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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BARRIE ARLISS and JEFF LAWRIE,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

GROUPON, INC., a Delaware
Corporation, d/b/a Groupon, FULL
CIRCLE FARMS, Inc. and SPA BLIX,
Inc., Washington State Corporations,
Individually and on Behalf of All Similarly
Situating Entities, and DOES 1 through 100,
inclusive,

Defendants.

No.

**NOTICE OF REMOVAL OF ACTION
BY DEFENDANT GROUPON, INC. TO
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
WASHINGTON PURSUANT TO 28
U.S.C. § 1332**

**TO: THE CLERK OF THE COURT OF THE UNITED STATES DISTRICT
COURT FOR THE WESTERN DISTRICT OF WASHINGTON**
AND TO: PLAINTIFFS THROUGH THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that, for the reasons set forth below, defendant Groupon,
Inc. (“Groupon”), through its undersigned counsel, hereby removes the above-captioned action
from the Superior Court of the State of Washington in and for King County to the United States
District Court for the Western District of Washington. This Notice of Removal is filed

1 pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, and Western District of Washington
2 Local Civil Rule 101. In support of its removal of this action, Defendant states as follows:

3 **I. JURISDICTION**

4 1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d), as
5 amended by the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4 (2005)
6 (“CAFA”). This is a putative class action in which (a) there are 100 or more members of
7 Plaintiffs’ proposed class; (b) at least one member of the proposed class is a citizen of a state
8 other than that of a defendant; and (c) the amount in controversy exceeds the sum or value of
9 \$5,000,000 in aggregate. Removal to this Court is therefore proper under 28 U.S.C. §§ 1332,
10 1441, 1446, and 1453.

11 **II. BACKGROUND**

12 2. On or about April 29, 2011, plaintiff Barrie Arliss filed a Class Action
13 Complaint (the “Complaint”) in the Superior Court of the State of Washington in and for King
14 County, captioned *Arliss v. Groupon, Inc. et al.*, Case No. 11-2-15609-5 SEA (the “Action”).
15 On or about May 17, 2011, plaintiffs Barrie Arliss and Jeff Lawrie (collectively, “Plaintiffs”)
16 filed an Amended Class Action Complaint (the “Amended Complaint”) in the Action. There
17 have been no other proceedings in this Action. Pursuant to 28 U.S.C. § 1446(a) and Local Rule
18 101(b), and the conjoined verification of Stelman Keehnel, true and correct copies of all
19 process, pleadings, and orders served upon Groupon in the Action, as well as all other
20 pleadings and documents filed in the Action, are attached to this Notice as **Exhibit A**.

21 3. This notice of removal is being filed within 30 days of service on Groupon of
22 the original Complaint and within 30 days of service on all other defendants of the original
23 Complaint. This notice of removal is therefore timely under 28 U.S.C. § 1446(b).

24 4. This Notice of Removal is filed in the United States District Court for the
25 Western District of Washington, which is the district in which Plaintiffs filed the Complaint
26 and the Amended Complaint in this Action. 28 U.S.C. §§ 1441(a), 1446(a).

1 **III. REMOVAL IS PROPER PURSUANT TO CAFA**

2 5. This Action is a putative class action brought by Plaintiffs purporting to state
3 claims against Groupon, Full Circle Farms, Inc., and Spa Blix, Inc. (collectively, “Defendants”)
4 for declaratory relief, alleged violations of Washington’s gift certificate statute, RCW
5 19.240.005 *et seq.*, alleged violations of the Washington Consumer Protection Act (the
6 “CPA”), RCW 19.86.010 *et seq.*, and for restitution/unjust enrichment.

7 6. This Action meets the applicable definition of a class action under CAFA, which
8 is: “any civil action filed under Rule 23 of the Federal Rules of Civil Procedure or similar State
9 statute or rule of judicial procedure.” 28 U.S.C. § 1332(d)(1)(B). The Amended Complaint
10 filed in the Action states that “Plaintiffs bring this action on behalf of themselves and a Class of
11 individuals seeking injunctive relief, damages, and reasonable costs and attorneys’ fees” for
12 Defendants’ alleged conduct. (Amended Complaint § I, ¶ 12; *see id.* § IX.)

