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7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN FRANCISCO DIVISION**

Case No. **CV 11 1893**

10 SARAH MEHEL on behalf of herself and all )  
11 others similarly situated and the general )  
12 public, )

13 Plaintiffs, )

14 vs. )

15 Groupon INC., and DOES 1 through 100 )  
16 inclusive, )

17 Defendants. )

**CLASS ACTION COMPLAINT**  
(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.*;  
AND  
(4) UNJUST ENRICHMENT

**DEMAND FOR JURY TRIAL**

24 Plaintiff SARAH MEHEL (hereinafter "Plaintiff"), by and through her attorneys,  
25 brings this action on behalf of herself and all others similarly situated member of the public  
26 against Defendant Groupon, Inc., for compensatory damages and equitable, injunctive, and  
27 declaratory relief. Plaintiff hereby alleges, on information and belief, except for information

28 **CLASS ACTION COMPLAINT**

1 based on personal knowledge, which allegations are likely to have evidentiary support after  
2 further investigation and discovery, as follows:

3 **NATURE OF THE ACTION.**

4 1. Plaintiff brings this action on behalf of herself and other similarly-situated  
5 consumers nationwide who purchased gift certificates for products and services from  
6 Groupon, Inc. ("Groupon"). These gift certificates, referred to and marketed as "groupons,"  
7 are sold and issued with expiration dates that are deceptive and illegal under both federal and  
8 state laws. Groupon's website states that "Groupon negotiates huge discounts—usually 50-  
9 90% off—with popular businesses. We send the deals to thousands of subscribers in our free  
10 daily email, and we send the businesses a ton of new customers. That's the Groupon magic."  
11 In reality often times a Groupon purchaser pays more for the "daily deal" than if purchased  
12 directly from the vendor, this is what happened to Plaintiff Sarah Mehel she was billed 76  
13 dollars for a whale watching tour that normally sells for 69 dollars when she made her  
14 purchase in on July 28, 2009.

15 2. Groupon is an internet-based company that purports to offer discounted deals  
16 on a wide variety of products and services, including travel, excursions, restaurants and bars,  
17 salons and spas, clothing and other retail items, and dance classes and other instructional  
18 lessons, among other things. Groupon's business model is based on offering discounts to  
19 consumers en masse by directly partnering with retail businesses that provide the products or  
20 services. Groupon promises to increase the sales volume of its retail partners by sending out  
21 "Daily Deal" e-mails to its massive subscription base (comprised of tens of millions of  
22 consumers nationwide), highlighting and promoting the products and services of its retail  
23 partners. Once consumers agree to purchase a minimum, specified number of "groupon" gift  
24 certificates for a particular "Daily Deal," the "Deal" is officially triggered, and Groupon  
25 charges each consumer the advertised purchase amount. Groupon then sends a confirmatory  
26 e-mail to each purchasing consumer with a link to its website for downloading and printing  
27

1 the "groupon" gift certificate, which then may be redeemed with the retail business offering  
2 the product or service, within a limited period of time. Groupon partners with hundreds, if not  
3 thousands, of retail businesses around the country, including large, nationwide companies.  
4 Groupon and its retail partners share in the revenues from the sale of "groupon" gift  
5 certificates.

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

14 4. Groupon's systematic placement of expiration dates on its gift certificates is  
15 deceptive and detrimental to consumers. Groupon effectively creates a sense of urgency  
16 among consumers to quickly purchase "groupon" gift certificates by offering "Daily Deals"  
17 for a short amount of time, usually a 24-hour period. Consumers are rushed into buying the  
18 gift certificates and unwittingly become subject to the unconscionable sales conditions  
19 imposed by Groupon, including illegal expiration terms, which are relatively short, often just  
20 a few months.

21 5. Groupon and its retail partners bank on the fact that consumers often will not  
22 redeem "groupon" gift certificates before the limited expiration period - therefore, many  
23 consumers are left with nothing, despite already having paid for the particular service or  
24 product. Accordingly, Groupon and its retail partners reap a substantial windfall from the sale  
25 of gift certificates that are not redeemed before expiration. Plaintiff, like many unsuspecting  
26 consumers nationwide, fell victim to Groupon and its retail partners' deceptive and unlawful  
27 illegal conduct and purchased "groupon" gift certificates bearing an illegal expiration dates.

