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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAKARI WILSON, an individual, on
behalf of himself and on behalf of all
persons similarly situated,

Plaintiff,

vs.

WHOLESOME HARVEST
BAKING, LLC, a Limited Liability
Company; BIMBO BAKEHOUSE
LLC, a Limited Liability Company;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO. **4:20-cv-05186-YGR**

Assigned to:
Hon. Yvonne Gonzalez Rogers

[PROPOSED] ORDER:

- (1) GRANTING PRELIMINARY
APPROVAL OF SETTLEMENT;**
- (2) APPROVING CLASS NOTICE;**
- (3) APPOINTING SETTLEMENT
ADMINISTRATOR; AND**
- (4) SCHEDULING FINAL
APPROVAL HEARING**

1 On December 7, 2021, a hearing was held on the motion of Plaintiff
2 Jakari Wilson (“Plaintiff”) for preliminary approval of the parties’ proposed
3 settlement (“Settlement”) with Defendants Wholesome Harvest Baking, LLC and
4 Bimbo Bakehouse LLC (“Defendants”), approval of the notice to be sent to the
5 class about the Settlement, and the setting of a date for the hearing on final approval
6 of the Settlement.

7 The Court having read and considered the papers on the motion, the
8 arguments of counsel, and the law, and good cause appearing therefore,

9 **IT IS ORDERED:**

10 1. This Order incorporates the defined terms in the Joint Stipulation of
11 Class and Representative Action Settlement (the “Agreement”) (Declaration of
12 Kyle Nordrehaug, Exhibit #1). Pursuant to the terms of the Agreement, Plaintiff
13 and Participating Class Members will take only that which is stated in the
14 Agreement as approved by the Court.

15 2. Pursuant to the Class Action Fairness Act, 28 U.S.C. § 1711 *et seq.*
16 (“CAFA”), Defendants caused the mailing of the CAFA Notice to the Attorney
17 General of the United States and the appropriate state official in each state in which
18 a Class Member reportedly resides at the time of CAFA Notice according to
19 Defendant’s records and as updated following a National Change of Address
20 search. Accordingly, the Court finds that Defendants have discharged their
21 obligations under CAFA to provide notice to the appropriate federal and state
22 officials.

23 3. Pursuant to the Agreement, the Class is conditionally certified for
24 settlement purposes only and is defined as all individuals who are or previously
25 were employed by Defendants in California who were classified as non-exempt
26 employees during the period June 1, 2016 to November 18, 2021 (the “Class
27 Period”). The Court finds for settlement purposes only that this Class satisfies the
28 requirements of Fed. R. Civ. Proc. 23.

1 4. The parties' Agreement is granted preliminary approval as it meets the
2 criteria for preliminary settlement approval. The Settlement falls within the range
3 of possible approval as fair, adequate and reasonable, and appears to be the product
4 of arm's-length and informed negotiations and to treat all Class Members fairly.
5 Continued litigation would have been expensive for both sides. The Parties
6 acknowledge that litigating and trying this action may have resulted in delay of any
7 recovery, involved significant risk as to liability and certification, and led to
8 possible appeals. Class Counsel received the relevant information for the Class.
9 Plaintiff has adequately demonstrated that the agreement to settle did not occur
10 until Class Counsel possessed sufficient information to evaluate the case and make
11 an informed decision about settlement.

12 5. The Parties' proposed notice plan is constitutionally sound because
13 individual notices will be mailed to all Class Members whose identities are known
14 to the parties, and such notice is the best notice practicable. The parties' proposed
15 Notice of Pendency of Class Action Settlement and Hearing Date for Court
16 Approval ("Class Notice") attached to the Agreement as Exhibit A, sufficiently
17 informs Class Members of the terms of the Settlement, their rights under the
18 Settlement, their rights to object to the Settlement, their right to receive a
19 Settlement Share or elect not to participate in the Settlement, and the processes for
20 doing so, and the date and location of the Final Approval Hearing. Therefore, the
21 Class Notice is approved.

22 6. Any Class Member who does not submit a valid request for exclusion
23 will be deemed a Participating Class Member and will be entitled to receive a
24 Settlement Share based upon the allocation formula in the Agreement. However,
25 Aggrieved Employees who opt out will still be paid their allocation of the PAGA
26 Payment and will remain bound by the release of the Released PAGA Claims
27 regardless of whether they submit a request for exclusion.
28

1 7. Any Class Member who wishes to comment on or object to the
2 Settlement, the attorneys' fees and costs, and/or the proposed Class Representative
3 Service Payment, or who elects not to participate in the Settlement, has until 45
4 days after the mailing of the Class Notice Packets to submit his or her comment,
5 objection, dispute, or request for exclusion in Settlement pursuant to the procedures
6 set forth in the Class Notice. If the Class Notice Packet is re-mailed, the response
7 date for written objections, disputes and opt-outs will be extended an additional 15
8 days for those Class Members who are sent re-mailed Class Notice Packets. Class
9 Counsel must file their application for the attorneys' fees and costs and post the
10 motion for viewing as indicated in the Class Notice no later than 35 days prior to
11 the end of the objection period, and the application will be heard at the Final
12 Approval Hearing. Class Members may appear at the Final Approval Hearing to
13 make an oral objection, but no appearance is required.

