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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN FRANCISCO DIVISION**

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11 ALEX ANG and LYNN STREIT,
12 individually and on behalf of all others
13 similarly situated,

13 Plaintiffs

14 v.

15 BIMBO BAKERIES USA, INC.,

16 Defendant.

Case No. 13-cv-01196 WHO (NC)

**ORDER RE: DISCOVERY
DISPUTE**

Re: Dkt. No. 86

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18 The parties have filed a joint discovery statement in which Bimbo Bakeries asks the
19 Court to extend certain deadlines set by the Court in its May 14, 2014, discovery order.
20 Dkt. Nos. 80, 86. The Court finds that this dispute is suitable for resolution without a
21 hearing and vacates the hearing set for June 11, 2014. After considering the parties' joint
22 statement, their proposed orders, as well as the record in this case, IT IS HEREBY
23 ORDERED THAT:

24 **1. Deadline to Produce Documents Related to Pre-Class Period Discovery**
25 **and Products Not Sold in California**

26 In previous discovery disputes presented by the parties, Bimbo Bakeries argued that
27 discovery in this case should be limited in scope to information from the class period and
28 should exclude products Bimbo Bakeries alleges were not sold in California. *See* Dkt. No.

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1 80. The Court rejected these arguments and ordered Bimbo Bakeries to amend its discovery
2 responses and produce all responsive, non-privileged documents by May 28, 2014. *Id.*

3 Bimbo Bakeries now requests a 90-day extension of the May 28 deadline as it relates
4 to pre-class period discovery and products not sold in California (parts 1 and 3 of the
5 Court's May 14 order). Bimbo Bakeries asserts that the deadline set by the Court should be
6 modified because the parties' prior briefing and arguments "were focused on . . .
7 discoverability . . . and did not address e-discovery issues, much less the amount of time
8 that it would take for BBUSA to actually produce responsive documents." Dkt. No. 86 at 2.
9 This problem is, to a large extent, of Bimbo Bakeries' own making. Before the Court set
10 the May 28 deadline, it informed the parties of its tentative ruling to order the disputed
11 discovery and gave the parties a further opportunity to meet and confer and propose
12 limitations on the discovery based on the anticipated burden and benefit. Dkt. No. 72.
13 Rather than investigating what specific efforts and time would be required to produce
14 responsive documents and raise any such issues before the Court resolved this dispute,
15 Bimbo Bakeries chose to rely on blanket assertions that no discovery was appropriate and
16 waited until the Court ruled against it. Bimbo Bakeries' failure to raise these issues earlier
17 is not a good cause for the requested extension.

18 Bimbo Bakeries further argues that the May 28 deadline is not workable because
19 "virtually all responsive information will exist within BBUSA's electronic systems" and the
20 parties will need to meet and confer regarding an e-discovery protocol and search criteria.
21 Dkt. No. 86 at 2-3. Bimbo Bakeries' asserted reasons for the 90-day extension, however,
22 amount to little more than general statements about "the complexities of e-discovery." As
23 acknowledged in this District's Guidelines for the Discovery of ESI, "[d]iscoverable
24 information today is mainly electronic." This District has made available a model
25 Stipulated Order Re: Discovery of ESI, as well as guidelines that encourage parties to
26 discuss the preservation, collection, search, review, and production of ESI as early as
27 possible at the outset of the case. This case was filed on March 18, 2013. The Court is not
28 convinced that Bimbo Bakeries has shown diligence and good cause to justify the requested

1 90-day extension. Based on the parties' joint discovery statement, the Court finds that a
2 modest extension is appropriate, and extends the May 28 deadline to July 14, 2014.

3 Additionally, by June 16, 2014, the parties must file either a proposed stipulated order
4 regarding ESI discovery and a proposed stipulated protective order, or a joint statement
5 setting forth their positions on these issues.

6 **2. Deadline to Produce Financial Information**

7 Bimbo Bakeries requests an extension until June 18, 2014, to produce documents in
8 compliance with part 2 of the May 14 order regarding financial information, and plaintiffs
9 agree to the extension. Dkt. No. 86 at 4. The requested extension is granted.

10 **3. Deadline to Serve Supplemental Discovery Responses**

11 Bimbo Bakeries requests an extension until June 10, 2014, to serve its supplemental
12 responses to plaintiffs' interrogatories and document requests, and plaintiffs agree to the
13 extension. Dkt. No. 86 at 4. The requested extension is granted.


14 **4. Additional Discovery Dispute**

15 The parties' joint discovery statement also indicates that the parties dispute whether
16 Bimbo Bakeries' production of documents should be limited to products at issue in this
17 case. Dkt. No. 86 at 3, 6. By June 23, 2014, the parties must meet and confer in an attempt
18 to resolve their disagreement and file a joint discovery statement regarding this dispute.

19 Any party may object to this non-dispositive discovery order within 14 days under
20 Federal Rule of Civil Procedure 72(a).

21 IT IS SO ORDERED.

22 Date: June 9, 2014

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24 Nathanael M. Cousins
25 United States Magistrate Judge
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