

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION**

TYNEISHA FERGUSON, individually, and  
on behalf of all others similarly situated,

Plaintiff,

v.

THE J.M. SMUCKER COMPANY,

Defendant.

**CASE NO.:**

**COMPLAINT  
(JURY TRIAL DEMANDED)**

**CLASS ACTION COMPLAINT**

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

**INTRODUCTION**

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

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

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

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

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

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

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

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

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

### **PARTIES**

10. Plaintiff is a citizen of Illinois.

11. Defendant is an Ohio corporation, and its principal production plant for the Contaminated Products is located in Lexington, Kentucky.

### **JURISDICTION AND VENUE**

12. This Court has personal jurisdiction over Defendant because Defendant's principal production plant for the Contaminated Products is located in Lexington, Kentucky.

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

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

### **FACTUAL ALLEGATIONS**

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

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

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

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

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

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

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

### ***Defendant’s Jif Peanut Butter***

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



22. The Contaminated Products reportedly originated from Defendant's Lexington, Kentucky facility, and were distributed nationwide. The Contaminated Products include those with lot codes 1274425 – 2140425. Lot codes are included alongside the "best-if-used-by" date on the product.

23. On May 20, 2022, Defendant issued a recall, informing purchasers and consumers of Jif with lot codes 1274425–2140425 that their peanut butter was contaminated with *Salmonella*. The FDA instructed consumers not to eat the products. *See* Exhibit B.

24. Defendant also distributed the contaminated peanut butter for use as an ingredient in other products, such as by Fudgeamentals, Del Monte, Albertsons Companies, Coblentz Chocolate Company, Mary's Harvest fresh Foods Inc., Garden Cut, LLC, TAHER, INC., Country Fresh, Cargill, and Wawa. Those products were also recalled. *See* Exhibit C.

#### ***Defendant's Unlawful Conduct***

25. Defendant directs, controls, and participates in the manufacturing and packaging of the Contaminated Products and the peanut butter ingredients in them. As part of that direction, control, and participation, Defendant determines and is responsible for setting manufacturing and quality standards, proper hygiene of employees, maintaining clean facilities through reasonable and necessary health and safety measures, and ensuring that the products manufactured and sold to consumers comply with federal, state, and local laws and regulations.

26. Defendant violated state and federal laws and rules prohibiting the sale of adulterated, contaminated, and misbranded foods; and failed to exercise reasonable care in setting manufacturing and quality standards, ensuring proper hygiene of employees and equipment, maintaining clean facilities through reasonable and necessary health and safety measures, and

ensuring that the products manufactured and sold to consumers comply with federal, state, and local laws and regulations.

27. As a result of Defendant's failures, acts, and omissions, Plaintiff and Class members suffered injury, including but not limited to out-of-pocket expenses for purchasing products that were not only worthless but harmful, time and money spent to address symptoms and consequences of ingesting the Contaminated Products, personal injuries, emotional distress, and annoyance.

### **CLASS ALLEGATIONS**

28. **Class Definition:** Plaintiff brings this action pursuant to Fed. R. Civ. P. 23, on behalf of a nationwide class of similarly situated individuals and entities ("the Class"), defined as follows:

All persons in the United States who purchased or consumed the Contaminated Products.

29. **Illinois Subclass Definition:** Plaintiff brings this action pursuant to Fed. R. Civ. P. 23, on behalf of a subclass of similarly situated individuals and entities ("Illinois Subclass"), defined as follows:

All persons in Illinois who purchased or consumed the Contaminated Products.

30. Excluded from the Class and/or Subclass are: (1) Defendant, Defendant's agents, subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest; (2) the Judge to whom this case is assigned and the Judge's immediate family; (3) any person who executes and files a timely request for exclusion from the Class and/or Subclass; (4) any persons who have had their claims in this matter finally adjudicated and/or

otherwise released; and (5) the legal representatives, successors and assigns of any such excluded person.

31. **Numerosity:** The Class and Subclass are each so numerous that joinder of individual members would be impracticable. While the exact number of Class and Subclass members is presently unknown and can only be ascertained through discovery, Plaintiff believes that there are thousands of Class and Subclass members, if not more. Jif was the leading peanut butter brand in the United States in 2017 by a wide margin, controlling over 30 percent of the market in that year. This market share translates into sales of over \$587 million in 2017. <https://www.statista.com/statistics/586957/market-share-peanut-butter-brands-in-the-united-states/>.

32. **Commonality and Predominance:** There are several questions of law and fact common to the claims of Plaintiff and Class members, which predominate over any individual issues, including:

- a. Whether Defendant failed to exercise reasonable care in manufacturing the products;
- b. Whether the contamination occurred as a result of Defendant's failure to exercise reasonable care in manufacturing the products;
- c. Whether Defendant misrepresented to Plaintiff and Class members that the Contaminated Products were safe for human consumption and did not contain *Salmonella*;
- d. Whether Defendant omitted and concealed the presence of *Salmonella* in the Contaminated Products;



- e. Whether the presence of *Salmonella* in the Contaminated Products is a material fact to Plaintiff and Class members;
- f. Whether Defendant's conduct constitutes unlawful acts or practices under state consumer protection and unfair or deceptive practices statutes asserted herein;
- g. Whether Defendant's conduct constitutes fraudulent concealment;
- h. Whether Defendant was unjustly enriched by its improper conduct;
- i. Whether Plaintiff and Class members are entitled to injunctive relief to (1) require Defendant to cease its unlawful and deceptive practices; and (2) to implement and maintain adequate manufacturing procedures, final product testing procedures, and ingredient sourcing and inspection practices to ensure its products do not become contaminated; and
- j. Whether Defendant's conduct resulted in Defendant unjustly retaining a benefit to the detriment of Plaintiff and Class members, and violated the fundamental principles of justice, equity, and good conscience.

33. **Typicality:** Plaintiff's claims are typical of the claims of the proposed Class. All claims are based on the same legal and factual issues regarding Defendant's failures to exercise reasonable care in manufacturing, and Defendant's misrepresentations and omissions concerning the presence of *Salmonella* in the Contaminated Products.

34. **Adequacy:** Plaintiff will fairly and adequately represent and protect the interests of the proposed Class, and Plaintiff does not have any interests antagonistic to those of the proposed Class. Plaintiff has retained competent counsel experienced in the prosecution of this type of litigation.

