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INTERIM CLASS COUNSEL

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: NUTELLA DECEPTIVE SALES
PRACTICES & MARKETING LITIGATION

CASE NO. 3:11-CV-00205-H-CAB

JUDGE: Hon. Marilyn L. Huff

ATHENA HOHENBERG & LAURA RUDE-
BARBATO, individually and on behalf of all
others similarly situated,

**DECLARATION OF JACK
FITZGERALD IN OPPOSITION TO
FERRERO'S *EX PARTE* MOTION FOR
POSTPONEMENT AND DISCOVERY
STAY**

Plaintiffs,

v.

Date: N/A

Time: N/A

FERRERO U.S.A, INC., a foreign corporation,

Defendant.

1 I, Jack Fitzgerald, declare as follows:

2 1. I am an attorney admitted to practice law in the State of California and before this
3 Court. I make this Declaration in support of Plaintiffs' Opposition to Ferrero's *Ex Parte* Motion for
4 Postponement and Stay (Dkt. No. 21).

5 2. Attached hereto as **Exhibit A** is a true and correct copy of the Consent Order entered in
6 *Glover v. Ferrero* (D.N.J.) obligating Ferrero to respond to the *Glover* Complaint on or before April
7 25, 2011. As of the date of this filing, Ferrero has not moved for any further delay, extension, stay or
8 continuance in *Glover*.

9 3. Attached hereto as **Exhibit B** is a true and correct copy of a March 25, 2011 Consent
10 Order Granting Admission *Pro Hac Vice* of Ferrero's California attorneys in the New Jersey *Glover*
11 action (*Glover* Dkt. No. 9).

12 4. Discovery is well under way in this action. The Federal Rules provide that "parties
13 must confer as soon as practicable" Fed. R. Civ. P. 26(f). In light of this mandate, on March 16,
14 Interim Class Counsel requested a Rule 26(f) conference with Ferrero.

15 5. Ferrero responded the next day saying, "We're happy to discuss the case anytime. . . .
16 As for a Rule 26(f) conference, it strikes us that we should first resolve issues of venue, consolidation
17 and lead plaintiff—*in part so that we could have such discussions with whomever the court*
18 *appoints*." (Emphasis added.) Despite the observation, counsel finished the email saying, "feel free to
19 contact [us] if you'd like to discuss the case."

20 6. The following day, the parties had a telephone conversation discussing discovery in the
21 case, and particularly the topics prescribed in Rule 26, including a discovery plan and protective order.
22 Nevertheless, after the conversation, Ferrero sent an email disputing that a Rule 26(f) conference had
23 occurred. Despite the apparent disagreement, on March 18, Plaintiffs sent a draft Rule 26(f) report to
24 Ferrero asking for comments or revisions by March 22, and also sent initial disclosures pursuant to
25 Rule 26(A)(1) (Ferrero has not served its initial disclosures). Ferrero did not immediately respond.

26 The Court then ordered the *Hohenberg* and *Rude-Barbato* cases consolidated and appointed
27 their counsel Interim Class Counsel on March 22, at 3:39 p.m. Twenty five minutes later, Ferrero
28 emailed, saying Plaintiffs did not have authorization to file the Rule 26(f) report jointly. Interim

1 Counsel responded, pointing out that the cases have been consolidated and interim counsel appointed,
2 and that the law requires timely conference, and therefore asking Ferrero to reconsider its refusal to
3 file a joint Rule 26(f) report. In response, Ferrero noted its disagreement, but stated:

4 We have your draft Rule 26 statement and can prepare inserts to reflect our positions. We
5 can send that to you early next week, in plenty of time to file within the 14 days allowed
6 after a Rule 26 conference (assuming, while we disagree, that such a conference took
place last Friday). ***We are willing to proceed that way.*** (Emphasis added.)

7 7. In light of Ferrero's concession and its agreement to provide venue-related discovery,
8 on March 23, Plaintiffs served Ferrero, pursuant and subject to the Federal Rules, with its First
9 Requests for Production, First Interrogatories, and a Rule 30(b)(6) notice, and the parties set up a
10 meet-and-confer conference call for the following Monday, March 28. On that call, the parties went
11 through each of Plaintiffs' requests, addressing any objections Ferrero had, and narrowing the topics
12 in a mutually agreeable way. Ferrero also pressed Plaintiffs to take the Rule 30(b)(6) deposition the
13 week of April 11, stating that it would make its full production responsive to the requests so that
14 Plaintiffs would have at least a week to review the production before taking the 30(b)(6) deposition.
15 Despite its agreement to proceed with discovery, and its earlier representation that it was willing to
16 proceed in the manner it suggested, to which Plaintiffs agreed, during the meet and confer call,
17 Ferrero again refused to review the joint Rule 26(f) report or provide comments or inserts, instead
18 advising Plaintiffs it intended to file the *ex parte* motion unless they agreed to Ferrero's request for an
19 indefinite stay of this action.

20 8. Following the call, the parties exchanged several emails crystalizing and promising to
21 consider their respective positions. Although Plaintiffs could not agree to an indefinite stay, in the
22 spirit of compromise, they suggested a further three-week extension. Ferrero declined the offer, asking
23 whether Plaintiffs would agree to an indefinite discovery stay, as well. Again, Plaintiffs could not
24 agree, but did clarify that they would be willing to await further substantive discovery while Ferrero's
25 motion to dismiss is pending, so long as Ferrero did not attempt to stay the action indefinitely. This,
26 too, Ferrero refused.

1 9. In addition to this motion, the parties discussed the discovery Ferrero had agreed to
2 provide, with Ferrero serving its formal responses and objections to the 30(b)(6) notice, and the
3 parties ultimately agreeing to an April 14 date for that deposition.

4 10. Attached hereto as **Exhibit C** is a true and correct copy of the email chain referenced in
5 paragraphs 4-7 above, by and among counsel for Plaintiffs and counsel for Ferrero, dated March 16,
6 2011 through March 24, 2011, titled "Re: Rule 26(f) conference." This email chain evinces the
7 difficulty Plaintiffs have had in obtaining Ferrero's cooperation in even the most basic discovery
8 obligations, i.e., Rule 26(f) meeting and reporting.

9 11. Attached hereto as **Exhibit D** are true and correct copies of the discovery requests
10 Plaintiffs served on Ferrero on March 23, 2011, referenced in paragraph 7 above. These requests seek
11 comprehensive discovery related to the venue issues raised by Ferrero's transfer motion.

12 12. Attached hereto as **Exhibit E** is a true and correct copy of an email chain by and
13 among counsel for Plaintiffs and counsel for Ferrero, dated March 29, 2011, "RE: In re Nutella –
14 Ferrero's Request for Additional Extension," referenced in paragraph 8 above. This email chain
15 discusses the subject matter of Ferrero's instant *ex parte* motion.

16 13. Attached hereto as **Exhibit F** is a true and correct copy of an email chain by and
17 among counsel for Plaintiffs and counsel for Ferrero, dated March 29, 2011 through March 30, 2011,
18 "RE: In Re Nutella – 30(b)(6) Deposition Logistics," referenced in paragraph 8 above. This email
19 chain discusses the discovery the parties are currently coordinating.

20 14. On March 29, 2011, Plaintiffs served a third-party deposition and document subpoena
21 on Connie L. Evers. A true and correct copy of that subpoena (which was served along with a copy of
22 the Master Consolidated Complaint) is attached hereto as **Exhibit G**. Ms. Evers is the key third-party
23 witness in this action, as many of Ferrero's false statements and deceptive advertisements cite or are
24 sourced from Ms. Evers.

25
26 Executed on March 30, 2011, in Santa Clara, California.

27 /s/ Jack Fitzgerald

28 Jack Fitzgerald

1 Dated this 30th day of March, 2011

Respectfully submitted,

2 By: /s/ Jack Fitzgerald

3 Jack Fitzgerald
4 Gregory S. Weston
5 THE WESTON FIRM

6 Ronald A. Marron
7 LAW OFFICES OF RONALD A. MARRON, APLC

INTERIM CLASS COUNSEL

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Exhibit A

RECEIVED

MAR 21 2011

DOUGLAS E. ARPERT
U.S. MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARNIE GLOVER, Individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

FERRERO USA, INC.,

Defendant.

