

Court File No. CV-11-428749-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

HITENDRA PATEL
Plaintiff

- and -

GROUPON INC.
Defendant

Proceeding under the *Class Proceedings Act, 1992*

Court File No. 1201-03854

ALBERTA
ALBERTA COURT OF QUEEN'S BENCH

B E T W E E N :

ERICA AMERY
Plaintiff

- and -

GROUPON INC.
Defendant

Proceeding under the *Class Proceedings Act*

SETTLEMENT AGREEMENT

WHEREAS Actions have been commenced by the Plaintiffs in Ontario and Alberta that allege that, *inter alia*, the Defendant engaged in unfair practices and/or violated provisions of provincial consumer protection legislation with regard to the promotion, sale and transactions involving Groupon vouchers;

WHEREAS the Defendant denies the allegations and claims made in the Actions, and denies any wrongdoing or liability;

WHEREAS this Settlement Agreement is intended by the Plaintiffs and Defendant to fully and finally compromise, resolve, release and settle the Actions and the Released Claims, and to discontinue the Alberta Action as being effectively incorporated into the Ontario Action, and to dismiss the Ontario Action with prejudice, subject to the terms and conditions below and without any admission or concession as to the merits of any claim or defence by any of the Parties;

WHEREAS the Defendant has consented to the Plaintiff in the Ontario Action's amendment of his claim to, *inter alia*, plead a national class;

WHEREAS based on the analyses of the facts and law applicable to the claims of the Plaintiffs, having regard to the burdens, expense in conducting this litigation, the risks and uncertainties of the litigation and of the ultimate outcome, the Plaintiffs and their legal counsel have concluded that this Settlement Agreement provides substantial benefits to the Class Members and is fair, reasonable and in the best interests of the Class Members;

WHEREAS the Defendant, while denying liability and wrongdoing, and while asserting the existence of good and valid defences to the Actions, has concluded that this Settlement Agreement is desirable in order to avoid the uncertainty, delay and expense of litigation, and to resolve completely the pending and potential claims of the Class Members;

WHEREAS the Plaintiffs and the Defendant intend that certification for settlement purposes of a national class shall be sought in the Ontario Superior Court of Justice;

WHEREAS the Plaintiffs and Defendant intend that this Settlement Agreement be binding on all those in Canada who purchased or acquired a Daily Deal voucher from Groupon for services and products, also known as a "groupon", prior to or on the date that the Ontario Court approves the Notice of Certification and Settlement Approval Hearing;

WHEREAS the Defendant enters into this Settlement Agreement on the basis that there will be a valid and binding national class for all Canadian consumers who purchased or acquired a Daily Deal voucher prior to or on the date that the Ontario Court approves the Notice of Certification and Settlement Approval Hearing, and that all claims by all such persons are included and will be satisfied by this Settlement Agreement, subject only to those who opt out in a timely manner in compliance with the procedures set forth herein for doing so and it is acknowledged that the Defendant would not have entered into this Settlement Agreement if not for the foregoing;

WHEREAS neither this Settlement Agreement nor any step taken to carry out this Settlement Agreement, nor any document relating to it is or may be construed or used as an admission by or against the Defendant for the truth of any allegations or claims or regarding liability or the certifiability of the Actions herein as a class action; or as a waiver of any applicable legal right or benefit, other than as expressly stated herein. Further, neither this Settlement Agreement nor any document relating to, or action taken to carry out, this Settlement Agreement shall be offered, tendered or received in evidence in any action or proceeding against the Defendant, the Plaintiffs or the Class Members, or any of them, in any court, administrative agency or other tribunal for

any purpose whatsoever other than to enforce the provisions of the Settlement Agreement or to seek court approval of the Settlement Agreement in the manner as described below;

WHEREAS the Parties agree on behalf of the Settlement Class that the Defendant and any of its predecessors, successors, related entities or Affiliates shall be entitled to sell Groupon vouchers with expiration dates applying to their Promotional Value, without challenge from the Settlement Class;

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS AND RELEASES HEREIN CONTAINED, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

DEFINITIONS

1. The following words and phrases shall have the following meanings in this Settlement Agreement, including all of the appendices hereto:
 - a. "Actions" means the Ontario Action and the Alberta Action;
 - b. "Affiliates" means all affiliates of Groupon Inc. including without limitation corporate affiliates and direct and indirect subsidiaries of Groupon Inc. such as Groupon Canada Inc. and 7938756 Canada Inc.;
 - c. "Alberta Action" means Action No. 1201-03854, commenced in the Alberta Court of Queen's Bench;
 - d. "Certification and Settlement Approval Order" means the Order that the Parties have agreed to seek as part of this settlement to certify the Ontario Action as a class proceeding and to approve the settlement on the terms and conditions set out in this Settlement Agreement, in the form attached as Appendix D;
 - e. "Class Counsel" means Sack Goldblatt Mitchell LLP in Ontario and all other provinces in Canada ("Ontario-National Class Counsel") and Jensen Shawa Solomon Duguid Hawkes LLP in Alberta ("Alberta Class Counsel");
 - f. "Class Members" means all those persons and entities in Canada who purchased or acquired a Daily Deal voucher from Groupon, also known as a "groupon", prior to or on the date that the Ontario Court approves the Notice of Certification and Settlement Approval Hearing;
 - g. "Court" means either the Ontario Superior Court of Justice ("Ontario Court") or the Alberta Court of Queen's Bench ("Alberta Court"), or collectively as the context requires;
 - h. "Daily Deal vouchers" means Groupon vouchers made available by the Defendant for goods or services, excluding (i) vouchers for Groupon Now!, Groupon Stores, Groupon Goods, Groupon Getaways and Groupon Live, and (ii) vouchers in respect of events occurring on specific dates or during a specific time period;

- i. "Deadline for Opt-Out and Claim Filing" means the date that is 45 days after the date that the Notice of Settlement and Claims Process is sent to Class Members.
- j. "Defendant" means Groupon Inc., the defendant in the Ontario and Alberta Actions;
- k. "Effective Date" means the earliest date by which all of the following have occurred: (1) this Settlement Agreement has been executed by all the Parties hereto; (2) the Alberta Action has been discontinued with prejudice, with required court approvals obtained; (3) the Ontario Certification and Settlement Approval Order has been issued and entered; and (4) the time to appeal the discontinuance, judgment or approval orders, if appeals lie, has expired, or, if an appeal is taken from such discontinuance, judgment or approval then: (i) the appeal proceedings have been exhausted; or (ii) the Court makes an order as to the timing of the Effective Date;
- l. "Groupon Merchants" means merchants that provide the goods and services that are the subject of the Daily Deal vouchers, including "merchants" referred to in section 11 below;
- m. "Notice of Settlement and Claims Process" has the meaning set out in paragraph 16 below;
- n. "Notice Period" is the period of time between the date the Class Members are sent Notice of Settlement and Claims Process and the Deadline for Opt-Out and Claim Filing;
- o. "Ontario Action" means Action No. CV-11-428749-00CP commenced in the Ontario Superior Court of Justice;
- p. "Ontario National Class" means all those persons and entities in Canada who purchased or acquired a Daily Deal voucher from Groupon, also known as a "groupon", prior to or on the date that the Ontario Court approves the Notice of Certification and Settlement Approval Hearing;
- q. "Partially Redeemed voucher" is a Daily Deal voucher that was redeemed for an amount less than its Purchase Price;
- r. "Parties" means collectively the Plaintiffs and the Defendant;
- s. "Plaintiffs" means the plaintiff in the Ontario Action and the plaintiff in the Alberta Action;
- t. "Promotional Value" means the monetary amount stated on a Daily Deal voucher in excess of the amount paid by the customer;
- u. "Purchase Price" means the amount a customer paid for a Daily Deal voucher;

- v. “Released Claims” and “Releasees” have the meanings set out in paragraph 23 below;
- w. “Settlement Agreement” means this Agreement, which shall apply to and resolve the Actions;
- x. “Settlement Class” and “Settlement Class Members” means Class Members excluding those individuals who opt out of the Class in a timely manner in compliance with the procedures set forth herein for doing so; and
- y. “Settlement Fund” means monies deposited by the Defendant into an account overseen by a Claims Administrator, for the purpose of covering: (i) any claims made by Class Members, in accordance with the terms of this Settlement Agreement, (ii) all counsel fees, (ii) all administration costs and (iv) any payments to third party funders, if any. All references to monies in this Settlement Agreement are denominated in Canadian Dollars.

AMENDMENT OF ONTARIO CLAIM

- 2. The Defendant consents to the amendment of the Ontario Plaintiff’s Statement of Claim, to, *inter alia*, plead a national class (Appendix A).

WITHDRAWAL OF ALBERTA ACTION

- 3. Class Counsel for the Alberta Action hereby agrees to seek leave to discontinue with prejudice the Alberta Action and to request approval from the Alberta Court before the date of the Ontario National Class certification and settlement approval hearing – with such approval to become effective on the date that the Certification and Settlement Approval Order is issued and entered – and agrees that its proposed representative Plaintiff, Erica Amery, and all Class Members in Alberta shall be part of the Ontario National Class.

CERTIFICATION OF COMMON ISSUES

- 4. The Defendant consents to the certification of the common issues set out in Appendix B, as part of the “Certification and Settlement Approval Order”, as described below.

APPROVAL ORDERS

- 5. The Parties shall take all steps necessary to ensure that all approval Orders are sought in an expeditious manner from the Ontario Court and from the Alberta Court.
- 6. On a date to be agreed between the Parties, an Order from the Ontario Court approving the “Notice of Certification and Settlement Approval Hearing” will be sought in the form attached to this Settlement Agreement as Appendix C, which will *inter alia* advise proposed Class Members of their right to appear in the Ontario Superior Court of Justice to object to the proposed settlement.

7. The Parties shall seek certification of this proceeding and approval of this Settlement Agreement from the Ontario Court, i.e. the "Certification and Settlement Approval Order", in the form attached as Appendix D to this Settlement Agreement. The Parties stipulate to the certification of the Ontario Action for the purposes of the Settlement Agreement and for settlement purposes only.

