YOU ARE RECEIVING THESE DOCUMENTS BECAUSE YOUR CLAIM AGAINST BUTH-NA-BODHAIGE, INC., IS BEING CHALLENGED FOR THE REASONS DESCRIBED IN THE ATTACHED OBJECTION. YOU ARE NOT REQUIRED TO RESPOND TO THE OBJECTION, BUT IF YOU DO NOT RESPOND, YOUR CLAIM MAY BE REDUCED AND/OR RECHARACTERIZED AS PROVIDED IN THE OBJECTION. YOU SHOULD CONSIDER CONSULTING WITH AN ATTORNEY REGARDING THE OBJECTION AND YOUR RIGHTS.

RIMON P.C.
Counsel to the Chapter 7 Trustee
Kenneth P. Silverman, Esq.
100 Jericho Quadrangle Suite 300
Jericho, New York 11753
Brian Powers
Courtney M. Roman

Hearing Date: November 10, 2026
Time: 10:00 a.m.

Objections Due: November 3, 2026
Time: 4:00 p.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

In re: Chapter 7

BUTH-NA-BODHAIGE, INC., Case No.: 24-10392 (DSJ)

Debtor.

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NOTICE OF HEARING ON CHAPTER 7 TRUSTEE'S OBJECTION TO CLAIMS

PLEASE TAKE NOTICE THAT, upon the motion (the "Motion") of Keneth P. Silverman, the chapter 7 trustee (the "Trustee") for the bankruptcy estate of Buth-Na-Bodhaige, Inc. (the "Debtor"), will move before the Honorable David S. Jones, United States Bankruptcy Judge, for the United States Bankruptcy Court of the Southern District of New York, via Zoom for Government, on **November 10, 2026 at 10:00 a.m.** (the "Hearing"), or as soon thereafter as counsel can be heard, for entry of an order, substantially in the form annexed to the Motion as **Exhibit B**, disallowing Proof of Claim No. 81, and granting such further relief as this Court deems just and proper

PLEASE TAKE FURTHER NOTICE, that prior to the Hearing, any party wishing to appear at the Hearing is required to register their appearance by 4:00 p.m. one (1) business day in

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advance of the Hearing using the Court's eCourt Appearances platform: https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl.

PLEASE TAKE FURTHER NOTICE, that objections to the relief sought in the Motion shall be in writing, conform to the requirements of the Bankruptcy Code, Bankruptcy Rules, and the Local Rules of this Court, must set forth the name of the objecting party, the basis for the objection and the specific grounds therefore, and must be filed electronically with the Bankruptcy Court in accordance with General Order M-399 (General Order M-399 and the User's Manual for the Electronic Case Filing System may be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court) by registered users of the Bankruptcy Court's case filing system, and by all other parties in interest on a disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with courtesy copies delivered directly to Chambers), and must be served upon (i) counsel to the Trustee, Rimon P.C., 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attn: Brian Powers, Esq. and (ii) The Office of the United States Trustee, Alexander Hamilton Custom House, One Bowling Green, Room 534, New York, New York, 10004-1408, Attn: Mark Bruh, Esq., no later than **November 3, 2026 at 4:00 p.m.**

PLEASE TAKE FURTHER NOTICE, that the Hearing may be adjourned without further notice other than the announcement of such adjournment in open Court or by the filing of such notice of adjournment on the docket sheet for the Debtor's case.

PLEASE TAKE FURTHER NOTICE, that you need not appear at the Hearing if you do not object to the relief requested in the Motion.

Dated: Jericho, New York
September 17, 2026

RIMON P.C.
Counsel to Kenneth P. Silverman, Esq.,
the Chapter 7 Trustee

By: *s/ Brian Powers*
Brian Powers
Partner
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 7
BUTH-NA-BODHAIGE, INC.,	Case No.: 24-10392 (DSJ)
Debtor.	

CHAPTER 7 TRUSTEE'S OBJECTION TO PROOF OF CLAIM NUMBER 81 FILED BY ANN JENNIFER CRESPO

Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") for the bankruptcy estate of Buth-Na-Bodhaige, Inc. (the "Debtor"), submits this motion (this "Motion") seeking entry of an order disallowing Proof of Claim No. 81 (the "Class Claim") filed by Ann Jennifer Crespo (the "Representative Claimant"), on behalf of herself and all similarly situated former employees of the Debtor (collectively, the "Class" and each a "Class Claimant"), and granting such further relief as this Court deems just and proper, and respectfully represents as follows:

BACKGROUND

The Debtor's Filing of the Chapter 7 Case

1. On March 8, 2024 (the "Petition Date"), the Debtor filed a voluntary petition for relief pursuant to chapter 7 of title 11, United States Code (the "Bankruptcy Code").

2. Until the Petition Date, the Debtor operated as a cosmetic and skin care retailer that is a subsidiary of the Body Shop International Limited ("TBSI"), a United Kingdom based company. For years prior to the Petition Date, TBSI managed and directed the Debtor's business affairs and operations as well as other TBSI subsidiaries in Canada and elsewhere.

3. In particular, TBSI orchestrated and controlled the Debtor's banking and its disbursement of the funds necessary for the Debtor and other TBSI subsidiaries to operate on a daily basis. TBSI also owned and controlled all back-office information technology for its subsidiaries, including the Debtor. Those items included internal servers, electronic records storage, e-mail accounts and backups, and historical financial data.

4. On February 13, 2024, TBSI entered administration in the United Kingdom, and the appointed administrator began the process of marketing TBSI for sale. Once TBSI entered administration, the Debtor was informed that TBSI would no longer continue the long-standing operational relationship between TBSI and the Debtor, and that the Debtor's operations would no longer be actively supported by TBSI. Accordingly, shortly thereafter, the Debtor terminated all of its employees, closed all of its retail locations, and filed this chapter 7 case.

5. On March 9, 2024, Kenneth P. Silverman, Esq., was appointed the interim chapter 7 trustee of the Debtor's estate. On April 9, 2024, the initial section 341 First Meeting of Creditors was held and the Trustee duly qualified and has become the permanent Trustee.

6. On September 7, 2024, TBSI closed on a sale of its assets to a third party, the specific terms of which have not been disclosed to the Trustee.

The Trustee's Operation of the Debtor and Winddown of Its Operations

7. On May 8, 2024, the Trustee filed an application seeking authority to, among other things, operate the Debtor's prepetition business pursuant to Bankruptcy Code § 721, which was

granted by the Court on May 23, 2024 (ECF Doc. No. 59). As part of the Trustee's winddown process and his operation of the Debtor's business, the Trustee entered into an agreement with another TBSI subsidiary, The Body Shop Canada Limited ("TBS Canada"), whereby TBS Canada licensed the Debtor's warehouse and agreed to pay certain expenses that would otherwise be borne by the Debtor's estate in exchange for a credit on license fees that would otherwise be due (the "License Agreement"). The agreement with TBS Canada was approved by the Court on June 11, 2024 (ECF Doc. No. 72).

