive. In *Owens*, the plaintiff brought product liability claims against Boston Scientific Corporation over injuries sustained from a medical implant. *Owens*, 642 F. Supp. 3d at 909. As here, the plaintiff joined one of Boston Scientific’s sales representatives, who, as a Missouri citizen, would defeat diversity jurisdiction. *Id.* at 910. Plaintiff alleged that the sales representative’s “job included advising hospitals and surgeons” on the product’s risks, and that the sales representative “knew or should have known of the defects that harmed [plaintiff].” *Id.* Boston Scientific removed the suit on the grounds that the home-forum sales representative had been fraudulently joined to defeat diversity jurisdiction. *Id.* This Court agreed and denied plaintiff’s motion to remand, reasoning that plaintiff’s “bare assertion of actual or constructive knowledge amounts to nothing more than a formulaic recitation of an element needed to support her negligence claim.” *Id.* at 912 (cleaned up). In particular, the Court explained that the plaintiff’s “allegation that Lynch ‘knew or should have known’ about the risks associated with the [product]” were “conclusory” and must be ignored. *Id.* at 911, 913.

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<sup>4</sup> To the extent that the Petition alleges that Mead Johnson and Ms. Mackey made misrepresentations to parents, Ms. Mackey did not speak to parents at all. *Id.* at 2524:12–15 (“Q. In your sales role, you’ve never had any interaction with parents of premature babies in the NICU, right? A. No, I don’t have access to parents.”); *see also id.* at 2544:9–12 (“Q. Do you ever speak with parents directly, whether it’s a mom or a dad or a family member who’s caring for a baby who’s been born? A. No.”).

27. Plaintiff here has made precisely the same allegations against Ms. Mackey—that “Ms. Mackey knew or reasonably should have known . . . that [the cow’s milk products] significantly increased the risk of NEC,” Petition ¶ 76—and therefore she, too, cannot state a claim.

28. Without alleging any “reasonable basis in fact and law” under which Plaintiff could recover from Ms. Mackey, Ms. Mackey is fraudulently joined and her presence must be disregarded. Once Ms. Mackey’s presence is disregarded, the forum-defendant rule no longer applies, and this Court has federal jurisdiction between the remaining, completely diverse parties.

#### **VI. NON-WAIVER OF DEFENSES**

29. By filing this Notice of Removal, Defendants do not waive any available defenses, including, but not limited to, those defenses available under Rule 12 of the Federal Rules of Civil Procedure or otherwise. *Nationwide Engineering & Control Systems, Inc. v. Thomas*, 837 F.2d 345, 348 (8th Cir. 1988) (“Upon removal, a defendant may assert any defense that would have been available to him in state court and which has not been lost through the operation of either Fed. R. Civ. P. 12(g) or (h).”); *see also* 5C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1395 (3d ed. 2019) (“A party who removes an action from a state to a federal court does not thereby waive any of his or her Federal Rule 12(b) defenses or objections.”); 17 James Wm. Moore, *Moore’s Federal Practice* § 111.36[5][b] (3d ed. 2019).

#### **VII. REMOVAL OF THIS ACTION IS PROPER, AND MEAD JOHNSON WILL PROVIDE NOTICE AS REQUIRED BY 28 USC §1446(d)**

30. Complete diversity exists between Plaintiff, a citizen of Illinois, and the properly joined defendants, which are citizens of Delaware and Indiana, and the amount in controversy exceeds \$75,000. Accordingly, this Court has original jurisdiction over this action under 28 U.S.C. § 1332(a).

31. Because Ms. Mackey was fraudulently joined, her consent to removal is not required. *Garner v. Union Pacific Railroad Co.*, 2015 WL 7352281, at \*4 (E.D. Mo. Nov. 20, 2015) (“A fraudulently joined defendant need not consent to removal.”).

32. Defendants will provide Plaintiff with prompt written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d), and defendants will file a copy of this Notice of Removal with the Clerk of the Circuit Court for the City of St. Louis, State of Missouri, where the Petition was originally filed.

WHEREFORE, the Mead Johnson defendants request that this action be removed from the Circuit Court for the City of St. Louis, State of Missouri, to the United States District Court for the Eastern District of Missouri.

Dated: July 22, 2024

Respectfully submitted,

By: /s/ Maureen Bryan

Maureen Bryan #49454

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*Attorneys for Defendants Mead Johnson &  
Company, LLC, Mead Johnson Nutrition  
Company, and Jessica Mackey*

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 22nd day of July, 2024, a true and correct copy of the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

John F. Garvey  
Colleen Garvey  
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/s/ Maureen Bryan

# Exhibit A

Sort Date Entries: Descending Ascending

Display Options: All Entries ▼

07/14/2024

Affidavit Special Process Serv

Plaintiffs Memorandum Filing Return of Service on Defendant Jessica Mackey; Exhibit 1 - Affidavit of Service.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

**Family Member/Roommate Served**

Document ID - 24-SMCC-4952; Served To - MACKEY, JESSICA; Server - ; Served Date - 11-JUL-24; Served Time - 00:00:00;

Service Type - Special Process Server; Reason Description - Served

07/10/2024

**Jury Trial Scheduled**

**Scheduled For:** 05/19/2025; 9:00 AM; ELIZABETH BYRNE HOGAN; City of St. Louis

06/28/2024

**Alias Summons Issued**

Document ID: 24-SMCC-4952, for MACKEY, JESSICA.

06/27/2024

Motion Special Process Server

Request for Appointment of Process Server.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

06/21/2024

Affidavit Special Process Serv

Plaintiffs Memorandum Filing Return of Service on Defendant Mead Johnson Nutrition Company; Executed Return.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

Affidavit Special Process Serv

Plaintiffs Memorandum Filing Return of Service on Defendant Mead Johnson Company, LLC; Executed Return.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

**Corporation Served**

Document ID - 24-SMCC-3623; Served To - MEAD JOHNSON NUTRITION COMPANY; Server - ; Served Date - 20-JUN-24;

Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served

**Corporation Served**

Document ID - 24-SMCC-3622; Served To - MEAD JOHNSON & COMPANY, LLC; Server - ; Served Date - 20-JUN-24; Served

Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served

06/19/2024

**Summons Issued-Circuit**

Document ID: 24-SMCC-3624, for MACKEY, JESSICA.

**Summons Issued-Circuit**

Document ID: 24-SMCC-3623, for MEAD JOHNSON NUTRITION COMPANY

**Summons Issued-Circuit**

Document ID: 24-SMCC-3622, for MEAD JOHNSON & COMPANY, LLC.

06/14/2024

Request Filed

Request for Special Process Server.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

Request Filed

Request for Special Process Server.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

**Proposed Order Filed**

Order Appointing Next Friend.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner

**Filing Info Sheet eFiling**

**Filed By:** JOHN FRANCIS GARVEY JR

**Pet Filed in Circuit Ct**

Petition.

**Filed By:** JOHN FRANCIS GARVEY JR

**On Behalf Of:** CADENCE COLLINS, Minor Plaintiff/Petitioner





## Notice of Service of Process

null / ALL  
Transmittal Number: 29355871  
Date Processed: 06/20/2024

**Primary Contact:** Justin Griner  
Mead Johnson Nutrition/( Indiana )  
2400 W Lloyd Expy  
Evansville, IN 47712-5095

**Electronic copy provided to:** Aida Aviles  
Sylvia Freels

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**Entity:** Mead Johnson & Company, LLC  
Entity ID Number 3176826

**Entity Served:** Mead Johnson & Company, LLC

**Title of Action:** Cadence Collins, Individually and As Next Friend of Her Minor Child K.H. vs.  
Mead Johnson & Company, LLC

**Matter Name/ID:** Cadence Collins, Individually and As Next Friend of Her minor Child K.H. vs.  
Mead Johnson & Company, LLC (15884588)

**Document(s) Type:** Summons/Complaint

**Nature of Action:** Product Liability

**Court/Agency:** St. Louis City Circuit Court, MO

**Case/Reference No:** 2422-CC01642

**Jurisdiction Served:** Missouri

**Date Served on CSC:** 06/20/2024

**Answer or Appearance Due:** 30 Days

**Originally Served On:** CSC

**How Served:** Personal Service

**Sender Information:** Stranch, Jennings & Garvey, PLLC  
314-390-6750

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Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)



## IN THE 22ND JUDICIAL CIRCUIT, CITY OF ST LOUIS, MISSOURI

Judge or Division: ELIZABETH BYRNE HOGAN	Case Number: 2422-CC01642	
Plaintiff/Petitioner: CADENCE COLLINS	Plaintiff's/Petitioner's Attorney/Address JOHN FRANCIS GARVEY JR 701 MARKET ST SUITE 1510 ST LOUIS, MO 63101	
Defendant/Respondent: MEAD JOHNSON & COMPANY, LLC	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	
Nature of Suit: CC Pers Injury-Prod Liab		(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: MEAD JOHNSON & COMPANY, LLC

Alias:

CSC-LAWYERS INCORPORATING  
SERVICE COMPANY  
221 BOLIVAR ST  
JEFFERSON CITY, MO 65101

SPECIAL PROCESS SERVER

COURT SEAL OF



CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

June 19, 2024

Date

Circuit Clerk

Further Information:

## Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☐ delivering a copy of the summons and petition to the defendant/respondent.

☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and petition to: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other: \_\_\_\_\_

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

**IN THE CIRCUIT COURT FOR THE CITY OF ST. LOUIS  
STATE OF MISSOURI**

CADENCE COLLINS, individually and as Next  
Friend of her minor child K.H.,

*Plaintiffs,*

v.

MEAD JOHNSON & COMPANY, LLC,

SERVE: CSC-Lawyers Incorporating Service  
Company  
221 Bolivar St.  
Jefferson City, Missouri 65101

and

MEAD JOHNSON NUTRITION COMPANY,

SERVE: CSC-Lawyers Incorporating Service  
Company  
221 Bolivar St.  
Jefferson City, Missouri 65101

and

JESSICA MACKEY  
SERVE: Jessica Mackey  
1044 Haversham Pl.  
St. Louis, MO 63131

*Defendants.*

Cause No.

**JURY TRIAL DEMANDED**

**PETITION**

Plaintiffs Cadence Collins, individually and as Next Friend of her minor child K.M., brings  
this Petition and Demand for Jury Trial (the "Petition") against Mead Johnson & Company, LLC,

Mead Johnson Nutrition Company (collectively, “Mead Johnson”), and Jessica Mackey (together with the Mead Johnson, “Defendants”). Plaintiffs allege the following 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:

### **NATURE OF THE ACTION**

1. This action arises out of the injuries suffered by K.H. when, as a premature infant, she received Mead Johnson’s cow’s milk-based infant feeding products while at St. Louis Children’s Hospital (“Childrens”). Mead Johnson’s products caused K.H. to develop necrotizing enterocolitis (“NEC”), a life-altering and potentially deadly disease that largely affects premature babies who are given cow’s milk-based feeding products. As a result, K.H. was seriously injured, resulting in long-term health effects.

2. Plaintiffs bring this cause of action against Defendants to recover for injuries that are the direct and proximate result of K.H. receiving Mead Johnson’s unreasonably dangerous cow’s milk-based infant feeding products.