SETTLEMENT BENEFITS

8. Class Members with unredeemed and unrefunded Daily Deal vouchers can redeem them after their stated expiry dates up to the amount of the "Purchase Price" with the Groupon Merchant notwithstanding any stated expiry date on the face of the voucher if permitted by the terms of that voucher.¹ For instance, if the Class Member paid \$25 for a \$40 Daily Deal voucher, he or she is still entitled to redeem it after its stated expiry date for the \$25 purchase price but not the \$15 "Promotional Value."
9. The Defendant will deposit \$535,000 into the Settlement Fund no later than 15 days following the date that the Certification and Settlement Approval Order is issued and entered.
10. Payments from the Settlement Fund will be made as follows:
 - a. Counsel fees are to be deducted from the Settlement Fund in the amount of \$235,000, to be withdrawn from the Settlement Fund in accordance with Class Counsel, Legal Fees and Expenses section, below;
 - b. All costs and expenses related to the Administrator and Claims Process, including notifications to Class Members, are to be deducted from the Settlement Fund; and
 - c. The remainder of the Settlement Fund will be used to pay the valid claims of eligible Class Members, on the terms and pre-conditions set out below.
11. Settlement Class Members will be entitled to make a claim against the Settlement Fund if they have an unrefunded Daily Deal voucher and one of the following pre-conditions are met:
 - a. The Settlement Class Member has attempted to redeem his or her Daily Deal voucher at the merchant and the merchant did not redeem the Daily Deal voucher for the Purchase Price,
 - b. It is not possible for the Settlement Class Member to attempt to redeem the Daily Deal voucher at the merchant, or

¹ For clarity, this does not include vouchers for Groupon Now!, Groupon Stores, Groupon Goods, Groupon Getaways and Groupon Live, and does not include vouchers in respect of events occurring on specific dates or during a specific time period.

- c. The Settlement Class Member has partially redeemed his or her Daily Deal voucher for an amount less than the Purchase Price and either: (i) the Settlement Class Member has attempted to redeem his or her Daily Deal voucher at the merchant for the difference between the amount that had previously been redeemed and the Purchase Price and the merchant did not redeem the Daily Deal voucher, or (ii) it is not possible for the Settlement Class Member to attempt to redeem the Daily Deal voucher at the merchant.
12. Settlement Class Members, subject to providing a written document certifying the factual basis for their claim in accordance with the conditions outlined above, are eligible to claim against the Settlement Fund in respect of:
 - a. The Purchase Price for their unrefunded Daily Deal voucher(s) that was/were not redeemed prior to the expiry date; or
 - b. The balance of the Purchase Price for their unrefunded Daily Deal voucher(s) that was/were partially redeemed for less than the Purchase Price.
 13. In the event that the Settlement Fund is insufficient to cover all claims by Settlement Class Members made by the end of the Notice Period, then each such Settlement Class Member who has made a valid claim as set out above, shall receive from the Settlement Fund an amount corresponding to the proportion of each Settlement Class Members' claim relative to the claims of all other Settlement Class Members who have made a claim by the end of the Notice Period.
 14. All interest accrued in the Settlement Fund will be added to the Settlement Fund.

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

15. The Defendant will compile a list of all Class Members' last known email addresses, according to the Defendant's records as of the date that the Court approves the Notice of Certification and Settlement Approval Hearing. The Defendant will make commercially reasonable efforts to compile and send this list of email addresses to the Claims Administrator within 45 days of the date of such Court approval, but in no event will the Defendant take longer than 90 days from the date of such Court approval to do so. Within a reasonable time after receiving this list of emails, the Claims Administrator will email to all Class Members the approved Notice of Certification and Settlement Approval Hearing.

NOTICE OF SETTLEMENT AND CLAIMS PROCESS

16. No later than 15 days following the date that the Certification and Settlement Approval Order is issued and entered, the Claims Administrator will e-mail Class Members, at the last known email addresses according to the Defendant's records as identified in section 15 of this Settlement Agreement, a "Notice of Settlement and Claims Process" to all Class Members, including an "Opt Out Form" (in substantially the form attached as Appendix E to this Settlement Agreement) and a Claim Form (in substantially the form attached as Appendix F to this Settlement Agreement), and Class Counsel will post the

notice on their respective firm websites. The Notice to all Class Members will advise Class Members that they are entitled to: a) opt out of the proceeding; b) redeem unused and unrefunded Daily Deal vouchers up to the amount of the Purchase Price with Groupon Merchants; or, alternatively to either option a) or b) make a claim against the Settlement Fund.

17. Class Members will have until the Deadline for Opt-Out and Claim Filing to opt out of the Actions by returning the opt out form via email or mail, or alternatively to claim against the Settlement Fund by submitting the Claim Form. (For clarity, Class Members will have 45 days after the date that the Notice of Settlement and Claims Process is emailed to Class Members to opt out or, alternatively, make a claim.) Class Counsel will forward a copy of any such opt out notices to counsel for the Defendant.
18. Prior to making a claim against the Settlement Fund, Settlement Class Members will submit a Claim Form and therein: (a) certify that one of the pre-conditions to making a claim, as set out in paragraph 11 above, has been met and (b) acknowledge that no additional amounts may be claimed as against the Defendant.

OPTING OUT

19. Class Members who opt out shall be excluded from the terms of the Settlement Agreement and from any and all rights and obligations under the Settlement Agreement. Class Members who do not opt out in the manner prescribed shall be deemed to have elected to participate in this Settlement Agreement and shall be bound by this Settlement Agreement and all related releases and Court orders, regardless of whether they receive any consideration or participate in the claims process.

CLAIMS ADMINISTRATION

20. The Parties shall agree upon a Claims Administrator.
21. Inquiries about the proceeding, the Settlement Agreement or the claim process will be directed to the Claims Administrator:
 - a. The Administrator will set up a dedicated toll-free number for Class Members to inquire about the proceedings, the Settlement Agreement and the claims process (the "Dedicated Toll-Free Number"). The Dedicated Toll-Free Number will be live and accessible as of the date the first Notice of Certification and Settlement Approval Hearing is emailed out. The Dedicated Toll-Free Number will be operational until 14 days after the Claims Filing Deadline.
 - b. Class Counsel will jointly draft and agree on a "Question and Answer" page, which will be used for training purposes and as a reference by customer service representatives, and will include information regarding the proceeding, the Settlement Agreement and the process for making a claim against the Settlement Fund.

- c. The Claims Administrator will be available to answer communications from Class Members on the Dedicated Toll-Free Number between 10 a.m. and 6 p.m. EST, and will be able to communicate in English and in French.
- d. Claim Forms filed by Settlement Class Members will be received by the Claims Administrator up until the Deadline for Opt-Out and Claim Filing. Within 30 days after the Deadline for Opt-Out and Claim Filing, the Claims Administrator will review each claim and decide whether the claim should be accepted or rejected, based on whether the terms and pre-conditions set out above, and the required certification is provided.
- e. The Claims Administrator within 30 days of making the determinations as set out above, will inform Settlement Class Members whose claim has been rejected of the rejection and the basis for the rejection.
- f. A Settlement Class Member shall have 15 days from the date it receives notice of the rejection to appeal the rejection, by filing written submissions to the Claims Administrator who shall decide, within 15 days, whether there is sufficient basis to allow the claim. The Claims Administrator shall notify the Settlement Class Members of his or her decision. This decision shall be final and binding.
- g. Once the time period for all appeals has expired, and notices of any decisions made on appeal have been sent to Settlement Class Members, the Claims Administrator shall determine the amounts to be paid to each claimant, in accordance with Settlement Benefits section, above.
- h. The Claims Administrator will thereafter mail a cheque to each eligible Settlement Class Member from the Settlement Fund in the amount determined as per the Settlement Benefits section, above.
- i. In the event that, after all valid claims have been satisfied, there are remaining funds in the Settlement Fund, those monies shall revert to the Defendant.

EFFECT OF NON-APPROVAL BY THE COURTS

22. If the settlement and Settlement Agreement is not approved by the Ontario Court (and the Alberta Court, if necessary), or if the Alberta Court does not approve the discontinuance of the Alberta Action in accordance with the procedure in section 3 of this Settlement Agreement, then:
- a. The Settlement Agreement shall be null and void and shall have no force or effect, and no Party to the Settlement Agreement shall be bound by any of its terms except the terms of this section; and
 - b. This Settlement Agreement and all of its provisions and all negotiations, all documents and information exchanged in furtherance of settlement, and all statements and proceedings relating to it, and the fact of its existence and any of its terms, shall be without prejudice to the rights of the Parties all of whom shall

be restored to their respective positions existing immediately before the Settlement Agreement and negotiations in respect of it. For clarity and without limitation, this Settlement Agreement is without prejudice to the rights of each Party to seek or oppose certification in the Actions should the Settlement not be approved by any Court.

RELEASE

23. Effective as of the Effective Date, the Plaintiffs and Settlement Class Members herewith, personally and on behalf of their respective heirs, legal representatives, attorneys, guardians, estate trustees, executors, trustees, successors and assigns, and their past or present parent, subsidiary, affiliated, predecessor, successor and related companies, trusts, and partnerships shall be deemed to have released and do hereby release and forever discharge the Defendant and each of its Affiliates, parent, subsidiary, predecessor, successor and related companies, trusts, partnerships and other entities and their respective past, present and future stockholders, directors, officers, trustees, employees, agents including legal counsel and attorneys, financial advisors, sales agents, Groupon Merchants, sellers, contractors, subcontractors, insurers, licensees and licensors, partners customers and any other party (and the affiliates, predecessors, successors and companies related to any other party) (the "Releasees") from any and all claims, demands, actions, causes of action, suits, debts, damages, loss, expenses, interest, costs, duties, accounts, bonds, covenants, contracts, rights, and all other liabilities of any kind or description, under common law, equity or statute or otherwise, that they have or may have, including assigned claims, whether known or unknown, asserted or unasserted, related to, in connection with or arising from, directly or indirectly, the claims and allegations that were raised or which could have been raised in the Actions, including without limitation any claims arising from, or in any way relating to, any of the allegations regarding the advertising, marketing, redemption or sale of Groupon vouchers alleged in the Actions, including but not limited to allegations regarding the application and any use of expiration dates for Groupon vouchers and partial redemption terms, and regarding any other practice, conduct, or presentation of "Daily Deals," "Fine Print," "Legal Stuff We Have To Say," "Not Valid For Cash Back," other terms of use or terms of sale, disclaimers, arbitration provisions, allegations of improper time pressure placed on customers or requirements to use Groupon vouchers in one visit, or failures of disclosure (the "Released Claims"). Any entities who are Releasees who are not parties to the Actions are intended to be third party beneficiaries of this release, and the parties intend to confer a benefit upon each of them which is enforceable by each of them.
24. Effective as of the Effective Date, the Plaintiffs and the Settlement Class Members further agree not to make any claims, or to commence or continue any proceedings against any other person, partnership, corporation or other entity of any kind who or that might claim contribution or indemnity or any other relief of a monetary, declaratory or injunctive nature from the Defendant or any of its predecessors, successors, related entities or Affiliates in connection with the claims released in this Settlement Agreement.
25. Effective as of the Effective Date, the Plaintiffs agree on behalf of the Settlement Class Members that the Defendant or any of its predecessors, successors, related entities or

Affiliates shall be entitled to sell Groupon vouchers with expiration dates applying to their Promotional Value, without challenge from the Settlement Class. After the Deadline for Opt-Out and Claim Filing, all Settlement Class Members shall be deemed to have agreed that the Defendant and any of its predecessors, successors, related entities or Affiliates shall be entitled to sell Groupon vouchers with expiration dates applying to their Promotional Value, without challenge from any Settlement Class Members.

