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6 Attorneys for Defendant  
7 FERRERO U.S.A, INC.

8 UNITED STATES DISTRICT COURT  
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
10

11 In re FERRERO LITIGATION ) CASE NO.: 11 CV 0205 H  
12 )  
13 ) DECLARATION OF DALE R. BISH  
14 ) IN SUPPORT OF DEFENDANT  
15 ) FERRERO U.S.A., INC.'S RESPONSE  
16 ) TO OBJECTIONS  
17 )  
18 ) Date: July 9, 2012  
19 ) Time: 9:00 a.m.  
20 )  
21 ) Before: Hon. Marilyn L. Huff  
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19 I, Dale R. Bish, declare as follows:

20 1. I am an attorney admitted to practice law in the State of California and before this  
21 Court. I am an associate at the law firm of Wilson Sonsini Goodrich & Rosati, attorneys for  
22 Defendant Ferrero U.S.A., Inc. ("Ferrero") in this matter.

23 2. I have personal knowledge of the facts stated herein and, if called upon to testify  
24 thereon as a witness, could and would do so.

25 3. I conducted searches for news articles and publicity regarding the settlement of  
26 this action. Specifically, I used the search terms, "Nutella and Settlement" in the Google online  
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1 search engine (www.google.com). That search returned approximately 183,000 results. True  
2 and correct printouts of the first 10 pages of those results are attached hereto as Exhibit A.

3 4. The search described above returned articles on news sites, including ABC News,  
4 CBS News, Forbes, Reuters, National Public Radio, the Huffington Post, the Christian Science  
5 Monitor, the Chicago Tribune, the LA Weekly, the New York Daily News, CNet and Business  
6 Week.<sup>1</sup> True and correct copies of these articles are attached hereto as Exhibit B.

7 5. The search also returned video news segments from ABC's Good Morning  
8 America ([http://abcnews.go.com/blogs/business/2012/04/nutella-consumer-class-action-](http://abcnews.go.com/blogs/business/2012/04/nutella-consumer-class-action-settlement/)  
9 [settlement](http://abcnews.go.com/blogs/business/2012/04/nutella-consumer-class-action-settlement/)), NBC's Nightly News with Brian Williams ([http://video.msnbc.msn.com/nightly-](http://video.msnbc.msn.com/nightly-news/47211797)  
10 [news/47211797](http://video.msnbc.msn.com/nightly-news/47211797)), and Fox News ([http://video.foxnews.com/v/1613698340001/nutella-to-pay-](http://video.foxnews.com/v/1613698340001/nutella-to-pay-35m-after-nutrition-lawsuit/)  
11 [35m-after-nutrition-lawsuit/](http://video.foxnews.com/v/1613698340001/nutella-to-pay-35m-after-nutrition-lawsuit/)).

12 6. The settlement was also described in blog sites, including the Consumerist.com,  
13 AboveTheLaw.com and TopClassActions.com.<sup>2</sup>

