

BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

IN RE: GROUPON MARKETING AND) MDL No. _____
SALES PRACTICES LITIGATION)
) CLASS ACTION

**MOTION OF PLAINTIFFS ANTHONY FERREIRA AND SARAH GOSLING TO
TRANSFER ACTIONS TO THE NORTHERN DISTRICT OF CALIFORNIA
PURSUANT TO 28 U.S.C §1407 FOR CONSOLIDATED PRETRIAL PROCEEDINGS**

Pursuant to Rule 6.2 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation (the “Panel”), plaintiffs Anthony Ferreira and Sarah Gosling (“Moving Plaintiffs”) respectfully request that the Panel establish an MDL proceeding to centralize and coordinate the federal class actions challenging Groupon Inc.’s (“Groupon”) marketing and sale of “groupon” groupon gift certificates with allegedly illegal and deceptive expiration terms. Moving Plaintiffs further request that these actions be centralized in the United States District Court for the Northern District of California (San Francisco Division) before the Honorable Charles R. Breyer (“Judge Breyer”). In support thereof and for the reasons more fully set forth in the accompanying brief in support of this motion, Moving Plaintiffs state as follows:

1. Presently, there are at least nine federal class action lawsuits (collectively, “Groupon Actions”) challenging Groupon’s alleged imposition of expirations dates and other deceptive terms in connection with the sale and issuance of “groupon” gift certificates, including:¹

- *Ferreira v. Groupon, Inc.*, No. 11-CV-0132-DMS(POR) (S.D. Cal. filed Jan. 21, 2011);
- *Gosling v. Groupon, Inc.*, No. 11-cv-01038-CRB (N.D. Cal. filed Mar. 4, 2011);
- *Eidenmuller v. Groupon, Inc.*, No. 11-cv-00984-SBA (N.D. Cal. filed Mar. 2, 2011);
- *Zard v. Groupon, Inc.*, No. 11-cv-00605-PAM(FLN) (D. Minn. filed Mar. 8, 2011);
- *Christensen v. Groupon, Inc.*, No. 11-cv-00501-MJD(JSM) (D. Minn. filed Feb. 28, 2011);
- *Cohen v. Groupon, Inc.*, No. 11-cv-80149-KLR (S.D. Fla. filed Feb. 4, 2011);

¹ The parties to each of the Groupon Actions are listed more fully in the Schedule of Actions, filed concurrently.

- *Kimel v. Groupon, Inc.*, No. 11-cv-00488 (N.D. Ohio filed Mar. 9, 2011);
- *Johnson v. Groupon, Inc.*, No. 11-cv-01426 (N.D. Ill. filed Mar. 1, 2011);
and
- *Vazquez v. Groupon, Inc.*, No. 11-cv-00495-EGS (D.D.C. filed Mar. 8, 2011).

2. The Groupon Actions should be centralized and coordinated pursuant to 28 U.S.C. §1407 because they are being pursued against the same defendant, Groupon, involve the same core factual allegations, advance comparable legal claims against Groupon, and involve overlapping nationwide classes.

3. Moving Plaintiffs believe that evidence common to all Groupon Actions will show that Groupon and its merchant partners failed to comply with federal and state gift certificate laws regarding the imposition of expiration dates on “groupon” gift certificates.

4. The legal claims asserted in the Groupon Actions include violations of the federal Credit Card Accountability Responsibility and Disclosure Act (“CARD Act”) and the Electronic Funds Transfer Act (“EFTA”), as well as violations of state consumer protection laws.

5. Because the Groupon Actions share overriding common questions of fact and law, and are proceeding on behalf of overlapping classes, centralization under §1407 is necessary to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary. The fact that plaintiffs in all of the actions seek certification of overlapping classes renders the need for centralized MDL proceedings particularly acute.

6. The Groupon Actions should be transferred to the Honorable Charles R. Breyer in the Northern District of California because plaintiff Ferreira, who brought the earliest-filed Groupon action, as well as plaintiff Gosling, support transfer to that Court.

7. Moreover, transfer to the Northern District of California is appropriate because there are multiple cases currently pending in the Northern District, including the *Gosling* and *Eidenmuller* cases. There are more cases pending in California District Courts than in any other forum.

8. Groupon conducts substantial business and derives substantial revenue from California and has headquarters in the Northern District of California. Groupon's physical presence in the Northern District will facilitate discovery, particularly the production of documents and witnesses.

9. Further compelling transfer to the Northern district of California, Groupon has retained as its counsel the law firm of DLA Piper, which has offices in the Northern District.

10. Moreover, Judge Breyer's courtroom in the Northern District of California is easily accessible and conveniently located near multiple airports.

11. The Northern District of California in general, and Judge Breyer in particular, is well-qualified to handle the Groupon cases. Judge Breyer has significant experience with complex litigation. Judge Beyer currently presides over *In re Bextra and Celebrex Marketing, Sales Practices and Products Liab. Litig.* No. 05-md-1699 CRB (N.D. Cal.); *In re Transpacific Passenger Air Transportation Antitrust Litig.*, No. 08-md-01913 CRB (N.D. Cal.); *In re Air Crash over the Mid-Atlantic on June 1, 2009*, No. 10-md-2144-CRB (N.D. Cal.); and *In re AutoZone, Inc., Wage and Hour Employment Practices Litig.*, No. 10-2159 (N.D. Cal.). In addition, since being appointed to the bench in 1997, Judge Breyer has presided over a number of complex, consolidated class actions including, for example, *In re KLA-Tencor Corp. Sec. Litig.*, No. 06-cv-04065 (N.D. Cal.), *In re Magma Design Automation, Inc. Sec. Litig.*, No. C05-2394 (N.D. Cal.), and *Luque v. AT&T Corp.*, No. C09-5885 (N.D. Cal.).

WHEREFORE, Plaintiffs Anthony Ferreira and Sarah Gosling respectfully request that the Panel grant their motion pursuant to 28 U.S.C. §1407.

DATED: March 11, 2011

Respectfully submitted,

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