26. The approval orders shall finally and forever bar and enjoin the initiation, prosecution or assertion of any of the Released Claims of the Plaintiffs and of all Settlement Class Members in any court or any forum. The Settlement Agreement shall be the sole and exclusive remedy for any and all Released Claims of the Settlement Class. No Releasee shall be subject to liability or expense of any kind with respect to any Released Claim.
27. Nothing herein will limit or bar the Defendant's ability to seek compensation for any amounts paid to any Settlement Class Member pursuant hereto from third parties.

CLASS COUNSEL LEGAL FEES AND EXPENSES

28. Subject to approval of the Courts, Class Counsel shall be entitled to reasonable legal fees, disbursements, and taxes in the amount of \$235,000, to be paid out of the Settlement Fund. This figure is inclusive of all past, current and future time and disbursements for all Plaintiff and Class Counsel.
29. No Class Counsel, or anyone employed with Class Counsel, may directly or indirectly participate in or be involved in or in any way assist with respect to any action commenced by a Class Member who has opted out or with respect to any other action related to the claims which were or could have been asserted in the Actions. Moreover, no Class Counsel or anyone employed with Class Counsel may divulge any information obtained in the course of the proceedings referred to in the preamble herein or in the preparation thereof or related to the proceeding referred to in the preamble, to anyone for any purpose.
30. Except as required by law or by order of a court of competent jurisdiction or the terms of this Settlement Agreement, no Class Counsel or anyone employed by Class Counsel shall disclose any information regarding the negotiation and settlement of the Actions or this Settlement Agreement to anyone for any purpose.

NO ADMISSIONS, NO USE

31. The Settlement Agreement exists and is entered into for settlement purposes only. Neither this Settlement Agreement nor any step taken to carry out this Settlement Agreement, nor any document relating to it shall:
 - a. Constitute, be construed as or be admissible in evidence as an admission or a concession on the part of either the Plaintiffs or Defendant with respect to any claim, allegation, wrongdoing, fault, violation or law or liability or any defence, including regarding the certifiability of these Actions outside settlement; or

- b. Be offered, tendered or received in evidence in any other civil, criminal, administrative or regulatory action or proceeding, whether before a court, agency or tribunal for any purposes whatsoever against any of the Plaintiffs, Defendant or Class Members other than such civil proceeding as may be necessary to effectuate the provisions of this Settlement Agreement.

Each Party represents that he/she/it shall not take any contrary position.

ENTIRE AGREEMENT

32. This Settlement Agreement, together with the preambles and the attached appendices, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior understandings, representations, negotiations, discussions, and agreements, whether oral or written, which may have occurred prior hereto pertaining to the subject matter hereof. There are no other warranties or representations between the Parties in connection with the subject matter hereof except as specifically set forth herein and not have been relied upon by the Parties in entering into this Settlement Agreement.
33. The Settlement Agreement may not be changed, modified or amended except in writing as signed by all Parties and, if required, approved by the Court(s). The Parties contemplate that certain of the Appendices relating to Class Notices may be modified by subsequent agreement prior to dissemination to the Class if approved by the Court.
34. All counsel of record represent that they are unaware of any other pending Canadian litigation involving the subject of this settlement and that they have the authority, on behalf of their respective clients, to execute, deliver and perform their obligations under this Settlement Agreement and confirm that this Settlement Agreement constitutes a legal and binding obligation.

ONGOING AUTHORITY

35. The Ontario Court will retain exclusive jurisdiction over this Settlement Agreement, to ensure that all payments and disbursements are properly made, and to interpret and enforce the terms, conditions and obligations of this Settlement Agreement except as provided for herein.
36. The Parties want this process to be efficient, rapid and cost effective and have therefore agreed that these claims will be administered on a national basis through a single protocol. It is the intention of the Parties that the Ontario Court shall adjudicate any matters arising from the implementation of the Settlement Agreement.

APPLICABLE LAW

37. The laws of the Province of Ontario shall apply to this Settlement Agreement.

EXECUTION AND PROCESSING OF SETTLEMENT AGREEMENT

38. The Parties represent and acknowledge that each intends to implement the settlement as provided for in this Settlement Agreement. The Parties shall, in good faith, cooperate and assist with and undertake all reasonable actions and steps in order to accomplish all required events in a timely fashion and on the schedule set by the Court, and shall use best efforts to implement all terms and conditions of the Settlement Agreement.

39. The Parties agree that this Settlement Agreement may be executed by their respective counsel.

LANGUAGE CLAUSE

40. The Parties hereto confirm that they have required that this Settlement Agreement and all documents ancillary thereto be drafted in the English language. Les Parties aux presentes confirment qu'elles on exige que les presentes et tout document y afferent soient nidiges en langue anglaise.

COUNTERPARTS

41. The Parties further agree that this Settlement Agreement may be executed by facsimile and in counterparts, each of which shall be deemed to be an original for all purposes and all executed counterparts taken together shall constitute the complete Settlement Agreement.

Dated this 17th day of February, 2013.

Sack Goldblatt Mitchell LLP

Per: 

Lawyers for the Ontario National Class Members

Jensen Shawa Solomon Duguid Hawkes LLP

Per: 

Lawyers for the Alberta Class Members

Osler, Hoskin & Harcourt LLP

Per: 

Lawyers for the Defendant *Laura Eric Feb 12/13*

Appendix A

Amended Statement of Claim (Ontario National Class)

Court File No. CV-11-428749-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

HITENDRA PATEL

Plaintiff

- and -

GROUPON INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$25,000 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

Date ~~June 15, 2011~~ _____, 2013

Issued by _____
Local registrar

Address of court office 393 University Avenue
10th Floor
Toronto, ON M5G 1E6

TO: GROUPON INC.
600 W Chicago Avenue, Suite 620
Chicago, IL
60654

CLAIM

1. The plaintiff claims:

- a) an order certifying this action as a class proceeding and appointing the plaintiff as the representative of a class to be certified by the court;
- b) general damages in the sum of \$100,000,000;
- c) an order, pursuant to s. 24 of the *Class Proceedings Act, 1992*, directing an aggregate assessment of damages;
- d) an order, pursuant to s. 23 of the *Class Proceedings Act, 1992*, admitting into evidence statistical information;
- e) an order that the damages be paid by the defendant Groupon Inc. (“Groupon”) into a common fund and distributed to the Class Members in an appropriate manner as directed by the Court;
- f) a declaration that Groupon has engaged in unfair practices under the *Consumer Protection Act, 2002*, S.O. 2002, c. 30 (“CPA”) and has violated other consumer protection legislation across Canada in respect of:
 - i. the expiry date provisions in its contracts with consumers;
 - ii. the partial redemption provisions in its contracts with consumers;
 - iii. Groupon’s representations to consumers about the expiry date provisions in its contracts;

- iv. Groupon's representations to consumers about the partial redemption provisions in its contracts;
 - v. Groupon's ambiguous, misleading, deceptive and unclear contractual terms; and
 - vi. Groupon's inequitable and unconscionable contractual terms.
- g) a mandatory injunction restraining Groupon from enforcing or relying on its illegal contractual terms and representations, and a mandatory injunction restraining Groupon from carrying on such unfair practices in the future;
- h) a declaration that Groupon charged or received illegal fees or payments contrary to the *CPA and other consumer protection legislation across Canada* as a result of:
- i. the expiry date provisions in its contracts with consumers; and
 - ii. the partial redemption provisions in its contracts with consumers;
- i) a mandatory injunction restraining Groupon from charging or receiving its illegal fees or payments in the future;
- j) a declaration waiving the notice provisions of the *CPA and other consumer protection legislation across Canada*;
- k) punitive damages in the sum of \$10,000,000;
- l) pre-judgment and post-judgment interest;

- m) the costs of this action on a substantial indemnity basis;
- n) the costs of administering the plan of distribution of the recovery in this action;
and
- o) such further and other relief as may be required and as this Honourable Court deems to be just.

THE PARTIES

2. The plaintiff Hitendra Patel lives in Toronto, Ontario.
3. The defendant, Groupon is incorporated pursuant to the laws of Illinois and has its head office in Chicago, Illinois. Groupon operates in nine cities in Ontario, including Barrie, Kingston, Kitchener-Waterloo, London, Ottawa, St. Catherine's, Sudbury, Toronto, and Windsor. Groupon also operates across Canada including in Calgary, Alberta; Edmonton, Alberta; Abbotsford, British Columbia; Kelowna, British Columbia; Vancouver, British Columbia; Victoria, British Columbia; Winnipeg, Manitoba; St. John's, Newfoundland; Cape Breton, Nova Scotia; Halifax, Nova Scotia; Drummondville, Québec; Gatineau, Québec; Granby-Bromont, Québec; Laurentides, Québec; Laval, Québec; Levis, Québec; Montreal, Québec; Québec, Québec; Rive-Nord Montreal, Québec; Rive-Sud Montreal, Québec; Saguenay, Québec; Saint-Jean-Sur-Richelieu, Québec; Saint-Jerome, Québec; Sherbrooke, Québec; Terrebonne, Québec; Trois-Riveres, Québec; Regina, Saskatchewan; Saskatoon, Saskatchewan.