35. **Superiority:** A class action can best secure the economies of time, effort and expense, and promote uniformity. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation would make it impracticable or impossible for proposed Class members to prosecute their claims individually. Individual actions are not feasible and it is unlikely that individual members of the Class will prosecute separate actions. The trial and the litigation of Plaintiff's claims as a class action will be manageable.

**COUNT I**  
**(On Behalf of Plaintiff and the Illinois Subclass)**  
**Violation of the Illinois Consumer Fraud and Deceptive Trade Practices Act**  
**(815 ILCS 505/1, *et seq.*)**

36. Plaintiff repeats and realleges paragraphs 1–35, as if fully set forth herein.

37. The Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”), 815 ILCS 505/1, *et seq.*, provides protection to consumers by mandating fair competition in commercial markets for goods and services.

38. The ICFA prohibits any deceptive, unlawful, unfair, or fraudulent business acts or practices including using deception, fraud, false pretenses, false promises, false advertising, misrepresentation, or the concealment, suppression, or omission of any material fact, or the use or employment of any practice described in Section 2 of the “Uniform Deceptive Trade Practices Act”. 815 ILCS 505/2.

39. The ICFA applies to Defendant's acts as described herein because it applies to transactions involving the sale of goods or services to consumers.

40. Defendant is a “person,” as defined by 815 ILCS 505/1(c).

41. Plaintiff and each member of the Illinois Subclass are “consumers,” as defined by 815 ILCS 505/1(e), because they purchased Contaminated Products.

42. The Contaminated Products are “merchandise,” as defined by 815 ILCS 505/1(b).

43. Defendant made false and fraudulent statements, and misrepresented, concealed, and omitted material facts regarding the Contaminated Products, including the misrepresentation that the Contaminated Products were safe for human consumption, and the omission that the Contaminated Products contained *Salmonella*.

44. Defendant’s aforementioned misrepresentations, omissions, and concealment regarding the Contaminated Products constitute deceptive and unconscionable acts or practices prohibited by the DTPA.

45. Defendant’s aforementioned misrepresentations, omissions, and concealment possess the tendency or capacity to mislead and create the likelihood of consumer confusion.

46. Defendant’s aforementioned misrepresentations, omissions, and concealment were used or employed in the conduct of trade or commerce, namely, the marketing, sale, and distribution of the Contaminated Products to Plaintiff and Illinois Subclass members.

47. Defendant’s aforementioned misrepresentations, omissions, and concealment are unconscionable because they offend public policy and/or cause substantial injury to consumers.

48. Defendant’s aforementioned conduct is deceptive and unlawful because it violated the Illinois Food, Drug & Cosmetic Act (“IFDCA”), 410 ILCS 620/3–3.3. The Contaminated Products were adulterated and misbranded, in violation of the IFDCA. 410 ILCS 620/2.11; 410 ILCS 620/14(a)(2)(A), (a)(2)(B), (d).

49. Defendant intended that Plaintiff and Illinois Subclass members rely on its respective aforementioned false statements, misrepresentations, omissions, and concealment of material facts in purchasing Contaminated Products.

50. Plaintiff and Illinois Subclass members reasonably relied on Defendant's respective misrepresentations, omissions, and concealment when they purchased the Contaminated Products.

51. Acting as reasonable consumers, had Plaintiff and Illinois Subclass members been aware of the true facts regarding the presence of *Salmonella* in the Contaminated Products, they would have declined to purchase these products.

52. Acting as reasonable consumers, Plaintiff and Illinois Subclass members could not have avoided the injuries suffered by purchasing the Contaminated Products because they did not have any reason to suspect that the products contained *Salmonella*. Moreover, the detection of *Salmonella* in food requires rigorous and specialized scientific testing that goes well beyond the level of inquiry a reasonable consumer would make into the issue, and, in any event, such testing was not possible without Plaintiff and Illinois Subclass members first purchasing the Contaminated Products.

53. As a direct and proximate result of Defendant's false, misleading, and deceptive acts and practices set forth above, Plaintiff and members of the Illinois Subclass suffered damages by purchasing the Contaminated Products because they would not have purchased them had they known the truth, and they received a product that was worthless because it contains unsafe *Salmonella*.

54. As a result of Defendant's failures, acts, and omissions, Plaintiff and Illinois Subclass members suffered injury, including but not limited to out-of-pocket expenses for purchasing products that were not only worthless but harmful, time and money spent to address symptoms and consequences of ingesting the Contaminated Products, personal injuries, emotional distress, and annoyance.

55. These damages were reasonably foreseeable because the Contaminated Products are known to cause illnesses.

**COUNT II**  
**Negligence**  
**(On Behalf of Plaintiff and the Class)**

56. Plaintiff repeats and realleges paragraphs 1–35, as if fully set forth herein.

57. Defendant manufactured distributed, marketed, promoted, and sold the Contaminated Products.

58. Defendant owed a duty of care to Plaintiff and Class members to exercise reasonable care in manufacturing, distributing, marketing, promoting, and selling the Contaminated Products, including a duty to prevent the sale of food products contaminated with *Salmonella*.

59. Plaintiff and Class members are reasonable consumers who rely on Defendant to manufacture, distribute, market, promote, and sell its food products in a safe and reasonable manner in compliance with food health and safety laws.

60. Defendant was aware that Plaintiff and Class members rely on Defendant to manufacture and sell safe food products, and in the case of the Contaminated Products, that they are ready to eat.

61. Defendant breached its duty of care by:

- a. violating state and federal laws and rules prohibiting the sale of adulterated, contaminated, and misbranded foods, which laws were designed to protect the class of persons to which Plaintiff and Class members belong;
- b. failing to exercise reasonable care in setting manufacturing and quality standards, and ensuring proper hygiene of employees and equipment;

- c. failing to maintain clean facilities through reasonable and necessary health and safety measures;
- d. failing to ensure that the products that left its facilities were safe for human consumption; and
- e. failing to warn Plaintiff and Class members that the Contaminated Products were not safe to eat and were contaminated with *Salmonella*.

62. As a direct and proximate result of Defendant's failures set forth above, Plaintiff and Class members suffered damages by purchasing the Contaminated Products because they would not have purchased them had they known the truth, and they received a product that was worthless because it contains unsafe *Salmonella*.

