

KELLER, FISHBACK & JACKSON LLP

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KELLER FISHER & JACKSON LLP AND SQUITIERI & FEARON, LLP FILE CONSUMER CLASS ACTION AGAINST MANUFACTURER OF GERBER GOOD START GENTLE INFANT FORMULA

(Los Angeles, CA) On January 9, 2015, Los Angeles based Keller, Fishback & Jackson LLP and New York based Squitieri & Fearon, LLP, filed a class action lawsuit in federal district court in the Central District of California against Gerber Products Company, a manufacturer of infant formula. The case is captioned *Zakaria v. Gerber Products Co.* (Case 2:15-cv 00200).

According to the Complaint, Oula Zakaria, the plaintiff and class representative, is seeking damages, restitution, disgorgement and injunctive relief from Gerber alleging that it is engaged in a pattern of deceit, misrepresentations and unfair business practices in the marketing and sale of its Good Start Gentle infant formula which claims to reduce the risk of allergies in babies.

The lawsuit alleges that Gerber engaged in false representations and misleading practices including representing that Good Start Gentle—containing partially hydrolyzed whey protein—was the “first and only” formula that reduced the risk of allergies in babies, that use of Good Start Gentle reduced the risk of developing atopic dermatitis, a skin disorder, that Good Start Gentle was the “first and only” formula endorsed by the Food and Drug Administration (FDA) to reduce the risk of developing allergies and using the FDA term of art “Qualified Health Claim” to convey that Good Start Gentle was suitable for a particular purpose when in actuality the term conveys a “Qualified Health Claim” is limited or lacking.

In fact, the FDA determined that little or no scientific evidence supports the claim that partially hydrolyzed whey protein reduces the risk of atopic dermatitis in an infant. Moreover, the FDA previously warned Gerber that Good Start Gentle was misbranded under federal law because the labeling was not authorized by the FDA.

The Complaint further alleges that because of Gerber’s pervasive and false marketing claim that Good Start Gentle provided benefits to infant’s health beyond that offered by other formulas and that the FDA had “certified” this claim, plaintiff and class members purchased Good Start Gentle at an inflated cost. The Complaint also notes that the Federal Trade Commission filed a lawsuit against

Gerber seeking injunctive and equitable relief for the advertising, marketing and distribution of Good Start Gentle, “an infant formula that purports to prevent or reduce the risk of the development of allergies.”

The purpose of the Unfair Competition Law and the Consumer Legal Remedies Act, which form the basis of the class action, is to promote fair competition and to prevent consumer fraud, said Dan C. Bolton, Of Counsel, at Keller, Fishback & Jackson LLP.

“Parents concerned about the health of newborns deserve accurate and truthful information about infant formula, not distortions and misrepresentations, so they can make an informed decision about what formula is best for their baby,” said Dan C. Bolton.

Mr. Bolton described the purpose of the class action: “Our goal is to seek compensation for our client and other consumers like her who were deceived into purchasing infant formula which, contrary to Gerber’s bold claims, provides no added protection against allergies. Gerber has a responsibility to parents to tell the truth about the health benefits of formula for their babies, rather than offering slick and unsubstantiated product claims that are geared to pump up sales.”
