

1 THE HONORABLE MONICA J. BENTON

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7 SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

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9 In re EXPEDIA HOTEL TAXES AND FEES
LITIGATION

CONSOLIDATED CIVIL ACTION

Master File No. 05-2-02060-1 SEA

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11 This Document Relates To: ALL ACTIONS

12 [~~PROPOSED~~] ORDER PRELIMINARILY
APPROVING SETTLEMENT AND
PROVIDING NOTICE OF SETTLEMENT

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14 **CLERK'S ACTION REQUIRED**

15 WHEREAS, the class action captioned *In re Expedia Hotel Taxes and Fees Litigation*,
16 No. 05-2-02060-1 SEA, is pending before this Court; and

17 WHEREAS, the Plaintiffs have applied to the Court, pursuant to CR 23(e), for an Order
18 preliminarily approving the Settlement of the above-named action in accordance with the terms
19 and provisions of the Class Action Settlement Agreement (the "Settlement Agreement" or
20 "Agreement") which, together with the exhibits thereto, sets forth the terms and conditions for a
21 proposed settlement of the action as to Defendant, Expedia and for dismissal of the action with
22 prejudice as to Defendant, Expedia;

23 WHEREAS, by Order dated May 7, 2008, the Court previously appointed Plaintiffs as
24 class representatives for the Class, and Hagens Berman Sobol Shapiro LLP as Lead Class
25 Counsel, and certified the following class:
26

1 All persons and entities throughout the United States who were
2 assessed a 'Tax Recovery Charge' and a 'Service Fee' when
3 paying for lodging reservations through Expedia, Inc. (the
4 "Class"), asserting the following claims: (1) for all Class members
5 from January 1, 2003, to the present, claims for breach of contract
6 ("the breach of contract claimants") and (2) for all Class members
7 from January 10, 2001 to the present who paid for hotel
8 reservations that were not part of a "package," except for those
9 who paid for hotel reservations that were booked between
10 December 20, 2002 and December 27, 2002, claims for violations
11 of the Washington Consumer Protection Act (the "CPA
12 claimants.") For the purpose of the Class, a "package" is a
13 reservation that includes lodging plus airline tickets and/or a rental
14 car. Excluded from the Class are Expedia, Inc. and its employees
15 and agents, and all state and other governmental entities.

16 WHEREAS, the proposed Settlement maintains this definition, except that (i) the Class
17 Period ends on June 11, 2008, consistent with the Court-approved class certification notice in the
18 fall of 2008 and (ii) those persons who have already opted out of this litigation are not part of the
19 Class.

20 WHEREAS, the Court has read and considered the Agreement and the exhibits thereto
21 and has read and considered all other papers filed and proceedings had herein, and is otherwise
22 fully informed in the premises, and with good cause appearing therefore;

23 NOW, THEREFORE, IT IS HEREBY ORDERED:

24 1. This Preliminary Approval Order incorporates by reference the definitions in the
25 Agreement, and all capitalized terms shall have the same meanings set forth in the Agreement.

26 2. The Court has jurisdiction over the subject matter of this action and over all
parties to this action, including all members of the Class and Defendant, Expedia.

3. The Court preliminarily approves the Agreement, including the Releases
contained therein, and preliminarily finds the Settlement to be fair, reasonable, and adequate to
the Class.

4. The Court approves, as to form and content, the Summary Published Notice, the
Long Form Notice, and the Summary Email Notice (together, the "Class Notice") annexed to the
Agreement.

1 5. All dates that are set forth in or otherwise flow from the Preliminary Approval
2 Order shall be added to the Summary Email Notice and the Summary Published Notice before
3 they are emailed and published, respectively.

4 6. The Court finds the Notice Plan constitutes the best notice practicable under the
5 circumstances, by providing individual notice to all Class Members who can be identified
6 through reasonable effort, and constitutes valid, due, and sufficient notice to all persons entitled
7 thereto, complying fully with the requirements of CR 23 and due process.

