

# Exhibit A



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Mar-12-2010 2:49 pm

Case Number: CGC-10-497777

Filing Date: Mar-12-2010 2:45

Juke Box: 001 Image: 02789015

COMPLAINT

BORIS Y LEVITT VS. YELP! INC. et al

001C02789015

**Instructions:**

Please place this sheet on top of the document to be scanned.

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

YELP! INC.; and DOES 1 through 100, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

BORIS LEVITT, on behalf of himself and all others  
similarly situated,

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO  
400 MCALLISTER STREET

SAN FRANCISCO  
Unlimited Jurisdiction

94102

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Lawrence D. Murray (SBN 77536) (415) 673-0555  
Murray & Associates, 1781 Union Street, San Francisco, CA 94123

**D. STEPPEY**

DATE: **MAR 12 2010**  
(Fecha)

**CLERK OF THE COURT**

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para probar la entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED:** You are served

- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify):

- |        |  |   |
|--------|--|---|
| under: | <input type="checkbox"/> CCP 416.10 (corporation)                | <input type="checkbox"/> CCP 416.60 (minor)             |
|        | <input type="checkbox"/> CCP 416.20 (defunct corporation)        | <input type="checkbox"/> CCP 416.70 (conservatee)       |
|        | <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
|        | <input type="checkbox"/> other (specify):                        |   |

4.  by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, telephone number, and address):  
 77536  
 Lawrence D. Murray  
 1781 Union Street  
 San Francisco, CA 94123  
 TELEPHONE NO.: (415) 673-0555 FAX NO.: (415) 928-4084  
 ATTORNEY FOR (Name): Plaintiffs  
 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO  
 STREET ADDRESS: 400 MCALLISTER STREET  
 MAILING ADDRESS:  
 CITY AND ZIP CODE: SAN FRANCISCO 94102  
 BRANCH NAME: Unlimited Jurisdiction  
 CASE NAME:  
 Levitt, et al. vs. YELP, Inc.

FOR COURT USE ONLY  
**FILED**  
 Superior Court of California  
 County of San Francisco  
 MAR 12 2010  
 CLERK OF THE COURT  
 BY: *[Signature]*  
 Deputy Clerk

**CIVIL CASE COVER SHEET**  
 Unlimited (Amount demanded exceeds \$25,000)  Limited (Amount demanded is \$25,000 or less)  
 Complex Case Designation  
 Counter  Joinder  
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)  
 CASE NUMBER: CGC-10-497777  
 JUDGE:  
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- |   |  |  |
|---|--|--|
| <p><b>Auto Tort</b></p> <input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><p><b>Other P/IPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other P/IPD/W/D (23)<br><p><b>Non-P/IPD/W/D (Other) Tort</b></p> <input checked="" type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (18)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-P/IPD/W/D tort (35)<br><p><b>Employment</b></p> <input type="checkbox"/> Wrongful termination (36)<br><input type="checkbox"/> Other employment (15) | <p><b>Contract</b></p> <input type="checkbox"/> Breach of contract/warranty (08)<br><input type="checkbox"/> Rule 3.740 Collections (09)<br><input type="checkbox"/> Other Collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><p><b>Real Property</b></p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (28)<br><p><b>Unlawful Detainer</b></p> <input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><p><b>Judicial Review</b></p> <input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b></p> <input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><p><b>Enforcement of Judgment</b></p> <input type="checkbox"/> Enforcement of judgment (20)<br><p><b>Miscellaneous Civil Complaint</b></p> <input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><p><b>Miscellaneous Civil Petition</b></p> <input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a.  Large number of separately represented parties d.  Large number of witnesses  
 b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
 c.  Substantial amount of documentary evidence f.  Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 4
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related cases. (You may use form CM-015.)  
 Date: March 12, 2010  
 Lawrence D. Murray  
 (TYPE OR PRINT NAME) *[Signature]* (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

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LAWRENCE D. MURRAY, State Bar No. 77536  
ROBERT C. STRICKLAND State Bar No. 243757  
MURRAY & ASSOCIATES  
1781 Union Street  
San Francisco, CA 94123  
Tel: 415 673-0555 Fax: 415 928-4084

