



May 24 2011
03:33PM

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ORIGINAL FILED
MAY 24 2011
LOS ANGELES
SUPERIOR COURT

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25 *Attorneys for Defendant ORBITZ, LLC*

26 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
27 **FOR THE COUNTY OF LOS ANGELES**

28 NICOLE MONTGOMERY, Individually and) **Case No. BC 335441**
on Behalf of All Others Similarly Situated,)

Plaintiff,

vs.

ORBITZ, LLC and DOES 1-100,

Defendants.

) **[PROPOSED] ORDER PRELIMINARILY**
) **APPROVING CLASS ACTION SETTLEMENT**
) **AND DIRECTING NOTICE TO CLASS**
)
)
) Assigned to the Honorable Carl J. West
) Department 322
) Action filed: June 22, 2005
) **CLASS ACTION**

) *April 26/2011 @ 3:30 pm.*

1 WHEREAS, this Court has presided over all proceedings in the above-captioned action (the
2 “Litigation”) and has reviewed all of the pleadings, records and papers on file in the Litigation;

3 WHEREAS, the parties have filed a Settlement Agreement (the “Settlement Agreement”), a
4 copy of which is attached hereto as Exhibit A;

5 WHEREAS, the Court has reviewed the Settlement Agreement together with the Exhibits
6 thereto and heard the attorneys for the parties with respect to the proposed Settlement of this action;

7 WHEREAS, the Court has determined that inquiry should be made as to the fairness and
8 adequacy of this proposed Settlement;

9 WHEREAS, good cause appearing for granting preliminary approval to the Settlement;

10 **NOW, THEREFORE, THE COURT HEREBY FINDS AND ORDERS** as follows:

11 1. The Court previously certified a Class in this action consisting of four subclasses, as
12 follows:

- 13 a. California and non-California residents who (i) during the Starwood Class Period
14 booked a room or other lodging accommodation through Orbitz at a Starwood Brand
15 hotel, motel, resort or other lodging place located in the State of California; (ii) were
16 required to pay Mandatory Hotel Fees/Taxes in addition to the price they contracted
17 to pay Orbitz; and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at
18 the time they reserved and paid for their accommodation through Orbitz and/or were
19 misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to
20 information they received at the time of reservation from Orbitz;
- 21 b. California residents who: (i) during the Starwood Class Period booked a room or
22 other lodging accommodation through Orbitz at a Starwood Brand hotel, motel, resort
23 or other lodging place located outside of the State of California; (ii) were required to
24 pay Mandatory Hotel Fees/Taxes in addition to the price they contracted to pay
25 Orbitz; and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at the time
26 they reserved and paid for their accommodation through Orbitz and/or were
27 misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to
28

1 information they received at the time of reservation from Orbitz;

- 2 c. California and non-California residents who (i) during the Marriott Class Period
3 booked a room or other lodging accommodation through Orbitz at a Marriott Brand
4 hotel, motel, resort or other lodging place located in the State of California; (ii) were
5 required to pay Mandatory Hotel Fees/Taxes in addition to the price they contracted
6 to pay Orbitz; and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at
7 the time they reserved and paid for their accommodation through Orbitz and/or were
8 misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to
9 information they received at the time of reservation from Orbitz;
- 10 d. California residents who: (i) during the Marriott Class Period booked a room or other
11 lodging accommodation through Orbitz at a Marriott Brand hotel, motel, resort or
12 other lodging place located outside of the State of California; (ii) were required to pay
13 Mandatory Hotel Fees/Taxes in addition to the price they contracted to pay Orbitz;
14 and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at the time they
15 reserved and paid for their accommodation through Orbitz and/or were misinformed
16 or misled about the amount of Mandatory Hotel Fees/Taxes due to information they
17 received at the time of reservation from Orbitz.

18 2. The Court hereby preliminarily approves the Settlement as within the range of
19 possible approval, subject to further consideration at the Fairness Hearing described below.

20 3. A hearing (the "Fairness Hearing") pursuant to California Code of Civil Procedure
21 section 382 is hereby scheduled to be held before the Court on September 16, 2011, at 9:00 a.m. for
22 the following purposes:

- 23 a. to determine whether this Action satisfies the applicable prerequisites for class action
24 treatment under California Code of Civil Procedure section 382 and the prerequisites
25 of due process;
- 26 b. to determine whether the proposed Settlement is fair, reasonable, and adequate, and
27 should be approved by the Court;

- 1 c. to determine whether the Final Judgment Order, as provided for by the Settlement
- 2 Agreement should be entered, dismissing the claims asserted by Plaintiffs and the
- 3 Settlement Class against defendant Orbitz LLC (“Defendant”), on the merits and with
- 4 prejudice, and to determine whether the release by the Class of the Released Class
- 5 Claims, as set forth in the Settlement Agreement, should be provided to the Orbitz
- 6 Releasees;
- 7 d. to determine whether the proposed plan for allocating the proceeds of the Settlement
- 8 is fair and reasonable, and should be approved by the Court;
- 9 e. to consider Plaintiffs’ applications for awards of attorneys’ fees, expenses and
- 10 compensatory awards to Plaintiffs; and
- 11 f. to rule upon such other matters as the Court may deem appropriate.

12 4. Plaintiffs shall file and serve all papers in support of the proposed Settlement, the
13 application for attorneys’ fees and expenses and the application for compensatory awards to
14 Plaintiffs on or before August 31, 2011.

15 5. The Court finds that providing notice of the proposed Settlement to Class Members
16 by emailing the Official Court Notice of Settlement, substantially in the form set forth as Exhibit C
17 to the Settlement Agreement (the “Settlement Notice”), to all Class Members previously identified
18 for purposes of notice of class certification, as set forth in paragraph 16 of the Settlement
19 Agreement, will provide the best notice practicable to the Class.

20 6. The Settlement Notice, together with a claim form substantially in the form set forth
21 in Exhibit D to the Settlement Agreement (the “Claim Form”) shall be emailed on or before June 10,
22 2011 to the email addresses of Class Members previously identified to Rosenthal & Company LLC
23 by Orbitz, in an e-mail message that: (a) contains in the body of the e-mail the text of the Settlement
24 Notice and Claim Form; (b) contains in the body of the e-mail an electronic link to the website
25 www.Kallawgroup.com/pending-actions/; and (c) contains the subject line “Court Ordered Notice –
26 Class Action Settlement.” Such emailing will be administered by Kalcheim Law Group, P.C. (the
27 “Administrator”) and any out-of-pocket expenses associated therewith shall be paid for out of the
28

1 Net Distribution Amount as specified in the Settlement Agreement. Class Counsel shall, at or before
2 the Settlement Fairness Hearing, file with the Court proof of e-mailing of the Settlement Notice.

3 7. The Settlement Notice shall be published on the webpage
4 www.Kallawgroup.com/pending-actions/ on or before June 10, 2011 as follows: (a) the Summary
5 Class Notice set forth at Exhibit B to the Settlement Agreement will appear on the webpage; (b) a
6 PDF copy of the Settlement Notice will be linked to the webpage; and (c) a PDF copy of this Order
7 will be linked to the webpage. After the Settlement Notice has been so published, the website
8 www.orbitzhotelfeelawsuit.com, which was used to notify Class Members of class certification,
9 shall be discontinued and visitors to that web address will be redirected to
10 www.Kallawgroup.com/pending-actions/. The Administrator shall, at or before the Settlement
11 Fairness Hearing, file with the Court proof of the publication of the above information.

12 8. In order to obtain a cash distribution pursuant to the terms of the Settlement
13 Agreement, Class Members must submit a completed Claim Form together with any supporting
14 documentation to the Administrator by mail postmarked no later than August 15, 2011.

15 9. The Court reserves the right to adjourn the date of the Fairness Hearing without any
16 further notice to Class Members. The Court also reserves the right to approve the Settlement with or
17 without modification and with or without further notice of any kind. The Court further reserves the
18 right to enter the Final Judgment Order approving the Stipulation and dismissing the Complaint on
19 the merits and with prejudice regardless of whether it has approved the proposed plan for allocating
20 the Settlement proceeds among Class Members, awarded attorneys' fees and expenses or approved
21 the Plaintiffs' request for compensatory awards.

22 10. Any Class Member who objects to final approval of the proposed Settlement may
23 appear at the Settlement Fairness Hearing in person or through counsel to show cause why the
24 proposed Settlement should not be approved as fair, adequate and reasonable as long as that Class
25 Member files a notice of intention to appear at the Fairness Hearing with the Court and serves a copy
26 of that notice upon counsel for the parties no later than August 11, 2011. Written objections to the
27 Settlement shall be filed in the Court and postmarked to counsel for each of the parties no later than
28

1 August 11, 2011. Attendance at the hearing is not necessary. However, Class Members wishing to
2 be heard orally in opposition to any provision of the Settlement, the request for attorneys' fees and
3 expenses or the compensatory award to Plaintiffs are required to indicate in their written objection
4 their intention to appear at the hearing. Any Class Member who intends to present documentary
5 evidence in support of an objection at the Fairness Hearing must provide the parties' counsel with
6 copies of that documentary evidence on or before August 11, 2011.

7 11. Pending the Court's ruling on the motion for approval of the Settlement, Plaintiffs, all
8 Class Members, and each of them, and anyone who acts or purports to act on their behalf, shall not
9 institute, commence or prosecute (directly, indirectly or in any capacity whatsoever) any action or
10 proceeding in any court or any tribunal that asserts a Released Class Claim against any Orbitz
11 Releasee.

12 12. This Settlement, whether or not it is finally approved and whether or not the
13 Defendant or Plaintiffs elect to rescind it, and any and all negotiations, documents, and discussions
14 associated with it, shall not be deemed or construed to be an admission or evidence of: (a) any
15 violation of any statute or law, or of any liability or wrongdoing by Defendant; (b) the truth of any of
16 the claims or allegations contained in the Complaint or any other pleading filed by Plaintiffs in the
17 Action; (c) any infirmity with respect to any claim or fact alleged by Plaintiffs; or (d) the amount, if
18 any, that Plaintiffs and Class Members would have recovered had the Action proceeded to trial.
19 Evidence regarding the Settlement shall not be discoverable or used directly or indirectly, in any
20 way, whether in the Action or in any other action or proceeding, except for purposes of enforcing the
21 terms of the Settlement. In the event the Court declines to enter the Final Judgment Order or that
22 order is reversed on appeal, the parties shall be restored to their respective positions as of December
23 7, 2010.

