

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: CHOCOLATE : MDL DOCKET NO. 1935
CONFECTIONARY ANTITRUST : :
LITIGATION : (C.A. No. 1:08-MDL-1935)

THIS DOCUMENT APPLIES TO: :
ALL INDIVIDUAL PURCHASER : :
PLAINTIFF CLAIMS EXCEPT : :
CIVIL ACTION NO. 1:12-CV- : :
01604 (ASSOCIATED : (Judge Conner)
WHOLESALE GROCERS, INC.) :

**DEFENDANTS' MOTION TO EXCLUDE THE TESTIMONY
AND REPORTS OF DR. CHRISTOPHER A. VELLTURO**

Defendants hereby move this Court to exclude the testimony and reports of Dr. Christopher A. Vellturo pursuant to Federal Rule of Evidence 702. For the reasons set forth in Defendants' Memorandum in Support of their Motion to Exclude the Testimony and Reports of Dr. Christopher A. Vellturo, the Court should grant this motion.

Dated: November 5, 2012

By: /s/ Craig S. Primis, P.C.
Thomas D. Yannucci, P.C. (OH 0036936)
Craig S. Primis, P.C. (NY 2733293)
Jonathan D. Brightbill (PA 88764)
KIRKLAND & ELLIS LLP
655 15th Street N.W.
Washington, DC 20005
Tel: (202) 879-5000
Fax: (202) 879-5200

Alan R. Boynton Jr. (PA 39850)
McNEES WALLACE & NURICK LLC
100 Pine Street, PO Box 1166
Harrisburg, PA 17108-1166
Tel: (717) 237-5352
Fax: (717) 237-5300

*Counsel for The Hershey Company and
Hershey Canada Inc.*

By: /s/ Peter E. Moll

Peter E. Moll (DC 231282)
Daniel J. Howley (DC 983664)
**CADWALADER, WICKERSHAM &
TAFT LLP**
700 Sixth Street, N.W.
Washington, DC 2 0001
Tel: (202) 826-2200
Fax: (202) 862-2400

Carmine R. Zarlenga (DC 3 86244)
Adam L. Hudes (DC 495188)
Veronica N. Berger (DC 979040)
MAYER BROWN LLP
1999 K Street, N.W.
Washington, D.C. 20006
Tel: (202) 263-3000
Fax: (202) 263-3300

Michael A. Finio (PA 38872)
SAUL EWING, LLP
Penn National Insurance Plaza
2 North Second Street, 7th Floor
Harrisburg, PA 17101
Tel: (717) 238-7671
Fax: (717) 257-7585

Counsel for Nestlé USA, Inc.

By: /s/ David Marx, Jr.

David Marx, Jr. (IL 6194003)
MCDERMOTT WILL & EMERY LLP
227 West Monroe Street
Chicago, IL 60606-5096
Tel: (312) 984-7668
Fax: (312) 984-7700

Stefan M. Meisner (DC 467886)
Nicole L. Castle (DC 978707)
Rachael V. Lewis (DC 977514)
MCDERMOTT WILL & EMERY LLP
500 North Capitol Street, N.W.
Washington, DC 20001
Tel: (202) 756-8000
Fax: (202) 756-8087

Thomas S. Brown (PA 30193)
**BUTLER PAPPAS WEIHMULLER KATZ
CRAIG LLP**
1818 Market Street, Suite 2740
Philadelphia, PA 19103
Tel: (215) 405-9191
Fax: (215) 405-9190

*Counsel for Defendants Mars, Incorporated
and Mars Snackfood US LLC*

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: CHOCOLATE : MDL DOCKET NO. 1935
CONFECTIONARY ANTITRUST : :
LITIGATION : (C.A. No. 1:08-MDL-1935)

THIS DOCUMENT APPLIES TO: :
ALL INDIVIDUAL PURCHASER : :
PLAINTIFF CLAIMS EXCEPT : :
CIVIL ACTION NO. 1:12-CV- : :
01604 (ASSOCIATED : (Judge Conner)
WHOLESALE GROCERS, INC.) :

CERTIFICATE OF NON-CONCURRENCE

Pursuant to Rule 7.1 of the Rules of Court of the U.S. District Court for the Middle District of Pennsylvania, counsel for The Hershey Company and Hershey Canada Inc. hereby certifies that concurrence was sought from Counsel for Plaintiffs with respect to the attached motion and it was denied.