8. Among the expenses of the estate paid by TBS Canada were the costs of former Debtor employees that TBS Canada hired as independent contractors to assist both TBS Canada in its own sale process[1] and the Trustee in his efforts to sell the Debtor's real property and otherwise administer the chapter 7 case. Despite the insolvency proceedings across the world, and the sale of TBSI's assets to a third party, the independent contractors had been permitted to maintain their access to the TBSI servers via an agreement negotiated by TBS Canada. Those individuals were instrumental in providing the Trustee with necessary information for the administration of the Debtor's estate, permitting the Trustee to gather data and documentation necessary to administer the estate that was otherwise only accessible to TBSI and later the purchaser of TBSI's assets.

9. Importantly, one of the independent contractors was Jennifer Wale, the former director of the Debtor's human resources department. Ms. Wale assisted with, among other things, the winddown of the Debtor's 401(k) plan, finalization of year-end W-2's, and the analysis of the Debtor's prepetition employment policies and proofs of claim filed by the Debtor's former employees (discussed below). By the time the License Agreement reached its termination date on December 31, 2024 (which was also the termination of the Trustee's ability to operate and thereby

[1] TBS Canada filed its own Canadian bankruptcy proceeding shortly after the Petition Date.

reimburse TBS Canada), the Trustee had gathered what he and his professionals believed, based upon information gathered through nearly ten (10) months of his investigation into the Debtor's business and financial affairs, was all documentation necessary to administer the estate. Upon information and belief, Ms. Wale's contractual relationship with TBS Canada was terminated shortly thereafter.

The Claims Process in the Chapter 7 Case

10. By Notice of Possible Payment of Dividends and of Last Date to File Claims (ECF Doc. No. 20) (the "Bar Date Notice"), dated March 14, 2024, the Bankruptcy Court established June 17, 2024, as the deadline by which proofs of claim were required to be filed in this case (the "Bar Date"). The Bar Date Notice was mailed to, among others, all parties contained within the Debtor's Schedules and all those entities who have otherwise indicated an interest in this case. Those parties included every one of the Debtor's employees as of its closure. *See* Affidavit of Service, ECF Doc. No. 40).[2]

11. On June 14, 2024, the Representative Claimant filed the Class Claim on behalf of a proposed class of claimants asserting an unliquidated, unsecured priority claim pursuant to Bankruptcy Code § 507(a)(4) for unpaid severance obligations. A copy of which is annexed hereto as **Exhibit A**. Other than a conclusory statement regarding an alleged severance obligation, the Class Claim provides neither information regarding the basis for the purported severance obligation nor details regarding any specific facts or circumstances leading to such a conclusion.

12. On January 30, 2025, Trustee filed an omnibus motion for an order disallowing certain proofs of claim filed by former employees (ECF Doc. No. 152) (the "Employee Omnibus

[2] The inclusion of all former employees necessitated the Court to enter an order authorizing the redaction of personally identifiable information (ECF Doc. No. 19), as well as the retention of a claims and noticing agent to ensure adherence to that order during the noticing process (ECF Doc. No. 33). Accordingly, the affidavit of service on file has all addresses and pertinent information (other than names) redacted.

Objection"). Notably, seventeen (17) of those employees asserted that they were due unpaid severance, and the Trustee objected primarily on the basis that neither the Debtor's internal procedures nor employee handbook provided for severance payments to terminated employees. *See* Employee Omnibus Objection, ¶ 8. As discussed above, that information and documentation was provided by Jennifer Wale prior to the termination of the License Agreement. On March 3, 2025, this Court entered an order granting the Employee Omnibus Objection (ECF Doc. No. 160), which disallowed each of these seventeen (17) employee claims.

The Representative Claimant's Limited Involvement in the Chapter 7 Case

13. On June 16, 2025, in response to the Trustee's application to make an interim distribution to priority and unsecured creditors, counsel to the Representative Claimant contacted counsel to the Trustee regarding the Representative Claimant's request for the Trustee to reserve the amount of $900,000 for the Class Claim when he made the interim distribution (the "Class Claim Reserve"). Because the Class Claim was filed as an unsecured priority claim, and the Trustee intended to make distributions to general unsecured creditors, the entirety of the proposed $900,000 was required to be reserved to ensure payment in full in the event the Class Claim was ultimately allowed. That issue was consensually resolved in the order authorizing the Trustee to make the interim distribution, and the Trustee has been holding the Class Claim Reserve since that time.[3]

14. As part of those discussions, the Trustee was informed, for the first time, that the Class Claim was based, at least in part, upon alleged correspondence to the Representative Claimant (and other employees) from the Debtor's human resources department prior to the

[3] The Trustee is nearing the end of his administration and expects to make another interim distribution in the near term. Disallowance of the Class Claim would free up nearly a million dollars to be distributed to general unsecured creditors as part of that distribution.

cessation of the Debtor's operations. Counsel to the Representative Claimant suggested that this correspondence indicated that employees were due severance upon termination.

15. As discussed above, the Trustee had previously been informed by Jennifer Wale that the Debtor had no severance policy, and the Debtor's employee handbook indicated no such policy existed. Counsel to the Trustee informed the Representative Claimant's counsel of those facts, as well as the fact that the Trustee no longer had access to the Debtor's books and records or its former head of human resources, such that the Trustee was unable to confirm whether such correspondence existed. Notwithstanding, the Trustee agreed to investigate whether it was possible to obtain the Debtor's e-mail records from TBSI's administrators or its new owner.

16. Accordingly, shortly after discussions with counsel to the Representative Claimant, the Trustee began to investigate whether the alleged correspondence existed and, to the extent it did, the number of individual employees that received such correspondence. He and his professionals contacted representatives of TBSI and TBS Canada to request access to the necessary e-mail accounts to further that investigation, but were informed by both that those records were not retained and were transferred with the server to the purchaser of TBSI's assets. The Trustee's professionals also contacted former TBSI employees that were now employed by the purchaser, each of whom indicated that they would not be permitted to provide the requested access or even confirm that the relevant data for Debtor employees had even been maintained by TBSI's purchaser. Despite significant efforts over the course of several months, the Trustee was unable to obtain voluntary cooperation from the purchaser or any records which might substantiate the Representative Claimant's allegations. The Trustee then determined that enforcement of a subpoena overseas, followed by the requisite payment of any costs incurred by the purchaser in

response to that subpoena, would be a significant cost to the Debtor's estate and decided to cease his investigatory efforts.

17. To date, more than two (2) years after the Bar Date, and to the best of the Trustee's and counsel's knowledge, no additional actions have been taken by the Representative Claimant with respect to the Class Claim.

JURISDICTION, VENUE AND STATUTORY RELIEF REQUESTED

18. The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicate for the relief requested herein are Sections 105 and 502 of the Bankruptcy Code and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

RELIEF REQUESTED

19. By this Objection, Trustee seeks entry of an order, substantially in the form attached hereto as **Exhibit B**, disallowing the Class Claim on the basis that the Class Claim should be disallowed due to the failure of the Representative Claimant to certify the Class and for the reasons set forth below.

BASIS FOR OBJECTION

20. Rule 23 of the Federal Rules of Civil Procedure Rule (the "Federal Rules") codifies the right for a "representative party" to sue or be sued on behalf of the members of a class if: "(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class." FED. R. CIV. P. 23.

