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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ALEX ANG and LYNN STREIT,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

BIMBO BAKERIES USA, INC.,

Defendant.

Case No. 3:13-CV-1196-HSG

**DECLARATION OF JOSHUA D. GLATTER IN
SUPPORT OF OMNIBUS: (A) JOINT MOTION
FOR FINAL APPROVAL OF PROPOSED CLASS
ACTION SETTLEMENT; and (B) PLAINTIFFS'
MOTION FOR AWARD OF ATTORNEYS'
FEES AND EXPENSES AND SERVICE
AWARDS TO NAMED PLAINTIFFS**

Judge: Hon. Haywood S. Gilliam, Jr.
Action Filed: March 18, 2013

Hearing: August 27, 2020, at 2:00 p.m.

DECLARATION OF JOSHUA D. GLATTER IN SUPPORT OF OMNIBUS: (A) JOINT MOTION FOR FINAL APPROVAL OF PROPOSED CLASS ACTION SETTLEMENT; and (B) PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES AND SERVICE AWARDS TO NAMED PLAINTIFFS

1 1. I am a partner of Fleischman Bonner & Rocco LLP (“FBR”), co-lead counsel for Plaintiffs
2 and the Class in the above captioned matter and have been admitted *pro hac vice* to this Court
3 for this Action. I make this declaration in support of the accompanying Omnibus: (a) Joint
4 Motion for Final Approval of Proposed Class Action Settlement; and (b) Plaintiffs’ Motion
5 for Award of Attorneys’ Fees and Expenses and Service Awards to Named Plaintiffs.

6 2. In compliance with 28 U.S.C. §1715, counsel for Defendant Bimbo Bakeries USA, Inc.
7 (“BBUSA”) provided requisite notice (“CAFA Notice”) to the appropriate federal and state
8 authorities. Attached hereto as Exhibit “1” is a Declaration from Anne Kelts Assayag,
9 counsel for Defendants, with attached Exhibits A and B constituting the notices BBUSA
10 provided to the United States Attorney General’s office and the California Attorney General’s
11 office.

12 3. In accordance with the parties’ revised Proposed Notice Plan (Dkt. No. 223) which the Court
13 approved in its Preliminary Approval Order, BBUSA and Class Counsel published notice on
14 their respective websites announcing the settlement, including links to the relevant settlement
15 documents. BBUSA also issued a joint press release on the parties’ behalf announcing the
16 settlement and directing interested persons to Class Counsel’s and BBUSA’s websites for
17 additional information.

18 4. To the best of the Parties’ and Counsel’s knowledge no Class Member, Attorney General or
19 other person has expressed any negative reaction to the Settlement.

20 5. FBR and Barrett Law Group (“BLG”) were appointed co-lead counsel for the Class. Ben F.
21 Pierce Gore of Pratt & Associates (“P&A”) was appointed liaison counsel for the Class.
22 FBR, BLG, and P&A are referred to herein collectively as the “Firms”.

23 6. FBR’s timekeepers on this matter since its inception are myself, Keith M. Fleischman (a
24 senior partner of the firm), June Park (a partner of the firm), Tyler Van Put (an associate of
25 the firm), and Michael Park (an associate of the firm). Work was also performed by three
26 attorneys no longer at the firm, Bradley F. Silverman (formerly counsel to the Firm), Ananda
27 N. Chaudhuri (formerly counsel to the Firm), and Julia S. Sandler (formerly associated with
28 FBR).

1 the Firm).

2 7. Attached as Exhibit "2" is a current firm resume for FBR.

3 8. BLG's timekeepers on this matter were Don Barrett (a senior partner of the firm), Richard
4 Barrett (a partner of the Firm), Sterling Starns (counsel to the firm), Brian Herrington (a
5 former attorney at the firm) and legal assistants Dawn Garrison, Nancy Taylor Maddux, and
6 Zach Schutz.

7 9. Attached as Exhibit "3" is a current firm resume for BLG.

8 10. P&A's timekeeper on this matter is Ben F. Pierce Gore, of counsel to the firm.

9 11. Attached as Exhibit "4" is a current firm resume for Mr. Gore.

10 12. The following is a chart setting forth the identities, hourly rate(s), (for attorneys) year of
11 graduation, and hours per timekeeper.