ECF Case

Civil Action No. 11-cv-01086 (FLW)
(DEA)

**CONSENT ORDER FOR
EXTENSION OF TIME TO
ANSWER, MOVE, OR
OTHERWISE RESPOND**

THIS MATTER having come before the Court upon the consent of the parties hereto; and

WHEREAS THE PARTIES HAVE REPRESENTED that:


1. No previous extension has been obtained;
2. Service of Process was effected on March 3, 2011.
3. Time to Answer, Move or otherwise Reply expires on March 24, 2011.
4. In addition to this action, two additional class action complaints have been filed in the United States District Court for the Southern District of California that contain substantially similar allegations and causes of action, and that seek the same relief as this action (“the California Actions”).
5. In the event that the California Actions are not voluntarily re-filed in this judicial district, Ferrero intends to file a motion, pursuant to 28 U.S.C. §

1404(a), to transfer those actions to this Court and seek consolidation of the actions to avoid duplicative litigation.

6. Plaintiff has agreed to a 30-day extension of time for Defendant to answer or otherwise move against the Complaint.

NOW THEREFORE, IT IS HEREBY ORDERED that Defendant's time to respond to Plaintiff's Complaint is extended 30 days to, and including, April 25, 2011, without prejudice to the parties' ability to seek a further extension of this date to facilitate the consolidation of the aforementioned actions and a single response thereto.

SO ORDERED, This
21st Day of March, 2011



HON. DOUGLAS E. ARPERT

We hereby consent to the form and
Substance of this order:

/s/ Tonia Ouellette Klausner
WILSON SONSINI GOODRICH & ROSATI
Attorney for Defendant
1301 Avenue of the Americas
40th Floor
New York, NY 10019
(212) 999-5800
tklausner@wsgr.com

Attorneys for Defendant Ferraro USA, Inc.

/s/ Carl Beckwith
BECKWITH & WOLF, LLP
1 Closter Commons #181
Closter, NJ 07624
(201)-338-2833
cbeckwith@gmail.com

OF COUNSEL
Judith S. Scolnick
SCOTT & SCOTT LLP
Attorney for Plaintiff
500 Fifth Avenue, 40th Floor
New York, NY 10110
(212) 223-6444
jscolnick@scott-scott.com

Attorneys for Plaintiff Marnie Glover

Exhibit B

R E C E I V E D

MAR 25 2011

AT 8:30
WILLIAM T. WALSH^M
CLERK

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARNIE GLOVER, Individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

FERRERO USA, INC.,

Defendant.

ECF Case

Civil Action No. 11-cv-01086 (FLW)
(DEA)

**CONSENT ORDER GRANTING
ADMISSION *PRO HAC VICE***

THIS MATTER having been brought before the Court upon the consent of the parties hereto to an Order allowing Keith E. Eggleton, Esq., Colleen Bal, Esq., and Dale R. Bish, Esq. of Wilson Sonsini Goodrich & Rosati, to appear and participate *pro hac vice*; and this matter being considered pursuant to L.Civ.R. 101.1(c) to the United States District Court for the District of New Jersey, and for good cause shown;

IT IS on this 25th day of March, 2011,

ORDERED that Keith E. Eggleton, Esq., a member of the bar of the State of California, be permitted to appear *pro hac vice* in the above-captioned matter pursuant to L.Civ.R. 101.1(c) to the United States District Court for the District of New Jersey; and it is further

ORDERED that Colleen Bal, Esq., a member of the bar of the State of California, be permitted to appear *pro hac vice* in the above-captioned matter pursuant to L.Civ.R. 101.1(c) to the United States District Court for the District of New Jersey; and it is further

ORDERED that Dale R. Bish, Esq., a member of the bar of the State of California, be permitted to appear *pro hac vice* in the above-captioned

matter pursuant to L.Civ.R. 101.1(c) to the United States District Court for the District of New Jersey; and it is further

ORDERED that, all pleadings, briefs, and other papers filed with the Court shall be signed by Tonia Ouellette Klausner, who is admitted to the Bar of this Court and shall be held responsible for said papers and for the conduct of the case and who will be held responsible for the conduct of the attorney admitted hereby; and it is further

ORDERED that Keith E. Eggleton, Esq., Colleen Bal, Esq., and Dale R. Bish, Esq., shall each pay the annual fee to the New Jersey Lawyers' Fund for Client Protection in accordance with New Jersey Court Rule 1:28-2 within twenty (20) days from the date of the entry of this Order; and it is further

ORDERED that Keith E. Eggleton, Esq., Colleen Bal, Esq., and Dale R. Bish, Esq., shall each make payment of \$150.00 to the Clerk of the United States District Court in accordance with L.Civ.R. 101.1(c)(3), as amended, within ten (10) days from the date of the entry of this Order; and it is further

ORDERED that Keith E. Eggleton, Esq., Colleen Bal, Esq., and Dale R. Bish, Esq., shall be bound by the Rules of the United States District Court for the District of New Jersey, including, but not limited to the provisions of L.Civ.R. 103.1, *Judicial Ethics and Professional Responsibility*, and L.Civ.R. 104.1, *Discipline of Attorneys*; and it is further

ORDERED that Keith E. Eggleton, Esq., Colleen Bal, Esq., and Dale R. Bish, Esq., shall be deemed to have agreed to take no fee in any tort case in excess of the New Jersey State Court Contingency Fee Rule, Rule 1:21-7, as amended.

SO ORDERED, This
25th Day of March, 2011



HON. DOUGLAS E. ARPERT, U.S.M.J.



We hereby consent to the form and
Substance of this order:

/s/ Tonia Ouellette Klausner
WILSON SONSINI GOODRICH & ROSATI
Attorney for Defendant
1301 Avenue of the Americas
40th Floor
New York, NY 10019
(212) 999-5800
tklausner@wsgr.com

Attorneys for Defendant Ferraro USA, Inc.

/s/ Carl Beckwith
BECKWITH & WOLF, LLP
1 Closter Commons #181
Closter, NJ 07624
(201)-338-2833
cbeckwith@gmail.com

OF COUNSEL
Judith S. Scolnick
SCOTT & SCOTT LLP
Attorney for Plaintiff
500 Fifth Avenue, 40th Floor
New York, NY 10110
(212) 223-6444
jscolnick@scott-scott.com

Attorneys for Plaintiff Marnie Glover

Exhibit C

Jack Fitzgerald

From: ronald marron <ron.marron@gmail.com>
Sent: Thursday, March 24, 2011 9:55 AM
To: Bish, Dale
Cc: Gregory S. Weston; Bal, Colleen; Eggleton, Keith; Jack Fitzgerald
Subject: Re: Rule 26(f) conference

Dale,

Thanks for your willingness to compromise. We'll look forward to receiving Defendant's revised draft of the 26(f) report early next week.

If it's your intention to file a Motion to Transfer this week, I think what makes sense is for us to review the motion over the weekend, which will give you a chance to review the venue discovery we served today, and let's plan to have a conference call on Monday or Tuesday to discuss how we'll proceed with discovery.

Thank you again for your cooperation.

Ron

Ronald A. Marron, Esq.

Law Offices of Ronald A. Marron, APLC
3636 Fourth Avenue, Suite 202
San Diego, CA 92103

Tel: 619-696-9006
Fax: 619-564-6665

On Wed, Mar 23, 2011 at 9:47 AM, Bish, Dale <DBish@wsgr.com> wrote:

Counsel,

We have your emails.

I don't believe our call on Friday was a Rule 26 conference nor do I believe we have refused to have one.

As we have said, we think the orderly conduct of these matters would have Rule 26 proceedings take place after the respective courts decide how and where these cases will proceed. We are filing a motion to transfer this week and will be available to discuss whether you think discovery is needed after you have had a chance to consider our papers. Again, I did not refuse discovery on that topic but suggested that plaintiffs send us an email regarding the venue topics that you'd like discovery on. Also, in the event the cases are not transferred, we will file for MDL treatment.

That all said, we get the point that you disagree and want to proceed with Rule 26 proceedings now. We have your draft Rule 26 statement and can prepare inserts to reflect our positions. We can send that to you early next week, in plenty of time to file within the 14 days allowed after a Rule 26 conference (assuming, while we disagree, that such a conference took place last Friday). We are willing to proceed that way. Alternatively, we can set a conference call for Thursday or Friday of this week and subsequently put in a statement with the Court.

In any event, we should discuss scheduling in light of the amended complaint you will be filing.

Let us know how you would like to proceed.

Dale

From: Gregory S. Weston [mailto:greg@westonfirm.com]

Sent: Tuesday, March 22, 2011 5:58 PM

To: 'ronald marron'; Bish, Dale

Cc: Bal, Colleen; Eggleton, Keith; Jack Fitzgerald

Subject: RE: Rule 26(f) conference

Dear Counsel,

I agree with Ron's analysis below. FRCP 26(f)(1) directs that "the parties **must confer as soon as practicable.**"

Ferraro USA, in clear violation of its duties under FRCP 26, appears to be refusing to so confer.