CASE MANAGEMENT CONFERENCE SET

**FILED**  
Superior Court of California  
County of San Francisco

MAR 12 2010

CLERK OF THE COURT  
BY: *[Signature]*  
Deputy Clerk

AUG 13 2010 - 9:00 AM

Attorneys for Plaintiff  
BORIS LEVITT

DEPARTMENT 212

**SUMMONS ISSUED**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

BORIS Y. LEVITT, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

YELP! INC.; and DOES 1 through 100,  
inclusive,

Defendants.

Case No.

CGC-10-497777

**CLASS ACTION COMPLAINT FOR:**

- (1) VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200;
- (2) VIOLATION OF BUSINESS & PROFESSIONS CODE § 17500;
- (3) NEGLIGENT MISREPRESENTATION; and
- (4) INTENTIONAL MISREPRESENTATION

*Jury Trial Demanded*

Plaintiff Boris Y. Levitt, d/b/a Renaissance Restoration, a/k/a Renaissance Furniture Restoration ("Levitt" or "Plaintiff"), on behalf of himself and all others similarly situated, files this Class Action Complaint against Defendant Yelp!, Inc. and Does 1 through 100, inclusive ("Yelp" or Defendant):

## INTRODUCTION

1  
2 1. Plaintiff brings this action on behalf of himself and other similarly situated  
3 businesses and persons in California and nationwide who were contacted by Yelp regarding the  
4 option to advertise on Yelp and were subsequently subject to the manipulation of the reviews of  
5 their businesses during the four years prior to the commencement of this lawsuit, through the final  
6 resolution of this lawsuit. This class action challenges Defendants' unfair and unethical conduct  
7 in promoting, marketing, and advertising its website as maintaining nonbiased reviews, and  
8 Defendants' unfair and unlawful conduct directed towards businesses and their owners.

9 2. Defendant's website allows users to post reviews of businesses. Users are able to  
10 rank businesses using a star rating of one (1) to five (5) stars with five (5) stars being the highest.  
11 The business is then given an overall star rating based on the total number of user reviews.  
12 Defendant's website draws over 25 million people each month, who are able to search for and  
13 review the public ratings of businesses.<sup>1</sup>

14 3. Defendant's website represents that "Yelp is the fun and easy way to find, review,  
15 and talk about what's great – and not so great, in your area," that Yelp is "Real People. Real  
16 Reviews," and that its purpose is to "connect people with great local businesses."

17 4. Defendant allows business owners to set up free accounts, however, Defendant  
18 makes money by selling advertisements to local businesses. Yelp states on its website that  
19 "[p]aying advertisers can also promote a favorite review at the top of their Yelp page, but can  
20 never change or re-order other reviews." Defendant also states that, "Yelp has an automated filter  
21 that suppresses a small portion of reviews – it targets those suspicious ones you see on other sites."

22 5. Users who posted reviews on Defendant's website are required to maintain an  
23 account. When logged into his or her personal profile, the user is able to view reviews he or she  
24 has posted even if Yelp's system has removed them from the public review page for the business.  
25 Accordingly, the posting user may not realize that his or her review has been removed by Yelp.

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26  
27  
28 <sup>1/</sup> Defendant's website states that "As of December 2009, more than 26 million people visited Yelp in the past 30 days."

1           6. Defendant offers for free, and thereby induces businesses to sign up for a Yelp  
2 business account. A Yelp Business account allows a business to post offers, announcements,  
3 business information and photos, message customers, and respond to reviews. Yelp further offers  
4 businesses with Yelp accounts the opportunity to designate the business under certain Yelp search  
5 categories, which allow Yelp users to search for the business under the applicable category. After  
6 a business promotes itself on Yelp, the business begins to receive reviews.

7           7. Upon information and belief, once a business is actively receiving reviews on Yelp,  
8 Yelp starts to manipulate the overall rating and presentation of the business by deleting positive  
9 reviews from business page or/and posting negative reviews on the top of the review page.

