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10 PETER LO RE, JAMES ROTH, ADAM RUSSELL, MARYAM
AGHCHAY and The Certified Class

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**
14 **CENTRAL CIVIL WEST**

15 CURT SCHLESINGER, PETER LO RE,
16 JAMES ROTH, ADAM RUSSELL, MARYAM
AGHCHAY, on behalf of themselves and The
17 Certified Class,

18 Plaintiffs,

19 v.

20 TICKETMASTER, a Delaware Corporation,

21 Defendants.

CASE NO.: BC 304565

Assigned to: Judge Kenneth R. Freeman

**PLAINTIFFS' AND THE CLASS'
EVIDENTIARY OBJECTIONS TO
DECLARATION OF ERIC S. FULLER
DATED SEPTEMBER 10, 2014,
REGARDING HIS OBJECTION TO
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

DATE: January 13, 2015

TIME: 10:00 a.m.

PLACE: Dept. 310

TRIAL DATE: Vacated

ACTION FILED: October 21, 2003

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Fuller Declaration	Grounds for Objection:	Ruling on Objection:
Material Objection To:		
<p>1. Paragraph 4, page 4:11-13: “This <i>coupon only</i> Settlement unfairly allows Ticketmaster to keep all of its more than \$587,000,000 in ill-gotten funds without disgorging them to any of the persons who have been directly economically harmed.”</p>	Relevance, speculation, foundation, conclusory	Sustained: _____ Overruled: _____
<p>2. Paragraph 4, page 4:21-24: “Just this week, on September 8, 2014, I purchased tickets at 17 separate venues for which the average Order Processing Fee charged by Ticketmaster was \$5.40. (See Lodged copies of purchases marked as Exhibit B)”</p>	Relevance, foundation, erroneous, hearsay	Sustained: _____ Overruled: _____
<p>3. Paragraph 4, page 4:24-25: “Seven of the Order Processing Fees were \$6 or more, with the highest charge being \$6.50.”</p>	Hearsay, foundation, relevance	Sustained: _____ Overruled: _____

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<p>4. Paragraph 4, page 4:26-28: “There is little value conferred upon a class which receives a \$2.25 coupon but to redeem it has to pay a new Order Processing Fee which is \$1.40 on average more than the \$4 which was previously charged.”</p>	<p>Foundation, conclusory, relevance</p>	<p>Sustained: _____ Overruled: _____</p>
<p>5. Paragraph 4, page 5:2-3: “It is predictable what will happen to the Order Processing Fee when Ticketmaster sends out the coupons it proposes in settlement.”</p>	<p>Foundation, conclusory</p>	<p>Sustained: _____ Overruled: _____</p>
<p>6. Paragraph 4, page 5:4-5: “Ticketmaster will increase the Order Processing Fee so as to make the net effect of the coupon redemption from this settlement profitable.”</p>	<p>Foundation, conclusory</p>	<p>Sustained: _____ Overruled: _____</p>

1	7. Paragraph 4, page 5:5-7:	Foundation, relevance,	Sustained: _____
2	“Already, this small		Overruled: _____
3	sampling shows the average		
4	Order Processing Fee		
5	average increased \$1.40 from		
6	\$4.00 to \$5.40 over the prior		
7	average for the loss suffered		
8	by the class.”		
9	8. Paragraph 4, page 5:7-10:	Foundation, conclusory	Sustained: _____
10	“This increase of \$1.40 to the		Overruled: _____
11	Order Processing Fee more		
12	than wipes out the 75 cent		
13	increase in the value of the		
14	proposed coupons in the new		
15	settlement (\$2.25) over that		
16	proposed in the rejected		
17	settlement (\$1.50).”		
18	9. Paragraph 4, page 5:10-13:	Foundation, conclusory	Sustained: _____
19	“This increase leaves		Overruled: _____
20	Ticketmaster with an		
21	additional profit of 65 cents		
22	per coupon redemption from		
23	the newly proposed		
24	settlement over what was		
25	previously proposed and		
26	rejected by this Court.”		
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<p>10. Paragraph 4, page 6:1-4:</p> <p>“The Settlement Agreement does not fairly address the California's Cy Pres fund requirements making a donation of only \$3,000,000 (paid in installments over three years) without setting a mechanism to deliver the cash value of any unclaimed settlement pool into a proper Cy Pres fund.”</p>	<p>Misstates the facts (no settlement pool), foundation</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>11. Paragraph 4, page 6:4-6:</p> <p>“The Settlement Agreement represents the value to be delivered to the class as \$45 million including Cy Pres beneficiaries.”</p>	<p>Misstates the facts, foundation</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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<p>12. Paragraph 4, page 6:13-16:</p> <p>“Ticketmaster is actually seeking court approval to charge the settlement class both a convenience fee and an order processing fee for any tickets it contributes to the settlement pool to offset the very real prospect that few people will be interested in their token value discount codes.”</p>	<p>Foundation, speculation, conclusory</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>13. Paragraph 4, page 6:17-18:</p> <p>“One reason few codes may be redeemed is that Ticketmaster sets a very short time fuse when shows go on sale.”</p>	<p>Hearsay, foundation, speculation</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>14. Paragraph 4, page 6:18-20:</p> <p>“If someone goes onto Ticketmaster for a high demand show and actually is able to get tickets into their cart, they have between 90 seconds and 2 minutes to push the buy button.”</p>	<p>Foundation, speculation,</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