### **PARTIES**

3. Plaintiff Cadence Collins is a natural person and a resident of Illinois. Ms. Collins is the mother of Plaintiff K.H., a minor.

4. Defendant Mead Johnson Nutrition Company is a corporation, incorporated under the laws of the State of Delaware. Its principal place of business is in Illinois. Defendant Mead Johnson & Company, LLC, is a limited liability company, organized under the laws of the State of Delaware. Its citizenship is that of its sole member, Mead Johnson Nutrition Company. Defendants Mead Johnson Nutrition Company and Mead Johnson & Company, LLC, are

manufacturers of cow's milk-based infant feeding products and market many of these products under the "Enfamil" brand name.

5. Defendant Jessica Mackey is a sales representative for Mead Johnson. Upon information and belief, she has served in this position since August 2018. Ms. Mackey is a natural person and resident of St. Louis, MO.

### **JURISDICTION AND VENUE**

6. At all relevant times, Defendants had, and continue to have, regular and systematic contact with and conduct business in and from the State of Missouri, such that they have purposefully availed themselves of the laws of the State and expect to both sue and be sued in Missouri. In the alternative, Defendants' presence in the State of Missouri satisfies the due process requirements for Missouri courts to exercise jurisdiction over them. In the alternative, Defendants have consented to the exercise of jurisdiction over them by Missouri courts by registering and conducting business from the State of Missouri. In the alternative, Defendant Jessica Mackey resides in and is a citizen of the State of Missouri.

7. Missouri's general venue statute, Mo. Rev. Stat. § 508.010.4, provides as follows:

Notwithstanding any other provision of law, in all actions in which there is any count alleging a tort and in which the plaintiff was first injured in the state of Missouri, venue shall be in the county where the plaintiff was first injured by the acts or conduct alleged in the action.

8. Venue is proper in the Twenty-Second Judicial Circuit pursuant to Mo. Rev. Stat. § 508.010.4 because Plaintiff K.H. developed NEC after first being exposed to Mead Johnson's products while receiving care in St. Louis, Missouri.

## **FACTUAL ALLEGATIONS**

### ***K.H.'s NEC Diagnosis***

9. K.H. was born prematurely at Barnes-Jewish Hospital in St. Louis, Missouri on September 4, 2021. She was 25 weeks and 3 days gestational age.

10. K.H. initially received human milk and human milk-based products. Notwithstanding that diet, K.H. was diagnosed with medical NEC on September 15, 2021. Fortunately, her medical NEC was able to be treated with antibiotics.

11. Following resolution of her medical NEC, K.H. was again fed a human milk diet, on which she remained healthy and was developing well.

12. K.H. reached 32 weeks gestational age on October 20, 2021. On or about that day, and notwithstanding her prematurity and previous diagnosis of medical NEC, she was transitioned to Enfamil formula .

13. Almost immediately, K.H. began to develop significant symptoms of NEC.

14. The disease progressed rapidly, and K.H. was required to undergo surgery on October 22, 2021. It was the first of multiple surgeries K.H. would be forced to endure as a result of NEC.

15. K.H.'s recurrent NEC was induced by Mead Johnson's formula. As a result of that formula feeding, K.H. suffered and continues to suffer from permanent and severe injuries.

### ***Cow's Milk-Based Feeding Products Are Known To Cause NEC***

16. NEC is a devastating disease that is the most frequent and lethal gastrointestinal disorder affecting preterm infants. NEC develops when harmful bacteria breach the walls of the intestine, causing portions of the intestine to become inflamed and often to die. Once NEC

develops, the condition can progress rapidly from mild feeding intolerance to systemic and fatal sepsis. Up to 30 percent of NEC-diagnosed infants die from the disease.

17. Preterm and low-birth-weight infants are especially susceptible to NEC because of their underdeveloped digestive systems. Extensive scientific research, including numerous randomized controlled trials, has confirmed that cow's milk-based feeding products cause NEC in preterm and low-birth-weight infants, which in turn may lead to other medical complications, surgeries, long-term health problems, and death.

18. For example, in one randomized, multicenter study of 926 preterm infants, NEC was **six to ten** times more common in exclusively cow's milk formula-fed babies than in exclusively breast milk-fed babies and **three times** more common in babies who received a combination of formula and breast milk. For babies born at more than 30 weeks gestation, NEC was **20 times more common** in those only fed cow's milk formula than in those fed breast milk.

19. Another randomized controlled trial showed that preterm babies fed an exclusive breast milk-based diet were **90% less likely** to develop surgical NEC (NEC that requires surgical treatment), compared to preterm babies fed a diet that included some cow's milk-based products.

20. Yet another study that analyzed the data from a 12-center randomized trial concluded that fortification of breast milk with a cow's milk-based fortifier resulted in a 4.2-fold increased risk of NEC and a 5.1-fold increased risk of surgical NEC or death, compared to fortification with a breast milk-based fortifier.

21. A Surgeon General report, *The Surgeon General's Call to Action to Support Breastfeeding*, warns that, "for vulnerable premature infants, formula feeding is associated with higher rates of necrotizing enterocolitis." The report also states that premature infants who are not breastfed are **138% more likely** to develop NEC.

22. The American Academy of Pediatrics, “an organization of 67,000 pediatricians committed to the optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults,” has advised that **all** premature infants should be fed either their mother’s milk or, if their mother’s milk is unavailable, pasteurized human donor milk. This recommendation is based on the “potent benefits of human milk,” including “lower rates of . . . NEC.”

23. A multicenter, randomized, controlled trial found that premature and low-birth-weight infants fed an exclusive breast milk-based diet suffered NEC only 3% of the time while premature and low-birth-weight infants receiving cow’s milk-based formula suffered NEC **21% of the time.**

24. Another study conducted a randomized comparison of extremely preterm infants who were given either (a) a diet of breast milk fortified with a breast milk-based fortifier or (b) a diet containing variable amounts of cow’s milk-based products. The babies given exclusively breast milk products suffered NEC 5% of the time. The babies given cow’s milk products suffered NEC 17% of the time.

***Safer, Nutritionally Superior Alternatives To Cow’s Milk-Based Products Exist***

25. A range of options are available that allow preterm and low-birth-weight infants to be fed exclusively human milk-based nutrition. For example, in addition to the mother’s own milk, an established network delivers pasteurized donor breast milk to hospitals nationwide. Moreover, hospitals have access to shelf-stable formula and fortifiers derived from pasteurized breast milk.

26. A diet based exclusively on breast milk and breast milk fortifiers provides all the nutrition necessary to support premature and low-birth-weight infants without the elevated risk of



NEC associated with cow's milk-based products. For example, in a study analyzing preterm infants who were fed an exclusive breast milk-based diet until they reached 34 weeks, all 104 infants exceeded standard growth targets and met length and head-circumference growth targets, demonstrating that infants can achieve and mostly exceed targeted growth standards when receiving an exclusive breast milk-based diet. This is particularly true given the ability of breast milk-based fortifiers to provide the additional nutritional supplements necessary for adequate growth while receiving the benefits of a breast milk diet.

27. Mead Johnson's products not only pose a threat to infants' health, but also displace the breast milk they could otherwise receive. This displacement only increases infants' vulnerability to NEC, as studies show that breast milk has a lower risk profile for the disease. For example, a study analyzing 1,587 infants across multiple institutions concluded that an exclusive breast milk-based diet is associated with significant benefits for extremely premature infants and that it produced no feeding-related adverse outcomes.

28. For the above reasons, specialized experts acknowledge that breast milk is the best source of nutrition for preterm infants and those at risk for NEC. Breast milk-based nutrition nourishes infants while creating a significantly lower risk of NEC.

29. At the time K.H. received Mead Johnson's products, the science clearly demonstrated to Mead Johnson that these products cause NEC and greatly increase the likelihood that a baby will develop NEC, leading to severe injury and often death.

30. Despite the scientific consensus among experts that Mead Johnson's cow's milk-based products present a dire threat to the health and development of preterm infants, Mead Johnson has made no changes to its products or the products' packaging, guidelines, instructions,

or warnings. Instead, Mead Johnson has continued to sell its unreasonably dangerous products to unsuspecting parents and to healthcare providers, generating huge profits as a result.

***Mead Johnson's False And Misleading Marketing Regarding***

***Cow's Milk Based Infant Products***

31. Mead Johnson has aggressively marketed its cow's milk-based products as medically endorsed and nutritionally equivalent alternatives to breast milk, including prior to K.H.'s birth.

32. Mead Johnson's marketing approach includes targeting the parents of preterm infants while they are still in the hospital with messages that Mead Johnson's cow's milk formulas and fortifiers are necessary for the growth and development of their vulnerable children. Often these tactics implicitly discourage mothers from breastfeeding, which reduces the mother's supply of breast milk. *None* of Mead Johnson's marketing materials, including its promotional websites, reference the science showing how significantly its products increase the risk of NEC.

33. Numerous studies have shown the detrimental impact of formula advertising on the rates of initiation and continuation of breastfeeding, including studies that show that as "hand feeding" (non-breastfeeding) advertisements increase, reported breastfeeding rates decrease in the following year.

34. Undoubtedly aware of the impact of its advertising, Mead Johnson, along with other formula manufacturers, are willing to spend massive sums to disseminate its message, with one study estimating that formula manufacturers collectively spent \$4.48 billion on marketing and promotion in 2014 alone.

35. Recognizing the abuse and dangers of infant formula marketing, in 1981, the World Health Assembly—the decision-making body of the World Health Organization—

developed the International Code of Marketing of Breast-milk Substitutes (“the Code”), which required companies to acknowledge the superiority of breast milk, the negative effect on breastfeeding of introducing partial bottle-feeding, and the difficulty of reversing the decision not to breastfeed. The Code also forbade advertising or other forms of promotion of formula to the general public, as well as providing sample products to mothers or members of their families.

36. While Mead Johnson acknowledges the Code on its websites and claims to support the effort to encourage mothers to breastfeed for as long as possible, this is little more than lip service. Instead, Mead Johnson’s aggressive marketing exploits new parents’ darkest fears—that the nutrition they are supplying to their child will not provide the best chance of survival—while wholly failing to warn that its products come with a significantly increased risk of NEC.

37. Mead Johnson markets and sells multiple products specifically targeting premature infants, including Enfamil NeuroPro EnfaCare Infant Formula, Enfamil Premature Infant Formula 24 Cal High Protein, Enfamil Premature Infant Formula 30 Cal with Iron, Enfamil Premature Infant Formula 24 Cal with Iron, Enfamil Premature Infant Formula 20 Cal with Iron, Enfamil 24 Cal Infant Formula, and Enfamil Human Milk Fortifier (acidified liquid and powder). In advertising these products, Mead Johnson emphasizes the purported similarities between its formula and breast milk, while failing to include any information about the deficits and dangers that accompany its preterm products. For example, the since-edited webpage for Enfamil EnfaCare stated: “Premature babies fed Enfamil® formulas during the first year have achieved catch-up growth similar to that of full term, breastfed infants” and noted that Enfamil formulas include “expert-recommended levels of DHA and ARA (important fatty acids found naturally in breast milk) to support brain and eye development.”