THE CLASS

4. The plaintiff brings this action on his own behalf and on behalf of all consumers in ~~Ontario~~ Canada who purchased or acquired a ~~gift card~~ daily deals voucher from Groupon, also known as a "groupon," for services and products, ~~prior to the date that notice of certification in~~

this action is given prior to or on the date that the Court approves notice of the certification and settlement approval hearing in the proposed class proceeding (the "class" or "class members").

THE PLAINTIFF'S CIRCUMSTANCES

5. Sometime in or around the fall of 2010, the plaintiff purchased agroupon through the Groupon website. Thegroupon was redeemable at the Gap, a major clothing retailer with locations across ~~Ontario~~Canada. The plaintiff paid \$25 for thegroupon, which had a face value of \$50. Thegroupon expired on November 19, 2010.

6. The plaintiff attempted to use thegroupon while shopping with his spouse at a Gap location in Toronto in or about late November 2010, shortly after the expiry date of thegroupon. However, he was unable to redeem hisgroupon for either the face value or the purchase price.

GROUPON BUSINESS MODEL

7. Groupon is a web-based deal-of-the-day company, which sells vouchers ("groupons") that can be used towards the purchase of goods or services at participating local or national merchants. In exchange for paying the purchase price, the consumer obtains agroupon that can be redeemed for a greater value of goods and services from the merchant (the face value), thereby achieving a "deal."

8. Groupon's "daily deals" are offered for a limited period of time, usually only for approximately one day. The webpage displaying the daily deal has a clock counting down the time left to acquire the deal, and an image of an hourglass.

9. Consumers purchase the groupons directly through Groupon's website, or through a Groupon mobile phone application downloaded from Groupon's website. Once Groupon sells a

certain volume of vouchers, the deal is “on” and the consumers are charged for the purchase. If enough people do not sign up, no one gets the deal. Groupon sends “successful” purchasers an email with a link to its website through which purchasers may download and print their groupons. Consumers can redeem their groupon by presenting the printed groupon or the image of their voucher on their mobile phone to the merchant.

10. When consumers fail to redeem their vouchers with the participating merchant, Groupon receives a windfall.

VARIOUS SOURCES OF GROUPON TERMS AND CONDITIONS

11. The daily deal is presented on a webpage (the “deal webpage”) which includes a brief description of the terms of the deal, including the purchase price and face value of the groupon, along with the expiry date of the groupon. Other than stating the expiry date, no further information about the expiry date is provided, and the page provides no information about partial redemptions.

12. The deal webpage includes a link “See the rules that apply to all deals,” that takes the consumer to a webpage entitled “Universal Fine Print and Deal FAQ” (the “Fine Print webpage”). The Fine Print webpage provides very limited information about groupons, as set out below.

13. The deal webpage also includes, at the very bottom of the page, a link to the Groupon “Terms of Service.” The Terms of Service include information about the expiry and partial redemption provisions, as set out below.

14. The deal webpage also includes, at the very bottom of the page, a link to “FAQ,” which

provides questions and answers about groupons, including information about the expiry and partial redemption provisions, as set out below.

15. The groupon itself contains some information under the heading "Legal stuff we're required to say," in practically illegible tiny font at the bottom of the groupon, including information about the expiry and partial redemption provisions, as set out below. The section "Legal stuff we're required to say" is available only after the consumer has purchased the groupon and downloaded the groupon for printing. Furthermore, the use of the flippant phrase "Legal stuff we're required to say" suggests to consumers that it is not important to take the time to actually read the section, and is intended to mislead consumers by dissuading them from reading information concerning their rights.

16. Taken together, the deal webpage, the Fine Print webpage, the Terms of Service, the FAQ, and the groupon itself constitute the agreement between the consumer and Groupon (the "Groupon Terms and Conditions").

AMBIGUOUS, MISLEADING, AND UNCLEAR GROUPON TERMS

17. The combined effect of the Groupon Terms and Conditions is to confuse and mislead consumers as to the material facts and terms in respect of groupons, specifically the expiry date and partial redemption provisions, as set out further below. The Groupon Terms and Conditions are misleading, deceptive, ambiguous, contradictory and confusing to the point of providing no useful information whatsoever, as set out further below. As a result of Groupon's use of ambiguous, misleading, and unclear Terms and Conditions, consumers are not informed of, and cannot exercise, their rights.

GROUPON EXPIRY DATES

18. Groupon promotes and sells groupons with relatively short expiration dates knowing that many consumers will likely not use the groupons prior to the expiration dates.
19. The deal webpage displays an expiry date of the groupon which communicates to consumers the message that it is not possible to redeem the groupon after the expiry date.
20. The Fine Print webpage provides no information about the expiry date whatsoever.
21. The FAQ states that, following the expiry date, the groupon loses its “promotional value,” and can only be redeemed for the purchase price, and only for “the length of time stated by gift certificate laws in your state.” No mention of Provincial law is made.
22. The Terms of Service state that the merchant “may” be responsible for allowing the consumer to redeem the groupon “for a period of time that extends beyond the expiration date” but only for the purchase price of the groupon, not the face value of the groupon. The Terms of Service further state that Groupon has “instructed the Merchant” to allow redemption for the purchase price if the law requires it to do so. Groupon indicates that it will reimburse the consumer for the purchase price if the merchant refuses to do so “if applicable law entitles you to such redemption.”
23. The section “Legal Stuff We’re Required to Say” at the bottom of the groupon specifies that if the “promotional offer” has expired, the merchant “may,” depending on “applicable law,” allow the consumer to redeem the purchase price of the groupon. If the merchant has refused, Groupon will compensate the consumer for the purchase price of the groupon “if applicable law entitles you to such redemption.”

24. The section “Legal Stuff We’re Required to Say” on the groupon itself further specifies that, beyond the expiry date, the groupon will have redemption value equal to the purchase price “for the period specified by applicable law.”

25. Groupon does not advise consumers that there is applicable law in OntarioCanada or the terms of the “applicable law” in OntarioCanada. Nor does it advise OntarioCanada consumers whether and to what extent they can redeem groupons following their expiry, or otherwise obtain compensation directly from Groupon.

26. Nothing in the Groupon Terms and Conditions appears to allow the consumer to redeem the face value of the groupon following the expiry date or obtain compensation directly from Groupon for the face value of the groupon following the expiry date.

27. After a purchased groupon has passed the expiry date, consumers can still view the expired groupon in their Groupon account, where their groupons are organized in the following folders, which are labelled: available, used, and expired. The presentation of the folders suggests to the consumer that her “expired” groupons cannot be used at all.

28. As a result of the form and substance of Groupon’s Terms and Conditions, many consumers believe that they cannot redeem their expired groupon, and do not attempt to redeem their expired groupon. Furthermore, when consumers do attempt to redeem their expired groupons, they are often unable to redeem the face value of the groupon. When this occurs, many consumers do not seek further redress from the merchant or Groupon because they have been led to believe, as a result of the form and substance of Groupon’s Terms and Conditions, that they cannot obtain any redemption or compensation with respect to an expired groupon.

29. When consumers do not use their expiredgroupon, Groupon receives a windfall.

GROUPON PARTIAL REDEMPTION POLICY

30. Groupon only allows consumers to redeem the entire face value of thegroupon in one transaction, and requires consumers to forego the leftover portion of the face value of thegroupon.

31. The deal webpage provides consumers with no information whatsoever about Groupon's partial redemption policy.

32. The Fine Print webpage states, "Not valid for cash back (unless required by law)" and "Must use in one visit." The Fine Print webpage implies that the consumer loses the value of any portion of thegroupon not used on the first redemption.

33. The FAQ states that "unless otherwise stated" if a consumer does not use the full value of the Groupon in one visit, the consumer cannot use the remaininggroupon value in a subsequent transaction, or receive store credit or cash back.

34. With respect to the partial redemption policy, the Terms of Service are exceptionally unclear:

If you redeem the Voucher for less than its face value, you will only be entitled to a credit or cash equal to the difference between the face value and the amount you redeemed from the Merchant if required by law. You will only be entitled to a continuing redemption value as noted above if the amount that you paid for the Voucher exceeds the amount you redeemed. For example, if you paid \$20 for a Voucher which entitles you to purchase \$50 of product by February 1, 2010 and you make a purchase for \$40 on January 30, 2010, you will only be entitled to a credit or cash equal to the difference between the \$50 face value and the amount you redeemed from the Merchant (i.e., \$10) if required by applicable law. You will

not have any redemption value either because the amount you redeemed is more than what you paid for the Voucher.

35. The Terms of Service are incomprehensible. They state that if a consumer redeems the groupon for less than the purchase price, “where required by law,” the consumer may obtain “credit or cash” equal to the difference between the face value and the amount the consumer redeemed. The Terms of Service next introduce a new phrase, “continuing redemption value,” which is stated to be “noted above,” although that phrase appears nowhere else in the Terms of Service, and the Terms of Service add that the consumer will only be entitled to this “continuing redemption value” where the consumer redeemed the groupon for less than the purchase price. The Terms of Service employ an example in which a consumer pays \$20 for a groupon with a face value of \$50 and makes a \$40 purchase. In such a situation, the Terms of Service provide that the consumer will only be entitled to “a cash or credit” of the difference between the amount redeemed and the face value (\$10) “if required by applicable law.” Most confusingly, the Terms of Service go on to state that “you will not have any redemption value either” – which seems to imply that cash or credit is something different from a “redemption value.”

36. The section “Legal Stuff We’re Required to Say” at the bottom of the groupon states that the consumer will only be entitled to a credit or cash equal to the difference between the face value and the amount redeemed “if applicable law requires it.” The section “Legal Stuff We’re Required to Say” also explains that if the consumer partially redeems the groupon, the consumer will only be entitled to a redemption value equal to the difference between the partial redemption and the purchase price rather than the difference between the partial redemption and the face value.