13 7. Plaintiffs claim that Groupon sells gift certificates containing expiration dates to
14 consumers in violation of Washington’s gift certificate law and the CPA, that Groupon has
15 been unjustly enriched, and that Plaintiffs and the putative class are entitled to restitution. (*Id.*
16 § I, ¶¶ 1-12.) Based on Plaintiffs’ allegations, Plaintiffs seek an order awarding declaratory and
17 injunctive relief, requiring an accounting and disgorgement of all revenue gained by Groupon
18 through the sale of its vouchers to Washington consumers, restitution, actual and liquidated
19 damages, reasonable costs and attorneys’ fees, and pre-and post-judgment interest. (*See id.* § I,
20 ¶ 12; *id.* § VII, Count IV, ¶ 3; *id.* § IX, Prayer for Relief.)

21 8. As set forth below, this action satisfies each of the requirements of § 1332(d),
22 and this Court therefore has subject-matter jurisdiction under CAFA.

23 **A. The Proposed Class Consists of 100 or More Members**

24 9. CAFA applies when the number of members of all proposed classes in the
25 aggregate is 100 or greater. *See* 28 U.S.C. § 1332(d)(5)(B).

1 10. Plaintiffs allege that the “exact number of Class members is unknown” but that
2 “Defendants have contracted with *thousands* of Class members throughout the State of
3 Washington.” (Amended Complaint § VI, ¶ 2 (emphasis added).) Accordingly, Plaintiffs’
4 proposed class exceeds 100 members and far exceeds the minimum class member requirement
5 under CAFA.

6 **B. Minimal Diversity Required by CAFA Exists**

7 11. The requisite diversity of citizenship under CAFA is satisfied when “*any*
8 member of a class of plaintiffs is a citizen of a State different from *any* defendant.” 28 U.S.C.
9 § 1332(d)(2)(A) (emphasis added).

10 12. According to the Amended Complaint, Plaintiffs Arliss and Lawrie are both
11 residents of the State of Washington. (Amended Complaint § III, ¶¶ 1-2.) Accordingly,
12 Plaintiffs are domiciled in, and are citizens of, the State of Washington. Groupon is a Delaware
13 corporation with its principal place of business in Chicago, Illinois. (*See id.* § III, ¶ 3 (stating
14 that Groupon is “headquartered at 600 West Chicago Avenue, Suite 620, Chicago, IL.”).)
15 Thus, Groupon is a citizen of Delaware and Illinois. 28 U.S.C. § 1332(c)(1); *see Hertz Corp. v.*
16 *Friend*, -- U.S. --, 130 S. Ct. 1181, 1185-86 (2010) (“‘principal place of business’ refers to the
17 place where the corporation’s high level officers direct, control, and coordinate the
18 corporation’s activities. . . . We believe [this] will typically be found at a corporation’s
19 headquarters.”).

20 13. Therefore, the diversity requirements for removal to federal court under CAFA
21 are satisfied with regard to Plaintiffs’ putative class because Plaintiffs reside in and are citizens
22 of a state (Washington) different than the states of which Groupon is a citizen (Delaware and
23 Illinois).

1 **C. The Amount in Controversy Requirement is Satisfied**

2 14. Under CAFA, the claims of the individual class members are aggregated to
3 determine whether the amount in controversy exceeds the required “sum or value of
4 \$5,000,000, exclusive of interest and costs.” 28 U.S.C. §§ 1332(d)(2), (d)(6).