1	15. Paragraph 4, page 6:20-22:	Foundation, speculation,	Sustained: _____
2	“Few people in that situation	conclusory	Overruled: _____
3	will risk losing their tickets		
4	to the countdown time while		
5	they search for the code		
6	emailed them by		
7	Ticketmaster at a prior time.”		
8	16. Paragraph 5, page 6:24-25:	Foundation, relevance	Sustained: _____
9	“Additionally, the ticket		Overruled: _____
10	market place has changed		
11	substantially since we were		
12	here		
13	last.”		
14	17. Paragraph 5, page 6:25-27:	Foundation, hearsay,	Sustained: _____
15	“Now, Ticketmaster itself is	conclusory, speculation	Overruled: _____
16	a huge player in resale		
17	tickets. Ticketmaster sends		
18	emails to brokers reminding		
19	them to buy tickets for resale,		
20	and to individuals asking		
21	them to list tickets for		
22	resale.”		
23	18. Paragraph 5, page 6:27: “In	Foundation, speculation	Sustained: _____
24	each of these transactions		Overruled: _____
25	Ticketmaster collects		
26	substantial fees.”		

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<p>19. Paragraph 5, page 6:27-28 and page 7:1-2: “For ticket brokers, Ticketmaster, through its Event Inventory subsidiary charges a fee of \$388 per month plus a sliding scale percentage of the sale price to be granted the privilege of selling resale tickets which are displayed directly on the Ticketmaster site alongside tickets sold directly from the venue.”</p>	<p>Hearsay, relevance, foundation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>20. Paragraph 5, page 7:2-5: “Given this push by Ticketmaster to develop a thriving secondary market, it is disingenuous at best for them to deny reimbursement to those individuals and ticket brokers who paid a disproportionately high percentage of the improper Order Processing Fees.”</p>	<p>Foundation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>21. Paragraph 6, page 7:6: “The secondary market place is both large and reputable.”</p>	<p>Foundation, relevance</p>	<p>Sustained: _____ Overruled: _____</p>

<p>1 2 3 4 5 6 7 8 9</p>	<p>22. Paragraph 6, page 7:6-8: “Other major players than Ticketmaster include Stubhub which is a wholly owned subsidiary of Ebay, Vivid Seats, RazorGator, Ticket City, Ticket Network and Ticket Evolution.”</p>	<p>Foundation, relevance</p>	<p>Sustained: _____ Overruled: _____</p>
<p>10 11 12 13 14 15 16 17 18 19 20</p>	<p>23. Paragraph 8, page 7:12-14: “The \$38.25 proposed (plus \$38.25 in more limited Live Nation coupons) for each individual class member in the current proposed settlement represents only a tiny fraction of the damages suffered by me, and other individuals and ticket brokers who purchase many tickets.”</p>	<p>Foundation, speculation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>21 22 23 24 25 26 27 28</p>	<p>24. Paragraph 10, page 7:25-26: “Ticketmaster retains the more than \$587,000,000 (half billion dollars) it improperly charged more than 50 million people while telling them an affirmative lie.”</p>	<p>Foundation, speculation</p>	<p>Sustained: _____ Overruled: _____</p>

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<p>25. Paragraph 10, page 7:27-28: “The redemption process is clumsy given the real risk of losing tickets in the shopping cart as described above in paragraph D.”</p>	<p>Foundation, speculation, conclusory</p>	<p>Sustained: _____ Overruled: _____</p>
<p>26. Paragraph 10, page 7:28 and page 8:1-3: “This ‘settlement’ is nothing more than a marketing program for which Ticketmaster is already adjusting its Order Processing Fee upwards in order to assure it spends little or nothing in reimbursement to the class members.”</p>	<p>Foundation, speculation, conclusory</p>	<p>Sustained: _____ Overruled: _____</p>
<p>27. Paragraph 10, page 8:3-5: “Ticketmaster will earn money from both Order Processing Fees and Convenience charges for every purchase made in the future by a class member seeking to redeem the proposed settlement coupon.”</p>	<p>Foundation, speculation</p>	<p>Sustained: _____ Overruled: _____</p>

