

**(English and Spanish language versions available)**

**NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

**IF YOU PURCHASED CERTAIN ENFAMIL BRAND FORMULA PRODUCT(S) BETWEEN JANUARY 1, 2017, AND JUNE 23, 2022, A CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS**

*A court authorized this notice.*

*You are not being sued. This is not a solicitation from a lawyer.*

- A proposed Settlement has been reached in a class action lawsuit (“lawsuit”) called *Garrett Wacker, et al. v. Mead Johnson & Company, LLC*, Case No. 22PH-CV00808, pending in Phelps County Circuit Court, Missouri. The lawsuit claims that Mead Johnson & Company, LLC (the maker of Enfamil brand Products) (“Defendant”) deceptively packaged and labeled certain Enfamil brand formula Products as being able to make a specific number of liquid ounce bottles of formula. Mead Johnson denies these allegations and asserts that its labeling and marketing is truthful but has settled this case to avoid further litigation and distraction of resources from its business.
- You are included in the Settlement if you purchased at least one or more specific Enfamil brand Products, for personal not (i.e. not for resale) between January 1, 2017, and June 23, 2022.
- The list below contains the Enfamil brand formula products that are included in the Settlement:

<b><u>Product Description</u></b>	<b><u>UPC and/or SKU</u></b>	<b><u>4-oz Bottle Claim</u></b>
Enfamil AR 15.2 Ounce	030087510096	Makes 53 bottles
Enfamil Enspire Gentlease 14.5 Ounce	030087512355	Makes 52 bottles
Enfamil Enspire 27.4 Ounce	030087512682	49 Feedings
Enfamil Enspire 15 Ounce	030087512041	53 Feedings
Enfamil Gentlease Neuro Pro 20 Ounce	030087512563	Makes 72 bottles
Enfamil Gentlease Neuro Pro 15.2 Ounce	030087512123	Makes 55 bottles
Enfamil Gentlease Neuro Pro 17.6 Ounce	030087512750	Makes 63 bottles
Enfamil Infant Neuro Pro 15.7 Ounce	030087512111	Makes 56 bottles
Enfamil Infant Neuro Pro 18.2 Ounce	030087512748	Makes 65 bottles
Enfamil Infant Neuro Pro 20.7 Ounce	030087512557	Makes 74 bottles
Enfamil Sensitive Neuro Pro 14.7 Ounce	030087512454	Makes 52 bottles
Enfamil Nutramigen LGG 27.8 Ounce	030087512222	Makes 49 bottles
Enfamil Nutramigen LGG 19.8 Ounce	030087123945	Makes 33 bottles

Enfamil Neuro Pro Gentlease 35.2 oz	300875127506	Makes 63 bottles
Enfamil Neuro Pro 31.4 oz	300875121115	Makes 56 bottles

- To Settle the lawsuit, the Defendant has agreed to:
  - Change its Labeling practices; and
  - Provide a maximum of \$8,400,000 to pay Valid Claims to individuals who live in the United States and purchased certain Enfamil brand formula Products during the Class Period, as well as Attorneys’ Fees and Costs, and Class Representative Service Awards.

**Your legal rights will be affected regardless of whether you do or do not act. Read this Notice carefully.**

The following rights and options—**and the deadlines to exercise them**—are explained in this Notice.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT CLAIM</b>	You must submit a Claim to get money from this Settlement. Claim Forms must be submitted online or postmarked by <b>October 31, 2022</b> .
<b>DO NOTHING</b>	If you do nothing, you remain in the Settlement, you give up your rights to sue Defendant about the same legal claims made in this lawsuit, and you will not get money from the Settlement.
<b>EXCLUDE YOURSELF</b>	<b>Get out of the Settlement. Get no money from the Settlement. Keep your rights.</b> This is the only option that allows you to keep your right to sue Mead Johnson & Company, LLC about the claims in this lawsuit. You will not get any money from the Settlement. Your request to exclude yourself (Opt-Out) must be received by <b>September 15, 2022</b> .
<b>OBJECT</b>	Stay in the Settlement, but tell the Court why you think the Settlement should not be approved. Objections must be submitted by <b>September 15, 2022</b> .
<b>GO TO A HEARING</b>	You can ask to speak in Court about the fairness of the Settlement, at your own expense. See Questions 17-19 below, for more details. The Fairness Hearing is scheduled for <b>September 22, 2022</b> .

The Court in charge of this lawsuit has preliminarily approved the Settlement and will hold a hearing to make a final decision to approve it. The proposed relief offered to Class Members will be provided only if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement.

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## BASIC INFORMATION

### 1. Why did I get this Notice?

You are receiving this Court-authorized Notice because you may be a Class Member in a proposed Settlement regarding alleged false, misleading, and deceptive labeling found on certain Enfamil brand formula Products.