38. One Enfamil advertisement, introducing a new product line called Enfamil NeuroPro, is entirely focused on favorably comparing Enfamil's formula to breast milk, without any mention of the product's extreme risks. Indeed, the terms "human milk" and "breast milk" are used 13 times in the advertisement, including in such statements as "for decades human milk has inspired the advancements in Enfamil formulas and now through extensive global research, we are taking an even closer look at human milk" and "only Enfamil NeuroPro has a fat blend of MFGM and DHA previously found only in breast milk." The webpage for the product has made similar manipulative claims, stating "Enfamil is backed by decades of **breast milk research** and multiple clinical studies" and it claims that "to create our best formulas, we collaborated on some of the most extensive **breast milk studies** to date" (emphasis added).

39. Formula manufacturers have long used their relationships with hospitals and the discharge process to encourage parents to substitute formula for breast milk. They offer free formula, coupons, and even entire gift baskets to parents in hospitals, medical clinics, and residential charities where out-of-town families stay while their babies receive long-term treatment in the NICU.

40. Ms. Mackey was responsible for convincing hospital personnel, including personnel at the hospitals where K.H. was treated and developed NEC, to give Mead Johnson's products to infants and/or to convince parents like Cadence Collins to allow their children to be fed those products.

41. In connection with her job duties, Ms. Mackey provided information about Mead Johnson's products to hospital personnel, including personnel at the hospitals where K.H. was treated and developed NEC. Mead Johnson sales representatives, including Ms. Mackey, routinely misrepresented the risks and benefits of Mead Johnson's products versus human milk and human

milk products, including the misrepresentation that premature babies would not grow adequately with human milk and human milk products and that use of donor milk was not advised for premature infants.

42. Through Mead Johnson's early targeting, it creates brand loyalty under the guise of a "medical blessing," in hopes that new parents continue to use its term and toddler formula after they leave the hospital, resulting in increased expense for parents, significantly increased risk for babies, and increased profit for Mead Johnson. Mead Johnson's gift baskets send confusing signals to mothers who are simultaneously being encouraged to breastfeed by their health care professionals, and they have been shown to negatively impact breastfeeding rates.

43. Further, upon recognition of a shift in the medical community towards an exclusive breast milk-based diet for premature infants, Mead Johnson developed "Enfamil Human Milk Fortifier." This name is misleading in that it suggests that the product is derived from breast milk, when, in fact, it is a cow's milk-based product. One study, for example, found that only 8.8 percent of parents surveyed in the NICU interpreted "human milk fortifier" as potentially meaning a cow's milk-based product. The packaging appears as:



44. Mead Johnson has designed powerful misleading marketing campaigns to deceive parents into believing that: (1) cow's milk-based products are safe, including for preterm infants; (2) cow's milk-based products are equal, or even superior, substitutes to breast milk; (3) cow's milk-based products are necessary for proper growth and development of preterm infants; and (4) physicians consider Mead Johnson's cow's milk-based products to be a first choice. This marketing scheme is employed despite Mead Johnson knowing of and failing to warn of the extreme risk of NEC and death that cow's milk-based products pose to preterm infants like K.H..

#### ***Mead Johnson's Inadequate Warnings***

45. Mead Johnson promotes an aggressive marketing campaign designed to convince parents that its cow's milk-based products are safe and necessary for the growth of a premature infant, the product is in fact extremely dangerous for premature infants. Enfamil products significantly increase the chances of a premature infant developing potentially fatal NEC.

46. The Enfamil products Mead Johnson markets specifically for premature infants are commercially available at retail locations and online. No prescription is necessary.

47. Despite knowing of the risk of NEC, the packaging of Mead Johnson's products does not warn of the significantly increased risk of NEC (and resulting medical conditions, and/or death) associated with Mead Johnson's products, or of the magnitude of this increased risk. Mead Johnson likewise did not provide instructions or guidance for how to avoid NEC.

48. Mead Johnson cites no medical literature or research to guide the use of its products.

49. Despite knowing of the risk of NEC, Mead Johnson did not warn of the significantly increased risk of NEC (and resulting medical conditions, and/or death) associated with its products, or of the magnitude of this increased risk. Mead Johnson likewise did not provide instructions or guidance for how to avoid NEC.

50. Mead Johnson deceived the public, parents, physicians, other medical professionals, and medical staff into believing that Enfamil products were a safe and necessary alternative, supplement and/or substitute to breast milk.

51. Despite knowing that its products were being fed to premature infants, often without the parents' informed consent, Mead Johnson failed to require or recommend that medical professionals or hospitals inform parents of the significant risk of NEC or to require that parental consent be obtained prior to the products being fed to their babies.

### ***Safer Alternative Designs***

52. Mead Johnson's cow's milk-based products made specifically for premature infants are unreasonably unsafe for those infants. Mead Johnson could have used pasteurized breast milk instead of cow's milk in its products, which would have produced a safer product.

53. Prolacta Bioscience manufactures and sells breast milk-based feeding products, specifically designed for preterm infants, which contain no cow's milk. This alternative design

provides all the necessary nutrition for growth and development that cow's milk-based products provide, without the same unreasonably dangerous and deadly effects.

54. On information and belief, Mead Johnson was aware of the significantly increased risk of NEC and death associated with its cow's milk-based products, and instead of warning of the dangers, or removing them altogether, Mead Johnson has continued to use cow's milk as the foundation of its products.

**COUNT I: STRICT LIABILITY FOR DESIGN DEFECT**  
**(Against Mead Johnson)**

55. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

56. Mead Johnson, as the manufacturers and/or sellers of the products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular, to manufacture, sell, and distribute its products in a manner that was not unreasonably dangerous.

57. Mead Johnson also owed a duty to the consuming public in general, and Plaintiffs in particular, to manufacture, sell, and distribute its products in a manner that was merchantable and reasonably suited for their intended use.

58. Mead Johnson knew that its products would be used to feed premature infants like K.H. and knew (or reasonably should have known) that use of its cow's milk-based products significantly increased the risk of NEC, serious injury, and death, and that such use was therefore unreasonably dangerous to premature infants, not reasonably suited for the use intended, not merchantable, and had risks that exceeded a reasonable buyer's expectations. Nonetheless, it continued to sell and market its defective products as appropriate for premature infants.

59. K.H. ingested Mead Johnson's unreasonably dangerous cow's milk-based formula. The risks of feeding that formula to K.H. outweighed the benefits. An ordinary consumer would



not expect Mead Johnson's products to carry a significant risk of serious injury and death from NEC.

60. Mead Johnson knew (or reasonably should have known) that breast milk-based nutrition did not carry the same risks of NEC, serious injury, and death that Mead Johnson's products do.

61. Mead Johnson's products contained cow's milk at the time they left the manufacturing facility.

62. Mead Johnson did not develop a human-milk based product that was safer for premature infants and did not reformulate its products to reduce the risk of NEC, serious injury, and death, even though doing so was economically and technologically feasible and even though pasteurized breast milk was an available alternative.

63. Mead Johnson's products were fed to K.H., which directly and proximately caused her NEC and led to injury and death.

WHEREFORE, Plaintiffs prays for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT II: STRICT LIABILITY FOR FAILURE TO WARN**  
**(Against Mead Johnson)**

64. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

65. Mead Johnson, as the manufacturer and/or seller of the infant products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular, to provide adequate warnings or instructions about the dangers and risks associated with the use of

its products with preterm infants, specifically including but not limited to the risk of NEC, serious injury, and death.

66. Mead Johnson's duty to warn is part of its general duty to design, manufacture, and sell its infant products in a manner that is reasonably safe for their foreseeable uses. By designing its products with cow's milk-based ingredients, Mead Johnson undertook a duty to warn of the unreasonable risk of harm posed by those ingredients, specifically including the significantly increased risk of NEC, severe injury, and death. The failure to warn makes the products at issue in this litigation unreasonably dangerous.

67. Specifically, Mead Johnson breached its duty to warn of the foreseeable risks of the infant products at issue in this litigation because it knew or should have known that its cow's milk-based premature infant products would be fed to premature infants like K.H., and that its products might cause those infants to develop NEC, severe injury, or death, yet it failed to provide adequate warnings of those risks. Among other risks, Mead Johnson:

- a. Failed to warn that cow's milk-based products significantly increase the risk of NEC, severe injury, and death in those babies; and/or
- b. Failed to warn that cow's milk-based products are unsafe and/or contraindicated for premature infants like K.H.; and/or
- c. Inserted warnings and instructions on its products that are severely inadequate, vague, confusing, and provide a false sense of security in that they warn and instruct specifically on certain conditions, but do not warn of the significantly increased risk of NEC and death; and/or

- d. Failed to insert a large and prominent “black box”-type warning that its cow’s milk-based products are known to significantly increase the risk of NEC and death when compared to breast milk in premature infants; and/or
- e. Failed to disclose well-researched and well-established studies that linked cow’s milk-based products to NEC and death in premature infants; and/or
- f. Failed to insert a warning or instruction to healthcare professionals and other medical staff in the hospital that parents should be provided information necessary to make an informed choice about whether to allow their babies to be fed Mead Johnson’s products, notwithstanding their substantial risks; and/or
- g. Failed to provide a warning in a method reasonably calculated or expected to reach the parents of newborns; and/or
- h. Failed to provide statistical evidence showing the magnitude of increased risk of NEC in premature infants associated with cow’s milk-based products.

68. Mead Johnson’s products contained cow’s milk at the time they left the manufacturing facility.

69. As a direct and proximate result of the inadequacy of the warnings and the pervasive marketing campaigns suggesting the safety and necessity of the Mead Johnson’s products, K.H. was fed cow’s milk-based products, which caused her to develop NEC.

70. The unwarned-of risks are not of a kind that an ordinary consumer would expect. Had Mead Johnson warned of the extreme risk associated with feeding premature infants cow’s milk-based formula, physicians and health care providers would not have fed the Injured Infant those products. Had Ms. Collins known of the significant risks of feeding K.H. cow’s milk-based formula, she would not have allowed such products to be fed to her child.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT III: NEGLIGENCE**  
**(Against Mead Johnson and Jessica Mackey)**

71. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

72. Mead Johnson as the manufacturer and/or seller of the products at issue in this litigation, and Ms. Mackey, as the sales representative promoting and educating hospitals and health care providers, including K.H.'s hospital and health care providers, owed a duty to the consuming public in general, and Plaintiff in particular, to exercise reasonable care to design, test, manufacture, inspect, and distribute a product free of unreasonable risk of harm to users, when such products are used in their intended manner and for their intended purpose, and warn the consuming public of any risks associated with Mead Johnson's products.

73. At all times relevant to this action, K.H.'s health care providers used the products at issue in their intended manner and for their intended purpose.

74. Mead Johnson, directly or indirectly, negligently, and/or defectively made, created, manufactured, designed, assembled, tested, marketed, sold, and/or distributed the cow's milk-based infant products at issue in this litigation and thereby breached its duty to the general public and Plaintiffs. Ms. Mackey, directly or indirectly, negligently marketed, sold, and/or distributed Mead Johnson's cow's milk-based infant products at issue in this litigation, including to Ms. Collins and K.H.'s caregivers, and thereby breached her duty to the general public and the Plaintiffs.

75. Although Mead Johnson knew or reasonably should have known at the time of production that its cow's milk-based infant products significantly increased the risk of NEC, serious injury, and death, it failed to act in a reasonably prudent manner and breached its duty by:

- a. Failing to warn that cow's milk-based products significantly increase the risk of NEC, severe injury, and death in those babies; and/or
- b. Failing to warn that cow's milk-based products are unsafe and/or contraindicated for premature infants like K.H.; and/or
- c. Inserting warnings and instructions that are severely inadequate, vague, confusing, and provide a false sense of security in that they warn and instruct specifically on certain conditions, but do not warn of the significantly increased risk of NEC and death; and/or
- d. Failing to insert a large and prominent "black box"-type warning that its cow's milk-based products are known to significantly increase the risk of NEC and death when compared to breast milk in premature infants; and/or
- e. Failing to provide well-researched and well-established studies that linked cow's milk-based products to NEC and death in premature infants; and/or
- f. Failing to insert a warning or instruction to healthcare professionals and other medical staff in the hospital that parents should be provided information necessary to make an informed choice about whether to allow their babies to be fed Mead Johnson's products, notwithstanding their substantial risks; and/or
- g. Failing to provide a warning in a method reasonably calculated/expected to reach the parents of newborns; and/or

- h. Failing to provide statistical evidence showing the magnitude of increased risk of NEC in premature infants associated with cow's milk-based products.

76. Ms. Mackey knew or reasonably should have known at the time of marketing, sale, and/or distribution of Mead Johnson's cow's milk-based infant products that they significantly increased the risk of NEC, serious injury, and death; she failed to act in a reasonably prudent manner and breached her duty by:

- a. Failing to warn that cow's milk-based products significantly increase the risk of NEC, severe injury, and death in those babies; and/or
- b. Failing to warn that cow's milk-based products are unsafe and/or contraindicated for premature infants like K.H.; and/or
- c. Failing to provide the hospitals for which she was Mead Johnson's sales representative, including K.H.'s treating hospitals, with the well-researched and well-established studies that link cow's milk-based products to NEC and death in premature infants; and/or
- d. Failing to provide a warning in a method reasonably calculated/expected to reach the parents of newborns; and/or
- e. Failing to provide statistical evidence showing the magnitude of increased risk of NEC in premature infants associated with cow's milk-based products; and/or
- f. Misrepresenting that premature babies would not grow adequately with human milk and human milk products and that use of donor milk was not advised for premature infants.

77. In addition, although Mead Johnson knew or reasonably should have known at the time of production that its cow's milk-based products significantly increased the risk of NEC,

serious injury, and death, it failed to act in a reasonably prudent manner and breached its duty by failing to perform the necessary process of data collection, detection, assessment, monitoring, prevention, and reporting or disclosure of adverse outcomes in infants who ingest its products.

78. As a direct and proximate result of Mead Johnson's and Ms. Mackey's failure to act in a reasonably prudent manner and their breach of duty, K.H. was fed cow's milk-based products, which caused her to develop NEC.

79. Had Mead Johnson and Ms. Mackey satisfied their duties to the consuming public in general, K.H. would not have been exposed to their unreasonably dangerous cow's milk-based products.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT IV: INTENTIONAL MISREPRESENTATION**  
**(Against the Mead Johnson and Jessica Mackey)**

80. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

81. At all times relevant to this action, K.H. (and Ms. Collins) used the products at issue in their intended manner and for their intended purpose.

82. Mead Johnson as the manufacturer and/or seller of the products at issue in this litigation, and Ms. Mackey, as the sales representative promoting and educating hospitals and health care providers, including K.H.'s hospital and health care providers, about the products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular,

to provide truthful, accurate, fulsome information about the risks and benefits of using Mead Johnson's products when used in the intended manner and for the intended purpose.

83. Mead Johnson and Ms. Mackey breached their duty through misrepresentations made to consumers, physicians, and medical staff in their advertising and promotional materials, as described in previous paragraphs and incorporated herein, each of whom were foreseeable and intended recipients of this information.

84. Specifically, upon information and belief, Mead Johnson and Ms. Mackey made the following false statements of material fact on an ongoing and repeated basis and prior to the time K.H. Huson was fed their products:

- a. That Mead Johnson's cow's milk-based products were safe and beneficial for premature infants when they knew or should have known that Mead Johnson's products were unreasonably dangerous and cause NEC, serious injury, and death in premature infants; and/or
- b. That Mead Johnson's cow's milk-based products were necessary to the growth and nutrition of premature infants, when they knew or should have known that Mead Johnson's products were not necessary to achieve adequate growth; and/or
- c. That Mead Johnson's products have no serious side effects, when they knew or should have known the contrary to be true; and/or
- d. That cow's milk-based products were safe for premature infants; and/or
- e. That cow's milk-based products were necessary for optimum growth; and/or
- f. That cow's milk-based products were similar or equivalent to breast milk; and/or
- g. That Mead Johnson's products were safe and more like breast milk than other infant products and that they had removed the harmful ingredients of cow's milk when,



in fact, the cow's milk in Mead Johnson's products was still capable of causing NEC, serious injury, and death; and/or

- h. That Mead Johnson's products were based on up-to-date science, which made them safe for premature infants; and/or
- i. Omitting the material fact that Mead Johnson's products significantly increased the risk of NEC in premature infants.

85. Mead Johnson and Ms. Mackey knew or reasonably should have known those misrepresentations to be false.

86. Mead Johnson's and Ms. Mackey's misrepresentations were intended to, and in fact did, induce hospitals and health care providers, including K.H.'s hospital and health care providers, to provide their infant products to babies, including K.H..

87. Ms. Collins was not aware that these misrepresentations were false and justifiably relied on them. Mead Johnson's and Ms. Mackey's misrepresentations induced Ms. Collins and her health care providers to allow her child to be fed Mead Johnson's infant products, in reliance on all the messaging Ms. Collins received about formula feeding, including, directly or indirectly, Mead Johnson's and Ms. Mackey's messaging. Had Mead Johnson and Ms. Mackey not committed these intentional misrepresentations, K.H. would not have been exposed to the Mead Johnson's unreasonably dangerous cow's milk-based products.

88. As a direct and proximate result, Mead Johnson's products were fed to K.H., causing her NEC and subsequent injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable

under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT V: NEGLIGENT MISREPRESENTATION**  
**(Against the Mead Johnson and Jessica Mackey)**

89. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

90. At all times relevant to this action, K.H. used the products at issue in their intended manner and for their intended purpose.

91. Mead Johnson as the manufacturer and/or seller of the products at issue in this litigation, and Ms. Mackey, as the sales representative promoting and educating hospitals and health care providers, including K.H.'s hospital and health care providers, about the products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular, to provide truthful, accurate, and complete information about the risks and benefits of using Mead Johnson's products when used in the intended manner and for the intended purpose.

92. In the course of their business, Mead Johnson and Ms. Mackey breached their duty through misrepresentations made to consumers, physicians, and medical staff in their advertising and promotional materials, as described in previous paragraphs and incorporated herein, each of whom were foreseeable recipients of this information.

93. Specifically, upon information and belief, Mead Johnson made the following false statements of material fact on an ongoing and repeated basis and prior to the time K.H. was fed its products:

- a. That its cow's milk-based products were safe and beneficial for premature infants when it knew or should have known that its products were unreasonably dangerous and cause NEC, serious injury, and death in premature infants; and/or

- b. That its cow's milk-based products were necessary to the growth and nutrition of premature infants, when it knew or should have known that its products were not necessary to achieve adequate growth; and/or
- c. That its products have no serious side effects, when it knew or should have known the contrary to be true; and/or
- d. That cow's milk-based products were safe for premature infants; and/or
- e. That cow's milk-based products were necessary for optimum growth; and/or
- f. That cow's milk-based products were similar or equivalent to breast milk; and/or
- g. That its products were safe and more like breast milk than other infant products and that they had removed the harmful ingredients of cow's milk when, in fact, the cow's milk in its products was still capable of causing NEC, serious injury, and death; and/or
- h. That its products were based on up-to-date science, which made them safe for premature infants; and/or
- i. Omitting the material fact that its products significantly increased the risk of NEC in premature infants.

94. Upon information and belief, Ms. Mackey made the same false statements of material fact on an ongoing and repeated basis including to individuals at K.H.'s treating hospitals and prior to the time K.H. was fed Mead Johnson's products. Upon information and belief, Ms. Mackey also represented that premature babies would not grow adequately with human milk and human milk products and that use of donor milk was not advised for premature infants.

95. Mead Johnson and Ms. Mackey were negligent or careless in not determining those representations to be false.

96. Mead Johnson's and Ms. Mackey's misrepresentations were intended to and did in fact induce hospitals and health care providers, including K.H.'s health care providers, to provide Mead Johnson's products to babies, including K.H..

97. Mead Johnson's and Ms. Mackey's misrepresentations induced, and were intended to induce, Ms. Collins to allow her child to be fed Mead Johnson's infant products, in justifiable reliance on all the messaging they received about formula feeding, including, directly or indirectly, Mead Johnson's and Ms. Mackey's messaging. Had Mead Johnson and Ms. Mackey not committed these negligent misrepresentations, K.H. would not have been exposed to Mead Johnson's unreasonably dangerous cow's milk-based products.

98. As a direct and proximate result, Mead Johnson's products were fed to K.H., causing her NEC and subsequent injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment as follows:

99. For compensatory damages in an amount to be proven at trial;

100. For damages for past, present, and future emotional distress, loss of enjoyment of life, pain and suffering, mental anguish, and other non-economic losses sustained as a result of Defendants' conduct;

101. For past, present, and future out-of-pocket costs, lost income and/or lost revenue, and/or lost profits, and/or lost business opportunity, lost earning capacity, and costs related to

medical or mental health treatment which have or may be recommended;

102. For interest as permitted by law;

103. For attorney's fees, expenses, and recoverable costs incurred in connection with this action; and

104. For such other and further relief as the Court deems proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial for all claims triable.

Dated: June 14, 2024

Respectfully submitted,

/s/ John F. Garvey

John F. Garvey, #35879

Colleen Garvey, #72809

Ellen A. Thomas, #73043

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*Attorneys for Plaintiff*

**Certificate of Filing**

The undersigned hereby certifies that the foregoing Petition has been filed by using the Court's electronic case filing system on this 14<sup>th</sup> day of June, 2024.

