

1 ROBBINS GELLER RUDMAN  
 & DOWD LLP  
 2 JOHN J. STOIA, JR. (141757)  
 RACHEL L. JENSEN (211456)  
 3 PHONG L. TRAN (204961)  
 655 West Broadway, Suite 1900  
 4 San Diego, CA 92101  
 Telephone: 619/231-1058  
 5 619/231-7423 (fax)

6 Attorneys for Plaintiff

7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

ANTHONY FERREIRA, on Behalf of Himself )  
 and All Others Similarly Situated and the )  
 General Public, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 GROUPON, INC., NORDSTROM, INC., )  
 Individually and on Behalf of All Similarly )  
 Situated Entities, and DOES 1 through 100, )  
 inclusive, )  
 )  
 Defendants. )

No. '11CV0132 DMS POR

CLASS ACTION

COMPLAINT FOR:

- (1) VIOLATIONS OF THE CREDIT CARD ACCOUNTABILITY RESPONSIBILITY AND DISCLOSURE ACT AND THE ELECTRONIC FUNDS TRANSFER ACT, 15 U.S.C. §1693 *et seq.*;
- (2) VIOLATION OF THE UNFAIR COMPETITION LAW, CALIFORNIA BUSINESS AND PROFESSIONS CODE §17200 *et seq.*;
- (3) VIOLATIONS OF THE FALSE ADVERTISING LAW, CALIFORNIA BUSINESS AND PROFESSIONS CODE §17500 *et seq.*;
- (4) VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT, CALIFORNIA CIVIL CODE §1750 *et seq.*; AND
- (5) UNJUST ENRICHMENT

DEMAND FOR JURY TRIAL

1 Plaintiff Anthony Ferreira (“Plaintiff”), by and through his undersigned attorneys, brings this  
2 action on behalf of himself and on behalf of a Class of all others similarly-situated, against  
3 Defendants Groupon, Inc., Nordstrom, Inc. and the Defendant Retail Class, as defined below, for  
4 compensatory damages and equitable, injunctive, and declaratory relief. Plaintiff alleges the  
5 following upon information and belief based on the investigation of counsel, except as to those  
6 allegations which specifically pertain to Plaintiff (which are alleged upon personal knowledge).

### 7 NATURE OF THE ACTION

8 1. Plaintiff brings this action on behalf of himself and other similarly-situated consumers  
9 nationwide who purchased gift certificates for products and services from Groupon, Inc.  
10 (“Groupon”). These gift certificates, referred to and marketed as “groupons,” are sold and issued  
11 with expiration dates that are deceptive and illegal under both federal and state laws.

12 2. Groupon is a web-based company that purports to offer discounted deals on a wide  
13 variety of products and services, including restaurants and bars, salons and spas, clothing and other  
14 retail items, and dance classes and other instructional lessons, among other things.

15 3. Groupon’s business model is based on offering discounts to consumers en masse by  
16 directly partnering with retail businesses that provide the products or services. Groupon promises to  
17 increase the sales volume of its retail partners by sending out “Daily Deal” e-mails to its massive  
18 subscription base (comprised of tens of millions of consumers nationwide), highlighting and  
19 promoting the products and services of its retail partners.

20 4. Groupon and its retailer partners share in revenues from “groupon” sales. Once  
21 consumers agree to purchase a minimum, specified number of “groupon” gift certificates for a  
22 particular “Daily Deal,” the “Deal” is triggered, and Groupon charges each consumer the advertised  
23 purchase amount. Groupon then sends a confirmatory e-mail to each purchasing consumer with a  
24 link to its website for downloading and printing the “groupon” gift certificate, which then may be  
25 redeemed with the retail business offering the product or service for a limited period of time.

26 5. Groupon partners with hundreds, if not thousands, of retail businesses around the  
27 country, including large, nationwide companies such as Nordstrom, Inc. (“Nordstrom”).  
28

1           6.       The problem with Groupon’s business model is that Groupon and its retail partners,  
2 including Nordstrom, sell and issue “groupon” gift certificates with relatively short expiration dates,  
3 knowing that many consumers will not use the gift certificates prior to the expiration date. However,  
4 the Credit Card Accountability Responsibility and Disclosure Act (“CARD Act”) and the Electronic  
5 Funds Transfer Act (“EFTA”), 15 U.S.C. §1693 *et seq.*, specifically prohibit the sale and issuance of  
6 gift certificates, such as “groupons,” with expiration dates. Similarly, California Civil Code §1749.5  
7 prohibits the sale and issuance of gift certificates with expiration dates.