63. As a result of Defendant's failures, acts, and omissions, Plaintiff and Illinois Subclass members suffered injury, including but not limited to out-of-pocket expenses for purchasing products that were not only worthless but harmful, time and money spent to address symptoms and consequences of ingesting the Contaminated Products, personal injuries, emotional distress, and annoyance.

64. These damages were reasonably foreseeable because the Contaminated Products are known to cause illnesses.

**COUNT III**  
**Strict Product Liability**  
**(On behalf of Plaintiff and the Class)**

65. Plaintiff repeats and realleges paragraphs 1–35, as if fully set forth herein.

66. Defendant is in the business of selling Jif peanut butter to consumers.

67. The Contaminated Products sold by Defendant contained harmful *Salmonella* when they left Defendant's custody and control.

68. Despite having a legal duty to do so, Defendant failed to warn or disclose to customers—including Plaintiff and Class members—that the Contaminated Products contained contaminants, specifically *Salmonella*.

69. The Contaminated Products are unreasonably dangerous and unsafe for human consumption because *Salmonella* causes illness, infections, and in some cases severe consequences such as death.

70. The Contaminated Products obtained by Plaintiff and Class members were in a defective and unreasonably dangerous condition at the time they were obtained by Plaintiff and Class members.

71. Plaintiff and Class members purchased and/or consumed the Contaminated Products that they obtained from Defendant.

72. As a result, Plaintiff and Class members were immediately harmed because they consumed harmful levels of *Salmonella*.

73. As a direct and proximate result of Defendant's failures set forth above, Plaintiff and Class members suffered damages by purchasing the Contaminated Products because they would not have purchased them had they known the truth, and they received a product that was worthless because it contains unsafe *Salmonella*.

74. As a result of Defendant's failures, acts, and omissions, Plaintiff and Illinois Subclass members suffered injury, including but not limited to out-of-pocket expenses for purchasing products that were not only worthless but harmful, time and money spent to address symptoms and consequences of ingesting the Contaminated Products, personal injuries, emotional distress, and annoyance.

75. These damages were reasonably foreseeable because the Contaminated Products are known to cause illnesses.

**COUNT IV**  
**Breach of Implied Warranty of Merchantability**  
**(On behalf of Plaintiff and the Class)**

76. Plaintiff repeats and realleges paragraphs 1–35, as if fully set forth herein.

77. Defendant, as the seller of Jif peanut butter, impliedly warranted that the Contaminated Products were safe for human consumption, were not adulterated, and did not contain *Salmonella*.

78. Contrary to those implied warranties, the Contaminated Products which Defendant manufactured, distributed, and sold were in fact adulterated, and contained *Salmonella*. Defendant breached the implied warranty of merchantability.

79. Plaintiff and Class members purchased and/or consumed the Contaminated Products in reliance upon Defendant's implied warranties.

80. Had Plaintiff and Class members known that the Contaminated Products they purchased and consumed were adulterated and contained *Salmonella*, they would not have purchased or consumed them.

81. As a direct and proximate result of Defendant's breaches of warranties set forth above, Plaintiff and Class members suffered damages by purchasing the Contaminated Products because they would not have purchased them had they known the truth, and they received a product that was worthless because it contains unsafe *Salmonella*.

82. As a result of Defendant's failures, acts, and omissions, Plaintiff and Illinois Subclass members suffered injury, including but not limited to out-of-pocket expenses for purchasing products that were not only worthless but harmful, time and money spent to address



symptoms and consequences of ingesting the Contaminated Products, personal injuries, emotional distress, and annoyance.

83. These damages were reasonably foreseeable because the Contaminated Products are known to cause illnesses.

**COUNT V**  
**Unjust Enrichment**  
**(On Behalf of Plaintiff and the Class)**

84. Plaintiff repeats and realleges paragraphs 1–35, as if fully set forth herein.

85. Defendant knew that the presence of *Salmonella* in the Contaminated Products was a material fact to consumers, including Plaintiff and Class members.

86. Because Defendant is responsible for, and controls, the manufacturing, marketing, distribution, and sale of the Contaminated Products, Defendant knew that its omissions and concealment of the presence of *Salmonella* would mislead Plaintiff and Class members, and induce them to buy products that they would otherwise not have been willing to purchase.

87. Acting as reasonable consumers, had Plaintiff and Class members been aware of the true facts regarding the Contaminated Products, they would have declined to purchase them.

88. Acting as reasonable consumers, Plaintiff and Class members could not have avoided the injuries because they did not have any reason to suspect that the Contaminated Products were contaminated. Moreover, due to the products being sold as ready to eat, Plaintiff and Class members were not required to cook or prepare the food to prevent contamination.

89. As a direct and proximate result of Defendant's misrepresentations and omissions, Plaintiff and Class members conferred a benefit on Defendant—*i.e.*, the money that they paid under the belief that these products were safe for human consumption.

90. Defendant acquired and retained money belonging to Plaintiff and Class members as a result of its wrongful conduct. Defendant profited at the expense of Plaintiff and Class members because Plaintiff and Class members paid money for products that were worthless due to the fact that they are not safe for human consumption.

91. Defendant has unjustly received and retained a benefit at the expense of Plaintiff and the Class because Defendant unlawfully acquired profits for worthless (and unsafe) food products while appreciating and knowing that its Contaminated Products were unsafe for human consumption.

92. Defendant's retention of that benefit violates the fundamental principles of justice, equity, and good conscience. Under the principles of equity, Defendant should not be allowed to keep the money rightfully belonging to Plaintiff and the Class members.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually, and on behalf of the Class and Subclass, prays for an Order as follows:

- A. Finding that this action satisfies the prerequisites for maintenance as a class action set forth in Fed. R. Civ. P. 23, and certifying the Class and/or Subclass defined herein;
- B. Designating Plaintiff as representative of the Class and/or Subclass, and designating undersigned counsel as Class Counsel;
- C. Entering judgment in favor of Plaintiff and the Class and/or Subclass, and against Defendant;
- D. Awarding Plaintiff and Class and/or Subclass members all relief to which they are entitled, including awards for their economic and non-economic actual damages, statutory damages, treble damages, enhanced damages, and punitive damages for Defendant's willful and intentional conduct;
- E. Ordering equitable relief, including restitution, disgorgement of any of Defendant's ill-gotten gains, imposing a constructive trust in favor of

Plaintiff and the Class and/or Subclass members, and awarding those amounts to Plaintiff and the Class and/or Subclass members;

- F. Granting injunctive relief, including but not limited to, an order: (1) requiring Defendant to cease its unlawful and deceptive practices; and (2) requiring Defendant to implement and maintain adequate manufacturing procedures, final product testing procedures, and ingredient sourcing and inspection practices to ensure its products are safe for human consumption;
- G. Awarding Plaintiff and the Class and/or Subclass attorneys' fees and costs, including interest thereon, as allowed or required by law; and
- H. Granting all such further and other relief as the Court deems just and appropriate.