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15 <sup>1</sup> As of July 2, these news articles were available at the following internet address: ABC  
16 News (<http://abcnews.go.com/blogs/business/2012/04/nutella-after-suit-drops-health-claims/>);  
17 CBS News ([http://www.cbsnews.com/8301-504763\\_162-57423319-10391704/nutella-health-](http://www.cbsnews.com/8301-504763_162-57423319-10391704/nutella-health-claims-net-$3.05-million-settlement-in-class-action-lawsuit/)  
18 [claims-net-\\$3.05-million-settlement-in-class-action-lawsuit](http://www.cbsnews.com/8301-504763_162-57423319-10391704/nutella-health-claims-net-$3.05-million-settlement-in-class-action-lawsuit/)); Forbes  
19 ([http://www.forbes.com/sites/wlf/](http://www.forbes.com/sites/wlf/2012/01/31/nutella-class-action-settlement-not-part-of-a-balanced-legal-system/)  
20 [2012/01/31/nutella-class-action-settlement-not-part-of-a-balanced-legal-system/](http://www.forbes.com/sites/wlf/2012/01/31/nutella-class-action-settlement-not-part-of-a-balanced-legal-system/)); Reuters  
21 (<http://www.reuters.com/article/2012/04/29/italy-nutella-idUSL5E8FT1DU20120429>); National  
22 Public Radio ([http://www.npr.org/blogs/](http://www.npr.org/blogs/thesalt/2012/04/26/151454929/nutella-maker-may-settle-deceptive-ad-lawsuit-for-3-million)  
23 [thesalt/2012/04/26/151454929/nutella-maker-may-settle-deceptive-ad-lawsuit-for-3-million](http://www.npr.org/blogs/thesalt/2012/04/26/151454929/nutella-maker-may-settle-deceptive-ad-lawsuit-for-3-million));  
24 Huffington Post ([http://www.huffingtonpost.com/2012/04/26/nutella-lawsuit\\_n\\_1457183.html](http://www.huffingtonpost.com/2012/04/26/nutella-lawsuit_n_1457183.html));  
25 Christian Science Monitor ([http://www.csmonitor.com/](http://www.csmonitor.com/Business/new-economy/2012/0427/Nutella-settles-lawsuit.-You-can-get-20)  
26 [Business/new-economy/2012/0427/Nutella-settles-lawsuit.-You-can-get-20](http://www.csmonitor.com/Business/new-economy/2012/0427/Nutella-settles-lawsuit.-You-can-get-20)); the Chicago  
27 Tribune ([http://articles.chicagotribune.com/2012-05-08/news/ct-edit-nutella-](http://articles.chicagotribune.com/2012-05-08/news/ct-edit-nutella-20120505_1_nutella-breakfast-jar)  
28 [20120505\\_1\\_nutella-breakfast-jar](http://articles.chicagotribune.com/2012-05-08/news/ct-edit-nutella-20120505_1_nutella-breakfast-jar)); LA Weekly ([http://blogs.laweekly.](http://blogs.laweekly.com/squidink/2012/04/nutella_settles_lawsuit_over_h.php)  
[com/squidink/2012/04/nutella\\_settles\\_lawsuit\\_over\\_h.php](http://blogs.laweekly.com/squidink/2012/04/nutella_settles_lawsuit_over_h.php)); New York Daily News  
([http://articles.nydailynews.com/2012-04-26/news/31413502\\_1\\_nutella-health-food-ferrero](http://articles.nydailynews.com/2012-04-26/news/31413502_1_nutella-health-food-ferrero));  
CNet ([http://shopper.cnet.com/2740-19233\\_9-82000.html](http://shopper.cnet.com/2740-19233_9-82000.html)); Business Week  
([http://www.businessweek.com/articles/2012-06-21/snack-attack-moms-take-on-nutella-fruit-](http://www.businessweek.com/articles/2012-06-21/snack-attack-moms-take-on-nutella-fruit-roll-ups)  
[roll-ups](http://www.businessweek.com/articles/2012-06-21/snack-attack-moms-take-on-nutella-fruit-roll-ups)).

<sup>2</sup> Consumerist ([http://consumerist.com/2012/04/theres-actually-a-settlement-in-nutella-](http://consumerist.com/2012/04/theres-actually-a-settlement-in-nutella-health-food-class-action-lawsuit.html)  
[health-food-class-action-lawsuit.html](http://consumerist.com/2012/04/theres-actually-a-settlement-in-nutella-health-food-class-action-lawsuit.html)); AboveTheLaw ([http://abovethelaw.](http://abovethelaw.com/2012/05/morning-docket-05-01-12/)  
[com/2012/05/morning-docket-05-01-12/](http://abovethelaw.com/2012/05/morning-docket-05-01-12/)); TopClassActions ([http://www.](http://www.topclassactions.com/lawsuit-settlements/lawsuit-news/1745-nutella-class-action-settlement)  
[topclassactions.com/lawsuit-settlements/lawsuit-news/1745-nutella-class-action-settlement](http://www.topclassactions.com/lawsuit-settlements/lawsuit-news/1745-nutella-class-action-settlement)).

1           7.       I declare under penalty of perjury that the foregoing is true and correct. Executed  
2 in Palo Alto, California on July 2, 2012.

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4 Dated: July 2, 2012

By: /s/ Dale R. Bish  
Dale R. Bish

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