This Notice explains the nature of the lawsuit and the Claims being settled, your legal rights, and the proposed benefits to the Class.

### 2. What is this case about?

Judge Sonja Childers, of the Circuit Court of Phelps County, Missouri is overseeing this class action lawsuit. The case is known as *Garrett Wacker, et al. v. Mead Johnson & Company, LLC*, Case No. 22PH-CV00808. The people who brought the lawsuit are called “Plaintiffs”, and the company they sued is called the “Defendant”.

Plaintiffs Garrett Wacker, Courtney O’Rourke, Kara Rutenbar Hatmaker, and Maria B. Tucic filed a lawsuit against defendant Mead Johnson & Company, LLC, individually and on behalf of anyone who purchased certain Enfamil formula Products for personal use between January 1, 2017, and June 23, 2022.

The Plaintiffs allege in the lawsuit that the Defendant made false, misleading, and deceptive label representations that the Enfamil formula Products could make a specified number of bottles of liquid formula. Contrary to those representations, Plaintiffs allege that the Products cannot make the represented number of bottles of liquid formula when consumers follow the “Instructions for Preparation & Use”. Accordingly, Plaintiffs allege that the Products were deceptively and unlawfully labeled, packaged, and marketed.

Defendant Mead Johnson & Company, LLC denies the Plaintiffs’ allegations and denies that it violated any law or caused any harm as alleged in the lawsuit. Defendant asserts that its labelling and marketing is truthful but has settled this case to avoid further litigation and distraction of resources from its business. The Court has not decided who is right.

To obtain more information about this case and Settlement, please see Section 21, below.

### 3. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendant. Instead, both sides agreed to settle this case to avoid the costs, disruption, and risk of further litigation.

The Class Representatives, Defendant, and their attorneys believe the proposed Settlement is fair, reasonable and adequate, and is therefore in the best interest of the Class Members.

Full details about the proposed Settlement can be found in the Settlement Agreement available at [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com).

#### 4. Why is this a class action?

In a class action, one or more people called “Class Representatives” (in this case, Garrett Wacker, Courtney O’Rourke, Kara Rutenbar Hatmaker, and Maria B. Tucic) sue on behalf of people who have similar claims. All of these people who may have similar claims form a “Class” and are called “Class Members.” The Settlement resolves the issues for all Class Members, except those who exclude themselves from the Class, as explained in Section 10.

#### 5. How do I know if I am included in the Settlement?

You are included in the Settlement as a Class Member if you live in the United States and you purchased any of the specified Enfamil Products (for personal use only) from January 1, 2017, through June 23, 2022.

If you are not sure whether you are in the Class, or have any other questions about the Settlement, visit [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com), or write with questions to Wacker v. Mead Johnson & Company, LLC c/o Kroll Settlement Administration LLC PO Box 225391 New York, NY 10150-5391, or call 1-833-512-2322.

## THE SETTLEMENT BENEFITS

#### 6. What does this Settlement provide?

If the proposed Settlement is finally approved by the Court, and after any appeals are resolved, Defendant has agreed to:

1. **Business Practices:** Make lasting changes to the Enfamil Products’ labels.
2. **Individual Claims:** Class Members are eligible for payments with, or without, Proof of Purchase:
  - **Tier 1 – Claims without Proof of Purchase:**  
You can get up to \$3.00 per Unit purchased for up to a maximum of \$15.00 per Household;  
or
  - **Tier 2 – Claims with Proof of Purchase:**  
You can get up to \$3.00 per Unit purchased for which a valid Proof of Purchase has been provided, up to a maximum of \$45.00 per Household.

A Settlement Class Member may only make a single Claim under either Tier 1 or tier 2 (but not both), per Household.

The deadline to make a valid claim is 11:59 p.m. Central Time on October 31, 2022. To make a claim, please visit [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com).

#### 7. How to make a Claim?

You must submit a Claim Form, with or without Proof of Purchase, to be eligible to receive any money from the Settlement, if it is approved by the Court. You may complete the Claim Form

online or download a Claim Form at [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com). You may also email or call the Settlement Administrator at [info@mjcservingsettlement.com](mailto:info@mjcservingsettlement.com) or 1-833-512-2322 to request a Claim Form.

Your Claim Form must be postmarked or submitted online no later than 11:59 p.m. Central Time on October 31, 2022.

## **8. What am I giving up as part of the Settlement?**

Unless you exclude yourself (Opt-Out), you will be included in the Settlement if it is approved by the Court. By staying in the Class, you will be eligible to receive monetary benefits provided by the Settlement, to which you may be entitled, and you will release the Defendant from all of the settled Claims in this lawsuit.

