

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MATTHEW CARR, TERRY CARR,	:	
DAVID TUMBLIN, and GREGORY	:	CIVIL ACTION
BROWN, INDIVIDUALLY AND ON	:	
<i>BEHALF OF ALL SIMILARLY</i>	:	
<i>SITUATED INDIVIDUALS,</i>	:	No. 15-6391
Plaintiffs,	:	
	:	
v.	:	
	:	
FLOWERS FOODS, INC. and	:	
FLOWERS BAKING CO. OF	:	
OXFORD, LLC,	:	
Defendants.	:	
	:	

LUKE BOULANGE, ON BEHALF OF	:	
<i>HIMSELF AND ALL OTHERS</i>	:	CIVIL ACTION
<i>SIMILARLY SITUATED,</i>	:	
	:	
v.	:	No. 16-2581
	:	
FLOWERS FOODS, INC. and	:	
FLOWERS BAKING CO. OF	:	
OXFORD, LLC,	:	

STIPULATION AND ORDER
TO EXTEND TIME FOR DISCOVERY

WHEREAS, counsel for Plaintiffs and Defendants in the above-captioned consolidated actions hereby STIPULATE and AGREE as follows:

1. On August 1, 2017, the parties submitted a Stipulation and Order setting forth the agreed procedures for conducting discovery of the individuals who filed consents to join this consolidated action pursuant to 29 U.S.C. § 216(b) (“Opt-In Plaintiffs”), and the Court approved that Stipulation and Order on August 9, 2017 (Doc. 212, 2:15-cv-6391).

2. The Order of August 9, 2017 allowed Defendants Flowers Foods, Inc. (“Flowers”) and Flowers Baking Co. of Oxford, Inc. (“Oxford”) to serve limited interrogatories and documents requests upon all Opt-In Plaintiffs, and to take four-hour depositions of up to twenty percent (20%) of all Opt-In Plaintiffs.

3. The Order of August 9, 2017 required that all fact discovery be completed by January 31, 2018.

4. On February 1, 2018, the Court approved a Stipulation extending the close of fact discovery to March 30, 2018. The parties sought this extension of discovery primarily for the purpose of accommodating the availability of deposition witnesses.

5. The parties have made substantial progress toward the completion of depositions. Counsel for Plaintiffs have completed the Rule 30(b)(6) depositions of Flowers and Oxford and the depositions of Defendants’ currently known fact witnesses. Counsel for Defendants have completed the depositions of fifteen (15) Opt-In Plaintiffs, have confirmed deposition dates for three (3) additional Opt-In Plaintiffs to take place on or before March 30, 2018, and are in the process of finalizing deposition dates for three (3) additional Opt-In Plaintiffs.

6. Following extensive negotiations, the parties have recently agreed that additional time is necessary for discovery regarding major organizational changes that the Flowers Defendants implemented effective January 1, 2018, some of which have impacted the independent distributor program at issue in this litigation. These organizational changes touch on the relationship between Plaintiffs and Defendant as well as the direct store delivery sales structure of which Plaintiffs are a part.

7. The parties are engaged in active discussions regarding the scope of this supplemental discovery and are working in good faith to reach a reasonable compromise. By

any measure, however, this discovery is likely to involve the review and production of substantial ESI that was generated after the litigation was filed.

8. The parties believe that significant additional time will be required for defense counsel to load, review, and produce relevant ESI regarding these organizational changes; for defense counsel to prepare a privilege log; and for plaintiffs' counsel to review the new materials that will be produced. The parties have agreed to a rolling production of ESI in order to expedite this supplemental production.

9. The parties believe that an additional 120 days will be necessary to complete fact discovery in this case. This will include ninety (90) days for the collection, review, and production of additional ESI by Defendants and a thirty (30) days for Plaintiffs to conduct any necessary follow-up regarding the same. Consequently, the parties seek to extend discovery and subsequent case deadlines by a period of 120 days.

10. The lead Plaintiffs' counsel in this case is also handling three other class and collective actions against other Flowers' subsidiaries. These cases are *Noll v. LePage Bakeries*, Case No. 1:15-cv-493 (D. Me.), *Neff v. LePage Bakeries*, Case No. 5:15-cv-254 (D. Vt.), and *Rosinbaum v. Franklin Baking Co.*, Case No. 7:16-cv-233 (E.D.N.C.). The extensive ESI referenced herein is also at issue in those cases. In each of these cases, the parties have sought a similar four-month extension of discovery to allow for appropriate review and analysis of this ESI.

11. Additional time may be needed if the parties require Court assistance to resolve any disputes regarding the scope of this ESI review. However, the parties have agreed to work together in good faith to reach a reasonable compromise that would allow them to accomplish completion of this discovery in an efficient and proportional manner.

NOW, THEREFORE, on this March 27, 2018, counsel in these consolidated cases hereby **STIPULATE** and **AGREE** that all fact discovery, expert discovery, class certification briefing, and FLSA decertification briefing shall be completed in accordance with the deadlines set forth below:

	Current Deadline	New Deadline
Close of Fact Discovery	March 30, 2018	July 30, 2018
Plaintiffs' Expert Disclosures	April 30, 2018	August 30, 2018
Plaintiffs' Motions for Rule 23 Class Certification	May 29, 2018	September 28, 2018
Defendants' Motion for FLSA Decertification	May 29, 2018	September 28, 2018
Defendants' Expert Disclosures	May 30, 2018	September 28, 2018
Parties' Rebuttal Expert Reports	June 29, 2018	October 29, 2018
Defendants' Responses to Plaintiffs' Motions for Rule 23 Class Certification	None specified	October 30, 2018
Plaintiffs' Responses to Defendants' Motion for Decertification	None specified	October 30, 2018
Plaintiffs' Replies in Support of Motions for Rule 23 Class Certification	None specified	November 20, 2018
Defendants' Reply in Support of Motion for Decertification	None specified	November 20, 2018
Completion of expert depositions	July 30, 2018	November 30, 2018

DATED: March 27, 2018

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APPROVED and **SO ORDERED** this 25th day of March, 2018.

BY THE COURT:

