

NOTICE TO CLASS MEMBERS  
BADA RESTAURANTS, INC. LITIGATION

If you are or were employed at any Bada Restaurant ("Blu Water") location as a non-exempt, hourly employee at any time from October 15, 2005 through March 25, 2010, this class action lawsuit may affect your rights.

*This is a court authorized notice. This is not a solicitation from a lawyer.*

- A former employee sued Bada Restaurants, Inc., in King County Superior Court (the "Litigation"), alleging that Bada Restaurants violated Washington law by improperly rounding employees' clock-in and clock-out times, and failing to provide meal periods to employees.
- The Court has certified this case to proceed as a class action. The Court has found that Bada's rounding practices were illegal and willful under Washington law. The Court made no determination about the meal period issue. The Court has conditionally approved a settlement, and Bada Restaurants' records show that you may be entitled to receive notice of the lawsuit and potentially an award under the settlement.
- The parties have settled this case, subject to Court approval. The Court has concluded that the Settlement Agreement falls within the range of possible approval and therefore is preliminarily approved and warrants sending this notice to the Class. Accordingly, the Court has authorized the dissemination of notice to all Class Members, specifically all non-exempt, hourly employees who were employed with Bada Restaurants from October 15, 2005 through March 25, 2010.
- Your legal rights may be affected, and you have a choice to make now:

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS LITIGATION**

- (1) **SUBMIT A CLASS MEMBER CLAIM FORM** — By submitting a timely Class Member Claim Form, you will receive money if the settlement is approved by the Court (the amounts are set forth in this notice), but you will be opting into the settlement and giving up any rights that you may have to separately sue Bada Restaurants, Inc., its affiliates or their agents under state or federal law about the same legal claims as are asserted in this Litigation.
  - (2) **DO NOTHING** — By doing nothing you will be a part of the Litigation and will be giving up any rights that you may have to separately sue Bada Restaurants, Inc., its affiliates or their agents under state or federal law. But because you did not submit a Class Member Claim Form, you will not receive any money under the settlement agreement.
  - (3) **ASK TO BE EXCLUDED** — If you ask to be excluded, you will not receive any money. However, you will not be part of the Litigation and you will keep any rights to sue Bada Restaurants, Inc. separately about the same legal claims as are asserted in this Litigation.
- Your options are explained in this notice. To protect your legal rights, you must act before **July 30, 2010.**

If you have questions, read on.

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## BASIC INFORMATION

### 1. Why did I get this notice?

This notice is given as part of a lawsuit known as *Sarah Ryen v. Bada Restaurants, Inc., et al*, Superior Court of King County, Washington, No. 08-2-35599-3 SEA (the "Litigation"). Bada Restaurants owns and operates several Blu Water restaurants in Washington. Bada Restaurants' records show that you are a current or former employee. As a result, you have legal rights and options that you must exercise. The Court has certified the Litigation to proceed as a class action on behalf of all non-exempt, hourly employees employed at any Bada Restaurant location between October 15, 2005, and March 25, 2010. The Court has conditionally approved a settlement of the Litigation.

### 2. What is the Litigation about?

The Litigation involves claims under Washington laws relating to unpaid wages for Bada's practice of rounding employees' clock-in and clock-out times in Bada's favor, and for failure to provide meal periods. The parties have agreed to resolve this matter in order to avoid the uncertainty and high cost of a jury trial.

### 3. What is a class action and who is involved?

In a class action lawsuit, one or more people called "Class Representatives" (in this case Sarah Ryen) sue on behalf of other people whom they believe have similar claims. The people together are a "Class" and are made up of Class Members. The employee who sued -- and all the Class Members -- are called the Plaintiffs. The company they sue (in this case, Bada Restaurants, Inc.) is called the Defendant. One court resolves the issues for everyone in the Class -- except for those people who choose to exclude themselves from the Class.

## THE SETTLEMENT

### 4. What has Bada Restaurants agreed to pay?

Bada Restaurants has agreed to pay money to settle the Litigation. The money that Bada Restaurants has offered to pay is called the "Settlement Payments." If you participate in the settlement, you will receive your share of the Settlement Payments based upon a formula developed by the Class Representative's attorneys and accepted by Bada Restaurants and described below.

### 5. What can I receive?

If the Judge approves the settlement, all Class Members who timely file a Class Member Claim Form will receive a settlement check in the amount of Two Dollars (\$2) per shift that they worked for Bada Restaurants from October 15, 2005, through March 25, 2010.

### 6. What if I Do Not Know My Dates of Employment?

If you decide to participate in the settlement, please state on the claim form the dates of your employment using records or your best estimate. Bada Restaurants may check its records to verify the dates you provide. If there is a difference between your statement of

your dates of employment and Bada's records, Bada's records will control.

**7. What if I do Not Know the Number of Shifts I Worked Per Week?**

If you do not have specific records, please use your best recollection to state an average number of shifts that you worked per week of employment. You may also review your W-2 forms to determine a total number of shifts if that is easier for you. Bada may check its payroll records if it disputes your numbers. If that happens, Bada Restaurants' payroll records will determine your number of shifts.