1 Plaintiff, on behalf of herself and the Class, therefore brings this class action against  
2  
3 Groupon, and Does I through 100, inclusive (collectively "Defendants") for equitable  
4 (injunctive and/or declaratory) relief based on the violations of the CARD Act and the EFTA,  
5 15 U.S.C. § 1693 *et seq.*; California's Unfair Competition Law, Cal. Bus. & Prof. Code §  
6 17200 *et seq.* ("UCL" or "17200"); the False Advertising Law, Cal. Bus & Prof. Code §17500  
7 *et seq.* ("FAL" or "17500"); Consumer Legal Remedies Act, Cal. Civ. Code §1750 *et seq.*  
8 ("CLRA"); and unjust enrichment. Plaintiff seeks damages and equitable relief on behalf of  
9 herself and the Class, which relief includes, but is not limited to, full refunds for Plaintiff and  
10 Class members, compensatory and punitive damages, an order enjoining Groupon from  
11 selling and issuing "groupon" gift certificates with expiration dates and other onerous terms,  
12 costs and expenses, as well as Plaintiff's reasonable attorneys' fees and expert fees, and any  
13 additional relief that this Court determines to be necessary or appropriate to provide complete  
14 relief to Plaintiff and the Class.

15 **INTRADISTRICT ASSIGNMENT.**

16 6. A substantial part of the events or omissions which give rise to the claims in  
17 this action occurred in the county of San Francisco, and as such this action is properly  
18 assigned to the San Francisco division of this Court.

19 **JURISDICTION AND VENUE.**

20 7. Jurisdiction of this Court is founded under the Class Action Fairness Act of  
21 2005, as the amount in controversy is over \$5 million and pursuant to 28 USC Sections  
22 1332(2)(c), 1453, 1711-1715.

23 8. Venue as to the Defendants is proper in this judicial district pursuant to the  
24 provisions of the Class Action Fairness Act. Each Defendant maintains an office, transacts  
25 business, has an agent, or is found in the County of San Francisco. Each Defendant is within  
26 the jurisdiction of the Court for purposes of service of process, and many of the unfair,  
27 unlawful and/or fraudulent acts committed and pursuant to the actions hereinafter alleged had

1 a direct effect on purchasers of toys within the State of California and, more particularly,  
2 within the County of San Francisco. The trade and commerce hereinafter described is carried  
3 on, in part, within the State of California and, more particularly within the County of San  
4 Francisco.

5 9. The damages available in this case exceeds \$5 million dollars and thus this  
6 action arises under the Class Action Fairness Act.

7 10. At all times relevant to this matter Plaintiff SARAH MEHEL, resided and  
8 continues to reside in San Francisco, California. During the relevant time period, Ms. MEHEL  
9 received offers for discounted products and services from Groupon and purchased "groupon"  
10 gift certificates based on representations and claims made by Groupon. The "groupon" gift  
11 certificates purchased by Ms. MEHEL contained illegal expiration dates and though  
12 represented as a discount and a deal, in fact the gift certificates proved more costly than  
13 simply making a direct purchase.

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

21 12. The true names and capacities of Defendants sued herein as Does I through  
22 100, inclusive, are presently unknown to Plaintiff who therefore sues these Defendants by  
23 fictitious names. Plaintiff will amend this Complaint to show their true names and capacities  
24 when they have been ascertained. Each of the Doe Defendants is responsible in some manner  
25 for the conduct alleged herein.

1 FACTS.

2 13. Groupon's Scheme to Sell and Issue Gift Certificates with illegal and  
3 unconscionable expiration dates was launched in November 2008, Groupon is a "social  
4 promotions" website that promises consumers discounted deals on various products and  
5 services, purportedly through the power of "collective buying." To take advantage of the  
6 deals offered by Groupon, consumers must sign up and provide their e-mail address, their  
7 hometwon and other information to Groupon.

8 14. Over 50 million people worldwide reportedly have signed up to receive offers  
9 from Groupon. Every weekday, Groupon sends subscribers in each of the cities it operates a  
10 "Daily Deal" e-mail, promoting the particular products or services of the retail businesses  
11 with which it has partnered. To trigger the "Daily Deal," consumers must purchase a  
12 specified number of "groupon" gift certificates for the particular product or service offered  
13 that day. Groupon sends targeted "Daily Deal" e-mails to close to 90 cities throughout the  
14 United States.