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28. Paragraph 11, page 8:6-10:
“The truth in the cost to
Ticketmaster for this
settlement is contained in its
SEC form
10-Q for the period ended
June 30, 2014 at page 13 in
which Ticketmaster states
under penalty of perjury and
pursuant to the Sarbanes
Oxley rules of disclosure that
its best estimate of the cost
for this proposed settlement
is \$35.4 million. (See Lodged
Live Nation 10-Q report
marked as Exhibit "C"
excerpted below)”

Hearsay, argumentative,
foundation, conclusory,
misstates the evidence

Sustained: _____
Overruled: _____

<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14</p>	<p>29. Paragraph 11, page 8:10-13: “Deducting from \$35.4 million the approximately \$16.5 million which class counsel seeks, the \$3 million being paid to University of California at Irvine and \$1 million which I estimate as the costs of publication and class administration, there is less than \$15 million in value for the settlement class which suffered a loss in excess of a half billion dollars.”</p>	<p>Argumentative, foundation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>15 16 17 18 19</p>	<p>30. Paragraph 11, page 8:13-14: “Additionally, by this math, class counsel seeks approximately half the value of the entire recovery.”</p>	<p>Misstates the evidence, foundation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>20 21 22 23 24 25 26 27 28</p>	<p>31. Paragraph 14, page 9:17-18: “Ticket brokers in particular suffered a real economic loss because of their high volume of ticket purchases during the claim period.”</p>	<p>Foundation, speculation</p>	<p>Sustained: _____ Overruled: _____</p>

<p>1 2 3 4 5 6 7 8 9 10 11 12</p>	<p>32. Paragraph 14, page 9:18-21: “By way of example, a broker who bought just 100 ticket orders per month for 10 years of the class period would have been charged the order processing fee 12,000 times. (100 orders x 12 months = 1,200 orders per year. 1,200 orders x 10 years = 12,000 orders during the class period.)”</p>	<p>Incomplete hypothetical, foundation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>13 14 15 16 17 18 19 20</p>	<p>33. Paragraph 14, page 9:21-23: “Assuming an average order processing fee of \$4.00 means this broker was improperly charged \$48,000 by Ticketmaster, yet through the settlement, that broker would only recover \$78.50.”</p>	<p>Incomplete hypothetical</p>	<p>Sustained: _____ Overruled: _____</p>
<p>21 22 23 24 25 26 27 28</p>	<p>34. Paragraph 14, page 9:23-24: “The broker would get coupons for \$38.25 plus another \$38.25 in more restrictive Live Nation coupons against future purchases.”</p>	<p>Incomplete hypothetical</p>	<p>Sustained: _____ Overruled: _____</p>

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<p>35. Paragraph 14, page 9:24-25: “Such a result is objectively unfair.”</p>	<p>Foundation, speculation, incomplete hypothetical, conclusory</p>	<p>Sustained: _____ Overruled: _____</p>
<p>36. Paragraph 18, page 10:5-9: “Alternatively, I propose as an appropriate remedy that a subclass of individuals and ticket brokers, whether full time or hobby, be established and that final approval of this settlement be stayed to allow the subclass of ticket brokers to negotiate with the parties currently named in this lawsuit to attempt to reach a settlement that is fair to the approximately 385,000 individuals and tickets brokers whose losses exceed the best \$76.50 maximum value offered by this settlement.”</p>	<p>Relevance</p>	<p>Sustained: _____ Overruled: _____</p>
<p>37. Paragraph 19, page 10:10: “Along those lines, I stand ready and willing to act as a class representative.”</p>	<p>Relevance</p>	<p>Sustained: _____ Overruled: _____</p>

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38. Paragraph 19, page 10:10-13: “As a big fan of live music who attends at least 20 concerts per year personally, and as a ticket broker, my claims are typical of those of other individuals and ticket brokers who have suffered substantial losses at the hands of Ticketmaster's wrongful conduct.”

Foundation, speculation

Sustained: _____

Overruled: _____

39. Paragraph 19, page 10:14-17: “I am prepared to work with counsel to properly resolve the issues of this subclass, as this court has already seen in my prior objection, and in my motion to intervene in which I predicted this same settlement issue preferring the casual ticket buyer over the heavy consumer or ticket broker would reappear.”

