

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

JENNIFER CHATMAN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

EUROMARKET DESIGNS, INC. d/b/a
CRATE & BARREL,

Defendant.

Case No. 19-CH-10787

PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiff's Unopposed Motion and Memorandum in Support of Preliminary Approval of Class Action Settlement (the "Motion"), the Court having reviewed in detail and considered the Motion, the Settlement Agreement and Release ("Settlement Agreement") between Jennifer Chatman ("Plaintiff") and Euromarket Designs, Inc. d/b/a/ Crate & Barrel ("Defendant") (together, the "Parties"), and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Capitalized terms used in this Order that are not otherwise defined herein have the same meaning assigned to them as in the Settlement Agreement.
2. For Settlement purposes only, the Court finds that the prerequisites to class action treatment under Section 2-801 of the Illinois Code of Civil Procedure – including numerosity, commonality and predominance, adequacy, and appropriateness of class treatment of these claims – have been preliminarily satisfied.
3. The Court hereby conditionally certifies, pursuant to Section 2-801 of the Illinois Code of Civil Procedure, and for the purposes of Settlement only, the following Settlement Class consisting of:

All persons who scanned or otherwise used their finger, hand, or palm (or any portion thereof) or any other biometric identifier or information to

enroll in or clock into or out of Defendant's and/or CB2's timekeeping system in the state of Illinois during the Settlement Class Period. Specifically excluded are the following persons:

- a. Any Judge or Magistrate Judge who has presided over the Action and members of their families;
- b. Persons who properly execute and file a timely Request for Exclusion from the Settlement Class pursuant to the procedures set forth in this Settlement Agreement; and
- c. The legal representatives, successors, or assigns of any such excluded person.

Likely Approval As Fair, Reasonable, And Adequate

4. Approval of a class action settlement should be given if the settlement is fair, reasonable, and adequate. When assessing the fairness of a proposed settlement, some of the factors the Court should consider include (1) the strength of the case for plaintiff on the merits, balanced against the money or other relief offered in settlement; (2) the defendant's ability to pay; (3) the complexity, length, and expense of further litigation; (4) the amount of opposition to the settlement; (5) the presence of collusion in reaching a settlement; (6) the reaction of members of the class to the settlement; (7) the opinion of competent counsel; and (8) the stage of proceedings and the amount of discovery completed. *See City of Chicago v. Korshak*, 206 Ill. App. 3d 968, 972 (1990). The Court has considered these factors and finds that the terms set forth in the Settlement Agreement (in light of the exhibits attached thereto or to the Motion) are fair, reasonable, and adequate.

5. Here, the terms of the Settlement Agreement are preliminarily approved as fair, reasonable, and adequate. There is no question that the Parties are at arm's length. The Settlement appears to be the result of extensive, non-collusive, arm's-length negotiations between experienced counsel who were thoroughly informed of the strengths and weaknesses of the case through

mediation-related discovery and whose negotiations were supervised by respected class action mediator the Honorable Wayne R. Andersen (Ret.).

6. Each Qualified Settlement Class Member shall be entitled to a payment of an equal *pro rata* share of the Settlement Fund after Court-approved Administrative Expenses paid to the Settlement Administrator, any Fee Award to Settlement Class Counsel, and any Service Award to the Settlement Class Representative are deducted. Thus, each Qualified Settlement Class Member shall receive the same amount of the Net Settlement Fund as each other Qualified Settlement Class Member.

7. Qualified Settlement Class Members shall receive their shares of the Settlement Fund without having to submit a claim form or otherwise “opt in” to the Settlement Class.

8. In light of the complexity, length, and expense of further litigation, as well as the strength of the case for the Plaintiff on the merits, this relief is at least adequate for Settlement purposes. If the Settlement had not been reached, the Parties planned to vigorously contest both class certification and the merits of the claims, and Plaintiff’s chances at trial would have been uncertain.

9. There is no reason to doubt the effectiveness of distributing relief under the Settlement. As further addressed below, the Parties propose a plan for providing Notice reasonably calculated to reach nearly all Settlement Class Members, whose claims will be processed by an experienced Settlement Administrator, as further addressed below.

10. No agreements exist between the Parties aside from the Settlement, with the exception of an agreement described generally in the Settlement Agreement that allows Defendant the right to terminate the Settlement in certain defined circumstances.

