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12 CO. OF STOCKTON, LLC

13 *[Additional Counsel Below]*

14 **UNITED STATES DISTRICT COURT**  
15 **EASTERN DISTRICT OF CALIFORNIA**

16 JIMMY HERRERA, an individual, JH  
17 DISTRIBUTORS CORPORATION, a California  
Corporation, BRIAN BOTELHO, an individual,  
18 ALL PRO BAKERY DISTRIBUTING INC., a  
California corporation, CHARLES LARAY  
19 DAVIS, an individual, LA RAY DAVIS  
BREAD INC, a California corporation, KEVIN  
20 DENSMORE, an individual, DENSMORE  
DISTRIBUTION INC, ALEXANDRIA  
21 GUYTON, an individual, GUYTON GIRL  
DISTIBUTIONS INC, a California corporation,  
22 MICHAEL HERNANDEZ, an individual,  
HERNANDEZ DISTRIBUTION INC, a  
23 California Corporation, DAVID MUNOZ, an  
individual, EARLY BIRD DELIVERY, a  
24 California corporation, ANTHONY PORRECA,  
an individual, BREAD RAXX INC., a California  
25 Corporation, FERNANDO RAMIREZ, an  
individual, SOFT AND SMOOTH  
26 DELIVERIES INC, a California Corporation,  
SYLVIE SERRANO, an individual, SERRANO  
27 INC, a California Corporation, ALEJANDRO  
SOLETA, an individual, ALJAND  
28 DISTRIBUTING INC, a California corporation,

Case No. 2:21-cv-02217-WBS-CKD

**STIPULATION AND ORDER TO  
CONTINUE BRIEFING ON THE  
PARTIES' MOTIONS FOR SUMMARY  
JUDGMENT AND DATES OF FINAL  
PRETRIAL CONFERENCE AND JURY  
TRIAL**

Date:  
Time:  
Location:

Complaint Filed: September 23, 2021  
Trial Date: None Set  
Judge: Hon. William B. Shubb

Case No. 2:21-cv-02217-WBS-CKD

STIPULATION AND ORDER TO CONTINUE BRIEFING ON THE PARTIES' MOTIONS FOR SUMMARY  
JUDGMENT AND DATES OF FINAL PRETRIAL CONFERENCE AND JURY TRIAL

1 ANTHONY TAVAREZ, an individual, BIG  
2 TIME DISTRIBUTING, a California  
3 corporation, FRANCISCO TROVAO, and an  
4 individual, THUNDER BREAD INC, a  
5 California corporation, HAROLD WILSON, an  
6 individual, and HAROLD K WILSON III  
7 INCORPORATED, a California Corporation,

8 Plaintiffs,

9 v.

10 FLOWERS BAKING CO. OF MODESTO,  
11 LLC; FLOWERS BAKING CO. OF  
12 CALIFORNIA, LLC; FLOWERS BAKING CO.  
13 OF STOCKTON, LLC; and DOES 1 through  
14 100, inclusive,  
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LLC, and FLOWERS BAKING CO. OF STOCKTON, LLC

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1 **RECITALS**

2 Plaintiffs Sylvie Serrano and Serrano Inc. (“Plaintiffs”) and Defendants Flowers Baking  
3 Co. of Modesto, LLC, Flowers Baking Co. of California, LLC, and Flowers Baking Co. of  
4 Stockton, LLC (“Defendants”) (collectively, the “Parties”) make the following recitals:

5 1. On April 21, 2022, the Court issued a Status (Pretrial Scheduling) Order that  
6 required “[a]ll motions, except motions for continuances, temporary restraining orders, or other  
7 emergency applications, shall be filed on or before June 12, 2023. (ECF No. 9 at p. 4:13-15). The  
8 Status (Pretrial Scheduling) Order further required that “[a]ll motions shall be noticed for the next  
9 available hearing date.” (*Id.* at p. 4:15-16.) The Status (Pretrial Scheduling) Order set a Final  
10 Pretrial Conference for August 28, 2023, at 1:30 p.m. and a Jury Trial for October 31, 2023, at 9:00  
11 a.m. (*Id.* at p. 4:21-5:23.)

12 2. Pursuant to stipulation, the Court subsequently continued the June 12, 2023, motion  
13 filing deadline to February 9, 2024. (ECF No. 12 at p. 7:10-11.) The Court also continued the  
14 Final Pretrial Conference date from August 28, 2023, to April 22, 2024, at 1:30 p.m. and the date  
15 of the Jury Trial from October 31, 2023, to June 25, 2024, at 9:00 a.m. (*Id.* at p. 7:12-13.)

16 3. On January 30, 2024, Counsel for the Parties met and conferred and agreed that a  
17 joint hearing date and modified briefing schedule to accommodate their cross-motions for summary  
18 judgment or partial summary judgment would provide for judicial economy and allows the Parties  
19 to fully brief their respective positions.

20 4. On January 31, 2024, counsel for the Parties jointly called the Court’s Courtroom  
21 Deputy pursuant to the Court’s Standard Information to inquire about continuing the hearing date  
22 from the next available hearing date to one that would allow the Parties to file their respective  
23 summary judgment motions on or before February 9, 2024, file their respective oppositions on or  
24 before March 8, 2024, and their respective reply briefs on or before March 22, 2024. The Parties  
25 left a voicemail for the Clerk and followed up with an email.