/s/John F. Garvey



## Notice of Service of Process

null / ALL  
Transmittal Number: 29355867  
Date Processed: 06/20/2024

**Primary Contact:** Justin Griner  
Mead Johnson Nutrition/( Indiana )  
2400 W Lloyd Expy  
Evansville, IN 47712-5095

**Electronic copy provided to:** Aida Aviles  
Sylvia Freels

---

**Entity:** Mead Johnson Nutrition Company  
Entity ID Number 3176828

**Entity Served:** Mead Johnson Nutrition Company

**Title of Action:** Cadence Collins, Individually and As Next Friend of Her minor Child K.H. vs.  
Mead Johnson & Company, LLC

**Matter Name/ID:** Cadence Collins, Individually and As Next Friend of Her minor Child K.H. vs.  
Mead Johnson & Company, LLC (15884588)

**Document(s) Type:** Summons/Complaint

**Nature of Action:** Product Liability

**Court/Agency:** St. Louis City Circuit Court, MO

**Case/Reference No:** 2422-CC01642

**Jurisdiction Served:** Missouri

**Date Served on CSC:** 06/20/2024

**Answer or Appearance Due:** 30 Days

**Originally Served On:** CSC

**How Served:** Personal Service

**Sender Information:** Stranch, Jennings & Garvey, PLLC  
314-390-6750

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Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)



## IN THE 22ND JUDICIAL CIRCUIT, CITY OF ST LOUIS, MISSOURI

Judge or Division: ELIZABETH BYRNE HOGAN	Case Number: 2422-CC01642	
Plaintiff/Petitioner: CADENCE COLLINS	Plaintiff's/Petitioner's Attorney/Address JOHN FRANCIS GARVEY JR 701 MARKET ST SUITE 1510 ST LOUIS, MO 63101	
Defendant/Respondent: MEAD JOHNSON & COMPANY, LLC	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	
Nature of Suit: CC Pers Injury-Prod Liab		(Date File Stamp)

## Summons in Civil Case

The State of Missouri to: MEAD JOHNSON NUTRITION COMPANY

Alias:

CSC LAWYERS INCORPORATING  
SERVICE COMPANY  
221 BOLIVAR ST  
JEFFERSON CITY, MO 65101

SPECIAL PROCESS SERVER

COURT SEAL OF



CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

June 19, 2024

Date

Circuit Clerk

Further Information:

## Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above Summons by: (check one)

☐ delivering a copy of the summons and petition to the defendant/respondent.

☐ leaving a copy of the summons and petition at the dwelling house or usual place of abode of the defendant/respondent with \_\_\_\_\_, a person at least 18 years of age residing therein.

☐ (for service on a corporation) delivering a copy of the summons and petition to:

☐ other: \_\_\_\_\_ (name) \_\_\_\_\_ (title).

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on \_\_\_\_\_ (date).

(Seal)

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

Total \$ \_\_\_\_\_

A copy of the summons and petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



**IN THE CIRCUIT COURT FOR THE CITY OF ST. LOUIS  
STATE OF MISSOURI**

---

CADENCE COLLINS, individually and as Next  
Friend of her minor child K.H.,

*Plaintiffs,*

v.

MEAD JOHNSON & COMPANY, LLC,

SERVE: CSC-Lawyers Incorporating Service  
Company  
221 Bolivar St.  
Jefferson City, Missouri 65101

and

MEAD JOHNSON NUTRITION COMPANY,

SERVE: CSC-Lawyers Incorporating Service  
Company  
221 Bolivar St.  
Jefferson City, Missouri 65101

and

JESSICA MACKEY  
SERVE: Jessica Mackey  
1044 Haversham Pl.  
St. Louis, MO 63131

*Defendants.*

---

Cause No.

**JURY TRIAL DEMANDED**

**PETITION**

Plaintiffs Cadence Collins, individually and as Next Friend of her minor child K.M., brings  
this Petition and Demand for Jury Trial (the "Petition") against Mead Johnson & Company, LLC,

Mead Johnson Nutrition Company (collectively, “Mead Johnson”), and Jessica Mackey (together with the Mead Johnson, “Defendants”). Plaintiffs allege the following 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:

### **NATURE OF THE ACTION**

1. This action arises out of the injuries suffered by K.H. when, as a premature infant, she received Mead Johnson’s cow’s milk-based infant feeding products while at St. Louis Children’s Hospital (“Childrens”). Mead Johnson’s products caused K.H. to develop necrotizing enterocolitis (“NEC”), a life-altering and potentially deadly disease that largely affects premature babies who are given cow’s milk-based feeding products. As a result, K.H. was seriously injured, resulting in long-term health effects.

2. Plaintiffs bring this cause of action against Defendants to recover for injuries that are the direct and proximate result of K.H. receiving Mead Johnson’s unreasonably dangerous cow’s milk-based infant feeding products.

### **PARTIES**

3. Plaintiff Cadence Collins is a natural person and a resident of Illinois. Ms. Collins is the mother of Plaintiff K.H., a minor.

4. Defendant Mead Johnson Nutrition Company is a corporation, incorporated under the laws of the State of Delaware. Its principal place of business is in Illinois. Defendant Mead Johnson & Company, LLC, is a limited liability company, organized under the laws of the State of Delaware. Its citizenship is that of its sole member, Mead Johnson Nutrition Company. Defendants Mead Johnson Nutrition Company and Mead Johnson & Company, LLC, are

manufacturers of cow's milk-based infant feeding products and market many of these products under the "Enfamil" brand name.

5. Defendant Jessica Mackey is a sales representative for Mead Johnson. Upon information and belief, she has served in this position since August 2018. Ms. Mackey is a natural person and resident of St. Louis, MO.

### **JURISDICTION AND VENUE**

6. At all relevant times, Defendants had, and continue to have, regular and systematic contact with and conduct business in and from the State of Missouri, such that they have purposefully availed themselves of the laws of the State and expect to both sue and be sued in Missouri. In the alternative, Defendants' presence in the State of Missouri satisfies the due process requirements for Missouri courts to exercise jurisdiction over them. In the alternative, Defendants have consented to the exercise of jurisdiction over them by Missouri courts by registering and conducting business from the State of Missouri. In the alternative, Defendant Jessica Mackey resides in and is a citizen of the State of Missouri.

7. Missouri's general venue statute, Mo. Rev. Stat. § 508.010.4, provides as follows:

Notwithstanding any other provision of law, in all actions in which there is any count alleging a tort and in which the plaintiff was first injured in the state of Missouri, venue shall be in the county where the plaintiff was first injured by the acts or conduct alleged in the action.

8. Venue is proper in the Twenty-Second Judicial Circuit pursuant to Mo. Rev. Stat. § 508.010.4 because Plaintiff K.H. developed NEC after first being exposed to Mead Johnson's products while receiving care in St. Louis, Missouri.

## **FACTUAL ALLEGATIONS**

### ***K.H.'s NEC Diagnosis***

9. K.H. was born prematurely at Barnes-Jewish Hospital in St. Louis, Missouri on September 4, 2021. She was 25 weeks and 3 days gestational age.

10. K.H. initially received human milk and human milk-based products. Notwithstanding that diet, K.H. was diagnosed with medical NEC on September 15, 2021. Fortunately, her medical NEC was able to be treated with antibiotics.

11. Following resolution of her medical NEC, K.H. was again fed a human milk diet, on which she remained healthy and was developing well.

12. K.H. reached 32 weeks gestational age on October 20, 2021. On or about that day, and notwithstanding her prematurity and previous diagnosis of medical NEC, she was transitioned to Enfamil formula .

13. Almost immediately, K.H. began to develop significant symptoms of NEC.

14. The disease progressed rapidly, and K.H. was required to undergo surgery on October 22, 2021. It was the first of multiple surgeries K.H. would be forced to endure as a result of NEC.

15. K.H.'s recurrent NEC was induced by Mead Johnson's formula. As a result of that formula feeding, K.H. suffered and continues to suffer from permanent and severe injuries.

### ***Cow's Milk-Based Feeding Products Are Known To Cause NEC***

16. NEC is a devastating disease that is the most frequent and lethal gastrointestinal disorder affecting preterm infants. NEC develops when harmful bacteria breach the walls of the intestine, causing portions of the intestine to become inflamed and often to die. Once NEC

develops, the condition can progress rapidly from mild feeding intolerance to systemic and fatal sepsis. Up to 30 percent of NEC-diagnosed infants die from the disease.

17. Preterm and low-birth-weight infants are especially susceptible to NEC because of their underdeveloped digestive systems. Extensive scientific research, including numerous randomized controlled trials, has confirmed that cow's milk-based feeding products cause NEC in preterm and low-birth-weight infants, which in turn may lead to other medical complications, surgeries, long-term health problems, and death.

18. For example, in one randomized, multicenter study of 926 preterm infants, NEC was **six to ten** times more common in exclusively cow's milk formula-fed babies than in exclusively breast milk-fed babies and **three times** more common in babies who received a combination of formula and breast milk. For babies born at more than 30 weeks gestation, NEC was **20 times more common** in those only fed cow's milk formula than in those fed breast milk.

19. Another randomized controlled trial showed that preterm babies fed an exclusive breast milk-based diet were **90% less likely** to develop surgical NEC (NEC that requires surgical treatment), compared to preterm babies fed a diet that included some cow's milk-based products.

20. Yet another study that analyzed the data from a 12-center randomized trial concluded that fortification of breast milk with a cow's milk-based fortifier resulted in a 4.2-fold increased risk of NEC and a 5.1-fold increased risk of surgical NEC or death, compared to fortification with a breast milk-based fortifier.

21. A Surgeon General report, *The Surgeon General's Call to Action to Support Breastfeeding*, warns that, "for vulnerable premature infants, formula feeding is associated with higher rates of necrotizing enterocolitis." The report also states that premature infants who are not breastfed are **138% more likely** to develop NEC.

22. The American Academy of Pediatrics, “an organization of 67,000 pediatricians committed to the optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults,” has advised that ***all*** premature infants should be fed either their mother’s milk or, if their mother’s milk is unavailable, pasteurized human donor milk. This recommendation is based on the “potent benefits of human milk,” including “lower rates of . . . NEC.”

23. A multicenter, randomized, controlled trial found that premature and low-birth-weight infants fed an exclusive breast milk-based diet suffered NEC only 3% of the time while premature and low-birth-weight infants receiving cow’s milk-based formula suffered NEC ***21% of the time.***

24. Another study conducted a randomized comparison of extremely preterm infants who were given either (a) a diet of breast milk fortified with a breast milk-based fortifier or (b) a diet containing variable amounts of cow’s milk-based products. The babies given exclusively breast milk products suffered NEC 5% of the time. The babies given cow’s milk products suffered NEC 17% of the time.

***Safer, Nutritionally Superior Alternatives To Cow’s Milk-Based Products Exist***

25. A range of options are available that allow preterm and low-birth-weight infants to be fed exclusively human milk-based nutrition. For example, in addition to the mother’s own milk, an established network delivers pasteurized donor breast milk to hospitals nationwide. Moreover, hospitals have access to shelf-stable formula and fortifiers derived from pasteurized breast milk.

26. A diet based exclusively on breast milk and breast milk fortifiers provides all the nutrition necessary to support premature and low-birth-weight infants without the elevated risk of

NEC associated with cow's milk-based products. For example, in a study analyzing preterm infants who were fed an exclusive breast milk-based diet until they reached 34 weeks, all 104 infants exceeded standard growth targets and met length and head-circumference growth targets, demonstrating that infants can achieve and mostly exceed targeted growth standards when receiving an exclusive breast milk-based diet. This is particularly true given the ability of breast milk-based fortifiers to provide the additional nutritional supplements necessary for adequate growth while receiving the benefits of a breast milk diet.

27. Mead Johnson's products not only pose a threat to infants' health, but also displace the breast milk they could otherwise receive. This displacement only increases infants' vulnerability to NEC, as studies show that breast milk has a lower risk profile for the disease. For example, a study analyzing 1,587 infants across multiple institutions concluded that an exclusive breast milk-based diet is associated with significant benefits for extremely premature infants and that it produced no feeding-related adverse outcomes.

28. For the above reasons, specialized experts acknowledge that breast milk is the best source of nutrition for preterm infants and those at risk for NEC. Breast milk-based nutrition nourishes infants while creating a significantly lower risk of NEC.