11. Having thoroughly reviewed the Settlement Agreement, the supporting exhibits, and the Parties’ arguments, this Court finds that the Settlement is fair, reasonable, and adequate to warrant providing notice to the Settlement Class, and thus likely to be approved, subject to further consideration at the Final Approval Hearing to be conducted as described below.

Likely Certification Of Settlement Class

12. Certification of a class action in Illinois is governed by 735 ILCS 5/2-801. Section 2-801 sets forth four prerequisites for a class action: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of fact and law common to the class that predominate over any questions affecting only individual members; (3) the representative parties will fairly and adequately protect the interests of the class; and (4) the class action is an appropriate method for the fair and efficient adjudication of the controversy.

13. The proposed Settlement Class is sufficiently numerous, because Defendant's records show that one thousand seven hundred ninety-two (1,792) individuals scanned or otherwise used their finger, hand, or palm (or any portion thereof) or other biometric identifier or information to enroll in or clock into or out of Defendant's and/or CB2's timekeeping system in the state of Illinois during the relevant period, all of whom are Settlement Class Members.

14. Resolution of the Action would depend on the common answers to common questions, such as whether Defendant collected, used, stored, obtained, or disseminated biometric information and whether Defendant maintained or made available to the public a written policy that established a retention schedule and guidelines for destroying biometric information. These common questions predominate over individual issues, because a key element of Plaintiff's claims is whether Defendant's timekeeping system scanned or otherwise used a biometric identifier or biometric information.

15. The proposed Settlement Class Representative and Settlement Class Counsel will fairly and adequately protect the interests of the proposed Settlement Class.

16. This Settlement is an appropriate method for the fair and efficient adjudication of the controversy. Settlement Class Members may be entitled to a small amount of statutory damages (or none at all) under the law and may not have suffered sufficient damages to justify the costs of litigation. The Settlement ensures that all Settlement Class Members will have the opportunity to be compensated through a cash payment.

17. For these reasons, pursuant to Section 2-801, and for Settlement purposes only, the Court finds it will likely certify the Settlement Class defined above in Paragraph 3 of this Order. This finding is subject to further consideration at the Final Approval Hearing to be conducted as described below.

18. The Court hereby preliminarily appoints Plaintiff as the Settlement Class Representative. The Court hereby preliminarily appoints Ryan F. Stephan and Molly E. Kemper of Stephan Zouras, LLC as Class Counsel for the Settlement Class.

19. In any Final Approval Order issued after the Final Approval Hearing, the Court will bar and permanently enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from (a) filing, commencing, prosecuting, intervening in, or participating (as Settlement Class Members or otherwise) in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action or the Released Claims; and (b) organizing Settlement Class Members who have not been excluded from the Settlement Class into a separate class for purposes of pursuing as a purported class action any lawsuit or arbitration or other proceeding (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action) based on, relating to, or arising out of the claims and causes of action in, or the facts and circumstances giving rise to, the Action or the Released Claims, except that Settlement Class Members are not precluded from participating in any investigation or suit initiated by a state or federal agency.

Approval Of The Manner And Form Of Notice

20. Having preliminarily approved the Settlement, the Court “may order such notice that it deems necessary to protect the interests of the class and the parties.” 735 ILCS 5/2-803. The Parties have proposed a Notice to Settlement Class Members, which is attached to Plaintiff’s Memorandum in Support of their Motion as Exhibit A-1. A plan for distributing this Notice, detailed in the Parties’ Settlement Agreement and attached to Plaintiff’s Motion as Exhibit A, has also been

submitted to the Court. Under the terms of the Settlement Agreement and as detailed in these exhibits and the Motion, the Parties propose that the Settlement Administrator mail the Notice to all potential Settlement Class Members at each Settlement Class Member's last known address based on the Class List by First-Class Mail, postage prepaid. The Parties also propose that the Settlement Administrator email Notice to all potential Settlement Class Members for whom an email address is available on the Class List. In addition, the Parties will direct the Settlement Administrator to create a Settlement Website where the Notice will be published.