10           8. After the overall rates or/and presentation of a business decline, Defendant will  
11 contact the businesses and offer it the opportunity to purchase advertising. Upon information and  
12 belief, Defendant induces businesses to pay for "Yelp's Targeted Advertising program" in amounts  
13 ranging from \$300 to \$1,000 per month. In exchange, Yelp offers to put the business's review  
14 page at the top of a Search Result and on the business's competitor's review pages, promising the  
15 business that it will receive approximately 600 to 3,600 page shows per month. Upon information  
16 and belief, if the business declines Yelp's offer, Yelp continues to manipulate the overall rating by  
17 removing most of positive reviews, which causes the business's overall star rating to fall. As the  
18 result, there are fewer Yelp users viewing the business page.

19           9. Upon information and belief, once a business's reviews are manipulated by Yelp,  
20 the business itself is impacted either by a loss of revenue or by the requirement of paying hundreds  
21 of dollars each month for advertising on Yelp.

22           10. Defendant maintains that reviews may only be removed from Yelp if: 1) A user  
23 removes the review; 2) Yelp removes the review for violating the Review Guidelines or Terms of  
24 Service; or 3) "The review may have been suppressed by Yelp's automated software system. This  
25 system decides how established a particular reviewer is and whether a review will be shown based  
26 on the reviewer's involvement on Yelp. While this may seem unfair to you, this system is designed  
27 to protect both consumers and businesses alike from fake reviews (i.e., a malicious review from a  
28

1 competitor or a planted review from an employee). The process is entirely automated to avoid  
2 human bias, and it affects both positive and negative reviews. It's important to note that these  
3 reviews are not deleted (they are always shown on the reviewer's public profile) and may reappear  
4 on your business page in the future.”

5 11. Relying on Defendants' representations that reviews would not be removed from  
6 Yelp unless one of the three criteria was met, businesses and/or their owners declined Yelp's  
7 solicitation that the businesses buy advertisements. Upon information and belief, once a business  
8 declines Yelp's advertisement offer, Yelp manipulates the reviews of the business.

9 12. Upon information and belief, to further induce businesses to advertise, Yelp offers  
10 businesses the opportunity to manipulate reviews in exchange for the business's purchase of  
11 advertisements. To ensure this placement, and to ensure that Yelp will not manipulate reviews in  
12 a way that adversely impacts business, a business owner pays for advertisements.

13 13. As a result, business owners who were contacted by Yelp suffered injury in fact by  
14 either paying for advertising or losing business if they did not.

#### 15 THE PARTIES

16 14. Plaintiff Boris Levitt, a resident of San Mateo County, owns a business called  
17 Renaissance Furniture Restoration, which is located in San Francisco, California.

18 15. Defendant Yelp is a Delaware corporation with its principal place of business in  
19 San Francisco, California. Yelp is licensed to do, and is doing, business in California and  
20 throughout the United States. At all relevant times, Yelp offered its services to businesses and  
21 persons nationwide.

22 16. Plaintiff is unaware of the true names and capacities of DOES 1-100, inclusive, but  
23 is informed and believes, and thereon alleges, that each of the DOE Defendants is responsible for  
24 the acts and obligations, and or should be subject to and bound by the declarations and judicial  
25 determinations sought herein. When Plaintiff learns the true names and capacities of DOE  
26 Defendants, it will amend this Complaint accordingly.  
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**VENUE AND JURISDICTION**

17. Jurisdiction and venue is proper in San Francisco County because Defendant maintains its principal place of business in this county.

**GENERAL ALLEGATIONS**

18. At all relevant times, Defendant made its review and advertising services available to business owners nationwide.

19. Defendant's website contains language explicitly stating that user business reviews will only be removed as a result of user conduct or if an automated nonbiased software system removes the reviews. Defendant's website also contains language explicitly stating that it will not remove negative reviews or move a review to the bottom of the webpage if a business pays for advertising.

