

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THOMAS A. SIMONIAN,

Relator,

v.

MAYBELLINE LLC,

Defendant.

Civil Action No. 1:10-cv-01615

Honorable Virginia M. Kendall

RELATOR’S NOTICE OF SUPPLEMENTAL AUTHORITY

Thomas A. Simonian, as *qui tam* relator (“Relator”), respectfully submits the attached supplemental authority in support of his Response to the Motions to Dismiss and Stay filed by Defendant Maybelline LLC (“Maybelline”). With regard to the issues of whether the Relator has properly pled his false marking claim, the Relator respectfully cites the Court to the following additional authority:

1. Judge Leinenweber’s Order of October 27, 2010 in *Simonian v. Snap-on, Incorporated*, 10 C 1501 (the transcript of the proceedings was received by counsel for Relator on November 9, 2010 and is attached as **Exhibit A**), denying Snap-on’s Rule 12(b)(6) motion because “even under the more demanding Rule 9(b) plaintiff has stated a claim upon which relief may be granted.” (Opinion, p. 4).
2. Judge Leinenweber’s Order of October 28, 2010 in *Simonian v. Abbott Laboratories*, 10 C 1542 (the transcript of the proceedings was received by counsel for Relator on November 9, 2010 and is attached as **Exhibit B**), denying Abbott’s Rule 12(b)(6) motion because (i) Mr. Simonian had satisfied the Rule 9(b) pleading requirements

based on allegations similar to those pled here, and (ii) because “plaintiff’s complaint meets the heightened 9(b) pleading standard, it is academic to state that it also meets the more relaxed 8(a) standard”). (Opinion, pp. 6-7).

3. Judge Tucker’s opinion of November 1, 2010 in *Hollander v. Etymotic Research, Inc.*, **Exhibit C** hereto, p. 10, denying defendant’s motion to dismiss the amended complaint.

Dated: November 10, 2010

Respectfully submitted,

THOMAS A. SIMONIAN, as Relator

By: s/ Martin Goering

One of his attorneys

Attorneys for Relator

Joseph M. Vanek
John Paul Bjork
VANEK, VICKERS & MASINI, P.C.
111 S. Wacker Drive, Suite 4050
Chicago, Illinois 60606

Martin Goering
Jessica E. Rissman
EUGENE M. CUMMINGS, P.C.
One North Wacker Drive, Suite 4130
Chicago, Illinois 60606

Bruce S. Sperling
Robert D. Cheifetz
SPERLING & SLATER, P.C.
55 West Monroe Street, Suite 3200
Chicago, Illinois 60603

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on November 10, 2010, a true and correct copy of **RELATOR'S NOTICE OF SUPPLEMENTAL AUTHORITY** was filed electronically with the Clerk of the Court and was served via the Court's CM/ECF System which will automatically provide electronic notice upon all counsel of record.

s/ Martin Goering

Martin Goering
Attorney for Relator