37. The form and substance of Groupon's Terms and Conditions lead many consumers believe that they cannot redeem the remainder of their partially-redeemed coupons. As a result, many consumers do not attempt to do so. Furthermore, when some consumers do attempt to redeem their partially-redeemed coupons, they are often unable to redeem the remaining face value of the coupon. When this occurs, many consumers do not seek further redress from the merchant or Groupon because, as a result of the form and substance of Groupon's Terms and Conditions, they do not believe they can obtain any further redemption or compensation with respect to a partially-redeemed coupon, or are confused about their rights.

APPLICATION OF CONSUMER PROTECTION ACT, 2002 AND OTHER CONSUMER PROTECTION LEGISLATION ACROSS CANADA

38. Groupon has violated various legislation in force across Canada, in relation to Groupon's representations, statements, and terms and conditions in selling and providing Groupon vouchers, including as set out below.

39. ~~38.~~ The plaintiff is a "consumer" within the meaning of the *Consumer Protection Act, 2002*, SO 2002, c. 30, Sch A ("*CPA*").

40. ~~39.~~ The agreement between class members and Groupon, which is comprised of Groupon Terms and Conditions (as defined above), is a "consumer agreement" within the meaning of the *CPA*.

41. ~~40.~~ Groupon is a "supplier" within the meaning of the *CPA*.

42. ~~41.~~ Individual coupons are "future performance agreements" within the meaning of the *CPA*.

43. 42.—To the extent that the Groupon Terms of Service purport to require consumers to arbitrate their disputes, and purport to override the applicability of Ontario and Canadian law, and purport to restrict the ability of consumers to bring or participate in a civil action or a class proceeding, those Terms of Service are illegal and unenforceable. The plaintiff pleads and relies on sections 2, 7 and 8 of the *CPA*.

44. 43.—A groupon is a “gift card” within the meaning of *O. Reg. 17/05*.

45. 44.—The agreement between class members and Groupon, which is comprised of the Groupon Terms and Conditions (as defined above), is a “gift card agreement” within the meaning of *O. Reg. 17/05*.

46. 45.—Groupon has conceded that groupons are gift cards within the meaning of the *CPA*. In particular, the FAQ webpage states that “you can still redeem it [the groupon] at the price you paid for length of time stated by gift certificate laws in your state” (emphasis added).

47. 46.—The expiry of the face value of the groupon (in whole or in part) is illegal and contrary to section 25.3(1) of *O. Reg. 17/05*, and constitutes an “unfair practice” within the meaning of the *CPA*.

48. 47.—Groupon creates confusion and ambiguity, and misleads and deceives consumers in relation to the existence or effect of groupon expiry dates, as set out above, which is an “unfair practice” within the meaning of the *CPA*.

49. 48.—Groupon creates confusion and ambiguity, and misleads and deceives consumers in relation to the existence or effect of the Groupon partial redemption policy, as set out above, which is an “unfair practice” within the meaning of the *CPA*.

50. ~~49.~~—The gift card agreement between Groupon and class members is confusing, ambiguous as to material facts, and misleads and deceives consumers as to material facts, as set out above, and accordingly, violates section 25.5 of *O. Reg. 17/05*, and constitutes an “unfair practice” within the meaning of the *CPA*.

51. ~~50.~~—The terms of the gift card agreement between Groupon and class members are adverse to the consumer and inequitable. Accordingly, the gift card agreement is an “unconscionable representation” and an “unfair practice” within the meaning of the *CPA*.

52. ~~51.~~—The plaintiff pleads that expired or partially redeemed groupons result in Groupon charging fees or receiving payments from consumers which are illegal and contrary to section 25.4(1)(b) of *O. Reg. 17/05*, and 98 of the *CPA*, and constitute an “unfair practice” within the meaning of the *CPA*.

53. ~~52.~~—The plaintiff pleads and relies on: (a) sections 1, 11, 14, 15, 17, 18, 22, 98, 100 and 101 of the *CPA*, and (b) all other applicable legislation throughout Canada.

54. ~~53.~~—The plaintiff pleads and relies on sections 23, 25.1, 25.3, 25.4, and 25.5 of *O. Reg. 17/05*. ~~section 56.2~~

55. Alberta class members are “consumers” within the meaning of the *Fair Trading Act*, RSA 2000, C. F-2 (“*FTA*”). Groupon is a “supplier” within the meaning of the *FTA*. A groupon is a “prepaid purchase card” within the meaning of *Reg. 146/2008*. The expiry of groupons is contrary to sections 2 and 4 of *Reg. 146/2008*, and is an “unfair practice” within the meaning of section 6 of the *FTA*. Groupon misleads consumers and creates confusion and ambiguity in relation to the existence or effect of the expiry date and partial redemption policies, contrary to

section 6 of the FTA and section 5 of Reg. 146/2008. The expiry date and partial redemption policies result in Groupon charging or receiving fees or payments contrary to sections 3 and 4 of Reg. 146/2008, and is also an “unfair practice” within the meaning of section 6 of the FTA.

56. British Columbia class members are “consumers” within the meaning of the Business Practices and Consumer Protection Act, SBC 2004, c 2, Part 4.1 (“BPCPA”). Groupon is a “supplier” within the meaning of the BPCPA. A groupon is a “prepaid purchase card” within the meaning of section 56.1 of the BPCPA. The expiry of groupons is contrary to section 56.2 of the BPCPA and section 2 of Reg 292/2008, and is an “unfair practice” within the meaning of sections 4, 5, and 8 of the BPCPA. Groupon misleads consumers and creates confusion and ambiguity in relation to the existence or effect of the expiry date and partial redemption policies, contrary to sections 4-9 and 56.4 of the BPCPA and section 4 of Reg. 292/2008. The expiry date and partial redemption policies result in Groupon charging or receiving fees or payments contrary to section 56.3 of the BPCPA and section 3 of Reg. 292/2008, and is also an “unfair practice” within the meaning of sections 4, 5, and 8.

57. Saskatchewan class members are “consumers” within the meaning of The Consumer Protection Act, SS 1996, c C-30.1 (“Saskatchewan CPA”). Groupon is a “supplier” within the meaning of the Saskatchewan CPA. A groupon is a “prepaid purchase card” within the meaning of section 11 of the Consumer Protection Regulations, 2007, RRS c C-30.1 Reg 2. The expiry of groupons is contrary to section 77.13 of the Saskatchewan CPA, and sections 40.1 and 40.2 of the Consumer Protection Regulations, 2007, RRS c C-30.1 Reg 2, and is an “unfair practice” within the meaning of sections 5-8 of the Saskatchewan CPA. The partial redemption policy is contrary to section 40.2 of the Consumer Protection Regulations, 2007, RRS c C-30.1 Reg 2. Groupon misleads consumers and creates confusion and ambiguity in relation to the existence or

effect of the expiry date and partial redemption policies, contrary to section 40.4 of the Consumer Protection Regulations, 2007, RRS c C-30.1 Reg 2. The expiry date and partial redemption policies result in Groupon charging or receiving fees or payments contrary to section 77.15 of the Saskatchewan CPA and section 40.2 of the Consumer Protection Regulations, 2007, RRS c C-30.1 Reg 2, and is also an “unfair practice” within the meaning of sections 5-8 of the Saskatchewan CPA.

58. Manitoba class members are “consumers” within the meaning of the Consumer Protection Act, CCSM c C200 (the “Manitoba CPA”). Groupon is a “supplier” within the meaning of the Manitoba CPA. Agroupon is a “prepaid purchase card” within the meaning of section 170 of the Manitoba CPA. The expiry of groupons is contrary to section 171 of the Manitoba CPA and section 4 of Reg 98/2007. The partial redemption policy is contrary to section 171 of the Manitoba CPA. Groupon misleads consumers and creates confusion and ambiguity in relation to the existence or effect of the expiry date and partial redemption policies, contrary to section 3 of Reg 98/2007. The expiry date and partial redemption policies result in Groupon charging or receiving fees or payments contrary to section 2 of Reg 98/2007.

59. Québec class members are “consumers” within the meaning of the Consumer Protection Act, RSQ, c P-40.1 (the “Québec CPA”). Groupon is a “merchant” within the meaning of the Québec CPA. Agroupon is a “prepaid card” within the meaning of section 187.1 of the Québec CPA. The expiry of groupons is contrary to section 187.3 of the Québec CPA. The partial redemption policy is contrary to sections 187.3 and 187.5 of the Québec CPA. Groupon misleads consumers and creates confusion and ambiguity in relation to the existence or effect of the expiry date and partial redemption policies, contrary to section 187.2 and section 228 of the Québec

CPA. The expiry date and partial redemption policies result in Groupon charging or receiving fees or payments contrary to section 187.4 of the Québec CPA.

60. Newfoundland class members are “consumers” within the meaning of the Consumer Protection and Business Practices Act, SNL 2009, c C-31.1 (“CPBPA”). Groupon is a “supplier” within the meaning of the CPBPA and NLR 14/11. A groupon is a “gift card” within the meaning of section 2 of the NLR 14/11. The expiry of groupons is contrary to section 3 of NLR 14/11. Groupon misleads consumers and creates confusion and ambiguity in relation to the existence or effect of the expiry date and partial redemption policies, contrary to section 7 of the NLR 14/11. The expiry date and partial redemption policies result in Groupon charging or receiving fees or payments contrary to section 5 of NLR 14/11, and are unfair practices within the meaning of sections 7-8 of the CPBPA.

61. Nova Scotia class members are “consumers” within the meaning of the Consumer Protection Act, RSNS 1989, c 92 (“Nova Scotia CPA”). Groupon is a “supplier” within the meaning of the Nova Scotia CPA and section 2 of Reg 325/2009. A groupon is a “gift card” within the meaning of section 2 of Reg 325/2009. The expiry of groupons is contrary to sections 3-4 of Reg 325/2009. Groupon misleads consumers and creates confusion and ambiguity in relation to the existence or effect of the expiry date and partial redemption policies, contrary to section 7 of Reg 325/2009. The expiry date and partial redemption policies result in Groupon charging or receiving fees or payments contrary to section 5.

BREACH OF CONTRACT

62. ~~54.~~ When a consumer purchases a groupon, there is a contract between Groupon and the consumer, the terms of which are set out in the Terms and Conditions (as defined above).

63. ~~55. As set out above, the~~The expiry dates of the groupons are illegal. The groupons are therefore effective as if they had no expiry date pursuant to s. 25.3(2) of O. Reg. 17/05.