8           7.       Groupon’s systematic placement of expiration dates on its gift certificates is deceptive  
9 and harmful to consumers. Groupon effectively creates a sense of urgency among consumers to  
10 quickly purchase “groupon” gift certificates by offering “Daily Deals” for a short amount of time,  
11 usually a 24-hour period. Consumers therefore feel pressured and are rushed into buying the gift  
12 certificates and unwittingly become subject to the onerous sales conditions imposed by Groupon,  
13 including illegal expiration terms, which are relatively short, often just a few months.

14           8.       Groupon and its retail partners, including Nordstrom, bank on the fact that consumers  
15 often will not manage to redeem “groupon” gift certificates before the limited expiration period –  
16 therefore, many consumers are left with nothing, despite already having paid for the particular  
17 service or product. Accordingly, Groupon and its retail partners reap a substantial windfall from the  
18 sale of gift certificates that are not redeemed before expiration, which is precisely the type of  
19 harmful business conduct that both Congress and the California State Legislature intended to  
20 prohibit.

21           9.       Plaintiff, like many unsuspecting consumers nationwide, fell victim to Groupon’s  
22 deceptive and unlawful illegal conduct and purchased a “groupon” gift certificate bearing an illegal  
23 expiration date.

24           10.      Plaintiff, on behalf of himself and the Class, therefore brings this class action against  
25 Groupon, Nordstrom and the Defendant Retail Class, as defined below, and Does 1 through 100,  
26 inclusive (collectively “Defendants”) for equitable (injunctive and/or declaratory) relief, violations  
27 of the CARD Act and the EFTA, 15 U.S.C. §1693 *et seq.*; California’s Unfair Competition Law,  
28 Cal. Bus. & Prof. Code §17200 *et seq.* (“UCL” or “17200”); the False Advertising Law, Cal. Bus &

1 Prof. Code §17500 *et seq.* (“FAL” or “17500”); Consumer Legal Remedies Act, Cal. Civ. Code  
2 §1750 *et seq.* (“CLRA”); and unjust enrichment. Plaintiff seeks damages and equitable relief on  
3 behalf of himself and the Class, which relief includes, but is not limited to, full refunds for Plaintiff  
4 and Class members, compensatory and punitive damages, an order enjoining Defendants and the  
5 Defendant Retail Class from selling and issuing “groupon” gift certificates with expiration dates and  
6 other onerous terms, costs and expenses, as well as Plaintiff’s reasonable attorneys’ fees and expert  
7 fees, and any additional relief that this Court determines to be necessary or appropriate to provide  
8 complete relief to Plaintiff and the Class.

9 **PARTIES**

10 11. At all times relevant to this matter, Plaintiff, Anthony Ferreira, resided and continues  
11 to reside in San Diego, California. During the relevant time period, Mr. Ferreira received offers for  
12 discounted products and services from Groupon and purchased a “groupon” gift certificate based on  
13 representations and claims made by Groupon. The “groupon” gift certificate purchased by  
14 Mr. Ferreira was subject to an illegal expiration date.

15 12. Defendant, Groupon, Inc., is a privately-held company incorporated under the laws of  
16 the state of Delaware. Groupon’s corporate headquarters is located in Chicago, Illinois. Groupon  
17 also maintains an office in Palo Alto, California. Groupon is registered to do business in the state of  
18 California and does business in the state of California. Groupon markets, sells and issues its  
19 “groupon” gift certificates to millions of consumers throughout the United States, including  
20 hundreds of thousands of consumers in California and in San Diego County.

21 13. Defendant, Nordstrom, Inc., is a leading specialty retailer with more than 200 stores  
22 located in 28 different states. In addition to its flagship retail stores, Nordstrom operates a chain of  
23 clearance stores called Nordstrom Rack. Nordstrom is a Washington corporation with its principal  
24 executive offices located in Seattle, Washington. Nordstrom is registered to do business in the state  
25 of California, and does business in the state of California. At all relevant times, Nordstrom operated  
26 and continues to operate retail stores, including Nordstrom Rack stores, in California and in San  
27 Diego County. Groupon, on behalf of Nordstrom and under an agreement with Nordstrom,  
28

1 marketed, sold and issued “groupon” gift certificates for Nordstrom Rack products to Class members  
2 thought the country, in California, and in San Diego County.