24 Dated: May 24, 2011

25 **CARL J. WEST**

26 Honorable Carl J. West
27 Judge of the Superior Court



May 24 2011
12:23PM

EXHIBIT A

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25 *Attorneys for Defendant ORBITZ, LLC*

26 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
27 **FOR THE COUNTY OF LOS ANGELES**

28 NICOLE MONTGOMERY, Individually) Case No. BC 335441
29 and on Behalf of All Others Similarly)
30 Situated,) STIPULATION OF SETTLEMENT
31)
32 Plaintiff,)
33) Assigned to the Honorable Carl J. West
34 vs.) Department 322
35) Action filed: June 22, 2005
36 ORBITZ, LLC and DOES 1-100,) CLASS ACTION
37)
38 Defendants.)
39)
40)

1 This Stipulation of Settlement (“Settlement Agreement”) is made and entered into
2 as of this ___ day of March, 2011 (the “Execution Date”), by and between Plaintiffs
3 Nicole Montgomery and Wallace Leasure (“Plaintiffs”), acting individually on behalf of
4 the class defined below (the “Class”), and defendant Orbitz, LLC (“Orbitz”). The
5 Settlement Agreement provides for the resolution of the above-captioned action (the
6 “Action”) on the terms described below (the “Settlement”).
7
8

9
10 **Definitions**

11 1. The following definitions apply to this Settlement Agreement:

12 a. “Administrator” means the Kalcheim Law Group, P.C., which shall administer the
13 Settlement.
14

15 b. “Authorized Claim” means a claim filed by an Authorized Claimant.
16

17 c. “Authorized Claim Amount” means the dollar value of the claim filed by an
18 Authorized Claimant, as computed utilizing the formulas set forth herein.
19

20 d. “Authorized Claimant” means any Class Member who submits a valid Claim Form
21 that entitles the Class Member to an Individual Settlement Payment.
22

23 e. “Claim Form” means the form that Class Members must complete in order to qualify
24 for an Individual Settlement Payment and that must be substantially in the form
25 attached hereto as **Exhibit D** and accompanied by copies of any required
26 documentation.
27

28 f. The “Class” consists of four subclasses as follows:
29

30 (i) California and non-California residents who (A) during the Starwood Class Period
31 booked a room or other lodging accommodation through Orbitz at a Starwood Brand
32

1 hotel, motel, resort or other lodging place located in the State of California; (B) were
2 required to pay Mandatory Hotel Fees/Taxes in addition to the price they contracted
3 to pay Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees/Taxes at the
4 time they reserved and paid for their accommodation through Orbitz and/or were
5 misinformed or mislead about the amount of Mandatory Hotel Fees/Taxes due to
6 information they received at the time of reservation from Orbitz;
7

8
9
10 (ii) California residents who: (A) during the Starwood Class Period booked a room or
11 other lodging accommodation through Orbitz at a Starwood Brand hotel, motel, resort
12 or other lodging place located outside of the State of California; (B) were required to
13 pay Mandatory Hotel Fees/Taxes in addition to the price they contracted to pay
14 Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees/Taxes at the time
15 they reserved and paid for their accommodation through Orbitz and/or were
16 misinformed or mislead about the amount of Mandatory Hotel Fees/Taxes due to
17 information they received at the time of reservation from Orbitz;
18

19
20
21 (iii) California and non-California residents who (A) during the Marriott Class Period
22 booked a room or other lodging accommodation through Orbitz at a Marriott Brand
23 hotel, motel, resort or other lodging place located in the State of California; (B) were
24 required to pay Mandatory Hotel Fees/Taxes in addition to the price they contracted
25 to pay Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees/Taxes at the
26 time they reserved and paid for their accommodation through Orbitz and/or were
27 misinformed or mislead about the amount of Mandatory Hotel Fees/Taxes due to
28 information they received at the time of reservation from Orbitz;
29
30
31
32

1 (ii) California residents who: (A) during the Marriott Class Period booked a room or
2 other lodging accommodation through Orbitz at a Marriott Brand hotel, motel, resort
3 or other lodging place located outside of the State of California; (B) were required to
4 pay Mandatory Hotel Fees/Taxes in addition to the price they contracted to pay
5 Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees/Taxes at the time
6 they reserved and paid for their accommodation through Orbitz and/or were
7 misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to
8 information they received at the time of reservation from Orbitz.
9

10 g. "Class Member" means each person or entity who qualifies as a member of the Class.
11

12 h. "Class Counsel" means Kalcheim Law Group, P.C. and Shalov Stone Bonner &
13 Rocco LLP.
14

15 i. "Court" means the Superior Court of the State of California for the County of Los
16 Angeles.
17

18 j. The "Distribution Date" is the date seven months after the Court issues the
19 Preliminary Approval Order.
20

21 k. "Effective Date" means the date on which all of the following events have occurred:
22

23 (i) the Court has approved the Settlement, following notice to the Class and the
24 Fairness Hearing; (ii) the Court has entered the Final Judgment Order substantially in
25 the form attached hereto as Exhibit E; and (iii) the time to appeal the Final Judgment
26 Order has expired or, if any appeal is filed and not dismissed, after such Final
27 Judgment Order is upheld on appeal in all material respects and is no longer subject to
28 review upon appeal or review by writ of certiorari, or, in the event that the Court
29
30
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32

1 enters an order and final judgment in a form differing in any material respect from the
2 Final Judgment Order (an "Alternative Judgment") and no party elects to terminate
3 this Settlement pursuant to the terms of Paragraph 31 of this Settlement Agreement,
4 the date that such Alternative Judgment becomes final and no longer subject to appeal
5 or review.
6
7

8 l. "Eligible Fee" means any Mandatory Hotel Fees/Taxes collected from a Class
9 Member by an Eligible Hotel of which the Class Member did not receive notice at the
10 time he, she or it reserved and paid for accommodation through Orbitz and/or as to the
11 amount of which the Class Member was misinformed or misled due to information
12 received at the time of reservation.
13
14

15 m. "Eligible Hotel" means any hotel, motel, resort or other lodging place affiliated with
16 any of the Starwood Brands or Marriott Brands at which a Class Member who booked
17 a room through Orbitz for an Eligible Night was charged an Eligible Fee.
18
19

20 n. "Eligible Night" means: (a) in the case of Starwood Brand properties that qualify as
21 Eligible Hotels, any night during the Starwood Class Period; and (b) in the case of
22 Marriott Brand properties that qualify as Eligible Hotels, any night during the
23 Marriott Class Period.
24

25 o. "Fairness Hearing" means the hearing to be held by the Court for the purpose of
26 considering the fairness of the Settlement to Class Members and the application of
27 Class Counsel for the payment of attorneys' fees and expenses.
28
29

30 p. "Final Judgment Order" means the means the proposed order to be entered by the
31 Court approving the Settlement substantially in the form attached hereto as Exhibit E.
32

- 1 q. The "Gross Distribution Amount" equals the Settlement Amount minus any Initial
2 Fees and Expenses Award pursuant to the terms of the Final Judgment Order.
3
- 4 r. "Individual Settlement Payment" means the amount payable to an individual
5 Authorized Claimant pursuant to the formulas set forth in this Settlement Agreement.
6
- 7 s. "Initial Fees and Expenses Award" means (i) any attorneys' fees and expenses
8 awarded to Class Counsel for payment prior to the Distribution Date and (ii) any
9 compensatory award to Plaintiffs, which in total shall not exceed \$40,000.00. The
10 Initial Fees and Expenses Award shall be paid from the Settlement Amount.
11
- 12 t. "Mandatory Hotel Fees/Taxes" are charges imposed by hotels in addition the amount
13 already paid to Orbitz for a hotel stay, that are not optional and comprise (i) fees,
14 charges, or surcharges designated as being for hotel service, airport, transportation,
15 convenience, energy, safe, safe warranty, utility, resort, resort services, facility and/or
16 convenience, and/or (ii) taxes such as occupancy taxes.
17
- 18 u. The "Marriott Brands" are Marriott, JW Marriott, Renaissance, Edition, Autograph
19 Collection, Courtyard by Marriott, Residence Inn by Marriott, Fairfield Inn & Suites
20 by Marriott, Townplace Suites by Marriott, Springhill Suites by Marriott, Ritz-
21 Carlton, Marriott Execustay, Marriott Executive Apartments, or Grand Residences by
22 Marriot.
23
- 24 v. "Marriott Class Period" means the period from January 1, 2003 to June 4, 2010.
25
- 26 w. "Net Distribution Amount" means the Gross Distribution Amount minus any Notice
27 and Administration Expenses not paid as part of the Initial Fees and Expenses Award.
28
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- 1 x. "Notice and Administration Expenses" means any out-of-pocket costs and expenses
2 that are incurred by the Administrator and Class Counsel in connection with (i)
3 providing notice to the Class and (ii) administrating the claims process.
4
- 5 y. "Preliminary Approval Order" means the proposed order substantially in the form
6 attached hereto as **Exhibit A** to be entered by the Court preliminarily approving the
7 Settlement and providing for the distribution of the Settlement Notice to the Class and
8 publication of the Summary Settlement Notice to the Class and
9 publication of the Summary Settlement Notice on the internet.
10
- 11 z. "Settlement" means the settlement contemplated by this Settlement Agreement.
12
- 13 aa. The "Settlement Amount" equals \$100,000.
14
- 15 bb. "Settlement Notice" means the Notice of Proposed Settlement of Class Action,
16 Settlement Fairness Hearing and Motion For Attorneys' Fees and Reimbursement Of
17 Litigation Expenses that is to be sent to Class Members substantially in the form
18 attached hereto as **Exhibit C**.
19
- 20 cc. "Starwood Class Period" means the period from January 1, 2003 to December 18,
21 2009.
22
- 23 dd. "Summary Settlement Notice" means the Notice of Proposed Settlement of Class
24 Action, Settlement Fairness Hearing and Motion For Attorneys' Fees and
25 Reimbursement Of Litigation Expenses that is to be published on the internet at the
26 home page of www.Kallawgroup.com/Orbitzhotelfeesettlement substantially in the
27 form attached hereto as **Exhibit B**.
28
- 29 ee. "Total Authorized Claims" means the sum of all Authorized Claims submitted by
30 Authorized Claimants.
31
32

1 ff. "Unknown Claims" means any and all Released Class Claims (as defined in
2 Paragraph 39 of this Settlement Agreement) that Plaintiffs or any Class Member does
3 not know or suspect to exist in his, her or its favor at the time the Court executes the
4 Final Judgment Order, and any Released Defendant Claims (as defined in Paragraph
5 40 of this Settlement Agreement) that any Orbitz Releasees does not know or suspect
6 to exist in his, her or its favor, which if known by any Plaintiffs, any Class Member or
7 any Orbitz Releasee, might have affected his, her or its decision(s) with respect to the
8 Settlement. With respect to any and all Released Class Claims and Released
9 Defendant Claims, the parties stipulate and agree that, upon the Effective Date,
10 Plaintiffs, each Class Member and the Orbitz Releasees shall expressly be deemed to
11 have, and by operation of the Final Judgment Order shall have, expressly waived any
12 and all provisions, rights and benefits conferred by any law of any state or territory of
13 the United States, or principle of common law, which is similar, comparable, or
14 equivalent to Cal. Civ. Code § 1542, which provides:

21 A general release does not extend to claims which the creditor does not
22 know or suspect to exist in his favor at the time of executing the release,
23 which if known by him must have materially affected his settlement with
24 the debtor.

