

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

*Ilya Zaydenberg v. Crocs Retail, Inc., et al. Los Angeles County Superior Court Case No. BC554214; Christopher S. DuRee, et al. v. Crocs, Inc. et. al. Los Angeles County Superior Court Case No. BC583875*

**NOTICE OF CLASS ACTION SETTLEMENT**

**TO: ALL CALIFORNIA EMPLOYEES OF CROCS RETAIL, LLC, EMPLOYED DURING THE TIME FRAME FROM AUGUST 8, 2010 UNTIL SEPTEMBER 9, 2015, WHO WERE CLASSIFIED AS EXEMPT OR NON-EXEMPT.**

**PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM THIS PROPOSED SETTLEMENT.**

This Notice is Court Approved. This is not a solicitation from an attorney.

**PLEASE VERIFY YOUR NAME AND ADDRESS:**

ILYM ID: <<ILYM ID>>

Name/Address Corrections (if any):

<<Name>>

<<Address1>> <<Address2>>

<<City>>, <<State>> <<Zip Code>>

**Your Anticipated Settlement Share is:  
\$<< Est.SettlementShare>**

**PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS**

**WHY DID I GET THIS NOTICE?**

You have received this Notice because we believe that you are a class member who may be entitled to money from this settlement.

This Notice describes a proposed settlement of two related lawsuits: *Ilya Zaydenberg v. Crocs Retail, Inc., et al.*, Los Angeles County Superior Court Case No. BC554214, and *Christopher S. DuRee et al. v. Crocs Retail, Inc., et al.*, Los Angeles County Superior Court, Case No. BC583875 (the “Lawsuits”). This Notice is being sent to you by the order of the Superior Court of the State of California for the County of Los Angeles, which preliminarily approved the settlement and conditionally certified the class on September 9, 2015. This Notice informs you of the terms of the proposed settlement, describes your rights in connection with the settlement, and explains what steps you may take to object to, or exclude yourself from, the settlement. **If you do not exclude yourself from the settlement and the settlement is finally approved by the Court, you will receive a settlement payment and be bound by the terms of the settlement and any final judgment.**

**YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT**

<b>DO NOTHING AND REMAIN IN THE CLASS</b>	Obtain Settlement benefits and give up your rights to ever sue the Defendant about any of the claims in these cases.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT</b>	Opt out of the class by November 4, 2015 and get no benefits from the Settlement, and keep your rights to be part of any other lawsuit against the Defendant about any of the claims in this case.
<b>OBJECT</b>	Write to the Settlement Administrator by November 4, 2015 about why you do not like the Settlement or any of its terms. If you want to object, you will remain in the class and may still receive a settlement payment.

**IF YOU ARE A CURRENT EMPLOYEE OF DEFENDANT, STATE AND FEDERAL LAW PROHIBIT RETALIATION AND DISCRIMINATION AGAINST YOU REGARDLESS OF WHICH OF THE ABOVE OPTIONS YOU PURSUE.**

**WHAT IS THIS LAWSUIT ABOUT?**

The Lawsuits were filed by Plaintiffs Ilya Zaydenberg, Christopher S. DuRee, and Richard Morely (“Plaintiffs”) on behalf of non-exempt and exempt employees who worked for Crocs Retail, LLC (“Crocs”) during the Class Period in California. The Lawsuits are: *Ilya Zaydenberg v. Crocs Retail, Inc., et al.*, Los Angeles County Superior Court Case No. BC554214, and *Christopher S. DuRee et al. v. Crocs Retail, Inc., et al.*, Los Angeles County Superior Court, Case No. BC583875.

The Lawsuits pleaded class allegations against Crocs for: (a) failure to pay minimum wages and overtime wages (including but not limited to overtime, double time, straight time, minimum wage, unpaid overtime based on failure to incorporate value of non-discretionary incentive payments and/or off-the-clock time); (b) failure to timely pay wages during employment; (c) failure to provide proper meal and rest periods, to properly provide premium pay in lieu thereof, and to properly calculate premium pay in lieu of meal and

rest periods; (d) failure to reimburse or indemnify employees for losses or expenditures incurred; (e) failure to provide complete and/or accurate wage statements (including wage statement penalties pursuant to Labor Code section 226); (f) failure to keep accurate payroll records; (g) failure to timely pay wages due or final wages due (including waiting time penalties pursuant to Labor Code section 203); and (h) misclassification of non-exempt employees as salaried exempt employees. The Lawsuits also pleaded claims for civil penalties under the Private Attorneys General Act of 2004. Crocs denies each and all of the claims and contentions alleged by the Plaintiffs. The Court has not made any rulings regarding the merits of the cases. After engaging in extensive investigation and a full day of mediation before an experienced mediator, in which both sides recognized the substantial risks of an adverse result in the Lawsuits for either side, Plaintiffs and Crocs agreed on a class settlement that was preliminarily approved by the Court on September 9, 2015. Plaintiffs and Class Counsel support the settlement.