14 8. ILYM Group is appointed to act as the Settlement Administrator,
15 pursuant to the terms set forth in the Settlement. Blumenthal Nordrehaug Bhowmik
16 De Blouw LLP is approved as Class Counsel and the Plaintiff is approved as the
17 representative of the Class.

18 9. Defendant is directed to provide the Settlement Administrator with the
19 Class Data for each Class Member as specified by the Agreement no later than 15
20 business days after the date of entry of this order. Pursuant to the terms set forth in
21 the Agreement, the Class Data, its contents and any files containing Class Data
22 shall remain strictly confidential for the Settlement Administrator, not to be
23 disclosed to Plaintiff, Class Counsel, and/or to any Class Member.

24 10. The Settlement Administrator shall update the Class Data using the
25 National Change of Address database prior to mailing the Class Notice Packets The
26 Settlement Administrator is directed to mail the approved Class Notice by first-
27 class mail to the Class Members at their last known address no later than 14 days
28 after receipt of the Class Data.

1 11. A Final Approval Hearing will be held on _____, at
2 _____ in Courtroom 1 of the Oakland Courthouse, to determine whether
3 the Settlement should be granted final approval as fair, reasonable, and adequate as
4 to the Class Members. The Court will hear all evidence and argument necessary to
5 evaluate the Settlement and will consider the request for approval of attorneys' fees
6 and costs and for approval of the Class Representative Service Payment. Class
7 Members and their counsel may support or oppose the Settlement and the motion
8 for an award of attorneys' fees and costs and the Class Representative Service
9 Payment, if they so desire, as set forth in the Class Notice.

10 12. Any Class Member may appear at the Final Approval Hearing in
11 person or by their own attorney and show cause why the Court should not approve
12 the Settlement, or object to the motion for an award of attorneys' fees and costs and
13 the service award. For any written comments or objections to be considered at the
14 hearing, the Class Member must submit the written objections to the Settlement
15 Administrator in compliance with the instructions in the Class Notice and describe
16 the nature of the Class Member's comments, support or objection.

17 13. The Court reserves the right to continue the date of the final approval
18 hearing without further notice to Class Members. The Court retains jurisdiction to
19 consider all further applications arising out of or in connection with the Settlement.

20 14. Should for whatever reason the Settlement not become final, the fact
21 that the parties were willing to stipulate to certification of the Class for settlement
22 purposes shall have no bearing on, nor be admissible in connection with, the issue
23 of whether a class should be certified in a non-settlement context, the Settlement
24 shall be deemed null and void, and the parties to the Settlement shall be deemed to
25 have reverted to their respective status as of the date and time immediately prior to
26 the execution of the Agreement.

27 15. If (a) the number of Class Members who timely submit valid requests
28 for exclusion equals or exceeds four percent (4%) of the Class, (b) the Settlement is

1 construed in such a fashion that Defendants are required to pay more than the Gross
2 Settlement Amount (except employer's share of payroll taxes), or (c) the Court does
3 not finally approve the Settlement releasing the claims set forth in the Agreement,
4 or otherwise makes an order inconsistent with any of the terms of the Agreement,
5 Defendants, at their sole discretion, shall have the right but not the obligation to
6 revoke the Settlement pursuant to the procedures provided in the Agreement.

7 16. This Order, which conditionally certifies a class action only for
8 settlement purposes, shall not be cited in this or any matter for the purpose of
9 seeking class certification, opposing decertification, or for any other purpose, other
10 than enforcing the terms of the Settlement.

11 17. Pending further orders of this Court, all proceedings in this matter
12 except those contemplated in this Preliminary Approval Order and in the
13 Agreement are stayed. To the extent permitted by law, pending final determination
14 as to whether the Settlement should be approved, the Court hereby orders that the
15 Class Representative and all Class Members, whether directly, representatively, or
16 in any other capacity, shall not prosecute any claims or actions against the Released
17 Parties that would be released by the Released Class Claims and/or Released PAGA
18 Claims if final approval of the Settlement is granted.

19 18. If the Court grants Final Approval, each Participating Class Member
20 and their successors shall conclusively be deemed to have released the Released
21 Class Claims and Released PAGA Claims set forth in the Agreement and Class
22 Notice, against the Released Parties (as defined in the Agreement), and all such
23 Participating Class Members and their successors shall be permanently enjoined
24 and forever barred from asserting any Released Class Claims and/or Released
25 PAGA Claims against the Released Parties.

1 DATED: _____
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3 HON. YVONNE GONZALEZ ROGERS
4 U.S. DISTRICT COURT JUDGE
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