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Bimbo Unit To Pay \$3.5M To Settle Drivers' Benefits Suit

By **Scott Flaherty**

Law360, New York (November 20, 2012, 1:48 PM ET) -- A subsidiary of Mexican baked goods company Grupo Bimbo SAB de CV has agreed to pay \$3.5 million to resolve a Connecticut federal lawsuit lodged by a proposed class of distributors who claim the company denied them benefits, according to a Monday court filing.

The deal between the proposed class and Bimbo Foods Bakeries Distribution Inc. will clear up allegations that the company improperly classified certain distributors as independent contractors and failed to provide them benefits such as health insurance or paid time off.

In addition to a \$3.53 million payout, Bimbo agreed to a formal process to handle disputes with the contract distributors, who had previously "expressed a desire to remain independent but also wanted a more effective means for resolving disputes," said a motion for preliminary approval of the settlement that was filed by the distributors. The dispute resolution process would include mediation as a first step and, if that fails, the two sides would move to binding, individual arbitration, with the company covering the fees.

"The proposed settlement is a fair result for the class and will allow the class to avoid the delay and uncertainty of protracted litigation," the motion said.

The settlement class will include independent distributors who distributed goods from Bimbo depots in Connecticut and Massachusetts starting in 2008, according to the motion.

Bimbo — which owns a number of well-known baked goods brands, including Sara Lee, Entenmann's and Thomas' — was hit with the proposed class action in August. It was lodged by seven lead plaintiffs who distributed the company's goods as "independent operators" in Connecticut and Massachusetts, according to the complaint.

The suit alleged that the independent distributors performed similar tasks to those carried out by drivers officially employed by Bimbo, but did not receive the same benefits. Those benefits included health insurance, time off and reimbursements for expenses like truck maintenance, fuel and tolls, the complaint said.

The independent distributors also alleged that they were not afforded the same protection under federal and state employment laws that regulate unemployment benefits, discrimination and workplace safety, among other things, the suit said.

Bimbo has faced other legal actions over its classification of some distributors as independent contractors. A putative class action lodged in 2010 against the baked goods company in Pennsylvania federal court made similar allegations, as did a 2011 proposed class action in Illinois federal court. Both of those cases are pending.

An attorney for Bimbo declined to comment Tuesday. An attorney for the distributors did not immediately respond to a request for comment.

The distributors are represented by Harold Lichten and Stephen Churchill of Lichten & Liss-Riordan PC, by Daniel A. Schwartz of Pullman & Comley LLC, and by Richard E. Hayber of Hayber Law Firm LLC.

Bimbo Food is represented by Steven R. Wall and Jeffrey A. Sturgeon of Morgan Lewis & Bockius LLP as well as by James A. Wade and Christopher F. Girard of Robinson & Cole LLP.

The case is Ahlquist et al. v. Bimbo Foods Bakeries Distribution Inc., case number 3:12-cv-01272, in the U.S. District Court for the District of Connecticut.

--Editing by Eydie Cubarrubia.

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