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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

TAMARA REASONER, individually and
on behalf of all other similarly situated
employees,

Plaintiff,

vs.

BDS NATURAL PRODUCTS, INC. a
California corporation; and DOES 1
through 250, inclusive,

Defendants.

Case No.: BC676646

**JOINT INITIAL STATUS CONFERENCE
CLASS ACTION RESPONSE STATEMENT**

1 This Joint Report is submitted by Plaintiff Tamara Reasoner (“Plaintiff”) and
2 Defendant BDS Natural Products, Inc. (“Defendant”) (collectively “Parties”).

3

4 **1. Parties And Counsel**

5 **For Plaintiff**

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19 **For Defendant**

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2. Potential Additional Parties

Plaintiff does not anticipate adding any additional parties at this time, but will make the appropriate application with the Court if a need arises in the future to add an additional party. Defendant does not presently intend to file any Cross-Complaint. However, Defendant reserves its right to file a cross-complaint if new information is obtained through further discovery and investigation that supports its belief that Plaintiff was fraudulently reporting hours she did not work. Plaintiff denies that there was any fraudulent reporting of her hours.

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1 **3. Improperly Named Defendant(s)**

2 BDS Natural Products, Inc. is the proper name of the Defendant.

3 **4. Adequacy Of Proposed Class Representative(s)**

4 Defendant contends that Plaintiff Tamara Reasoner is an inadequate class
5 representative. While employed with Defendant, Plaintiff worked a traditional schedule,
6 while most of the members of the putative class worked a validly implemented alternative
7 workweek schedule. In addition, for the claim Plaintiff asserts that Defendant paid her for
8 only eight hours of work per day regardless of the number of hours worked, Defendant
9 contends was unique to Plaintiff (and contends she received retroactive pay while still
10 employed by Defendant). For these, and numerous other reasons, Defendant intends to
11 challenge Plaintiff's adequacy as a class representative. Plaintiff disputes Defendant's
12 contention that paying employees for arbitrary hours regardless of actual hours worked
13 applied only to her and that she was paid for all hours worked even though any retroactive
14 pay. Furthermore, she has also made allegations regarding failure to comply with the law
15 regarding meal periods and rest breaks.

16 **5. Estimated Class Size**

17 Plaintiff's Complaint has defined the Class as follows:

18 All current and/or former non-exempt employees that worked for
19 Defendants in California within four years prior to the filing of
20 Plaintiff's complaint with the Division of Labor Standards
21 Enforcement ("DLSE").

22 Defendant is currently evaluating the number of class members in the class, although
23 Defendant believes that there was only one non-exempt employee (Plaintiff) during the class
24 period who was paid in the manner described in her Complaint. Plaintiff will also seek from
25 Defendant the number of class members regarding the meal and rest breaks claims.
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1 **6. Other Actions With Overlapping Class Definitions**

2 The Parties are not aware of the existence of any other pending actions with
3 overlapping class definitions.

4 **7. Potentially Relevant Arbitration And/Or Class Action Waiver Clauses**

5 Plaintiff is not aware of any arbitration agreements or class action waivers that would
6 apply to this case. Defendant is investigating whether there may be any applicable arbitration
7 agreements and/or class action waiver clauses. Defendant reserves its right to move to compel
8 arbitration in the event that any applicable arbitration agreement applicable to Plaintiff or the
9 putative class members are located.
10

11 **8. Potential Early Crucial Motions**

12 The Core issues in the case center around whether Defendant used an arbitrary amount
13 of hours for Plaintiff's paystubs regardless of the hours worked or shown on timecards,
14 authorized and permitted lawful meal periods and rest breaks, the extent to which the
15 violations were done to others besides Plaintiff and the extent to which equitable tolling
16 applies. Defendant has contended that the class period should not be 4 years from the date
17 Plaintiff filed her DLSE complaint but instead four years from the date this lawsuit was filed,
18 since Plaintiff did not file her DLSE complaint on behalf of any class. The above items also
19 result in other violations including inaccurate itemized wage statements, minimum wage and
20 overtime violations and waiting time penalties.
21

22 Counsel for Defendant is currently analyzing the allegations in the Complaint and
23 reserves the right to file a demurrer and/or motion to strike. Further, Defendant anticipates
24 filing a motion for summary judgment and/or summary adjudication.
25

26 ///

27 ///

1 **9. Class Contact Information**

2 **Plaintiff's position**

3 Class contact information is readily discoverable. Plaintiff will request that Defendant
4 provide Plaintiff with the complete Class contact information and will seek Court intervention if
5 the Parties are unable to resolve any issues regarding Class contact information. Plaintiff is
6 amenable to an "opt-out" process pursuant to *Belaire-West Landscape, Inc. v. Superior Court*
7 (2007) 149 Cal.App.4th 554 with the parties sharing the costs of the "opt-out" process.

8 **Defendant's Position**

9 To the extent that Plaintiff seeks to discover the contact information of the putative class
10 members, Defendant is agreeable to an "opt-out" notice process as approved in *Belaire-West*
11 *Landscape, Inc. v. Superior Court* (2007) 149 Cal.App.4th 554, prior to the production of such
12 information to opposing counsel, subject to the parties reaching an agreement on the details of
13 those who will be receiving notice, the notice process, the contents of the notice, the third-party
14 administrator, and agreement on payment for the notice process.