### **JURY DEMAND**

Plaintiff demands a trial by jury on all counts so triable.

Respectfully submitted,

By: /s/ Brian D. Flick

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*Counsel for Plaintiff and the Class and Subclass*

# EXHIBIT A

## COMPANY ANNOUNCEMENT

# The J. M. Smucker Co. Issues Voluntary Recall of Select Jif® Products Sold in the U.S. for Potential Salmonella Contamination

When a company announces a recall, market withdrawal, or safety alert, the FDA posts the company's announcement as a public service. FDA does not endorse either the product or the company.

[Read Announcement](#)[View Product Photos](#)

## Summary

**Company Announcement Date:**

May 20, 2022

**FDA Publish Date:**

May 20, 2022

**Product Type:**

Food &amp; Beverages

**Reason for Announcement:**

Potential Salmonella Contamination

**Company Name:**

The J. M. Smucker Co.

**Brand Name:**

Jif®

**Product Description:**

Select Jif® Peanut Butter products

## Company Announcement


The company has issued a correction to the previous announcement.

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The J. M. Smucker Co. is recalling select Jif® peanut butter products sold in the U.S. due to potential *Salmonella* contamination. *Salmonella* is an organism which can cause serious and sometimes fatal infections in young children, frail or elderly people, and others with weakened immune systems. Healthy persons infected with *Salmonella* often experience fever, diarrhea (which may be bloody), nausea, vomiting and abdominal pain. In rare circumstances, infection with *Salmonella* can result in the organism getting into the bloodstream and producing more severe illnesses such as arterial infections (i.e., infected aneurysms), endocarditis and arthritis.

The recalled peanut butter was distributed nationwide in retail stores and other outlets.

Recalled products include the products below with lot codes 1274425 – 2140425. Lot codes are included alongside best-if-used-by date.

| Description   | UPC  |
|---|--|
| JIF 16 OUNCE CREAMY PEANUT BUTTER                       | 5150025516   |
| JIF 16 OUNCE CRUNCHY PEANUT BUTTER                      | 5150025537   |
| JIF 96 OUNCE CREAMY PEANUT BUTTER TWIN PACK             | 5150024705   |
| JIF 96 OUNCE CRUNCHY PEANUT BUTTER TWIN PACK            | 5150024706   |
| JIF 40 OUNCE NATURAL CRUNCHY PEANUT BUTTER              | 5150007565   |
| JIF 12 OUNCE CRUNCHY PEANUT BUTTER INTERNATIONAL        | 5150008026   |
| JIF 3/4 OUNCE PEANUT BUTTER PLASTIC CASE                | 5150008051   |
| JIF .64 OUNCE NATURAL PEANUT BUTTER PLASTIC CASE        | 5150008058   |
| JIF 96 COUNT NATURAL PEANUT BUTTER TO GO CASE           | 5150021889   |
| JIF 36 COUNT CREAMY JIF PEANUT TO GO CASE               | 5150024114   |
| JIF 8 COUNT CRUNCHY PEANUT BUTTER TO GO                 | 5150024130   |
| JIF 8 COUNT CREAMY PBTR TO GO                           | 5150024136   |
| JIF 4.5 OUNCE CREAMY PEANUT BUTTER TO GO                | 5150024137   |
| JIF 54 OUNCE CREAMY PEANUT BUTTER TO GO 36 PACK         | 5150024143   |
| JIF 28 OUNCE CRUNCHY PEANUT BUTTER                      | 5150024163   |
| JIF 96 COUNT CREAMY PEANUT BUTTER TO GO                 | 5150024170   |
| JIF 54 OUNCE NATURAL CREAMY PEANUT BUTTER TO GO 36 PACK | 5150024174  |
| JIF 28 OUNCE CREAMY PEANUT BUTTER                       | 5150024177 <div>Top 0</div>  |


|   |            |
|---|------------|
| JIF 40 OUNCE NATURAL HONEY                            | 5150024182 |
| JIF 12 OUNCE CREAMY PEANUT BUTTER                     | 5150024191 |
| JIF 12 OUNCE NATURAL CREAMY PEANUT BUTTER TO GO       | 5150024307 |
| JIF 40 OUNCE NATURAL CREAMY PEANUT BUTTER             | 5150024321 |
| JIF 28 OUNCE NATURAL CREAMY PEANUT BUTTER             | 5150024322 |
| JIF 4 POUND CAN CREAMY PEANUT BUTTER                  | 5150024331 |
| JIF 96 OUNCE NATURAL CREAMY TWINPACK                  | 5150024404 |
| JIF 15.5 OUNCE NO ADDED SUGAR PEANUT BUTTER           | 5150024540 |
| JIF 13 OUNCE SQUEEZABLE POUCH                         | 5150024545 |
| JIF 33.5 OUNCE NO ADDED SUGAR PEANUT BUTTER           | 5150024548 |
| JIF 13 OUNCE NATURAL SQUEEZE POUCH                    | 5150024572 |
| JIF 80 OUNCE CREAMY PEANUT BUTTER TWIN PACK           | 5150024769 |
| JIF 80 OUNCE CRUNCHY PEANUT BUTTER TWIN PACK          | 5150024776 |
| JIF 40 OUNCE REDUCED FAT CREAMY PEANUT BUTTER         | 5150025499 |
| JIF 16 OZ REDUCED FAT CREAMY PEANUT BUTTER            | 5150025518 |
| JIF 16 OUNCE CREAMY OMEGA 3 PEANUT BUTTER             | 5150025530 |
| JIF 80 OUNCE NATURAL CREAMY PEANUT BUTTER TWIN PACK   | 5150025542 |
| JIF 16 OUNCE NATURAL CREAMY PEANUT BUTTER             | 5150025565 |
| JIF 16 OUNCE NATURAL CRUNCHY PEANUT BUTTER            | 5150025574 |
| JIF 16 OUNCE NATURAL CREAMY PEANUT BUTTER HONEY       | 5150025578 |
| JIF 40 OUNCE CREAMY PEANUT BUTTER                     | 5150072001 |
| JIF 40 OUNCE CRUNCHY PEANUT BUTTER                    | 5150072002 |
| JIF 46.5 OUNCE NO ADDED SUGAR PEANUT BUTTER           | 5150041418 |
| JIF 1.1 OUNCE PORTION CONTROL PEANUT BUTTER 120 COUNT | 5150092100 |
| JIF 48 OUNCE CREAMY PEANUT BUTTER                     | 5150024094 |
| JIF 48 OUNCE CRUNCHY PEANUT BUTTER                    | 5150024095 |





