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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: BABY FOOD PRODUCTS
LIABILITY LITIGATION

Case No. 24-md-03101-JSC

This document relates to:

ALL ACTIONS

PRETRIAL ORDER NO. 12

Re: Dkt. Nos. 304, 305, 313, 314, 331, 342,
343

United States District Court
Northern District of California

This Order confirms the matters discussed during the January 23, 2025 case management conference.

1. Watkins Third Amended Petition and Response

The Court GRANTS the Motion to Strike the Third Amended Petition and file an amended Third Amended Petition. (Dkt. No. 331.) Therefore, Docket Nos. 304, 305, 313, and 314 are stricken and the operative complaint in the *Watkins* matter is now Docket No. 328. Further, the deadline for Retailer Defendants to respond to the new Third Amended Petition is extended to February 5, 2025.

2. Short Form Complaints

By February 21, 2025, the parties shall file a stipulation as to the form of the Short Form Complaint, or if agreement cannot be reached, submit the dispute to the Court for resolution. The Court will discuss timing for completion of the Short Form Complaint at the February 27, 2025 case management conference.

3. Updates Regarding Pretrial Order No. 11

In Pretrial Order No. 11, the Court ordered Defendants to identify, “in an admissible format, the products that correspond to the test results attached as Exhibits E through N of Docket

1 No. 307.” (Dkt. No. 312 at 1.) The parties have represented to the Court that Defendants have
2 complied with the Order, aside from Gerber, who has now agreed to provide this information in an
3 admissible format similar to what has been produced by the other Defendants.

4 As the Court noted during the conference, both Plaintiffs and Defendants should have the
5 same understanding of the testing information and the products/ingredients to which the
6 information applies prior to expert discovery. The Court instructs the parties to work together to
7 ensure this information exchange is completed in a timely manner as the parties agreed at the case
8 management conference.

9 **4. Updates Regarding Document Production by Walmart Co-Manufacturers**

10 The Court GRANTS leave for Plaintiffs to subpoena the suppliers of the bankrupt co-
11 manufacturer.

12 Walmart shall continue to facilitate its foreign suppliers’ production of testing results as
13 discussed at the case management conference. As for the current Chinese supplier, Walmart shall
14 include an update in the next joint case management conference statement as to all steps it has
15 taken to obtain testing results from its current supplier, including, if necessary, the names of
16 Walmart employees who have communicated with the supplier regarding production of these test
17 results.

18 **5. Dispute Re Plaintiffs’ Request for Additional Discovery on Nestlé Corporate**
19 **Structure**

20 Plaintiffs’ motion to compel is DENIED. The Court will consider any jurisdictional
21 discovery request in the context of the motion to dismiss for lack of personal jurisdiction.

22 **6. Procedure for Subsequent Discovery Disputes**

23 The Court ORDERS the following procedure for all future discovery disputes:

24 Prior to filing any discovery dispute letter brief, the parties shall meet and confer either in
25 person or via videoconference regarding the issue. If the parties are unable to reach a resolution,
26 any subsequent letter brief on the issue shall include the names of all counsel who attended the
27 meet-and-confer, how and when it was conducted, and for what length of time.

28 The party seeking discovery shall submit its portion of the joint letter brief to the party

1 opposing discovery. The opposing party will then have 3 business days to include its response in
2 the joint letter brief and return it to the other party. The party seeking discovery must then finalize
3 and submit the joint letter brief by the following business day.

4 Any adjustment to this procedure shall only be permitted upon submission of a joint
5 stipulation to the Court.

6 The Court reminds the parties to refer to the Court’s Civil Standing Order for page limits
7 on both joint letter briefs and attached exhibits. Going forward, the Court will not consider
8 discovery letter briefs or attached exhibits that violate the Standing Order. If a party believes
9 more pages are required, it shall ask in advance for permission to exceed the page limits.

10 **7. Initial Plaintiff Fact Sheet**

11 As discussed, by January 31, 2025, Plaintiffs shall submit an updated version of the Initial
12 Plaintiff Fact Sheet with the following changes:

- 13 • Plaintiffs shall merge the proposed “Short Form Fact Sheet” (Dkt. No. 308, Ex. A) and
14 “Preservation Disclosure Form” (*Id.*, Ex. B) to create one document, titled “Initial
15 Plaintiff Fact Sheet.”
- 16 • In Exhibit A, question 3, Plaintiffs shall add a column for the name of the diagnosing
17 healthcare provider.
- 18 • In Exhibit B, question 2, Plaintiffs shall remove the following text: “This information
19 is provided for preservation purposes only and is not meant to be an exclusive or
20 exhaustive list. Rather, it is provided to the best of current recollection.”
- 21 • In Exhibit B, question 2, Plaintiffs shall add reference to delivery services, such as
22 Instacart, to the list of “not traditional grocery stores (such as drugstores, farmers’
23 markets, and/or multi-purpose stores like Target or Costco).”
- 24 • In Exhibit B, Plaintiffs shall remove all “unsure” options from the proposed questions.
- 25 • In Exhibit B, following question 6, Plaintiffs shall add Defendants’ questions 12 and 13
26 from Exhibit D.

27 Plaintiffs shall concurrently file a word document version of the Initial Plaintiff Fact Sheet.

28 Last, the Court DENIES the request to require Defendants to fill out and submit a fact

United States District Court
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sheet as proposed in Exhibit C.

8. Defendants’ Motion to Seal Exhibits to Plaintiffs’ Opposition to the Motion to Dismiss and Strike the Master Complaint

At the close of the case management conference, Defendants requested additional time to prepare the Motion to Seal Exhibits to Plaintiffs’ Opposition to the Motion to Dismiss and Strike the Master Complaint. Defendants further noted they were discussing this matter with Plaintiffs. The Court GRANTS Defendants an additional 14 days beyond the ordinary deadline to file their motion.

9. Scheduling Update for February 27, 2025 Case Management Conference

To ensure sufficient time for argument on the pending motions to dismiss scheduled for hearing on February 27, 2025, the case management conference will begin at 9:00 a.m., but oral argument will be held separately at 1:00 p.m. that day.

This Order disposes of Docket Nos. 304, 313, 331, 342, and 343.

IT IS SO ORDERED.

Dated: January 24, 2025



JACQUELINE SCOTT CORLEY
United States District Judge