15 The Parties will seek Court intervention if they cannot resolve any issues regarding class
16 contact information, but are open to hearing the Court's position on the issue at this point in time
17 if the Court feels it will help the parties resolve the issues.

18 **10. Protective Orders**

19 A protective order may turn out to be necessary in this case. The parties will confer on
20 terms, and if the parties are unable to come to an agreement they will seek court intervention.

21 **11. Discovery**

22 **Plaintiff's Position**

23 It is Plaintiff's position that the Court need not bifurcate discovery into "class discovery"
24 and "merits discovery," and that all discovery may proceed simultaneously. It would be
25 inefficient to phase discovery between class and merits issues because there will be significant
26 overlap between class certification and merits discovery.
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1 "Discovery on the merits should not normally be stayed pending so-called class
2 discovery, because class discovery is frequently not distinguishable from merits discovery, and
3 class-wide discovery is often a source of circumstantial evidence, even when the class is denied.
4 Such as discovery bifurcation will often be counterproductive in the delaying the progress of the
5 suit for orderly and efficient adjudication." (Newberg on Class Actions, §7:8 at 25 (2002))

6 Plaintiff will, as described above, seek Class member contact information, including the
7 identification and contact information of putative class members; employees' time records,
8 employees' wage records, and any and all policies, procedures governing putative Class
9 members' employment.

10 Plaintiff will additionally take Person Most Knowledgeable ("PMK") depositions
11 including, among others, Defendant's wage and hour policies, and individual depositions.

12 **Defendant's Position**

13 Defendant is agreeable with the Court's general process of limiting discovery on matters
14 relevant to class certification. Defendant disagrees with Plaintiff's position that bifurcation of
15 "merits discovery" and "class discovery" is unnecessary in this case. To the contrary, allowing
16 merits discovery prior to class certification will be unduly expensive and inefficient.

17 **12. Insurance Coverage**

18 Defendant is not currently aware of any insurance coverage for the action.

19 **13. Alternative Dispute Resolution**

20 Plaintiff remains willing to participate in private mediation. Defendant is also willing
21 to consider private mediation, although Defendant believes that Plaintiff is an inadequate class
22 representative and, therefore, mediation should proceed on an individual basis.

23 **14. Timeline For Case Management**

24 The Parties request the Court set a further status conference 120 days out. At that time,
25 the Court and the Parties will be in a better position to evaluate issues regarding class size, pre-
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certification discovery, pre-certification motions, Plaintiff's motion for class certification, and any other dispositive motions.

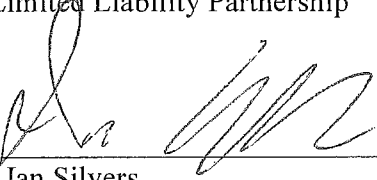
15. Electronic Service Of Papers

The Parties are agreeable to using Case Anywhere (www.caseanywhere.com).
Defendant.

Respectfully Submitted,

Dated: January 12, 2018

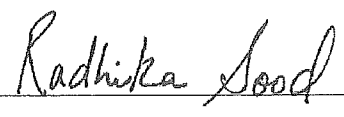
LAW OFFICES OF CARLIN & BUCHSBAUM
A Limited Liability Partnership

By: 
Ian Silvers
Attorneys for Plaintiff

Respectfully Submitted,

Dated: January 12, 2018

RUTAN & TUCKER, LLP
A Limited Liability Partnership

By: 
Radhika Sood
Attorneys for Defendant

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES)

4
5 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
6 not a party to the within action. My business address is 555 East Ocean Blvd., Suite 818, Long
7 Beach, California 90802.

8 On January 12, 2018, I served the foregoing document described as:

9 JOINT INITIAL STATUS CONFERENCE CLASS ACTION RESPONSE STATEMENT

10 The true copies thereof were enclosed in a sealed envelope and addressed as follows:

11
12 Counsel for Defendants
13 Brian Sinclair
14 *bsinclair@rutan.com*
15 Radhika Sood
16 *rsood@rutan.com*
17 RUTAN & TUCKER, LLP
18 611 Anton Blvd., Suite 1400
19 Costa Mesa, California 92626

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22 XX BY U.S. MAIL: By placing a true copy thereof enclosed in a sealed envelope(s) addressed as
23 above, and placing each for collection and mailing on that date following ordinary business
24 practices. I am "readily familiar" with this business' practice for collecting and processing
25 correspondence for mailing. On the same day that correspondence is placed for collection and
26 mailing, it is deposited in ordinary course of business with the U.S. Postal Service in Long
27 Beach, California, in a sealed envelope with postage fully prepaid.

28 BY OVERNIGHT DELIVERY: I enclosed the document(s) in an envelope or package
provided by an overnight delivery carrier and addressed as above. I placed the envelope or
package for collection and overnight delivery at an office or a regularly utilized drop box of the
overnight delivery carrier.

BY PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand to the
office(s) of the addressee(s). (C.C.P. Section 1011)

BY FACSIMILE: Based on an agreement of the parties to accept service by fax transmission,
I faxed the document(s) to the person(s) at the fax number(s) listed above. The sending
facsimile machine issued a transmission report confirming that the transmission was complete
and without error.

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BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from *deanna@carlinbuchsbaum.com* to the person(s) at the e-mail address(es) listed above.

XX STATE I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed, January 12, 2018, at Long Beach, California.


DEANNA JAKSIC Declarant