|   |            |
|---|------------|
| JIF 1.5 oz CREAMY PEANUT BUTTER TO GO     | 5150024141 |
| JIF 48 OUNCE NATURAL CREAMY               | 5150024402 |
| JIF 40 OUNCE CREAMY PEANUT BUTTER         | 5150024090 |
| JIF 40 OUNCE CRUNCHY PEANUT BUTTER        | 5150024091 |
| JIF 40 OUNCE NATURAL CREAMY PEANUT BUTTER | 5150025524 |

If consumers have products matching the above description in their possession, they should dispose of it immediately.


Consumers who have questions or would like to report adverse reactions should visit [www.jif.com/contact-us](http://www.jif.com/contact-us) (<http://www.jif.com/contact-us>)  (<http://www.fda.gov/about-fda/website-policies/website-disclaimer>) or call 800-828-9980 Monday through Friday, 8 AM to 5 PM ET.

This recall is being conducted in cooperation with the U.S. Food and Drug Administration.

Based on the information known to date, we are unable to estimate the financial impact of the recall either on our fiscal year ended April 30, 2022, or on our current fiscal year 2023. We will provide additional information as soon as possible.

### Cautionary Statement Regarding Forward-Looking Statements

This press release contains forward-looking statements that are subject to known and unknown risks and uncertainties that could cause actual results to differ materially from any future results, performance, or achievements expressed or implied by those forward-looking statements. Readers should understand that the risks, uncertainties, factors, and assumptions listed and discussed in this press release, including the following important factors and assumptions, could affect the future results of the Company and could cause actual results to differ materially from those expressed in the forward-looking statements:

- the impact of food security concerns involving either our products or our competitors' products, including product recalls;
- the impact of the COVID-19 pandemic on our business, industry, suppliers, customers, consumers, employees, and communities;
- disruptions or inefficiencies in our operations or supply chain, including any impact caused by product recalls, political instability, terrorism, armed hostilities (including the recent outbreak of hostilities between Russia and Ukraine), extreme weather conditions, natural disasters, pandemics (including the COVID-19 pandemic), or other calamities; 

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- risks related to the availability of, and cost inflation in, supply chain inputs, including labor, raw materials, commodities, packaging, and transportation;
- risks associated with derivative and purchasing strategies we employ to manage commodity pricing and interest rate risks;
- our ability to generate sufficient cash flow to continue operating under our capital deployment model, including capital expenditures, debt repayment, dividend payments, and share repurchases;
- our ability to implement and realize the full benefit of price changes, and the impact of the timing of the price changes to profits and cash flow in a particular period;
- general competitive activity in the market, including competitors' pricing practices and promotional spending levels;
- the concentration of certain of our businesses with key customers and suppliers, including single-source suppliers of certain key raw materials and finished goods, and our ability to manage and maintain key relationships;
- impairments in the carrying value of goodwill, other intangible assets, or other long-lived assets or changes in the useful lives of other intangible assets or other long-lived assets; and
- risks related to other factors described under "Risk Factors" in other reports and statements we have filed with the Securities and Exchange Commission.

Readers are cautioned not to unduly rely on such forward-looking statements, which speak only as of the date made, when evaluating the information contained in this press release. The Company undertakes no obligation to update or revise these forward-looking statements, which speak only as of the date made, to reflect new events or circumstances.

[Outbreak Investigation of \*Salmonella\*: Peanut Butter \(May 2022\) | FDA \(/food/outbreaks-foodborne-illness/outbreak-investigation-salmonella-peanut-butter-may-2022\)](#)

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## Company Contact Information

### Consumers:

The J. M. Smucker Co.

☎ 800-828-9980

### Media:

☎ 330-684-3892

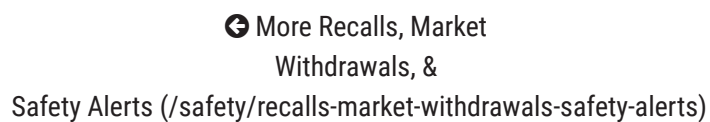
✉ [media.inquiry@jmsmucker.com](mailto:media.inquiry@jmsmucker.com) (<mailto:media.inquiry@jmsmucker.com>)

^  
Top ()

## Product Photos



^  
Top ()



# EXHIBIT B

# Outbreak Investigation of Salmonella: Peanut Butter (May 2022)

*FDA updates list of recalls; reminds consumers to check homes for recalled Jif peanut butter*

The FDA, along with CDC and state and local partners, are investigating a multistate outbreak of *Salmonella* Senftenberg infections linked to certain Jif brand peanut butter products produced at the J.M. Smucker Company facility in Lexington, Kentucky.

J.M. Smucker Company has voluntarily recalled certain Jif brand peanut butter products that have the lot codes described below. Photo examples are included below.

FDA has [posted a list of additional recalls \(/safety/major-product-recalls/2022-recalls-food-products-associated-peanut-butter-jm-smucker-company-due-potential-risk-salmonella\)](#) being conducted by companies that have used the recalled Jif peanut butter as an ingredient in the manufacturing of a new product (e.g., chocolate products) or in repackaging the product (e.g., snack cups). This list will be updated as the agency receives notification of new recalls.

In addition, USDA has issued a [recall \(https://www.fsis.usda.gov/recalls-alerts/fsis-issues-public-health-alert-ready-eat-salad-products-containing-peanut-butter\)](https://www.fsis.usda.gov/recalls-alerts/fsis-issues-public-health-alert-ready-eat-salad-products-containing-peanut-butter) on ready-to-eat Super Asian Chicken Salads that were made with recalled Jif peanut butter and sold at an Amazon Go retail location in Washington state.