### **WHAT IS A CLASS ACTION?**

In a class action lawsuit, one or more persons sue on behalf of other people who have similar claims. Ilya Zaydenberg, Christopher S. DuRee, and Richard Morely are the Class Representatives or Named Plaintiffs in the Lawsuits, and they assert claims on behalf of themselves and the class. Crocs Retail, LLC is the Defendant. A class action allows the Court to resolve the claims of all the class members at the same time. A class member is bound by the determination or judgment entered in the case, whether the class wins or loses, and may not file his or her own lawsuit on the same claims that were decided in the class action. A class action allows one court to resolve all of the issues in a lawsuit for all the class members who choose not to exclude themselves from the class.

### **WHO IS INCLUDED IN THE SETTLEMENT CLASS?**

All California employees of Crocs Retail, LLC employed during the time frame from August 8, 2010 to September 9, 2015, who Crocs Retail, LLC classified as exempt or non-exempt.

The Settlement Class or Qualified Claimant shall not include any person who submits a timely and valid request for exclusion.

### **WHAT ARE THE TERMS OF THE CLASS SETTLEMENT?**

In exchange for the release of claims against it and final disposition of the Lawsuits, Defendant Crocs Retail, LLC will pay One Million Five Hundred Thousand Dollars (\$1,500,000.00) (“Gross Settlement Fund” or “GSF”). After attorneys’ fees and costs, enhancement payments to the Named Plaintiffs, a payment to the California Labor and Workforce Development Agency, and settlement administration costs are deducted from the GSF, the remaining “Net Settlement Fund” will be distributed to Settlement Class Members. Subject to Court approval, the GSF will be allocated as follows:

- Individual Settlement Share: All Settlement Class Members are eligible to receive money from the Net Settlement Fund. Each estimated payment is the pro rata allocation of the Net Settlement Fund based on the Members’ total gross wages earned during the Class Period.<sup>1</sup> Your estimated

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<sup>1</sup> Qualified Claimants will receive a share of the NSF with the numerator being the Qualified Claimant’s total gross wages earned during the Class Period as a Class Member and the denominator being all Qualified Claimants’ total gross wages earned during the Class Period. The resulting fraction will be multiplied by the Net Settlement Fund to determine the Qualified Claimant’s individual settlement share.

payment is on the first page of this Notice, but the actual amount may vary somewhat based on the actual implementation of the settlement.

- **Class Representatives Enhancement Payment:** Named Plaintiffs will request from the Court an award of \$5,000 each (\$15,000 total) in recognition of their efforts and risks in assisting with the prosecution of the Lawsuits. This amount will be paid from the GSF, and any amount not awarded will revert to the Net Settlement Fund for distribution.
- **Class Counsel Award:** Class Counsel will request from the Court 35% of the GSF (\$525,000 of \$1,500,000) as attorneys' fees for litigation and resolution of the Lawsuits, as supported by declaration. Class Counsel will also request from the Court reimbursement for the advanced litigation costs, which are estimated to be no more than \$30,000. This total amount will be paid from the GSF, and any amount not awarded will revert to the Net Settlement Fund for distribution.
- **PAGA Payment:** \$5,000 from the GSF is allocated for payment under the Private Attorneys General Act of 2004. 75% of the allocation (\$3,750) will be paid to the California Labor and Workforce Development Agency, and 25% (\$1,250) of the allocation will be distributed as part of the Net Settlement Fund.
- **Settlement Administration:** The cost of settlement administration is approximately \$13,000, which pays for tasks such as mailing and tracking this Notice, mailing checks and tax forms, and reporting to the parties and the Court.
- **Any checks issued to Settlement Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. After that time, any such unclaimed checks will be sent to the California Department of Industrial Relations Unclaimed Wages Fund, which can be later claimed by the Class Members who did not timely cash their checks.**

The Released Claims are claims that were asserted in the Lawsuits, and arising out of the acts, facts, transactions, occurrences, representations, or omissions set forth in the Class Action, for the time frame from August 8, 2010 until the date the Court grants final approval of the settlement. Claims that shall not be released include claims for unemployment compensation, workers' compensation, employment discrimination, and retaliation.

The release will extend to and cover Crocs Retail, LLC and all of its past, present, and future parent companies, subsidiaries, affiliates, divisions, and agents, and all of their respective employees, members, officers, directors, partners, legal representatives, accountants, trustees, executors, administrators, real or alleged alter egos, predecessors, successors, transferees, assigns and insurers.

#### **WHAT DO I NEED TO DO TO RECEIVE A SETTLEMENT PAYMENT?**

**You do not need to do anything to receive a payment from the Net Settlement Fund.**

Crocs' records show that you were employed from <<StartDate>> to <<EndDate>> and earned a total of \$<<TotalGrossWages>> gross wages as a Class Member. Your Anticipated settlement share as stated on page 1 of this document is calculated using that gross wages information.

If you dispute the information about the amount of gross wages that Crocs' records show you earned during the Class Period, you must advise the Settlement Administrator to substantiate your dispute by November 4, 2015.