29. At the time K.H. received Mead Johnson's products, the science clearly demonstrated to Mead Johnson that these products cause NEC and greatly increase the likelihood that a baby will develop NEC, leading to severe injury and often death.

30. Despite the scientific consensus among experts that Mead Johnson's cow's milk-based products present a dire threat to the health and development of preterm infants, Mead Johnson has made no changes to its products or the products' packaging, guidelines, instructions,

or warnings. Instead, Mead Johnson has continued to sell its unreasonably dangerous products to unsuspecting parents and to healthcare providers, generating huge profits as a result.

***Mead Johnson's False And Misleading Marketing Regarding***

***Cow's Milk Based Infant Products***

31. Mead Johnson has aggressively marketed its cow's milk-based products as medically endorsed and nutritionally equivalent alternatives to breast milk, including prior to K.H.'s birth.

32. Mead Johnson's marketing approach includes targeting the parents of preterm infants while they are still in the hospital with messages that Mead Johnson's cow's milk formulas and fortifiers are necessary for the growth and development of their vulnerable children. Often these tactics implicitly discourage mothers from breastfeeding, which reduces the mother's supply of breast milk. *None* of Mead Johnson's marketing materials, including its promotional websites, reference the science showing how significantly its products increase the risk of NEC.

33. Numerous studies have shown the detrimental impact of formula advertising on the rates of initiation and continuation of breastfeeding, including studies that show that as "hand feeding" (non-breastfeeding) advertisements increase, reported breastfeeding rates decrease in the following year.

34. Undoubtedly aware of the impact of its advertising, Mead Johnson, along with other formula manufacturers, are willing to spend massive sums to disseminate its message, with one study estimating that formula manufacturers collectively spent \$4.48 billion on marketing and promotion in 2014 alone.

35. Recognizing the abuse and dangers of infant formula marketing, in 1981, the World Health Assembly—the decision-making body of the World Health Organization—



developed the International Code of Marketing of Breast-milk Substitutes (“the Code”), which required companies to acknowledge the superiority of breast milk, the negative effect on breastfeeding of introducing partial bottle-feeding, and the difficulty of reversing the decision not to breastfeed. The Code also forbade advertising or other forms of promotion of formula to the general public, as well as providing sample products to mothers or members of their families.

36. While Mead Johnson acknowledges the Code on its websites and claims to support the effort to encourage mothers to breastfeed for as long as possible, this is little more than lip service. Instead, Mead Johnson’s aggressive marketing exploits new parents’ darkest fears—that the nutrition they are supplying to their child will not provide the best chance of survival—while wholly failing to warn that its products come with a significantly increased risk of NEC.

37. Mead Johnson markets and sells multiple products specifically targeting premature infants, including Enfamil NeuroPro EnfaCare Infant Formula, Enfamil Premature Infant Formula 24 Cal High Protein, Enfamil Premature Infant Formula 30 Cal with Iron, Enfamil Premature Infant Formula 24 Cal with Iron, Enfamil Premature Infant Formula 20 Cal with Iron, Enfamil 24 Cal Infant Formula, and Enfamil Human Milk Fortifier (acidified liquid and powder). In advertising these products, Mead Johnson emphasizes the purported similarities between its formula and breast milk, while failing to include any information about the deficits and dangers that accompany its preterm products. For example, the since-edited webpage for Enfamil EnfaCare stated: “Premature babies fed Enfamil® formulas during the first year have achieved catch-up growth similar to that of full term, breastfed infants” and noted that Enfamil formulas include “expert-recommended levels of DHA and ARA (important fatty acids found naturally in breast milk) to support brain and eye development.”

38. One Enfamil advertisement, introducing a new product line called Enfamil NeuroPro, is entirely focused on favorably comparing Enfamil's formula to breast milk, without any mention of the product's extreme risks. Indeed, the terms "human milk" and "breast milk" are used 13 times in the advertisement, including in such statements as "for decades human milk has inspired the advancements in Enfamil formulas and now through extensive global research, we are taking an even closer look at human milk" and "only Enfamil NeuroPro has a fat blend of MFGM and DHA previously found only in breast milk." The webpage for the product has made similar manipulative claims, stating "Enfamil is backed by decades of **breast milk research** and multiple clinical studies" and it claims that "to create our best formulas, we collaborated on some of the most extensive **breast milk studies** to date" (emphasis added).

39. Formula manufacturers have long used their relationships with hospitals and the discharge process to encourage parents to substitute formula for breast milk. They offer free formula, coupons, and even entire gift baskets to parents in hospitals, medical clinics, and residential charities where out-of-town families stay while their babies receive long-term treatment in the NICU.

40. Ms. Mackey was responsible for convincing hospital personnel, including personnel at the hospitals where K.H. was treated and developed NEC, to give Mead Johnson's products to infants and/or to convince parents like Cadence Collins to allow their children to be fed those products.

41. In connection with her job duties, Ms. Mackey provided information about Mead Johnson's products to hospital personnel, including personnel at the hospitals where K.H. was treated and developed NEC. Mead Johnson sales representatives, including Ms. Mackey, routinely misrepresented the risks and benefits of Mead Johnson's products versus human milk and human

milk products, including the misrepresentation that premature babies would not grow adequately with human milk and human milk products and that use of donor milk was not advised for premature infants.

42. Through Mead Johnson's early targeting, it creates brand loyalty under the guise of a "medical blessing," in hopes that new parents continue to use its term and toddler formula after they leave the hospital, resulting in increased expense for parents, significantly increased risk for babies, and increased profit for Mead Johnson. Mead Johnson's gift baskets send confusing signals to mothers who are simultaneously being encouraged to breastfeed by their health care professionals, and they have been shown to negatively impact breastfeeding rates.

43. Further, upon recognition of a shift in the medical community towards an exclusive breast milk-based diet for premature infants, Mead Johnson developed "Enfamil Human Milk Fortifier." This name is misleading in that it suggests that the product is derived from breast milk, when, in fact, it is a cow's milk-based product. One study, for example, found that only 8.8 percent of parents surveyed in the NICU interpreted "human milk fortifier" as potentially meaning a cow's milk-based product. The packaging appears as:



44. Mead Johnson has designed powerful misleading marketing campaigns to deceive parents into believing that: (1) cow's milk-based products are safe, including for preterm infants; (2) cow's milk-based products are equal, or even superior, substitutes to breast milk; (3) cow's milk-based products are necessary for proper growth and development of preterm infants; and (4) physicians consider Mead Johnson's cow's milk-based products to be a first choice. This marketing scheme is employed despite Mead Johnson knowing of and failing to warn of the extreme risk of NEC and death that cow's milk-based products pose to preterm infants like K.H..

#### ***Mead Johnson's Inadequate Warnings***

45. Mead Johnson promotes an aggressive marketing campaign designed to convince parents that its cow's milk-based products are safe and necessary for the growth of a premature infant, the product is in fact extremely dangerous for premature infants. Enfamil products significantly increase the chances of a premature infant developing potentially fatal NEC.

46. The Enfamil products Mead Johnson markets specifically for premature infants are commercially available at retail locations and online. No prescription is necessary.

47. Despite knowing of the risk of NEC, the packaging of Mead Johnson's products does not warn of the significantly increased risk of NEC (and resulting medical conditions, and/or death) associated with Mead Johnson's products, or of the magnitude of this increased risk. Mead Johnson likewise did not provide instructions or guidance for how to avoid NEC.

48. Mead Johnson cites no medical literature or research to guide the use of its products.

49. Despite knowing of the risk of NEC, Mead Johnson did not warn of the significantly increased risk of NEC (and resulting medical conditions, and/or death) associated with its products, or of the magnitude of this increased risk. Mead Johnson likewise did not provide instructions or guidance for how to avoid NEC.

50. Mead Johnson deceived the public, parents, physicians, other medical professionals, and medical staff into believing that Enfamil products were a safe and necessary alternative, supplement and/or substitute to breast milk.

51. Despite knowing that its products were being fed to premature infants, often without the parents' informed consent, Mead Johnson failed to require or recommend that medical professionals or hospitals inform parents of the significant risk of NEC or to require that parental consent be obtained prior to the products being fed to their babies.

### ***Safer Alternative Designs***

52. Mead Johnson's cow's milk-based products made specifically for premature infants are unreasonably unsafe for those infants. Mead Johnson could have used pasteurized breast milk instead of cow's milk in its products, which would have produced a safer product.

53. Prolacta Bioscience manufactures and sells breast milk-based feeding products, specifically designed for preterm infants, which contain no cow's milk. This alternative design

provides all the necessary nutrition for growth and development that cow's milk-based products provide, without the same unreasonably dangerous and deadly effects.

54. On information and belief, Mead Johnson was aware of the significantly increased risk of NEC and death associated with its cow's milk-based products, and instead of warning of the dangers, or removing them altogether, Mead Johnson has continued to use cow's milk as the foundation of its products.

**COUNT I: STRICT LIABILITY FOR DESIGN DEFECT**  
**(Against Mead Johnson)**

55. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

56. Mead Johnson, as the manufacturers and/or sellers of the products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular, to manufacture, sell, and distribute its products in a manner that was not unreasonably dangerous.

57. Mead Johnson also owed a duty to the consuming public in general, and Plaintiffs in particular, to manufacture, sell, and distribute its products in a manner that was merchantable and reasonably suited for their intended use.

58. Mead Johnson knew that its products would be used to feed premature infants like K.H. and knew (or reasonably should have known) that use of its cow's milk-based products significantly increased the risk of NEC, serious injury, and death, and that such use was therefore unreasonably dangerous to premature infants, not reasonably suited for the use intended, not merchantable, and had risks that exceeded a reasonable buyer's expectations. Nonetheless, it continued to sell and market its defective products as appropriate for premature infants.

59. K.H. ingested Mead Johnson's unreasonably dangerous cow's milk-based formula. The risks of feeding that formula to K.H. outweighed the benefits. An ordinary consumer would

not expect Mead Johnson's products to carry a significant risk of serious injury and death from NEC.

60. Mead Johnson knew (or reasonably should have known) that breast milk-based nutrition did not carry the same risks of NEC, serious injury, and death that Mead Johnson's products do.

61. Mead Johnson's products contained cow's milk at the time they left the manufacturing facility.

62. Mead Johnson did not develop a human-milk based product that was safer for premature infants and did not reformulate its products to reduce the risk of NEC, serious injury, and death, even though doing so was economically and technologically feasible and even though pasteurized breast milk was an available alternative.

63. Mead Johnson's products were fed to K.H., which directly and proximately caused her NEC and led to injury and death.

WHEREFORE, Plaintiffs prays for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT II: STRICT LIABILITY FOR FAILURE TO WARN**  
**(Against Mead Johnson)**

64. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

65. Mead Johnson, as the manufacturer and/or seller of the infant products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular, to provide adequate warnings or instructions about the dangers and risks associated with the use of

its products with preterm infants, specifically including but not limited to the risk of NEC, serious injury, and death.

66. Mead Johnson's duty to warn is part of its general duty to design, manufacture, and sell its infant products in a manner that is reasonably safe for their foreseeable uses. By designing its products with cow's milk-based ingredients, Mead Johnson undertook a duty to warn of the unreasonable risk of harm posed by those ingredients, specifically including the significantly increased risk of NEC, severe injury, and death. The failure to warn makes the products at issue in this litigation unreasonably dangerous.