**8. Do the Class Representatives receive any additional payments?**

In addition to the Settlement Payments paid pursuant to the formula set forth above, Class Counsel will ask the Court to authorize a payment of \$1,500 by Bada Restaurants to Sarah Ryen as the Class Representative to recognize her service to the class. Bada Restaurants has agreed to pay up to that sum to the Class Representative.

**CLAIMING SETTLEMENT PAYMENTS**

**9. How do I receive my Settlement Payment?**

The Class Member Claim Form accompanies this Notice. **TO OBTAIN YOUR SETTLEMENT PAYMENT, YOU MUST COMPLETE THE CLAIM FORM AND MAIL IT TO CLASS COUNSEL AT THE ADDRESS STATED ON THE CLAIM FORM SO THAT IT IS POSTMARKED NO LATER THAN JULY 30, 2010. FAILURE TO TIMELY SUBMIT THE CLAIM FORM WILL RESULT IN YOUR BEING INELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT.**

**10. Who Can I Contact if I have Questions About the Settlement or the Claim Form?**

For more complete details about the proposed settlement or the process for submitting a claim, you may **contact Class Counsel by e-mail or in writing at the following address:** Anne-Marie Sargent, Connor & Sargent PLLC, 1200 Fifth Avenue, Suite 1650, Seattle, WA 98101; e-mail: [aes@cslawfirm.net](mailto:aes@cslawfirm.net). PLEASE DO NOT TELEPHONE CLASS COUNSEL.

**11. What if my address changes before the Settlement Payments are distributed?**

If you change your address, or if this Notice was not mailed to your correct address, you should immediately provide your current address to Class Counsel by letter or e-mail to ensure that you receive future communications about the Litigation. If Class Counsel does not have your correct address, you might not receive notice of important developments in the Litigation and you might not receive your Settlement Payment.

**12. When Will I Receive the Settlement Payment?**

Due to Bada Restaurants' liabilities and debts, Bada Restaurants is going to make monthly and balloon payments to cover the expense of this settlement. Bada has agreed to make all of these payments by September 30, 2011, and it is likely that payments to class members who submitted claim forms will be mailed in the fall of

2011. The parties regret that the settlement payments will be so delayed, but this was the only way to ensure that payments were sent to Participating Class Members without jeopardizing Bada's business and ability to pay. Because of this delayed payment, it is important that you use an address that will be accurate in the fall of 2011, or email Class Counsel with any updates to your address, at [aes@cslawfirm.net](mailto:aes@cslawfirm.net). Please do not contact Class Counsel about your missed payment unless you have not received it by the end of 2011.

### YOUR RELEASE OF CLAIMS

If you submit a Claim Form, or do nothing, your legal rights will be affected if the Court approves the settlement.

#### **13. How are my legal rights affected if I submit a Class Member Claim Form or do nothing?**

All Class Members who either submit a Claim Form or do nothing will be part of the Litigation and will be bound by the results of the Litigation. If the settlement is approved by the Court, all of these Class Members will give up all Settled Claims. These claims will be given up pursuant to the terms of the Settlement Agreement, and will be barred by entry of a dismissal with prejudice of all claims in the Litigation. Any Class Member who does not want to be bound by the results of the Litigation, or who does not want to give up her rights related to the Settled Claims if the settlement is approved, must timely opt out of this Litigation (see Paragraph 20-21 below). Any Class Member who opts out of this Litigation, however, will not be eligible to receive a Settlement Payment or to otherwise participate in the Litigation.

#### **14. What claims are included in the Settled Claims?**

The Settled Claims are any and all claims that you might have that arise out of any of the circumstances alleged in the Litigation and that arose between October 15, 2005 and March 25, 2010. The Settled Claims are all claims that were or could have been asserted relating to (1) improper payment of wages as a result of Bada's timekeeping system's rounding feature, and (2) denial of meal periods. The Settled Claims include, without limitation, all such claims asserted under Washington's Minimum Wage Act, RCW 49.46 and Washington's Wage Rebate Statute, RCW 49.52. The Settled Claims *do not include* claims for Bada's failure to pay final paychecks to former employees, or a claim for unpaid overtime wages. These wage claims are specifically *excluded* from the Settled Claims, meaning that you can participate in this settlement without releasing your claim for unpaid final paychecks or unpaid overtime.

#### **15. What does this release mean to me?**

This release means that you could not bring a lawsuit against Bada Restaurants, or any of the Released Parties, for any reason relating to the Settled Claims. You would still be able to enforce your rights under the Settlement Agreement, if necessary. The Released Parties include anyone against whom you might have a right to assert a Settled Claim, including Bada Restaurants, Inc., Dan Anderson, Bart Evans, and all of their agents and representatives.