20. Upon information and belief, Defendant's representations regarding the removal and placement of reviews are false.

21. Upon information and belief, business reviews are subject to manipulation by Defendant.

22. Upon information and belief, whether Defendant manipulates the reviews of businesses depends on whether a business or person pays for advertising on Yelp.

23. Upon information and belief, Defendant's manipulation of reviews caused Plaintiff and the Class injuries as set forth below.

**Plaintiff's Experience with Yelp**

24. On or about May 13, 2009, Plaintiff contacted Yelp to inquire about why a positive review of his business disappeared.

25. On or about May 13, 2009, "Kris" from Yelp User support wrote Plaintiff back and included the following explanation:

1  
2 We decided early on that Yelp wasn't going to be another anonymous review site where  
3 everyone is given credibility whether they've earned it or not. We created an automated  
4 system that decides how much trust to instill in a particular reviewer. If the reviewer isn't  
5 involved with Yelp, it's awfully hard for our software to have much confidence in the  
6 reviewer and so it may not display that review. It's important to note that these reviews are  
7 not deleted (they are always shown on the reviewer's public profile) and may reappear on  
8 your business listing page in the future. While this may seem unfair to you, please know  
9 that this system is also in place to try to protect you from an untrustworthy review from a  
10 malicious competitor. While not perfect, we are committed to improving our site to keep  
11 Yelp useful for both consumers and businesses alike. We created a blog that explains our  
12 practices in more detail; please take a look here:  
13 <http://officialblog.yelp.com/2009/02/9-myths-about-yelp.html>

14 26. That same day, Plaintiff responded to the Yelp message, and requested that Yelp  
15 restore the positive review. Plaintiff also noted that the customer who posted the review had  
16 inquired about why it had disappeared.

17 27. Kris responded and included the following response:

18 Because the system is totally automated, unfortunately I don't have the ability to evaluate  
19 or reinstate specific reviews. However I will be sending your information to our  
20 engineering team so that they can make sure everything is working properly. They are  
21 always refining our system and sometimes it does misfire. I'm sorry I can't be of more  
22 direct assistance but wanted you to know that we're taking your feedback to heart as we  
23 continue to improve the system.

24 28. In July 2009, Plaintiff was contacted twice by phone by a female Yelp sales  
25 representative who wanted Plaintiff to purchase advertising from Yelp.

26 29. During the second telephone conversation, the sales representative told Plaintiff  
27 that his business was doing very well on Yelp because in July alone his business had 261 Yelp  
28 page views, but that Plaintiff's business would have an even greater number of Yelp page views if  
Plaintiff paid Yelp at least \$300.00 a month to advertise. In response, Plaintiff told the sales  
representative that he felt that he did not need to advertise on Yelp because there was a high  
volume of users reviewing his business page, and his business had an overall rating of 4.5 stars.  
He also asked the sales representative if Yelp could restore the 5-star review that had disappeared  
during last several months.

1           30.     At the time Plaintiff was contacted by the sales representative, he had seven (7) 5-  
2 star reviews, one (1) 4-star review, and one (1) 1-star review.

3           31.     Two days after Plaintiff's conversation with Yelp's employees where he declined  
4 to purchase advertising from the Yelp sales representative, six (6) out of the seven (7) 5-star  
5 reviews were removed from his business page leaving Plaintiff with an overall star-rating of 3.5  
6 stars. As a result, during the month of August, Plaintiff's business Yelp page received only 158  
7 page views as opposed to the 261 page views Plaintiff's business experienced in July of 2009.  
8 Since then Plaintiff's business revenues experienced a decline that corresponded almost directly to  
9 the decline in page views.

10           32.     In addition, and following Plaintiff's decision to decline to purchase Yelp  
11 advertising, Defendant removed Plaintiff's business from the categories of services he had  
12 designated on his business account and restricted him to one and only one category. Upon  
13 information and belief, if Plaintiff had advertized with Yelp as a paying customer, the restriction  
14 would have been lifted.