FLEISCHMAN BONNER & ROCCO (f/k/a Fleischman Law Firm PLLC)				
ATTORNEY	GRADUATION DATE	HOURLY RATE	TOTAL HOURS	TOTAL LODESTAR
Keith M. Fleischman	1984	\$775	60.2	\$46,655.00
Joshua D. Glatter	1994	\$550	154.1	\$84,755.00
June Park	2004	\$525	51.75	\$27,168.75
Ananda N. Chaudhuri (no longer with firm)	2004	\$550	2.5	\$1,375.00
Bradley F. Silverman (no longer with firm)	1999	\$550	1,312.47	\$444,729.00
Julia Sandler	2008	\$400	7.25	\$2,900.00
Tyler Van Put	2013	\$350	64.6	\$22,610.00
Michael H. Park	2010	\$350	20.7	\$7,245.00
PRATT & ASSOCIATES				
ATTORNEY	GRADUATION DATE	HOURLY RATE	TOTAL HOURS	TOTAL LODESTAR
Pierce Gore	1986	\$650/\$850	328.8	\$261,760.00
BARRETT LAW GROUP				

28 DECLARATION OF JOSHUA D. GLATTER IN SUPPORT OF OMNIBUS: (A) JOINT MOTION FOR FINAL APPROVAL
29 OF PROPOSED CLASS ACTION SETTLEMENT; and (B) PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES
30 AND EXPENSES AND SERVICE AWARDS TO NAMED PLAINTIFFS

1	ATTORNEY	GRADUATION DATE	HOURLY RATE	TOTAL HOURS	TOTAL LODESTAR
2	Charles Barrett	1998	\$425	0.5	\$212.50
3	Don Barrett	1969	\$800/\$825	9.3	\$7,605.00
4	Richard Barrett	1994	\$425/\$475/\$575	1.0	\$495.00
5	Dawn Garrison	Paralegal	\$100	1.8	\$180.00
6	Brian Herrington	1995	\$475	111.7	\$53,057.50
7	Nanci Taylor Maddux	Paralegal	\$150	16.6	\$2,490.00
8	Zach Schutz	Paralegal	\$150	0.7	\$105.00
9	Sterling Starns	2012	\$250/\$350	4.5	\$1,525.00

11 13. As detailed in Class Counsel's accompanying brief, these rates are consistent with prevailing
12 rates for attorneys and legal assistants in this District with similar experience, skill, and
13 reputation.

14 14. Each of the Firm's practices is to keep contemporaneous time records for each timekeeper
15 and to regularly record time records in the normal course of business. Each Firm kept time
16 records in this case in accordance with those practices.

17 15. In calculating the Firm's reasonable lodestar for purposes of this fee application, we reviewed
18 timekeepers' records, evaluated them for error, duplication, excess, or administrative work.

19 16. The chart below sets forth the aggregate lodestar totals for each Firm's work on this Action:

20	FIRM	HOURS	FEES	EXPENSES	TOTAL
21	Fleischman Bonner & Rocco LLP	1,673.57	\$637,437.75	\$3,984.87	\$641,422.62
22	Barrett Law Group, P.A.	146.10	\$65,670.00	\$85,975.05	\$151,645.05
	Pratt & Associates	328.80	\$261,760.00	\$0.00	\$261,760.00

23 17. Although Class Counsel has incurred over \$13,000 in additional lodestar time since
24 submitting their motion for preliminary approval on December 19, 2019, that figure is not
25 being included for purposes of this application.

26 18. Attached hereto as Exhibits "5", "6", and "7" are billing records for each of the Firms
27 reflecting each of the above-listed timekeepers' entries for this case comprising the aggregate
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lodestar.

19. Attached as Exhibit "8" is a chart listing the expenses incurred in this case, which total \$89,959.92. Class Counsel advanced all of these expenses.

20. As noted in the Parties' accompanying brief, when compared to the modest \$325,000 fee and expense provided for in the Settlement Agreement, the result is a sizable "negative multiplier" of 0.33 as compared to the actual lodestar of \$987,531.73 (without expenses) incurred to date.

21. As the Court is aware, and as our accompanying Omnibus Motion details, this was an extremely hard-fought lawsuit with extensive discovery, motion practice, and difficult settlement negotiations supervised by a highly respected former Federal District Judge. For the reasons detailed in the Omnibus Motion, Plaintiffs respectfully submit that the requested fee and expense award is eminently reasonable, particularly considering that: (a) the Settlement provides specific mechanisms to address future labeling changes to any of the products at issue, and (b) does not waive individual Class members right to commence individual damages suits were they to choose to do so.

22. Finally, we also respectfully request that the Court approve service awards of \$5,000 apiece to Plaintiffs Ang and Streit. Although the Settlement Agreement itself provides for service awards up to \$10,000 apiece, and while Plaintiffs believe that the Class Representatives' service merits that full amount, based on review of other applications and awards in this District, Plaintiffs believe that \$5,000 apiece is satisfactory. As the Omnibus Motion details, each of the Class Representatives was deeply involved in this lawsuit. They each produced discovery, sat for deposition, reviewed the Complaint, and regularly communicated with Class Counsel regarding the lawsuit's progress, including settlement discussions. Furthermore, in Plaintiff Ang's case, he had to successfully defend against motion practice alleging that he had engaged in spoliation of evidence. Accordingly, and especially considering the requested service award is half of that permitted under the Settlement Agreement, Plaintiffs respectfully request that the service awards be approved.

I declare under penalty of perjury that the foregoing is true and correct to the best of my

1 knowledge. Executed this 17th day of June, 2020 in White Plains, New York.

2 /s/ Joshua D. Glatter

3 Joshua D. Glatter

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