8 7. The notice procedure shall be as set forth below and in the Notice Plan:

9 (a) Consistent with the Notice Plan, the Claims Administrator shall cause to
10 be emailed copies of the Summary Email Notice to all Class Members who can be identified
11 with reasonable effort to each such Class Member's last-known, customer-provided email
12 address. For those Class Members for whom Expedia does not have a last-known, customer-
13 provided email address, and for those Class Members for whom active email addresses cannot be
14 obtained, the Claims Administrator shall cause to be mailed to the Class Member's last-known,
15 customer-provided mailing address, by first class mail, postage prepaid, copies of a postcard
16 Notice that contains substantially all of the information in the Summary Email Notice;

17 (b) The Claims Administrator shall cause the Summary Published Notice to
18 appear as a half-page in one issue of *People* magazine;

19 (c) The Claims Administrator shall place internet Notice on major online
20 networks and websites including *Yahoo.com*, *Mapquest.com*, *Univision.com*, and *Weather.com.*,
21 in the form of a banner that allows users to self-identify themselves as potential Class Members
22 and then link directly to the Settlement Website;

23 (d) The Claims Administrator shall establish and be responsible for
24 administering the Settlement Website, which shall contain, among other things, the Long Form
25 Notice, a contact information page that includes address and telephone numbers for the Claims
26 Administrator and the Parties; the Settlement Agreement; the signed Preliminary Approval

1 Order; and an electronic version of the Cash Election Form, the Expedia Settlement Credit
2 Verification Form, and a downloadable version of the Opt-Out Form.

3 8. At or prior to the Final Approval Hearing, the Claims Administrator shall file with
4 the Court and serve on Plaintiffs' Counsel and Expedia's Counsel proof by declaration or
5 affidavit that it has complied with the notice requirements described in paragraphs 7(a)-(c)
6 above.

7 9. Class Members who wish to comment on, object to or exclude themselves from
8 the Agreement must do so in accordance with the instructions contained in the Class Notice. All
9 persons who properly submit requests for exclusion shall not be members of the Class and shall
10 have no rights with respect to the settlement. The Claims Administrator will transmit, on a
11 rolling basis, copies of completed Opt-Out Forms received from Class Members simultaneously
12 to both the Plaintiffs' Counsel and Expedia's Counsel.

13 10. A hearing (the "Final Approval Hearing") shall be held on December 1,
14 2009, at 10 a.m., before the Honorable Monica J. Benton, King County Superior Court
15 Judge, at the Regional Justice Center, 401 Fourth Avenue North, Room ~~3B~~^{3B}, Kent, Washington
16 98032, for the purpose of determining (a) whether the proposed Settlement as set forth in the
17 Agreement is fair, reasonable and adequate and should be approved by the Court; (b) whether an
18 Order of Final Approval of Class Action Settlement and Judgment of Dismissal with Prejudice,
19 substantially in the form of Exhibit C to the Agreement, should be entered; (c) whether the
20 proposed Plan of Allocation is fair, reasonable and adequate and should be approved by the
21 Court; (d) whether Plaintiffs' counsel should receive an award of attorneys' fees and costs, and
22 the amount of any such award; (e) whether the Named Plaintiffs (Michelle Huggins and Jose
23 Alba) should receive incentive awards in an amount not to exceed \$7,500 each; and (f) such
24 other matters as the Agreement contemplates and as the Court may deem just and proper.
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1 11. Any application by Plaintiffs' Counsel for Attorneys' Fees and Costs, and all
2 papers in support thereof, and any application for Incentive Awards for the Named Plaintiffs
3 shall be filed with the Court at least ten (10) days prior to the Final Approval Hearing.

4 12. All other papers in support of the Settlement or responding to objections or
5 motions to intervene shall be filed at least ten (10) days prior to the Final Approval Hearing.

6 13. At least 15 days prior to the Final Approval Hearing, the Claims Administrator
7 shall prepare a list of Class Members who have filed timely requests for exclusion and provide
8 that list simultaneously to Expedia's Counsel and Plaintiffs' Counsel, and Plaintiffs' Counsel
9 shall file that list with the Court (and simultaneously serve on Expedia's Counsel a copy of the
10 list as filed).