3 14. Nordstrom is being sued individually and on behalf of a Defendant Retail Class of  
4 business entities all over the United States that enter agreements and/or partner with Groupon to sell  
5 and issue “groupon” gift certificates with expiration dates.

6 15. The true names and capacities of Defendants sued herein as Does 1 through 100,  
7 inclusive, are presently unknown to Plaintiff who therefore sues these Defendants by fictitious  
8 names. Plaintiffs will amend this Complaint to show their true names and capacities when they have  
9 been ascertained. Each of the Doe Defendants is responsible in some manner for the conduct alleged  
10 herein.

#### 11 **JURISDICTION AND VENUE**

12 16. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 and the Class  
13 Action Fairness Act of 2005, 28 U.S.C. §1332(d)(2). The matter in controversy in this class action  
14 exceeds \$5,000,000, exclusive of interest and costs, and some members of the class are citizens of  
15 states other than the states in which Defendants are incorporated and have their principal place of  
16 business. In addition, pursuant to 28 U.S.C. §1367, this Court has supplemental jurisdiction over  
17 Plaintiff’s state law claims.

18 17. This Court has personal jurisdiction over Groupon and Nordstrom because they are  
19 authorized to do business and have conducted business in California, they have specifically  
20 marketed, sold and issued “groupon” gift certificates in California, they have sufficient minimum  
21 contacts with this State, and/or sufficiently avail themselves to the markets of this State through their  
22 promotion, sales, and marketing within this State to render the exercise of jurisdiction by this Court  
23 permissible.

24 18. Venue is proper in this District pursuant to 28 U.S.C. §§1391(a) and (b), because a  
25 substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this judicial  
26 district. Venue is also proper under 18 U.S.C. §1965(a) because Defendants transact substantial  
27 business in this District.

28

1 **FACTUAL ALLEGATIONS**

2 **A. Defendants’ Scheme to Sell and Issue Gift Certificates with**  
3 **Illegal Expiration Dates**

4 19. Launched in November 2008, Groupon is a “social promotions” website that  
5 promises consumers discounted deals on various products and services, purportedly through the  
6 power of “collective buying.” To take advantage of the deals offered by Groupon, consumers must  
7 sign-up and provide their e-mail address and other information to Groupon. Close to 40 million  
8 people worldwide reportedly have signed-up to receive offers from Groupon.

9 20. Every weekday, Groupon sends subscribers in each of the cities it operates a “Daily  
10 Deal” e-mail, promoting the particular products or services of the retail businesses with which it has  
11 partnered. To trigger the “Daily Deal,” consumers must purchase a specified number of “groupon”  
12 gift certificates for the particular product or service offered that day. Groupon sends targeted “Daily  
13 Deal” e-mails to close to 90 cities throughout the United States.

14 21. To arouse consumer interest and create the urgency to buy “groupon” gift certificates,  
15 Groupon offers the “Daily Deal” for a limited amount of time, usually a 24-hour period. This creates  
16 a “shopping frenzy” among consumers who feel pressured to purchase “groupon” gift certificates as  
17 quickly as possible. Consumers purchase “groupon” gift certificates directly through Groupon’s  
18 website, using their credit or debit cards.

19 22. Groupon also uses electronic social media, such as Facebook and Twitter, to promote  
20 and stoke demand for its “Daily Deals,” creating additional pressure among consumers to buy  
21 “groupon” gift certificates before time runs out.

22 23. Once Groupon sells the specified number of “groupon” gift certificates for a  
23 particular “Daily Deal,” the “Deal” is officially on, and consumers are charged for the purchase.  
24 Groupon subsequently sends a confirmatory e-mail to purchasers with a link to its website, through  
25 which purchasers may download and print their “groupon” gift certificates. Consumers may also  
26 purchase and download “groupon” gift certificates directly to their mobile phones using an  
27 application available on Groupon’s website. “Groupon” gift certificates thereafter may be directly  
28 redeemed with the retail businesses offering the products and services.

1           24.     Groupon imposes illegal expiration dates, among other onerous conditions, on each  
2 “groupon” gift certificate it sells and issues, to the detriment of consumers. The expiration periods  
3 on “groupon” gift certificates frequently range just a few months from the date of purchase.  
4 Ironically, Groupon knows that after it has driven consumers to purchase “groupon” gift certificates  
5 as quickly as possible, many consumers ultimately will be unable to redeem the gift certificates  
6 before the expiration period.

7           25.     Accordingly, consumers often cannot take advantage and use the product or service  
8 for which they paid before the expiration period imposed by Groupon – leaving a substantial  
9 windfall for Groupon and its retail partners.

