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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF LOS ANGELES

17 DANIA MADRIGAL; JOSH CHASTAIN;  
individually, and on behalf of other members of  
18 the general public similarly situated,

19 Plaintiffs,

20 v.

21 EUROMARKET DESIGNS, INC., an Illinois  
corporation d/b/a CRATE & BARREL and  
22 CB2; and DOES I through 100, inclusive,  
23

Case No. BC 470379

~~PROPOSED~~ ORDER GRANTING  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT

RECEIVED

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ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

MAY 28 2014

Sherri R. Carter, Executive Officer/Clerk  
By: Sharon McKinney, Deputy

COPY

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11 DANIA MADRIGAL; JOSH CHASTAIN; and NICK DEMETRION  
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1 The Named Plaintiffs, Dania Madrigal, Josh Chastain, and Nick Demetrian, and  
2 Defendant EUROMARKET DESIGNS, INC., an Illinois corporation d/b/a CRATE & BARREL  
3 and CB2 (together the "Parties") have entered into an Amended Stipulation and Settlement  
4 Agreement of Class Action and Individual Claims ("Amended Settlement Agreement") to settle  
5 the above-captioned class action subject to the Court's approval (the "Class Settlement"). The  
6 Class Settlement provides for the mailing of notices and claim forms and the payment of  
7 compensation to each Settlement Class Member who is a current employee and to each  
8 Settlement Class Member who is a former employee and who timely submits a valid Claim Form.

9 **I. BACKGROUND**

10 **A. Procedural History**

11 On September 27, 2011, Plaintiffs Dania Madrigal and Josh Chastain, individually, and on  
12 behalf of other members of the general public similarly situated, filed suit against  
13 EUROMARKET DESIGNS, INC., an Illinois corporation d/b/a CRATE & BARREL and CB2 in  
14 the Superior Court of California for the County of Los Angeles. The Complaint asserted claims  
15 under California Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 2800  
16 and 2802, California Industrial Welfare Commission Wage Orders, and representative claims  
17 under California Business and Professions Code sections 17200 *et seq.* Plaintiffs alleged that  
18 certain former and current employees of Defendant are owed compensation for unpaid wages,  
19 missed meal and rest periods, unreimbursed business expenses and various penalties. The lawsuit  
20 seeks damages for unpaid wages, restitution, penalties, interest, injunctive relief, attorneys' fees  
21 and expenses and appointment of a receiver. Defendant denied all of Plaintiffs' claims.

22 After initial exchanges of information, the Parties entered into private mediation before  
23 respected neutral mediator (and plaintiffs' counsel) Mark S. Rudy, Esquire to try and resolve the  
24 claims. As a result of that mediation and under the auspices of Mr. Rudy, the Parties reached a  
25 settlement on November 20, 2012. On or about February 14, 2013, Plaintiffs and Defendant  
26 executed the Stipulation and Settlement Agreement, setting forth the terms of the Class  
27 Settlement. Thereafter, pursuant to the terms and conditions of the Settlement Agreement,  
28 Plaintiffs amended the complaint to add Nick Demetrian as a Named Plaintiff in the Action.

1 Plaintiffs and Defendant executed the Amended Settlement Agreement on March 29, 2013. On  
2 January 7, 2014 the Court preliminarily approved the Class Settlement.

3 **B. Investigation in the Class Action**

4 The Parties have conducted significant investigation of the facts and law during the  
5 prosecution of this Action. Such discovery and investigations have included the exchange of  
6 information pursuant to informal discovery, meetings and conferences, and interviews of  
7 numerous potential witnesses and putative class members. Counsel for the Parties have further  
8 investigated the applicable law as applied to the facts discovered regarding the alleged claims of  
9 the Class Members and potential defenses thereto and the damages claimed by Plaintiffs.

