

\*E-Filed 12/12/11\*

**JENNER & BLOCK LLP**

Kenneth K. Lee (Cal. Bar No. 264296)

klee@jenner.com

Kelly M. Morrison (Cal. Bar No. 255513)

kmorrison@jenner.com

633 West 5th Street, Suite 3600

Los Angeles, CA 90071-2054

Phone: (213) 239-5100

Facsimile: (213) 239-5199

Attorneys for Defendant Bear Naked, Inc.

Joseph N. Kravec, Jr. (*pro hac vice*)

jkravec@stemberfeinstein.com

Wyatt A. Lison (*pro hac to be filed*)

wlison@stemberfeinstein.com

Maureen Davidson-Welling (*pro hac to be filed*)

mdavidsonwelling@stemberfeinstein.com

**STEMBER FEINSTEIN****DOYLE & PAYNE, LLC**

429 Forbes Avenue, 17th Floor

Pittsburgh, PA 15219

Phone: (412) 281-8400

Fax: (412) 281-1007

Attorneys for Plaintiffs

ADDITIONAL COUNSEL LISTED ON  
SIGNATURE PAGE

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHANEE THURSTON and LAWRENCE G.  
KNOWLES, III, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

vs.

BEAR NAKED, INC.,

Defendant.

No. CV 11-4678-RS

**STIPULATION AND ~~PROPOSED~~  
ORDER TO TRANSFER VENUE**

Judge: Hon. Richard Seeborg

Action Filed: September 21, 2011

1 Plaintiffs Chanee Thurston and Lawrence G. Knowles, III, and Defendant Bear Naked, Inc.,  
2 enter into this stipulation requesting this Court to transfer this action to the Southern District of  
3 California and agreeing that the briefing and discovery schedule for this case should be coordinated  
4 and consistent with that in *Bates v. Kashi Company*, No. 11-1967 (S.D. Cal.). In entering into this  
5 stipulation, the parties state that:

6 1. On September 21, 2011, Plaintiffs filed the Complaint in this action. Plaintiffs  
7 simultaneously filed a Notice of Related Cases, identifying *Sethavanish v. Kashi Company*, N.D.  
8 Cal. Case No. 4:11-cv-04453-CW. At that time, a case substantially similar to *Sethavanish*, titled  
9 *Bates v. Kashi Company*, No. 11-1967 (S.D. Cal.), was already pending in the Southern District of  
10 California before the Honorable Marilyn L. Huff. All three cases, including this action, involve  
11 allegations regarding “all natural” food labels. The deadline to respond to or answer the complaint  
12 in this action is January 4, 2012.

13 2. On October 12, 2011, the *Sethavanish* plaintiffs voluntarily dismissed their lawsuit in  
14 the Northern District of California and re-filed their complaint in the Southern District of California,  
15 where the case was assigned to Judge Huff.

16 3. On November 10, 2011, Defendant filed a Motion to Transfer this case to the  
17 Southern District of California, stating that there are six substantially similar “all natural” *Kashi*  
18 cases, including *Bates* and *Sethavanish*, pending in that District. In the time since Defendant filed its  
19 Motion to Transfer, all six *Kashi* cases have been transferred to Judge Huff and have been  
20 consolidated, with the *Bates v. Kashi Company* designated as the lead case.

21 4. On November 23, 2011, the parties filed a Stipulation to Continue the Briefing and  
22 Hearing Schedule on Defendant’s Motion to Transfer, indicating their intent to resolve Defendant’s  
23 motion without court intervention. The Court granted the extension that same day.

24 5. The parties agree that this case should not be consolidated with the *Kashi* cases since  
25 they involve different defendant entities and different product lines. Neither party will seek  
26 consolidation of this case with the *Kashi* cases.

27 6. Because Defendant Bear Naked is a subsidiary of Kashi, the parties believe that to  
28 some extent coordination (as opposed to consolidation) of this case with the consolidated “all

1 natural” *Kashi* cases could save judicial and party resources. Accordingly, the parties request that  
2 this case be transferred to Judge Huff in the Southern District of California and stipulate that the  
3 briefing and discovery schedule be coordinated and consistent with that in *Bates v. Kashi Company*.  
4 The parties agree that the deadline to answer or otherwise respond to the complaint be continued  
5 from January 4, 2012 to March 4, 2012 to provide the Southern District of California an opportunity  
6 to coordinate the briefing and discovery schedule.

7 7. Plaintiff reserves the right to seek transfer back to the Northern District of California  
8 if, after transfer to the Southern District of California, this case is not assigned to the same judge as  
9 or coordinated with the *Kashi* cases as set forth by this Stipulation. Defendant reserves its right to  
10 oppose any motion to transfer back to the Northern District of California.

11 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, subject to the  
12 Court’s approval, that this case shall be transferred to Judge Huff in the Southern District of  
13 California, for purposes of coordination with *Bates v. Kashi Company*, No. 11-1967 (S.D. Cal.).  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Dated: December 12, 2011

Dated: December 12, 2011

2 JENNER & BLOCK LLP

STEMBER FEINSTEIN  
DOYLE & PAYNE, LLC

3 /s Kenneth K. Lee

/s Joseph N. Kravec, Jr.

4 By: Kenneth K. Lee

By: Joseph N. Kravec, Jr.

5 Attorneys for Defendant

Attorneys for Plaintiffs

6 **JENNER & BLOCK LLP**

Joseph N. Kravec, Jr. (*pro hac vice*)  
Wyatt A. Lison (*pro hac to be filed*)  
Maureen Davidson-Welling (*pro hac to be filed*)

7 Kenneth K. Lee (Cal. Bar No. 264296)

**STEMBER FEINSTEIN**  
**DOYLE & PAYNE, LLC**

8 klee@jenner.com

429 Forbes Avenue, 17th Floor

9 Kelly M. Morrison (Cal. Bar No. 255513)

Pittsburgh, PA 15219

10 kmorrison@jenner.com

Phone: (412) 281-8400

11 633 West 5th Street, Suite 3600

Fax: (412) 281-1007

12 Los Angeles, CA 90071-2054

13 Phone: (213) 239-5100

14 Facsimile: (213) 239-5199

15 **JENNER & BLOCK LLP**

Janet Lindner Spielberg (Bar No. 221926)

16 Dean N. Panos (*applying pro hac vice*)

**LAW OFFICE OF JANET**  
**LINDNER SPIELBERG**

17 dpanos@jenner.com

12400 Wilshire Blvd., Suite 400

18 Richard P. Steinken (*applying pro hac vice*)

Los Angeles, CA 90025

19 rsteinke@jenner.com

Phone: (310) 392-8801

20 353 N. Clark Street

Fax: (310) 278-5938

21 Chicago, IL 60654-3456

22 Phone: (312) 222-9350

23 Facsimile: (312) 527-0484

Michael D. Braun (Bar No. 167416)

**BRAUN LAW GROUP, P.C.**

10680 W. Pico Blvd., Suite 280

Los Angeles, CA 90064

Phone: (310) 836-6000

Fax: (310) 836-6010

24 ~~[PROPOSED]~~ ORDER

25 PURSUANT TO STIPULATION AND 28 U.S.C. 1404(a), IT IS ORDERED that this action be  
26 transferred to the Southern District of California and that the deadline to answer or otherwise  
27 respond to the complaint is continued from January 4, 2012 to March 4, 2012.

28 DATED: December 12, 2011



The Honorable Richard Seeborg  
U.S. District Court Judge