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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ENRICO MORETTI, an individual, on behalf
of himself, the general public and those
similarly situated,

Plaintiff,

v.

THE HERTZ CORPORATION; HERTZ
GLOBAL HOLDINGS, INC.; DOLLAR
THRIFTY AUTOMOTIVE GROUP, INC.;
HOTWIRE, INC.; and DOES 1 THROUGH
25,

Defendants.

No. C 13-02972 JSW

**ORDER FOR EVIDENTIARY
SHOWING ON MOTION TO
TRANSFER**

Now before the Court is the motion to transfer pursuant to 28 U.S.C. § 1404(a) filed by Defendants, the Hertz Corporation, Hertz Global Holdings Inc., Dollar Thrifty Automotive Group, and Hotwire Inc. (“Hotwire”) (collectively “Defendants”). The issue presented is whether this action should be transferred to the District of Delaware on the grounds that the parties’ agreement contains a forum selection clause requiring disputes between the parties be litigated in Delaware. Plaintiff, Enrico Moretti (“Plaintiff”) disputes Defendants’ submission of evidence. Defendants present a copy of a screen shot of the booking path leading a customer to Hotwire’s terms of use, which contains the forum selection clause relied upon. (*See Ex. 1 of Declaration of Sarah Bernard.*) Plaintiff points out that Defendants’ screen shot of Hotwire’s booking path is a purported simulation of a different client and during a different time frame

1 from Plaintiffs' booking activities. (*See* Plaintiff's Consolidated Opposition to Defendants'
2 Motions to Transfer at 7-8.)

3 Accordingly, the Court reserves ruling on the motion until an evidentiary showing is
4 made. The Court **HEREBY ORDERS** Defendants to submit evidence demonstrating that on
5 December 15, 2012, Plaintiff accepted Hotwire's terms containing the forum selection clause at
6 issue. Defendants shall submit evidence of an executed contract by Plaintiff or the functional
7 equivalent, within 10 days of this order, or by no later than March 21, 2014. In addition, the
8 Court shall decide the motion without oral argument and hereby **VACATES** the hearing
9 scheduled for March 21, 2014.

10 **IT IS SO ORDERED.**

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12 Dated: March 7, 2014

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15 JEFFREY S. WHITE
16 UNITED STATES DISTRICT JUDGE
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