25 Plaintiffs and Orbitz acknowledge, and Class Members and the Orbitz Releasees by
26 operation of law shall be deemed to have acknowledged, that the inclusion of
27 Unknown Claims in the definition of Released Class Claims and Released Defendant
28 Claims was separately bargained for and was a key element of the Settlement.
29
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1 **Disbursement of the Settlement Amount**

2 2. The Administrator shall serve as the claims administrator for the
3
4 Settlement. The Administrator will distribute the Settlement Notice to Class Members,
5 process Claim Forms submitted, determine the validity of claims, and distribute
6 Individual Settlement Payments in accordance with the terms of the Settlement.
7

8 3. All Notice and Administration Expenses shall be paid from the Settlement
9 Amount, including the costs associated with providing the Settlement Notice to Class
10 Members and the Administrator's fees and expenses.
11

12 4. Within five business days of the Effective Date, Orbitz shall pay the Gross
13 Distribution Amount to the Administrator, in trust for the Class.
14

15 5. The Gross Distribution Amount shall be held by the Administrator in a non-
16 interest bearing account.
17

18 6. Subject to Court approval, Authorized Claimants will be entitled to the
19 payment of their Individual Settlement Payments, as calculated pursuant to this
20 Settlement Agreement.
21

22 7. As soon after the Distribution Date as is practicable, the Administrator will
23 distribute the Individual Settlement Payments to Authorized Claimants and, if consistent
24 with the terms of the Final Approval Order, the Secondary Fees and Expenses Award to
25 Class Counsel.
26

27 8. The Administrator shall calculate Class Members' Individual Settlement
28 Payments by utilizing the Claim Forms submitted by Authorized Claimants, the formulas
29 set forth below and, if necessary, the review of the records in the possession of Class
30
31
32

1 Counsel for the purpose of verifying the legitimacy of particular claims.

2 9. The Authorized Claim Amount for Authorized Claimants who paid Eligible
3 Fees on Eligible Nights at Eligible Hotels booked through Orbitz prior to January 1, 2006
4 shall be equal to the *greater* of: (a) \$15.00; and (b) 50% of the total amount of Eligible
5 Fees paid at Eligible Hotels on Eligible Nights that the Authorized Claimant can
6 document with copies of itemized hotel invoice(s).
7

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9
10 10. The Authorized Claim Amount for Authorized Claimants who paid Eligible
11 Fees on Eligible Nights at Eligible Hotels booked through Orbitz on or after January 1,
12 2006 shall be equal to the *greater* of: (a) \$5.00; (b) 20% of the total amount of Eligible
13 Fees paid at Eligible Hotels on Eligible Nights that the Authorized Claimant can
14 document with copies of itemized hotel invoice(s), and (c) 50% of the total amount of
15 Eligible Fees paid at Eligible Hotels on Eligible Nights that the Authorized Claimant can
16 document with both (i) copies of itemized hotel invoice(s), and (ii) copies of e-mail(s)
17 from Orbitz confirming the Authorized Claimant's hotel reservation(s).
18
19

20
21 11. In the event that the Total Authorized Claims equals or exceeds the Net
22 Distribution Amount: (a) each Authorized Claimant will receive an Individual Settlement
23 Payment equal to his, her or its pro rata share of the Net Distribution Amount (based
24 upon the Authorized Claimant's Authorized Claim Amount compared to the Total
25 Authorized Claims submitted by all Authorized Claimants); and (b) Class Counsel will
26 not receive a distribution of a Secondary Fees and Expenses Award.
27
28

29
30 12. If the Net Distribution Amount is greater than the Total Authorized Claims
31 and the Court has not awarded Class Counsel a Secondary Fees and Expenses Award:
32

1 (a) each Authorized Claimant will receive an Individual Settlement Payment equal to his,
2 her or its pro rata share of the Net Distribution Amount (based upon the Authorized
3 Claimant's Authorized Claim Amount compared to the Total Authorized Claims
4 submitted by all Authorized Claimants); and (b) Class Counsel will not receive a
5 distribution of a Secondary Fees and Expenses Award.
6
7

8 13. If the Net Distribution Amount is greater than the Total Claims Amount
9 and the Court has awarded Class Counsel a Secondary Fees and Expenses Award:
10

11 (a) each Authorized Claimant will receive an Individual Settlement Payment equal to his,
12 her or its Authorized Claim Amount; (b) Class Counsel will receive a payment equal to
13 the lesser of (i) the Secondary Fees and Expenses Award and (ii) the amount by which
14 the Net Distribution Amount exceeds the Total Claims Amount; and (c) any portion of
15 the Net Distribution Amount remaining after the payments in subparagraphs (a) and (b)
16 above will be distributed to Authorized Claimants on a pro rata basis (based upon the
17 Authorized Claimant's Authorized Claim Amount compared to the Total Authorized
18 Claims submitted by all Authorized Claimants).
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23 14. If any portion of the Net Distribution Amount remains unclaimed six
24 months after the Distribution Date, the Administrator shall distribute those funds, in the
25 first instance, to Class Counsel if, and to the extent that Class Counsel has not yet
26 collected the entirety of any Secondary Fees and Expenses Award; and, thereafter, to the
27 Disability Rights Legal Center.
28
29

30 15. This is not a claims-made settlement. Orbitz shall not be entitled to the
31 return of any portion of the Settlement Amount once the Settlement becomes final and
32

1 the Effective Date occurs.

2 **Settlement Notice to the Class**

3
4 16. Within 30 days of the Court's entry of the Preliminary Approval Order, the
5 Administrator shall distribute the Settlement Notice to Class Members by means of the
6 email addresses that Orbitz previously provided to Rosenthal & Company LLC or such
7 other contact information that Rosenthal & Company LLC acquired for Class Members
8 as a result of its previous efforts to provide notice of the Court's certification of the Class
9 to Class Members.
10

11
12 17. In addition, the Administrator shall post the Class Notice on the Internet at
13 www.Kallawgroup.com/Orbitzhotelfeesettlement.
14

15 **Objections**

16
17 18. Class Members shall have the right to submit an objection (an "Objection")
18 to the terms of the Settlement or to Class Counsel's request for an Initial Fees and
19 Expenses Award or a Secondary Fees and Expenses Award.
20

21 19. A Class Member's Objection must be in writing, must contain the Class
22 Member's full name and address, must state with sufficient detail the reason(s) for the
23 Objection, and must be signed by the Class Member (or by a person with authority to
24 bind the Class Member). The Objection must further state whether the Class Member
25 intends to appear at the Fairness Hearing related to the Settlement. Class Members must
26 file their Objections with the Court and serve copies of Objection upon Class Counsel
27 and Orbitz's counsel ten or more days prior to the Fairness Hearing. Any Class Member
28 who intends to present documentary evidence in support of an Objection at the Fairness
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1 Hearing must provide Class Counsel and Orbitz's counsel with copies of that
2 documentary evidence at least ten days prior to the Fairness Hearing.
3

4 20. Objections that are not filed and served in compliance with the terms of this
5 Settlement Agreement will be considered null and void.
6

7 **Attorneys' Fees and Expenses**

8 21. At the Fairness Hearing, Class Counsel shall apply to the Court for an
9 Initial Fees and Expenses Award, which shall include a request for payment of a
10 compensatory award of \$1,000.00 to each of the Plaintiffs for pursuing the Action as a
11 class action.
12

13
14 22. At the Fairness Hearing, Class Counsel may also request that, in the event
15 that the Total Authorized Claims are less than the Net Distribution Amount, the Court
16 approve an additional distribution of attorneys' fees and expenses to Class Counsel of an
17 amount no greater than the amount by which the Net Distribution Amount exceeds the
18 Total Authorized Claims (the "Secondary Fees and Expenses Award").
19

20
21 23. Orbitz will not oppose or attempt to undermine Class Counsel's application
22 for the payment of the Initial Fees and Expenses Award or a Secondary Fees and
23 Expenses Award.
24

25
26 24. Orbitz shall pay the Initial Fees and Expenses Award to Kalcheim Law
27 Group, P.C., in trust for Class Counsel and Plaintiffs, within five business days of the
28 Effective Date.
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30 25. The Administrator shall pay any Secondary Fees and Expenses Award to
31 Kalcheim Law Group, P.C., in trust for Class Counsel, as soon after the Distribution Date
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as is practicable.

Approval of the Settlement and Dismissal of Claims

26. Plaintiffs and Orbitz shall use their best efforts to effectuate this Settlement, including cooperating in promptly seeking the Court's approval of the procedures necessary to secure the prompt, complete, and final dismissal with prejudice of the Action.

27. By no later than March 18, 2011, Plaintiffs shall submit to the Court a motion, to be joined in or stipulated to by Orbitz, requesting: (a) preliminary approval of the Settlement; and (b) authorization to disseminate the Settlement Notice to all potential Class Members (the "Preliminary Approval Motion").

28. The Preliminary Approval Motion shall include: (a) a description of the terms of the Settlement; and (b) a proposed order substantially in the form attached hereto as **Exhibit A** approving the form of the Settlement Notice and the method for and date of disseminating the Settlement Notice and providing for the Court to hold the Fairness Hearing for the purpose of considering the fairness of the Settlement and Plaintiffs' application for an Initial Fees and Expenses Award and a Secondary Fees and Expenses Award.

29. In connection with the Fairness Hearing, Plaintiffs shall file a motion to obtain the Court's final approval of the terms of the Settlement and to obtain the Court's approval of Plaintiffs' application for an Initial Fees and Expenses Award and a Secondary Fees and Expenses Award (the "Final Approval Motion").

1 30. In connection with the Final Approval Motion, Plaintiffs shall submit to the
2 Court a Final Judgment Order substantially in the form attached hereto as **Exhibit E** that:
3
4 (a) approves finally this Settlement and its terms as being a fair, reasonable, and adequate
5 settlement to the Class Members within the meaning of California law, and directing its
6 consummation according to its terms; (b) directs that the Action be dismissed with
7 prejudice, with each party bearing its own costs; (c) provides for any Initial Fees and
8 Expenses Award and Secondary Fees and Expenses Award; and (d) provides for the
9 Court to exercise exclusive jurisdiction over the Settlement, including its administration
10 and consummation,
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12

13
14 31. Plaintiffs and Orbitz shall have the right to terminate the Settlement and
15 this Settlement Agreement by providing written notice of their election to do so
16 (“Termination Notice”) to the opposing party within ten (10) days of: (a) the Court’s
17 declining to enter the Preliminary Approval Order in any material respect; (b) the Court’s
18 refusal to approve this Settlement Agreement or any material part of it; (c) the Court’s
19 declining to enter the Order and Final Judgment in any material respect; (d) the date upon
20 which the Final Judgment Order is modified or reversed in any material respect by means
21 of a final determination of an appellate court that is no longer subject to further review by
22 a higher appellate court; or (e) the date upon which an Alternative Judgment is modified
23 or reversed in any material respect by a final determination of an appellate court that is no
24 longer subject to further review by a higher appellate court.
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30 32. Following the issuance of a Termination Notice, the parties will be returned
31 to the procedural posture existing before they entered into this Settlement Agreement.
32

1 Any Notice and Administration Costs incurred in accordance with this Settlement as of
2 that time shall not be recouped.

3
4 33. A modification or reversal on appeal of any amount of any Initial Fees and
5 Expenses Award or Secondary Fees and Expenses Award or the agreed methodology for
6 dividing the Settlement Amount among Class Members shall not be considered a
7 sufficient alteration of the Final Judgment Order or an Alternative Order to justify the
8 issuance of a Termination Notice.
9

10
11 34. Plaintiffs and Orbitz expressly reserve all of their rights if the Effective
12 Date does not occur or if Plaintiffs or Orbitz terminates the Settlement.
13

14 35. Orbitz expressly denies Plaintiffs' allegations in the Action and denies that
15 it violated any statute or law or committed any wrongdoing.
16

17 36. Plaintiffs and Orbitz agree that this Settlement, whether or not it is finally
18 approved and whether or not the Plaintiffs or Orbitz elects to rescind it, and any and all
19 negotiations, documents, and discussions associated with it, shall not be deemed or
20 construed to be an admission or evidence of: (a) any violation of any statute or law, or of
21 any liability or wrongdoing by Orbitz; (b) the truth of any of the claims or allegations
22 contained in any pleading or other paper filed by any party in the Action; (c) any
23 infirmity with respect to any claim or fact alleged by Plaintiffs or the Class Members; or
24 (d) the amount, if any, that Plaintiffs and Class Members would have recovered had the
25 Action proceeded to trial. Evidence regarding the Settlement shall not be discoverable or
26 used directly or indirectly, in any way, whether in the Action or in any other action or
27 proceeding, except for purposes of enforcing the terms of the Settlement.
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1 **Release and Discharge**

2 37. "Orbitz Releasees" shall refer jointly and severally, individually and
3 collectively, to Orbitz, Starwood Hotels and Resorts Worldwide, Inc. and Marriott
4 International, Inc. and to each of their respective past and present officers, directors,
5 employees, agents, stockholders, attorneys, insurers, licensees, licensors, franchisees,
6 servants, representatives, parents, subsidiaries, and affiliates, and the predecessors,
7 successors, heirs, executors, administrators, trustees, and assigns of each of the foregoing.
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11 38. "Class Releasers" shall refer jointly and severally and individually and
12 collectively to Plaintiffs, the Class Members, and their respective heirs, executors,
13 administrators, and assigns.
14

