

SE **Business**

HD **Supplier to defend \$4m lawsuit**

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Agribusiness **Chinese company** claims it was misled over infant formula

A Melbourne infant formula maker will "vigorously defend" a \$4 **million** lawsuit claiming it misled a **group** of **Chinese** investors about where it sourced its **milk**.

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Hong Feng Investments is suing **Milk** Powder Solutions, which employs 25 people at its factory in Melbourne's south-east, because it sourced its **milk** powder from New Zealand instead of exclusively from Australia.

According to documents lodged in the Federal Court last month, Hong Feng said it was told by **Milk** Powder Solutions employee Jenny Fang in July 2011 that its **milk** came "entirely from the Tatura region of Victoria".

But **Milk** Powder Solutions director Simon Hansford said this had never been the case.

He said Ms Fang was a clerical assistant and interpreter, and "in this instance she was pointing out the seasonal implications of the **dairy** industry".

While his **company** sourced **milk** predominantly from Australia, he said, "from time to time" it used product from areas other than Victoria, including New Zealand, to ensure continuity of supply.

"At no time has **Milk** Powder Solutions or any of its employees assured Hong Feng or any of our clients that all [our] product will come from Victoria at all times."

Mr Hansford's lawyer said the Federal Court action comes almost six months after a similar claim lodged by Hong Feng was dismissed by the South Australian District Court, and Hong Feng ordered to pay **Milk** Powder Solutions' costs.

The court action began about the same time Beijing banned products from the world's biggest **dairy** exporter and New Zealand's main **milk** processor, Fonterra, after it was discovered some of the **company**'s products contained bacteria that could cause botulism.

New Zealand did not have the same reputation Australia has in **China** for quality and safety, Hong Feng said in its Federal Court application.

But Mr Hansford said all product his **company** supplied to Hong Feng qualified for use of the Made in Australia logo, although "to our knowledge Hong Feng did not apply for the licence to do so".

He started his **company** five years ago after a **Chinese** infant formula killed six babies and put another 54,000 in hospital after it was found to be contaminated with melamine - which causes renal and urinary problems - in an attempt to increase its protein content.

Mr Hansford, who has 33 years in the **milk** powder **business**, having previously operated an ice-cream and yoghurt **company**, said he was inundated with requests to supply **milk** powder to **China** soon afterwards. "In **China**, they call infant formula **milk** powder, and ... suddenly I had thousands of requests asking me if I could supply them with it. I did some research and that's how we got started."

Hong Feng was going to **buy** a minimum of 160,000 units of baby formula over three years from **Milk** Powder Solutions. It claims it has lost a **business** opportunity worth about \$US3.8 **million**.

A directions hearing is scheduled for February 7.

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