21. Furthermore, pursuant to Bankruptcy Rule 9014(c), bankruptcy courts have discretion as to whether to admit a class claim.[4] "Accordingly, the proponent of a class claim must (1) make a motion to extend the application of Rule 23 to some contested matter; (2) satisfy the requirements of Rule 23; and (3) show that the benefits derived from the use of the class claim device are consistent with the goals of bankruptcy." *In re Motors Liquidation Co.,* 447 B.R. 150, 157 (Bankr. S.D.N.Y. 2011).

The Class Claim Should be Disallowed Because the Representative Claimant Has Not Moved to Certify the Class or Extend Federal Rule 23 to the Class Claim

22. Pursuant to Federal Rule 23(c), a class must be certified by order of the court before it can be recognized. Absent a separate motion to extend Federal Rule 23 to a contested matter, it is well established that Courts will treat a motion for class certification as the motion to extend Federal Rule 23. FED. R. CIV. P. 23.

23. Representative Claimants can file a motion for class certification at any time after a bankruptcy case is filed. *In re MF Global Inc*., 512 B.R. 757, 767 (Bankr. S.D.N.Y. 2014). Courts in this District have found that an expediency requirement is embodied in Federal Rule 23(c)(1), which states that a class claimant shall file a certification order "at an early practicable time." FED. R. CIV. P. 23(c)(1)(A). Accordingly, courts may refuse to extend Federal Rule 23 to a class claim if the class claimants fail to seek certification in a timely manner. *See In re Woodward & Lothrop Holdings, Inc.*, 205 B.R. 365, 370 (Bankr. S.D.N.Y. 1997) (noting that a "delay may impact on the entire case—not just the affected claim—and provides grounds to refuse to make Rule 23

[4] Federal Rule 23 does not apply automatically to contested matters in bankruptcy proceedings. The bankruptcy court has discretion under Bankruptcy Rule 9014(c) to direct that Bankruptcy Rule 7023, and thereby Federal Rule 23, apply to contested matters. *See* Bankruptcy Rule 7023; Bankruptcy Rule 9014(c). Notably, proofs of claim filed on behalf a class of claimants become contested matters upon the filing of an objection to the proof of claim. *In re Motors Liquidation Co.,* 447 B.R. 150, 156 (2011).

applicable to the claims process"); *Motors Liquidation Co*., 447 B.R. at 164 ("The importance of filing a prompt motion for class certification (and without waiting for an objection to the claim) has been clear, and the cases requiring prompt filing have been uniform"); *In re Thomson McKinnon Sec., Inc*., 150 B.R. 98, 101 (Bankr. S.D.N.Y. 1992) ("The fact that the plaintiffs did not move for class certification promptly after filing their purported class claim detracts from the discretionary factors to be considered in determining class certification because Federal Rule of Civil Procedure 23(c)(1) specifically requires that such determination must be sought '[a]s soon as practicable after the commencement of an action brought as a class action....'").

24. Although the Class Claim was timely filed before the Bar Date, to date neither the Representative Claimant nor any of the Class Claimants have moved to certify the Class or extend their time to certify the Class pursuant to Federal Rule 23. Over two years have passed since the Class Claim was filed, and over a year has passed since the Trustee established the Class Claim Reserve, which made clear to the Representative Claimant that there were sufficient funds to pay any ultimately allowed portion of the Class Claim. That amount of time is more than sufficient for the Representative Claimant to have made a motion to certify the purported class.

The Requirements to Extend Federal Rule 23 Cannot be Met

25. Moreover, in order to extend Federal Rule 23 to a contested matter, the movant must make a sufficient showing of a benefit derived from the use of the class claim device that is consistent with the goals of bankruptcy. *In re Musicland Holding Corp*., 362 B.R. 644, 654 (Bankr. S.D.N.Y. 2007). With respect to that requirement, Courts have considered several factors, such as, (1) whether the class was certified pre-petition, (2) whether the members of the putative class received notice of the bar date, and (3) whether class certification will adversely affect the administration of the case. *See In re Musicland Holding Corp*., 362 B.R. 644, 654 (Bankr. S.D.N.Y.

2007). Courts in this District place an emphasis on the first two factors: bar date notice and pre-petition class certification. *See In re Musicland Holding Corp*., 362 B.R. 644, 654 (Bankr. S.D.N.Y. 2007) (noting that the first two considerations are "critical" and declining to extend Federal Rule 23 to "putative members of an uncertified class who received actual notice of the bar date" and "did not file timely claims", which are the "least favored candidates for class action treatment"); *In re Bally Total Fitness of N.Y., Inc.*, 402 B.R. 616, 619–20 (Bankr. S.D.N.Y. 2009).; *In re Major Model Management, Inc*., 641 B.R. 302, 320 (Bankr. S.D.N.Y. 2022).

26. Here, as discussed above, all of the Debtor's employees as of its closure received notice of the case filing, as well as the Bar Date Notice. At least twenty-two (22) of those employees filed proofs of claim prior to the Bar Date, including five (5) which have been validated, allowed, and have received a full or partial distribution. *See* ECF Doc. No. 176. Additionally, seventeen (17) employee claims were included in the Employee Omnibus Objection, including three (3) that asserted claims for allegedly due severance. Each of those claims was disallowed by order of the Court. *See* Order, ECF Doc. No. 160.

27. As to the second factor, the purported class was not certified pre-petition, and no complaint asserting any related allegations was filed against the Debtor prior to the Petition Date.[5] Notwithstanding, no attempt to move for class certification has been made in the past two and a half years since the Petition Date.

28. Finally, with respect to the third factor, under the circumstances of this case, permitting the Class Claim to continue as a class under Federal Rule 23 would unduly burden the estate by substantially delaying, and likely substantially reducing, distributions to creditors. First, as discussed above, the legal and factual bases supporting the Class Claim are disputed and the

[5] Notably, there were only seven days between the Debtor's termination of its employees and the filing of this chapter 7 case.

Representative Claimant does not possess documentation sufficient to establish the requirements for class certification. Accordingly, despite the Trustee's efforts to obtain information after he was alerted to the alleged basis for the Class Claim, he has determined that it would be incredibly cumbersome and exceedingly costly to attempt to even obtain (let alone review) the Debtor's prepetition records.

29. Moreover, permitting the extension of Federal Rule 23 to the Class Claim would adversely affect the administration of this case by forcing the Trustee to effectively relitigate claims for severance raised by multiple employees, effectively giving those employees a second bite at the proverbial apple. As discussed above, at least three (3) former employees filed specific claims seeking payment for severance allegedly due from the Debtor. As discussed, the Trustee spent a significant amount of time investigating and objecting to those claims, and each of the claims was disallowed by the granting of the Employee Omnibus Objection. Permitting the Class Claim to proceed towards class certification now would cause an unnecessary duplication of efforts and substantial confusion regarding the status of potential entitlements of potential class members.

The Class Claim Should be Disallowed
Because the Requirements of Federal Rule 23(a) Have Not Been Satisfied

30. Even assuming, *arguendo*, that the Court determines that Federal Rule 23 should be extended to the Class Claim, the Class Claim still would not meet the requirements for certification in Federal Rule 23(a).

