KEITH E. EGGLETON, State Bar No. 159842
COLLEEN BAL, State Bar No. 167637
DALE R. BISH, State Bar No. 235390
EDMUNDO C. MARQUEZ, State Bar No. 268424
AMIR STEINHART, State Bar No. 275037
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 565-5100

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

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In re FERRERO LITIGATION	CASE NO.: 11 CV 0205 (H CAB)
	DECLARATION OF AMIR STEINHART IN SUPPORT OF FERRERO U.S.A., INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION
	Date: November 7, 2011 Time: 10:30 AM Before: Hon. Marilyn L. Huff

Dockets.Justia.com

I, Amir Steinhart, hereby declare and state as follows:

1. I am an associate of the law firm of Wilson Sonsini Goodrich & Rosati, counsel for defendant, Ferrero U.S.A., Inc. ("Ferrero U.S.A."). I am duly licensed to practice law in the State of California and make this declaration in support of Ferrero U.S.A.'s Opposition to Plaintiffs' Motion for Class Certification. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, could and would competently testify as set forth below.

2. Attached hereto as Exhibit 1 is a true and correct copy of the transcript of the deposition of Athena Hohenberg, conducted on September 29, 2011. We are attaching a complete copy of the transcript, instead of excerpts, at plaintiffs' request. Portions of the transcript have been highlighted for the convenience of the Court.

3. Attached hereto as Exhibit 2 is a true and correct copy of the transcript of the deposition of Laura Rude-Barbato, conducted on September 30, 2011. We are attaching a complete copy of the transcript, instead of excerpts, at plaintiffs' request. Portions of the transcript have been highlighted for the convenience of the Court.

4. On September 9, 2011, Plaintiffs from this action (the "California Plaintiffs") moved to intervene in the parallel action, *In Re Nutella Marketing and Sales Practice Litigation*, which is pending before the U.S. District Court for the District of New Jersey, Civil Case No. 11-1086 (FLW)(DEA). Following two calls with that Court, the California Plaintiffs submitted supplemental briefing in support of that motion. Attached hereto as Exhibit 3 is a true and correct copy of that Supplemental Reply Brief, dated September 26, 2011.

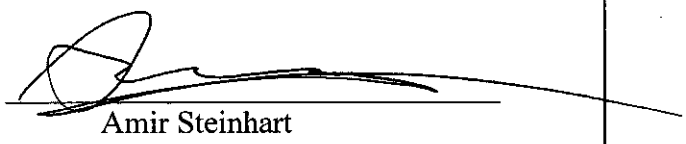
5. In connection with their supplemental brief, the California Plaintiffs submitted a Tentative Order Granting Class Certification, dated July 25, 2011, from a case pending in the Central District of California, *Yumul v. Smart Balance, Inc.*, Civil Case No. 10-00927 (MMM)(AJW). Attached hereto as Exhibit 4 is a true and correct copy of that Order, filed by the California Plaintiffs in the parallel case, *In Re Nutella Marketing and Sale Practice Litigation.*

6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the transcript of the hearing before the United States Judicial Panel on Multidistrict Litigation regarding consolidation of the Ferrero U.S.A. lawsuits, held on July 28, 2011.

7. Attached hereto as Exhibit 6 is a true and correct copy of *Ellis v. Costco Wholesale Corp.*, No. 07-15838, slip op. (9th Cir. Sept. 16, 2011).

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 10th day of October, 2011, at Palo Alto, California.



Amir Steinhart