15 15. To arouse consumer interest and create the urgency to buy "groupon" gift  
16 certificates, Groupon offers the "Daily Deal" for a limited amount of time, usually a 24-hour  
17 period. This creates a "shopping frenzy" among consumers who feel pressured to purchase  
18 "groupon" gift certificates as quickly as possible. Consumers purchase "groupon" gift  
19 certificates directly through Groupon's website, using their credit or debit cards. Groupon also  
20 uses various forms of electronic social media, such as Facebook and Twitter, to promote and  
21 stoke demand for its "Daily Deals," creating additional pressure among consumers to buy  
22 "groupon" gift certificates before time runs out.

23 16. Once Groupon sells the specified number of "groupon" gift certificates for a  
24 particular "Daily Deal," the "Deal" is officially on, and consumers are charged for the  
25 purchase. Groupon subsequently sends a confirmatory e-mail to purchasers with a link to its  
26 website, through which purchasers may download and print their "groupon" gift certificates.  
27 Consumers may also purchase and download "groupon" gift certificates directly to their

1 mobile phones using an application available on Groupon's website. "Groupon" gift  
2 certificates thereafter may be directly redeemed with the retail businesses offering the  
3 products and services. Groupon admits on its website that the "groupons" it sells and issues to  
4 consumers are in fact gift certificates.

5           17. Groupon imposes illegal expiration dates, among other onerous conditions, on  
6 each "groupon" gift certificate it sells and issues, to the detriment of consumers. The  
7 expiration periods on "groupon" gift certificates are frequently just a few months from the  
8 date of purchase. Ironically, Groupon knows that after it has driven consumers to purchase  
9 "groupon" gift certificates as quickly as possible, many consumers ultimately will be unable  
10 to redeem the gift certificates before the expiration period. Accordingly, consumers often  
11 cannot take advantage and use the product or service for which they paid before the expiration  
12 period imposed by Groupon - leaving a substantial windfall for Groupon and its retail  
13 partners.

14           18. In addition to imposing illegal expiration periods, Groupons are not in fact  
15 deals at all, insofar as they fail to provide any real discount to consumers. For example,  
16 Groupon partnered with the nationwide floral retailer *FTD* Group, Inc., ("FTD") and offered a  
17 *FTD* "Daily Deal" in early February to take advantage of Valentine's Day holiday shopping.  
18 Through this "Daily Deal," Groupon claimed that consumers could purchase \$40 worth of  
19 flowers and gifts from *FTD* for \$20. It was later revealed, however, that consumers could  
20 purchase the same flowers and gifts directly through *FTD*'s own website at a significantly  
21 lower price than the \$20 price offered through Groupon. This "Daily Deal" was a total sham.

22           19. Likewise, Plaintiff Mehel paid more for her whale watching adventure than she  
23 would have had she bought the tickets directly from the vendor. She paid over seventy dollars  
24 to Groupon when she could have paid the vendor almost ten dollars less for the exact same  
25 tour. Moreover, she relied upon Groupon's representations in making her purchase regarding  
26 deep discounts on its website stating "Groupon negotiates huge discounts—usually 50-90%  
27 off—with popular businesses. We send the deals to thousands of subscribers in our free daily

1 email, and we send the businesses a ton of new customers. That's the Groupon magic."  
2 Plaintiff Mehel's gift certificate ultimately expired without use.

3           20. Groupon focuses on two markets - the consumers who wish to obtain the  
4 advertised products or services by purchasing "groupon" gift certificates, and the retail  
5 businesses who partner with Groupon to promote their products and services. These retail  
6 businesses are willing to partner with Groupon and offer their products and services at a  
7 discount because Groupon promises to promote their products and services to its huge  
8 subscription base and guarantees them a specified volume of business. In fact, Groupon  
9 promises its retail partners that its "Daily Deal" promotion will bring them new customers  
10 "overnight."

11           21. Groupon's business model, particularly its ability to establish partnerships with  
12 retail businesses nationwide, depends in large part on its systematic use of illegal expiration  
13 dates. Groupon knows that its retail partners are not willing to offer their products and  
14 services at a discount to consumers through the sale of "groupon" gift certificates, without an  
15 agreement to limit the time period for which consumers can redeem the gift certificates.  
16 Accordingly, Groupon and its retail partners continue to flaunt the law by imposing illegal  
17 expiration dates on the "groupon" gift certificates sold to consumers.