10 **C. Benefits of the Class Settlement to Settlement Class Members**

11 Plaintiffs recognize the expense and length of continued proceedings necessary to  
12 continue the litigation against Defendant through trial and through any possible appeals.  
13 Plaintiffs has also taken into account the uncertainty and risk of the outcome of further litigation,  
14 and the difficulties and delays inherent in such litigation, including those involved in class  
15 certification. Plaintiffs are also aware of the burdens of proof necessary to establish liability for  
16 the claims asserted in the Action, Defendant's defenses thereto, and the difficulties in establishing  
17 damages for Class Members. Plaintiffs have also considered the significant settlement  
18 negotiations conducted by the Parties, and the advice of the neutral mediator. Based on the  
19 foregoing, Plaintiffs have determined that the Class Settlement set forth in the Amended  
20 Settlement Agreement is a fair, adequate and reasonable settlement, and is in the best interests of  
21 all Class Members.

22 **D. Class Members**

23 The "Class Members" are defined as "all current and former hourly paid or non-exempt  
24 employees who worked at a Crate & Barrel or CB2 store within the state of California at any time  
25 between September 27, 2007 and the date of Preliminary Approval." Every Class Member who  
26 does not opt out of the Class Settlement is a Settlement Class Member.

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1           **E. Plaintiffs' Claims**

2           Plaintiffs have claimed and continue to claim that the Class Released Claims have merit  
3 and give rise to Defendant's liability. Neither the Amended Settlement Agreement nor any  
4 documents referred to herein, or any action taken to carry out the Amended Settlement  
5 Agreement is, or may be construed as or may be used as, an admission by or against Plaintiffs as  
6 to the merits or lack thereof of the claims asserted by Plaintiffs.

7           **F. Defendant's Denials of Wrongdoing**

8           Defendant contends that all of its employees have been compensated in compliance with  
9 the law, and that its conduct was not willful with respect to any alleged failure to pay any wages  
10 (including but not limited to compensation for minimum wage, straight-time or overtime wages,  
11 missed breaks, final paychecks, or otherwise), provide certain breaks, provide accurate itemized  
12 wage statements, reimburse necessary business expenses, or in any other respect. Defendant has  
13 denied and continues to deny each of the claims and contentions alleged by Plaintiffs in the  
14 Action. Defendant denies any wrongdoing or legal liability arising out of any of the facts or  
15 conduct alleged in the Action, and believes that it has valid defenses to Plaintiffs' claims. Neither  
16 the Amended Settlement Agreement, nor any document referred to or contemplated herein, nor  
17 any action taken to carry out the Class Settlement, may be construed as, or may be used as an  
18 admission, concession or indication by or against Defendant of any fault, wrongdoing or liability  
19 whatsoever, including any concession that certification of a class other than for purposes of this  
20 Class Settlement would be appropriate in this or any other case.

21           **G. Operation of the Class Settlement.**

22           Pursuant to the Preliminary Approval Order dated January 7, 2014, this Court  
23 conditionally certified the Class and granted preliminary approval to the Class Settlement. The  
24 Preliminary Approval Order also approved of the proposed forms of notice and notice plan. The  
25 Court entered the Preliminary Approval Order after review and consideration of all of the  
26 pleadings filed in connection therewith, and the oral presentations made by counsel at the hearing.

27           In compliance with the Preliminary Approval Order, the Notices and Claim Forms were  
28 sent to all Class Members via first class mail. Furthermore, follow-up mailings were performed

1 for returned mail in addition to the distribution of any Claim Forms to Class Members requesting  
2 copies. The notice program was timely completed.

3 This matter is now before the Court on Plaintiffs' Motion for Final Approval of the Class  
4 Action Settlement, including approval of an Incentive Award for Named Plaintiffs Dania  
5 Madrigal, Josh Chastain and Nick Demetron and Class Counsel's Application for a Fee and  
6 Expense Award. The Court has read, heard, and considered all the pleadings and documents  
7 submitted, and the presentations made in connection with the Motion and Application which  
8 came on for hearing on May 28, 2014.

9 This Court finds that the Class Settlement appears to be the product of serious, informed,  
10 non-collusive negotiations, has no obvious deficiencies, and does not improperly grant  
11 preferential treatment to any individuals. The Court further finds that the Class Settlement is fair,  
12 reasonable and adequate and that Plaintiffs have satisfied the standards for final approval of a  
13 class action settlement under California law. Under the provisions of California Code of Civil  
14 Procedure section 382 and Federal Rule of Civil Procedure 23, as approved for use by the  
15 California state court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has  
16 discretion to certify a class where:

17 [Q]uestions of law or fact common to the members of the class  
18 predominate over any questions affecting only individual  
19 members, and that a class action is superior to the available  
20 methods for the fair and efficient adjudication of the controversy  
... Fed. R. Civ. Proc. 23.