31. Pursuant to Federal Rule 23(a), there are four prerequisite requirements that all must be met in order to certify a class. FED. R. CIV. P. 23(a). Those requirements are that: (1) the class must be "so numerous that joinder of all members is impracticable;" (2) there must be questions of law or fact common to the asserted class; (3) "the claims or defenses of the

representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class." *Id*.

32. The numerosity requirement, in Rule 23(a)(1), is satisfied when the class is so numerous that the joinder of all members would be impracticable. *Cent. States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C*., 504 F.3d 229, 244-245 (2d Cir. 2007). In the bankruptcy context, a class may fail this prong of the test if the Debtor provided all of the potential class members with notice of the bankruptcy filing and bar date. *See In re Musicland Holding Corp*., 362 B.R. 644, 654 (Bankr. S.D.N.Y. 2007); *In re W.R. Grace & Co*., 389 B.R. 373, 376 (Bankr. D. Del. 2008).

33. Here, as discussed at length above, every one of the Debtor's employees at the time of filing received notice of the bankruptcy case filing and the bar date, and many took affirmative action to file their own proofs of claim.[6] Accordingly, in this case it is not only clear that joining each potential member of the class is practicable, but that it was in fact already accomplished. Thus, the Class Claim cannot meet the numerosity requirement of Federal Rule 23(a)(1).

34. The commonality requirement in Federal Rule 23(a)(2) is satisfied if the class claim involves a question of law or fact common to the class. A desired claimant must "demonstrate that the class members have suffered the same injury." *Wal–Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349–50 (2011*). See In re IndyMac Mortgage–Backed Sec. Litig*., 286 F.R.D. 226, 233 (S.D.N.Y. 2012) ("Commonality is satisfied where a single issue of law or fact is common to the class."). In this case, there are several material issues that separate the common facts as between potential class members. First, as discussed above, many of the Debtor's former employees filed their own proofs of claim. Of those that did file proofs of claim, some asserted claims for unpaid severance,

[6] Importantly, the proof of claim filing process has become extraordinarily simple for *pro se* parties since the implementation of the Court's electronic proof of claim filing system.

but others did not. Moreover, the Trustee objected to all claims asserting severance obligations in the Employee Omnibus Objection, and those claims were disallowed. Perhaps most importantly, the Trustee cannot determine from the documents and information in his possession whether any, some, or all employees actually received the alleged correspondence relating to severance, nor can the Representative Claimant provide that information. Accordingly, the Class Claim cannot satisfy the requirements under Federal Rule 23(a)(2).

35. The typicality requirement, in Federal Rule 23(a)(3), states that a class claim must share a typicality amongst the claims of the representative parties and the class. Fed. R. Civ. P. 23(a)(3). Typicality is satisfied when "each class member's claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant's liability." *In re Sumitomo Copper Litigation*, 182 F.R.D. 85, 94 (S.D.N.Y. 1998). Typicality is meant to ensure that the class of claims share common facts, legal arguments, and do not contain unique defenses which may lead to litigation. *Vengurlekar v. Silverline Techs., Ltd*., 220 F.R.D. 222, 227 (S.D.N.Y. 2003).

36. As noted above, although the Class Claim allegedly arises from the same correspondence being sent to all employees, there is no available evidence to indicate whether any correspondence was sent to some, all, or none of the Debtor's employees. Accordingly, the Representative Claimant cannot meet the typicality requirement under Federal Rule 23(a)(3).

37. FRCP 23(a)(4) "requires that 'the representative party will fairly and adequately protect the interests of the class.' FED. R. CIV. P. 23(a)(4). This requires two findings: 'First, class counsel must be qualified, experienced and generally able to conduct the litigation. Second, the class members must not have interests that are antagonistic to one another.'" *In re MF Glob. Inc*., 512 B.R. 757, 766 (Bankr. S.D.N.Y. 2014) (citing *In re Drexel Burnham Lambert Grp., Inc*., 960

F.2d 285, 291 (2d Cir. 1992)). Moreover, "there is authority in this district that failure to initiate class proceedings or certify a class in a bankruptcy proceeding can support a finding of inadequacy of the class representatives under Rule 23(a)(4)." *Id*.; *see also In re Dynegy Inc*., No. 12 CIV. 8908 JGK, 2013 WL 2413482, at *7 (S.D.N.Y. June 4, 2013), aff'd sub nom. *In re Dynegy, Inc*., 770 F.3d 1064 (2d Cir. 2014) (stating that the "failure to seek the application of a class action rendered" the representative claimant "unable to represent a class that had never been designated by the Bankruptcy Court"); *In re Woodward & Lothrop Holdings, Inc*., 205 B.R. 365, 370 (Bankr. S.D.N.Y. 1997) (noting that "the class representative's failure to move for class certification is a strong indication that he will not fairly and adequately represent the interests of the class"); *In re Thomson McKinnon Sec., Inc.,* 150 B.R. 98, 101 (Bankr.S.D.N.Y.1992) ("The fact that the plaintiffs did not move for class certification promptly after filing their purported class claim detracts from the discretionary factors to be considered in determining class certification. . . .").

38. As stated above, neither the Representative Claimant nor counsel to the alleged Class have moved to certify the Class. The Class Claim has been pending for over two years without any action by counsel or the Representative Claimant to move the certification process forward, during which time (and in the absence of notice of the true allegations of the Class Claim) much of the documents and information necessary to litigate this case (on either side) was lost. Based on the foregoing and the extensive case law in this District, counsel to the alleged Class and the Representative Claimant lack the ability to adequately represent the Class.

RESERVATION OF RIGHTS

39. Trustee expressly reserves his right to amend, modify, or supplement this Objection and to file additional objections to the Class Claim or any other claims (filed or not) which may be asserted by the Representative Claimant. Should one or more of the grounds for objection

stated in this Objection be dismissed, the Trustee reserves his right to object on other stated grounds or on any other grounds that the Trustee discovers.

40. Notice of this Objection has been provided to the Office of the United States Trustee and counsel to the Representative Claimant. In light of the nature of the relief requested, the Trustee submits that no other or further notice is necessary.

CONCLUSION

41. Based upon the foregoing, the Trustee respectfully requests that the Court enter an order disallowing the Class Claim as set forth herein, and grant the Trustee such other and further relief as is just and proper.

Dated: Jericho, New York
September 17, 2026

Rimon P.C.
Attorneys for Kenneth P. Silverman, Esq.
The Chapter 7 Trustee

By: *s/ Brian Powers*

Brian Powers
Partner
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

Fill in this information to identify the case:

Debtor Buth-Na-Bodhaige, Inc.

United States Bankruptcy Court for the: Southern District of New York (State)

Case number 24-10392

Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) **that you received.**

Part 1: Identify the Claim

1. **Who is the current creditor?**
   Ann Jennifer Crespo on behalf of herself and all others similarly situated
   Name of the current creditor (the person or entity to be paid for this claim)
   Other names the creditor used with the debtor

2. **Has this claim been acquired from someone else?**
   ☑ No
   ☐ Yes. From whom?