If I am incorrect about this, please provide a time in the next two days when we can confer as required and as Plaintiffs' counsel has been requesting repeatedly for the past week. If Ferraro is indeed refusing to confer until its unfiled transfer motion is decided, please state so explicitly.

If it is Ferraro's position is that it is exempt from the requirements of Rule 26 because it will soon file a motion to transfer venue, it is wrong. See *Metcalfe v. Renaissance Marine, Inc.*, 566 F.3d 324, 336 (3d Cir. 2009) ("The Supreme Court instructs that 'where issues arise as to jurisdiction or venue, discovery is available to ascertain the facts bearing on such issues.'")(quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 n.13 (1978)). Indeed, such discovery is "particularly appropriate where the defendant is a corporation." *Metcalfe*, 566 F.3d at 336. See also *Jenkins v. Smead Mfg. Co.*, 2009 U.S. Dist. LEXIS 101545 at *5 (S.D. Cal. Oct. 28, 2009) (plaintiffs granted "limited expedited discovery to address the [motion to transfer] venue")(Gonzalez, C.J.).

Sincerely,

Greg Weston

THE WESTON FIRM

GREGORY S. WESTON

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San Diego, CA 92109

[858.488.1672](tel:858.488.1672) (Phone) | [480.247.4553](tel:480.247.4553) (Fax)

GREG@WESTONFIRM.COM | WWW.WESTONFIRM.COM

From: ronald marron [mailto:ron.marron@gmail.com]

Sent: Tuesday, March 22, 2011 4:20 PM

To: Bish, Dale

Cc: Bal, Colleen; Eggleton, Keith

Subject: Re: Rule 26(f) conference

Dear Mr. Bish,

The Hohenberg and Rude-Barbato cases have been consolidated, and my office has been appointed Interim Co-Lead Counsel.

Moreover, there is no Motion to Transfer pending.

Therefore, I don't think it is a stretch to consider your position as unreasonable and dilatory.

Please reconsider your position, I will wait until tomorrow 12 noon to hear back from you and then we will file our Rule 26(f) Report.

We can indicate that you did not join in the filing and let the Court consider the matter.

Thank you.

Regards,

Ron

Ronald A. Marron, Esq.

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San Diego, CA 92103

Tel: [619-696-9006](tel:619-696-9006)

Fax: [619-564-6665](tel:619-564-6665)

On Tue, Mar 22, 2011 at 4:04 PM, Bish, Dale <DBish@wsgr.com> wrote:

Ron,

To be clear, you do not have my authorization to file this, or any other, purported joint submission with the Court in light of our objections to the “conference” last week. We believe the transfer and consolidation issues need to be resolved first and will be in touch regarding timing.

Dale

From: ronald marron [mailto:ron.marron@gmail.com]

Sent: Friday, March 18, 2011 4:00 PM

To: Bish, Dale

Cc: Bal, Colleen; Eggleton, Keith

Subject: Re: Rule 26(f) conference

As promised, please find the initial draft of the Joint Rule 26(f) Report.

Please provide any suggested edits by close of business on March 22.

Also, if there is a protective order you would like Plaintiffs to consider, please forward for our consideration.

Thank you for your consideration and cooperation.

Ron

Ronald A. Marron, Esq.

Law Offices of Ronald A. Marron, APLC
3636 Fourth Avenue, Suite 202
San Diego, CA 92103

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Fax: [619-564-6665](tel:619-564-6665)

On Fri, Mar 18, 2011 at 12:05 PM, Bish, Dale <DBish@wsgr.com> wrote:

Ron,

I write regarding our phone conversation this morning. As you know, you had requested a Rule 26(f) conference earlier this week. In my email yesterday (below), I made clear our position that any such conference should await appoint of lead plaintiff in the pending cases but would be happy to have a general discussion about the case at any time.

This morning you called me on my cell phone and asked if I had a minute to discuss the case. I explained I was out of the office and traveling but could have a brief discussion. You stated you'd like to take limited discovery regarding venue. I explained the facts regarding venue are fairly straightforward -- as alleged in your complaint, the company is located in New Jersey -- but you would consider an informal email with the topics that you'd like discovery on. I expressly said that formal discovery requests would be premature. You next asked whether we could postpone our venue discussions until Judge Huff rules on your motion to be appointed lead plaintiff on March 28; I explained again we don't take a position on lead plaintiff issues but that it seems venue and consolidation should be decided first. You also raised the issue of settlement -- i.e., whether we would like to have such discussions before or after a motion to dismiss is resolved. I said we'd be happy to consider any ideas you have for settling the case but that we didn't have a position yet, in part because of the number of parties involved.

At the conclusion of our call you stated that our conversation satisfied the Rule 26(f) conference requirements. You had not previously mentioned Rule 26(f) in our call. I disagreed, explained again that any such conference should occur after appointment of a lead plaintiff and, had you taken that position at the outset of our call, I would have not continued with the call for the reasons set forth above among others.

Since I am out of the office, please call Colleen if you need to discuss the case today.

Dale

From: Bish, Dale
Sent: Thursday, March 17, 2011 4:23 PM
To: ronald marron
Cc: Bal, Colleen
Subject: RE: Rule 26(f) conference

Ron,

We're happy to discuss the case anytime. I believe you were going to reach out to the other plaintiffs who have filed in New Jersey and get back to us on whether you would voluntarily move your cases to New Jersey. As for a Rule 26(f) conference, it strikes us that we should first resolve issues of venue, consolidation and lead plaintiff – in part so that we could have such discussions with whomever the court appoints.

I'll be out of the office tomorrow, but feel free to contact Colleen if you'd like to discuss the case.

Dale

From: ronald marron [mailto:ron.marron@gmail.com]

Sent: Wednesday, March 16, 2011 10:09 AM

To: Bish, Dale

Subject: Rule 26(f) conference

Dale,

Are you available today to discuss the case, we need to have a Rule 26(f) conference soon.

Thanks.

Ron

Ronald A. Marron, Esq.

Law Offices of Ronald A. Marron, APLC
3636 Fourth Avenue, Suite 202
San Diego, CA 92103

Tel: [619-696-9006](tel:619-696-9006)

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Exhibit D

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SAN DIEGO OFFICE

TEL: 858-488-1672
FAX: 480-247-4553

SANTA CLARA OFFICE

TEL: 408-459-0305

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March 23, 2011

VIA E-MAIL

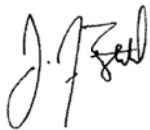
Dale Bish
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304
dbish@wsgr.com

**Re: IN RE: NUTELLA DECEPTIVE SALES PRACTICES & MARKETING LITIGATION, No. 11-CV-205-H-CAB
Plaintiffs' First Requests for Production and First Interrogatories**

Dear Dale:

Enclosed please find Plaintiffs' First Requests for Production and First Set of Interrogatories in the above-referenced matter. As we previously discussed, these requests are limited solely to venue issues.

Very truly yours,



Jack Fitzgerald

Enclosures

CC: Colleen Bal (by email)
Keith Eggleton (by email)
Gregory Weston (by email)
Ron Marron (by email)

LAW OFFICES OF RONALD A. MARRON, APLC

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greg@westonfirm.com
jack@westonfirm.com

INTERIM CLASS COUNSEL

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: NUTELLA DECEPTIVE SALES
PRACTICES & MARKETING LITIGATION

CASE NO. 3:11-CV-00205-H-CAB
JUDGE: Hon. Marilyn L. Huff

ATHENA HOHENBERG & LAURA RUDE-
BARBATO, individually and on behalf of all
others similarly situated,

**PLAINTIFFS' FIRST
INTERROGATORIES TO DEFENDANT
FERRERO, U.S.A., INC.**

Plaintiffs,

v.

FERRERO U.S.A, INC., a foreign corporation,

Defendant.

PROPOUNDING PARTY: PLAINTIFFS HOHENBERG & RUDE-BARBATO

RESPONDING PARTY: DEFENDANT FERRERO U.S.A, INC.

SET NUMBER: ONE (1)

1 Pursuant to Federal Rules of Civil Procedure 26 and 33, Plaintiffs ATHENA HOHENBERG
2 and LAURA RUDE-BARBATO (“Plaintiffs”) hereby serve these Interrogatories on Defendant
3 FERRERO U.S.A, INC. (“Ferrero” or “Defendant”). Defendant is required to respond to these
4 Interrogatories (Set 1) (the “Interrogatory” or “Interrogatories”) according to the Federal Rules of
5 Civil Procedure. Defendant shall serve such responses upon Plaintiffs, by and through their attorneys
6 of record herein, as required by Fed. R. Civ. P. 26 and 33.