26 5. The Court Clerk responded to the Parties’ January 31, 2024 email that same day and  
27 indicated the Court could hear the Parties’ cross-motions for summary judgment or partial  
28 summary judgment on April 1, 15, or 29, 2024, and informed the Parties that they would also need

1 to request continuing the dates for the April 22, 2024 Final Pretrial Conference and the June 25,  
2 2024 Trial in their request to continue the briefing schedule on their cross-motions for summary  
3 judgment or partial summary judgment. The Court Clerk informed the Parties that if the motions  
4 were heard in April, the a then the Final Pretrial Conference could be conducted on July 1 or 15,  
5 2024 at 1:30 p.m. followed by a Trial date of September 24, 2024, or October 8, 2024, at 9:00 a.m.  
6 The Parties emailed the Court Clerk on February 2, 2024, to inform the Court of their intention to  
7 file this Stipulation with an April 1, 2024, hearing date for the Parties' cross-motions and request  
8 the July 15, 2024 Final Pretrial Conference Date and a Trial date of October 8, 2024.

9 6. Pursuant to L.Rs. 144 and 230, there have been no requests to continue briefing on  
10 the Parties' dispositive motions or the hearing date for said motions. The prior request to extend the  
11 Final Pretrial Conference date of August 28, 2023, and the Jury Trial date of October 31, 2023,  
12 resulted in an approximately six-month extension of the Final Pretrial Conference date to April 22,  
13 2024, and an approximately eight-month continuance of the Jury Trial date to June 25, 2024.

14 7. Given that this case involves the ABC and *Borello* tests for independent contractor  
15 classification, the Parties respectfully request that the Court modify the briefing schedule and  
16 continue the Parties' briefing and hearing date pursuant to L.Rs. 144 and 230. There is good cause  
17 for granting this short extension as "[p]ublic policy favors disposition of cases on the merits."  
18 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002). The extension will allow the parties to  
19 fully brief the issues with all of the available information.

### 20 STIPULATION

21 NOW, THEREFORE, Plaintiffs and Defendants stipulate as follows:

22 1. The Parties will file their motions for summary judgment or partial summary  
23 judgment on or before February 9, 2024.

24 2. The Parties will file their oppositions on or before March 8, 2024.

25 3. The Parties will file their replies in support of their motions for summary judgment  
26 or partial summary judgment on or before March 22, 2024.

27 4. The hearing on the Parties' motions for summary judgment or partial summary  
28 judgment will be held on April 1, 2024, at 1:30 p.m. or another date in April that is convenient for

1 the Court.

2 5. The Final Pretrial Conference date of April 22, 2024, at 1:30 p.m. is continued to  
3 July 15, 2024 at 1:30 p.m.

4 6. The Jury Trial date of June 25, 2024, at 9:00 a.m. is continued to October 8, 2024 at  
5 9:00 a.m.

6 **IT IS SO STIPULATED.**

7 DATED: February 2, 2024

OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.

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By: /s/ Jared L. Palmer  
JARED L. PALMER  
ALEXANDER M. CHEMERS  
HEIDI G. KIM  
FRANK TOBIN  
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LLC, FLOWERS BAKING CO. OF  
CALIFORNIA, LLC, and FLOWERS  
BAKING CO. OF STOCKTON, LLC

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17 DATED: February 2, 2024

KELLER GROVER LLP

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By: /s/ Robert W. Spencer  
ERIC A. GROVER  
ROBERT W. SPENCER  
Attorneys for Plaintiffs

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**SIGNATURE ATTESTATION**

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I attest that I have obtained concurrence in the filing of this document from the other  
signatories in compliance with Local Rule 131(e).

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1 DATED: February 2, 2024

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,  
2 P.C.

3 By: /s/ Jared L. Palmer

4 JARED L. PALMER

Attorneys for Defendants

5 **ORDER**

6 By stipulation and agreement of Plaintiffs Sylvie Serrano and Serrano Inc. (“Plaintiffs”)  
7 and Defendants Flowers Baking Co. of Modesto, LLC, Flowers Baking Co. of California, LLC,  
8 and Flowers Baking Co. of Stockton, LLC (“Defendants”) (collectively, the “Parties”), and for  
9 good cause shown, the Court sets the following briefing schedule for the Parties’ motions for  
10 summary judgment or partial summary judgment and continues the Final Pretrial Conference and  
11 Jury Trial dates as follows:

12 1. The Parties shall file their motions for summary judgment or partial summary  
13 judgment on or before February 9, 2024.

14 2. The Parties shall file their oppositions on or before March 8, 2024.

15 3. The Parties shall file their replies in support of their motions for summary judgment  
16 or partial summary judgment on or before March 22, 2024.

17 4. The hearing on the Parties’ motions for summary judgment or partial summary  
18 judgment and/or summary adjudication shall be noticed for **April 1, 2023, at 1:30 p.m.**

19 5. The Final Pretrial Conference date of April 22, 2024, at 1:30 p.m. is continued to  
20 **July 15, 2024 at 1:30 p.m.**

21 6. The Jury Trial date of June 25, 2024, at 9:00 a.m. is continued to **October 8, 2024**  
22 **at 9:00 a.m.**

23 **IT IS SO ORDERED.**

24 Dated: February 5, 2024



25 WILLIAM B. SHUBB

26 UNITED STATES DISTRICT JUDGE