As of May 25, 2022, CDC reports that of the 10 people interviewed, 10 (100%) reported eating peanut butter prior to becoming ill. Nine people reported brand information, and all nine (100%) reported eating different varieties of Jif brand peanut butter.

FDA's investigation is ongoing and more information will be provided as it becomes available.

## Recommendation

Consumers, restaurants, and retailers should not eat, sell, or serve any recalled Jif brand peanut butter, including recalled products that contain the recalled Jif peanut butter. Consumers should also avoid feeding recalled peanut butter to pets or other animals, including wild birds.

### For Consumers


Follow these steps:

1. Check if you have Jif peanut butter in your home.

2. Locate the lot code on the back of the jar, under the Best If Used By Date (the lot code may be next to the Best If Used By Date for cups or squeeze pouches).
3. In the lot code, if the first four digits are between 1274 and 2140, and if the next three numbers after that are '425', this product has been recalled and you should not consume this product. An example is below.

If you are unsure what to do with your recalled product, you can call or email J.M. Smucker Company for more information:

The J.M. Smucker Co. Hotline: 800-828-9980

Website: [jif.com/contact-us](http://www.jif.com/contact-us) ([//www.jif.com/contact-us](http://www.jif.com/contact-us))  (<http://www.fda.gov/about-fda/website-policies/website-disclaimer>)

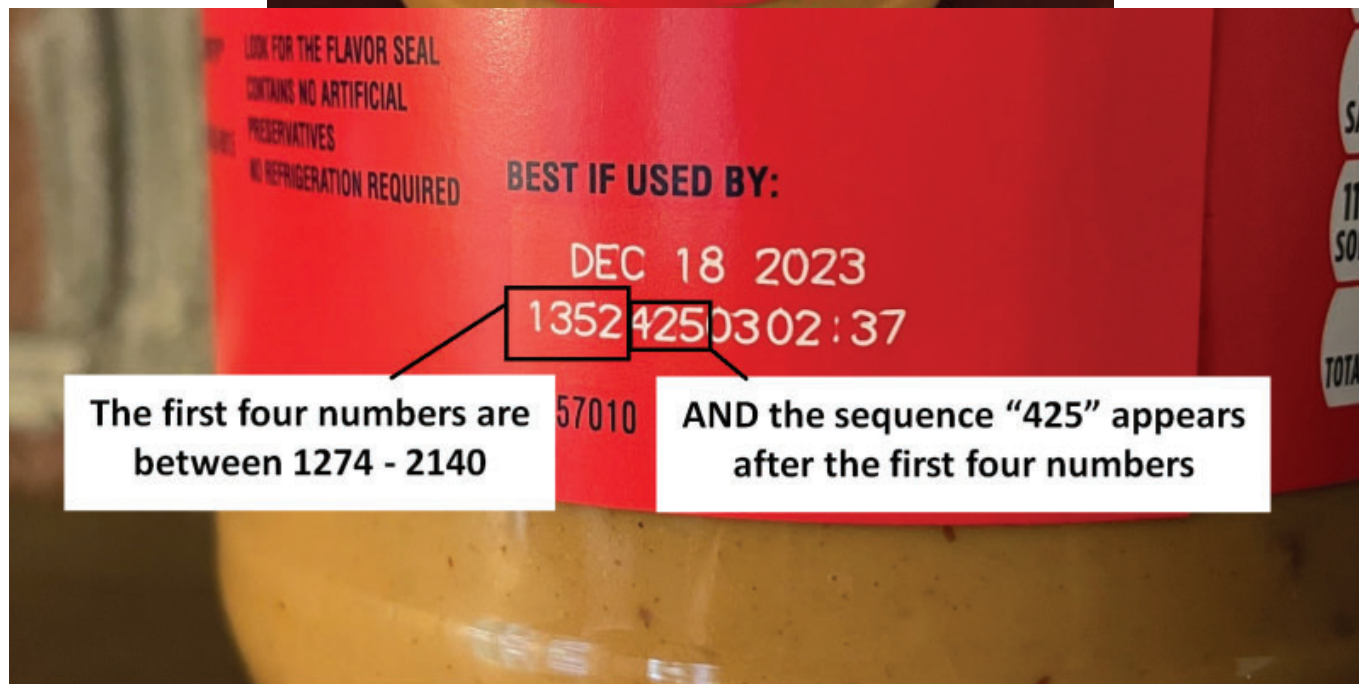
FDA recommends that if you have used the recalled Jif brand peanut butter that have lot code numbers 1274425 through 2140425 and the first seven digits end with 425, you should wash and sanitize surfaces and utensils that could have touched the peanut butter. If you or someone in your household ate this peanut butter and have symptoms ([/food/foodborne-pathogens/salmonella-salmonellosis](http://www.fda.gov/food/foodborne-pathogens/salmonella-salmonellosis)) of salmonellosis, please contact your healthcare provider.

#### **For Retailers, Re-packers, and Manufacturers**

In addition to the steps above, FDA recommends referring to the firm's recall press ([/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella](http://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella)) for the UPC codes and other retailer information. Do not sell or serve recalled peanut butter or products containing recalled peanut butter.

## **Product Images**

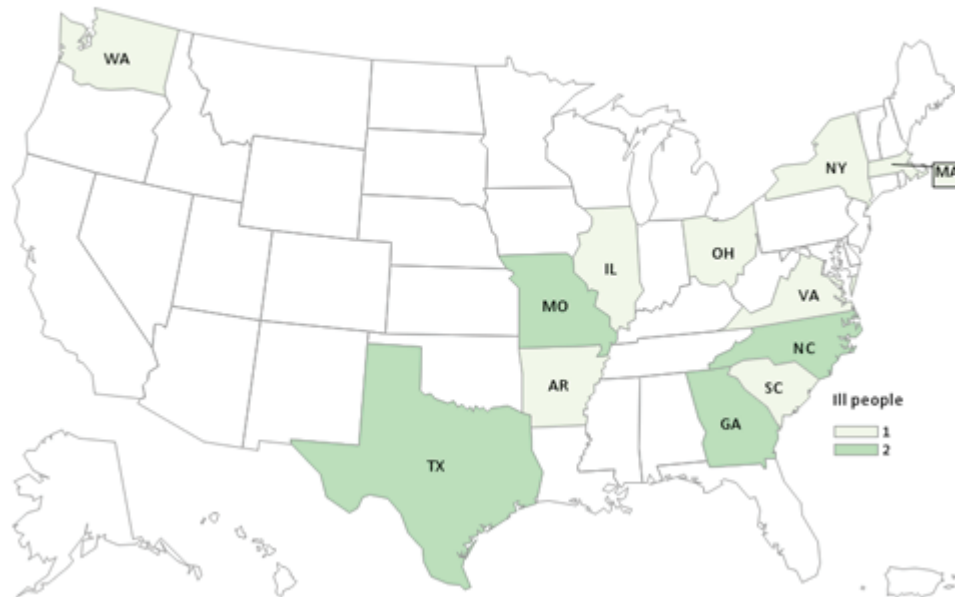




## Case Count Map Provided by CDC



Persons infected with the outbreak strain of *Salmonella* Senftenberg,  
by state of residence, as of May 25, 2022 (n=16)