7 **I. DEFINITIONS AND INSTRUCTIONS**

8 1. “YOU” and “YOUR” mean the defendant responding to these Interrogatories, and,
9 where applicable, any predecessors and/or successors in interest, present and former parents,
10 subsidiaries, divisions and affiliates, and present and former directors, employers, employees,
11 attorneys, agents, other representatives and all other Persons acting under their control or on their
12 behalf.

13 2. “PERSON” means natural Persons, proprietorships, public or private corporations,
14 partnerships, trusts, joint ventures, groups, associations, organizations or other legal entities, including
15 representatives of any such Person or Persons.

16 3. “CLASS PERIOD” refers to January 1, 2007 to the present.

17 4. “NUTELLA” means a manufactured packaged food item made by YOU identified in
18 the Complaint, and shall further include any products subsequently added to the Complaint by
19 amendment.

20 5. The singular form of a word should be interpreted as plural wherever necessary to
21 bring within the scope of the request any information that might otherwise be construed outside its
22 scope.

23 6. The words “and” and “or” shall be construed either disjunctively or conjunctively
24 wherever necessary to bring within the scope of this request any information that might otherwise be
25 construed outside its scope.

1 **II. INTERROGATORIES**

2 **INTERROGATORY NO. 1:**

3 Provide on a quarterly basis the net sales of NUTELLA in each of the 50 States of the United
4 States of America during the CLASS PERIOD.

5 **INTERROGATORY NO. 2:**

6 Provide on an annual basis the amount of money YOU spent on the advertising and promotion
7 of NUTELLA in each of the 50 States of the United States of America, for each year in the CLASS
8 PERIOD or fraction thereof.

9 **INTERROGATORY NO. 3:**

10 For each of YOUR physical locations in North America, identify the number of natural
11 PERSONS employed by YOU at that location, including but not limited to: (a) YOUR Rockford,
12 Illinois branch, (b) YOUR New York, NY branch, (c) YOUR Newark, NJ branch, (d) YOUR
13 Somerset, NJ branch, (e) YOUR North York, Canada branch, (f) YOUR Toronto, Ontario, Canada
14 branch, and (g) YOUR Brantford, Ontario, Canada branch.

15 **INTERROGATORY NO. 4:**

16 Identify all advertising agencies YOU used during the CLASS PERIOD for services relating to
17 NUTELLA, including by providing each agency's the name, address, phone number, and YOUR most
18 recent primary contact person there.

19 **INTERROGATORY NO. 5:**

20 Identify to the best of your knowledge and ability, the number of consumers who purchased
21 YOUR PRODUCTS in each of the 50 States of the United States of America during the CLASS
22 PERIOD, and state the basis for your response.

23 **INTERROGATORY NO. 6:**

24 Identify, by name and address, all stores and/or distributors carrying NUTELLA in each of the
25 50 States of the United States of America during the CLASS PERIOD.

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DATED: March 23, 2011

By: /s/ Ronald Marron
Ronald A. Marron
LAW OFFICES OF RONALD A. MARRON, APLC

Gregory S. Weston
Jack Fitzgerald
THE WESTON FIRM

INTERIM CLASS COUNSEL

LAW OFFICES OF RONALD A. MARRON, APLC

RONALD A. MARRON (175650)
3636 4th Avenue, Suite 202
San Diego, California 92103
Telephone: (619) 696-9006
Facsimile: (619) 564-6665
ron.marron@gmail.com

THE WESTON FIRM

GREGORY S. WESTON (239944)
JACK FITZGERALD (257370)
888 Turquoise Street
San Diego, CA 92109
Telephone: (858) 488-1672
Facsimile: (480) 247-4553
greg@westonfirm.com
jack@westonfirm.com

INTERIM CLASS COUNSEL

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: NUTELLA DECEPTIVE SALES
PRACTICES & MARKETING LITIGATION

CASE NO. 3:11-CV-00205-H-CAB

JUDGE: Hon. Marilyn L. Huff

ATHENA HOHENBERG & LAURA RUDE-
BARBATO, individually and on behalf of all
others similarly situated,

**PLAINTIFFS' FIRST
INTERROGATORIES TO DEFENDANT
FERRERO, U.S.A., INC.**

Plaintiffs,

v.

FERRERO U.S.A, INC., a foreign corporation,

Defendant.

PROPOUNDING PARTY: PLAINTIFFS HOHENBERG & RUDE-BARBATO

RESPONDING PARTY: DEFENDANT FERRERO U.S.A, INC.

SET NUMBER: ONE (1)

1 Pursuant to Rules 26 and 34 the Federal Rules of Civil Procedure, Plaintiffs ATHENA
2 HOHENBERG and LAURA RUDE-BARBATO (“Plaintiffs”), hereby request Defendant FERRERO
3 U.S.A, INC. (“Defendant” or “Ferrero”) produce for inspection and copying all DOCUMENTS, as
4 defined herein, that are specified in this Request for Production of Documents (Set 1) (the “Request”
5 or “Requests”). Defendant is required to respond in accordance with the Federal Rules of Civil
6 Procedure, and production shall be made to the Law Offices of Ronald A. Marron, A.P.L.C, 3636
7 Fourth Ave., Ste. 202, San Diego, CA 92103. Defendant shall also serve upon Plaintiffs, by and
8 through their attorneys of record herein, the written response as required by Fed. R. Civ. P. 26 and 34.

9 **I. DEFINITIONS AND INSTRUCTIONS**

10 1. “YOU” and “YOUR” mean the defendant responding to these Requests, and, where
11 applicable, any predecessors and/or successors in interest, present and former parents, subsidiaries,
12 divisions and affiliates, and present and former directors, employers, employees, attorneys, agents,
13 other representatives and all other PERSONS acting under their control or on their behalf.

14 2. “PERSON” means natural PERSONS, proprietorships, public or private corporations,
15 partnerships, trusts, joint ventures, groups, associations, organizations or other legal entities, including
16 representatives of any such PERSON or PERSONS.

17 3. “DOCUMENT” is defined to be synonymous and equal in scope to usage of this term
18 in Rule 34(a) of the Federal Rules of Civil Procedure. A copy or duplicate of a DOCUMENT which
19 has any non-conforming notes, marginal annotations or other markings, and any preliminary version,
20 draft or revision of the foregoing is a separate DOCUMENT within the meaning of this term.
21 DOCUMENTS include, by way of example only, any memorandum, letter, envelope, correspondence,
22 electronic mail, report, note, Post-It, message, telephone message, telephone log, diary, journal,
23 appointment calendar, calendar, group scheduler calendar, drawing, painting, accounting paper,
24 minutes, working paper, financial report, accounting report, work papers, drafts, facsimile, report,
25 contract, invoice, record of purchase or sale, Teletype message, chart, graph, index, directory,
26 computer directory, computer disk, computer tape, or any other written, printed, typed, punched,
27 taped, filmed, or graphic matter however produced or reproduced. DOCUMENTS also include the
28 file, folder tabs, and labels appended to or containing any DOCUMENTS.

1 4. “COMMUNICATION” means the transmission, sending and/or receipt of information
2 of any kind by and/or through any means including, but not limited to speech, writings, language
3 (computer, foreign or otherwise), computer electronics of any kind (including, but not limited to
4 "email"), magnetic tape, videotape, photographs, graphs, symbols, signs, magnetic and/or optical
5 disks, "floppy disks," compact discs, CD ROM discs, sound, radio and/or video signals,
6 telecommunication, telephone, teletype, facsimile, telegram, microfilm, microfiche, photographic film
7 of all types and/or other media of any kind. The term "COMMUNICATION" also includes, without
8 limitation, all "DOCUMENTS" (as defined herein) and all inquiries, discussions, conversations,
9 negotiations, agreements, understandings, Meetings, notices, requests, responses, demands,
10 complaints, and/or press, publicity or trade releases.

11 5. “RELATING TO” means in whole or in part constituting, containing, CONCERNING,
12 discussing, referring, describing, analyzing, identifying, evidencing, or stating.

13 6. “CONCERNING” means and includes relating to, referring to, describing, discussing,
14 analyzing, identifying, evidencing, containing, stating, or constituting.

15 7. “CLASS PERIOD” refers to January 1, 2007 to the present.

16 8. “NUTELLA” means a manufactured packaged food item made by YOU identified in
17 the currently-operative Complaint as “Nutella®”.