67. Specifically, Mead Johnson breached its duty to warn of the foreseeable risks of the infant products at issue in this litigation because it knew or should have known that its cow's milk-based premature infant products would be fed to premature infants like K.H., and that its products might cause those infants to develop NEC, severe injury, or death, yet it failed to provide adequate warnings of those risks. Among other risks, Mead Johnson:

- a. Failed to warn that cow's milk-based products significantly increase the risk of NEC, severe injury, and death in those babies; and/or
- b. Failed to warn that cow's milk-based products are unsafe and/or contraindicated for premature infants like K.H.; and/or
- c. Inserted warnings and instructions on its products that are severely inadequate, vague, confusing, and provide a false sense of security in that they warn and instruct specifically on certain conditions, but do not warn of the significantly increased risk of NEC and death; and/or



- d. Failed to insert a large and prominent “black box”-type warning that its cow’s milk-based products are known to significantly increase the risk of NEC and death when compared to breast milk in premature infants; and/or
- e. Failed to disclose well-researched and well-established studies that linked cow’s milk-based products to NEC and death in premature infants; and/or
- f. Failed to insert a warning or instruction to healthcare professionals and other medical staff in the hospital that parents should be provided information necessary to make an informed choice about whether to allow their babies to be fed Mead Johnson’s products, notwithstanding their substantial risks; and/or
- g. Failed to provide a warning in a method reasonably calculated or expected to reach the parents of newborns; and/or
- h. Failed to provide statistical evidence showing the magnitude of increased risk of NEC in premature infants associated with cow’s milk-based products.

68. Mead Johnson’s products contained cow’s milk at the time they left the manufacturing facility.

69. As a direct and proximate result of the inadequacy of the warnings and the pervasive marketing campaigns suggesting the safety and necessity of the Mead Johnson’s products, K.H. was fed cow’s milk-based products, which caused her to develop NEC.

70. The unwarned-of risks are not of a kind that an ordinary consumer would expect. Had Mead Johnson warned of the extreme risk associated with feeding premature infants cow’s milk-based formula, physicians and health care providers would not have fed the Injured Infant those products. Had Ms. Collins known of the significant risks of feeding K.H. cow’s milk-based formula, she would not have allowed such products to be fed to her child.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT III: NEGLIGENCE**  
**(Against Mead Johnson and Jessica Mackey)**

71. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

72. Mead Johnson as the manufacturer and/or seller of the products at issue in this litigation, and Ms. Mackey, as the sales representative promoting and educating hospitals and health care providers, including K.H.'s hospital and health care providers, owed a duty to the consuming public in general, and Plaintiff in particular, to exercise reasonable care to design, test, manufacture, inspect, and distribute a product free of unreasonable risk of harm to users, when such products are used in their intended manner and for their intended purpose, and warn the consuming public of any risks associated with Mead Johnson's products.

73. At all times relevant to this action, K.H.'s health care providers used the products at issue in their intended manner and for their intended purpose.

74. Mead Johnson, directly or indirectly, negligently, and/or defectively made, created, manufactured, designed, assembled, tested, marketed, sold, and/or distributed the cow's milk-based infant products at issue in this litigation and thereby breached its duty to the general public and Plaintiffs. Ms. Mackey, directly or indirectly, negligently marketed, sold, and/or distributed Mead Johnson's cow's milk-based infant products at issue in this litigation, including to Ms. Collins and K.H.'s caregivers, and thereby breached her duty to the general public and the Plaintiffs.

75. Although Mead Johnson knew or reasonably should have known at the time of production that its cow's milk-based infant products significantly increased the risk of NEC, serious injury, and death, it failed to act in a reasonably prudent manner and breached its duty by:

- a. Failing to warn that cow's milk-based products significantly increase the risk of NEC, severe injury, and death in those babies; and/or
- b. Failing to warn that cow's milk-based products are unsafe and/or contraindicated for premature infants like K.H.; and/or
- c. Inserting warnings and instructions that are severely inadequate, vague, confusing, and provide a false sense of security in that they warn and instruct specifically on certain conditions, but do not warn of the significantly increased risk of NEC and death; and/or
- d. Failing to insert a large and prominent "black box"-type warning that its cow's milk-based products are known to significantly increase the risk of NEC and death when compared to breast milk in premature infants; and/or
- e. Failing to provide well-researched and well-established studies that linked cow's milk-based products to NEC and death in premature infants; and/or
- f. Failing to insert a warning or instruction to healthcare professionals and other medical staff in the hospital that parents should be provided information necessary to make an informed choice about whether to allow their babies to be fed Mead Johnson's products, notwithstanding their substantial risks; and/or
- g. Failing to provide a warning in a method reasonably calculated/expected to reach the parents of newborns; and/or

- h. Failing to provide statistical evidence showing the magnitude of increased risk of NEC in premature infants associated with cow's milk-based products.

76. Ms. Mackey knew or reasonably should have known at the time of marketing, sale, and/or distribution of Mead Johnson's cow's milk-based infant products that they significantly increased the risk of NEC, serious injury, and death; she failed to act in a reasonably prudent manner and breached her duty by:

- a. Failing to warn that cow's milk-based products significantly increase the risk of NEC, severe injury, and death in those babies; and/or
- b. Failing to warn that cow's milk-based products are unsafe and/or contraindicated for premature infants like K.H.; and/or
- c. Failing to provide the hospitals for which she was Mead Johnson's sales representative, including K.H.'s treating hospitals, with the well-researched and well-established studies that link cow's milk-based products to NEC and death in premature infants; and/or
- d. Failing to provide a warning in a method reasonably calculated/expected to reach the parents of newborns; and/or
- e. Failing to provide statistical evidence showing the magnitude of increased risk of NEC in premature infants associated with cow's milk-based products; and/or
- f. Misrepresenting that premature babies would not grow adequately with human milk and human milk products and that use of donor milk was not advised for premature infants.

77. In addition, although Mead Johnson knew or reasonably should have known at the time of production that its cow's milk-based products significantly increased the risk of NEC,

serious injury, and death, it failed to act in a reasonably prudent manner and breached its duty by failing to perform the necessary process of data collection, detection, assessment, monitoring, prevention, and reporting or disclosure of adverse outcomes in infants who ingest its products.

78. As a direct and proximate result of Mead Johnson's and Ms. Mackey's failure to act in a reasonably prudent manner and their breach of duty, K.H. was fed cow's milk-based products, which caused her to develop NEC.

79. Had Mead Johnson and Ms. Mackey satisfied their duties to the consuming public in general, K.H. would not have been exposed to their unreasonably dangerous cow's milk-based products.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT IV: INTENTIONAL MISREPRESENTATION**  
**(Against the Mead Johnson and Jessica Mackey)**

80. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

81. At all times relevant to this action, K.H. (and Ms. Collins) used the products at issue in their intended manner and for their intended purpose.

82. Mead Johnson as the manufacturer and/or seller of the products at issue in this litigation, and Ms. Mackey, as the sales representative promoting and educating hospitals and health care providers, including K.H.'s hospital and health care providers, about the products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular,

to provide truthful, accurate, fulsome information about the risks and benefits of using Mead Johnson's products when used in the intended manner and for the intended purpose.

83. Mead Johnson and Ms. Mackey breached their duty through misrepresentations made to consumers, physicians, and medical staff in their advertising and promotional materials, as described in previous paragraphs and incorporated herein, each of whom were foreseeable and intended recipients of this information.

84. Specifically, upon information and belief, Mead Johnson and Ms. Mackey made the following false statements of material fact on an ongoing and repeated basis and prior to the time K.H. Huson was fed their products:

- a. That Mead Johnson's cow's milk-based products were safe and beneficial for premature infants when they knew or should have known that Mead Johnson's products were unreasonably dangerous and cause NEC, serious injury, and death in premature infants; and/or
- b. That Mead Johnson's cow's milk-based products were necessary to the growth and nutrition of premature infants, when they knew or should have known that Mead Johnson's products were not necessary to achieve adequate growth; and/or
- c. That Mead Johnson's products have no serious side effects, when they knew or should have known the contrary to be true; and/or
- d. That cow's milk-based products were safe for premature infants; and/or
- e. That cow's milk-based products were necessary for optimum growth; and/or
- f. That cow's milk-based products were similar or equivalent to breast milk; and/or
- g. That Mead Johnson's products were safe and more like breast milk than other infant products and that they had removed the harmful ingredients of cow's milk when,

in fact, the cow's milk in Mead Johnson's products was still capable of causing NEC, serious injury, and death; and/or

- h. That Mead Johnson's products were based on up-to-date science, which made them safe for premature infants; and/or
- i. Omitting the material fact that Mead Johnson's products significantly increased the risk of NEC in premature infants.

85. Mead Johnson and Ms. Mackey knew or reasonably should have known those misrepresentations to be false.

86. Mead Johnson's and Ms. Mackey's misrepresentations were intended to, and in fact did, induce hospitals and health care providers, including K.H.'s hospital and health care providers, to provide their infant products to babies, including K.H..

87. Ms. Collins was not aware that these misrepresentations were false and justifiably relied on them. Mead Johnson's and Ms. Mackey's misrepresentations induced Ms. Collins and her health care providers to allow her child to be fed Mead Johnson's infant products, in reliance on all the messaging Ms. Collins received about formula feeding, including, directly or indirectly, Mead Johnson's and Ms. Mackey's messaging. Had Mead Johnson and Ms. Mackey not committed these intentional misrepresentations, K.H. would not have been exposed to the Mead Johnson's unreasonably dangerous cow's milk-based products.

88. As a direct and proximate result, Mead Johnson's products were fed to K.H., causing her NEC and subsequent injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable

under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

**COUNT V: NEGLIGENT MISREPRESENTATION**  
**(Against the Mead Johnson and Jessica Mackey)**

89. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

90. At all times relevant to this action, K.H. used the products at issue in their intended manner and for their intended purpose.

91. Mead Johnson as the manufacturer and/or seller of the products at issue in this litigation, and Ms. Mackey, as the sales representative promoting and educating hospitals and health care providers, including K.H.'s hospital and health care providers, about the products at issue in this litigation, owed a duty to the consuming public in general, and Plaintiffs in particular, to provide truthful, accurate, and complete information about the risks and benefits of using Mead Johnson's products when used in the intended manner and for the intended purpose.

92. In the course of their business, Mead Johnson and Ms. Mackey breached their duty through misrepresentations made to consumers, physicians, and medical staff in their advertising and promotional materials, as described in previous paragraphs and incorporated herein, each of whom were foreseeable recipients of this information.

93. Specifically, upon information and belief, Mead Johnson made the following false statements of material fact on an ongoing and repeated basis and prior to the time K.H. was fed its products:

- a. That its cow's milk-based products were safe and beneficial for premature infants when it knew or should have known that its products were unreasonably dangerous and cause NEC, serious injury, and death in premature infants; and/or



- b. That its cow's milk-based products were necessary to the growth and nutrition of premature infants, when it knew or should have known that its products were not necessary to achieve adequate growth; and/or
- c. That its products have no serious side effects, when it knew or should have known the contrary to be true; and/or
- d. That cow's milk-based products were safe for premature infants; and/or
- e. That cow's milk-based products were necessary for optimum growth; and/or
- f. That cow's milk-based products were similar or equivalent to breast milk; and/or
- g. That its products were safe and more like breast milk than other infant products and that they had removed the harmful ingredients of cow's milk when, in fact, the cow's milk in its products was still capable of causing NEC, serious injury, and death; and/or
- h. That its products were based on up-to-date science, which made them safe for premature infants; and/or
- i. Omitting the material fact that its products significantly increased the risk of NEC in premature infants.