15 39. Upon the occurrence of the Effective Date and in consideration of payment
16 of the Settlement Amount, and for other valuable consideration, the Orbitz Releasees
17 shall be completely released, acquitted, and forever discharged from any and all claims
18 (including Unknown Claims), demands, actions, suits, and causes of action, whether
19 class, individual or otherwise in nature, damages of any nature whenever incurred,
20 liabilities of any nature whatsoever, including costs, expenses, penalties, and attorneys'
21 fees, known or unknown, suspected or unsuspected, in law or in equity, that the Class
22 Releasers, or each of them, now has, or hereafter can, shall or may have on account of or
23 arising out of or resulting from non-disclosure or inaccurate disclosure concerning
24 Mandatory Hotel Fees/Taxes payable to Starwood Brand and Marriott Brand hotels,
25 motels, resorts or other lodging places in connection with reservations booked and paid
26 for through Orbitz, including but not limited to any such conduct alleged, and causes of
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1 action asserted, or that could have been alleged or asserted, in the Action, which arise
2 under any federal or state statute or regulation or the common law, except claims to
3 enforce the terms of this Settlement (the "Released Class Claims"). The Class Releasors
4 shall not, after the date of this Settlement, seek to recover against any of the Orbitz
5 Releasees for any of the Released Class Claims.
6
7

8 40. Upon the occurrence of the Effective Date and in consideration for the
9 release of the Released Class Claims, and for other valuable consideration, the Orbitz
10 Releasees shall release and forever discharge Plaintiffs and Class Counsel from any and
11 all claims (including Unknown Claims), demands, actions, suits, and causes of action,
12 whether class, individual or otherwise in nature, damages of any nature whenever
13 incurred, liabilities of any nature whatsoever, including costs, expenses, penalties, and
14 attorneys' fees, known or unknown, suspected or unsuspected, in law or in equity, that
15 the Orbitz Releasees now have, or hereafter can, shall or may have on account of or
16 arising out of or resulting from the institution or prosecution of this Action up to the date
17 of the Settlement's execution (the "Released Defendant Claims"). The Orbitz Releasees
18 shall not, after the date of this Settlement, seek to recover against Plaintiffs or Class
19 Counsel for any of the Released Defendant Claims.
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26 **Miscellaneous**

27 41. This Settlement and its Exhibits constitute the entire agreement among
28 Plaintiffs, the Class Members and Orbitz pertaining to the Settlement of the Action and
29 supersede any and all prior and contemporaneous undertakings by Plaintiffs and Orbitz in
30 connection therewith. This Settlement may be modified or amended only by a writing
31
32

1 executed by Plaintiff and Orbitz and, if this Settlement has received preliminary or final
2 approval by the Court, then also upon approval by the Court.

3
4 42. This Settlement is binding upon, and shall inure to the benefit of, the
5 successors and assigns of Plaintiffs, Class Members and the Orbitz Releasees.

6
7 43. This Settlement Agreement may be executed in counterparts and a
8 facsimile signature or an electronically transmitted PDF image of a signature shall be
9 deemed an original signature for purposes of executing this Settlement Agreement.

10
11 44. Neither Plaintiffs nor Orbitz, either individually or in concert, shall be
12 considered the drafter of this Settlement Agreement, or any of its provisions, for the
13 purpose of any statute, case law, or rule of interpretation or construction that would or
14 might cause any provision to be construed against the drafter of this Settlement.

15
16 45. Nothing expressed or implied in this Settlement is intended to or shall be
17 construed to confer upon or give any person or entity other than the Class Releasees and
18 the Orbitz Releasees any right or remedy under or by reason of this Settlement.

19
20 46. Where this Settlement Agreement requires any party to provide notice or
21 any other communication or document to any other party, such notice, communication, or
22 document shall be provided by facsimile or by letter via overnight delivery to the counsel
23 for such party who has appeared in the Action or such counsel's designee.

24
25 47. This Settlement shall be governed by and interpreted according to the
26 substantive law of the State of California without regard to its choice of law or conflict of
27 laws principles.

1 48. The Court shall retain jurisdiction over the implementation, enforcement,
2 and performance of this Settlement, and shall have exclusive jurisdiction over any suit,
3 action, proceeding, or dispute arising out of or relating to this Settlement or the
4 applicability of this Settlement or any award of attorneys' fees or expenses.
5

6 49. If any provision of this Settlement is found by a court of competent
7 jurisdiction to be illegal, invalid or unenforceable, a provision will be added as a part of
8 this Settlement that is as similar to the illegal, invalid, or unenforceable provision as may
9 be possible and be legal, valid and enforceable.
10

11 50. If a case is commenced with respect to Orbitz (or any entity contributing
12 funds to the Settlement Amount on behalf of Orbitz) under Title 11 of the United States
13 Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any similar
14 law, and in the event of the entry of a final order of a court of competent jurisdiction
15 determining the payment of the Settlement Amount or any portion thereof by or on behalf
16 of Orbitz to be a preference, voidable transfer, fraudulent transfer or similar transaction
17 and any portion of the Settlement Amount is required to be returned, then, at the election
18 of Class Counsel, the parties shall jointly move the Court to vacate and set aside the
19 releases given and the Final Judgment Order entered in favor of Orbitz pursuant to this
20 Settlement, which releases and Final Judgment Order hereunder shall be null and void,
21 and the parties shall be restored to their respective positions in the litigation as of the date
22 of execution of this Settlement Agreement.
23

24 51. The parties and their agents and attorneys shall not make any voluntary
25 written or oral communication of any kind, including, without limitation, by posting on
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1 any website or through any statement given to or interview with any reporter or media
2 representative, that defames or disparages any of them in a commercial sense or has the
3
4 intent of damaging the reputation, practices, or conduct of any of them.

5 52. All counsel and any other person executing this Settlement, or any related
6
7 settlement documents, warrant and represent that they have the full authority to do so and
8
9 that they have the authority to take appropriate action required or permitted to be taken
10 pursuant to the Settlement to effectuate its terms.

11 DATED: March 24, 2011

KALCHEIM LAW GROUP, P.C.

12
13
14 By: 
15 MITCH KALCHEIM
16 Class Counsel

MCDERMOTT WILL & EMERY LLP

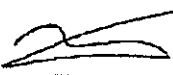
17
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20 By: 
21 Matthew Oster
22 Attorneys for Defendant
23 ORBITZ, LLC
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Exhibit A

1 KALCHEIM LAW GROUP, P.C.
2 Mitch Kalcheim (SBN: 175846)
3 mitch@klgpc.com
4 9300 Wilshire Boulevard, Suite 508
5 Beverly Hills, CA 90212
6 Telephone: (310) 461-1210
7 Facsimile: (310) 461-1212

8 STONE BONNER & ROCCO LLP
9 James P. Bonner, *admitted pro hac vice*
10 Susan M. Davies, *admitted pro hac vice*
11 260 Madison Avenue, 17th Floor
12 New York, NY 10016
13 Telephone: 212-239-4340
14 Facsimile: 212-239-4310

15 *Class Counsel*

16 McDERMOTT WILL & EMERY LLP
17 Matthew Oster (Bar No. 190541)
18 moster@mwe.com
19 Keith H. Fichtelman (Bar No. 262476)
20 kfichtelman@mwe.com
21 2049 Century Park East, Suite 3800
22 Los Angeles, CA 90067
23 Telephone: 310-277-4110
24 Facsimile: 310-277-4730

25 *Attorneys for Defendant ORBITZ, LLC*

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

19 NICOLE MONTGOMERY, Individually and) **Case No. BC 335441**
20 on Behalf of All Others Similarly Situated,)
21 Plaintiff,) **[PROPOSED] ORDER PRELIMINARILY**
22 vs.) **APPROVING CLASS ACTION SETTLEMENT**
23) **AND DIRECTING NOTICE TO CLASS**
24)
25 ORBITZ, LLC and DOES 1-100,) Assigned to the Honorable Carl J. West
26) Department 322
27) Action filed: June 22, 2005
28) **CLASS ACTION**
)

1 WHEREAS, this Court has presided over all proceedings in the above-captioned action (the
2 “Litigation”) and has reviewed all of the pleadings, records and papers on file in the Litigation;

3 WHEREAS, the parties have filed a Settlement Agreement (the “Settlement Agreement”), a
4 copy of which is attached hereto as Exhibit A;

5 WHEREAS, the Court has reviewed the Settlement Agreement together with the Exhibits
6 thereto and heard the attorneys for the parties with respect to the proposed Settlement of this action;

7 WHEREAS, the Court has determined that inquiry should be made as to the fairness and
8 adequacy of this proposed Settlement;

9 WHEREAS, good cause appearing for granting preliminary approval to the Settlement;

10 **NOW, THEREFORE, THE COURT HEREBY FINDS AND ORDERS** as follows:

11 1. The Court previously certified a Class in this action consisting of four subclasses, as
12 follows:

- 13 a. California and non-California residents who (i) during the Starwood Class Period
14 booked a room or other lodging accommodation through Orbitz at a Starwood Brand
15 hotel, motel, resort or other lodging place located in the State of California; (ii) were
16 required to pay Mandatory Hotel Fees/Taxes in addition to the price they contracted
17 to pay Orbitz; and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at
18 the time they reserved and paid for their accommodation through Orbitz and/or were
19 misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to
20 information they received at the time of reservation from Orbitz;
- 21 b. California residents who: (i) during the Starwood Class Period booked a room or
22 other lodging accommodation through Orbitz at a Starwood Brand hotel, motel, resort
23 or other lodging place located outside of the State of California; (ii) were required to
24 pay Mandatory Hotel Fees/Taxes in addition to the price they contracted to pay
25 Orbitz; and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at the time
26 they reserved and paid for their accommodation through Orbitz and/or were
27 misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to

1 information they received at the time of reservation from Orbitz;

2 c. California and non-California residents who (i) during the Marriott Class Period
3 booked a room or other lodging accommodation through Orbitz at a Marriott Brand
4 hotel, motel, resort or other lodging place located in the State of California; (ii) were
5 required to pay Mandatory Hotel Fees/Taxes in addition to the price they contracted
6 to pay Orbitz; and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at
7 the time they reserved and paid for their accommodation through Orbitz and/or were
8 misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to
9 information they received at the time of reservation from Orbitz;

10 d. California residents who: (i) during the Marriott Class Period booked a room or other
11 lodging accommodation through Orbitz at a Marriott Brand hotel, motel, resort or
12 other lodging place located outside of the State of California; (ii) were required to pay
13 Mandatory Hotel Fees/Taxes in addition to the price they contracted to pay Orbitz;
14 and (iii) did not receive notice of the Mandatory Hotel Fees/Taxes at the time they
15 reserved and paid for their accommodation through Orbitz and/or were misinformed
16 or misled about the amount of Mandatory Hotel Fees/Taxes due to information they
17 received at the time of reservation from Orbitz.

18 2. The Court hereby preliminarily approves the Settlement as within the range of
19 possible approval, subject to further consideration at the Fairness Hearing described below.

