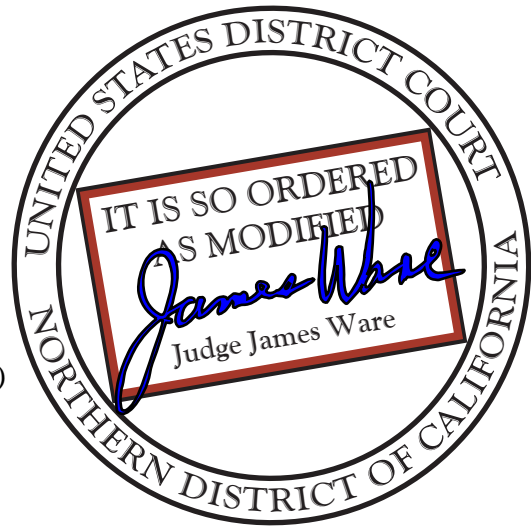


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17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

21 In re BIMBO BAKERIES USA FLSA
 22 ACTIONS

No. C 05 00829 (JW)

**JOINT REPORT ON STATUS OF
 SETTLEMENT AND PROPOSED
 ORDER RE FURTHER
 PROCEEDINGS
 ORDER CONTINUING STATUS
 CONFERENCE**

1 The Court previously ordered the parties to report on the results of the mediation by
2 August 12, 2009 and granted an extension to August 31, 2009 by order dated August 20, 2009; a
3 further, extension to September 9, 2009 by order dated September 3, 2009; and a further
4 extension to September 18, 2009 by order dated September 11, 2009. Pursuant to stipulation, to
5 allow the parties an opportunity to mediate, the Court stayed its decision regarding the three
6 pending certification-related motions, which include the parties' cross-motions regarding class
7 certification under Rule 23 of the Federal Rules of Civil Procedure and defendants' motion for
8 decertification of the conditionally-certified FLSA class.

9 The parties participated in a full-day mediation in San Francisco on August 5, 2009
10 presided over by retired Superior Court Judge William J. Cahill at JAMS. The parties
11 participated in another full-day mediation in San Francisco on September 16, 2009 presided over
12 by mediator Mark S. Rudy, Esq. As a result of the mediation process, the parties reached an
13 agreement on the material terms of a settlement and began to work on a proposed written
14 stipulation for settlement. The parties originally estimated that such an agreement could be ready
15 to be submitted to the court within 30 days from the date of their most recent submission to the
16 Court on September 18, 2009. In light of the parties' representation, the Court set a Status
17 Conference re: Settlement for October 26, 2009 at 10 a.m. and further ordered that, on or before
18 October 16, 2009, the parties were to file a Joint Status Report or Motion for Approval of
19 Settlement.

20 Since September 18, 2009, a written settlement agreement has been drafted and circulated
21 by defense counsel for comment by plaintiffs' counsel. The plaintiffs have prepared several
22 proposed changes to the original draft, which counsel are now reviewing. The parties are
23 optimistic that they can reconcile the remaining disputes within the next two weeks, and that a
24 final agreement can be ready for execution and submission to the court no later than the first
25 week of November 2009.

26 //

1 Therefore, the parties propose the following:

2 That the parties provide an updated report to the Court concerning the status of drafting
3 and execution of the written settlement agreement no later than October 23, 2009 and, in the
4 event the parties are unable to resolve issues regarding settlement documents, appear at the
5 scheduled status conference on October 26, 2009, or plaintiffs could file a motion for preliminary
6 approval prior to that date if the parties do reach agreement as to the terms of the settlement
7 documents.

8
9 DATED: October 16, 2009

BINGHAM MCCUTCHEN LLP

10

11

By: /s/

Wendy M. Lazerson
Attorneys for Defendant

12

13 DATED: October 16, 2009

SPIRO MOSS LLP

14

15

By: /s/

Ira Spiro
Attorneys for Plaintiffs

16

17 DATED: October 16, 2009

WALSH & WALSH, P.C.

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By: /s/

Michael J. Walsh
Attorneys for Plaintiffs

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ORDER

Good cause appearing, IT IS HEREBY ORDERED AS FOLLOWS:

In light of the parties' representation, the parties shall provide an updated Joint Status Report to the Court concerning the status of drafting and execution of the written settlement agreement no later than October 23, 2009.

Based the parties' representation, the Court continues the Status Conference from October 26, 2009 to **November 16, 2009 at 10 a.m.** to provide the parties with additional time to reduce their settlement into a writing. On or before **November 6, 2009**, the parties shall file a Joint Status Statement to update the Court or file the appropriate Joint Motion for Approval of Settlement Agreement.

Dated: October 23, 2009



HON. JAMES WARE
United States District Judge