21. Having reviewed these exhibits and the proposed plan for providing Notice, the Court finds that the Parties' proposed plan for providing Notice to the Settlement Class (a) is reasonable and constitutes due, adequate, and sufficient notice to all Persons entitled to receive notice; (b) is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action and of their right to object to or to exclude themselves from the Settlement; and (c) meets all applicable requirements of applicable law. The plan for providing Notice satisfies the requirements of Section 2-803 and due process. The Court therefore approves the plan for providing Notice and the Notice documents substantially in the form attached as the exhibits to Plaintiff's Motion.

22. Analytics Consulting, LLC has been selected to serve as the Settlement Administrator under the terms of the Settlement. The Court hereby appoints Analytics Consulting, LLC to serve as the Settlement Administrator, to be supervised jointly by the Parties in taking the actions ordered below and performing any other duties of the Settlement Administrator provided for in the Settlement Agreement.

23. Accordingly, the Court hereby ORDERS as follows:

a. Promptly after the entry of this Preliminary Approval Order, the Parties will direct the Settlement Administrator to issue the Notice, receive and appropriately handle all objections and Requests for Exclusion submitted by Settlement Class Members, and to otherwise administer the Settlement Agreement.

b. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Settlement Agreement. The Settlement Administrator shall maintain all such records as required by applicable law in accordance with its business practices. The Settlement Administrator shall also provide reports on a weekly basis to the Parties' counsel concerning the number of exclusions, objections, and/or undeliverable mailings. Defendant's Counsel and Settlement Class Counsel have the right to make inquiries and receive any information from the Settlement Administrator as is necessary to the administration of the Settlement.

c. The Settlement Administrator shall be responsible for receiving Requests for Exclusion from persons in the Settlement Class and shall provide to Settlement Class Counsel and Defendant's Counsel a copy thereof within fifty (50) Days after the Notice Date. If the Settlement Administrator receives any Requests for Exclusion or other requests from Settlement Class Members after the deadline for the submission of Requests for Exclusion, the Settlement Administrator shall promptly provide copies thereof to Settlement Class Counsel and Defendant's Counsel.

d. Within twenty-one (21) Days of the entry of this Order, the Settlement Administrator will mail the Court-approved Notice (Exhibit A-1 to Plaintiff's Motion) to potential Settlement Class Members at each Settlement Class Member's last known address by First-Class Mail, postage prepaid.

e. Within twenty-one (21) Days of the entry of this Order, the Settlement Administrator shall email or cause to be emailed the Notice to all potential Settlement Class Members for whom an email address is available.

f. For all mailings returned as undeliverable, the Settlement Administrator shall email those Settlement Class Members at their personal email addresses (where known) in a last attempt to locate them.

g. Prior to the dissemination of any Notice, the Settlement Administrator will complete the setup of the Settlement Website and ensure that it is publicly accessible and operational in all respects, including but not limited to compliance with the Americans with Disabilities Act (42 U.S.C. § 12101). The website will be active until at least sixty (60) Days after the Effective Date, or until such time as the Settlement is fully administered, whichever is later. The Settlement Website shall also include telephone numbers, email addresses, and mailing addresses through which Settlement Class Members may directly contact Settlement Class Counsel or the Settlement Administrator.

24. All Settlement Class Members shall be paid from the Settlement Fund. All costs incurred by the Settlement Administrator to administer the foregoing relief shall be deducted from the Settlement Fund before Settlement Class Members' pro rata shares are determined.

25. Qualified Settlement Class Members shall receive their shares of the Settlement Fund without having to submit a claim form or otherwise "opt in" to the Settlement Class.

26. Any amounts remaining in the Settlement Fund (including checks disbursed to Qualified Settlement Class Members that are uncashed for any reason within one hundred eighty (180) Days of issuance of the check or checks that are returned undeliverable because a Qualified Settlement Class Member's current address cannot be established in accordance with the process set forth above) will be redistributed to those Settlement Class Members who cash their checks. Any funds remaining thereafter (including any uncashed amounts) shall be distributed to the Illinois Equal Justice Foundation, which is the *cy pres* recipient mutually agreed to by the Parties.

Exclusion From Or Objection To The Settlement

27. In order to exercise the right to be excluded, a Settlement Class Member must timely send a written Request for Exclusion to the Settlement Administrator providing his/her name, address, and telephone number; the name and number of this case; a statement that he/she wishes to be excluded from the Settlement Class; and his/her signature. A Request for Exclusion

that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the person serving such a request shall be considered a Settlement Class Member and shall be bound as a Qualified Settlement Class Member by the Settlement Agreement, if finally approved.