20 3. A hearing (the "Fairness Hearing") pursuant to California Code of Civil Procedure
21 section 382 is hereby scheduled to be held before the Court on September 16, 2011, at 9:00 a.m. for
22 the following purposes:

- 23 a. to determine whether this Action satisfies the applicable prerequisites for class action
24 treatment under California Code of Civil Procedure section 382 and the prerequisites
25 of due process;
- 26 b. to determine whether the proposed Settlement is fair, reasonable, and adequate, and
27 should be approved by the Court;

- 1 c. to determine whether the Final Judgment Order, as provided for by the Settlement
- 2 Agreement should be entered, dismissing the claims asserted by Plaintiffs and the
- 3 Settlement Class against defendant Orbitz LLC (“Defendant”), on the merits and with
- 4 prejudice, and to determine whether the release by the Class of the Released Class
- 5 Claims, as set forth in the Settlement Agreement, should be provided to the Orbitz
- 6 Releasees;
- 7 d. to determine whether the proposed plan for allocating the proceeds of the Settlement
- 8 is fair and reasonable, and should be approved by the Court;
- 9 e. to consider Plaintiffs’ applications for awards of attorneys’ fees, expenses and
- 10 compensatory awards to Plaintiffs; and
- 11 f. to rule upon such other matters as the Court may deem appropriate.

12 4. Plaintiffs shall file and serve all papers in support of the proposed Settlement, the
13 application for attorneys’ fees and expenses and the application for compensatory awards to
14 Plaintiffs on or before August 31, 2011.

15 5. The Court finds that providing notice of the proposed Settlement to Class Members
16 by emailing the Official Court Notice of Settlement, substantially in the form set forth as Exhibit C
17 to the Settlement Agreement (the “Settlement Notice”), to all Class Members previously identified
18 for purposes of notice of class certification, as set forth in paragraph 16 of the Settlement
19 Agreement, will provide the best notice practicable to the Class.

20 6. The Settlement Notice, together with a claim form substantially in the form set forth
21 in Exhibit D to the Settlement Agreement (the “Claim Form”) shall be emailed on or before June 10,
22 2011 to the email addresses of Class Members previously identified to Rosenthal & Company LLC
23 by Orbitz, in an e-mail message that: (a) contains in the body of the e-mail the text of the Settlement
24 Notice and Claim Form; (b) contains in the body of the e-mail an electronic link to the website
25 www.Kallawgroup.com/pending-actions/; and (c) contains the subject line “Court Ordered Notice –
26 Class Action Settlement.” Such emailing will be administered by Kalcheim Law Group, P.C. (the
27 “Administrator”) and any out-of-pocket expenses associated therewith shall be paid for out of the
28

1 Net Distribution Amount as specified in the Settlement Agreement. Class Counsel shall, at or before
2 the Settlement Fairness Hearing, file with the Court proof of e-mailing of the Settlement Notice.

3 7. The Settlement Notice shall be published on the webpage
4 www.Kallawgroup.com/pending-actions/ on or before June 10, 2011 as follows: (a) the Summary
5 Class Notice set forth at Exhibit B to the Settlement Agreement will appear on the webpage; (b) a
6 PDF copy of the Settlement Notice will be linked to the webpage; and (c) a PDF copy of this Order
7 will be linked to the webpage. After the Settlement Notice has been so published, the website
8 www.orbitzhotelfeelawsuit.com, which was used to notify Class Members of class certification,
9 shall be discontinued and visitors to that web address will be redirected to
10 www.Kallawgroup.com/pending-actions/. The Administrator shall, at or before the Settlement
11 Fairness Hearing, file with the Court proof of the publication of the above information.

12 8. In order to obtain a cash distribution pursuant to the terms of the Settlement
13 Agreement, Class Members must submit a completed Claim Form together with any supporting
14 documentation to the Administrator by mail postmarked no later than August 15, 2011.

15 9. The Court reserves the right to adjourn the date of the Fairness Hearing without any
16 further notice to Class Members. The Court also reserves the right to approve the Settlement with or
17 without modification and with or without further notice of any kind. The Court further reserves the
18 right to enter the Final Judgment Order approving the Stipulation and dismissing the Complaint on
19 the merits and with prejudice regardless of whether it has approved the proposed plan for allocating
20 the Settlement proceeds among Class Members, awarded attorneys' fees and expenses or approved
21 the Plaintiffs' request for compensatory awards.

22 10. Any Class Member who objects to final approval of the proposed Settlement may
23 appear at the Settlement Fairness Hearing in person or through counsel to show cause why the
24 proposed Settlement should not be approved as fair, adequate and reasonable as long as that Class
25 Member files a notice of intention to appear at the Fairness Hearing with the Court and serves a copy
26 of that notice upon counsel for the parties no later than August 11, 2011. Written objections to the
27 Settlement shall be filed in the Court and postmarked to counsel for each of the parties no later than
28

1 August 11, 2011. Attendance at the hearing is not necessary. However, Class Members wishing to
2 be heard orally in opposition to any provision of the Settlement, the request for attorneys' fees and
3 expenses or the compensatory award to Plaintiffs are required to indicate in their written objection
4 their intention to appear at the hearing. Any Class Member who intends to present documentary
5 evidence in support of an objection at the Fairness Hearing must provide the parties' counsel with
6 copies of that documentary evidence on or before August 11, 2011.

7 11. Pending the Court's ruling on the motion for approval of the Settlement, Plaintiffs, all
8 Class Members, and each of them, and anyone who acts or purports to act on their behalf, shall not
9 institute, commence or prosecute (directly, indirectly or in any capacity whatsoever) any action or
10 proceeding in any court or any tribunal that asserts a Released Class Claim against any Orbitz
11 Releasee.

12 12. This Settlement, whether or not it is finally approved and whether or not the
13 Defendant or Plaintiffs elect to rescind it, and any and all negotiations, documents, and discussions
14 associated with it, shall not be deemed or construed to be an admission or evidence of: (a) any
15 violation of any statute or law, or of any liability or wrongdoing by Defendant; (b) the truth of any of
16 the claims or allegations contained in the Complaint or any other pleading filed by Plaintiffs in the
17 Action; (c) any infirmity with respect to any claim or fact alleged by Plaintiffs; or (d) the amount, if
18 any, that Plaintiffs and Class Members would have recovered had the Action proceeded to trial.
19 Evidence regarding the Settlement shall not be discoverable or used directly or indirectly, in any
20 way, whether in the Action or in any other action or proceeding, except for purposes of enforcing the
21 terms of the Settlement. In the event the Court declines to enter the Final Judgment Order or that
22 order is reversed on appeal, the parties shall be restored to their respective positions as of December
23 7, 2010.

24 Dated: May __, 2011

25
26 Honorable Carl J. West
27 Judge of the Superior Court
28

EXHIBIT B

SUMMARY NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Montgomery v. Orbitz, LLC, Case No. BC335441 (Los Angeles Superior Court) (West, J.)

If you paid a mandatory fee to a Starwood or Marriott brand hotel that you booked and paid for through Orbitz, YOUR RIGHTS MAY BE AFFECTED BY A CLASS ACTION SETTLEMENT.

Plaintiffs Nicole Montgomery and Wallace Leasure filed a lawsuit against Orbitz, LLC alleging that Orbitz engaged in business practices that violate California's Unfair Competition Law. Specifically, plaintiffs allege that Orbitz failed to adequately disclose additional mandatory fees and taxes that consumers who booked hotel accommodation through Orbitz were required to pay to the hotels at the time of their stays. Orbitz denies that it failed to disclose any relevant information or that it violated any law. The Superior Court for the County of Los Angeles has not decided the merits of Plaintiffs' claim or Orbitz's defenses.

The Court has ordered that the Lawsuit may proceed as a class action on behalf of two classes: (1) consumers who paid undisclosed mandatory hotel fees or taxes to Marriott brand hotels in connection with hotel stays booked and paid for through Orbitz between January 1, 2003 and June 4, 2010 (the "Orbitz/Marriott Class"); and (2) consumers who paid undisclosed mandatory hotel fees or taxes to Starwood brand hotels in connection with hotel stays booked and paid for through Orbitz between January 1, 2003 and December 18, 2009 (the "Orbitz/Starwood Class"). The classes include consumers who are residents of California and stayed at hotels located either within or outside of California, and consumers who are not residents of California and stayed at hotels located within California.

The Court has preliminarily approved a settlement of the Lawsuit. If finally approved by the Court, the settlement will require Orbitz to pay a total of \$100,000 to be distributed to Class members, pay the expenses of notifying Class members of the settlement, and pay any litigation expenses and attorney fees awarded by the Court. The settlement provides a plan of distribution pursuant to which Class members can recover up to 50% of the amount they paid to Marriott and Starwood brand hotels for mandatory fees that allegedly were not disclosed to them at the time they made their reservations using Orbitz. Orbitz's willingness to enter into this settlement should not be interpreted as an admission of any wrongdoing.

Judge Carl J. West will hold the hearing on final approval of the settlement on June 16, 2011 at 9:00 a.m. in his courtroom at Central Civil West Courthouse, 600 S. Commonwealth Avenue, Los Angeles, CA. You may attend the hearing but are not required to do so to participate in the settlement.

If you are a member of the Orbitz/Marriott Class or the Orbitz/Starwood Class, and you have not already opted out of participation in the Lawsuit, you can: (1) participate in the settlement, or (2) object to the settlement. **To exercise either of these options, you must take certain actions promptly.**

To participate in the settlement, you must submit the appropriate Proof of Claim Form, which you can obtain by [clicking here](#)¹ or by requesting it from class counsel: Mitch Kalcheim, Kalcheim Law Group, P.C., 9300 Wilshire Boulevard, Suite 508, Beverly Hills, CA 90212, telephone 310-461-1210 or toll-free 888-292-0405, email: mitch@kallawgroup.com. You must

¹ Link to PDF that contains Starwood and Marriott Claim Forms.

complete a separate Proof of Claim Form for each reservation for which you wish to make a claim. Your completed, signed and dated Form, together with copies of optional documentation, must be mailed to the address listed on the Form and postmarked no later than August 15, 2011.

If you want to object to the settlement, you can obtain the instructions for so doing from class counsel, whose address, telephone number and email are set forth above. You must comply with those instructions on or before August 11, 2011.

If you do nothing and the settlement receives final Court approval, you cannot participate in the settlement or sue Orbitz or any Marriott or Starwood brand hotel on your own concerning matters that are subject to the settlement.

You can obtain a more complete description of the settlement by [clicking here](#)² or by reviewing the file for Lawsuit during normal business hours at the Office of the Clerk of Court at Central Civil West Courthouse, 600 S. Commonwealth Avenue, Los Angeles, CA 90005.

PLEASE DO NOT CALL THE COURT OR ORBITZ.

² Link to PDF of Official Court Notice of Settlement

EXHIBIT C

OFFICIAL COURT NOTICE OF SETTLEMENT

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

NICOLE MONTGOMERY, Individually and) **Case No. BC 335441**
on Behalf of All Others Similarly Situated,)

Plaintiff,)

vs.)

ORBITZ, LLC and DOES 1-100,)

Defendants.)

) **STIPULATION OF SETTLEMENT**

) Assigned to the Honorable Carl J. West

) Department 322

) Action filed: June 22, 2005

) **CLASS ACTION**

**The Settlement Of This Class Action Lawsuit
Entitles You To Receive A Partial Or Complete Refund
Of Certain Mandatory Hotel Fees/Taxes Paid In Connection
With Hotel Reservations Made Through Orbitz**

PLEASE READ THIS NOTICE CAREFULLY

THIS NOTICE ANSWERS THESE IMPORTANT QUESTIONS:

1. Why should I read this Notice?
2. What is this Lawsuit about?
3. Who qualifies as a Class Member?
4. Why did I get this Notice?
5. What are the terms of the Settlement?
6. How do I make a claim in the Settlement?
7. If I don't like a term of the Settlement, how do I object?
8. When will the Court decide whether the Settlement should be approved?
9. Whom do I contact if I have questions about the Settlement?
10. How do I get more information about the Lawsuit?
11. Why have Plaintiff and Class Counsel decided to settle the Lawsuit?
12. How will Class Counsel's fees and expenses be paid?
13. What claims will I release if the Settlement is approved by the Court?
14. What are the important deadlines for this Settlement?

