

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

CARLOS VAZQUEZ,

Plaintiff,

v.

GROUPON, INC., YMCA of
METROPOLITAN WASHINGTON, and
DOES 1 through 100,

Defendants.

Case No. 1:11-cv-00495 (EGS)

**GROUPON, INC'S CONSENT MOTION FOR EXTENSION OF
TIME TO RESPOND TO PLAINTIFF'S AMENDED COMPLAINT**

Defendant Groupon, Inc. ("Groupon"), by its attorneys and with the consent of the Plaintiff's counsel, respectfully moves this Court for an extension of Groupon's time to answer, move against or otherwise respond to Plaintiff's Amended Complaint until after the resolution of a motion to transfer this case which is currently pending before the Judicial Panel on Multidistrict Litigation ("JPML"). In support of this motion, Groupon states as follows:

A. The Proceedings in this Case

1. On or about March 8, 2011, the Plaintiff filed a complaint in this Court against Groupon, Inc., YMCA of the USA, and DOES 1 through 100.

2. Groupon and YMCA of the USA were served with the Complaint on March 16 and 17, 2011, respectively.

3. On March 29, 2011, Groupon and YMCA of the USA filed a Consent Motion to extend the time for them to answer or otherwise respond to the original Complaint to May 6, 2011. In that Motion, Groupon and YMCA of the USA noted that YMCA of the USA was

incorrectly named as a defendant in this action. Also on March 29, the Consent Motion was granted by Minute Order of this Court.

4. On or about April 27, 2011, the Plaintiff filed an Amended Complaint dismissing YMCA of the USA and naming YMCA of Metropolitan Washington as a defendant.

5. Groupon was served with the Amended Complaint through the Court's ECF system on April 28. On information and belief, YMCA of Metropolitan Washington has not yet been served.

6. Pursuant to Rule 15 of the Federal Rules of Civil Procedure, the time for Groupon to answer, move against or otherwise respond to the Amended Complaint is May 16, 2011.

B. Proceedings Before the Judicial Panel on MultiDistrict Litigation

7. The above-captioned case is one of twelve putative class actions recently filed against Groupon, and in some cases certain merchants with which it partners, and currently pending in nine United States District Courts arising out of substantially similar allegations relating to Groupon's sale of vouchers.

8. On or about March 11, 2011, the plaintiffs in two such other putative class actions¹ against Groupon filed a motion pursuant to 28 U.S.C. § 1407 with the JPML, requesting that this case, the other eight then pending actions and all subsequently filed related cases be coordinated and transferred to the Northern District of California for all pretrial proceedings ("MDL Motion"). Notice of that MDL Motion was previously filed in the above-captioned case on March 18, 2011.

¹ *Ferreira v. Groupon, Inc.*, No. 11-cv-0132-DMS(POR) (S.D. Cal. filed Jan. 21, 2011) and *Gosling v. Groupon, Inc.*, No. 11-cv-01038-CRB (N.D. Cal. filed Mar. 4, 2011).

9. On April 4, Groupon and YMCA of the USA filed a response with the JPML, agreeing that the actions should be consolidated, but stating that the Southern District of California is the most appropriate forum for transfer.

10. The JPML will hear the MDL Motion on May 16, 2011.

C. The Requested Extension of Time

11. In light of the foregoing developments, counsel for Groupon and counsel for the Plaintiff have conferred and agreed that it is appropriate to extend the date on which any response to the Amended Complaint may be due until after the JPML rules on the MDL Motion.

12. Extending Groupon's response date until after the JPML rules on the MDL Motion will promote judicial economy, eliminate the potential for conflicting pretrial rulings, and limit unnecessary party expenses and burdens. *See, e.g., Aetna U.S. Healthcare Inc. v. Aktiengesellschaft*, 48 F. Supp. 2d 37, 43 (D.D.C. 1999) (granting stay pending JPML ruling, "find[ing] that such a stay would further judicial economy and eliminate the potential for conflicting pretrial rulings were the case ultimately transferred"). *See also Portnoy v. Zenith Laboratories*, No. 86-3512, 1987 WL 10236, *1 (D.D.C. April 21, 1987) (finding stay pending JPML ruling to be "in the interest of all parties" because, among other things, it would eliminate the risk of having to engage in duplicative pretrial tasks).

For all of the foregoing reasons, Groupon, with the Plaintiff's consent, hereby respectfully requests that this Court enter an order extending Groupon's time to answer, move against or otherwise respond to the Amended Complaint until (i) 45 days after the filing of a Consolidated Amended Complaint or whatever other deadline is set by the transferee court, in the event the JPML grants the MDL Motion, or (ii) 45 days after service of the JPML's decision

on the MDL Motion to consolidate in the event the JPML denies the MDL Motion to consolidate.

A copy of a Proposed Order is submitted herewith.

DATED this 11th day of May, 2011.

Defendant GROUPON, INC.

By: /s/ Sara Z. Moghadam
Sara Z. Moghadam, No. 463862
DLA Piper LLP (US)
500 8th Street, N.W.
Washington, D.C. 20004
Telephone: (202) 799-4000
Facsimile: (202) 799-5000
sara.moghadam@dlapiper.com

Shirli F. Weiss*
Christopher M. Young*
DLA Piper LLP (US)
401 B Street, Suite 1700
San Diego, CA 92101
Telephone: (619) 699-2700
Facsimile: (619) 699-2701
shirli.weiss@dlapiper.com
christopher.young@dlapiper.com

*pro hac vice applications to be filed

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of May, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that sent such filing to the following:

Charles J. LaDuca [charlesl@cuneolaw.com]
CUNEO GILBERT & LADUCA, LLP
507 C Street, NE
Washington, DC 20002
Counsel for Plaintiff

and served copies by first class mail, postage prepaid, to the following:

Rachel L. Jensen
ROBBINS GELLER RUDMAN &
DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
*Counsel for Anthony Ferreira and
Sarah Gosling*

Charles E. Schaffer
LEVIN FISHBEIN SEDRAN &
BERMAN
Suite 500
510 Walnut Street
Philadelphia, PA 19106
Counsel for Plaintiff

Michael A. McShane
AUDET & PARTNERS, LLP
221 Main Street, Suite 1460
San Francisco, CA 94105
Counsel for Plaintiff

Christopher M. Ellis
BOLEN ROBINSON & ELLIS
2nd Floor
202 South Franklin
Decatur, IL 62523
Counsel for Plaintiff

Clayton D. Halunen
Shawn J. Wanta
HALUNEN & ASSOCIATES
1650 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
Counsel for Plaintiff

/s/ Sara Z. Moghadam
Sara Z. Moghadam