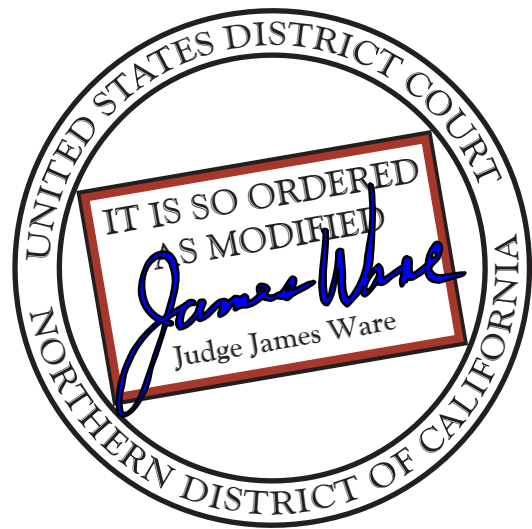


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17 UNITED STATES DISTRICT COURT

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 ORDER SETTING HEARING
 ON PRELIMINARY APPROVAL OF
 SETTLEMENT**

1 The parties believe they have resolved their remaining disputes over language in the
2 settlement agreement they have been negotiating since September.

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

11 The parties participated in a full-day mediation in San Francisco on August 5, 2009
12 presided over by retired Superior Court Judge William J. Cahill at JAMS. The parties
13 participated in another full-day mediation in San Francisco on September 16, 2009 presided over
14 by mediator Mark S. Rudy, Esq. As a result of the mediation process, the parties reached an
15 agreement on the material terms of a settlement and began to work on a proposed written
16 stipulation for settlement. The parties originally estimated that such an agreement could be
17 ready to be submitted to the court within 30 days from the date of their most recent submission to
18 the Court on September 18, 2009. In light of the parties' representation, the Court set a Status
19 Conference re: Settlement for October 26, 2009 at 10 a.m. and further ordered that, on or before
20 October 16, 2009, the parties were to file a Joint Status Report or Motion for Approval of
21 Settlement. Most recently, the Court issued an order continuing the Status Conference to
22 December 7, 2009 at 10 a.m. with a Joint Status Report or Motion for Approval of Settlement
23 Agreement to be filed by November 16, 2009.

24 Since September 18, 2009, a written settlement agreement has been drafted and revised
25 several times. Counsel for the parties continued to meet and confer diligently to resolve certain
26 issues in connection with the settlement agreement. On November 4, 2009, the parties sought

1 further assistance from the mediator, Mark Rudy, and participated in a conference call with
2 Mr. Rudy that resulted in significant progress toward the resolution of those issues. Since then,
3 counsel for all parties have conferred repeatedly by telephone and have now reached an
4 agreement in principle on the remaining disputes. The parties expect to finalize their written
5 agreement within the next few days, and to have the final agreement executed and submitted to
6 the court for preliminary approval prior to the December 7, 2009 status conference.

7
8 DATED: November 16, 2009

BINGHAM MCCUTCHEN LLP

9
10 By: /s/

Wendy M. Lazerson
Attorneys for Defendant

11
12 DATED: November 16, 2009

SPIRO MOSS LLP

13
14 By: /s/

Ira Spiro
Attorneys for Plaintiffs

15
16 DATED: November 16, 2009

WALSH & WALSH, P.C.


17
18 By: /s/

Michael J. Walsh
Attorneys for Plaintiffs

19
20
21 ***** ORDER *****

22 In light of the parties' representation, the Court VACATES the December 7, 2009 Conference
23 and set a hearing on the anticipated Joint Motion for Preliminary Approval of Settlement for
24 **December 14, 2009 at 9 a.m.** On or before **December 7, 2009**, the parties shall file all necessary
25 briefs and proposed orders for the Court's consideration.

26 Dated: December 2, 2009



JAMES WARE
United States District Judge