1. Why should I read this Notice?

You may have been billed by a hotel for one or more non-optional charges in addition to the amount already paid to defendant Orbitz LLC (“Orbitz”) for a hotel stay (“Mandatory Hotel Fees”). The eligible Mandatory Hotel Fees include: (i) fees, charges, or surcharges designated as being for hotel service, airport, transportation, convenience, energy, safe, safe warranty, utility, resort, resort services, facility and/or convenience, and/or (ii) taxes such as occupancy taxes. This Notice informs you of the settlement of a class action lawsuit (the “Lawsuit”) that may entitle you to a partial or complete refund of those Mandatory Hotel Fees. You should read this Notice to learn how much money you can receive from the Lawsuit, what you need to do to claim that money and what you need to do if you wish to object to the Settlement or do not wish to participate.

2. What is this Lawsuit about?

Plaintiff Nicole Montgomery filed the Lawsuit against Orbitz in connection with a Mandatory Hotel Fee she was charged by a Starwood Brand hotel she had reserved and paid for through Orbitz on May 20, 2005. In her Complaint, Ms. Montgomery alleged that Orbitz engaged in unlawful and deceptive business practices in violation of the California Business & Professions Code, the California Consumers Legal Remedies Act and the contractual rights of consumers. In particular, Ms. Montgomery alleged that Orbitz deceived consumers by failing to disclose at the time the consumers made hotel reservations through Orbitz that certain hotels would impose the undisclosed Mandatory Hotel Fees upon consumers in connection with their hotel stays. Believing that others were also harmed by this conduct, Ms. Montgomery filed her case as a class action. A class action is a type of lawsuit in which one or a few individuals represent a group of people who suffered injuries as a result of similar alleged misconduct. Later, plaintiff Wallace Leisure joined the Lawsuit as a proposed representative of consumers who booked rooms at Marriott Brand hotel properties through Orbitz. Orbitz denies that it deceived consumers or otherwise engaged in any unlawful or improper conduct. The Court has not expressed any view regarding the merits of Plaintiffs’ claims or regarding Orbitz’s defenses.

3. Who qualifies as a Class Member?

The Court has certified four sub-classes (collectively, the “Class”). The individuals who comprise the Class are referred to as “Class Members.” The first sub-class includes all California and non-California residents who: (A) during the period from January 1, 2003 to December 18, 2009 (the “Starwood Class Period”) booked a room or other lodging accommodation through Orbitz at a Starwood Brand hotel, motel, resort or other lodging place located in the State of California; (B) were required to pay Mandatory Hotel Fees in addition to the price they contracted to pay Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees at the time they reserved and paid for their accommodation through Orbitz and/or were misinformed or misled about the amount of Mandatory Hotel Fees due to information they received at the time of reservation from Orbitz. The second sub-class includes all California residents who: (A) during the Starwood Class Period booked a room or other lodging accommodation through Orbitz at a Starwood Brand hotel, motel, resort or other lodging place located outside of the State of California; (B) were required to pay Mandatory Hotel Fees in addition to the price they contracted to pay Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees at the time they reserved and paid for their accommodation through Orbitz and/or were misinformed or misled about the amount of Mandatory Hotel Fees/Taxes due to information they received at the time of reservation from Orbitz. The third sub-class includes all California and non-California residents who: (A) during the period from January 1, 2003 through June 4, 2010 (the “Marriott Class Period”) booked a room or other lodging accommodation through Orbitz at a Marriott Brand hotel, motel, resort or other lodging place located in the State of California; (B) were required to pay Mandatory Hotel Fees in addition to the price they contracted to pay Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees at the time they reserved and paid for their accommodation through Orbitz and/or were misinformed or misled about the amount of Mandatory Hotel Fees due to information they received at

the time of reservation from Orbitz. The fourth sub-class includes all California residents who: (A) during the Marriott Class Period booked a room or other lodging accommodation through Orbitz at a Marriott Brand hotel, motel, resort or other lodging place located outside of the State of California; (B) were required to pay Mandatory Hotel Fees in addition to the price they contracted to pay Orbitz; and (C) did not receive notice of the Mandatory Hotel Fees at the time they reserved and paid for their accommodation through Orbitz and/or were misinformed or misled about the amount of Mandatory Hotel Fees due to information they received at the time of reservation from Orbitz.

The follow hotels are Starwood Brand: Sheraton, Four Points by Sheraton, Westin Hotels & Resorts, W Hotels, Le Meridien, St. Regis Hotels & Resorts, The Luxury Collection, Aloft Hotels, and Element.

The following hotels are Marriott Brand: Marriott, JW Marriott, Renaissance, Edition, Autograph Collection, Courtyard by Marriott, residence Inn by Marriott, Fairfield Inn & Suites by Marriott, Townplace Suites by Marriott, Springhill Suites by Marriott, Ritz-Carlton, Marriott Execustay, Marriott Executive Apartments, or Grand Residences by Marriott.

4. Why did I get this Notice?

You received this Notice to inform you that you may be a member of the Class and that the Plaintiffs and defendant Orbitz have provisionally agreed to settle the Lawsuit, thereby resolving and releasing the "Released Class Claims," as described in Section 13. This Notice will explain the terms of the Settlement, the process by which the Court will consider whether the Settlement should be approved, what you can expect to receive in the Settlement, how the Settlement will have an effect on your legal rights (particularly the impact of releasing the Released Class Claims), and how you can object to the Settlement.

5. What are the terms of the Settlement?

Without admitting liability, Orbitz has agreed to settle this class action. It will pay \$100,000 (the "Settlement Amount") to reimburse Class Members for a portion of the Mandatory Hotel Fees that they paid, to pay the costs of giving Notice to the Class and of administering the Settlement claims process, to reimburse Class Counsel for the expenses they incurred in prosecuting the case on behalf of the Class, and to pay attorneys' fees awarded to Class Counsel by the Court. Orbitz has estimated that there are as many as 951 potential Class Members who booked rooms through Orbitz at Marriott Brand hotels during the Marriott Class Period and that there are as many as 8,151 potential Class Members who booked rooms through Orbitz at Starwood Brand hotels during the Starwood Class Period. Class Counsel have conducted discovery concerning the number and amount of Mandatory Hotel Fees paid by potential Class Members during the time period relevant to this Lawsuit. Class Counsel believe that the discovery that they have conducted supports the adequacy of the Settlement.

The payments made to individual Class Members ("Individual Settlement Payments") will be administered by Kalchein Law Group, P.C. (the "Administrator") and will be determined as follows. In connection with the Fairness Hearing described in Section 7, Class Counsel will apply to the Court for the payment of an Initial Attorneys' Fee and Expense Award in an amount no greater than \$40,000. Any Initial Fee and Expense Award granted by the Court will be deducted from the \$100,000 Settlement Amount. The Claims Administrator will utilized the information provided by Class Members who submit Proof of Claim Forms to determine whether those Class Members are "Authorized Claimants" who qualify to receive Individual Settlement Payments because they paid Mandatory Hotel Fees in connection with reservations made through Orbitz and the amount of the Authorized Claimants' claims (their "Authorized Claim Amount").

To qualify as an Authorized Claimant, a Class Member must have paid one or more "Eligible Fees" at one or more "Eligible Hotels" on one or more "Eligible Nights." "Eligible Fee" means any Mandatory

Hotel Fees/Taxes collected from a Class Member by an Eligible Hotel of which the Class Member did not receive notice at the time he, she or it reserved and paid for accommodation through Orbitz and/or as to the amount of which the Class Member was misinformed or misled due to information received at the time of reservation. "Eligible Hotel" means any hotel, motel, resort or other lodging place affiliated with any of the Starwood Brands or Marriott Brands at which a Class Member who booked a room through Orbitz for an Eligible Night was charged an Eligible Fee. "Eligible Night" means: (a) in the case of Starwood Brand properties that qualify as Eligible Hotels, any night during the Starwood Class Period; and (b) in the case of Marriott Brand properties that qualify as Eligible Hotels, any night during the Marriott Class Period.

The Authorized Claim Amount of Authorized Claimants who made reservations prior to January 1, 2006 and paid Eligible Fees on Eligible Nights at Eligible Hotels shall be equal to the *greater* of: (a) \$15.00; and (b) 50% of the total amount of Eligible Fees paid at Eligible Hotels on Eligible Nights that the Authorized Claimant can document with copies of itemized hotel invoices.

The Authorized Claim Amount of Authorized Claimants who made reservations on or after January 1, 2006 and paid Eligible Fees on Eligible Nights at Eligible Hotels shall be equal to the *greater* of: (a) \$5.00; (b) 20% of the total amount of Eligible Fees paid at Eligible Hotels on Eligible Nights that the Authorized Claimant can document with copies of itemized hotel invoices; and (c) 50% of the total amount of Eligible Fees paid at Eligible Hotels on Eligible Nights that the Authorized Claimant can document with both (i) copies of itemized hotel invoices, and (ii) copies of e-mails from Orbitz confirming the Authorized Claimant's hotel reservations.

The total of all Authorized Claim Amounts calculated by the Administrator is the "Total Authorized Claims Amount." The "Net Distribution Amount" equals the \$100,000 Settlement Amount, minus the Initial Fees and Expense Award, minus the costs of providing notice to the Class and administering the Settlement.

If the Total Authorized Claims Amount equals or exceeds the Net Distribution Amount: (a) each Authorized Claimant will receive an Individual Settlement Payment equal to his, her or its pro rata share of the Net Distribution Amount (based upon the Authorized Claimant's Authorized Claim Amount compared to the Total Authorized Claims submitted by all Authorized Claimants); and (b) Class Counsel will not receive a distribution of a Secondary Fees and Expenses Award (as described in Section 12).

If the Net Distribution Amount is greater than the Total Authorized Claims and the Court has not awarded Class Counsel a Secondary Fees and Expenses Award: (a) each Authorized Claimant will receive an Individual Settlement Payment equal to his, her or its pro rata share of the Net Distribution Amount (based upon the Authorized Claimant's Authorized Claim Amount compared to the Total Authorized Claims submitted by all Authorized Claimants); and (b) Class Counsel will not receive a distribution of a Secondary Fees and Expenses Award.

If the Net Distribution Amount is greater than the Total Claims Amount and the Court has awarded Class Counsel a Secondary Fees and Expenses Award: (a) each Authorized Claimant will receive an Individual Settlement Payment equal to his, her or its Authorized Claim Amount; (b) Class Counsel will receive a payment equal to the lesser of (i) the Secondary Fees and Expenses Award and (ii) the amount by which the Net Distribution Amount exceeds the Total Claims Amount; and (c) any portion of the Net Distribution Amount remaining after the payments in subparagraphs (a) and (b) above will be distributed

to Authorized Claimants on a pro rata basis (based upon the Authorized Claimant's Authorized Claim Amount compared to the Total Authorized Claims submitted by all Authorized Claimants).

6. How do I make a claim in the Settlement?

If you believe that you paid one or more Eligible Fees on an Eligible Night at an Eligible Hotel, you should complete the attached Proof of Claim Form to assert your right to an Individual Settlement Payment. Class Counsel recognize that not all Class Members have retained records regarding their reservations or the Eligible Fees that they paid. Thus, you should provide the relevant information to the best of your recollection on the Proof of Claim Form. In the event that you can prove (by attaching a hotel invoice to your Proof of Claim Form) that the amount of any Eligible Fee that you paid for any particular Eligible Night at an Eligible Hotel exceeds the average fee amount that the Administrator will utilize to calculate your Qualified Claim Amount, the Administrator will utilize the higher amount in its calculations. During the pendency of this Lawsuit Orbitz made numerous changes and improvements to the Mandatory Hotel Fee disclosures on its website. If you made a hotel reservation on or after January 1, 2006, it is highly likely that information about Mandatory Hotel Fees was provided to you on the Orbitz website at the time you made the reservation and in the reservation confirmation e-mail sent to you by Orbitz. For this reason, in order to qualify for the maximum amount of recovery, Class Members who made reservations on or after January 1, 2006 must demonstrate that they did not receive any information or did not receive correct information about Mandatory Hotel Fees by submitting copies of the reservation confirmation e-mails sent to them by Orbitz. Please inform the Administrator if you change address so that your payment can be forwarded to you.