3. **Where should notices and payments to the creditor be sent?**
   Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?	**Where should payments to the creditor be sent?** (if different)
See summary page	
Contact phone 2514338100	Contact phone
Contact email molsen@thegardnerfirm.com	Contact email

   Uniform claim identifier for electronic payments in chapter 13 (if you use one):
   _

4. **Does this claim amend one already filed?**
   ☑ No
   ☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**
   ☑ No
   ☐ Yes. Who made the earlier filing?

2410392240614000000000007

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**

☑ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?** $ approx. 900,000 . **Does this amount include interest or other charges?**

☑ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

severance claim, see attached

9. **Is all or part of the claim secured?**

☑ No

☐ Yes. The claim is secured by a lien on property.

Nature or property:

☐ Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☑ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☑ No

☐ Yes. Identify the property: _____

24103922406140000000000007

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

		Amount entitled to priority
☐	No	
☑	Yes. *Check all that apply:*	
☐	Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$
☐	Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$
☑	Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$ approx. 900,000
☐	Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$
☐	Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$
☐	Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. 503(b)(9)?**

☑ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$_____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☑ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/14/2024
MM / DD / YYYY

/s/Mary E. Olsen
Signature

Print the name of the person who is completing and signing this claim:

Name: Mary E. Olsen
First name Middle name Last name

Title: Attorney for claimants

Company: The Gardner Firm
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

Contact phone _____ Email _____



Verita (KCC) ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (866) 967-0268 | International (310) 751-2668

Debtor:
24-10392 - Buth-Na-Bodhaige, Inc.
District:
Southern District of New York, New York Division

Creditor:
Ann Jennifer Crespo on behalf of herself and all others similarly situated
Mary E. Olsen
PO Box 3103

Mobile, AL, 36652
United States
Phone:
2514338100
Phone 2:
Fax:
Email:
molsen@thegardnerfirm.com

Has Supporting Documentation:
Yes, supporting documentation successfully uploaded
Related Document Statement:

Has Related Claim:
No
Related Claim Filed By:

Filing Party:
Authorized agent

Other Names Used with Debtor:

Amends Claim:
No
Acquired Claim:
No

Basis of Claim:
severance claim, see attached

Last 4 Digits:
No

Uniform Claim Identifier:

Total Amount of Claim:
approx. 900,000

Includes Interest or Charges:
No

Has Priority Claim:
Yes

Priority Under:
11 U.S.C. §507(a)(4): approx. 900,000

Has Secured Claim:
No
Amount of 503(b)(9):
No
Based on Lease:
No
Subject to Right of Setoff:
No

Nature of Secured Amount:
Value of Property:
Annual Interest Rate:
Arrearage Amount:
Basis for Perfection:
Amount Unsecured:

Submitted By:
Mary E. Olsen on 14-Jun-2024 2:45:43 p.m. Eastern Time
Title:
Attorney for claimants
Company:
The Gardner Firm

Fill in this information to identify the case:

Debtor Buth-Na-Bodhaige, Inc.

United States Bankruptcy Court for the Southern District of New York (State)

Case number 24-10392

Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Other than a claim under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for an administrative expense arising after the commencement of the case.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed.

Part 1: Identify the Claim

1. **Who is the current creditor?**

Ann Jennifer Crespo on behalf of herself and all others similarly situated
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor

2. **Has this claim been acquired from someone else?**

☑ No

☐ Yes. From whom?

3. **Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?

Mary E. Olsen
Name

PO Box 3103
Number Street

Mobile, AL 36652
City State ZIP Code

USA
Country

Contact phone (251) 433-8100

Contact email molsen@thegardnerfirm.com

Where should payments to the creditor be sent? (if different)

Name

Number Street

City State ZIP Code

Country

Contact phone

Contact email

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. **Does this claim amend one already filed?**

☑ No

☐ Yes. Claim number on court claims registry (if known) Filed on MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

☑ No

☐ Yes. Who made the earlier filing?

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**

☑ No

☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ___ ___ ___ ___

7. **How much is the claim?**

$ approx. $900,000. **Does this amount include interest or other charges?**

☑ No

☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?**

Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.

Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).

Limit disclosing information that is entitled to privacy, such as health care information.

severance claim, see attached

9. **Is all or part of the claim secured?**

☑ No

☐ Yes. The claim is secured by a lien on property.

Nature of property:

☐ Real estate: If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.

☐ Motor vehicle

☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: $_____

Amount of the claim that is secured: $_____

Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amount should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: $_____

Annual Interest Rate (when case was filed)_____%

☐ Fixed

☐ Variable

10. **Is this claim based on a lease?**

☑ No

☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**

☑ No

☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ No

☑ Yes. *Check all that apply:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$
☐ Up to $3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$
☑ Wages, salaries, or commissions (up to $15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$ approx. $900,000 plus any non-priority remainder per class member above $15,150 as a general unsecured claim
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. **Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?**

☑ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

$

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☑ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/14/2024
MM / DD / YYYY

/s/ Mary E. Olsen
Signature

Print the name of the person who is completing and signing this claim:

Name: Mary E. Olsen
First name Middle name Last name

Title: Attorney for claimants

Company: The Gardner Firm, P.C.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: PO Box 3103
Number Street

Mobile, AL 36652
City State ZIP Code Country

Contact phone (251) 433-8100 Email molsen@thegardnerfirm.com

Official Form 410

Instructions for Proof of Claim

United States Bankruptcy Court 12/15

These instructions and definitions generally explain the law. In certain circumstances, such as bankruptcy cases that debtors do not file voluntarily, exceptions to these general rules may apply. You should consider obtaining the advice of an attorney, especially if you are unfamiliar with the bankruptcy process and privacy regulations.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both.
18 U.S.C. §§ 152, 157 and 3571

How to fill out this form

- **Fill in all of the information about the claim as of the date the case was filed.**
- **Fill in the caption at the top of the form**
- **If the claim has been acquired from someone else, then state the identity of the last party** who owned the claim or was the holder of the claim and who transferred it to you before the initial claim was filed.
- **Attach any supporting documents to this form.** Attach redacted copies of any documents that show that the debt exists, a lien secures the debt, or both. (See the definition of *redaction* on the next page.)

  Also attach redacted copies of any documents that show perfection of any security interest or any assignments or transfers of the debt. In addition to the documents, a summary may be added. Federal Rule of Bankruptcy Procedure (called "Bankruptcy Rule") 3001(c) and (d).
- **Do not attach original documents because attachments may be destroyed after scanning.**
- **If the claim is based on delivery health care goods or services, do not disclose confidential health care information. Leave out or redact confidential information both in the claim and in the attached documents.**

PLEASE SEND COMPLETED PROOF(S) OF CLAIM TO:
The Body Shop Claims Processing Center
c/o KCC
222 N. Pacific Coast Hwy., Ste. 300
El Segundo, CA 90245

Alternatively, your claim can be filed electronically on KCC's website at https://www.kccllc.net/thebodyshop.

- **A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, individual's tax identification number, or financial account number, and only the year of any person's date of birth.** See Bankruptcy Rule 9037.
- **For a minor child, fill in only the child's initials and the full name and address of the child's parent or guardian.** For example, write *A.B., a minor child (John Doe, parent, 123 Main St., City, State).* See Bankruptcy Rule 9037.