18 9. The singular form of a word should be interpreted as plural wherever necessary to
19 bring within the scope of the request any information that might otherwise be construed outside its
20 scope.

21 10. The words “and” and “or” shall be construed either disjunctively or conjunctively
22 wherever necessary to bring within the scope of this request any information that might otherwise be
23 construed to be outside its scope.

24 11. In responding to this Request, YOU are required to furnish all DOCUMENTS that are
25 available to YOU, including DOCUMENTS in the possession, custody or control of YOUR attorneys,
26 officers, agents, employees, accountants, consultants, representatives, or any PERSONS directly or
27 indirectly employed by or connected with YOU or YOUR attorneys or anyone else subject to YOUR
28 control. All DOCUMENTS that are responsive, in whole or in part, to any portion of this Request

1 shall be produced in their entirety, including all attachments.

2 12. All DOCUMENTS should be produced as they are kept in the ordinary course of
3 business or should be organized and labeled to correspond to the specific requests to which they are
4 responsive. All DOCUMENTS should be produced in any file folder or carton in which they have
5 been maintained, and should be stored, clipped, stapled, or otherwise arranged in the same form and
6 manner in which they were found.

7 13. If and to the extent YOU object to any request, state with specificity all grounds for
8 any such objection.

9 14. Unless otherwise indicated, each matter or request listed below shall cover the period
10 from January 1, 2007 to the present.

11 15. If YOU assert any claim of privilege to object to any request, and YOU withhold
12 DOCUMENTS based on that asserted privilege, in a privilege log, state the title and nature of the
13 DOCUMENT(S), and furnish a list signed by the attorney of record giving the following information
14 with respect to each withheld Document: (a) the name and title of the author and/or sender and the
15 name and title of the recipient; (b) the date of the Document's origination; (c) the name of each
16 PERSON or PERSONS participating in the preparation of the Document; (d) the name and position, if
17 any, of each PERSON to whom the contents of the Document have been communicated by copy,
18 exhibition, reading, or substantial summarization; (e) a statement of the specific basis on which
19 privilege is claimed and whether or not the subject matter or the contents of that Document is limited
20 to legal advice or information provided for the purpose of securing legal advice; and (f) the identity
21 and position, if any, of the other PERSON or PERSONS supplying the attorney signing the list with
22 the information requested in subparagraphs above.

23 16. In the event that any Document called for by these requests has been destroyed or
24 discarded, identify that Document by stating the title (if known) and nature of the Document and
25 furnish a list signed by the attorney of record giving the following information with respect to each
26 Document: (a) any addressor or addressee; (b) any indicated or blind copies; (c) the Document's date,
27 subject matter, number of pages, and attachments or appendices; (d) all PERSONS to whom the
28 Document was distributed, shown, or explained; (e) its date of destruction or discard and the manner

1 of destruction or discard; and (f) the PERSONS authorizing or carrying out such destruction or
2 discard.

3 17. The following requests are continuing in nature and in the event YOU become aware of
4 or acquire additional information relating or referring thereto, such additional information is to be
5 promptly produced.

6 **II. REQUESTS FOR PRODUCTION OF DOCUMENTS**

7 REQUEST NO. 1

8 YOUR articles of incorporation during the CLASS PERIOD.

9 REQUEST NO. 2

10 All DOCUMENTS filed on YOUR behalf with the California Secretary of State during the
11 CLASS PERIOD.

12 REQUEST NO. 3

13 Organization charts sufficient to show YOUR corporate structure, and any changes thereto,
14 during the CLASS PERIOD.

15 REQUEST NO. 4

16 DOCUMENTS sufficient to show the amount of units and percentage of U.S. sales of
17 NUTELLA sold in California during each year of the CLASS PERIOD.

18 REQUEST NO. 5

19 All DOCUMENTS concerning the sales, including volume, of NUTELLA in California.

20 REQUEST NO. 6

21 DOCUMENTS sufficient to show YOUR revenue and profit from sales of NUTELLA in the
22 United States during the CLASS PERIOD.

23 REQUEST NO. 7

24 DOCUMENTS sufficient to show YOUR revenue and profit from sales of NUTELLA in
25 California during the CLASS PERIOD.

26 REQUEST NO. 8

27 DOCUMENTS sufficient to show the amount and percentage of funds spent on television
28 advertisements of NUTELLA in California media markets relative to the amount and percentage of

1 funds spent on television advertisements that did not reach California media markets, for each year
2 during the CLASS PERIOD.

3 REQUEST NO. 9

4 For any advertisement of NUTELLA that ran on television during the CLASS PERIOD,
5 DOCUMENTS sufficient to show or identify (a) the location where the advertisement was produced
6 and filmed, (b) the company or companies that produced and filmed the advertisement, and (c) any
7 vendors involved in the creation of the advertisement.

8 REQUEST NO. 10

9 All DOCUMENTS that evidence, discuss, or reflect when and where print, radio or television
10 advertisements relating to NUTELLA were disseminated in the United States during the CLASS
11 PERIOD including, without limitation, media plans.

12 REQUEST NO. 11

13 All DOCUMENTS and COMMUNICATIONS discussing both NUTELLA and California.

14 REQUEST NO. 12

15 DOCUMENTS sufficient to show the year and date YOU began producing, distributing or
16 selling NUTELLA in the United States.

17 REQUEST NO. 13

18 All DOCUMENTS on which YOU intend to rely to argue, in any form or venue (including but
19 not limited to on a Motion to Transfer Venue, or Motion for MDL Consolidation) that venue is proper
20 in any district other than the Southern District of California.

21
22 DATED: March 23, 2011

By: /s/ Ronald Marron

Ronald A. Marron
LAW OFFICES OF RONALD A. MARRON, APLC

Gregory S. Weston
Jack Fitzgerald
THE WESTON FIRM

INTERIM CLASS COUNSEL

T H E W E S T O N F I R M

888 Turquoise Street | San Diego, CA 92109
2811 Sykes Court | Santa Clara, CA 95051

SAN DIEGO OFFICE

TEL: 858-488-1672
FAX: 480-247-4553

SANTA CLARA OFFICE

TEL: 408-459-0305

www.westonfirm.com

March 23, 2011

VIA E-MAIL

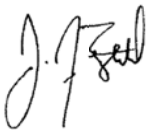
Dale Bish
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304
dbish@wsgr.com

**Re: IN RE: NUTELLA DECEPTIVE SALES PRACTICES & MARKETING LITIGATION, No. 11-CV-205-H-CAB
Plaintiffs' Rule 30(b)(6) Deposition Notice to Defendant**

Dear Dale:

Further to my letter earlier today and our previous discussions, enclosed please find Plaintiffs' Rule 30(b)(6) Deposition Notice to Defendant related solely to venue issues.

Very truly yours,



Jack Fitzgerald

Enclosures

CC: Colleen Bal (by email)
Keith Eggleton (by email)
Gregory Weston (by email)
Ron Marron (by email)

LAW OFFICES OF RONALD A. MARRON, APLC

RONALD A. MARRON (175650)
3636 4th Avenue, Suite 202
San Diego, California 92103
Telephone: (619) 696-9006
Facsimile: (619) 564-6665
ron.marron@gmail.com

THE WESTON FIRM

GREGORY S. WESTON (239944)
JACK FITZGERALD (257370)
888 Turquoise Street
San Diego, CA 92109
Telephone: (858) 488-1672
Facsimile: (480) 247-4553
greg@westonfirm.com
jack@westonfirm.com

INTERIM CLASS COUNSEL

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: NUTELLA DECEPTIVE SALES
PRACTICES & MARKETING LITIGATION

CASE NO. 3:11-CV-00205-H-CAB
JUDGE: Hon. Marilyn L. Huff

ATHENA HOHENBERG & LAURA RUDE-
BARBATO, individually and on behalf of all
others similarly situated,

**PLAINTIFF'S NOTICE OF TAKING
RULE 30(b)(6) DEPOSITION OF
DEFENDANT**

Plaintiffs,

Date: April 5, 2011

v.

Time: 10:00 a.m.

FERRERO U.S.A, INC., a foreign corporation,

Place: 600 Cottontail Ln., Somerset NJ 08873

Defendant.

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1 **TO ALL PARTIES TO THIS ACTION AND THEIR ATTORNEYS' OF RECORD:**

2 PLEASE TAKE NOTICE THAT, pursuant to Federal Rule of Civil Procedure 30(b)(6), on
3 **APRIL 5, 2011 at 10:00 a.m.**, Plaintiffs will take before a notary public or officer duly authorized to
4 administer oaths in the State of New Jersey, one or more depositions of defendant FERRERO U.S.A,
5 INC. ("Defendant") at its headquarters at **600 Cottontail Lane, Somerset, New Jersey 08873** of the
6 person or persons most knowledge about the topics identified herein below (the "Deposition Topics").

