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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re Bimbo Bakeries FLSA Actions

NO. C 05-00829 JW
NO. C 08-3553 MEJ**ORDER GRANTING DEFENDANTS'
ADMINISTRATIVE MOTION TO NOT
RELATE CASES**

Presently before the Court is Defendants' Administrative Motion to Consider Whether Cases Should be Related. (hereafter, "Motion," Docket Item No. 395.) Defendants contend that this action is not related under Civil Local Rule 3-12 to another action pending in the Northern District of California, Bustillos v. Bimbo Bakeries USA, Inc., Case No. 08-3553 MEJ. Pursuant to the requirements of Local Rule 3-12, Defendants filed this Motion upon learning that this action may be related to the Bustillos action.

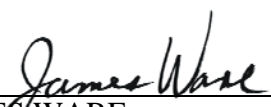
Cases are considered related when "(1) [t]he actions concern substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there will be an unduly burdensome duplication and labor and expense or conflicting results if the cases are conducted before different Judges." Civ. L.R. 3-12(a). This action is a putative class action based on wage and hour claims under the Fair Labor Standards Act. The Bustillos action does contain wage and hour claims, but also involves gender and disability discrimination, harassment, and retaliation claims that are not made by the putative class in this case. Further, the Bustillos wage and hour claims are factually tied to the individualized circumstances surrounding the plaintiff's discrimination claims.

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In addition, counsel for Defendants contacted counsel for Plaintiffs in this action, as well as counsel for the plaintiff in the Bustillos action. Neither objected to Defendants' Motion, either in conversations with defense counsel, or in the form of a filed opposition with the Court. (Declaration of Wendy Lazerson in Support of Defendants' Administrative Motion to Consider Whether Cases Should Be Related ¶¶ 17-18, Docket Item No. 396.) Accordingly, the Court finds that these cases are not related under Local Rule 3-12.

The Court GRANTS Defendants' motion to not relate this action with the Bustillos action.

Dated: September 19, 2008



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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Dated: September 19, 2008

Richard W. Wieking, Clerk

**By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy**