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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re GROUPON MARKETING AND  
SALES PRACTICES LITIGATION

No. 3:11-md-02238-DMS-RBB  
ORDER PRELIMINARILY  
APPROVING CLASS ACTION  
SETTLEMENT

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1 Plaintiffs and Defendants in the above-captioned multidistrict litigation  
2 pending before the Court have entered into a Stipulation of Class Action  
3 Settlement (“Settlement Agreement”) after extensive, arms-length settlement  
4 negotiations, including multiple mediations with Hon. Daniel J. Weinstein (Ret.) of  
5 JAMS. All capitalized terms used herein have the meanings set forth and defined  
6 in the Settlement Agreement.

7 The Parties have made an application, pursuant to Federal Rule of Civil  
8 Procedure 23(e) for an order preliminarily approving the settlement of this Action  
9 upon the terms and conditions set forth in the Settlement Agreement; and

10 The Court has reviewed and considered the Settlement Agreement and  
11 accompanying Exhibits, and the Parties’ application for such an order and found  
12 good cause for same;

13 NOW, THEREFORE, IT IS HEREBY ORDERED:

14 **A. The Settlement Class**

15 1. Jurisdiction. The Court has jurisdiction over the Parties and the  
16 subject matter of the dispute.

17 2. Conditional Certification of Settlement Class. Pursuant to Rules  
18 23(b)(3) and 23(c)(1) of the Federal Rules of Civil Procedure and for purposes of  
19 the Settlement only, the Court hereby conditionally certifies this Action as a class  
20 action on behalf of the following Settlement Class:

21 All Persons who purchased or received one or more Groupon Vouchers for  
22 redemption at a Merchant Partner in the United States, from November 2008  
23 until December 1, 2011. Excluded from the Settlement Class are  
24 Defendants, Merchant Partners, their parent companies, subsidiaries,  
25 affiliates, officers and directors, any entity in which Defendants have a  
26 controlling interest, Groupon employees, and all judges assigned to hear any  
27 aspect of this litigation, as well as immediate family members of any of the  
28 preceding referenced individuals.

1           3.     Appointment of Class Representatives. Pursuant to Rule 23 of the  
2 Federal Rules of Civil Procedure, the Court hereby appoints the named Plaintiffs  
3 listed in Exhibit 1 as Class Representatives of the Settlement Class.

4           4.     Appointment of Class Counsel. Having considered the factors set  
5 forth in Rule 23(g)(1) of the Federal Rules of Civil Procedure, and having found  
6 Interim Class Counsel to be adequate, the Court hereby appoints Interim Class  
7 Counsel as Class Counsel to represent the Settlement Class.

8           5.     Preliminary Findings. The Court, having conducted a preliminary  
9 assessment of the fairness, reasonableness, and adequacy of the Settlement  
10 Agreement, hereby finds that the Settlement falls within the range of  
11 reasonableness meriting further proceedings and possible final approval and  
12 dissemination of the Class Settlement Notice to the Settlement Class. The Court  
13 hereby preliminarily approves the Settlement Agreement, and the terms and  
14 conditions of the Settlement set forth therein, subject to further consideration in the  
15 Final Approval Hearing described below.

16 **B.     The Final Approval Hearing**

17           1.     Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the  
18 Court will hold a Final Approval Hearing on July 20, 2012, at 1:30 p.m., for the  
19 purposes of:

20                   (a)           Finally determining whether the Settlement Class meets  
21 all applicable requirements of Federal Rule of Civil Procedure 23 and, thus,  
22 whether the Action should be certified as a class action for purposes of effectuating  
23 the Settlement;

24                   (b)           Determining whether the Settlement on the terms and  
25 conditions set forth in the Settlement Agreement, is fair, just, reasonable, and  
26 adequate to the Settlement Class and should be approved by the Court;

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1 (c) Considering the application of Class Counsel for an  
2 award of attorneys' fees and reimbursement of expenses, as provided for in the  
3 Settlement Agreement;

4 (d) Considering the application of the Class Representatives  
5 for Incentive Awards, as provided for in the Settlement Agreement;

6 (e) Review objections, if any, regarding the Settlement  
7 Agreement;

8 (f) Determine the validity of Requests for Exclusion, if any,  
9 and exclude from the Settlement Class those Persons who validly and timely opted  
10 out;

11 (g) Considering whether the Court should enter the  
12 [Proposed] Order Approving Class Action Settlement and [Proposed] Final  
13 Judgment of Dismissal with Prejudice dismissing the Actions with prejudice;

14 (h) Ruling upon such other matters as the Court may deem  
15 necessary and appropriate.

16 2. Modifications to Settlement. The Parties may modify the Settlement  
17 Agreement prior to the Final Approval Hearing, so long as such modifications do  
18 not materially change the terms of the Settlement provided thereunder. The Court  
19 may approve the Settlement Agreement with such modifications as may be agreed  
20 to by the Parties, if appropriate, without further notice to the Settlement Class.

21 3. Objections to Settlement.

22 (a) Any Settlement Class Member who desires to object to  
23 the Settlement, the application for Attorneys' Fees and Expenses, or Plaintiffs'  
24 Incentive Awards must both file with the Clerk of this Court and serve on Class  
25 Counsel by hand or first-class mail a notice of the objection(s) and the grounds for  
26 such objections, together with all papers that the Settlement Class Member desires  
27 to submit to the Court at the Final Approval Hearing. The Court will consider such  
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1 objection(s) and papers only if such papers are received on or before fourteen (14)  
 2 days prior to the Final Approval Hearing (the “Opt-Out and Objection Date”),  
 3 which shall be set forth in the Class Settlement Notice, by the Clerk of the Court  
 4 and by each of the Parties’ counsel. Such papers must be sent to each of the  
 5 following Persons:

6 Clerk of the Court, 7 United States District Court for the 8 Southern District of California 9 10 11 12 13	Class Counsel Robbins Geller Rudman & Dowd LLP John J. Stoia, Jr.(141757) Rachel L. Jensen (211456) Thomas R. Merrick (177987) Phong L. Tran (204961) 655 West Broadway, Suite 1900 San Diego, CA 92101 Telephone: 619/231-1058 619/231-7423 (fax) johns@rgrdlaw.com rachelj@rgrdlaw.com tmerrick@rgrdlaw.com ptran@grdlaw.com
14 Lead Attorneys for Defendants 15 DLA PIPER LLP (US) 16 Shirli Fabbri Weiss (079225) 17 Christopher M. Young (163319) 18 401 B Street, Suite 1700 19 San Diego, CA 92101-4297 Telephone: 619/699-2700 619/699-2701 (fax) shirli.weiss@dlapiper.com christopher.young@dlapiper.com	

20 (b) All objections must include a reference to *In re Groupon*  
 21 *Marketing and Sales Litigation*, No. 3:11-md-02238-DMS-RBB (S.D. Cal.), the  
 22 name, address, and telephone number of the Settlement Class Member submitting  
 23 the objection, a statement of his or her objection, including any legal support the  
 24 Settlement Class Member wishes to bring to the Court’s attention and any evidence  
 25 the Settlement Class Member wishes to introduce in support of his or her  
 26 objection, and the submitting Person’s signature. Each Settlement Class Member  
 27 submitting an objection must state whether he or she (or his or her representative)  
 28 intends to appear at the Final Approval Hearing.

1           4.     Response to Objections. Any response to timely, completed  
2 objections must be filed with the Court and served no later than seven (7) days  
3 prior to the Final Approval Hearing.

4           5.     Appearance at Final Approval Hearing. Attendance at the Final  
5 Approval Hearing is not necessary; however, any Person wishing to be heard orally  
6 with respect to approval of the Settlement, the application for Attorneys' Fees and  
7 Expenses, or the application for Plaintiffs' Incentive Awards, are required to  
8 provide written notice of their intention to appear at the Final Approval Hearing no  
9 later than the Opt-Out and Objection Deadline as set forth in the Class Settlement  
10 Notice. Persons who do not intend to oppose the Settlement, Attorneys' Fees and  
11 Expenses or Incentive Awards need not take any action to indicate their approval.  
12 A Person's failure to submit a written objection in accordance with the Opt-Out  
13 and Objection Deadline and the procedure set forth in the Class Settlement Notice  
14 waives any right the Person may have to object to the Settlement, Attorneys' Fees  
15 and Expenses, or Incentive Awards, or to appeal or seek other review of the Final  
16 Judgment or the Order Approving Class Action Settlement. Any Settlement Class  
17 Member may enter an appearance in the Action at his or her own expense,  
18 individually or through counsel. All Settlement Class Members who do not enter  
19 an appearance will be represented by Class Counsel.

20           6.     All papers in support of the Settlement and any application for an  
21 award of Attorneys' Fees and Expenses and/or Incentive Awards must be filed  
22 with the Court and served at least twenty-one (21) days prior to the Final  
23 Approval Hearing.

24     **C.     The Court Approves the Form and Method of Class Notices**

25           1.     Class Notices. The Court approves, as to form and content, the  
26 proposed Class Notices, which are Exhibits 2- 4 and 8 respectively, to the  
27 Settlement Agreement.

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1           2.     Distribution of Class Notices. The Court finds that the distribution of  
2 the Class Notices substantially in the manner and form set forth in the Settlement  
3 Agreement and Exhibits 2-4 and 8 thereto, meets the requirements of Federal Rule  
4 of Civil Procedure 23 and due process, is the best notice practicable under the  
5 circumstances, and constitutes due and sufficient notice to all Persons entitled  
6 thereto.

7           3.     Approval of Claims Administrator.

8           (a)           The Court approves the designation of Rust Consulting,  
9 Inc. to serve as the Court-appointed Claims Administrator for the Settlement. The  
10 Claims Administrator shall disseminate the Class Notices and supervise and carry  
11 out the Notice Program, the processing of Claims, and other administrative  
12 functions, and shall respond to Settlement Class Member inquiries, as set forth in  
13 the Settlement Agreement and this Order, under the direction and supervision of  
14 the Court.

15           (b)           The Court directs the Claims Administrator to establish a  
16 Settlement website, making available copies of this Order, Class Notices (the Class  
17 Settlement Notice and the Settlement Fund Claims Notice), the Settlement  
18 Agreement and all Exhibits thereto, instructions on how to submit Claims and  
19 requests for refunds online or by e-mail or facsimile, FAQs and answers, Orders of  
20 the Court pertaining to the Settlement, a toll-free telephone number and addresses  
21 to contact the Claims Administrator by e-mail and mail, and such other information  
22 as may be of assistance to Settlement Class Members or required under the  
23 Settlement Agreement. The cost of creating and maintaining this website shall be  
24 paid from the Settlement Fund. Settlement Class Members may submit Claims  
25 through the Settlement website, no later than the Notice Dates as defined below,  
26 and continuously thereafter through the Claims Deadline.

27           (c)           The Claims Administrator is ordered to cause the Class  
28 Settlement Notice to be disseminated to potential Settlement Class Members no

1 later than fifty-five (55) days before the Final Approval Hearing (“Settlement Class  
2 Notice Deadline”) and to cause the Settlement Fund Claims Notice to be  
3 disseminated to Settlement Class Members no more than fourteen (14) days after  
4 the Effective Date (“Settlement Fund Claims Notice Date”). The Second  
5 Settlement Fund Claims Notice shall be disseminated no more than fourteen (14)  
6 days after the Claims Administrator has paid all approved Settlement Fund Proofs  
7 of Claim (“Second Settlement Fund Claims Notice Date”). The Claims  
8 Administrator may request assistance from Groupon to identify Class Members; to  
9 facilitate providing Class Notices as necessary and appropriate to satisfy Rule 23  
10 and constitutional due process; to facilitate sending Notice emails from a domain  
11 name that includes the word “Groupon” so that, to the extent possible, they are not  
12 excluded from Settlement Class Members’ email inboxes as an unknown sender or  
13 junk mail; to link to the Groupon website for accessibility to the Settlement Class  
14 Members’ Groupon accounts; to assist with establishing the settlement website;  
15 and to accomplish such other purposes as may be approved by Groupon and Class  
16 Counsel; provided, however, that the determination of the validity of Claims and  
17 requests for refunds shall be made by the Claims Administrator subject to the  
18 provisions of the Settlement Agreement.

19 (d) The Claims Administrator shall file with the Court proof  
20 of compliance with the Notice Program no later than five (5) business days prior to  
21 the Final Approval Hearing.

22 4. All costs of the Notice Program, Claims processing, creating and  
23 maintaining the website, and all other reasonable and appropriate Claims  
24 Administration Expenses and Notice Expenses shall be paid from the Settlement  
25 Fund while the Settlement Fund is in effect and thereafter from the Second  
26 Settlement Fund.

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1 **D. Procedure for Requesting Exclusion from the Settlement Class**

2 1. Any Person falling within the definition of the Settlement Class may,  
3 upon his or her request, be excluded from the Settlement Class. Any such Person  
4 must submit a completed Request for Exclusion, signed by the Person, to the  
5 Claims Administrator post-marked on the date no later than the Opt-Out and  
6 Objection Date (*i.e.*, fourteen (14) days prior to the Final Approval Hearing), as set  
7 forth in the Class Settlement Notice. Requests for Exclusion purportedly filed on  
8 behalf of multiple Persons or classes of Persons are prohibited and will be deemed  
9 to be void.

10 2. Any Settlement Class Member who does not send a completed, signed  
11 Request for Exclusion to the Claims Administrator post-marked on or before the  
12 Opt-Out and Objection Deadline will be deemed to be a member of the Settlement  
13 Class for all purposes and will be bound by all further orders of the Court in this  
14 Action and by the terms of the Settlement, if finally approved by the Court. All  
15 Persons who submit valid and timely Requests for Exclusion in the manner set  
16 forth in the Settlement Agreement shall have no rights under the Settlement  
17 Agreement and shall not be bound by the Settlement or the Final Judgment and the  
18 Order Approving Class Action Settlement.

19 3. The Claims Administrator shall provide Class Counsel and counsel  
20 for Groupon with a list of all timely Requests for Exclusion within five (5)  
21 business days after the Opt-Out and Objection Deadline.

22 **E. Miscellaneous Provisions**

23 1. Stay. Pending final determination of whether the Settlement should  
24 be approved, all discovery and all proceedings in the Action unrelated to the  
25 approval of the Settlement, the application for Attorneys' Fees and Expenses, and  
26 the Application for Incentive Awards are stayed.

27 2. Termination of Settlement. This Order shall become null and void  
28 and shall be without prejudice to the rights of the Parties, all of whom shall be

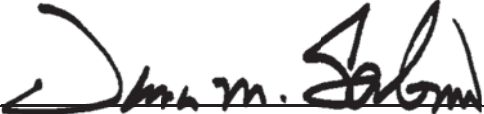
1 restored to their respective positions existing immediately before this Court entered  
2 this Order, if the settlement is terminated in accordance with the Settlement  
3 Agreement.

4 3. Use of Order. This Order shall not be used by any Party or otherwise  
5 or construed as an admission, concession, or a presumption by or against any of the  
6 Released Parties of any fault, wrongdoing, failure of disclosure, improper or illegal  
7 business practice or waiver of any claim, defense, right to arbitration or to defend  
8 against arbitration that he, she or it may have in the event the Settlement  
9 Agreement is terminated, nor shall it be used in any manner prohibited by Section  
10 L of the Settlement Agreement. In the event that this Order becomes of no force or  
11 effect, it shall not be construed or used as an admission, concession or presumption  
12 by or against the Released Parties, the Plaintiffs or the Class.

13 4. The Court retains exclusive jurisdiction to consider all further  
14 applications arising out of or connected with the proposed Settlement.

15 IT IS SO ORDERED.

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18 Dated: April 23, 2012

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21 Hon. Dana M. Sabraw  
22 United States District Judge  
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