7 PLEASE TAKE FURTHER NOTICE THAT these depositions shall be recorded
8 stenographically or by audio, audiovisual or stenographic means. These depositions may be used at
9 the trial. Defendants shall identify the persons who will speak on its behalf as to each Deposition
10 Topic at least seven days before the deposition(s). The taking of these deposition(s) may be adjourned
11 day to day until completed, and may occur over several days if more than one person is necessary to
12 provide the information requested.

13 **DEPOSITION TOPICS**

- 14 1. Ferrero's corporate structure, including without limitation its relationship to any
15 parents, subsidiaries or affiliates, foreign or domestic.
- 16 2. Ferrero's United States operations.
- 17 3. The formulation, production and manufacture of Nutella sold in the United States.
- 18 4. The production of television, radio and print advertisements for Nutella in the United
19 States.
- 20 5. Sales numbers and figures in each State of the United States, including California,
21 relating to Nutella® throughout the Class Period.
- 22 6. The geographic scope of sales in each State of the United States, including California,
23 of Nutella® throughout the Class Period.
- 24 7. Defendant's promotional and advertising efforts or campaigns in each State of the
25 United States, including California.
- 26 8. Defendant's profit and revenue from sales of Nutella in each State of the United States,
27 including California, throughout the Class Period.
- 28 9. Defendant's compliance with the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§

1 301 *et seq.*, its implementing regulations, the California Sherman Food, Drug and Cosmetic Act, Cal.
2 Bus. & Prof. Code §§ 109875 *et seq.*, and any other federal or state law, statute, regulation, rule or
3 requirement affecting the manufacture, distribution, marketing, advertising and sale of Nutella in
4 California throughout the Class Period.

5 10. Defendant's document retention policies.

6 11. Defendant's internal systems relating to Nutella (for example, systems used by
7 Defendant's employees involved in the creation, marketing, manufacture, distribution, sale and
8 tracking of Nutella relating to electronic communications, bookkeeping, record-keeping, finance, sales
9 and distribution, etc.).

10
11 Dated this 23rd day of March, 2011

12 By: /s/ RONALD A. MARRON

13 Ronald A. Marron
14 LAW OFFICES OF RONALD A. MARRON, APLC

15 Gregory S. Weston
16 Jack Fitzgerald
17 THE WESTON FIRM

18 **INTERIM CLASS COUNSEL**

Exhibit E

Jack Fitzgerald

From: Bal, Colleen <cbal@wsgr.com>
Sent: Tuesday, March 29, 2011 5:44 PM
To: Jack Fitzgerald
Cc: Bish, Dale; Eggleton, Keith; 'ronald marron'; greg@westonfirm.com
Subject: RE: In re Nutella - Ferrero's Request for Additional Extension

Thanks for your quick reply. We feel we need to file the ex parte, which we will be doing shortly. But we will advise the Court of this offer, as well.

From: Jack Fitzgerald [mailto:jack@westonfirm.com]
Sent: Tuesday, March 29, 2011 4:08 PM
To: Bal, Colleen
Cc: Bish, Dale; Eggleton, Keith; 'ronald marron'; greg@westonfirm.com
Subject: RE: In re Nutella - Ferrero's Request for Additional Extension

No, we don't agree to stay discovery, though we would be willing to refrain from serving further substantive discovery on Ferrero (despite that it is already prepared) until the Motion to Dismiss is resolved, as a concession if Ferrero would agree to the 3-week extension on its response, rather than move ex parte for a longer extension.

Thanks,
Jack

Jack Fitzgerald
The Weston Firm
2811 Sykes Court
Santa Clara, California 95051
Phone: (408) 459-0305
Cell: (650) 440-3170

From: Bal, Colleen [mailto:cbal@wsgr.com]
Sent: Tuesday, March 29, 2011 3:55 PM
To: Bal, Colleen; Jack Fitzgerald
Cc: Bish, Dale; Eggleton, Keith; ronald marron; greg@westonfirm.com
Subject: RE: In re Nutella - Ferrero's Request for Additional Extension

Jack, one more thing. You had indicated yesterday that you would consider our request to stay additional, non-venue related discovery until after a ruling on the motion to transfer, and that you would provide your answer on that today. You didn't mention anything about discovery in your email response below. Should I take from your silence on the point that you will not agree to the discovery stay? We are going to file the ex parte papers imminently, so if I am incorrect and you are agreeable to the requested discovery stay, please let me know immediately. Thank you.

From: Bal, Colleen
Sent: Tuesday, March 29, 2011 3:50 PM
To: 'Jack Fitzgerald'
Cc: Bish, Dale; Eggleton, Keith; ronald marron; greg@westonfirm.com
Subject: RE: In re Nutella - Ferrero's Request for Additional Extension

Jack,

Thank you for the offer for a 3-week extension to respond to the consolidated complaint. We understand your desire to move this case quickly, but as we discussed with you yesterday, we do not believe it makes sense for Ferrero to respond to multiple complaints in multiple jurisdictions before venue issues are resolved. Therefore, as planned, we will file the ex parte request today given the looming April 6 deadline, but we will include in it a discussion of your offer for the 3-week extension.

I think the Rule 30(b)(6) deposition will likely go forward on 4/14, but still have to confirm that date works with one additional person. Will get back to you as soon as possible on that.

Regards,
Colleen

From: Jack Fitzgerald [mailto:jack@westonfirm.com]
Sent: Tuesday, March 29, 2011 1:56 PM
To: Bal, Colleen
Cc: Bish, Dale; Eggleton, Keith; ronald marron; greg@westonfirm.com
Subject: In re Nutella - Ferrero's Request for Additional Extension

Dear Colleen,

We've considered your client's request for an extension to respond to the Master Consolidated Complaint. We understand your client's position is that it should not have to respond to Plaintiffs' suit until both the pending Motion to Transfer and your contemplated MDL motion are resolved. As we stated, our clients believe the legal issues raised by Ferrero's (presumably) Motion to Dismiss are legal ones not requiring discovery, so it does not make sense to postpone their resolution, particularly in light of the fact that plaintiffs have already granted Ferrero similar extensions. Moreover, we worry that the indefinite nature of the extension your client requests could delay this case for at least several months, contrary to the interests of the class.

Nevertheless, in the spirit of compromise, we are willing to stipulate to a 3-week extension, so that Ferrero's answer would be due on April 27, rather than April 6, as it is currently due.

Very truly yours,
Jack

Jack Fitzgerald
The Weston Firm
2811 Sykes Court
Santa Clara, California 95051
Phone: (408) 459-0305
Cell: (650) 440-3170

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

_____ Information from ESET NOD32 Antivirus, version of virus signature database 5998 (20110329)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 5998 (20110329)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Exhibit F

Jack Fitzgerald

From: Jack Fitzgerald <jack@westonfirm.com>
Sent: Wednesday, March 30, 2011 6:56 PM
To: 'Bal, Colleen'
Cc: 'Bish, Dale'; 'Eggleton, Keith'; 'ronald marron'; 'greg@westonfirm.com'
Subject: RE: In Re Nutella - 30(b)(6) Deposition Logistics

Colleen,

Thanks for that clarification. When I spoke to the court yesterday, the clerk advised me only of the 16th, 23rd and 30th, so I guess we got conflicting information. In any event, we appreciate your compromise in agreeing to the 16th date, and will anticipate filing a joint motion for continuance to that effect unless the court resolves your pending *ex parte* motion differently.

To address your statement below, you are certainly correct that any delay is contrary to the class' interests, as well as the interests of American consumers generally. Your conclusion that the transfer motion must be decided quickly, however, does not flow from that premise. It is Plaintiffs' position, as will be noted in our Opposition, that Ferrero's response should be filed, and the pleadings decided (which does not require discovery), before the its transfer motion is addressed (which does require substantial discovery).

Very truly yours,
Jack

Jack Fitzgerald
The Weston Firm
2811 Sykes Court
Santa Clara, California 95051
Phone: (408) 459-0305
Cell: (650) 440-3170

From: Bal, Colleen [mailto:cbal@wsgr.com]
Sent: Wednesday, March 30, 2011 6:42 PM
To: Jack Fitzgerald
Cc: Bish, Dale; Eggleton, Keith; 'ronald marron'; greg@westonfirm.com
Subject: RE: In Re Nutella - 30(b)(6) Deposition Logistics

Jack,

I believe you are mistaken. The court advised us today that May 9 is available.