Confirmation that the claim has been filed

To receive confirmation that the claim has been filed, either enclose a stamped self-addressed envelope and a copy of this form or you may view a list of filed claims in this case by visiting the Claims and Noticing and Agent's website at http://www.kccllc.net/thebodyshop.

Understand the terms used in this form

Administrative expense: Generally, an expense that arises after a bankruptcy case is filed in connection with operating, liquidating, or distributing that bankruptcy estate.
11 U.S.C. § 503

Claim: A creditor's right to receive payment for a debt that the debtor owed on the date the debtor filed for bankruptcy. 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Claim Pursuant to 11 U.S.C. §503(b)(9): A claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of the Debtor's business. Attach documentation supporting such claim.

Creditor: A person, corporation, or other entity to whom a debtor owes a debt that was incurred on or before the date the debtor filed for bankruptcy. 11 U.S.C. §101 (10).

Debtor: A person, corporation, or other entity to who is in bankruptcy. Use the debtor's name and case number as shown in the bankruptcy notice you received.
11 U.S.C. §101 (13).

Evidence of perfection: Evidence of perfection of a security interest may include documents showing that a security interest has been filed or recorded, such as a mortgage, lien, certificate of title, or financing statement.

Information that is entitled to privacy: A *Proof of Claim* form and any attached documents must show only the last 4 digits of any social security number, an individual's tax identification number, or a financial account number, only the initials of a minor's name, and only the year of any person's date of birth. If a claim is based on delivering health care goods or services, limit the disclosure of the goods or services to avoid embarrassment or disclosure of confidential health care information. You may later be required to give more information if the trustee or someone else in interest objects to the claim.

Priority claim: A claim within a category of unsecured claims that is entitled to priority under 11 U.S.C. §507(a). These claims are paid from the available money or property in a bankruptcy case before other unsecured claims are paid. Common priority unsecured claims include alimony, child support, taxes, and certain unpaid wages.

Proof of claim: A form that shows the amount of debt the debtor owed to a creditor on the date of the bankruptcy filing. The form must be filed in the district where the case is pending.

Redaction of information: Masking, editing out, or deleting certain information to protect privacy. Filers must redact or leave out information entitled to **privacy** on the *Proof of Claim* form and any attached documents.

Do not file these instructions with your form.

Secured claim under 11 U.S.C. §506(a): A claim backed by a lien on particular property of the debtor. A claim is secured to the extent that a creditor has the right to be paid from the property before other creditors are paid. The amount of a secured claim usually cannot be more than the value of the particular property on which the creditor has a lien. Any amount owed to a creditor that is more than the value of the property normally may be an unsecured claim. But exceptions exist; for example, see 11 U.S.C. § 1322(b) and the final sentence of 1325(a).

Examples of liens on property include a mortgage on real estate a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In states, a court judgment may be a lien.

Setoff: Occurs when a creditor pays itself with money belonging to the debtor that it is holding, or by canceling a debt it owes to the debtor.

Uniform claim identifier: An optional 24-character identifier that some creditors use to facilitate electronic payment.

Unsecured claim: A claim that does not meet the requirements of a secured claim. A claim may be unsecured in part to the extent that the amount of the claim is more than the value of the property on which a creditor has a lien.

Offers to purchase a claim

Certain entities purchase claims for an amount that is less than the face value of the claims. These entities may contact creditors offering to purchase their claims. Some written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court, the bankruptcy trustee, or the debtor. A creditor has no obligation to sell its claim. However, if a creditor decides to sell its claim, any transfer of that claim is subject to Bankruptcy Rule 3001(e), any provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.) that apply, and any orders of the bankruptcy court that apply.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

BUTH-NA-BODHAIGE, INC., Debtor.

Chapter 7

Case No. 24-10392 (DSJ)

CLASS PROOF OF CLAIM ON BEHALF OF FORMER EMPLOYEES OF DEBTORS FOR SEVERANCE CLAIMS

This Proof of Claim is filed against the Debtor, pursuant to Federal Rules of Civil Procedure Rules 23(a), (b)(1)(B) and 23(b)(3) made applicable by Federal Rules of Bankruptcy Procedure, Rule 7023, by Ann Jennifer Crespo (the "Representative Claimant"), on behalf of herself and the other similarly situated former employees of the Debtor, each of whom were employed by the Debtor until their employment was terminated without cause on or about March 1, 2024 and seeks unpaid severance pay from Debtor (the "Class Claimants"). Plaintiff seeks wage priority treatment for these severance claims under Bankruptcy Code, 11 U.S.C. § 507(a)(4).

The amount of severance pay which is owed to Representative Claimant is $24,108.80.

The identity of each of the Class Claimants and the amounts of the severance pay which they are owed by the Debtor is shown in the books and records of the Debtor.

The Representative Claimant and the Class Claimants constitute a class within the meaning of Fed. R. Civ. P. 23(a), (b)(1)(B) and 23 (b)(3) and Bankruptcy Rule 7023. The Representative Claimant estimates the size of the putative class to be 300.

The exact amount of the wage priority severance claims of each of the Class Claimants are unknown to the Representative Claimant but is reflected in the Debtors' books and records. The Representative Claimant estimates that the total amount of the Class Claimants' wage priority severance claims is approximately Nine Hundred Thousand Dollars.

Respectfully Submitted,

Dated: June 14, 2024

By: /s/ Mary E. Olsen
THE GARDNER FIRM, PC
Mary E. Olsen (OLSEM4818)
M. Vance McCrary (MCCRM4402)
182 St. Francis Street
Suite 103
Mobile, Alabama 36602
P: (251) 433-8100
F: (251) 433-8181

LANKENAU & MILLER, LLP
Stuart J. Miller (SJM 4276)
100 Church Street, 8th FL
New York, NY 10078
P: (212) 581-5005
F: (212) 581-2122

Attorneys for Representative Claimants and Putative Class

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 7
BUTH-NA-BODHAIGE, INC.,	Case No.: 24-10392 (DSJ)
Debtor.	

ORDER GRANTING CHAPTER 7 TRUSTEE'S MOTION FOR AN ORDER DISALLOWING PROOF OF CLAIM NUMBER 81 FILED BY ANN JENNIFER CRESPO

Upon the motion (the "Motion")[1] filed by Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") for the bankruptcy estate of Buth-Na-Bodhaige, Inc. (the "Debtor"), seeking entry of an order disallowing Proof of Claim No. 81 filed by Ann Jennifer Crespo on behalf of herself and all similarly situated former employees of the Debtor; and due and proper notice of the Motion and the Hearing having been given to Class Claimants in accordance with the Federal Rules of Bankruptcy Procedure; and it appearing that no further notice need be given or required; and after due deliberation and sufficient cause appearing for the relief requested; it is hereby

ORDERED, that the Motion is granted to the extent provided herein; and it is further

ORDERED, that the Objectionable Claim is hereby disallowed; and it is further

ORDERED, the Debtor's claims agent is authorized to update the claims register in this case pursuant to the terms of this Order; and it is further

ORDERED, that the Trustee is hereby authorized to do such things, expend such funds and execute such documents as to effectuate the terms and conditions of this Order.