21 Certification of a settlement class is the appropriate judicial device under these circumstances.

22 Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

- 23 1. This Court has jurisdiction over the claims of the Class Members asserted in this  
24 proceeding and over all Parties to the Action.
- 25 2. For the reasons set forth in the Preliminary Approval Order and in the transcript of  
26 the proceedings of the Preliminary Approval hearing, which are adopted and incorporated herein  
27 by reference, this Court finds that the applicable requirements of the California Code of Civil  
28 Procedure § 382, Rule 3.769 of the California Rules of Court, and Federal Rule of Civil

1 Procedure 23 have been satisfied with respect to the Class and the proposed Class Settlement.  
2 The Court hereby makes final its earlier provisional certification of the Class, as set forth in the  
3 Preliminary Approval Order.

4 3. The Notice given to the Class Members fully and accurately informed the Class  
5 Members of all material elements of the proposed Class Settlement and of their opportunity to  
6 object to or comment thereon; was the best notice practicable under the circumstances; was valid,  
7 due and sufficient notice to all Class Members; and complied fully with the laws of the State of  
8 California, the United States Constitution, due process and other applicable law. The Notice  
9 fairly and adequately described the Class Settlement and provided Class Members adequate  
10 instructions and a variety of means to obtain additional information. A full opportunity has been  
11 afforded to the Class Members to participate in this hearing, and all Class Members and other  
12 persons wishing to be heard have been heard. Accordingly, the Court determines that all Class  
13 Members who did not timely and properly execute a request for exclusion are bound by this Order  
14 and Judgment.

15 4. Pursuant to California law, the Court hereby grants final approval to the Class  
16 Settlement and finds it reasonable and adequate, and in the best interests of the Class as a whole.  
17 More specifically, the Court finds that the Class Settlement was reached following meaningful  
18 discovery and investigation conducted by Class Counsel; that the Class Settlement is the result of  
19 serious, informed, adversarial, and arms-length negotiations between the Parties; and that the  
20 terms of the Class Settlement are in all respects fair, adequate, and reasonable. In so finding, the  
21 Court has considered all of the evidence presented, including evidence regarding the strength of  
22 the Plaintiffs' case; the risk, expense, and complexity of the claims presented; the likely duration  
23 of further litigation; the amount offered in Class Settlement; the extent of investigation and  
24 discovery completed; and the experience and views of Class Counsel. The Court further has  
25 considered the absence of objection to the Class Settlement by Class Members, as well as ~~one~~ <sup>four</sup> ~~one~~ <sup>EMB</sup>  
26 requests for exclusion from the class. Accordingly, the Court hereby directs that the Class  
27 Settlement be affected in accordance with the Amended Settlement Agreement and the following  
28 terms and conditions.

1           5.       It is hereby ordered that the Settlement Administrator shall pay the Settlement  
2 Awards to the Authorized Claimants according to the methodology as set forth in the Amended  
3 Settlement Agreement.

4           6.       It is hereby ordered that the that the Settlement Administrator shall pay the  
5 Incentive Awards of \$5,000 each to Named Plaintiffs Dania Madrigal and Josh Chastain and  
6 \$3,500 to Named Plaintiff Nick Demetrion because the Court finds the Incentive Awards are fair  
7 and reasonable for the work they provided to the Class and Class Counsel.

8           7.       It is hereby ordered that the Settlement Administrator shall pay the PAGA  
9 Payment of \$2,500.00 to the Labor and Workforce Development Agency to pay all applicable  
10 penalties under the California Labor Code's Private Attorney General Act of 2004, as amended,  
11 California Labor Code sections 2699 *et seq.*

12          8.       It is hereby ordered that the Settlement Administrator, Kurtzman Carson  
13 Consultants (KCC), shall pay itself a payment of \$30,000 for the services performed in  
14 administering the Class Settlement.

