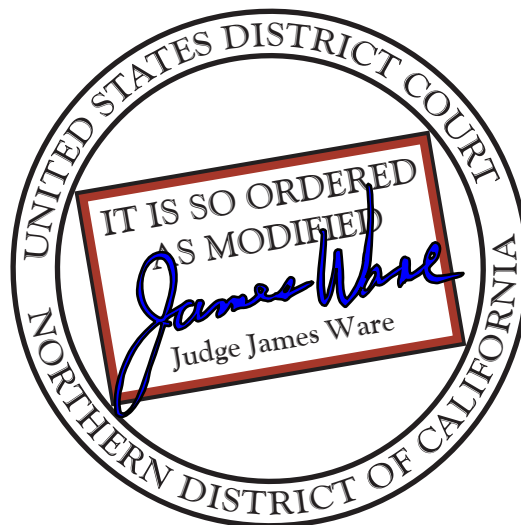


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17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

20  
 21 In re BIMBO BAKERIES USA FLSA  
 ACTIONS,  
 22  
 23  
 24

No. C 05 00829 (JW)

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

Complaint filed: February 25, 2005  
 Judge: Hon. JAMES WARE

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  
15 ready to be submitted to the court within 30 days from the date of their most recent submission to  
16 the 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. On October 23, 2009, the Court issued an order continuing the Status Conference to  
20 November 16, 2009 at 10 a.m. with a Joint Status Report or Motion for Approval of Settlement  
21 Agreement to be filed by November 6, 2009.

22           Since September 18, 2009, a written settlement agreement has been drafted and circulated  
23 by defense counsel for comment by plaintiffs' counsel. Counsel for the parties have continued to  
24 meet and confer to resolve issues in connection with the settlement agreement. On November 4,  
25 2009, counsel for the parties participated in a conference call with the mediator, Mark Rudy,  
26 resulting in significant progress in moving toward resolution of those issues. The parties remain

1 optimistic that they can reconcile the remaining disputes within the next two weeks, and  
2 anticipate that a final agreement can be ready for execution and submission to the court by the  
3 week of November 16, 2009.

4 Therefore, the parties propose the following:

5 That the parties provide an updated Joint Status Statement to update the Court regarding  
6 the status of settlement negotiations or file a motion for preliminary approval of the settlement  
7 agreement no later than November 16, 2009 and that the Court continue the Status Conference  
8 from November 16, 2009 to November 23, 2009 at 10:00 a.m.

9  
10 DATED: November 6, 2009

BINGHAM MCCUTCHEN LLP

11  
12 By: /s/

\_\_\_\_\_  
Wendy M. Lazerson  
Attorneys for Defendant

13  
14 DATED: November 6, 2009

SPIRO MOSS LLP

15  
16 By: /s/

\_\_\_\_\_  
Ira Spiro  
Attorneys for Plaintiffs

17  
18 DATED: November 6, 2009

WALSH & WALSH, P.C.

19  
20 By: /s/

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**ORDER**

Good cause appearing, IT IS HEREBY ORDERED AS FOLLOWS:

In light of the parties' representation, the Court finds good cause to vacate the Status Conference re: Settlement set for November 16, 2009 at 10 a.m. The Court sets a Status Conference re: Settlement for **December 7, 2009 at 10 a.m.** On or before November 16, 2009, the parties shall either file a Joint Status Report to update the Court or file the appropriate Motion for Approval of Settlement Agreement.

Dated: November 12, 2009

  
\_\_\_\_\_  
HON. JAMES WARE  
United States District Judge