Respectfully submitted,

By: /s/ Craig S. Primis, P.C.

Thomas D. Yannucci, P.C. (OH 0036936)
Craig S. Primis, P.C. (NY 2733293)
Jonathan D. Brightbill (PA 88764)
KIRKLAND & ELLIS LLP
655 15th Street N.W.
Washington, DC 20005
Tel: (202) 879-5000
Fax: (202) 879-5200

Alan R. Boynton Jr. (PA 39850)
McNEES WALLACE & NURICK LLC
100 Pine Street, PO Box 1166
Harrisburg, PA 17108-1166
Tel: (717) 237-5352
Fax: (717) 237-5300

*Counsel for The Hershey Company and
Hershey Canada Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2012 the following counsel of record were served with the Defendants' Motion To Exclude the Testimony and Reports of Dr. Christopher A. Velluro, and Proposed Order, by ECF, and were served with the Memorandum in Support of Defendants' Motion To Exclude the Testimony and Reports of Dr. Christopher A. Velluro, and exhibits, by electronic mail:

H. Laddie Montague, Jr.
Ruthanne Gordon
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, P A 19103
(215) 875-3000
hlmontague@bm.net
rgordon@bm.net

Michael D. Hausfeld
Robert G. Eisler
Hilary K. Scherrer
HAUSFELD LLP
1700 K Street, NW., Suite 650
Washington, DC 20006
(202) 540-7200
mhausfeld@hausfeldllp.com
reisler@hausfeldllp.com
hscherrer@hausfeldllp.com

Lead Counsel for Direct Purchaser Plaintiffs

Walter W. Cohen
Kevin J. Kehner
**OBERMA YER REBMANN
& MAXWELL & HIPPEL LLP**
200 Locust Street, Suite 400
Harrisburg, P A 17101
(717) 234-9730
walter.cohen@obermayer.com
kevin.kehner@obermayer.com

Local Counsel for Direct Purchaser Plaintiffs

Roman M. Silberfeld
Bernice Conn
**ROBINS KAPLAN MILLER
& CIRESI LLP**
2049 Century Park East, Suite 3400
Los Angeles, CA 90067
(310) 552-0130
rmsilberfeld@rkmc.com
bconn@rkmc.com

Steven R. Maher
THE MAHER LAW FIRM
631 West Morse Boulevard
Suite 200
Winter Park, FL 32789
(407) 839-0866
smaher@maherlawfirm.com

Joseph U. Metz
DILWORTH PAXSON LLP
112 Market Street, Suite 800
Harrisburg, PA 17101
(717) 236-4812
jmetz@dilworthlaw.com

Lead Counsel for the Indirect Purchasers for Resale Plaintiffs

Steven F. Benz
**KELLOGG HUBER HANSEN
TODD EVANS & FIGEL, PLLC**
Sumner Square
1615 M Street, NW, Suite 400
Washington, DC 20036
(202) 326-7929
sbenz@khhte.com

Christopher Lovell
**LOVELL STEWART HALEBIAN
LLP**
61 Broadway, Suite 501
New York, NY 10006
(212) 608-1900
clovell@lshllp.com

Lead Counsel for the Indirect End User Plaintiffs

Steve D. Shadowen
HILLIARD & SHADOWEN, LLC
39 West Main Street
Mechanicsburg, PA 17055
(855) 344-3298
steve@hilliardshadowenlaw.com

Joseph T. Lukens
FARUQI & FARUQI LLP
101 Greenwood Avenue, Suite 600
Jenkintown, PA 19046
(215) 277-5770
jlukens@faruqilaw.com

Liaison Counsel for the Individual Plaintiffs

Patrick J. Stueve
Rachel E. Schwartz
Steve N. Six
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, MO 64112
(816) 714-7110
stueve@stuevesiegel.com
schwartz@stuevesiegel.com
six@stuevesiegel.com

Jason S. Hartley
STUEVE SIEGEL HANSON LLP
550 West C Street, Suite 610
San Diego, CA 92101
(619) 400-5822
hartley@stuevesiegel.com

Counsel for Associated Wholesale Grocers, Inc.

By: /s/ Craig S. Primis, P.C. _____
Craig S. Primis, P.C.
KIRKLAND & ELLIS LLP