28. All Requests for Exclusion must be submitted no later than sixty-six (66) Days after Preliminary Approval. Any member of the Settlement Class who submits a timely Request for Exclusion may not file an objection to the Settlement and shall be deemed to have waived any rights or benefits under the Settlement Agreement.

29. Settlement Class Members who do not opt out shall release, relinquish, and give up any Released Claims against any Released Parties and shall constitute a Qualified Settlement Class Member under this Settlement Agreement.

30. Any Settlement Class Member who wishes to be heard at the Final Approval Hearing, or who wishes for any objection to be considered, must file with the Clerk of the Court a written notice of objection no later than sixty-six (66) Days after Preliminary Approval. Such objection must:

a. Have the signature of the Settlement Class Member objecting, even if represented by counsel. If the Settlement Class Member is an entity and not an individual, the objection must be signed by an officer or director of the entity with authority to act on behalf of that entity. If the Settlement Class Member that is objecting to the Settlement is represented by counsel, the objection shall also be signed by that attorney;

b. State the name, address, and telephone number of the Settlement Class Member objecting;

c. State the name, address, and telephone number of every attorney representing or assisting the objector;

d. Contain a detailed statement of each objection asserted, including the grounds for objection and reasons for appearing and being heard, together with

any documents such Settlement Class Member wishes to be considered in support of the objection;

e. A list of all cases in which the Settlement Class Member or Settlement Class Member's counsel filed an objection or in any way participated—financially or otherwise—in objecting to a class settlement during the preceding five years; and

f. Contain a statement regarding whether the Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, and a list of all persons, if any, who will be called to testify in support of the objection.

31. The Settlement Class Member must also serve by mail or hand delivery the Settlement Class Member's notice of objection, including any request to be heard, including all papers or evidence in support thereof, upon Settlement Class Counsel and Defendant's Counsel, at the addresses set forth in the Notice.

32. Objectors who fail to properly or timely file their objections with the Clerk of the Court, along with the required information and documentation set forth above, or to serve them as provided above, shall not be heard during the Final Approval Hearing, shall not have their objections be considered by the Court, and shall be foreclosed from seeking any adjudication or review of the Settlement by appeal or otherwise.

33. Settlement Class Counsel and Defendant's Counsel may respond to any objection filed by a Settlement Class Member, and must file such a response with the Court within seventy-five (75) Days following the Notice Date.

34. Settlement Class Members may not both opt out via a Request for Exclusion and object. If a Settlement Class Member submits both a Request for Exclusion and an objection, the Request for Exclusion shall be controlling.

35. Any Settlement Class Member who does not file a timely, written objection to the Settlement or who fails to otherwise comply with the requirements outlined above in Paragraph

30 shall be foreclosed from seeking any adjudication or review of this Settlement by appeal or otherwise.

Final Approval Hearing And Related Deadlines

36. This Court will hold a Final Approval Hearing, on **July 9, 2024 at 1:30 p.m. Central Time**, in Courtroom 2510 of the Circuit Court of Cook County, Illinois, Chancery Division or by remote means as follows:

Zoom Meeting ID: 966 9558 1801
Zoom Meeting Password: 160424
Zoom Call-in Number: 312-626-6799

The purposes of the Final Approval Hearing will be to consider the fairness, reasonableness, and adequacy of the proposed Settlement and the application for a Fee Award, and to consider whether the Court should issue a Final Approval Order approving the Settlement, granting Settlement Class Counsel's application for a Fee Award, granting the Service Award application by Plaintiff, and dismissing the claims against Defendant with prejudice.

37. The Court reserves the right to adjourn the Final Approval Hearing without further notice to Settlement Class Members or to approve the Settlement with modification without further Notice to Settlement Class Members.

38. Any Settlement Class Member may appear at the Final Approval Hearing by filing with the Clerk of the Court a written notice of objection, including any request to be heard, no later than sixty-six (66) Days following Preliminary Approval in accordance with the requirements outlined in Paragraph 30 above and including a statement that the Settlement Class Member intends to appear at the Final Approval Hearing, either with or without counsel, along with a list of all persons, if any, who will be called to testify in support of the objection.