64. ~~56. As set out above, the~~The Groupon partial redemption policy is illegal. The groupons are effective as if they had no partial redemption policy.

65. ~~57.~~ By systemically failing to honour the full face value of expired or partially-redeemed groupons, Groupon has breached the lawful terms of the contract and is liable to class members for their expectation damages, measured by the difference between the face value of the groupons, and the amount previously redeemed, if any.

UNJUST ENRICHMENT

66. ~~58.~~ Where a consumer is unable to redeem an expired groupon, Groupon is unjustly enriched by the amount of the purchase price of the groupon, and consumers suffer a corresponding deprivation.

67. ~~59.~~ Where a consumer partially redeems a groupon and is unable to redeem the remaining portion of the groupon, Groupon is unjustly enriched by the amount of the purchase price of the groupon that consumers are unable to redeem on a subsequent use of the groupon, and class members suffer a corresponding deprivation.

68. ~~60.~~ There is no juristic reason justifying the defendant retaining the amounts in question. The terms of the Groupon contract with respect to expiry dates and partial redemptions are illegal and do not provide a juristic reason.

NEGLIGENT MISREPRESENTATION

69. ~~61.~~ Groupon made representations concerning the groupons through its Terms and Conditions, as defined above.

70. ~~62.~~ Groupon owed a duty of care to the plaintiff and class members.

71. ~~63.~~ It knew or reasonably ought to have known that class members would rely on its representations concerning the groupons.

72. ~~64. As set out above,~~ Groupon made representations that were inaccurate or misleading, which were made negligently. Consumers reasonably relied on Groupon's representations to their detriment, including by failing to redeem expired or partially-redeemed groupons.

PUNITIVE DAMAGES

73. ~~65.~~ Class members are entitled to punitive damages as a result of the callous, highhanded, and arbitrary actions of Groupon as set out above.

EFFECT OF THE DEFENDANT'S ACTIONS

74. ~~66.~~ As a result of Groupon's breaches of contract and tortious and unlawful conduct as set out above, the class members have and will continue to sustain damages.

A CLASS PROCEEDING IS APPROPRIATE

75. ~~67.~~ The class members as individuals cannot match the resources of Groupon. The

individual claims of each class member would not be economical to pursue individually. The class members would be denied access to justice in the absence of a class proceeding.

76. ~~68.~~ It is unlikely that an individual could or would seek prospective relief to deter future misconduct by Groupon. Moreover, Groupon is sufficiently large and well-resourced that an individual lawsuit would be unlikely to have any significant impact on its behaviour. This class proceeding will either produce a voluntary change in the behaviour of Groupon or result in a court order which will compel a change in its behaviour.

77. ~~69.~~ The plaintiff proposes that this action be tried in Toronto.

78. ~~70.~~ The plaintiff pleads and relies on the *Consumer Protection Act, 2002*, SO 2002, c 30, Sch A; *Class Proceedings Act, 1992*, SO 1992, c 6, and the *Courts of Justice Act*, RSO 1990, c C-43. The plaintiff further pleads and relies on the applicable legislation in Canada, including the *FTA*, the *BCCPA*, the *Saskatchewan CPA*, the *Manitoba CPA*, the *Quebec CPA*, the *CPBPA* and the *Nova Scotia CPA*.

79. ~~71.~~ The Applicant pleads and relies on Rule 17.02(f), (g), (h) and (i) of the *Rules of Civil Procedure* in support of serving Groupon without leave of the court. This action is: in respect of a contract which was made in Ontario and breached in Ontario; in respect of a tort committed in Ontario; in respect of damages sustained in Ontario; and is for an injunction in Ontario.

~~June 15, 2011~~ _____, 2013

Sack Goldblatt Mitchell LLP
Barristers & Solicitors
20 Dundas St. West, Suite 1100
Toronto, ON M5G 2G8

Louis Sokolov LSUC#: 34483L
Christine Davies LSUC#: 57309F
Nadine Blum LSUC#: 52772G
Tel: (416) 977-6070
Fax: (416) 591-7333

Lawyers for the Plaintiff

Appendix B

Common Issues

Breach of Contract

1. Was the relationship between Groupon and the class members contractual, and if so:
 - a) what are the common terms of the contract?
 - b) do any of the common contractual terms, including any terms with respect to the expiry of groupon vouchers (in whole or in part, regarding the amount paid value or promotional value) and partial redemption:
 - (i) constitute “unfair practices” within the meaning of the *Consumer Protection Act, 2002* or other consumer protection legislation across Canada, or
 - (ii) otherwise contravene the *Consumer Protection Act, 2002* or other consumer protection legislation across Canada?
 - (iii) If yes to (i) or (ii) above, are the contracts between Groupon and consumers effective as if those terms did not exist, or does any other remedy apply?
 - c) has Groupon breached any of the common terms of its contracts with the class members?

Consumer Protection Act, 2002 and other consumer protection legislation across Canada

2. Is the agreement between Groupon and the class members a “consumer agreement” or otherwise an agreement within the scope of the *Consumer Protection Act, 2002* or other consumer protection legislation across Canada and if so, what are the common terms of that agreement?
3. Are the terms of the agreement in #2:
 - a) confusing, ambiguous, misleading, and/or deceiving as to material facts, or otherwise a breach of the *Consumer Protection Act, 2002* or other consumer protection legislation across Canada with respect to:
 - (i) the expiry of groupon vouchers, or
 - (ii) partial redemption of groupon vouchers?
4. Is Groupon a “supplier” within the meaning of the *Consumer Protection Act, 2002* and other consumer protection legislation across Canada?

5. Are groupon vouchers “future performance agreements” within the meaning of the *Consumer Protection Act, 2002* or other consumer protection legislation across Canada?
6. Are groupon vouchers “gift cards” and/or “gift card agreements” and/or “prepaid purchase cards” and/or “prepaid cards” within the meaning of the *Consumer Protection Act, 2002* and *O. Reg. 17/05* or other consumer protection legislation across Canada? If so,
 - a) Are the terms of any gift card agreement adverse to the class members, inequitable or otherwise unfair?
 - b) Do any gift card agreements or any part thereof constitute an unconscionable representation and/or “unfair practice” and/or any other breach of the *Consumer Protection Act, 2002* or other consumer protection legislation across Canada?
7. Does the expiry of groupon vouchers either in whole or in part (amount paid or promotional value):
 - a) violate the *Consumer Protection Act, 2002* and *O. Reg. 17/05* or other consumer protection legislation across Canada?
 - b) result in Groupon charging or receiving a fee, and if so, is that fee contrary to the *Consumer Protection Act, 2002* and *O. Reg. 17/05* or other consumer protection legislation across Canada?
8. Does Groupon’s terms, practice or policy with respect to the partial redemption of groupon vouchers:
 - a) result in Groupon charging or receiving a fee, and if so, is that fee contrary to the *Consumer Protection Act, 2002* and *O. Reg. 17/05* or other consumer protection legislation across Canada?
 - b) violate the *Consumer Protection Act, 2002* and *O. Reg. 17/05* or other consumer protection legislation across Canada?

Unjust Enrichment

9. Has Groupon been enriched by the expiry of groupon vouchers?
 - a) If so, have class members suffered a corresponding deprivation?
 - b) Is there a juristic reason for the enrichment/deprivation?
10. Has Groupon been enriched by its partial redemption policy?
 - a) If so, have class members suffered a corresponding deprivation?

b) Is there a juristic reason for the enrichment/deprivation?

Negligent Misrepresentation

11. Did Groupon owe a duty of care when making representations to class members?
12. Did Groupon make representations concerning groupon vouchers to class members with respect to the class' members rights regarding expiry provisions (either in whole or in part, regarding the amount paid value or promotional value) and/or partial redemptions?
13. Were those representations untrue, inaccurate or misleading?
14. Was Groupon negligent in making those representations?

Remedies

15. What, if any, remedies are class members entitled to?
16. Is the defendant liable, or potentially liable, on a class-wide basis? If yes,
 - a) Can damages be assessed on an aggregate basis? If yes,
 - (i) Can aggregate damages be assessed in whole or part on the basis of statistical evidence, including statistical evidence based on random sampling?
 - (ii) What is the quantum of aggregate damages owed to class members?
 - (iii) What is the appropriate method or procedure for distributing the aggregate damages award to class members?

Appendix C

Notice of Certification and Settlement Approval Hearing

BUTTON: Pour lire cet avis dans le cliquez ici français

GROUPON INC. CLASS ACTION

NOTICE OF HEARING FOR APPROVAL OF PROPOSED SETTLEMENT AND CERTIFICATION OF CLASS ACTION

PLEASE READ THIS NOTICE CAREFULLY
AS IT MAY AFFECT YOUR LEGAL RIGHTS

TO CLASS MEMBERS: If you are a Canadian resident, and you purchased or acquired a Daily Deal voucher from Groupon (sometimes called a “groupon”), you are a proposed class member.

1. Purpose of this Notice

The purpose of this notice is to inform you of your rights in regards to a proposed settlement of class action lawsuits commenced in Ontario and Alberta alleging that the Defendant Groupon Inc. (“Groupon”) sold vouchers with illegal expiry dates. The Ontario lawsuit has been amended to include Groupon consumers across Canada. The Alberta lawsuit will be discontinued. The plaintiffs and Groupon have agreed to settle the lawsuits. The settlement must be approved by the Court before it is finalized. As a class member, you have a right to take part in the approval hearing if you wish. The process for taking part in the approval hearing is set out below.

2. Your right to redeem “expired” Daily Deal vouchers

Customers with unredeemed and unrefunded Daily Deal vouchers can redeem them up to the amount of the “purchase price” with the merchant notwithstanding any stated expiry date on the face of the voucher, following their expiry date, if permitted by the terms of that voucher.² For instance, if you paid \$25 for a \$40 Daily Deal voucher, then you are still entitled to redeem it after the stated expiry date for the \$25 purchase price but not the \$15 “promotional value.”