10          26.     In addition to imposing illegal expiration periods, Groupon foists other deceptive and  
11 unfair conditions on consumers. Groupon requires consumers to redeem “groupon” gift certificates  
12 in the course of a single transaction. Consumers therefore are forced to redeem their gift certificates  
13 all at once and cannot use their the gift certificates for multiple transactions or on multiple occasions.  
14 Likewise, consumers cannot redeem any unused portion of “groupon” gift certificates for the cash  
15 amount. Groupon essentially places handcuffs on the manner in which consumers can redeem their  
16 gift certificates for the products and services offered, even though consumers have already paid in  
17 full for such products and services.

18           **B.     Groupon’s Retail Business Partners Agree to Sell Gift**  
19           **Certificates with Illegal Expiration Dates**

20          27.     Groupon focuses on two markets – the consumers who wish to obtain the advertised  
21 products or services by purchasing “groupon” gift certificates, and the retail businesses who partner  
22 with Groupon to promote their products and services. These retail businesses are willing to partner  
23 with Groupon and offer their products and services at a discount because Groupon promises to  
24 promote their products and services to its huge subscription base and guarantees them a specified  
25 volume of business. In fact, Groupon promises its retail partners that its “Daily Deal” promotion  
26 will bring them new customers “overnight.”

27          28.     Groupon partners with both local businesses and large, nationwide companies, such  
28 as Nordstrom. Hoping to bolster slumping retail sales and capitalize on the 2010 holiday shopping

1 season, Nordstrom teamed up with Groupon to promote its chain of discount clearance stores,  
2 Nordstrom Rack, and offered a Nordstrom Rack “Daily Deal” in late November 2010. The  
3 promotion was wildly successful as tens of thousands of consumers nationwide flocked to purchase  
4 Nordstrom Rack “groupons.” All of these Nordstrom Rack “groupons” were sold and issued with  
5 illegal expiration terms.

6 29. Groupon’s business model, particularly its ability to establish partnerships with retail  
7 businesses nationwide, including Nordstrom and other members of the Defendant Retail Class,  
8 depends in large part on its systematic use of illegal expiration dates. Groupon knows that its retail  
9 partners are not willing to offer their products and services at a discount to consumers through the  
10 sale of “groupon” gift certificates, without an agreement to limit the time period for which  
11 consumers can redeem the gift certificates. Accordingly, Groupon and its retail partners, including  
12 Nordstrom, continue to flaunt the law by imposing illegal expiration dates on the “groupon” gift  
13 certificates sold to consumers.

14 30. Groupon reaps massive profits from this business model. Groupon typically takes for  
15 itself half (50%) on the sale of each “groupon” gift certificate. Groupon reportedly made half a  
16 billion dollars from “groupon” sales in 2010 alone.

17 **C. Plaintiff Ferreira’s Purchase of a Nordstrom Rack Groupon with an**  
18 **Illegal Expiration Date**

19 31. On or about November 21, 2010, Plaintiff Anthony Ferreira received a “Daily Deal”  
20 e-mail offer from Groupon for Nordstrom Rack “groupon” gift certificates.

21 32. Under the terms of the “Daily Deal” offer, as set forth on Groupon’s website, Mr.  
22 Ferreira was required to pay \$25.00 to Groupon in exchange for a “groupon” gift certificate  
23 redeemable for \$50.00 worth of apparel, shoes, accessories and other retail products at Nordstrom  
24 Rack.

25 33. “The Fine Print” section of the “Daily Deal” offer stated that the Nordstrom Rack  
26 “groupon” gift certificate “Expires Dec 31, 2010.” “The Fine Print” section also imposed the  
27 following conditions: “Limit 1/person. Valid at all Nordstrom Rack locations. In-store only. Not  
28 valid for gift cards. Not valid with other offers or discounts.”



1 comprised of more than a 1,000 entities doing business in the United States. The Classes are so  
2 numerous that joinder of all members of the Classes is impracticable.