5 15. Although Plaintiffs allege, in conclusory fashion, that the amount in controversy
6 “is well below \$5,000,000” (Amended Complaint § VII), based on the substantive allegations
7 in Plaintiffs’ Amended Complaint, it is clear that the amount in controversy in this Action
8 significantly exceeds \$5,000,000, exclusive of interest and costs. Plaintiffs allege that
9 Groupons¹ “invariably” contain an allegedly unlawful expiration date (Amended Complaint §
10 II, ¶ 4), and that they “are therefore void under RCW 19.240.110.” (*Id.* § VIII, Count I, ¶ 4.)
11 Plaintiffs similarly allege that Defendants “should not be permitted to retain the monies
12 belonging to Plaintiffs and the Class that they were paid in the form of payment for gift
13 certificates and that Defendants unjustly received as a result of its [sic] misconduct alleged
14 herein.” (*Id.* § VIII, Count IV, ¶ 3.) Accordingly, the allegations of Plaintiffs’ Amended
15 Complaint plainly establish that Plaintiffs seek to recover, at a minimum, the full paid value of
16 all Groupons sold in Washington on or after April 29, 2008. (*See also id.* § VI, ¶ 1; *id.* § IX,
17 Prayer for Relief.) The total paid value of all Groupons sold in Washington from August 3,
18 2009, when Groupon first began selling vouchers in Washington, to April 29, 2011
19 significantly exceeds \$10 million. (Del Preto Decl. ¶ 4.) Thus, the \$5,000,000 minimum
20 amount in controversy requirement is easily met.

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25 ¹ Groupon sells promotional vouchers, also called “Groupons,” that holders can use to purchase goods or services
26 at designated stores or service providers, with whom Groupon has contracted to make promotional offers in the
State of Washington. (Declaration of Joseph Del Preto in Support of Notice of Removal of Action by Groupon,
Inc. to the United States District Court for the Western District of Washington Under 28 U.S.C. § 1332 (“Del Preto
Decl.”) ¶ 2.)

1 **IV. CONCLUSION**

2 16. For the reasons stated, federal diversity jurisdiction exists pursuant to the Class
3 Action Fairness Act of 2005 and 28 U.S.C. § 1453. Accordingly, this Action is removable to
4 this honorable Court.

5 17. Nothing in this Notice of Removal is intended or should be construed as an
6 admission of the merits of any of Plaintiffs' claims or as a waiver by Groupon of any of its
7 defenses to the Amended Complaint.

8 18. A copy of this Notice of Removal is being served on Plaintiffs through counsel,
9 and is being filed with the clerk of the King County Superior Court. *See* 28 U.S.C. § 1446(d).

10 Wherefore, pursuant to 28 U.S.C. §§ 1441, 1446, 1453, and 1332, and Western District
11 Local Rule 101, Groupon hereby removes this lawsuit from the Superior Court for the State of
12 Washington in and for King County to the United States District Court for the Western District
13 of Washington.

14 Dated this 27th day of May, 2011.

15
16 Respectfully submitted,

17
18 *s/ Stelman Keehnel*

19 _____
20 Stelman Keehnel, WSBA No. 9309
21 Bradley T. Meissner, WSBA No. 39592
22 DLA PIPER LLP (US)
23 701 Fifth Avenue, Suite 7000
24 Seattle, WA 98104
25 Telephone: 206.839.4800
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Attorneys for Defendant
Groupon, Inc.

1 **VERIFICATION**

2 Pursuant to Western District of Washington Local Rule 101(b), the undersigned counsel
3 for Defendant hereby verifies that the pleadings and other documents attached hereto as
4 **Exhibit A** are true and complete copies of the pleadings and documents in the state court
5 proceeding.

6 I declare under penalty of perjury that the foregoing is true and correct.

7 EXECUTED at Seattle, Washington this 27th day of May, 2011.

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10 s/ *Stellman Keehnel*
11 Stellman Keehnel, WSBA No. 9309
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1 **CERTIFICATE OF SERVICE**

2
3 The undersigned certifies that a true and correct copy of the foregoing was served on
4 the 27th day of May, 2011, on counsel of record for plaintiff as stated below in the manner
5 indicated:

6
7 *Via Hand Delivery:*
8 Christopher Carney
9 Carney Gillespie Isitt PLLP
100 W. Harrison St., Suite N440
Seattle, WA 98119

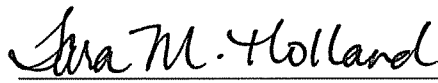
10 Jay Carlson
11 Carlson Legal
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Seattle, WA 98119

13 Shaun Van Eyk
14 Van Eyk & Moore, PLLC
15 100 W. Harrison St., Suite N440
Seattle, WA 98119

16 Attorneys for Plaintiff

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Dated at Seattle, Washington this 27th day of May, 2011.

19
20 
21 _____
22 Tara Holland