Dated: New York, New York
November __, 2026

Honorable David S. Jones
United States Bankruptcy Judge

[1] Capitalized terms not otherwise defined in this Order have the meanings ascribed to them in the Motion.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 7
BUTH-NA-BODHAIGE, INC.,	Case No.: 24-10392 (DSJ)
Debtor.	

DECLARATION OF KENNETH P. SILVERMAN, ESQ. IN SUPPORT OF THE OBJECTION TO PROOF OF CLAIM NUMBER 81 FILED BY ANN JENNIFER CRESPO

I, Kenneth P. Silverman, Esq., declare as follows:

1. I am a partner of Rimon P.C. and the chapter 7 trustee (the "Trustee") of the bankruptcy estate (the "Estate") of Buth-Na-Bodhaige, Inc. (the "Debtor"), with offices located at 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753. I am duly admitted to practice before this Court and the courts of the State of New York.

2. I submit this declaration (this "Declaration") in support of the objection (the "Objection")[1] seeking entry of an order disallowing Proof of Claim No. 81 (the "Class Claim") filed by Ann Jennifer Crespo (the "Representative Claimant"), on behalf of herself and all similarly situated former employees of the Debtor (collectively, the "Class" and each a "Class Claimant"), and granting such other and further relief as the Court deems just and proper under the circumstances.

3. I have reviewed the Objection and relevant documents thereto and certify that its contents are true and correct to the best of my knowledge, and those facts are incorporated herein by reference.

[1] All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Objection.

BACKGROUND

The Debtor's Filing of the Chapter 7 Case

4. On March 8, 2024 (the "Petition Date"), the Debtor filed a voluntary petition for relief pursuant to chapter 7 of the Bankruptcy Code.

5. Until the Petition Date, the Debtor operated as a cosmetic and skin care retailer that is a subsidiary of the Body Shop International Limited ("TBSI"), a United Kingdom based company. For years prior to the Petition Date, TBSI managed and directed the Debtor's business affairs and operations as well as other TBSI subsidiaries in Canada and elsewhere.

6. In particular, TBSI orchestrated and controlled the Debtor's banking and its disbursement of the funds necessary for the Debtor and other TBSI subsidiaries to operate on a daily basis. TBSI also owned and controlled all back-office information technology for its subsidiaries, including the Debtor. Those items included internal servers, electronic records storage, e-mail accounts and backups, and historical financial data.

7. On February 13, 2024, TBSI entered administration in the United Kingdom, and the appointed administrator began the process of marketing TBSI for sale. Once TBSI entered administration, the Debtor was informed that TBSI would no longer continue the long-standing operational relationship between TBSI and the Debtor, and that the Debtor's operations would no longer be actively supported by TBSI. Accordingly, shortly thereafter, the Debtor terminated all of its employees, closed all of its retail locations, and filed this chapter 7 case.

8. On March 9, 2024, I was appointed the interim chapter 7 trustee of the Debtor's estate. On April 9, 2024, the initial section 341 First Meeting of Creditors was held, and I was duly qualified and became the permanent Trustee.

9. On September 7, 2024, TBSI closed on a sale of its assets to a third party, the specific terms of which have not been disclosed to me.

My Operation of the Debtor and Winddown of Its Operations

10. On May 8, 2024, I filed an application seeking authority to, among other things, operate the Debtor's prepetition business pursuant to Bankruptcy Code § 721, which was granted by the Court on May 23, 2024 (ECF Doc. No. 59). As part of the winddown process and my operation of the Debtor's business, I entered into an agreement with another TBSI subsidiary, The Body Shop Canada Limited ("TBS Canada"), whereby TBS Canada licensed the Debtor's warehouse and agreed to pay certain expenses that would otherwise be borne by the Debtor's estate in exchange for a credit on license fees that would otherwise be due (the "License Agreement"). The agreement with TBS Canada was approved by the Court on June 11, 2024 (ECF Doc. No. 72).

11. Among the expenses of the estate paid by TBS Canada were the costs of former Debtor employees that TBS Canada hired as independent contractors to assist both TBS Canada in its own sale process[2] and me in my efforts as Trustee to sell the Debtor's real property and otherwise administer the chapter 7 case. Despite the insolvency proceedings across the world, and the sale of TBSI's assets to a third party, the independent contractors had been permitted to maintain their access to the TBSI servers via an agreement negotiated by TBS Canada. Those individuals were instrumental in providing me with necessary information for the administration of the Debtor's estate, permitting me to gather data and documentation necessary to administer the estate that was otherwise only accessible to TBSI and later the purchaser of TBSI's assets.

12. Importantly, one of the independent contractors was Jennifer Wale, the former director of the Debtor's human resources department. Ms. Wale assisted with, among other things,

[2] TBS Canada filed its own Canadian bankruptcy proceeding shortly after the Petition Date.

the winddown of the Debtor's 401(k) plan, finalization of year-end W-2's, and the analysis of the Debtor's prepetition employment policies and proofs of claim filed by the Debtor's former employees. By the time the License Agreement reached its termination date on December 31, 2024 (which was also the termination of my ability to operate and thereby reimburse TBS Canada), I had gathered what I and my professionals believed, based upon information gathered through nearly ten (10) months of my investigation into the Debtor's business and financial affairs, all documentation necessary to administer the estate. Upon information and belief, Ms. Wale's contractual relationship with TBS Canada was terminated shortly thereafter.

The Claims Process in the Chapter 7 Case

13. By Notice of Possible Payment of Dividends and of Last Date to File Claims (ECF Doc. No. 20) (the "Bar Date Notice"), dated March 14, 2024, the Bankruptcy Court established June 17, 2024, as the deadline by which proofs of claim were required to be filed in this case (the "Bar Date"). The Bar Date Notice was mailed to, among others, all parties contained within the Debtor's Schedules and all those entities who have otherwise indicated an interest in this case. Those parties included every one of the Debtor's employees as of its closure. *See* Affidavit of Service, ECF Doc. No. 40.[3]

14. On June 14, 2024, the Representative Claimant filed the Class Claim on behalf of a proposed class of claimants asserting an unliquidated, unsecured priority claim pursuant to Bankruptcy Code § 507(a)(4) for unpaid severance obligations. A true and correct copy of that claim is annexed to the Objection as Exhibit A. Other than a conclusory statement regarding an alleged severance obligation, the Class Claim provides neither information regarding the basis for

[3] The inclusion of all former employees necessitated the Court to enter an order authorizing the redaction of personally identifiable information (ECF Doc. No. 19), as well as the retention of a claims and noticing agent to ensure adherence to that order during the noticing process (ECF Doc. No. 33). Accordingly, the affidavit of service on file has all addresses and pertinent information (other than names) redacted.

the purported severance obligation nor details regarding any specific facts or circumstances leading to such a conclusion.