15          9.       It is hereby ordered that the Settlement Administrator shall pay the Fee and  
16 Expense Award of \$454,954.50, plus \$35,000 in actual litigation costs/expenses, to Class Counsel  
17 because Class Counsel's request falls within the range of reasonableness and the result achieved  
18 justified the award. Class Counsel's actual litigation costs/expenses in prosecuting this Action are  
19 hereby approved as reasonably incurred.

20          10.       With this Final Approval of the proposed Class Settlement, it is hereby ordered  
21 that Settlement Class Members and their successors shall conclusively be deemed to have given a  
22 release, as set forth in the Amended Settlement Agreement and Notice, against the Released  
23 Parties, and all such participating Class Members and their successors shall be permanently  
24 enjoined and forever barred from asserting any claim related to this Action against the Released  
25 Parties. The Class Released Claims include all claims, demands, rights, liabilities, and causes of  
26 action that were or might have been asserted (whether in tort, contract, or otherwise) for violation  
27 of the Fair Labor Standards Act, the California Labor Code, the California Business and  
28 Professions Code, the Private Attorneys General Act ("PAGA"), the applicable Industrial Welfare



1 Commission Wage Orders or any similar state or federal law, whether for economic damages,  
2 non-economic damages, liquidated damages, punitive damages, restitution, penalties, other  
3 monies, or other relief arising out of, relating to, or in connection with any facts, transactions,  
4 events, policies, occurrences, acts, disclosures, statements, omissions or failures to act pled in the  
5 Complaint, which are or could be the basis of claims that Defendant failed to pay all wages due,  
6 failed to pay overtime wages due, failed to pay the minimum wage, failed to provide meal  
7 periods, failed to authorize and permit rest breaks, failed to provide timely or accurate final  
8 paychecks, failed to keep records properly concerning time worked, failed to provide accurate  
9 itemized wage statements, failed to reimburse necessary business expenses, and/or engaged in  
10 unfair business practices, at any times on or before January 7, 2014 (and whether such claims are  
11 based on California or federal wage and hour law, contract law, or other law).

12 11. No other costs or fees relief shall be awarded, either against Defendant or any  
13 related persons or entities, as defined in the Amended Settlement Agreement, or from the award  
14 to the Settlement Class.

15 12. Neither the making of the Amended Settlement Agreement nor the entry into the  
16 Amended Settlement Agreement constitutes an admission by Defendant, nor is this Order a  
17 finding of the validity of any claims in the Complaint or of any other wrongdoing. Further, the  
18 Amended Settlement Agreement is not a concession, and shall not be used as an admission of any  
19 wrongdoing, fault, or omission of any entity or persons; nor may any action taken to carry out the  
20 terms of the Amended Settlement Agreement be construed as an admission or concession by or  
21 against Defendant or any related person or entity.

22 13. The Settlement Administrator, KCC, shall post this Order and the Judgment on its  
23 website upon the Court's signature for a period of no less than thirty (30) days.

24 **IT IS SO ORDERED.**

25  
26 Dated: May 28, 2013

**ELIHU M. BERLE**

HONORABLE ELIHU M. BERLE  
JUDGE, LOS ANGELES SUPERIOR COURT

1 **PROOF OF SERVICE**

2 *STATE OF CALIFORNIA, COUNTY OF LOS ANGELES*

3  
4 I am employed in the County of Los Angeles, State of California. I am over the  
5 age of 18 and not a party to the within action. My business address is 410 West Arden  
6 Avenue, Suite 203, Glendale, California 91203.

7 On May 28, 2014, I served the foregoing document(s) described as: **ORDER**  
8 **GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT** on  
9 interested parties in this action as follows:

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20 *Attorneys for Defendant Euromarket Designs, Inc. d/b/a Crate & Barrel and CB2*

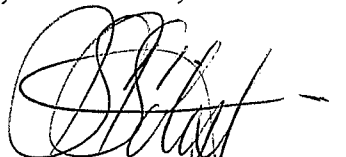
21 **[X] BY ELECTRONIC SERVICE**

22 Pursuant to the Court's Order regarding Electronic Service, I caused the  
23 documents described above to be E-Served through File & Serve Xpress to the  
24 individuals listed above.

25 **[X] STATE**

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

28 Executed on May 28, 2014, at Glendale, California.



Suzana Solis