Argumentative, foundation

Sustained: _____

Overruled: _____

1	40. Paragraph 20, page 10:20-	Hearsay	Sustained: _____
2	21: "My list of supplemental		Overruled: _____
3	qualifying ticket purchases		
4	from the extended class		
5	period lodged herewith as		
6	Exhibit D is printed out		
7	directly from my accounts		
8	with Ticketmaster itself."		
9			
10	41. Paragraph 21, page 10:22-	Foundation, speculation	Sustained: _____
11	23: "Upon information and		Overruled: _____
12	belief, Ticketmaster has the		
13	information within its own		
14	database to identify		
15	purchasers of large quantities		
16	of tickets during the class		
17	period."		
18	42. Paragraph 21, page 10:23-	Foundation, speculation,	Sustained: _____
19	26: "Upon information and		Overruled: _____
20	belief, my counsel has the		
21	skills and resources		
22	necessary to fully investigate		
23	the claims of this subclass of		
24	individuals and ticket brokers		
25	and to litigate their claims at		
26	settlement and/or trial."		
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1	43. Paragraph 23, page 11:1-2:	foundation, speculation,	Sustained: _____
2	“Upon information and		Overruled: _____
3	belief, in 2010 Ticketmaster		
4	sold nearly 119,000,000		
5	tickets, averaging		
6	approximately 325,000		
7	tickets per day.”		
8	44. Paragraph 24, page 11:3-4:	Foundation, speculation,	Sustained: _____
9	“Upon information and	relevance	Overruled: _____
10	belief, typically,		
11	Ticketmaster does not allow		
12	more than 8 tickets to be		
13	purchased per order.”		
14	45. Paragraph 25, page 11:5-8:	Incomplete hypothetical,	Sustained: _____
15	“Using the above numbers, in	foundation, speculation	Overruled: _____
16	2010; Ticketmaster sold, on		
17	average at least 40,000 orders		
18	per day. An improper order		
19	processing fee averaging \$4		
20	would have yielded at least		
21	\$160,000 per day, or		
22	\$14,600,000 in improper		
23	charges by Ticketmaster to		
24	its customers (class		
25	members) in 2010.”		

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<p>46. Paragraph 26, page 11:9-10: “The proposed settlement contemplates a claim period of approximately 13 years.”</p>	<p>Misstates the evidence, foundation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>47. Paragraph 26, page 11:10-11: “Aside from the proposed attorney fees, plaintiffs are to be compensated with coupons for future discounts.”</p>	<p>misleading</p>	<p>Sustained: _____ Overruled: _____</p>
<p>48. Paragraph 27, page 11:12-14: “I believe that to accomplish the goal of a Cy Pres fund as articulated in Code Civ. Proc. §384, to ‘further the purposes of the underlying causes of action, or to promote justice for all Californians,’ the contribution should be entirely made in cash.”</p>	<p>Relevance, misstates the evidence, foundation</p>	<p>Sustained: _____ Overruled: _____</p>
<p>49. Paragraph 27, page 11:14-15: “Ticketmaster is retaining fees it should not have taken, from millions of sales over 13 1/2 years.”</p>	<p>Foundation, speculation</p>	<p>Sustained: _____ Overruled: _____</p>

1	50. Paragraph 27, page 11:15-	Misstates the evidence,	Sustained: _____
2	17: "It should, at minimum,	foundation, speculation	Overruled: _____
3	fund the Cy Pres fund with		
4	cash, which can then be		
5	distributed to charities, a		
6	change that would, in my		
7	opinion, provide a real		
8	benefit to all Californians."		
9			
10	51. Paragraph 28, page 11:18-	Argumentative, speculation,	Sustained: _____
11	19: "By this settlement,	foundation	Overruled: _____
12	Ticketmaster will have		
13	pocketed in excess of		
14	\$587,000,000 in ill gotten		
15	gains less the \$35.4 million it		
16	estimates the settlement will		
17	cost."		
18			
19	52. Paragraph 30, page 11:22-	Speculation, foundation,	Sustained: _____
20	23: "Honestly I am surprised	relevance	Overruled: _____
21	the Dean Chemerinsky would		
22	lend his name to such a Cy		
23	Pres fund as part of the		
24	resolution of this case."		
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53. Paragraph 30, page 11:24-
25 and page 12:1-3:
“Anyone who has heard him
speak, as I have, on trends in
class action law knows his
belief that these types of
settlement which confer no
value on class members and
lots of cash to class counsel
are a significant reason the
current United States
Supreme Court is reigning in
all forms of class action.”

Hearsay, foundation,
speculation, conclusory,
relevance

Sustained: _____
Overruled: _____

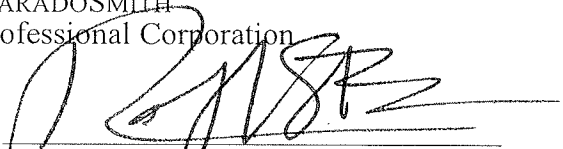
CONCLUSION

For these reasons, Plaintiffs respectfully submit that the Court should OVERRULE Mr. Fuller’s objections.

Respectfully submitted,

DATED: December 22, 2014

ALVARADOSMITH
A Professional Corporation

By: 
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Lead Class Counsel

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