15. On January 30, 2025, I filed an omnibus motion for an order disallowing certain proofs of claim filed by former employees (ECF Doc. No. 152) (the "Employee Omnibus Objection"). Notably, seventeen (17) of those employees asserted that they were due unpaid severance, and I objected primarily on the basis that neither the Debtor's internal procedures nor employee handbook provided for severance payments to terminated employees. *See* Employee Omnibus Objection, ¶ 8. As discussed above, that information and documentation was provided by Jennifer Wale prior to the termination of the License Agreement. On March 3, 2025, this Court entered an order granting the Employee Omnibus Objection (ECF Doc. No. 160), which disallowed each of these seventeen (17) employee claims.

The Representative Claimant's Limited Involvement in the Chapter 7 Case

16. On June 16, 2025, in response to my application to make an interim distribution to priority and unsecured creditors, counsel to the Representative Claimant contacted counsel to me regarding the Representative Claimant's request to reserve the amount of $900,000 for the Class Claim when I made the interim distribution (the "Class Claim Reserve"). Because the Class Claim was filed as an unsecured priority claim, and I intended to make distributions to general unsecured creditors, the entirety of the proposed $900,000 was required to be reserved to ensure payment in full in the event the Class Claim was ultimately allowed. That issue was consensually resolved in the order authorizing me to make the interim distribution, and I have been holding the Class Claim Reserve since that time. [4]

[4] I am nearing the end of my administration and expect to make another interim distribution in the near term. Disallowance of the Class Claim would free up nearly a million dollars to be distributed to general unsecured creditors as part of that distribution.

17. As part of those discussions, I was informed, for the first time, that the Class Claim was based, at least in part, upon alleged correspondence to the Representative Claimant (and other employees) from the Debtor's human resources department prior to the cessation of the Debtor's operations. Counsel to the Representative Claimant suggested that this correspondence indicated that employees were due severance upon termination.

18. As discussed above, I had previously been informed by Jennifer Wale that the Debtor had no severance policy, and the Debtor's employee handbook indicated no such policy existed. Counsel to me informed the Representative Claimant's counsel of those facts, as well as the fact that I no longer had access to the Debtor's books and records or its former head of human resources, such that I was unable to confirm whether such correspondence existed. Notwithstanding, I agreed to investigate whether it was possible to obtain the Debtor's e-mail records from TBSI's administrators or its new owner.

19. Accordingly, shortly after discussions with counsel to the Representative Claimant, I began to investigate whether the alleged correspondence existed and, to the extent it did, the number of individual employees that received such correspondence. My professionals and I contacted representatives of TBSI and TBS Canada to request access to the necessary e-mail accounts to further that investigation, but were informed by both that those records were not retained and were transferred with the server to the purchaser of TBSI's assets. My professionals also contacted former TBSI employees that were now employed by the purchaser, each of whom indicated that they would not be permitted to provide the requested access or even confirm that the relevant data for Debtor employees had even been maintained by the TBSI purchaser. Despite significant efforts over the course of several months, I was unable to obtain voluntary cooperation from the purchaser or any records which might substantiate the Representative Claimant's

allegations. Thereafter, I determined that enforcement of a subpoena overseas, followed by the requisite payment of any costs incurred by the purchaser in response to that subpoena, would be a significant cost to the Debtor's estate and decided to cease my investigatory efforts.

20. To date, more than two (2) years after the Bar Date, and to the best of my knowledge, no additional actions have been taken by the Representative Claimant with respect to the Class Claim.

BASIS FOR OBJECTION

The Class Claim Should be Disallowed Because the Representative Claimant Has Not Moved to Certify the Class or Extend Federal Rule 23 to the Class Claim

21. Although the Class Claim was timely filed before the Bar Date, to date neither the Representative Claimant nor any of the Class Claimants have moved to certify the Class or extend their time to certify the Class pursuant to Federal Rule 23. Over two years have passed since the Class Claim was filed, and over a year has passed since I established the Class Claim Reserve, which made clear to the Representative Claimant that there were sufficient funds to pay any ultimately allowed portion of the Class Claim.

The Requirements to Extend Federal Rule 23 Cannot be Met

22. As discussed above and in the Objection, all of the Debtor's employees as of its closure received notice of the case filing, as well as the Bar Date Notice. At least twenty-two (22) of those employees filed proofs of claim prior to the Bar Date, including five (5) which have been validated, allowed, and have received a full or partial distribution. *See* ECF Doc. No. 176. Additionally, seventeen (17) employee claims were included in the Employee Omnibus Objection, including three (3) that asserted claims for allegedly due severance. Each of those claims was disallowed by order of the Court. *See* Order, ECF Doc. No. 160.

23. The purported class was not certified pre-petition, and no complaint asserting any related allegations was filed against the Debtor prior to the Petition Date. [5] Notwithstanding, no attempt to move for class certification has been made in the past two and a half years since the Petition Date.

24. The Representative Claimant does not possess documentation sufficient to establish the requirements for class certification. Accordingly, despite my best efforts to obtain information after I was alerted to the alleged basis for the Class Claim, I determined that it would be incredibly cumbersome and exceedingly costly to attempt to even obtain (let alone review) the Debtor's prepetition records.

25. Moreover, permitting the extension of Federal Rule 23 to the Class Claim would adversely affect the administration of this case by forcing me to effectively relitigate claims for severance raised by multiple employees, effectively giving those employees a second bite at the proverbial apple. As discussed above, at least three (3) former employees filed specific claims seeking payment for severance allegedly due from the Debtor. As discussed, I spent a significant amount of time investigating and objecting to those claims, and each of the claims was disallowed by the granting of the Employee Omnibus Objection. Permitting the Class Claim to proceed towards class certification now would cause an unnecessary duplication of efforts and substantial confusion regarding the status of potential entitlements of potential class members.

The Class Claim Should be Disallowed
Because the Requirements of Federal Rule 23(a) Have Not Been Satisfied

26. As discussed at length above, every one of the Debtor's employees at the time of filing received notice of the bankruptcy case filing and the bar date, and many took affirmative

[5] Notably, there were only seven days between the Debtor's termination of its employees and the filing of this chapter 7 case.

action to file their own proofs of claim.[6] Accordingly, in this case it is not only clear that joining each potential member of the class is practicable, but that it was in fact already accomplished.

27. Many of the Debtor's former employees filed their own proofs of claim. Of those that did file proofs of claim, some asserted claims for unpaid severance, but others did not. Moreover, I objected to all claims asserting severance obligations in the Employee Omnibus Objection, and those claims were disallowed. Perhaps most importantly, I cannot determine from the documents and information in my possession whether any, some, or all employees actually received the alleged correspondence relating to severance, nor can the Representative Claimant provide that information.

28. Neither the Representative Claimant nor counsel to the alleged Class have moved to certify the Class. The Class Claim has been pending for over two years without any action by counsel or the Representative Claimant to move the certification process forward, during which time (and in the absence of notice of the true allegations of the Class Claim) much of the documents and information necessary to litigate this case (on either side) was lost.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Jericho, New York on September 17, 2026.

s/ Kenneth P. Silverman
Kenneth P. Silverman, Esq.

[6] Importantly, the proof of claim filing process has become extraordinarily simple for *pro se* parties since the implementation of the Court's electronic proof of claim filing system.