18           22. Groupon attempts to circumvent federal and state gift certificate laws by  
19 inserting a disclaimer, titled "Legal Stuff We Have To Say," which is buried at the bottom of  
20 "groupon" gift certificates in tiny, barely legible font that is readily overlooked by consumers.  
21 Importantly, the disclaimer is found only on the "groupon" gift certificate itself, which must  
22 be downloaded and printed by the consumer. Thus, consumers who do not download and print  
23 their "groupon" gift certificates will never have access to, nor knowledge of, the disclaimer.  
24 The electronic mail confirmation received by Plaintiff Mehel contains no legal disclaimers  
25 regarding expiration, terms and conditions and any other statement regarding regulatory  
26 compliance. Moreover, the disclaimer does not excuse nor justify Groupon's use of illegal  
27



1 expiration periods. As set forth below, Groupon's imposition of expiration dates on "groupon"  
2 gift certificates constitutes per se violations of federal and state laws, for which there is no  
3 applicable exception.

4 23. In any event, once "groupon" gift certificates reach their illegal expiration  
5 periods, Groupon refuses to honor the bargain originally struck between the parties.  
6 Groupon reaps massive profits from this business model. Groupon typically takes for  
7 itself half (50%) on the sale of each "groupon" gift certificate. Groupon reportedly made over  
8 half a billion dollars from "groupon" sales in 2010 alone. Groupon's retail partners also profit  
9 from the influx of new customers and bolstered sales that result from the sale of "groupon"  
10 gift certificates. But again, Groupon and its retail partners' undue profits are based in large  
11 part on their use of illegal expiration periods on the gift certificates sold to consumers. No  
12 escheat notifications are provided in the gift certificate or email confirmations.

13 **CLASS ALLEGATIONS.**

14 24. Plaintiff brings this action on behalf of herself and all those similarly situated  
15 pursuant to Federal Rules of Civil Procedure 23(a) and 23(b). Plaintiff seeks certification of  
16 the following class: Plaintiff Class (the "Class" and "Class members"):

17  
18 All persons who purchased or acquired a "groupon" gift certificate from  
19 Groupon with an expiration date of less than five years from the date of purchase.  
20 Specifically excluded from the Class are Groupon officers, directors or  
21 employees of Groupon, any entity in which Groupon has a controlling interest and  
22 any of the affiliates, legal representatives, heirs, or assigns of Groupon. Plaintiff  
23 reserves her right to amend the Class definition if discovery and further investigation  
24 reveal that the Class should be expanded or otherwise modified.

25 1. *Numerosity.* The Plaintiff Class comprises millions of consumers throughout  
26 California and the United States. The Class is so numerous that joinder of all members of the  
27 Classes is impracticable.

28 2. *Existence and Predominance of Common Questions of Law and Fact.* Common  
questions of law and fact exist as to all members of the Class and predominate over any  
questions

1 affecting only individual Class members. These common legal and factual questions include,  
2 but are not limited to, the following:

3 (a) Whether Groupon sold and issued "groupon" gift certificates subject to expiration dates;  
4 Whether Groupon's imposition of expiration dates on "groupon" gift  
5 certificates violates federal and/or California state laws;  
6 Whether Groupon engaged in deceptive and unfair business and trade  
7 practices related to the imposition of expiration dates on "groupon" gift  
8 certificates and other onerous terms and conditions;  
9 Whether Plaintiff and Class members are entitled to declaratory, injunctive  
10 and/or equitable relief; and Whether Plaintiff and Class members are entitled to compensatory  
11 damages, including actual, statutory and punitive damages plus interest thereon, and if  
12 so, what is the nature of such relief?

13 3. *Typicality.* Plaintiff's claims are typical of the claims of the members of the Class  
14 because she purchased the "groupon" gift certificate from Groupon in a typical retail  
15 consumer process and the "groupon" gift certificate had an expiration date. Thus, Plaintiff and  
16 Class members sustained the same damages arising out of Groupon's common course of  
17 conduct in violation of law as complained of herein. The damages of each Class member was  
18 caused directly by Groupon's wrongful conduct in violation of law as alleged herein.