3. The Settlement Fund

Groupon has agreed to pay up to \$535,000 (CDN) to settle the claims of the Class Members (the “settlement fund”) where it is not possible for them to redeem their

² For clarity, this does not include vouchers for Groupon Now!, Groupon Stores, Groupon Goods, Groupon Getaways and Groupon Live, and does not include vouchers in respect of events occurring on specific dates or during a specific time period.

expired Daily Deal vouchers, or who only redeemed part of the purchase price of the Daily Deal vouchers ("partial redemption") and are not able to redeem their Daily Deal vouchers for the difference between the amount redeemed and the purchase price.

The settlement fund will also be used to pay legal fees and the costs of a class action administrator.

The process for making a claim to the settlement fund is set out below.

If there is not enough money in the settlement fund to pay all of the amounts claimed and the other costs, including the costs of the Claims Administrator, the payments to the Class Members will be made proportionately (prorated). If there is leftover money in the settlement fund after the payments to the Class Members and the costs, the leftover money will be returned to Groupon.

You can also opt-out of the proposed settlement, as described below.

If you would like a copy of the Settlement Agreement, it is available online at <http://www.grouponclassaction.ca/>. You can also obtain a hard copy by contacting Tricia Brioux of Sack Goldblatt Mitchell LLP at 416-979-4233 or 1-800-387-5422.

4. Legal Fees

Pursuant to the Settlement Agreement, Groupon will pay Class Counsel (the lawyers for the class members) legal fees and expenses totalling \$235,000, including applicable taxes. These legal fees and expenses will be paid out of the settlement fund. Class Counsel will seek court approval for legal fees to be paid from the settlement fund. Class Counsel will not seek additional payment for their future time spent or expenses incurred in the proceeding against Groupon.

5. Court Approval Required

For the Settlement Agreement to be effective, the Ontario Superior Court must certify the action as a class proceeding and approve the Settlement Agreement.

The Court will hold a settlement approval hearing on _____ at the courthouse of the Ontario Superior Court of Justice at _____. At this hearing, the Court will determine whether the Settlement Agreement is fair, reasonable and in the best interests of the Class Members.

If you wish to comment on, or make an objection to, the Settlement Agreement, you must deliver a written submission to Class Counsel at the address listed below, no later than _____. Class Counsel will forward all such submissions to the Court. All written submissions from Class Members that are received on time will be considered by the Court. If you do not deliver a written submission to Class Counsel by the deadline, you will not be entitled to participate in the hearing and you will not be able to appeal if the Settlement Agreement is approved.

If the Settlement Agreement is approved, the Court will certify the action against Groupon as a class proceeding and will determine the fee requests of Class Counsel. If the Settlement Agreement receives approval from the Court, further Notices will be published online, and as directed by the Court.

6. Claims Process

If the Settlement Agreement receives Court approval, the settlement payments will be made in accordance with the process to be approved by the Court.

Claims to the Settlement Fund: To make a claim in respect of an unredeemed Daily Deal voucher you will have to certify that you have an unredeemed and unrefunded Daily Deal voucher that expired prior to _____. You must also certify that you either attempted to redeem your voucher at the merchant, or that it is not possible for you to attempt to do so.

To make a claim in respect of a partially redeemed and unrefunded Daily Deal voucher, you will have to certify that you redeemed a Daily Deal voucher for less than the purchase price of that voucher.

7. Release of Claims and the Effect on Other Proceedings

If the Settlement Agreement receives Court approval, you will be bound by the terms of the Settlement Agreement unless you opt out by delivering written notice of your intention to opt out to class counsel. This means that, unless you opt out, you will not be able to start or continue with any other claim or legal proceeding against Groupon in relation to the matters alleged in the class action lawsuit.

If the Court approves the Settlement Agreement, you will receive information about how you can choose to opt out. This information will be available online and will be included in a further notice.

8. Class Counsel

The law firm of Sack Goldblatt Mitchell LLP represents class members in all provinces except Alberta. Class Members may contact Tricia Brioux of Sack Goldblatt Mitchell LLP at 416-979-4233 or 1-800-387-5422 for more information.

The law firm of Jensen Shawa Solomon Duguid Hawkes LLP represents Alberta class members. Alberta class members may contact Gavin Price at 403-571-1520 for more information.

9. Interpretation

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO
SUPERIOR COURT OF JUSTICE

Appendix D

Proposed Certification and Settlement Approval Order

Court File No. CV-11-428749-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

HITENDRA PATEL
Plaintiff

- and -

GROUPON INC.
Defendant

Proceeding under the *Class Proceedings Act, 1992*

THIS MOTION made by the Plaintiff for an Order seeking certification of this action and approving the settlement of this action in accordance with the Settlement Agreement entered into with the Defendant, Groupon Inc., approving Class Counsel's fees and disbursements, and for other declaratory relief, was heard this ____ day at _____.

ON READING the materials filed and on hearing submissions of counsel for the Plaintiff and counsel for the Defendant;

1. **THIS COURT ORDERS** that the use of capitalized terms in this Order shall have the same meaning as found in the Settlement Agreement dated _____ between the Plaintiff and the Defendant, Groupon Inc. ("Groupon") (attached hereto as Schedule A).
2. **THIS COURT ORDERS AND DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Class.
3. **THIS COURT ORDERS** that this action is certified as a class proceeding, and that:
 - a. Hintendra Patel is appointed as the representative plaintiff for the class; and
 - b. the class consists of all those persons and entities in Canada who purchased or acquired a Daily Deal voucher from Groupon prior to _____.

4. **THIS COURT ORDERS** that the common issues certified are as set out on Appendix B to the attached Settlement Agreement.
5. **THIS COURT ORDERS** that the settlement of this action on the terms set forth in the attached Settlement Agreement, including the schedules thereto, be and is hereby approved pursuant to section 29(3) of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.
6. **THIS COURT ORDERS AND DECLARES** that the Settlement Agreement, including the schedules thereto, is incorporated by reference into and forms part of this Order and is binding upon each member of the Class who has not opted out and his or her heirs, executors, administrators, legal representatives, successors and assigns including those persons who are under disability and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of this action.
7. **THIS COURT ORDERS AND DECLARES** that following the Effective Date, each Class Member who has not opted out (the "Settlement Class") shall consent and shall be deemed to have consented to the dismissal as against the Defendant of any actions he, she or it has commenced without costs and with prejudice.
8. **THIS COURT ORDERS AND DECLARES** that, upon the Effective Date, any other action commenced by any member of the Settlement Class shall be and is hereby dismissed against the Defendant without costs and with prejudice.
9. **THIS COURT ORDERS AND DECLARES** that each member of the Settlement Class and his or her heirs, executors, administrators, legal representatives, successors and assigns, and others as set out in the Settlement Agreement have fully, finally and forever absolutely released and discharged the Defendant and any of its predecessors, successors, related entities or Affiliates from and in respect of all claims released in the Settlement Agreement on the terms set out therein.
10. **THIS COURT ORDERS AND DECLARES** that each member of the Settlement Class is hereby deemed to have agreed that the Defendant and any of its predecessors, successors, related entities or Affiliates shall be entitled to sell Groupon vouchers with expiration dates applying to their Promotional Value, without challenge from any such Settlement Class Member.
11. **THIS COURT ORDERS AND DECLARES** that each member of the Settlement Class who has commenced any action or taken any proceeding relating in any way to the Released Claims shall consent and shall be deemed to have consented to the dismissal of such action or proceeding against Groupon, without costs and with prejudice.

12. **THIS COURT ORDERS AND DECLARES** that each action or proceeding commenced in Ontario by a member of the Settlement Class shall be and are hereby dismissed against Groupon, without costs and with prejudice.
13. **THIS COURT ORDERS** that _____ is hereby appointed as Administrator to effect the administration of the settlement in accordance with the Settlement Agreement.
14. **THIS COURT ORDERS** that the Ontario Action as against Groupon be and is hereby dismissed without costs and with prejudice.
15. **THIS COURT DECLARES** that this Order and the settlement approved hereby are not based upon any finding or admission of liability or wrongdoing by Groupon, and there has been no admission in respect of liability by Groupon.
16. **THIS COURT ORDERS** that jurisdiction is retained by the Court to consider any further appropriate applications concerning the administration of the settlement.
17. **THIS COURT ORDERS** that, in accordance with section 32 of the *Class Proceedings Act, 1992*, Class Counsel's fees and disbursements are approved at \$235,000, inclusive of applicable taxes.

Appendix E

Notice of Settlement and Claims Process (including Opt Out form)

BUTTON Pour lire cet avis dans le cliquez-ici français

GROUPON INC. CLASS ACTION

NOTICE OF SETTLEMENT APPROVAL

**PLEASE READ THIS NOTICE CAREFULLY
AS IT MAY AFFECT YOUR LEGAL RIGHTS**

TO CLASS MEMBERS: If you are a Canadian resident, and you purchased or acquired a Daily Deal voucher from Groupon (sometimes called a “groupon”) prior to [THE DATE THAT THE ONTARIO COURT APPROVES THE NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING], you are a class member.

Please be advised that the Ontario Superior Court of Justice has approved the Settlement Agreement in the class action lawsuits commenced in Ontario and Alberta alleging that the Defendant Groupon Inc. (“Groupon”) sold vouchers with illegal expiry dates.

If you would like a copy of the Settlement Agreement, it is available at www.grouponclassaction.ca, or a copy can be obtained by contacting the Claims Administrator. The plaintiffs and Groupon have agreed to settle the lawsuits.

Class Members who wish to file a claim against the settlement fund, and meet the eligibility requirements to do so, must file a claim with the Claims Administrator by _____, 2013 in the manner described below.

1. SUMMARY OF SETTLEMENT AGREEMENT

a. Your right to redeem “expired” Daily Deal vouchers

Customers with unredeemed and unrefunded Daily Deal vouchers can redeem them up to the amount of the “purchase price” with the merchant notwithstanding any stated expiry date on the face of the voucher, following their expiry date, if permitted by the

terms of that voucher.³ For instance, if you paid \$25 for a \$40 Daily Deal voucher, then you are still entitled to redeem it after the stated expiry date for the \$25 purchase price but not the \$15 “promotional value.”

b. The Settlement Fund

Groupon has agreed to pay up to \$300,000 (CDN) to settle the claims of the Class Members (the “settlement fund”) where it is not possible for them to redeem their expired Daily Deal vouchers, or who only redeemed part of the purchase price of the Daily Deal vouchers (“partial redemption”) and are not able to redeem their Daily Deal vouchers for the difference between the amount redeemed and the purchase price.