94. Upon information and belief, Ms. Mackey made the same false statements of material fact on an ongoing and repeated basis including to individuals at K.H.'s treating hospitals and prior to the time K.H. was fed Mead Johnson's products. Upon information and belief, Ms. Mackey also represented that premature babies would not grow adequately with human milk and human milk products and that use of donor milk was not advised for premature infants.

95. Mead Johnson and Ms. Mackey were negligent or careless in not determining those representations to be false.

96. Mead Johnson's and Ms. Mackey's misrepresentations were intended to and did in fact induce hospitals and health care providers, including K.H.'s health care providers, to provide Mead Johnson's products to babies, including K.H..

97. Mead Johnson's and Ms. Mackey's misrepresentations induced, and were intended to induce, Ms. Collins to allow her child to be fed Mead Johnson's infant products, in justifiable reliance on all the messaging they received about formula feeding, including, directly or indirectly, Mead Johnson's and Ms. Mackey's messaging. Had Mead Johnson and Ms. Mackey not committed these negligent misrepresentations, K.H. would not have been exposed to Mead Johnson's unreasonably dangerous cow's milk-based products.

98. As a direct and proximate result, Mead Johnson's products were fed to K.H., causing her NEC and subsequent injuries.

WHEREFORE, Plaintiffs pray for judgment against Defendant Mead Johnson in an amount in excess of Twenty-Five Thousand Dollars (\$25,000) that is fair, just, and reasonable under the circumstances, for punitive damages, for pre- and post-judgment interest, for costs herein expended, and for such other relief as the Court deems just under the circumstances.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment as follows:

99. For compensatory damages in an amount to be proven at trial;

100. For damages for past, present, and future emotional distress, loss of enjoyment of life, pain and suffering, mental anguish, and other non-economic losses sustained as a result of Defendants' conduct;

101. For past, present, and future out-of-pocket costs, lost income and/or lost revenue, and/or lost profits, and/or lost business opportunity, lost earning capacity, and costs related to

medical or mental health treatment which have or may be recommended;

102. For interest as permitted by law;

103. For attorney's fees, expenses, and recoverable costs incurred in connection with this action; and

104. For such other and further relief as the Court deems proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial for all claims triable.

Dated: June 14, 2024

Respectfully submitted,

/s/ John F. Garvey

John F. Garvey, #35879

Colleen Garvey, #72809

Ellen A. Thomas, #73043

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*Attorneys for Plaintiff*

**Certificate of Filing**

The undersigned hereby certifies that the foregoing Petition has been filed by using the Court's electronic case filing system on this 14<sup>th</sup> day of June, 2024.

/s/John F. Garvey

# Exhibit B

IN THE CIRCUIT COURT  
OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

JASMINE WATSON, on her own	)	
behalf and as representative	)	
of the estate of CHANCE DEAN,	)	
	)	
Plaintiff,	)	
	)	Cause No 2021-L-1032
v.	)	
	)	
MEAD JOHNSON & COMPANY,	)	
LLC, and MEAD JOHNSON	)	
NUTRITION COMPANY,	)	
	)	
Defendants.	)	

RECORD OF PROCEEDINGS

JURY TRIAL

BEFORE THE

HONORABLE PATRICK R. FOLEY

MARCH 1, 2024

AM SESSION

(Held in person in Courtroom 404.)

Reported by:

MINDIE J. MESEKE, CRR, RPR, CCR, CSR  
ILLINOIS CSR NO. 084-003413

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March 1, 2024**

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1 TRIAL BEFORE THE HONORABLE PATRICK R.  
2 FOLEY, on Friday, March 1, 2024, between the hours of  
3 8:30 a.m. CT and 12:30 p.m. CT on that day, in person  
4 at Courtroom 404, before Mindie J. Meseke, an Illinois  
5 Certified Shorthand Reporter.

6 A P P E A R A N C E S

7  
8 ON BEHALF OF THE PLAINTIFF:

9  
10 THE CATES LAW FIRM, LLC  
11 BY: MR. DAVID CATES  
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13 Swansea, Illinois 62226  
14 Tel: (618) 277-3644  
15 Email: dcates@cateslaw.com

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18 BY: MR. BENJAMIN WHITING  
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24 OLSON GRIMSLEY KAWANABE HINCHCLIFF & MURRAY  
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A P P E A R A N C E S (Continuing)

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ON BEHALF OF THE DEFENDANT MEAD JOHNSON & COMPANY, LLC  
and MEAD JOHNSON NUTRITION COMPANY:

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1           Q     And Mead Johnson provides you the  
2     actual materials you can choose to use during your  
3     sales calls?

4           **A     Correct.**

5           Q     And you've never communicated  
6     information to healthcare professionals or hospital  
7     staff that wasn't approved --

8           **A     Correct.**

9           Q     -- by Mead Johnson?

10           All right. So then let's talk about  
11     that information that came to the hospitals from Mead  
12     Johnson from you. In your sales role, you've never  
13     had any interaction with parents of premature babies  
14     in the NICU, right?

15           **A     No, I don't have access to parents.**

16           Q     But some of your sales pieces, they're  
17     designed to be given to parents?

18           **A     Yes.**

19           Q     And they include specific resources for  
20     the parents of premature infants?

21           **A     Yes.**

22           Q     So Mead Johnson knows how to reach  
23     parents, or it can reach them when it wants to get  
24     them these specific resources, right?

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1 Mead Johnson that you're not allowed to talk about the  
2 subject of necrotizing enterocolitis?

3 **A No.**

4 Q And if someone were to raise a question  
5 with you at one of the hospitals that you visit about  
6 NEC in particular, how would that process play out in  
7 terms of responding to a question like that?

8 **A I'd have to learn more information from**  
9 **that healthcare provider to make sure that I'm raising**  
10 **their concern in the appropriate way. We have experts**  
11 **within Mead Johnson that I could refer their question**  
12 **directly to.**

13 **We also have a team of -- I guess you**  
14 **could consider them like clinical peers. So maybe a**  
15 **NICU dietician is wanting to learn more about a**  
16 **feeding protocol at another hospital. I could connect**  
17 **with our medical science liaison to connect them to**  
18 **this clinical peer, so like another dietician at**  
19 **another institution.**

20 Q Have you ever, in the time that you've  
21 worked at Mead Johnson, had the impression that you  
22 weren't permitted to fully respond to a question that  
23 might have been raised about NEC?

24 **A No.**

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1           Q     But do you nevertheless view answering  
2     the specifics of those questions to be something that  
3     someone else might do?

4           **A     Yes.**

5           Q     You were asked some questions about  
6     whether you know more than a neonatologist about  
7     certain things. Do you remember those questions?

8           **A     Yes.**

9           Q     Do you think that you would know more  
10    than a neonatologist about necrotizing enterocolitis?

11          **A     Absolutely not.**

12          Q     And I guess, just to be perfectly clear  
13    given some of the earlier questions, do you have an  
14    understanding, based on the work you do at the company  
15    and some of the literature that you have mentioned  
16    that you receive as part of your job, about any  
17    connections between certain feeding options and  
18    necrotizing enterocolitis?

19          **A     Yes, that's part of some of the**  
20    **research studies and literature.**

21          Q     Let me -- I actually want to ask you  
22    some very specific questions about this issue of  
23    hospital visits if that's okay.

24                 For those of you, including me, who may

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1 is the expert caring for that person. I don't have  
2 access to any of that medical chart or any of the  
3 history or why a certain product is chosen, if breast  
4 milk's not available. It's just not my scope.

5 Q Do you ever speak with doctors or any  
6 other healthcare provider about specific patients'  
7 care or feeding decision-making?

8 A No.

9 Q Do you ever speak with parents  
10 directly, whether it's a mom or a dad or a family  
11 member who's caring for a baby who's been born?

12 A No.

13 Q Have you ever offered an opinion to a  
14 mother who was in the hospital about how she should  
15 decide to feed a newborn baby?

16 A No.

17 Q Have you ever tried to discourage any  
18 mother from breastfeeding if she wanted to do that?

19 A No.

20 Q Have you ever tried to discourage any  
21 mother or any parent from giving a baby human donor  
22 milk if that's how they wanted the baby to be fed?

23 A No.

24 Q Would you ever do that?

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

CADENCE COLLINS, individually  
and as Next Friend of her minor ,  
child K.H.

Plaintiff,

v.

MEAD JOHNSON & COMPANY, LLC,  
MEAD JOHNSON NUTRITION COMPANY, ,  
and JESSICA MACKEY

Defendant,

)  
)  
)  
)  
)  
) Case No. 2422-CC01642  
)  
)  
)  
)  
)  
)

**ORIGINAL FILING FORM**

**THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY  
WHEN INITIATING A NEW CASE.**

☐ THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS  
PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER \_\_\_\_\_

AND ASSIGNED TO THE HONORABLE JUDGE \_\_\_\_\_.

☐ THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY  
PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS \_\_\_\_\_ AND  
THAT CASE WAS ASSIGNED TO THE HONORABLE \_\_\_\_\_. THIS CASE MAY,  
THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

☒ NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT  
COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE  
MAY BE OPENED AS AN ORIGINAL PROCEEDING.

**The undersigned affirms that the information provided above is true and correct.**

Date: 07/22/2024

Maureen Bryan  
Signature of Filing Party

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

CADENCE COLLINS, individually and as Next Friend of her minor child K.H.

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

STRANCH, JENNINGS & GARVEY, PLLC, 701 Market Street, Ste. 1510, St. Louis, MO 63101 - see attachment

## DEFENDANTS

MEAD JOHNSON & COMPANY, LLC, MEAD JOHNSON NUTRITION COMPANY, and JESSICA MACKEY

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

MAUREEN BRYAN, ARMSTRONG TEASDALE LLP, 7700 Forsyth Blvd, Ste 1800, St. Louis, MO 63105

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. 1332(a), 1441 and 1446

Brief description of cause:

Plaintiff brought this action to recover injuries allegedly resulting from her child's consumption of Defendants' premature infant products.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Rebecca R. Pallmeyer

DOCKET NUMBER 22-cv-00071 (MDL 3026)

DATE

July 22, 2024

SIGNATURE OF ATTORNEY OF RECORD

Maureen Bryan

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

CADENCE COLLINS, individually and as  
Next Friend of her minor child K.H.,

*Plaintiff,*

v.

MEAD JOHNSON & COMPANY, LLC,  
MEAD JOHNSON NUTRITION COMPANY,  
and JESSICA MACKEY,

*Defendants.*

Case No. 2422-CC01642

Removed from: The Circuit Court for the  
City of St. Louis, State of Missouri

Jury Trial Demanded

**ATTACHMENT TO CIVIL COVER SHEET**

**I(c)**

**Plaintiffs – Attorneys**

Ashley Keller  
Benjamin J. Whiting  
Amelia Frenkel  
KELLER POSTMAN, LLC  
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