19 4. *Adequacy of Representation.* Plaintiff will fairly and adequately protect the interests  
20 of the members of the Class because it is in her best interest to prosecute the claims alleged  
21 herein to obtain full compensation due to her for the unfair and illegal conduct of which she  
22 complains. Plaintiff has retained highly competent counsel and experienced class action  
23 attorneys to represent her interests and that of the Class. Plaintiff and her counsel have the  
24 necessary financial resources to adequately and vigorously litigate this class action. Plaintiff  
25 has no adverse or antagonistic interests to those of the Class. Plaintiff is willing and prepared  
26 to serve the Court and the Class members in a representative capacity with all of the  
27

1 obligations and duties material thereto and is determined to diligently discharge those duties  
2 by vigorously seeking the maximum possible recovery for Class members.

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

16 25. Plaintiff is unaware of any difficulties that are likely to be encountered in the  
17 management of this Class Action Complaint that would preclude its maintenance as a class  
18 action. Plaintiff seeks actual and punitive damages, to the extent available. Damages may be  
19 calculated from the sales records maintained by and in the possession of Groupon, so that the  
20 cost of administering a recovery for the Class can be minimized. Importantly, the precise  
21 amount of damages available to Plaintiff and other members of the Class is not a barrier to  
22 class certification. Plaintiff also seeks equitable and injunctive relief on behalf of all Class  
23 members on grounds generally applicable to the entire Class. Unless a class is certified,  
24 Groupon will retain monies received as a result of their conduct that were taken from Plaintiff  
25 and proposed Class members. Unless a class-wide injunction is issued, Groupon will continue  
26 to commit the violations

1 alleged herein, and the members of the Class will continue to be misled and denied their  
2 rights.

3 **COUNT I.**

4 **Violations of the Credit Card Accountability Responsibility and Disclosure**  
5 **Act and Electronic Funds Transfer Act, 15 U.S.C. §1693 *et seq.*, on**  
6 **Behalf of Plaintiff and All Class Members**

7 26. Plaintiff repeats and re-alleges each and every allegation contained  
8 above as if set forth herein. The CARD Act, prohibits the sale or issuance of gift certificates  
9 that feature and are subject to expiration dates. Groupon sold and issued and/or agreed to sell  
10 and issue "groupons," which are "gift certificates" as defined under 15 U.S.C. § 16931.

11 "Groupons" constitute promises that are:

12 (a) redeemable at a single merchant or an affiliated group of merchants; (b) issued in a  
13 specified amount that may not be increased or reloaded; (c) purchased on a prepaid basis in  
14 exchange for payment; and (d) honored upon presentation by such single merchant or  
15 affiliated group of merchants for goods or services. Indeed, Groupon admits on its website  
16 that the "groupons" it sells and issues to consumers are gift certificates.

17 27. At all relevant times, "groupon" gift certificates were sold and issued to  
18 consumers through electronic fund transfer systems established, facilitated and monitored by  
19 Groupon. "Groupon" gift certificates are not exclusively issued in paper form, as Groupon  
20 provides an e-mail link to consumers to download and print such gift certificates. Moreover,  
21 consumers may download "groupon" gift certificates to their mobile phones through an  
22 application available on Groupon's website.

23 28. "Groupon" gift certificates are marketed and sold to the general public and are  
24 not issued as part of any loyalty, award, or promotional program. Groupon violated the CARD  
25 Act and EFTA by selling and issuing and/or agreeing to sell and issue "groupon" gift  
26 certificates with expiration dates, which is plainly prohibited under §16931.

27 29. As a direct and proximate result of Groupon's unlawful acts and conduct,  
28 Plaintiff and Class members were deprived of the use of their money that was charged and

1 collected by Groupon through the sale of "groupon" gift certificates with illegal expiration  
2 dates. Pursuant to 15 U.S.C. § 1693m, Plaintiff, on behalf of herself and the Class, seeks a  
3 Court order for actual and statutory damages to be determined by the court, injunctive relief,  
4 as well as reasonable attorneys' fees and the cost of this action.