3       40.     **Commonality and Predominance.** Common questions of law and fact exist as to  
4 Plaintiff and all Class members and predominant over any questions which affect only individual  
5 members of the Class. These common questions of law and fact include, without limitation:

- 6       (a)     Whether Groupon, in conjunction with Nordstrom and the Defendant Retail  
7             Class, sold and issued “groupon” gift certificates featuring and subject to  
8             expiration dates;
- 9       (b)     Whether Defendants and the Defendant Retail Class’ imposition of expiration  
10            dates on “groupon” gift certificates violates federal and/or California state  
11            laws;
- 12       (c)     Whether Defendants and the Defendant Retail Class engaged in deceptive  
13             and unfair business and trade practices related to the imposition of expiration  
14             dates on “groupon” gift certificates and other onerous terms and conditions;
- 15       (d)     Whether Plaintiff and Class members are entitled to declaratory, injunctive  
16             and/or equitable relief; and
- 17       (e)     Whether Plaintiff and Class members are entitled to compensatory damages,  
18             including actual and statutory damages.

19       41.     **Typicality.** Plaintiff’s claims are typical to the claims of Class members. Plaintiff  
20 and the members of the Plaintiff Class sustained damages arising out of Defendants and the  
21 Defendant Retail Class’ common course of conduct in violation of law as complained of herein. The  
22 damages of each Class member was caused directly by Defendants and the Defendant Retail Class’  
23 wrongful conduct in violation of law as alleged herein.

24       42.     **Adequacy.** Plaintiff will fairly and adequately protect the interests of the Plaintiff  
25 Class. Plaintiff is an adequate representative of the Plaintiff Class and has no interests which are  
26 adverse to the interests of absent class members. Plaintiff has retained counsel who have substantial  
27 experience and success in the prosecution of complex class action and consumer protection  
28 litigation. Nordstrom is an adequate representative of the Defendant Retail Class because it is a

1 large, nationwide company that entered into agreements and/or partnered with Groupon to sell and  
2 issue “groupon” gift certificates with expiration dates. Nordstrom has the financial resources  
3 necessary to defend this action on behalf of itself and the Defendant Retail Class, and is motivated to  
4 vigorously defend this action given its joint and several, if not ultimate, liability for the acts  
5 complained of herein.

6 43. **Superiority.** A class action is superior to other available means for the fair and  
7 efficient adjudication of this controversy since individual joinder of all Class members is  
8 impracticable. Class action treatment will permit a large number of similarly situated persons to  
9 prosecute their common claims in a single forum simultaneously, efficiently and without the  
10 unnecessary duplication of effort and expense that numerous actions would engender. Furthermore,  
11 the expenses and burden of individual litigants and the lack of knowledge of Class members  
12 regarding Defendants’ activities, would make it difficult or impossible for individual Class members  
13 to redress the wrongs done to them, while an important public interest will be served by addressing  
14 the matter as a class action. The cost to the court system of adjudication of such individualized  
15 litigation would be substantial. The trial and litigation of Plaintiff’s claims will be manageable.

16 **COUNT I**

17 **Violations of the Credit Card Accountability Responsibility and Disclosure Act**  
18 **and Electronic Funds Transfer Act, 15 U.S.C. §1693 *et seq.*, on**  
19 **Behalf of Plaintiff and All Class Members Against All Defendants**

20 44. Plaintiff repeats and re-alleges each and every allegation contained above as if set  
21 forth herein.

22 45. The CARD Act, which amends the EFTA, prohibits the sale or issuance of gift  
23 certificates that feature and are subject to expiration dates.

24 46. Groupon, Nordstrom and members of the Defendant Retail Class sold and issued  
25 and/or agreed to sell and issue “groupoons,” which are “gift certificates” as defined under 15 U.S.C.  
26 §1693l-1(a)(2)(B), as “groupoons” constitute promises that are: (a) redeemable at a single merchant or  
27 an affiliated group of merchants; (b) issued in a specified amount that may not be increased or  
28 reloaded; (c) purchased on a prepaid basis in exchange for payment; and (d) honored upon  
presentation by such single merchant or affiliated group of merchants for goods or services.

1 47. At all relevant times, “Groupon” gift certificates were sold and issued to consumers  
2 through electronic fund transfer systems established, facilitated and monitored by Groupon.

3 48. “Groupon” gift certificates are not exclusively issued in paper form, as Groupon  
4 provides an e-mail link to consumers to download and print such gift certificates. Moreover,  
5 consumers may download “groupon” gift certificates to their mobile phones through an application  
6 available on Groupon’s website.

7 49. “Groupon” gift certificates are marketed and sold to the general public and are not  
8 issued as part of any loyalty, award, or promotional program.

9 50. Groupon, Nordstrom and members of the Defendant Retail Class violated the CARD  
10 Act and EFTA by selling and issuing and/or agreeing to sell and issue “groupon” gift certificates  
11 with expiration dates, which is plainly prohibited under §1693l-1(a)(2)(B) and §1693l-1(c)(1).