## THE LAWYERS REPRESENTING YOU

### 16. Do I have a lawyer in this case?

The Court appointed Stephen P. Connor and Anne-Marie E. Sargent (and the law firm Connor & Sargent PLLC, [www.cslawfirm.net](http://www.cslawfirm.net)) as the Class Counsel in this case. They are experienced in handling similar cases.

### 17. Can I contact Class Counsel?

You may **WRITE** to or **EMAIL** Class Counsel: Anne-Marie Sargent, Connor & Sargent PLLC, 1200 Fifth Avenue, Suite 1650, Seattle, WA 98101; e-mail: [aes@cslawfirm.net](mailto:aes@cslawfirm.net). PLEASE DO NOT TELEPHONE CLASS COUNSEL.

### 18. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel are working on your behalf. If you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

### 19. How will Class Counsel be paid?

At the Final Hearing on the settlement, or at such other time as the Court may direct, Class Counsel intend to apply to the Court for an award of attorneys' fees in the amount of \$85,000, and costs in the amount of \$5,000. Bada Restaurants has agreed to pay these amounts to Class Counsel, subject to Court approval. These payments are in addition to the Settlement Payments to be paid to Class Members and they will not be deducted from those Settlement Payments.

## ALTERNATIVES

You have alternatives to submitting a claim form and accepting the Settlement Payment.

### 20. May I choose not to participate in the Litigation or the settlement (choosing to opt out)?

Yes, you may **CHOOSE NOT TO BE A MEMBER OF THE CLASS**. To do so, you must follow the procedure below to exclude yourself from the Class, that is "opt out." If you opt out, you will not be a part of the Litigation and you will not receive any of the benefits under the settlement, but your rights, if any, to sue the Released Persons on the Settled Claims will not be barred by the Litigation or the settlement. If you decide to opt out, you must send a letter saying so to Class Counsel, Connor & Sargent PLLC, 1200 Fifth Avenue, Suite 1650, Seattle, WA 98101. Send a copy of this letter to Counsel for Defendants, Richard C. Robinson, Layman, Layman & Robinson PLLP, 316 Occidental Avenue South, Suite 500, Seattle, WA 98104.

### 21. What must the opt-out letter include?

The opt-out letter must (a) contain a reference to "Ryen v. Bada Restaurants, Inc., King County Superior Court Cause No. 08-2-35599-3," (b) include your name, address, telephone number(s), email addresses, and approximate dates of employment; (c) include a statement

that you wish to be excluded from the class; (d) include your signature; and (e) be postmarked by **July 30, 2010**.

**22. May I submit an opt-out request on behalf of others?**

No. A Class Member may not opt out by having a request to opt out submitted by an actual or purported agent or attorney acting on her behalf. No opt out request may be made on behalf of a group of members of the Class.

**23. May I oppose the settlement without opting out?**

Yes, you may **OPPOSE OR OBJECT** to the proposed settlement of the Litigation or any aspect of it that you think is unfair. **The Court will hold a hearing on August 27, 2010, at 9:00 a.m. to determine whether the proposed settlement of the Litigation should be approved.** The hearing will be held in the courtroom of the Honorable Susan J. Craighead, King County Superior Court, 516 Third Avenue, Room E-753, Seattle, Washington. Each Class Member who wishes to object to the fairness, reasonableness or adequacy of the Settlement Agreement or the proposed settlement, or to the award of Attorneys' Fees and Expenses or any incentive awards to Class Representatives, must file a written objection with the Court, and serve copies of the objection on Plaintiffs' and Defendants' Counsel (see paragraph 20 for addresses), by no later than **July 30, 2010**.

**24. What does my objection need to include?**

All objections must be signed by the Class Member and must include: (1) the case name and number of the Litigation, (2) the Class Member's name, address, telephone number, and email address, (3) a statement of the objection(s), including the specific reasons, if any, for each objection, (4) a statement of any legal support the Class Member wishes to bring to the Court's attention, and (5) copies of any evidence the Class Member wishes to introduce in support of her objections.

**GETTING MORE INFORMATION**

**25. Are more details available?**

Yes, if you believe that you need more details in order to make a decision, you have several alternatives.

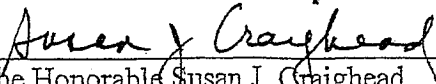
**26. Can I examine the Court's file?**

Yes, you may examine the Court's file in the clerk's office at 516 Third Avenue, Seattle, Washington, 6<sup>th</sup> Floor.

**27. Can I contact Class Counsel?**

Yes, for more complete details about the Litigation and the proposed settlement, including to receive a copy of the Settlement Agreement and Release, you may **WRITE** to or **EMAIL** Class Counsel: Anne-Marie Sargent, Connor & Sargent PLLC, 1200 Fifth Avenue, Suite 1650, Seattle, WA 98101; e-mail: [aes@cslawfirm.net](mailto:aes@cslawfirm.net).

DATED this 23<sup>rd</sup> day of April, 2010.

  
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The Honorable Susan J. Craighead  
King County Superior Court Judge