As you know, we are rushing to provide you with our discovery responses and documents next week, so that you can take the Rule 30(b)(6) deposition on April 14. And, as we have advised you, the document production should fit into a small Fed Ex mailing box. So, it is hard to imagine that you will need more than a few days after the deposition to incorporate the deposition testimony into your opposition brief.

We believe that it is important for the motion to transfer to get before the Court as soon as possible. And, by your statement yesterday that delay of this case is contrary to the interests of the class, I would not have expected you to seek such a lengthy extension. In any event, we will agree to an extension to May 16 if the Court is amenable to that.

Regards,
Colleen

From: Jack Fitzgerald [mailto:jack@westonfirm.com]
Sent: Wednesday, March 30, 2011 5:02 PM
To: Bal, Colleen
Cc: Bish, Dale; Eggleton, Keith; 'ronald marron'; greg@westonfirm.com
Subject: RE: In Re Nutella - 30(b)(6) Deposition Logistics

Colleen,

May 9 was not an available date, and we would really feel more comfortable with the 23rd or 30th date to give us adequate time to process discovery before opposing the transfer motion. Please advise.

Thanks,
Jack

Jack Fitzgerald
The Weston Firm
2811 Sykes Court
Santa Clara, California 95051
Phone: (408) 459-0305
Cell: (650) 440-3170

From: Bal, Colleen [mailto:cbal@wsgr.com]
Sent: Wednesday, March 30, 2011 1:46 PM
To: Jack Fitzgerald
Cc: Bish, Dale; Eggleton, Keith; 'ronald marron'; greg@westonfirm.com
Subject: RE: In Re Nutella - 30(b)(6) Deposition Logistics

Jack,

Let's go with May 9, since we all have an interest in having the Court hear the transfer motion relatively soon.

I think a May 9 hearing date will move the due date for your opposition brief to April 25, which should give you plenty of time after the April 14 deposition.

Regards,
Colleen

From: Jack Fitzgerald [mailto:jack@westonfirm.com]
Sent: Wednesday, March 30, 2011 12:05 PM
To: Bal, Colleen
Cc: Bish, Dale; Eggleton, Keith; 'ronald marron'; greg@westonfirm.com
Subject: RE: In Re Nutella - 30(b)(6) Deposition Logistics

Hi Colleen,

Please let me know your client's position on the hearing date at your earliest convenience today, as I would like to include that in our opposition to your client's *ex parte* motion.

Thanks,
Jack

Jack Fitzgerald

The Weston Firm
2811 Sykes Court
Santa Clara, California 95051
Phone: (408) 459-0305
Cell: (650) 440-3170

From: Bal, Colleen [mailto:cbal@wsgr.com]
Sent: Tuesday, March 29, 2011 7:26 PM
To: Jack Fitzgerald
Cc: Bish, Dale; Eggleton, Keith; ronald marron; greg@westonfirm.com
Subject: RE: In Re Nutella - 30(b)(6) Deposition Logistics

Jack,

We can have the deposition on 4/14. We would prefer not to have the deposition at Ferrero's office, but Ferrero does have a relationship with counsel close by who can give us a conference room. Information on them is below. I will talk with Ferrero tomorrow about the hearing date on the motion to transfer and let you know Ferrero's position.

Regards,
Colleen

Norris McLaughlin & Marcus, P.A.
721 Route 202-206 , Suite 200
Bridgewater, NJ 08807-5933
t: 908.252.4276 | f: 908.722.0755

From: Jack Fitzgerald [mailto:jack@westonfirm.com]
Sent: Tuesday, March 29, 2011 1:53 PM
To: Bal, Colleen
Cc: Bish, Dale; Eggleton, Keith; ronald marron; greg@westonfirm.com
Subject: In Re Nutella - 30(b)(6) Deposition Logistics

Dear Colleen,

We received your responses and objections to the 30(b)(6) notice - thanks.

Can you please confirm which day is best for Mr. Kreilmann's deposition? I think we were looking at April 14 or 15. Also, we had noticed the deposition for Ferrero's office, but is there somewhere else you would like us to have it, for example if your firm has nearby offices? I also have access to space if we need it. Please let me know and I'll make arrangements for court reporting and send out an updated notice.

Also, in light of the deposition scheduling, I've contacted the court to see when the next available hearing date is on your Motion to Transfer, and was advised May 16, 23 and 30 are all open. We are OK with any of those dates, though would prefer the 23 or 30 since that would give us a little more time to process the deposition. Please let us know which date you prefer.

Thanks,
Jack

Jack Fitzgerald

The Weston Firm
2811 Sykes Court
Santa Clara, California 95051
Phone: (408) 459-0305
Cell: (650) 440-3170

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

_____ Information from ESET NOD32 Antivirus, version of virus signature database 5998 (20110329)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6001 (20110330)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6001 (20110330)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Exhibit G

**Issued by the
UNITED STATES DISTRICT COURT**

Southern

DISTRICT OF

California

Hohenberg et al.

SUBPOENA IN A CIVIL CASE

V.

Ferrero U.S.A., Inc.

Case Number:¹ 3:11-CV-00205-H-CAB

TO: Connie L. Evers
15565 SW Sora Ct.
Beaverton, OR 97007

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION 1001 S.W. Fifth Avenue, Suite 1200 Portland, Oregon 97204	DATE AND TIME 4/11/2011 10:00 am
---	-------------------------------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

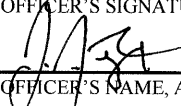
See Attachment A

PLACE 1001 S.W. Fifth Avenue, Suite 1200 Portland, Oregon 97204	DATE AND TIME 4/11/2011 9:00 am
---	------------------------------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
	3/28/2011

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Jack Fitzgerald, the Weston Firm 888 Turquoise Street San Diego, CA, 92109, (858) 488-1672

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

LAW OFFICES OF RONALD A. MARRON, APLC

RONALD A. MARRON (175650)
3636 4th Avenue, Suite 202
San Diego, California 92103
Telephone: (619) 696-9006
Facsimile: (619) 564-6665
ron.marron@gmail.com

THE WESTON FIRM

GREGORY S. WESTON (239944)
JACK FITZGERALD (257370)
888 Turquoise Street
San Diego, CA 92109
Telephone: (858) 488-1672
Facsimile: (480) 247-4553
greg@westonfirm.com
jack@westonfirm.com

INTERIM CLASS COUNSEL

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: NUTELLA DECEPTIVE SALES
PRACTICES & MARKETING LITIGATION

CASE NO. 3:11-CV-00205-H-CAB

JUDGE: Hon. Marilyn L. Huff

ATHENA HOHENBERG & LAURA RUDE-
BARBATO, individually and on behalf of all
others similarly situated,

**ATTACHMENT A TO PLAINTIFFS'
SUBPOENA TO CONNIE L. EVERS**

Plaintiffs,

v.

FERRERO U.S.A, INC., a foreign corporation,

Defendant.

PROPOUNDING PARTY: PLAINTIFFS HOHENBERG & RUDE-BARBATO

RESPONDING PARTY: THIRD PARTY CONNIE EVERS

1 Pursuant to Rule 30(b)(2) of the Federal Rules of Civil Procedure, Plaintiffs ATHENA
2 HOHENBERG and LAURA RUDE-BARBATO (“Plaintiffs”), hereby request, further to the related
3 subpoena, that third-party CONNIE EVERS produce for inspection and copying all DOCUMENTS,
4 as defined herein, that are specified in this Request for Production of Documents (Set 1) (the
5 “Request” or “Requests”). You are required to respond in accordance with the Federal Rules of Civil
6 Procedure, and production shall be made consistent with the subpoena served upon you, namely at the
7 location of the deposition, at least one hour prior to commencement of the deposition or, if producing
8 such documents beforehand, production may be made to the Law Office of Ronald A. Marron, at the
9 address noted above.

10 **I. DEFINITIONS AND INSTRUCTIONS**

11 1. “YOU” and “YOUR” means the party responding to these Requests, and, where
12 applicable, any predecessors and/or successors in interest, present and former parents, subsidiaries,
13 divisions and affiliates, and present and former directors, employers, employees, attorneys, agents,
14 other representatives and all other PERSONS acting under their control or on their behalf. “YOU” and
15 “YOUR” shall also refer to any alter egos, and shall specifically be defined to include 24 Carrot Press
16 and any other business entity through which YOU engage in, contract for or perform services relating
17 to nutrition or writing.