7. If I don't like a term of the Settlement, how do I object?

If you believe that one or more of the terms of the Settlement are not fair, reasonable and adequate to the Class, you may file an "Objection" with the Court. A Class Member's Objection must be in writing, must contain the Class Member's full name and address, must state with sufficient detail the reason(s) for the Objection, and must be signed by the Class Member (or by a person with authority to bind the Class Member). The Objection must further state whether the Class Member intends to appear at the Fairness Hearing related to the Settlement. Objections must be served by no later than August 15, 2011, on the following:

Clerk of Court	Matthew Oster	Mitch Kalcheim
Los Angeles Superior Court	McDermott Will & Emery LLP	Kalcheim Law Group, P.C.
Central Civil West Courthouse	2049 Century Park East	9300 Wilshire Boulevard,
600 S. Commonwealth Ave	Suite 3800	Suite 508
Los Angeles, CA 90005	Los Angeles, CA 90067	Beverly Hills, CA 90212
	Orbitz's Counsel	Class Counsel

You may, but are not required to, hire counsel to assert your Objection. If you and/or any counsel you engage intend to appear at the Fairness Hearing, you must file with the Court and serve upon Class Counsel and Orbitz's Counsel, by first-class mail, at the above-listed addresses, a notice of intention to appear on or before August 15, 2011. Any Class Member who intends to present documentary evidence in support of an Objection at the Fairness Hearing must provide Class Counsel and Orbitz's counsel with copies of that documentary evidence at the above-listed addresses on or before August 15, 2011.

8. When will the Court decide whether the Settlement should be approved?

The Court will hold the fairness hearing on September 16, 2011, at 9:00 a.m., in the courtroom of the Honorable Carl J. West, at Central Civil West Courthouse, 600 S. Commonwealth Avenue, Los Angeles, CA. At the Fairness Hearing the Court will consider whether the Settlement is fair, reasonable

and adequate to the members of the Class. If there are any Objections, the Court will consider them at this hearing. The Court will listen to people who have asked to speak at the hearing. At or after the Fairness Hearing, the Court will decide whether to approve the Settlement. The Fairness Hearing can be continued at any time by the Court without further notice to you. **You are not required to attend the hearing in order to participate in the Settlement or to file an Objection.**

9. Whom do I contact if I have questions about the Settlement?

You may contact the Administrator with any questions you have regarding the Settlement. The contact information for the Administrator is as follows:

Mitch Kalcheim
KALCHEIM LAW GROUP, P.C.
9300 Wilshire Boulevard, Suite 508
Beverly Hills, CA 90212
Telephone: 310-461-1210 or Toll Free 888-292-0405
mitch@kallawgroup.com

10. How do I get more information about the Lawsuit?

This Notice is only a summary of the proceedings in the Lawsuit. If you need additional information, you may write, call or email Class Counsel, using the contact information set forth in Section 9 above.

PLEASE DO NOT CALL THE COURT OR ORBITZ.

You may review the pleadings and other records in the Lawsuit during normal business hours at the Office of the Clerk of Court, which is located at Central Civil West Courthouse, 600 S. Commonwealth Avenue, Los Angeles, CA 90005.

Certain documents and other information about the Lawsuit are also available on the internet at: www.orbitzhotelfeelawsuit.com.

11. Why have Plaintiffs and Class Counsel decided to settle the Lawsuit?

Plaintiffs and Class Counsel have decided to settle the Lawsuit because they believe that the Settlement is an attractive option for the Class based upon all of the risks and potential outcomes of this litigation. As noted above, the Court has not yet made an assessment regarding whether the Class will prevail in this litigation. Defendant has denied and continues to deny that it has engaged in any unlawful conduct, and Plaintiffs and Class Counsel recognized that there could be no assurance that the Class would obtain any relief if they did not settle the Lawsuit. The Court's decisions regarding class certification have limited the scope of the Class. As a result, the costs of pursuing Class Members' claims are very high relative to the amount Class Members could hope to recoup at trial. In addition, the Settlement provides for a payment that Class Counsel believes is likely to compensate Authorized Claimants for a significant percentage of the Mandatory Hotel Fees that they paid in connection with reservations made through Orbitz.

12. How will Class Counsel's fees and expenses be paid?

At the Fairness Hearing, Class Counsel will apply to the Court for the payment of an Initial Attorneys' Fee and Expense Award of no more than \$40,000. That award will include an award of \$1,000 each to Plaintiffs Nicole Montgomery and Wallace Leasure as compensation for their time and effort in pursuing the Lawsuit on behalf of the Class. The Initial Attorneys' Fee and Expense Award will not fully compensate Class Counsel for the expenses that they have incurred in connection with the Litigation, much less the full value of the attorneys' fees that they have incurred representing Plaintiffs

and all Class Members on a fully contingent basis. In addition, as is described above in Section 5, Class Counsel intend to request that the Court authorize the payment of a Secondary Attorneys' Fee and Expense Award to be paid only in the event that the Net Settlement Amount exceeds the Total Authorized Claims Amount. The maximum Secondary Attorneys' Fees and Expense Award will be equal to the amount by which the Net Settlement Amount exceeds the Total Authorized Claims Amount. In all circumstances, however, the amount of the expenses incurred by Class Counsel in prosecuting this action on behalf of Class Members on a fully contingent basis will exceed the amount of the total attorneys' fees and expenses awarded to them.

13. What claims will I release if the Settlement is approved by the Court?

If the Settlement is approved by the Court, the Class Members will release certain claims (the "Released Class Claims") against Orbitz and its past and present officers, directors, employees, agents, stockholders, attorneys, insurers, servants, representatives, parents, subsidiaries, and affiliates, and the predecessors, successors, heirs, executors, administrators, trustees, and assigns of each of the foregoing (the "Orbitz Releasees"). The Released Class Claims are any and all claims (including "Unknown Claims"), demands, actions, suits, and causes of action, whether class, individual or otherwise in nature, damages of any nature whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties, and attorneys' fees, known or unknown, suspected or unsuspected, in law or in equity, that the Class Members now have, or hereafter can, shall or may have on account of or arising out of or resulting from non-disclosure or inaccurate disclosure concerning Mandatory Hotel Fees payable to Starwood Brand and Marriott Brand hotels, motels, resorts or other lodging places in connection with reservations booked and paid for through Orbitz, including but not limited to any such conduct alleged, and causes of action asserted, or that could have been alleged or asserted, in the Lawsuit, which arise under any federal or state statute or regulation or the common law, except claims to enforce the terms of the Settlement. The Unknown Claims include any and all Released Class Claims that Plaintiffs or any Class Member does not know or suspect to exist in his, her or its favor at the time the release of the Released Class Claims becomes effective, which if known by any Plaintiff or any Class Member, might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released Class Claims, the parties have stipulated and agreed that, once the release of the Released Class Claims becomes effective, each Class Member shall expressly be deemed to have, and by operation of the Court's order dismissing the Lawsuit shall have, expressly waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542. That statute provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

14. What are the important deadlines for this Settlement?

If you wish to submit a claim, you must complete and mail a Proof of Claim Form to the Administrator so that the form is postmarked no later than August 15, 2011.

Objections to the Settlement must be served no later than August 11, 2011.

Notices of intent to appear at the Fairness Hearing and any evidence you propose to submit to the Court must be served no later than August 11, 2011.

The Fairness Hearing will occur on September 16, 2011, at 9:00 a.m., in the courtroom of the Honorable Carl J. West, at Central Civil West Courthouse, 600 S. Commonwealth Avenue, Los Angeles, C.A.

BY THE COURT:

Dated: May __, 2011

/s/ _____
Honorable Carl J. West

EXHIBIT D

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

NICOLE MONTGOMERY, Individually and on Behalf of All Others Similarly Situated,)	
)	
Plaintiff,)	Case No. BC 335441
)	
vs.)	Assigned to the Honorable Carl J. West
)	
ORBITZ, LLC and DOES 1-100,)	
)	
Defendants.))	

CLAIM FORM FOR MEMBER OF ORBITZ/STARWOOD SETTLEMENT CLASS

Instructions:

- Complete the information requested and either Declaration A or Declaration B (please print). Information marked with an asterisk (*) must be completed or your claim form will be invalid. You still may be entitled to a settlement payment even if you are unable to provide the optional information and/or copies of the documentation.
- Attach copies of optional documentation.
- Sign and Date this Claim Form
- Mail Claim Form and any documentation , postmarked no later than **August 15, 2011** to:
Orbitz Hotel Fee Settlement
c/o Kalcheim Law Group, P.C.
9300 Wilshire Boulevard, Suite 508
Beverly Hills, CA 90212
- Please complete a separate claim form for each reservation for which you wish to make a claim.

Name*: _____

Mailing Address*: _____

Phone number(s) where you can be reached for questions related to your claim*: _____

Declaration A:

Between January 1, 2003 and December 31, 2005, I used Orbitz to make and pay for a reservation at

_____ * [hotel/motel/resort] in _____ *

[city/state]. I paid a mandatory charge to the above hotel/motel/resort in addition to the amount I paid to Orbitz. I did not receive notice of the additional charge at the time I made my reservation, or I was misinformed or misled about the amount of the additional charge at the time I made my reservation. I did not receive a refund of this mandatory charge from the above hotel or Orbitz.

Optional Additional Information:

Date(s) of stay: _____

Amount of additional charge: _____

Nature of additional charge (e.g., resort fee, safe fee): _____

I have attached documentation evidencing payment of the additional charge (e.g., receipt, hotel invoice, cancelled check, credit card statement) _____ Yes _____ No

The above information is true and correct to the best of my knowledge.

Signature*

Date*

Declaration B:

Between January 1, 2006 and December 18, 2009, I used Orbitz to make and pay for a reservation at _____ * [hotel/motel/resort] in _____ *

[city/state]. I paid a mandatory charge to the above hotel/motel/resort in addition to the amount I paid to Orbitz.

I did not receive notice of the additional charge at the time I made my reservation, or I was misinformed or misled about the amount of the additional charge at the time I made my reservation. I did not receive a refund of this mandatory charge from the above hotel or Orbitz.

Optional Additional Information:

Dates of stay: _____

Amount of additional charge: _____

Nature of additional charge (e.g., resort fee, safe fee): _____

I have attached the documentation evidencing:

- payment of the additional charge (e.g., receipt, hotel invoice, cancelled check, credit card statement) _____ Yes _____ No
- confirmation of my reservation received from Orbitz _____ Yes _____ No

The above information is true and correct to the best of my knowledge.

Signature*

Date*

You must complete, date and sign either Declaration A or Declaration B. You may still be entitled to a settlement payment even if you are unable to provide the optional information and/or copies of the documentation.