12 51. As a direct and proximate result of Defendants’ unlawful acts and conduct, Plaintiff  
13 and Class members were deprived of the use of their money that was charged and collected by  
14 Defendants through the sale of “groupon” gift certificates with illegal expiration dates.

15 52. Pursuant to 15 U.S.C. § 1693m, Plaintiff, on behalf of himself and the Class, seeks a  
16 Court order for actual and statutory damages to be determined by the court, injunctive relief, as well  
17 as reasonable attorneys’ fees and the cost of this action.

18 **COUNT II**

19 **Violations of California Business & Professions Code §17200 *et seq.*,**  
20 **on Behalf of Plaintiff and Class Members Who Reside in California**  
**Against All Defendants**

21 53. Plaintiff repeats and re-alleges each and every allegation contained above as if set  
22 forth herein.

23 54. Section 17200 of the California Business & Professions Code (“Unfair Competition  
24 Law” or “UCL”) prohibits any “unlawful,” “unfair” and “fraudulent” business practice.

25 55. Section 17200 specifically prohibits any “*unlawful* . . . business act or practice.”  
26 Defendants have violated §17200’s prohibition against engaging in an unlawful act or practice by,  
27 *inter alia*, selling and issuing and/or agreeing to sell and issue “groupon” gift certificates that feature  
28 and are subject to expiration dates that are prohibited under both federal and California state laws.

1           56. Defendants’ ongoing sale and issuance of gift certificates with expiration dates  
2 violates the CARD Act and EFTA, 15 U.S.C. §1693 *et seq.*, as discussed above.

3           57. Defendants’ conduct also violates California’s gift certificate laws, Cal. Civ. Code  
4 §1749.5, and the CLRA, §1750 *et seq.*, as discussed below. Plaintiff and Class members reserve  
5 their right to allege other violations of law which constitute other unlawful business acts or practices,  
6 as further investigation and discovery warrants. Such conduct is ongoing and continues to this date.

7           58. Section 17200 also prohibits any “*unfair . . . business act or practice.*” As described  
8 in the preceding paragraphs, Defendants engaged in the unfair business practice of selling and  
9 issuing “groupon” gift certificates with illegal and deceptive expiration dates.

10           59. Groupon, with the approval and agreement of its retail business partners, including  
11 Nordstrom, imposed other unfair conditions on its “groupon” gift certificates, including forcing  
12 consumers to redeem the gift certificates in the course of a single transaction and not providing for  
13 the exchange of any unused portion of the gift certificates for their cash value. Defendants also  
14 unfairly limited consumers from using more than one “groupon” gift certificate during each visit to  
15 the retail business offering the particular product or service.

16           60. Defendants’ business practices, as detailed above, are unethical, oppressive and  
17 unscrupulous, and they violate fundamental policies of this State. Further, any justifications for  
18 Defendants’ wrongful conduct are outweighed by the adverse effects of such conduct. Thus,  
19 Defendants engaged in unfair business practices prohibited by California Business & Professions  
20 Code §17200 *et seq.*

21           61. Section 17200 also prohibits any “*fraudulent business act or practice.*” Defendants  
22 violated this prong of the UCL by disseminating and/or agreeing to disseminate, through Groupon’s  
23 website and other promotional channels, misleading and partial statements about “groupon” gift  
24 certificates that have a tendency to mislead the public. Further, Defendants violated this prong of the  
25 UCL by omitting material information about “groupon” gift certificates with the intent to induce  
26 reliance by consumers to purchase such gift certificates. Defendants’ claims, nondisclosures and  
27 misleading statements concerning “groupon” gift certificates, as more fully set forth above, were  
28

1 false, misleading and/or likely to deceive the consuming public within the meaning of California  
2 Business and Professions Code §17200.

3 62. Section 17200 also prohibits any “unfair, deceptive, untrue or misleading  
4 advertising.” For the reasons set forth above, Defendants engaged in unfair, deceptive, untrue and  
5 misleading advertising in violation of California Business & Professions Code §17200.

6 63. Defendants’ conduct caused and continues to cause substantial injury to Plaintiff and  
7 other Class members. Plaintiff has suffered injury in fact and lost money as a result of Defendants’  
8 unfair conduct.