## Case Counts

Total Illnesses: 16

Hospitalizations: 2

Deaths: 0

Last Illness Onset: May 2, 2022

States with Cases: AR (1), GA (2), IL (1), MA (1), MO (2), OH (1), NC (2), NY (1), SC (1), TX (2), VA (1), WA (1)

Product Distribution: Nationwide and International (see below)

## Useful Links

- [What is \*Salmonella\*](/food/foodborne-pathogens/salmonella-salmonellosis) (/food/foodborne-pathogens/salmonella-salmonellosis)
- [Recall Announcement](/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella) (/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella)
- [2022 Recalls of Products Associated with Peanut Butter from J.M. Smucker Company](/safety/major-product-recalls/2022-recalls-food-products-associated-peanut-butter-jm-smucker-company-due-potential-risk-salmonella) (/safety/major-product-recalls/2022-recalls-food-products-associated-peanut-butter-jm-smucker-company-due-potential-risk-salmonella)
- [Food Safety Tips for Consumers & Retailers During an Outbreak](/food/outbreaks-foodborne-illness/food-safety-tips-consumers-retailers-during-outbreak-foodborne-illness) (/food/outbreaks-foodborne-illness/food-safety-tips-consumers-retailers-during-outbreak-foodborne-illness)
- [Who to Contact](#)

## International Distribution for Recalled Products

The recall impacts markets outside of the U.S.

Customer information provided by J.M. Smucker on May 23, 2022 shows that it was distributed to the following countries and locations: Canada, Dominican Republic, Singapore, Malaysia, Taiwan, Korea, Thailand, Honduras, Spain, Japan.

For additional information, international officials and customers can visit the [company's recall page \(https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella\)](https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella).

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## Previous Update

### May 26, 2022

The FDA, along with CDC and state and local partners, are investigating a multistate outbreak of *Salmonella* Senftenberg infections linked to certain Jif brand peanut butter products produced at the J.M. Smucker Company facility in Lexington, Kentucky.

J.M. Smucker Company has voluntarily recalled certain Jif brand peanut butter products that have the lot codes described below. Photo examples are included below.

FDA has [posted a list of additional recalls \(/safety/major-product-recalls/2022-recalls-food-products-associated-peanut-butter-jm-smucker-company-due-potential-risk-salmonella\)](/safety/major-product-recalls/2022-recalls-food-products-associated-peanut-butter-jm-smucker-company-due-potential-risk-salmonella) being conducted by companies that have used the recalled Jif peanut butter as an ingredient in the manufacturing of a new product (e.g., chocolate products) or in repackaging the product (e.g., snack cups). This list will be updated as the agency receives notification of new recalls.

As of May 25, 2022, CDC reports that of the 10 people interviewed, 10 (100%) reported eating peanut butter prior to becoming ill. Nine people reported brand information, and all nine (100%) reported eating different varieties of Jif brand peanut butter.

FDA's investigation is ongoing and more information will be provided as it becomes available.

### May 20, 2022

The FDA, along with CDC and state and local partners, are investigating a multistate outbreak of *Salmonella* Senftenberg infections linked to certain Jif brand peanut butter products produced at the J.M. Smucker Company facility in Lexington, Kentucky.

CDC's review of epidemiological information indicates that five out of five people reported consuming peanut butter and four of the five people specifically reported consuming different varieties of Jif brand peanut butter prior to becoming ill. FDA conducted Whole Genome Sequencing (WGS) analysis on an environmental sample collected at the Lexington, KY, J.M. Smucker Company facility in 2010. The analysis shows that this 2010 environmental sample matches the strain causing illnesses in this current outbreak. Epidemiologic evidence indicates that Jif brand peanut butter produced in the J.M. Smucker Company facility located in Lexington, KY, is the likely cause of illnesses in this outbreak.

## Who to Contact

**Consumers who have symptoms** should contact their health care provider to report their symptoms and receive care.

To report a **complaint** or **adverse event** (illness or serious allergic reaction), you can

- Call an FDA [Consumer Complaint Coordinator \(/safety/report-problem-fda/consumer-complaint-coordinators\)](#) if you wish to speak directly to a person about your problem.
- Complete an [electronic Voluntary MedWatch form \(https://www.accessdata.fda.gov/scripts/medwatch/medwatch-online.htm\)](#) online.
- Complete a [paper Voluntary MedWatch form \(/media/85598/download\)](#) that can be mailed to FDA.

**Submit Questions/Get Assistance** (<https://www.fda.gov/fcic>)

**Follow Us on Twitter** (<https://twitter.com/FDAfood>)  (<http://www.fda.gov/about-fda/website-policies/website-disclaimer>)

# EXHIBIT C

# 2022 Recalls of Food Products Associated with Peanut Butter from J.M. Smucker Company due to the Potential Risk of Salmonella

The FDA, along with CDC and state and local partners, are investigating a multistate outbreak of *Salmonella Senftenberg* infections linked to certain Jif peanut butter products produced at the J.M. Smucker Company facility in Lexington, Kentucky.

CDC's review of epidemiological information indicates that five out of five people reported consuming peanut butter and four of the five people specifically reported consuming different varieties of Jif brand peanut butter prior to becoming ill. FDA conducted Whole Genome Sequencing (WGS) analysis on an environmental sample collected at the Lexington, KY, J.M. Smucker Company facility in 2010. The analysis shows that this 2010 environmental sample matches the strain causing illnesses in this current outbreak. Epidemiologic evidence indicates that Jif brand peanut butter produced in the J.M. Smucker Company facility located in Lexington, KY, is the likely cause of illnesses in this outbreak.

