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RECEIVED

3/19/2024

Attorneys for Plaintiff,

JOSE MACIEL

CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

JOSE MACIEL, and individual, on behalf of
The State of California and all similarly-
aggrieved employees,

Plaintiff,

vs.

FLOWERS FOODS, INC., a Georgia
corporation; FLOWERS BAKERIES, LLC, a
Georgia limited liability company;
FLOWERS BAKING COMPANY OF
MODESTO, LLC, a California limited
liability company; FLOWERS BAKING
COMPANY OF HENDERSON, LLC, a
Nevada limited liability company,

Defendants.

Case No.: 20-CIV-02959

Assigned for All Purposes to:
Hon. Jeffrey Finigan, Dept. 24

**PLAINTIFF JOSE MACIEL'S REQUEST
AND [PROPOSED] ORDER GRANTING
DISMISSAL OF ENTIRE CASE WITH
PREJUDICE**

Complaint Filed: 7/17/2020
Trial Date: None Set

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Plaintiff Jose Maciel (“Plaintiff”), through his undersigned counsel of record, hereby
3 requests that the Court dismiss the entire case *with* prejudice based on the facts submitted in the
4 accompanying Declaration of Alex Tomasevic provided under Rule 3.770 of the California Rules
5 of Court. In short, all of the claims brought in this case have recently and fully been resolved as
6 part of two previously filed cases pending in Federal Court against the same Defendants.

7 This case is a representative action filed under the Private Attorneys General Act
8 (“PAGA”) by Plaintiff Jose Maciel, on behalf of The State of California, and all similarly
9 aggrieved workers working as “Distributors” with Flowers Foods, Inc. and its subsidiaries. *See*
10 Complaint, 7/17/2020. As confirmed in the accompanying Declaration of Alex Tomasevic
11 (“Tomasevic Dec.”), Flowers has reached a global Class Action, FLSA, and PAGA Settlement
12 Agreement in two other previously filed and related matters against the same Defendants,
13 resolving *all* claims at issue in those matters as well as this one. *See* Tomasevic Dec., ¶ 3.
14 Therefore, Plaintiff seeks dismissal of this entire case *with* prejudice as to all claims.

15 More specifically, in 2017 and in 2018 respectively, fellow aggrieved employees Simon
16 Goro and Daniel Ludlow (along with others) filed their own California Labor Code and Federal
17 Fair Labor Standards Act (“FLSA”) claims against these same Defendants based on the same
18 operative facts, i.e. challenging the same Distributor Agreements and work relationship that were
19 the foundation for Mr. Maciel’s PAGA claims here. *See Ludlow, et al. v. Flowers Foods, Inc., et*
20 *al.*, S.D. Cal. Case No. 3:18-cv-1190-JO-JLB; *Goro v. Flowers Foods, Inc.*, S.D. Cal. Case No.
21 3:17-cv-02580. Indeed, this case has been stayed, since May of 2021, pending developments in
22 the federal *Ludlow* and *Goro* actions.

23 Mr. Goro alleged individual claims plus claims under The PAGA. Messrs. Ludlow and
24 Lancaster filed their claims as a putative class action and collective action under the FLSA. Mr.
25 Maciel was and is a member of the *Ludlow* class action and, on December 30, 2020, Mr. Maciel
26 (the named plaintiff in this case) formally joined Messrs. Ludlow and Lancaster as named
27 plaintiffs in that federal case.

1 Further, on November 29, 2023, Mr. Maciel was allowed to add his pending PAGA claims
2 and theories against Flowers to the federal *Ludlow* action (i.e., the same claims for the same civil
3 penalties against the same Defendants).

4 The Parties have reached a global Class Action, FLSA, and PAGA Settlement Agreement
5 resolving all claims at issue in this matter *and* the *Ludlow* matter. The *Ludlow* class, and the
6 similarly aggrieved employees in this matter have received proper written notice of the
7 settlement. The LWDA was also given notice of the *Ludlow* settlement, including of the included
8 PAGA claims and settlement. Separately, the parties also completely resolved the *Goro* matter.

9 The *Ludlow* Court finally approved the *Ludlow* Settlement Agreement, including the
10 request for PAGA civil penalties, on March 18, 2024. The *Ludlow* class, and the similarly
11 aggrieved employees in this matter will obtain relief via the *Ludlow* Settlement Agreement. See
12 <https://ludlowvflowersfoodslawsuit.com/Home/portalid/0> (the *Ludlow* class settlement website -
13 last accessed March 19, 2024). In short, there is nothing left to litigate in this action- the PAGA
14 claims alleged here have now been fully resolved as part of *Goro* and *Ludlow*, including by being
15 finally approved by the U.S. District Court for the Southern District of California, and the
16 settlement agreements and terms have been supplied to the LWDA as required by the PAGA.

17 There is no prejudice to any similarly aggrieved employees because these employees have
18 received notice, the settlement has been approved by the District Court, and the workers have or
19 will obtain relief via the settlements reached in the *Goro* and *Ludlow* matters.

20 Plaintiff thus respectfully asks that the Court grant this request and dismiss the entire case
21 *with* prejudice.

22 Respectfully submitted,

23 Dated: March 19, 2024

NICHOLAS & TOMASEVIC, LLP

24
25 By:



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Attorneys for Plaintiff,
JOSE MACIEL

ORDER

The above-referenced action brought by Plaintiff Jose Maciel (“Plaintiff”) is hereby dismissed *with* prejudice. There is no prejudice to Plaintiff or any similarly-aggrieved employee because these employees have received notice, the settlement has been approved, and they will obtain relief via the settlement reached in *Ludlow, et al. v. Flowers Foods, Inc., et al.* (S.D. Cal. No. 3:18-cv-01190-JO-JLB). No notice needs to be sent to the putative class pursuant to Rule 3.770 of the California Rules of Court.

IT IS SO ORDERED.

Dated: _____

Hon. Jeffrey Finigan, Dept. 24
JUDGE OF THE SUPERIOR COURT