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10 *Counsel for Plaintiff Laura Rude-Barbato*  
 11 *and the Proposed Class*

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

<p>14 ATHENA HOHENBERG, individually and      15 on behalf of all others similarly situated,</p> <p>16      17 Plaintiff,</p> <p>18 v.</p> <p>19 FERRERO U.S.A., INC.,</p> <p>20      21 Defendant.</p>	<p>22 Case No. 3:11-cv-00205 H CAB      23 Pleading Type: Class Action</p> <p>24      25 <b>DECLARATION OF GREGORY S.      26 WESTON IN SUPPORT OF MOTION TO      27 CONSOLIDATE AND APPOINT      28 INTERIM CLASS COUNSEL</b></p> <p>29 Judge: The Hon. Marilyn L. Huff      30 Date: March 28, 2011</p>
<p>31 LAURA RUDE-BARBATO, on behalf of      32 herself and all others similarly situated,</p> <p>33      34 Plaintiff,</p> <p>35 v.</p> <p>36 FERRERO U.S.A., INC.,</p> <p>37      38 Defendant.</p>	<p>39 Case No. 3:11-cv-00249 DMS (BLM)      40 Pleading Type: Class Action</p> <p>41      42 Judge: The Hon. Dana M. Sabraw</p>

1 I, Gregory S. Weston, declare:

2 1. I am a member in good standing of the State Bars of California and Florida, and  
3 the United States District Courts for the Northern, Central and Southern Districts of California. I  
4 have personal knowledge of the facts stated herein, and, if called on to do so, could and would  
5 testify competently thereto. I make this Declaration in support of Plaintiffs' Motion to  
6 Consolidate and Appoint Interim Class Counsel.

7 2. I am a graduate of Ohio State University and Harvard Law School and have  
8 always devoted all or substantially all of my practice to representing plaintiffs in class actions.

9 3. Before founding the Weston Firm, as an attorney at the firm now called Robbins,  
10 Geller, Rudman & Dowd ("RGR&D"), I represented plaintiffs in the following actions:

- 11 • *The Apple iPod iTunes Antitrust Litigation*, No. 05-cv-37 (N.D. Cal.) (nationwide  
12 consumer class certified and RGR&D appointed class counsel)
- 13 • *Bruce v. Crompton Corp.* (Los Angeles Co. Sup. Ct.) (Rubber chemicals antitrust  
14 action)
- 15 • *In re Carbon Black Antitrust Litigation*, M.D.L. No. 1543 (D. Mass.)
- 16 • *In re Digital Music Antitrust Litigation*, M.D.L. No. 1780 (S.D.N.Y.) (RGR&D  
17 appointed interim class counsel)
- 18 • *In re Graphics Processing Units Antitrust Litigation*, M.D.L. No. 1826 (N.D.  
19 Cal.)
- 20 • *In re International Air Transportation Surcharge Antitrust Litigation* (N.D. Cal.)
- 21 • *In re Medical Waste Services Antitrust Litigation*, M.D.L. No. 1546 (D. Utah)  
22 (RGR&D appointed interim class counsel)
- 23 • *Ross et al. v. Metropolitan Life Insurance Company*, No. 07-cv-521 (W.D. Pa.)
- 24 • *Williams v. Interinsurance Exchange of the Automobile Club* No. GIC836845  
25 (San Diego Co. Sup. Ct.) (California consumer class certified, RGR&D appointed  
26 class counsel)

27 4. This year my firm has obtained a number of favorable decisions in similar class  
28 actions brought under California's Unfair Competition Law, False Advertising Law, and  
Consumer Legal Remedies Act, against food manufacturers for false, misleading or deceptive  
labeling.

1           5.       In *Yumul v. Smart Balance, Inc.* 2010 U.S. Dist. LEXIS 86394 (C.D. Cal, July 30,  
2 2010) and *Yumul v. Smart Balance, Inc.* 2010 U.S. Dist. LEXIS 116960 (C.D. Cal. October 8,  
3 2010), the Honorable Margaret M. Morrow denied a motion to dismiss a complaint challenging  
4 the labeling of margarine containing trans fat, holding that plaintiff had adequately alleged  
5 deception. The Court further denied the defendant's challenge to a class period extending back  
6 ten years, holding the complaint adequately alleged tolling of the statute under the delayed  
7 discovery rule. Similarly, in *Red et al. v. Kraft Foods, Inc., et al.*, 2010 U.S. Dist. LEXIS 122849  
8 (C.D. Cal. Nov. 18, 2010), the Honorable George Wu found a significant number of challenges  
9 to health claims on packaged foods, such as Ritz Crackers and Teddy Grahams, were actionable.  
10 In *Chacanaca v. The Quaker Oats Co.*, No. C 10-0502 RS, 2010 U.S. Dist. LEXIS 111981 (N.D.  
11 Cal. Oct. 14, 2010), the Honorable Richard Seeborg also found certain health claims on Quaker  
12 Oats granola bar products actionable under California's UCL, FAL and CLRA. The Weston  
13 Firm also represents Plaintiffs in a putative class action styled *Red et al. v. Unilever United*  
14 *States et al.*, No. CV 10-0387 JW (N.D. Cal.), which challenges labels on Unilever margarine  
15 products. The parties in *Unilever* will be jointly presenting a motion for preliminary approval of  
16 a class-wide settlement this week.

17           6.       In addition to these suits, the Weston Firm represents Plaintiffs in several other  
18 actions challenging the labeling of food, including *Henderson et al. v. Gruma Corp.*, No. CV 10-  
19 4173 AHM (C.D. Cal.) and *Henderson v. The J.M. Smucker Co.*, No. CV 10-4524 GHK (C.D.  
20 Cal.).

21           7.       In sum, the Weston Firm has dedicated substantial resources and efforts to  
22 prosecuting claims similar to those in this case. This provides the Weston Firm with the benefits  
23 of expertise in the subject area, and economies of scale that will benefit the proposed class here.

24           8.       Additionally, the court appointed the Weston Firm sole Class Counsel to represent  
25 purchasers of approximately 145 condominiums in *Adachi et al. v. Garlyle/Galaxy San Pedro*  
26 *L.P. et al.*, No. 09-793 (C.D. Cal.), which settled in 2009 on a class-wide, all-cash basis for  
27 approximately \$1.35 million.