The Settlement Administrator is:

*Zaydenberg et al. v. Crocs, Retail, Inc. et al.*  
c/o ILYM Group, Inc.  
P.O. Box 57087  
Irvine, CA 92619  
Toll Free: (888) 250-6810

#### **WHAT IF I DON'T WANT TO PARTICIPATE IN THIS SETTLEMENT?**

You have the right to request exclusion from the settlement. To do so, you must submit a written opt-out request to the Settlement Administrator at the following address:

*Zaydenberg et al. v. Crocs, Retail, Inc. et al.*  
c/o ILYM Group, Inc.  
P.O. Box 57087  
Irvine, CA 92619  
Toll Free: (888) 250-6810

To be valid, a written request for exclusion must: (1) state your name, address and telephone number; (2) that you wish to be excluded from the *Zaydenberg v. Crocs* settlement.; (3) be signed by you; and (4) be mailed first-class postage pre-paid by November 4, 2015 to the Settlement Administrator at the above address. The date of the post-mark will determine if it was timely mailed. Unless you timely request to be excluded from the settlement, you will be bound by the judgment upon final approval of the settlement, including the Release described in this Notice.

**If you timely request to be excluded from the settlement, you will not be entitled to receive any payment under the settlement.** Class Counsel will not represent your interests if you request to be excluded.

#### **WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?**

Any Class Member who has **not** asked to be excluded from the settlement may object to the settlement and may appear at the hearing where the Court will make a final decision whether or not to approve the settlement (the "Final Approval Hearing"). The Final Approval Hearing is scheduled to take place on December 14, 2015, at 11:00 a.m. in Department 311 of the Superior Court of the State of California for the County of Los Angeles – Central Civil West, located at 600 S. Commonwealth Ave., Los Angeles, CA 90005.

To be valid, the written objection must be served on the Settlement Administrator, by November 4, 2015. The written objection must state: (1) your full name, address and telephone number; (2) a written statement of all grounds for the objection accompanied by legal support for the objection; (3) a statement as to whether you intend to appear at the final approval hearing; (4) proof of membership in the Class; and (5) the signature of you or your counsel. In addition, any Class Member objecting to the settlement shall provide a detailed list of any other objections submitted by the objector and, if represented, by the

objector's counsel, to any class actions filed in any court in the United States (state or federal) in the previous five years. If the Class Member and/or his/her counsel has not objected to any other class action settlement in the previous five years, he/she shall affirmatively so state under oath in the objection. Any objection to the requested attorneys' fees and/or costs must also comply with this provision.

You have the right to hire your own attorney, at your own expense, to submit an objection or to appear on your behalf at the Final Approval Hearing. You may, but are not required to appear at the hearing to have your objection considered.

Filing an objection will *not* exclude you from the Settlement Class. You will still have the right to receive an individual settlement share, unless you have otherwise requested to be excluded.

### **WHAT HAPPENS IF I DO NOT EXCLUDE MYSELF FROM THIS SETTLEMENT?**

The settlement, if finally approved by the Court, will bind all Class Members who do not request to be excluded from the settlement whether or not they receive or timely cash their individual settlement share. Final approval of the settlement will bar any Class Member who does not request to be excluded from the settlement from hereafter initiating a lawsuit or proceeding regarding the Released Claims. The Settlement Agreement contains additional details about the scope of the release.

### **DO I HAVE A LAWYER IN THIS CASE?**

The Court has ordered that, for purposes of this Settlement, the interests of Plaintiffs and the Class Members are represented by:

Edwin Aiwazian

Arby Aiwazian

Lawyers for Justice, P.C.

410 Arden Ave., Suite 203

Glendale, California 91203

Telephone: (818) 265-1020

Douglas Han

Shunt Tatavos- Gharajeh

Justice Law Corporation

410 Arden Ave., Suite 206

Glendale, California 91203

Telephone: (818) 230-7502

Solomon E. Gresen

Robert C. Hayden

RGLawyers, LLP

15910 Ventura Blvd. Suite 1610

Encino, California 91436

Telephone: (818) 815-2727

(collectively, "Class Counsel"). Class Members will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **WHAT IF MY INFORMATION CHANGES?**

If, after you receive this notice, you change your postal address or telephone number, it is your responsibility to inform the Settlement Administrator of your updated information.

### **FURTHER INFORMATION**

The foregoing is only a summary of the settlement. To see a copy of the Settlement Agreement (which defines the capitalized terms used in this Notice and provides a brief summary of what has happened in the Lawsuits), the Court's Preliminary Approval Order, Class Counsel's application for attorneys' fees and costs, the operative Complaint filed in the Lawsuits, and other filed documents related to the Lawsuits and

this Settlement, you may view all such files at the Clerk's office of the Superior Court of the State of California for the County of Los Angeles, located at 600 S. Commonwealth Ave., Los Angeles, CA 90005. You may also view all such files through the Settlement Administrator's website located at <http://www.ilymgroupclassaction.com>.

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact the Settlement Administrator at ILYM Group, Inc., P.O. Box 57087, Irvine, CA 92619, Telephone: (888) 250-6810. Please refer to the Crocs Class Action Settlement.

***PLEASE DO NOT TELEPHONE OR CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.***