The settlement fund will also be used to pay the costs of the Claims Administrator.

The process for making a claim to the settlement fund is set out below.

If there is not enough money in the settlement fund to pay all of the amounts claimed and the other costs, the payments to the Class Members will be made proportionately (prorated). If there is leftover money in the settlement fund after the payments to the Class Members and the costs, the leftover money will be returned to Groupon.

You can also opt-out of the proposed settlement, as described below.

2. Opting Out

If you do not want to be part of this settlement you may opt out by filling out the attached electronic “opt out” form or mailing a letter setting out the same information to the following address:

TO:

[CLAIMS ADMINISTRATOR]

The deadline for opting out is [DATE]. If your written request to opt out is not received by that date you will be bound by the terms of the Settlement Agreement. This means that, unless you opt out, you will not be able to start or continue with any other claim or legal proceeding against Groupon in relation to the matters alleged in the class action lawsuit.

³ For clarity, this does not include vouchers for Groupon Now!, Groupon Stores, Groupon Goods, Groupon Getaways and Groupon Live, and does not include vouchers in respect of events occurring on specific dates or during a specific time period.

3. Legal Fees

Pursuant to the Settlement Agreement, and the Court's approval, Groupon will pay Class Counsel (the lawyers for the class members) legal fees and expenses totalling \$235,000, including applicable taxes. Class Counsel will not seek additional payment for their future time spent or expenses incurred in the proceeding against Groupon.

You are entitled to, but not obliged to, hire your own lawyer to provide you with advice or assistance regarding your individual claim. If you do so, you will be responsible for paying that lawyer's legal fees.

4. Important Deadlines

[DATE], 2013 – Deadline to Opt Out of the Settlement.

[DATE], 2013 – Deadline to Submit a Claim. Your completed claim form must be electronically submitted or postmarked on or before this date.

5. Claims Process

Class Members must first attempt to redeem their expired Daily Deal vouchers, or partially redeemed Daily Deal vouchers from the merchant before making a claim against the settlement fund.

The settlement fund exists to compensate those Class Members for whom it is not possible for them to redeem expired Daily Deal vouchers, or who only partially redeemed their Daily Deal Vouchers and are not able to redeem their Daily Deal vouchers for the difference between the amount redeemed and the purchase price.

To make a claim in respect of an unredeemed Daily Deal voucher you will have to certify that you have an unredeemed and unrefunded Daily Deal voucher that expired prior to [DATE]. You must also certify that you either attempted to redeem your voucher at the merchant, or that it is not possible for you to attempt to do so.

If you wish to make a claim, click [[HYPERLINK TO ELECTRONIC CLAIMS FORM](#)]

6. Claims Administrator

The Court has appointed [CLAIMS ADMINISTRATOR] to administer the settlement. Any questions about this notice or requests for information should be addressed to the Claims Administrator:

[INSERT NAME AND ADDRESS OF CLAIMS ADMINISTRATOR]

7. Interpretation

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO
SUPERIOR COURT OF JUSTICE

ELECTRONIC OPT OUT NOTICE

You may opt out of this settlement by submitting this electronic "opt out" form or by mailing a letter setting out the same information to the following address on or before [DATE]:

[CLAIMS ADMINISTRATOR ADDRESS]

Name: _____

Email: _____

Address: _____

Postal Code: _____

Telephone: _____

By clicking "submit" I confirm that I **do not** wish to be a Class Member in the class action lawsuits *Hitendra Patel v. Groupon Inc.* and *Erica Amery v. Groupon Inc.* I understand that by opting out I will not be entitled to make any claim against the settlement fund in respect of those cases. I confirm that having chosen to opt-out of this class, I will receive no further communications from class counsel regarding this class action.

[SUBMIT BUTTON]

APPENDIX F

Claim Form

BUTTON Pour lire cet avis dans le cliquez ici français

National Groupon Class Action

*Hitendra Patel v. Groupon Inc., Ontario Superior Court of Justice Court File No. CV-11-428749-00CP
Erica Amery v. Groupon Inc., Alberta Court of Queen's Bench File No.1201-03854*

Electronic Claim Form and Instructions

TO: PERSONS IN CANADA WHO PURCHASED GROUPON DAILY DEAL VOUCHERS

This claim form should be submitted only by persons in Canada who purchased or acquired Daily Deal vouchers from Groupon that have not been redeemed or refunded, and who meet the other criteria set out below. Before submitting this claim form, you should attempt to redeem your Daily Deal voucher(s) for the Purchase Price (the amount you paid) with the applicable merchant, if possible for you to do so. The deadline to submit this claim form is ●, 2013. Claim forms submitted after that date will not be accepted. Before you submit the claim form, please make sure that it is complete and accurate.

You are only eligible to submit a claim if you meet all of the following criteria:

- a. You purchased or acquired a Daily Deal voucher from Groupon before ● [date the Ontario Court approves the Notice of Certification and Settlement Approval Hearing];
- b. You have not redeemed or received a refund for the voucher(s) for which you are making a claim;
- c. The voucher(s) for which you are making a claim are not vouchers for Groupon Now!, Groupon Stores, Groupon Goods, Groupon Getaways or Groupon Live;
- d. The voucher(s) for which you are making a claim are not vouchers in respect of events occurring on specific dates or during a specific time period; and
- e. One of more of the following situations applies to you:
 - i. You attempted to redeem a Daily Deal voucher with a merchant after the expiry date, but the merchant refused to redeem the voucher for the amount that you paid for it;
 - ii. It is not possible for you to redeem a Daily Deal voucher with the merchant listed on the voucher; or
 - iii. You partially redeemed a Daily Deal voucher with a merchant for less than the amount you paid for it *and* either: (a) you attempted to redeem the voucher at the merchant listed on the voucher and the merchant did not redeem the Daily Deal voucher for the difference between the amount that had previously been redeemed and the Purchase Price; or (b) it is not possible for you to attempt to redeem the voucher at the merchant listed on the voucher.

If you are a legal representative, assign, heir, executor, trustee, administrator, guardian or custodian of the intended recipient of this claim form, and the intended recipient meets all of the criteria listed above, you may complete this form on the intended recipient's behalf. If you are submitting this claim form in a representative capacity, please include proof of your authority to act on behalf of and to bind the person or entity on whose behalf you are acting.

If your claim meets the criteria listed below, you will receive a cheque by mail from the claims administrator. The cheque will be sent to the mailing address that you provide below. For more information, please phone the toll-free hotline at ● . The hotline operators can handle calls in English or French.

Contact Information

Claimant's Name: _____

Claimant's Mailing Address: _____

E-mail address used to purchase Groupon voucher: _____

- Click this box if you are completing this form on behalf of another person (*i.e.*, if you are a representative, assign, heir, executor, administrator, or custodian of the intended recipient of this claim form). [***NTD: additional information entry points become available.**]

Claim

If you wish to make a claim for more than one voucher, please complete this section and then click the "Make Additional Claim" button . A new section will appear. You can enter your additional claim in that section.

Select the claim that applies:

- I attempted to redeem a Daily Deal voucher with a merchant after the expiry date, but the merchant refused to redeem the voucher for the amount that I paid for it.
- It is not possible for me to try to redeem a Daily Deal voucher with the merchant listed on the voucher.
- I partially redeemed a Daily Deal voucher with a merchant for less than the amount I paid for it. I partially redeemed the voucher for the following amount: _____. I attempted to redeem the voucher at the merchant listed on the voucher for the difference between the amount that had previously been redeemed and the amount that I paid for it. The merchant did not redeem the Daily Deal voucher for the amount of the difference.
- I partially redeemed a Daily Deal voucher with a merchant for less than the amount I paid for it. I partially redeemed the voucher for the following amount: _____. It is not possible for me to try to redeem a Daily Deal voucher with the merchant listed on the voucher for the difference between the amount that had previously been redeemed and the amount that I paid for it.

Provide the details of the voucher for which you are making this claim:

Voucher number (*i.e.* the # in the top right corner of your voucher): _____

Purchase Price of voucher (*i.e.* the amount you paid for the voucher): _____

Name of merchant: _____

MAKE ADDITIONAL CLAIM BUTTON

Declaration (*must be completed to make a claim*)

I have received notice of the class action settlement in this case. I understand that by submitting this claim form I will be bound by the terms of the settlement agreement and all related releases contained in the settlement agreement. I understand and acknowledge that the full and precise terms of the proposed settlement are set forth in the settlement agreement and that I have had the opportunity to read the settlement agreement in its entirety. I further acknowledge that I am bound by the terms of any court judgment that may be entered in this action and may not bring any separate litigation against Groupon Inc. or against any entity or person released in the settlement agreement for claims related to this action, or that could have been asserted in this action, as specified in the settlement agreement. I acknowledge that no additional amounts may be claimed by me from Groupon Inc. in respect of the Daily Deal vouchers covered by the settlement agreement. I agree that Groupon Inc. shall be entitled to sell vouchers with expiration dates applying to their Promotional Value, without challenge from me. I submit to the jurisdiction of the Ontario Superior Court of Justice with regard to my claim as a class member and for purposes of enforcing the release of claims set forth in the settlement agreement. I agree to furnish additional information to support this claim if requested to do so.

I declare that all of the following statements are true:

- I purchased or acquired a Daily Deal voucher from Groupon before ● [date the Ontario Court approves the Notice of Certification and Settlement Approval Hearing]
- The Groupon voucher(s) that are the subject of this claim form have not been redeemed or refunded, and meet the conditions I checked in the claim form (i.e. merchant refused to redeem, not possible to redeem, or partially redeemed).
- The Groupon voucher(s) for which I am making a claim are not vouchers for Groupon Now!, Groupon Stores, Groupon Goods, Groupon Getaways or Groupon Live.
- The Groupon voucher(s) for which I am making a claim are not vouchers in respect of events occurring on specific dates or during a specific time period.

By clicking submit, I declare under penalty of perjury that the foregoing information and all information I have submitted in support of my claim is true and correct, and I agree to abide by the terms of the settlement in this action, including the acknowledgement that I am bound by the terms of any judgment in this action and may not bring separate litigation regarding related claims.

SUBMIT BUTTON