This means that you will no longer be able to sue Mead Johnson & Company, LLC regarding any of the settled Claims if you are a Class Member and do not timely and properly Exclude yourself from the Class.

The settled Claims are any known or unknown Claims that any Class Member may at any time have up to June 23, 2022, arising out of the subject matter giving rise to the Claims in the lawsuits that were consolidated into this lawsuit. In addition, Class Members expressly waive and relinquish the provisions of California Civil Code § 1542 (and all other similar provisions of law) to the full extent that these provisions may be applicable to this release. California Civil Code § 1542 provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

The full text of the Settlement Agreement, which includes all the provisions about settled Claims and Releases, is available at [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com).

## **9. Will the Class Representatives receive any compensation for their efforts in bringing this lawsuit?**

Possibly. The Class Representatives (Garrett Wacker, Courtney O'Rourke, Kara Rutenbar Hatmaker, and Maria B. Tucic) will request a Service Award of up to a maximum total amount of \$15,000.00 in the aggregate, to compensate them for their services as Class Representatives and their efforts in bringing the lawsuit. The Court will make the final decision as to the amount, if any, to be paid to the Class Representatives.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 10. How do I exclude myself (Opt-Out) from the Settlement?

If you do not want to be part of the Settlement, you must send a written request for exclusion (to Opt-Out). The request to exclude yourself from the Settlement must be made on an individual basis, and **received** by the Settlement Administrator at the below address on or before 11:59 p.m. on September 15, 2022:

Wacker v. Mead Johnson & Company, LLC  
c/o Kroll Settlement Administration LLC  
PO Box 225391  
New York, NY 10150-5391

The Opt-Out request must contain the requestor's name, address, the words "I wish to be excluded from the *Wacker v. Mead Johnson & Company LLC* Class Action," and signature.

Instructions on how to submit an exclusion request are available at [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com), or by emailing or calling the Settlement Administrator.

### 11. If I do not exclude myself, can I sue later?

No, not if you are a Class Member. If you do not exclude yourself from the Settlement, you forever give up the right to sue Mead Johnson & Company, LLC and the Released Parties for all the Claims that this Settlement resolves.

If you submit a valid and timely request to be excluded, you cannot Object to the proposed Settlement. However, if you ask to be Excluded, you may sue or continue to sue Mead Johnson & Company, LLC or the Released Parties about the same claims resolved by this Settlement in the future. You will not be bound by anything that happens in this lawsuit.

### 12. What happens if I do nothing at all?

If you are a Class Member and do nothing, you forever give up the right to sue Mead Johnson & Company, LLC and the Released Parties for the Claims this Settlement resolves.

## THE LAWYERS REPRESENTING YOU

### 13. Do I have a lawyer in the case?

Yes. The Court has ordered that the Law Office of L. DeWayne Layfield, PLLC; KamberLaw LLC; Southern Atlantic Law Group, PLL; Steelman Gaunt Crowley; and Law Office of Howard W. Rubinstein, PA (together, "Class Counsel") will represent the interests of all Class Members. Class Members will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### **14. How will the lawyers be paid?**

Class Counsel will apply to the Court for an award of attorneys' fees and costs of up to \$2,100,000. A copy of Class Counsel's application for attorneys' fees and costs will be available prior to the Fairness Hearing and will be posted on the Settlement Website at [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com). The Court will make the final decisions as to the amounts to be paid to Class Counsel and may award less than the amounts requested by Class Counsel.

### **OBJECTING TO THE SETTLEMENT**

#### **15. How do I tell the Court that I do not like the Settlement?**

If you want to tell the Court that you do not agree with the proposed Settlement, or some part of it, you can submit an Objection explaining why you do not think the Settlement should be approved.

You must deliver your Objection to the Settlement Administrator, Class Counsel, and Mead Johnson & Company, LLC's counsel, and file with the Court, a written statement of your Objection(s). Your Objection must include all of the following information:

- a) The case name and number, *Garrett Wacker v. Mead Johnson & Company LLC*, No. 22PH-CV00808(Phelps County Circuit Court, MO.);
- b) The name, address, telephone number, and, if available, the email address of the Person objecting;
- c) The name and address of the lawyer(s), if any, who is representing the Person making the Objection or who may be entitled to compensation in connection with the Objection;
- d) A detailed statement of Objection(s), including the grounds for those Objection(s);
- e) Copies of any papers, briefs, or other documents upon which the Objection is based;
- f) A statement of whether the Person objecting intends to appear at the Final Approval Hearing, either with or without counsel;
- g) The identity of all counsel (if any) who will appear on behalf of the Person objecting at the Final Approval Hearing and all Persons (if any) who will be called to testify in support of the Objection;
- h) A statement of his/her membership in the Settlement Class, including all information required by the Claim Form;
- i) The signature of the Person objecting, in addition to the signature of any attorney representing the Person objecting in connection with the Objection; and
- j) A detailed list of any other objection by the Settlement Class Member, or his/her counsel, to any class actions submitted in any court, whether state or otherwise, in the United States



in the previous five (5) years. If the Settlement Class Member or his/her counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she shall affirmatively state so in the written materials provided in connection with the Objection to this Settlement.

