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 7 FERRERO U.S.A, INC.

8 UNITED STATES DISTRICT COURT

9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10 ATHENA HOHENBERG, individually and on)
 behalf of all others similarly situated,)
 11)
 Plaintiffs,)
 12)
 13 v.)
 14 FERRERO U.S.A., INC., a foreign corporation,)
 Defendant.)

CASE NO.: 11CV0205H CAB

**DEFENDANT FERRERO
 U.S.A., INC.'S RESPONSE TO
 PLAINTIFF'S MOTION TO
 CONSOLIDATE AND TO
 APPOINT LEAD COUNSEL**

Date: March 28, 2011
 Time: 10:30 a.m.
 Location: Courtroom 13
 Judge: Hon. Marilyn L. Huff

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1 On February 23, 2011, Athena Hohenberg (plaintiff in this matter) along with Laura Rude-
2 Barbato (plaintiff in the related case, Rude-Barbato v. Ferrero U.S.A., Case No. 11-cv-00249 H
3 CAB) filed a motion with this Court for an order (1) consolidating the two related matters; and (2)
4 appointing their respective counsel, The Law Offices of Ronald A. Marron and The Weston Firm,
5 as Interim Lead Co-Class Counsel. As indicated in plaintiffs' motion, defendant Ferrero U.S.A.,
6 Inc. ("Ferrero") stipulated to the consolidation of the actions. Ferrero takes no position on the
7 appointment of Lead Counsel.

8 In addition to the two actions pending before this Court, Ferrero was recently served with
9 two additional class action complaints – one in the District of New Jersey (Glover v. Ferrero
10 U.S.A., Case No. 11-cv-010860) and one in the Superior Court of New Jersey (Metcalf v. Ferrero
11 USA, Inc., SOM-L-367-11) – that contain substantially similar allegations and causes of action,
12 and that seek the same relief as the two actions pending before this Court. Therefore, in order to
13 avoid duplicative litigation in two district courts, Ferrero intends to file a motion to transfer these
14 proceedings to the District of New Jersey, pursuant to 28 U.S.C. § 1404, given that Ferrero's
15 principal place of business is located in New Jersey, as are its employees and documents.

16 Notwithstanding its anticipated motion to transfer, Ferrero continues to believe the two
17 proceedings pending before this Court can and should be consolidated and takes no position
18 regarding the appointment of Lead Counsel.

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20 Dated: March 14, 2011

WILSON SONSINI GOODRICH & ROSATI
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22 By: s/ Dale Bish
Dale Bish

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