5  
6 **COUNT II.**

7 **Violations of California Business & Professions Code §17200 *et seq.*, on  
8 *Behalf of Plaintiff and Class Members Who Reside in California***

9 30. Plaintiff repeats and re-alleges each and every allegation contained above as if  
10 set forth herein. Section 17200 of the California Business & Professions Code ("Unfair  
11 Competition Law" or "UCL") prohibits any "unlawful," "unfair" and "fraudulent" business  
12 practice. Section 17200 specifically prohibits any "*unlawful ... business act or practice.*"

13 31. Groupon has violated § 17200's prohibition against engaging in an unlawful  
14 act or practice by, *inter alia*, selling and issuing and/or agreeing to sell and issue "groupon"  
15 gift certificates that feature and are subject to expiration dates that are prohibited under both  
16 federal and California state laws. Groupon's ongoing sale and issuance of gift certificates with  
17 expiration dates is unlawful because such conduct violates the CARD Act and EFTA, 15  
18 U.S.C. §1693 *et seq.*, as discussed above. Groupon's conduct also violates California's gift  
19 certificate laws, Cal. Civ. Code § 1749.5, which specifically forbids any person or entity from  
20 selling gift certificates with expiration  
21 dates.

22 32. Further, based on information and belief, Groupon's conduct violates  
23 California's gift certificate laws because Groupon refuses to allow "groupon" gift certificates  
24 with cash value of less than \$10 (ten dollars) to be redeemed for cash, contrary to Cal. Civ.  
25 Code §1749.5(b)(2). Groupon's sale and issuance of "groupon" gift certificates also violates  
26 the FAL, California Business & Professions Code § 17500, and the CLRA, California Civil  
27 Code § 1750 *et seq.*, as discussed below. Plaintiff and Class members reserve their right to  
28 allege other violations of law which constitute other unlawful business acts or practices, as

1 further investigation and discovery warrants. Such conduct is ongoing and continues to this  
2 date.

3           33. Section 17200 also prohibits any "*unfair . . . business act or practice.*" As  
4 described in the preceding paragraphs, Groupon engaged in the unfair business practice of  
5 selling and issuing "groupon" gift certificates with illegal and deceptive expiration dates.  
6 Groupon imposed other unfair conditions on its "groupon" gift certificates, including  
7 forcing consumers to redeem the gift certificates in the course of a single transaction and not  
8 providing for the exchange of any unused portion of the gift certificates for their cash value.  
9 Groupon also unfairly limited consumers from using more than one "groupon" gift certificate  
10 during each visit to the retail business offering the particular product or service. Groupon's  
11 business practices, as detailed above, are unethical, oppressive and unscrupulous, and they  
12 violate fundamental policies of this State. Further, any justifications for Groupon' s wrongful  
13 conduct are outweighed by the adverse effects of such conduct. Thus, Groupon engaged in  
14 unfair business practices prohibited by California Business & Professions Code § 17200 *et*  
15 *seq.*

16           34. Section 17200 also prohibits any "*fraudulent business act or practice.*"  
17 Groupon violated this prong of the UCL by disseminating and/or agreeing to disseminate,  
18 through Groupon's website and other promotional channels, misleading and partial statements  
19 about "groupon" gift certificates that have a tendency to mislead the public. Further, Groupon  
20 violated this prong of the UCL by omitting material information about "groupon" gift  
21 certificates. For instance, Groupon misrepresented to consumers that the expiration dates  
22 placed on "groupon" gift certificates complied with both federal and state law despite being  
23 contrary to public policy. Groupon's claims, nondisclosures and misleading statements  
24 concerning "groupon" gift certificates, as more fully set forth above, were false, misleading  
25 and/or likely to deceive the consuming public within the meaning of California Business and  
26 Professions Code §17200.

27           35. Section 17200 also prohibits any "unfair, deceptive, untrue or misleading

1 advertising." For the reasons set forth above, Groupon engaged in unfair, deceptive, untrue  
2 and misleading advertising in violation of California Business & Professions Code § 17200.  
3 Groupon's conduct caused and continues to cause substantial injury to Plaintiff and other  
4 Class members. Plaintiff has suffered injury in fact and lost money as a result of Groupon' s  
5 unfair conduct. Additionally, pursuant to California Business & Professions Code § 17203,  
6 Plaintiff seeks an order requiring Groupon to immediately cease such acts of unlawful, unfair  
7 and fraudulent business practices and requiring Groupon to return the full amount of money  
8 improperly collected to all those who have paid them.