You must send a copy of your Objection by First-Class mail, received (not merely postmarked) no later than 11:59 p.m. Central Time September 15, 2022, to:

Clerk of the Court  
Phelps County Circuit Court  
200 North Main Street  
Rolla, MO 65401

In addition, you must mail a copy of your Objection to Class Counsel and Defense Counsel, postmarked no later than 11:59 p.m. Central Time September 15, 2022 to:

*Class Counsel:*  
Stephen F. Gaunt,  
David L. Steelman  
STEELMAN GAUNT CROWLEY  
901 Pine Street, Suite 110  
Rolla, Missouri 65401  
Email: sgaunt@steelmanandgaunt.com  
dsteelman@steelmanandgaunt.com

*Defendant's Counsel:*  
David T. Biderman  
Jasmine W. Wetherell  
PERKINS COIE LLP  
1888 Century Park East, Suite 1700  
Los Angeles, CA 90067-1721  
Email: DBiderman@perkinscoie.com  
JWetherell@perkinscoie.com

If you or your attorney intends to make an appearance at the Fairness Hearing and you have not so indicated in your Objection, you must also deliver, according to the above procedures, no later than September 15, 2022, a Notice of Intention to Appear, and must also file a notice of appearance with the Court no later than September 15, 2022.

**If you fail to comply with these requirements, or fail to submit your Objection before the deadline, you will be deemed to have waived all Objections and will not be entitled to speak at the Fairness Hearing.**

#### **16. What is the difference between objecting and asking to be excluded?**

Objecting is simply telling the Court that you don't like something about the Settlement. You can Object only if you stay in the Class.

Excluding yourself (Opting Out) is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to Object because the Settlement no longer affects you.

## **THE FAIRNESS HEARING**

### **17. When and where will the Court decide whether to approve the Settlement?**

A Court has preliminarily approved the Settlement and will hold a final Fairness Hearing to determine whether to give final approval to the Settlement. The purpose of the Fairness Hearing is for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Class, and to consider the award of attorneys' fees and costs to Class Counsel and to consider the request for a Service Awards to the Class Representatives. If there are any valid, timely Objections, the Court will consider them and listen to the people who have asked to speak at the hearing, if a request to do so was properly made,

The Court will hold the Fairness Hearing on September 22, 2022 at 9:00 a.m. in the Circuit Court of Phelps County, Missouri. The hearing may be postponed to a different time, date, or location without additional notice, so it is recommended that you periodically check [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com) for updated information.

### **18. Do I have to come to the hearing?**

No, you are not required to come to the Fairness Hearing. However, you are welcome to attend the hearing at your own expense.

If you submit an Objection, you do not have to come to the hearing to talk about it. As long as you submitted the written objection and it was received on time, the Court will consider it. You also may pay your own lawyer to attend the Fairness Hearing, but that is not necessary.

### **19. May I speak at the hearing?**

Yes, you may speak at the Fairness Hearing, but you must ask the Court for permission. To request permission to speak, you must have filed an Objection according to the instructions in Question 15, including all of the information required.

You cannot speak at the hearing if you exclude yourself from the Settlement.

## **DO NOTHING**

### **20. What happens if I do nothing?**

If you do nothing, you will not get any money from the Settlement, you will not be able to sue for the Claims in this lawsuit, and you release Claims against Defendant and Released Parties.

## GETTING MORE INFORMATION

### 21. How do I get more information about the Settlement?

This is only a summary of the proposed Settlement. If you want additional information about this lawsuit, including a copy of the actual Settlement Agreement, the complaints filed in this lawsuit, the Court's Preliminary Approval Order, Class Counsel's Application for Attorneys' Fees and Costs, other pertinent information, **and to check the status of the Settlement or if the Settlement has been approved by the Court**, please visit [www.mjcservingsettlement.com](http://www.mjcservingsettlement.com).

You may also contact the Settlement Administrator at 1-833-512-2322. To see papers filed with the Court and a history of this lawsuit, you may also visit or call the Clerk's office at the Phelps County Circuit Court, 200 North Main Street, Rolla, MO 65401; (573) 458-6200. The Clerk will tell you how to obtain the complete file for inspection and copying at your own expense.

**PLEASE DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.**