9 64. Additionally, pursuant to California Business & Professions Code §17203, Plaintiff  
10 seeks an order requiring Defendants to immediately cease such acts of unlawful, unfair and  
11 fraudulent business practices and requiring Defendants to return the full amount of money  
12 improperly collected to all those who have paid them.

13 **COUNT III**

14 **False and Misleading Advertising in Violation of California Business**  
15 **& Professions Code §17500 *et seq.*, on Behalf of Plaintiff and**  
16 **Class Members Who Reside in California Against All Defendants**

17 65. Plaintiff repeats and re-alleges each and every allegation contained above as if set  
18 forth herein.

19 66. California Business & Professions Code §17500 *et seq.* prohibits various deceptive  
20 practices in connection with the dissemination in any manner of representations which are likely to  
21 deceive members of the public to purchase products and services such as the “groupon” gift  
22 certificates offered by Defendants.

23 67. Defendants’ acts and practices as described herein have deceived and/or are likely to  
24 deceive Plaintiff and Class members. Defendants use Groupon’s website and targeted “Daily Deal”  
25 promotions, along with other social media, such as Facebook and Twitter, to extensively market and  
26 advertise the gift certificates with misleading and illegal expiration dates and other deceptive terms  
27 to consumers.

28 68. By their actions, Defendants have been and are disseminating uniform advertising  
concerning “groupon” gift certificates, which by its nature is unfair, deceptive, untrue, or misleading

1 within the meaning of California Business & Professions Code §17500 *et seq.* Such advertisements  
2 are likely to deceive, and continue to deceive, the consuming public for the reasons detailed above.

3 69. Defendants intended Plaintiff and Class members to rely upon the advertisements and  
4 numerous material misrepresentations as set forth more fully elsewhere in the Complaint. In fact,  
5 Plaintiff and Class members relied upon the advertisements and misrepresentations to their  
6 detriment.

7 70. The above described false, misleading, deceptive advertising Defendants  
8 disseminated continues to have a likelihood to deceive in that Defendants have failed to disclose the  
9 true and actual limitations of their gift certificates. Defendants have failed to instigate a public  
10 information campaign to alert consumers of these limitations, which continues to create a misleading  
11 perception of the efficacy of their gift certificates.

#### 12 **COUNT IV**

#### 13 **Violations of the Consumer Legal Remedies Act, California Civil Code** 14 **§1750 *et seq.*, on Behalf of Plaintiff and Class Members Who Reside in** **California Against All Defendants**

15 71. Plaintiff repeats and re-alleges each and every allegation contained above as if set  
16 forth herein.

17 72. The California Consumers Legal Remedies Act, Cal. Civ. Code §1750 *et seq.*  
18 provides protection for California consumers against unfair, deceptive and unlawful practices, and  
19 unconscionable commercial practices in connection with the sale of any goods or services.

20 73. Plaintiff and the Class are “consumers” as defined by Cal. Civ. Code §1761(d). The  
21 “groupon” gift certificates sold and issued by Groupon, Nordstrom and members of the Defendant  
22 Retail Class constitute “goods” and “services” as defined by Cal. Civ. Code §1761(a) and (b).

23 74. Defendants’ ongoing placement of illegal expiration dates and imposition of other  
24 deceptive sales terms on “groupon” gift certificates violate the following subsections of Cal. Civ.  
25 Code §1770(a) in these respects:

- 26 (5) Defendants’ acts and practices constitute misrepresentations that  
27 “groupon” gift certificates have characteristics, benefits or uses which  
28 they do not have;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- (7) Defendants misrepresented that “groupon” gift certificates are of a particular standard, quality and/or grade, when they are of another;
- (9) Defendants’ acts and practices constitute the advertisement of goods, without the intent to sell them as advertised;
- (14) Defendants’ acts and practices fail to represent that the transaction involving “groupon” gift certificates confers or involves obligations that are prohibited by law, particularly the imposition of illegal expiration dates and other onerous sales terms;
- (16) Defendants’ acts and practices constitute representations that “groupon” gift certificates have been supplied in accordance with previous representations when they have not; and
- (19) Defendants inserted unconscionable provisions in the contract for the purchase of gift certificates, specifically illegal expiration dates and other onerous, one-sided restrictions as to the gift certificates’ use and redemption.

75. By reason of the foregoing, Plaintiff and the Class haven been irreparably harmed, entitling them to injunctive relief, disgorgement and restitution.