18 2. “PERSON” means natural PERSONS, proprietorships, public or private corporations,
19 partnerships, trusts, joint ventures, groups, associations, organizations or other legal entities, including
20 representatives of any such PERSON or PERSONS.

21 3. “DOCUMENT” is defined to be synonymous and equal in scope to usage of this term
22 in Rule 34(a) of the Federal Rules of Civil Procedure. A copy or duplicate of a DOCUMENT which
23 has any non-conforming notes, marginal annotations or other markings, and any preliminary version,
24 draft or revision of the foregoing is a separate DOCUMENT within the meaning of this term.
25 DOCUMENTS include, by way of example only, any memorandum, letter, envelope, correspondence,
26 electronic mail, report, note, Post-It, message, telephone message, telephone log, diary, journal,
27 appointment calendar, calendar, group scheduler calendar, drawing, painting, accounting paper,
28 minutes, working paper, financial report, accounting report, work papers, drafts, facsimile, report,

1 contract, invoice, record of purchase or sale, Teletype message, chart, graph, index, directory,
2 computer directory, computer disk, computer tape, or any other written, printed, typed, punched,
3 taped, filmed, or graphic matter however produced or reproduced. DOCUMENTS also include the
4 file, folder tabs, and labels appended to or containing any DOCUMENTS.

5 4. "COMMUNICATION" means the transmission, sending and/or receipt of information
6 of any kind by and/or through any means including, but not limited to speech, writings, language
7 (computer, foreign or otherwise), computer electronics of any kind (including, but not limited to
8 "email"), magnetic tape, videotape, photographs, graphs, symbols, signs, magnetic and/or optical
9 disks, "floppy disks," compact discs, CD ROM discs, sound, radio and/or video signals,
10 telecommunication, telephone, teletype, facsimile, telegram, microfilm, microfiche, photographic film
11 of all types and/or other media of any kind. The term "COMMUNICATION" also includes, without
12 limitation, all "DOCUMENTS" (as defined herein) and all inquiries, discussions, conversations,
13 negotiations, agreements, understandings, Meetings, notices, requests, responses, demands,
14 complaints, and/or press, publicity or trade releases.

15 5. "RELATING TO" means in whole or in part constituting, containing, CONCERNING,
16 discussing, referring, describing, analyzing, identifying, evidencing, or stating.

17 6. "CONCERNING" means and includes relating to, referring to, describing, discussing,
18 analyzing, identifying, evidencing, containing, stating, or constituting.

19 7. "CLASS PERIOD" refers to January 1, 2007 to the present.

20 8. "NUTELLA" means a manufactured packaged food item made by YOU identified in
21 the currently-operative Complaint, attached for your convenience, as "Nutella®".

22 9. "COMPLAINT" means the currently-operative Master Consolidated Complaint in the
23 above-captioned matter, attached hereto for YOUR convenience.

24 10. "Ferrero" means Ferrero U.S.A., Inc., the Defendant in this lawsuit, and any
25 predecessors and/or successors in interest, present and former parents, subsidiaries, divisions and
26 affiliates, and present and former directors, employers, employees, attorneys, agents, other
27 representatives and all other PERSONS acting under its control or on its behalf

28 11. The singular form of a word should be interpreted as plural wherever necessary to

1 bring within the scope of the request any information that might otherwise be construed outside its
2 scope.

3 12. The words “and” and “or” shall be construed either disjunctively or conjunctively
4 wherever necessary to bring within the scope of this request any information that might otherwise be
5 construed to be outside its scope.

6 13. In responding to this Request, YOU are required to furnish all DOCUMENTS that are
7 available to YOU, including DOCUMENTS in the possession, custody or control of YOUR attorneys,
8 officers, agents, employees, accountants, consultants, representatives, or any PERSONS directly or
9 indirectly employed by or connected with YOU or YOUR attorneys or anyone else subject to YOUR
10 control. All DOCUMENTS that are responsive, in whole or in part, to any portion of this Request
11 shall be produced in their entirety, including all attachments.

12 14. All DOCUMENTS should be produced as they are kept in the ordinary course of
13 business or should be organized and labeled to correspond to the specific requests to which they are
14 responsive. All DOCUMENTS should be produced in any file folder or carton in which they have
15 been maintained, and should be stored, clipped, stapled, or otherwise arranged in the same form and
16 manner in which they were found.

17 15. If and to the extent YOU object to any request, state with specificity all grounds for
18 any such objection.

19 16. Unless otherwise indicated, each matter or request listed below shall cover the period
20 from January 1, 2007 to the present.

21 17. If YOU assert any claim of privilege to object to any request, and YOU withhold
22 DOCUMENTS based on that asserted privilege, in a privilege log, state the title and nature of the
23 DOCUMENT(S), and furnish a list signed by the attorney of record giving the following information
24 with respect to each withheld DOCUMENT: (a) the name and title of the author and/or sender and the
25 name and title of the recipient; (b) the date of the DOCUMENT’S origination; (c) the name of each
26 PERSON or PERSONS participating in the preparation of the DOCUMENT; (d) the name and
27 position, if any, of each PERSON to whom the contents of the DOCUMENT have been
28 communicated by copy, exhibition, reading, or substantial summarization; (e) a statement of the

1 specific basis on which privilege is claimed and whether or not the subject matter or the contents of
2 that DOCUMENT is limited to legal advice or information provided for the purpose of securing legal
3 advice; and (f) the identity and position, if any, of the other PERSON or PERSONS supplying the
4 attorney signing the list with the information requested in subparagraphs above.

5 18. In the event that any DOCUMENT called for by these requests has been destroyed or
6 discarded, identify that DOCUMENT by stating the title (if known) and nature of the DOCUMENT
7 and furnish a list signed by the attorney of record giving the following information with respect to
8 each Document: (a) any addressor or addressee; (b) any indicated or blind copies; (c) the Document's
9 date, subject matter, number of pages, and attachments or appendices; (d) all PERSONS to whom the
10 Document was distributed, shown, or explained; (e) its date of destruction or discard and the manner
11 of destruction or discard; and (f) the PERSONS authorizing or carrying out such destruction or
12 discard.

13 19. The following requests are continuing in nature and in the event YOU become aware of
14 or acquire additional information relating or referring thereto, such additional information is to be
15 promptly produced.

16 **II. REQUESTS FOR PRODUCTION OF DOCUMENTS**

17 REQUEST NO. 1

18 YOUR articles of incorporation during the CLASS PERIOD.

19 REQUEST NO. 2

20 All DOCUMENTS filed by YOU or on YOUR behalf with the California Secretary of State
21 and Oregon Secretary of State during the CLASS PERIOD.

22 REQUEST NO. 3

23 All DOCUMENTS constituting or CONCERNING any contract YOU have ever had with
24 Ferrero.

25 REQUEST NO. 4

26 DOCUMENTS sufficient to show the amount and percentage of YOUR income, on an annual
27 basis, attributable for work performed for or on behalf of Ferrero, or for services YOU rendered to
28 Ferrero.

1 REQUEST NO. 5

2 All DOCUMENTS provided to you by Ferrero.

3 REQUEST NO 6

4 All DOCUMENTS you provided to Ferrero.

5 REQUEST NO. 7

6 All COMMUNICATIONS between YOU and Ferrero.

7 REQUEST NO 8

8 All DOCUMENTS RELATING TO advertising or labeling for NUTELLA including without
9 limitation all internet (including native form HTML and images files used on YOUR website(s)),
10 television and radio (including transcriptions for each such advertisement), and print advertisements,
11 sales materials, promotional materials, packaging, product labeling, direct mail, coupons, circulars,
12 fliers, handouts, point of sale literature, package inserts, and informational brochures, which directly
13 or indirectly refer to, depict or discuss the NUTELLA, and DOCUMENTS sufficient to show the
14 period of time during which any such advertisement was used or in effect..

15 REQUEST NO 9

16 All DOCUMENTS RELATING TO the ingredients in NUTELLA.

17 REQUEST NO 10

18 DOCUMENTS sufficient to show YOUR current or former primary point(s) of contact at
19 Ferrero.

20 REQUEST NO 11

21 All DOCUMENTS YOU relied on in forming any opinion attributed to YOU discussed in the
22 COMPLAINT (*see* paragraphs 82, 84-88).

23 REQUEST NO 12

24 To the extent not produced in response to Request No. 10, any DOCUMENTS YOU contend
25 support the opinions attributed to YOU discussed in the COMPLAINT, including without limitation,
26 any nutritional studies, scholarly works, journal articles, or experimental data.

27

28