39. If any Settlement Class Member hires an attorney to represent the Settlement Class Member at the Final Approval Hearing, that attorney will be hired at the Settlement Class Member's expense.

40. Any attorney hired by a Settlement Class Member for the purpose of objecting to the Settlement and who intends to make an appearance at the Final Approval Hearing must provide to Settlement Class Counsel and Defendant's Counsel and file with the Clerk of the Court a notice of intention to appear no later than forty-five (45) Days after the Notice Date.

41. Settlement Class Counsel's Fee Award Petition seeking a Fee Award and Service Award shall be filed no later than seven (7) days prior to the date of the Final Approval Hearing.

42. Settlement Class Counsel will provide Defendant's Counsel with a draft of the Motion for Final Approval no less than one hundred and four (104) Days after Preliminary Approval.

43. Settlement Class Counsel's papers in support of final approval of the Settlement shall be filed no later than one hundred and eleven (111) Days after Preliminary Approval. Any response papers shall be filed no later than one hundred and seventeen (117) Days after Preliminary Approval.

Effects Of This Preliminary Approval Order

44. If for any reason the Settlement fails to become effective in accordance with its terms, or if the judgment is not entered or is reversed, vacated, or materially modified on appeal (and, in the event of a material modification (which shall not include any change to the Fee Award or to the Service Award), if either party elects to terminate the Settlement), this Order shall be null and void, the Settlement Agreement shall be deemed terminated (except for any paragraphs that, pursuant to the terms of the Settlement, survive termination of the Settlement), and the Parties shall return to their positions without prejudice in any way, as provided for in the Settlement.

45. As set forth in the Settlement Agreement, the fact and terms of this Order and the Settlement, all negotiations, discussions, drafts, and proceedings in connection with this Order and the Settlement, and any act performed or document signed in connection with this Order and the Settlement, shall not, in this or any other court, administrative agency, arbitration forum, or other tribunal, constitute an admission or evidence or be deemed to create any inference against any

party, including, but not limited to, (i) of any acts of wrongdoing or lack of wrongdoing; (ii) of any liability on the part of Defendant to the Plaintiff, the Settlement Class, or anyone else; (iii) of any deficiency of any claim or defense that has been or could have been asserted in this case; (iv) that Defendant agrees that a litigation class may be properly certified in this case; (v) of any damages or lack of damages suffered by the Plaintiff, the Settlement Class, or anyone else; or (vi) that any benefits obtained by the Settlement Class pursuant to the Settlement or any other amount represents the amount that could or would have been recovered in the actions in this case if they were not settled at this point in time. The fact and terms of this Order and the Settlement, and all negotiations, discussions, drafts, and proceedings in connection with this Order and the Settlement, including but not limited to the judgment and the release of the Released Claims provided for in the Settlement and any judgment, shall not be offered or received in evidence or used for any other purpose in this or any other proceeding in any court, administrative agency, arbitration forum or other tribunal, except as necessary to enforce the terms of this Order and/or the Settlement.

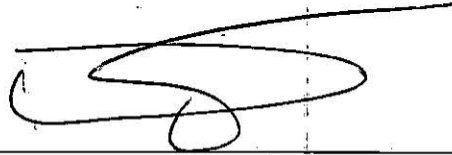
46. All Settlement Class Members, unless and until they have timely and properly excluded themselves from the Settlement Class, are preliminarily enjoined from (a) filing, commencing, prosecuting, intervening in or participating as plaintiff, claimant, participant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action or the Released Claims; (b) filing, commencing, participating in, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any Settlement Class Member who has not timely excluded himself or herself (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on, relating to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action or the Released Claims; and (c) attempting to effect opt outs of a class of individuals in this lawsuit or any other lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating

to, or arising out of the claims and causes of action or the facts and circumstances giving rise to the Action or the Released Claims.

47. Any Settlement Class Member who does not submit a timely, written Request for Exclusion from the Settlement Class (*i.e.*, become an Opt Out) will be bound by all proceedings, orders and judgments in the Action, even if such Settlement Class Member has previously initiated or subsequently initiates individual litigation or other proceedings encompassed by the Release.

Dated:

3-12-2024



Judge Michael T. Mullen
Illinois Circuit Court Judge

Judge Michael T. Mullen
MAR 12 2024
Circuit Court-2084