76. Pursuant to §1782 of the CLRA, Plaintiff notified Defendants in writing of the particular violations of §1770 of the CLRA and demanded Defendants rectify the actions described above by providing complete monetary relief, agreeing to be bound by their legal obligations and to give notice to all affected customers of their intent to do so. Plaintiff sent this notice by certified mail, return receipt requested, to Defendants’ principal place of business.

77. If Defendants fail to adequately respond to Plaintiff’s demand within 30 days of the letter pursuant to §1782 of the CLRA, Plaintiff will amend this claim to add additional claims for relief, including claims for compensatory and exemplary damages. Plaintiff is already entitled to the relief set forth above, along with costs, attorneys’ fees and any other relief which the Court deems proper.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**COUNT V**

**Unjust Enrichment on Behalf of Plaintiff and  
All Class Members Against All Defendants**

78. Plaintiff repeats and re-alleges each and every allegation contained above as if set forth herein.

79. Defendants have received, and continue to receive, a benefit at the expense of Plaintiff and the Class members.

80. Defendants knowingly and/or recklessly sold and issued or agreed to sell and issue “groupon” gift certificates with illegal expiration dates, as well with other deceptive terms and conditions.

81. As a direct and proximate result of Defendants’ unlawful acts and conduct, Plaintiff and Class members were deprived of the use of their money that was unlawfully charged and collected by Defendants, and are therefore entitled to reimbursement of any money unjustly paid to Defendants in connection with the sale of “groupon” gift certificates.

**PRAYER FOR RELIEF**

Plaintiff, individually, and on behalf of the Class, prays for judgment and relief against Defendants as follows:

A. For an order declaring this a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the proposed classes described herein and appointing Plaintiff to serve as class representative and Plaintiff’s counsel Robbins Geller Rudman & Dowd LLP as Lead Counsel for the Class;

B. For an order enjoining Defendants and the Defendant Retail Class from continuing to sell and issue “groupon” gift certificates and pursue the above policies, acts and practices related to the sale and issuance of such gift certificates;

C. For an order requiring Defendants and the Defendant Retail Class to fund a corrective advertising campaign in order to remedy their wrongful and illegal conduct;

D. For an order awarding restitution of the monies Defendants and the Defendant Retail Class wrongfully acquired by Defendants’ wrongful and illegal conduct;

1 E. For an order requiring disgorgement of monies wrongfully obtained as a result of  
2 Defendants and the Defendant Retail Class' wrongful and illegal conduct;

3 F. For compensatory and punitive damages, including actual and statutory damages,  
4 arising from Defendants' and the Defendant Retail Class' wrongful and illegal conduct;

5 G. For an award of reasonable attorneys' fees and all costs and expenses incurred in the  
6 course of prosecuting this action;

7 H. For pre-judgment and post-judgment interest at the legal rate; and

8 I. For such other and further relief as the Court deems just and proper.

9 **JURY DEMAND**

10 Plaintiff demands a trial by jury on all issues so triable.

11 DATED: January 21, 2011

ROBBINS GELLER RUDMAN  
& DOWD LLP  
JOHN J. STOIA, JR.  
RACHEL L. JENSEN  
PHONG L. TRAN

15 s/ Rachel L. Jensen  
RACHEL L. JENSEN

16 655 West Broadway, Suite 1900  
17 San Diego, CA 92101  
18 Telephone: 619/231-1058  
619/231-7423 (fax)

19 Attorneys for Plaintiff

20  
21  
22  
23  
24  
25  
26  
27  
28

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

### I. (a) PLAINTIFFS

ANTHONY FERREIRA, on Behalf of Himself and All Others Similarly Situated and the General Public

(b) County of Residence of First Listed Plaintiff San Diego County, CA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Rachel L. Jensen; Robbins Geller Rudman & Dowd LLP  
655 W. Broadway, #1900, San Diego, CA 92101; T: 619-231-1058

### DEFENDANTS

GROUPON, INC., NORDSTROM, INC., Individually and on Behalf of All Similarly Situated Entities, and DOES 1 through 100, inclusive  
County of Residence of First Listed Defendant Cooke County, IL

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**'11CV0132 DMS POR**

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	LABOR LAWS	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act  <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609  <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities: Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence  <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	

### V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

### VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

45 U.S.C. 1693

Brief description of cause:  
Complaint for violations of CARD Act, EFTA, UCL, FAL and CLRA

*28:1331 jrb*

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

### VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Not applicable.

DOCKET NUMBER Not applicable.

DATE

01/21/2011

SIGNATURE OF ATTORNEY OF RECORD

s/ Rachel L. Jensen

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.