9  
10 **COUNT III.**  
11 **False and Misleading Advertising in Violation of California**  
12 **Business & Professions Code §17500 *et seq.*, on Behalf of Plaintiff**  
13 **and Class Members Who Reside in California**

14 36. Plaintiff repeats and re-alleges each and every allegation contained above as if  
15 set forth herein. California Business & Professions Code § 17500 *et seq.* prohibits various  
16 deceptive practices in connection with the dissemination in any manner of representations  
17 which are likely to deceive members of the public to purchase products and services such as  
18 the "groupon" gift certificates offered by Groupon.

19 37. Groupon's acts and practices as described herein have deceived and/or are  
20 likely to deceive Plaintiff and Class members. Groupon uses Groupon's website and targeted  
21 "Daily Deal" promotions, along with other forms of social media, such as Facebook and  
22 Twitter, to extensively market and advertise the gift certificates with misleading and illegal  
23 expiration dates and other deceptive terms to consumers.

24 38. By their actions, Groupon has been and is disseminating uniform advertising  
25 concerning "groupon" gift certificates, which by its nature is unfair, deceptive, untrue, or  
26 misleading within the meaning of California Business & Professions Code §17500 *et seq.*  
27 Such advertisements are likely to deceive, and continue to deceive, the consuming public for  
28 the reasons detailed above. Groupon intended Plaintiff and Class members to rely upon the

1 advertisements and numerous material misrepresentations as set forth more fully elsewhere in  
2 the Complaint. In fact, Plaintiff and Class members relied upon the advertisements and  
3 misrepresentations to their detriment when they purchased items in fact more expensive than  
4 if they made a direct vendor purchase. The above-described false, misleading, deceptive  
5 advertising Groupon disseminated continues to have a likelihood to deceive in that Groupon  
6 has failed to disclose the true and actual limitations of their gift certificates. Groupon has  
7 failed to instigate a public information campaign to alert consumers of these limitations,  
8 which continues to create a misleading perception of the efficacy of their gift certificates.

9  
10 **COUNT IV.**

11 **Unjust Enrichment on Behalf of Plaintiff and All Class Members**

12 39. Plaintiff repeats and re-alleges each and every allegation contained above as if  
13 set forth herein. Groupon has received, and continues to receive, a benefit at the expense of  
14 Plaintiff and the Class members.

15 40. Groupon knowingly and/or recklessly sold and issued or agreed to se]] and  
16 issue "groupon" gift certificates with illegal expiration dates, as well with other deceptive  
17 terms and conditions.

18 41. As a direct and proximate result of Groupon's unlawful acts and conduct,  
19 Plaintiff and Class members were deprived of the use of their money that was unlawfully  
20 charged and collected by Groupon, and are therefore entitled to reimbursement of any money  
21 unjustly paid to Groupon in connection with the sale of "groupon" gift certificates.

22 **PRAYER FOR RELIEF.**

23 42. Plaintiff, individually, and on behalf of the Class, prays for judgment and relief  
24 against Groupon as follows:

25 For an order declaring the above-mentioned case as a class action pursuant to Rule 23  
26 of the Federal Rules of Civil Procedure on behalf of the proposed classes described herein and  
27



1 appointing Plaintiff to serve as class representative and Plaintiffs counsel as Lead Counsel for  
2 the Class;

3 For an order enjoining Groupon from continuing to sell and issue "groupon" gift  
4 certificates and pursue the above policies, acts and practices related to the sale and issuance of  
5 such gift certificates;

6 For an order requiring Groupon to fund a corrective advertising campaign in order to  
7 remedy their wrongful and illegal conduct;

8 For an order awarding restitution of the monies Groupon wrongfully acquired by their  
9 wrongful and illegal conduct;

10 For an order requiring disgorgement of monies wrongfully obtained as a result of  
11 Groupon's wrongful and illegal conduct;

12 For compensatory and punitive damages; including actual and statutory damages,  
13 arising from Groupon's wrongful and illegal conduct;

14 For an award of reasonable attorneys' fees and all costs and expenses incurred in the  
15 course of prosecuting this action;

16 For pre-judgment and post-judgment interest at the legal rate; and  
17 For such other and further relief as the Court deems just and proper.

18 **JURY TRIAL DEMAND.**

19 Plaintiff hereby demands a trial by jury for all issues so triable.

20 Dated: April 19, 2011

Respectfully submitted,

21  
22 By: /s/ Julio J. Ramos  
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