11 14. Any Class Member may appear and show cause (if he, she, or it has any) why the
12 Court should or should not (a) approve the proposed Settlement as set forth in the Agreement as
13 fair, reasonable and adequate; (b) approve the Plan of Allocation; (c) approve Plaintiffs'
14 Counsel's request for attorneys' fees and reimbursement of expenses; (d) approve the request for
15 Incentive Awards for the Named Plaintiffs; and (e) enter the Order of Final Approval of Class
16 Action Settlement and Judgment of Dismissal with Prejudice, substantially in the form of Exhibit
17 C to the Agreement; **provided, however**, that no person shall be heard with respect to, or shall
18 be entitled to contest, the foregoing matters unless, no later than twenty (20) days prior to the
19 Final Approval Hearing, that person has served by hand, express mail delivery service, or by
20 first-class mail notice of his, her, or its intention to appear, setting forth briefly each objection
21 and the basis therefore, together with copies of any papers and briefs in support of said
22 objections and proof of membership in the Class, upon: Andrew M. Volk, Hagens Berman
23 Sobol Shapiro LLP, 1301 Fifth Avenue, Suite 2900, Seattle, Washington 98101 (on behalf of
24 Plaintiffs and the Class) and upon James Karen, Jones Day, 2727 N. Harwood Street, Dallas,
25 Texas 75201 (on behalf of Expedia); and has filed said objection, papers, and briefs with the
26 Court, upon: Clerk of the Court, King Court Superior Court, Regional Justice Center, 401

1 Fourth Avenue North, Kent, Washington 98032. Unless otherwise ordered by the Court, any
2 Class Member who does not make his, her, or its objection in the manner provided for herein,
3 shall be deemed to have waived such objection and shall forever be foreclosed from making any
4 objection to the foregoing matters.

5 15. The Court may adjourn the Final Approval Hearing from time to time and without
6 further notice to the Class. The Court reserves the right to approve the Settlement at or after the
7 Final Approval Hearing with such modifications as may be consented to by the Settling Parties
8 and without further notice to the Class. The Court further reserves the right to enter a Final
9 Order, dismissing the action with prejudice as to Expedia and against the Plaintiffs and the Class
10 at or after the Final Approval Hearing and without further notice to the Class.

11 16. Upon the Effective Date, all Released Claims will be released in accordance with
12 Section 7 of the Agreement.

13 17. Upon entry of the Final Order, the Court will dismiss this action in its entirety as
14 to Defendant, Expedia, with prejudice and without costs (except as otherwise provided in the
15 Agreement).

16 18. All reasonable costs and expenses incurred in identifying and providing notice to
17 Class Members and in administering the Settlement shall be paid as set forth in the Agreement.

18 19. The Court retains jurisdiction over all proceedings arising out of or related to the
19 Settlement Agreement.

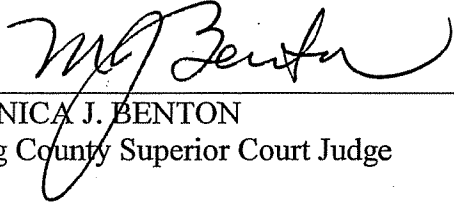
20 20. If for any reason the Settlement Agreement does not become effective in
21 accordance with the terms of the Settlement Agreement, this Preliminary Approval Order shall
22 be rendered null and void and shall be vacated *nunc pro tunc*, and the Action will for all
23 purposes revert to its status as of the close of business (Pacific Time) on July 2, 2009.

24 21. Pending final determination as to whether the Settlement, as set forth in the
25 Settlement Agreement, should be approved, no Class Member shall commence, prosecute,
26 pursue, or litigate any Released Claims against Expedia, whether directly, representatively, or in

1 any other capacity, and regardless of whether or not any such Class member has appeared in the
2 action.

3 IT IS SO ORDERED.

4 Dated this 10 day of August, 2009.

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6 _____
7 MONICA J. BENTON
8 King County Superior Court Judge

9 Presented by:

10 **Hagens Berman Sobol Shapiro LLP**

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