J.M. Smucker Company has [voluntarily recalled \(/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella\)](/safety/recalls-market-withdrawals-safety-alerts/j-m-smucker-co-issues-voluntary-recall-select-jifr-products-sold-us-potential-salmonella) certain Jif brand peanut butter products that have the lot code numbers between 1274425 – 2140425, only if the first seven digits end with 425 (manufactured in Lexington, KY).

More information including advice for consumers, restaurants, and retailers is available at [https://www.fda.gov/food/outbreaks-foodborne-illness/outbreak-investigation-salmonella-peanut-butter-may-2022 \(/food/outbreaks-foodborne-illness/outbreak-investigation-salmonella-peanut-butter-may-2022\)](https://www.fda.gov/food/outbreaks-foodborne-illness/outbreak-investigation-salmonella-peanut-butter-may-2022 (/food/outbreaks-foodborne-illness/outbreak-investigation-salmonella-peanut-butter-may-2022)).

The table below includes recalls conducted by companies that further processed the peanut butter by using it as an ingredient in new products or by repackaging it.

## 2022 Recalls of Food Products Associated with Peanut Butter from J.M. Smucker Company due to the Potential Risk of Salmonella | FDA

Search:

Show  entries

[Export Excel](#)

| Recall Number | Product Name | Lot Code | Recall Date | Recall Reason |
|---------------|--------------|----------|-------------|---------------|
|---------------|--------------|----------|-------------|---------------|

| Date ▼     | Brand Name(s) ◆   | Product Description ◆                              | Company Name ◆                     | FDA Enforcement Report ◆ |
|------------|---|--|------------------------------------|--------------------------|
| 06/21/2022 | <a href="#">Deskins Candies (/safety/recalls-market-withdrawals-safety-alerts/deskins-candies-recalls-peanut-butter-fudge-peanut-butter-no-bake-chocolate-no-bake-and-peanut)</a>                           | Several Candies                                    | Deskins Candies                    |                          |
| 06/08/2022 | <a href="#">Prairie City Bakery (/safety/recalls-market-withdrawals-safety-alerts/prairie-city-bakery-recalls-peanut-butter-chocolate-chip-ooey-goey-butter-cakes-because-possible)</a>                     | Peanut Butter Chocolate Chip Ooey Goey Butter Cake | Prairie City Bakery                |                          |
| 06/07/2022 | <a href="#">Fresh Garden Highway (https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/fs-fresh-foods-recalls-725oz-garden-highway-snacks-brand-protein-power-snack-upc-8-26766-00979-4)</a> | Protein Power Snack                                | F&S Fresh Foods                    |                          |
| 06/06/2022 | <a href="#">Taharka Brothers (https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/taharka-brothers-ice-cream-recalls-peanut-butter-cup-ice-cream-because-possible-health-risk)</a>          | Peanut Butter Cup Ice Cream                        | Taharka Brothers Ice Cream         |                          |
| 05/28/2022 | <a href="#">Giant Eagle (/safety/recalls-market-withdrawals-safety-alerts/three-giant-eagle-stores-recall-bakery-items-peanut-butter-due-potential-salmonella-contamination)</a>                            | Baked items containing peanut butter               | Giant Eagle                        |                          |
| 05/28/2022 | <a href="#">Quick Chek (/safety/recalls-market-withdrawals-safety-alerts/safeway-fresh-foods-dba-sunnyside-fresh-vineland-new-jersey-issuing-voluntary-class-1-recall-quick)</a>                            | Apple and Peanut Butter Snack Trays                | Safeway Fresh Foods                |                          |
| 05/27/2022 | <a href="#">Rich's (/safety/recalls-market-withdrawals-safety-alerts/albanese-confectionery-group-inc-recalls-select-peanut-butter-products-because-possible-health-risk)</a>                               | Peanut butter cups                                 | Albanese Confectionery Group, Inc. |                          |
| 05/27/2022 | <a href="#">Multiple brand names (/safety/recalls-market-withdrawals-safety-alerts/g-specialty-foods-inc-issues-voluntary-recall-food-products-containing-jif-and-smuckers-peanut)</a>                      | Snack Packs and Sandwiches                         | A G Specialty Foods                |                          |
|            |   |  |                                    |                          |

| Date ▼     | Brand Name(s) ◆   | Product Description ◆                      | Company Name ◆             | FDA Enforcement Report ◆ |
|------------|---|--|----------------------------|--------------------------|
| 05/26/2022 | <u>Jack &amp; Olive and Created Fresh!</u><br>( <u>/safety/recalls-market-withdrawals-safety-alerts/bix-produce-company-recalls-egg-and-cheese-curds-power-box-because-possible-health-risk</u> ) | Egg and Cheese Curds snack and power boxes | Bix Produce Company        |                          |
| 05/26/2022 | <u>Euphoria Chocolate</u> ( <u>/safety/recalls-market-withdrawals-safety-alerts/euphoria-chocolate-company-issues-voluntary-recall-peanut-butter-classic-truffles-dark-chocolate</u> )            | Chocolate candy                            | Euphoria Chocolate Company |                          |

Showing 1 to 10 of 20 entries

## 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**

TYNEISHA FERGUSON, individually, and on behalf of all others similarly situated

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

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

Brian Flick, DannLaw, 15000 Madison Avenue  
Lakewood, OH 44107 / Tel: 216-373-0539

**DEFENDANTS**

THE J.M. SMUCKER COMPANY

County of Residence of First Listed Defendant Wayne (OH)  
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

**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<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice<br><b>PERSONAL INJURY</b><br><input checked="" type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>INTELLECTUAL PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application<br><input type="checkbox"/> 840 Trademark<br><input type="checkbox"/> 880 Defend Trade Secrets Act of 2016<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)<br><input type="checkbox"/> 485 Telephone Consumer Protection Act<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education<br><b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><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 USC 1332(d)

Brief description of cause:  
Products Liability, Negligence, Breach of Warranty, ICFA

**VII. REQUESTED IN COMPLAINT:**

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

DEMAND \$  
\$5,000,000

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Gregory F. VanTatenhove

DOCKET NUMBER 5:22-cv-00134-GFVT

DATE

06/29/2022

SIGNATURE OF ATTORNEY OF RECORD

/s/ Brian D. Flick

FOR OFFICE USE ONLY

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



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.