This form must be mailed in an envelope that is postmarked no later than August 15, 2011.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

NICOLE MONTGOMERY, Individually and on Behalf of All Others Similarly Situated,)	
)	
Plaintiff,)	Case No. BC 335441
)	
vs.)	Assigned to the Honorable Carl J. West
)	
ORBITZ, LLC and DOES 1-100,)	
)	
Defendants.)	
_____))	

CLAIM FORM FOR MEMBER OF ORBITZ/MARRIOTT SETTLEMENT CLASS

Instructions:

- Complete the information requested and either Declaration A or Declaration B (please print). Information marked with an asterisk (*) must be completed or your claim form will be invalid. You still may be entitled to a settlement payment even if you are unable to provide the optional information and/or copies of the documentation.
- Attach copies of optional documentation.
- Sign and Date this Claim Form
- Mail Claim Form and any documentation , postmarked no later than **August 15, 2011** to:
Orbitz Hotel Fee Settlement
c/o Kalcheim Law Group, P.C.
9300 Wilshire Boulevard, Suite 508
Beverly Hills, CA 90212
- Please complete a separate claim form for each reservation for which you wish to make a claim.

Name*: _____

Mailing Address*: _____

Phone number(s) where you can be reached for questions related to your claim*: _____

Declaration A:

Between January 1, 2003 and December 31, 2005, I used Orbitz to make and pay for a reservation at

_____ * [hotel/motel/resort] in _____ *

[city/state]. I paid a mandatory charge to the above hotel/motel/resort in addition to the amount I paid to Orbitz. I did not receive notice of the additional charge at the time I made my reservation, or I was misinformed or misled about the amount of the additional charge at the time I made my reservation. I did not receive a refund of this mandatory charge from the above hotel or Orbitz.

Optional Additional Information:

Date(s) of stay: _____

Amount of additional charge: _____

Nature of additional charge (e.g., resort fee, safe fee): _____

I have attached documentation evidencing payment of the additional charge (e.g., receipt, hotel invoice, cancelled check, credit card statement) _____ Yes _____ No

The above information is true and correct to the best of my knowledge.

Signature*

Date*

Declaration B:

Between January 1, 2006 and June 4, 2010, I used Orbitz to make and pay for a reservation at

_____ * [hotel/motel/resort] in _____ *

[city/state]. I paid a mandatory charge to the above hotel/motel/resort in addition to the amount I paid to Orbitz.

I did not receive notice of the additional charge at the time I made my reservation, or I was misinformed or misled about the amount of the additional charge at the time I made my reservation. I did not receive a refund of this mandatory charge from the above hotel or Orbitz.

Optional Additional Information:

Dates of stay: _____

Amount of additional charge: _____

Nature of additional charge (e.g., resort fee, safe fee): _____

I have attached the documentation evidencing:

- payment of the additional charge (e.g., receipt, hotel invoice, cancelled check, credit card statement)
_____ Yes _____ No
- confirmation of my reservation received from Orbitz _____ Yes _____ No

The above information is true and correct to the best of my knowledge.

Signature*

Date*

You must complete, date and sign either Declaration A or Declaration B. You may still be entitled to a settlement payment even if you are unable to provide the optional information and/or copies of the documentation.

This form must be mailed in an envelope that is postmarked no later than August 15, 2011.

EXHIBIT E

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26 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
27 **FOR THE COUNTY OF LOS ANGELES**

28 NICOLE MONTGOMERY, Individually) **Case No. BC 335441**
and on Behalf of All Others Similarly)
Situating,) **[PROPOSED] FINAL ORDER APPROVING**
Plaintiff,) **CLASS ACTION SETTLEMENT AND**
vs.) **FINAL JUDGMENT**
ORBITZ, LLC and DOES 1-100,)
Defendants.) **Assigned to the Honorable Carl J. West**
) **Department 322**
) **Action filed: June 22, 2005**
) **CLASS ACTION**

1 Class Counsel having filed an Application for a Final Order Approving Class Action
2 Settlement and Final Judgment (the "Final Judgment Order"); the said motion having come
3 on for hearing before the above-entitled Court; the Court having reviewed and considered all
4 documents, evidence and arguments of counsel presented in support of said motion, as well
5 as any objections by members of the Class and the parties' responses thereto; the Court being
6 fully advised of the premises and good cause appearing therefore, IT IS HEREBY
7 ADJUDGED, ORDERED AND DECREED that:

8 1. The Settlement Agreement, including the definitions contained therein, is
9 incorporated by reference in this Final Judgment Order.

10 2. The Court has jurisdiction over the subject matter of this Litigation and all parties to
11 this Litigation, including all members of the Class.

12 3. The Court also finds that the Settlement Notice provided to Class Members was the
13 best notice practicable under the circumstances. The Administrator implemented the notice
14 program and fully complied with the Preliminary Approval Order. The Administrator
15 emailed the Settlement Notice to approximately _____ Class Members and has maintained
16 the Settlement Notice on the webpage www.Kallawgroup.com/Orbitzhotelfeelawsuit from
17 _____ (___ days after the Court issued the Preliminary Approval Order) through the
18 present. In light of the fact that the overwhelming majority of Class Members made their
19 hotel reservations through www.orbitz.com, email notice was the most efficient and effective
20 means for contacting Class Members.

21 4. The Court hereby grants final approval of the Settlement and finds that it is fair,
22 reasonable and adequate, and in the best interests of the Class as a whole. In granting final
23 approval the Court has considered the following inter-related factors: (1) the strength of
24 Plaintiffs' case; (2) the expense, complexity and likely duration of further litigation; (3) the
25 benefits conferred by the Settlement; (4) the experience and views of counsel; (5) the extent
26 of discovery completed and the stage of the proceedings; and (6) the reaction of Class
27 Members to the Settlement. Plaintiffs faced substantial risk of non-recovery had this
28 litigation proceeded further, including the risk that Orbitz would have succeeded in proving

1 that the disclosures that it provided to Class Members were adequate to disclose the
2 possibility that Class Members would have to pay the fees that Plaintiffs alleged Orbitz
3 failed to disclose and that further proceedings would have demonstrated that the claims
4 possessed by Class Members were sufficiently different that the Class should be de-certified.
5 Despite these substantial risks, Plaintiffs were able to negotiate a Settlement that will
6 produce a significant cash benefit for those Class Members who complete the required Proof
7 of Claim Form. By Orbitz's estimate, Class Members' damages amount to only
8 \$ _____, or ___% more than the total settlement payment.

9 5. The Court's decision to approve the Settlement is further supported by the
10 overwhelmingly positive reaction of the Class to the Settlement. The Administrator
11 forwarded the Settlement Notice to _____ Class Members. Only _____ Class Members have
12 objected to the Settlement.

13 6. The Court finds that the objections asserted by Class Members lack merit because
14 _____.

15 7. The Court hereby approves the distribution of Individual Settlement Payments to
16 Class Members pursuant to the formulas set forth in the Settlement Agreement.

17 8. This Final Order Approving Class Action Settlement and Final Judgment is a final
18 judgment within the meaning of and for purposes of California Code of Civil Procedure
19 sections 577, 581d and 904.1(a), and Rule 8.104 of the California Rules of Court.

20 9. Immediately upon entry of this Final Order Approving Class Action Settlement and
21 Final Judgment, the Complaint herein shall be dismissed with prejudice, without costs to any
22 party, except as specifically provided in the Settlement Agreement.

23 10. The Court orders that Plaintiffs, all members of the Class and the Orbitz Releasees
24 (as defined in the Settlement Agreement) are forever barred and permanently enjoined from
25 asserting, instituting or prosecuting, either directly or indirectly, any claims settled and
26 released under the terms of the Settlement Agreement, which they had, have or may have in
27 the future, to the extent provided by the Settlement Agreement.
28

1 11. Without affecting the finality of this Final Order Approving Class Action Settlement
2 and Final Judgment in any respect, the Court retains jurisdiction over: (1) the implementation
3 and enforcement of the Settlement Agreement until each and every act agreed to be
4 performed by the parties to the Settlement Agreement is performed; (2) any other action
5 necessary to conclude this Settlement and to implement the Settlement Agreement; and
6 (3) the enforcement, construction and interpretation of the Settlement Agreement.

7 12. Neither this Final Order Approving Class Action Settlement and Final Judgment, nor
8 the Settlement Agreement, nor the fact of Settlement, nor the settlement proceedings, nor
9 settlement negotiations, nor any related document, shall be used as an admission of: (a) any
10 violation of any statute or law, or of any liability or wrongdoing by Orbitz; (b) the truth of
11 any of the claims or allegations contained in any pleading or other paper filed by any party in
12 the Action; (c) any infirmity with respect to any claim or fact alleged by Plaintiffs or the
13 Class Members; or (d) the amount, if any, that Plaintiffs and Class Members would have
14 recovered had the Action proceeded to trial. Evidence regarding the Settlement shall not be
15 discoverable or used directly or indirectly, in any way, whether in the Action or in any other
16 action or proceeding, except for purposes of enforcing the terms of the Settlement.

17 13. The Court finds that no just reason exists for delay in entering this Final Order
18 Approving Class Action Settlement and Final Judgment. Accordingly, the Clerk is hereby
19 directed forthwith to enter this Final Order Approving Class Action Settlement and Final
20 Judgment pursuant to California Code of Civil Procedure section 664.6.

21 14. The Settlement Agreement is expressly incorporated herein by this reference, and
22 has full force and effect as an order of this Court. The parties shall consummate the
23 Settlement Agreement according to its terms.

24 15. In accord with the terms of the Settlement Agreement, the Court hereby grants
25 Plaintiffs' motion for an Initial Award of Attorneys' Fees and Expenses and instructs Orbitz
26 to pay Class Counsel \$ _____ from the Settlement Amount within five business days
27 of the Effective Date before forwarding the balance of the Settlement Amount to the
28 Administrator.

1 16. In addition, in the event the Total Authorized Claims do not exceed the Net
2 Distribution Amount (as those terms are defined in the Settlement Agreement), the Court
3 awards Class Counsel a Secondary Fee and Expense Award equal to the amount by which
4 the Net Distribution Amount exceeds the Total Authorized Claims.

5 17. The Court finds that these payments are fair and reasonable. In reaching that
6 determination, the Court has considered the following factors, among others: (a) the time
7 spent by Class Counsel in prosecuting the Class's claims; (b) the quality of the work
8 performed by Class Counsel in prosecuting the Class's claims; (c) the terms of the
9 Settlement; (d) the substantial benefits conferred on the members of the Class by the
10 Settlement; (e) the improvements to its website disclosures voluntarily made by Orbitz after
11 commencement of the Litigation; (f) Class Counsel's willingness to prosecute the Class's
12 claims on a contingent basis and thereby incur substantial risk of non-payment; (g) the fees
13 typically awarded to plaintiffs' counsel in class actions of this nature; and (h) the expenses
14 advanced by Class Counsel on behalf of the Class. The Court notes that the payments of fees
15 and expenses contemplated by this order will reimburse Class Counsel for only a small
16 percentage of the attorneys' fees and expenses that they incurred in connection with
17 prosecuting this action.

18 18. If any portion of the Net Distribution Amount remains unclaimed six months after
19 the Distribution Date, the Administrator shall distribute those funds, in the first instance, to
20 Class Counsel if, and to the extent that, Class Counsel has not yet collected the maximum
21 amount of any Secondary Fee and Expense Award made by the Court; and, thereafter, to the
22 Disability Rights Legal Center, 919 Albany Street, Los Angeles, CA 90015.

23 19. In the event that that Effective Date does not occur, this Final Judgment Order shall
24 be rendered null and void and shall be vacated and, in such event, all orders entered and
25 releases delivered in connection herewith shall be null and void, and the Settlement Fund, or
26 any portion thereof, if previously paid by or on behalf of Orbitz, shall immediately be
27 returned to the payor, minus the Notice and Administration Costs incurred pursuant to the
28 terms of the Settlement Agreement.

1 20. Without further order of the Court, the parties to the Settlement Agreement may
2 agree to reasonable extensions of time to carry out any of the provisions of the Settlement
3 Agreement.

4
5 Dated: _____, 2011

Hon. Carl J. West
Judge of the Superior Court