15           33.     Since Plaintiff declined to purchase advertising from Yelp, every 5-star review that  
16 has been posted by Plaintiff's clients on his Yelp business page has been removed 2-3 days after  
17 the Yelp user has posted his or her review of Plaintiff's services. As of the filing of this  
18 Complaint, ten (10) out of eleven (11) of the 5-star reviews have been removed from Plaintiff's  
19 business's Yelp review page.  
20

21     **Other Businesses and Person's Experiences with Yelp**

22           34.     Upon information and belief, Defendant manipulated the reviews for hundreds of  
23 other businesses after a person or business spoke to a Yelp customer service representative about  
24 advertising on Yelp, as it can be seen on Yelp's own review page, where hundreds of business  
25 owners and Yelp users express their opinion about Yelp.

26     ///

27     ///

28

1 CLASS ACTION ALLEGATIONS

2 35. Plaintiff brings this action on behalf of himself and all others similarly situated,  
3 pursuant to California Code of Civil Procedure ("CCP") § 382 and California Civil Code § 1781.

4 36. The Class that Plaintiff seeks to represent is defined as follows:

5 All similarly situated businesses and persons in California and nationwide who were  
6 contacted by Yelp regarding the option to advertise on Yelp and who were subsequently  
7 subject to the manipulation of the reviews of their businesses during the four years prior to  
8 the commencement of this lawsuit, through the final resolution of this lawsuit.

9 37. This action has been brought and may be properly maintained as a class action  
10 under CCP § 382 and California Civil Code § 1781 because there is a well-defined community of  
11 interest in the litigation and the class is easily ascertainable.

12 38. Numerosity: The Class is so numerous and geographically dispersed that joinder of  
13 all Class members is impracticable. Upon information and belief, there are hundreds if not  
14 thousands of similarly situated individuals nationwide.

15 39. Commonality: This action presents questions of law and fact common to the  
16 members of the Class which predominate over questions affecting individual members of the  
17 Class, such questions of law or fact include, but are not limited to:

- 18 i. Whether Defendant unfairly and unlawfully manipulated the reviews of  
19 businesses of Plaintiff and the Class, in violation of California Business &  
20 Professions Code § 17200 *et seq.*;
- 21 ii. Whether Defendant made deceptive statements and misrepresentations  
22 directly to businesses and through its advertising regarding its unbiased  
23 review system in violation of California Business & Professions Code §  
24 17500 *et seq.*;
- 25 iii. Whether Defendant negligently misrepresented that its review system was  
26 not subject to Defendant's manipulation; and
- 27 iv. Whether Defendant intentionally misrepresented that its review system was  
28 not subject to Defendant's manipulation.

1           40.    Typicality: Plaintiff's claims are typical of the claims of the Class, and Plaintiff  
2 has no interests that are adverse or antagonistic to the interests of the other members of the Class.

3           41.    Adequacy of Representation: Plaintiff will fairly and adequately protect the  
4 interests of the other members of the Class. Plaintiff is committed to prosecuting this Class Action  
5 and has retained competent counsel experienced in litigation of this nature.

6           42.    Superiority of Class Action: A class action is superior to other available means for  
7 the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is  
8 not practicable, and questions of law and fact common to the Class predominate over any  
9 questions affecting only individual members of the Class. Each Class Member has been damaged  
10 and is entitled to recovery by reason of Defendants' unfair business practices, misleading  
11 advertisements, and misrepresentations. Class action treatment will allow those similarly situated  
12 persons to litigate their claims in the manner that is most efficient and economical for the parties  
13 and the judicial system.

14                 **WHEREFORE**, Plaintiff Boris Levitt prays for relief as follows:

15  
16                                 **FIRST CAUSE OF ACTION**

17   (Violation of Business & Professions Code § 17200 *et seq.*)

18   (Plaintiff Levitt v. Defendant Yelp! Inc.)

19           43.    Plaintiff incorporates by reference paragraphs 1 through 42 inclusive, as though  
20 fully set forth herein.

21           44.    Plaintiff asserts this cause of action on behalf of himself and the Class.

22           45.    California Business & Professions Code § 17200 *et seq.* prohibits unfair  
23 competition that is any unfair, unlawful or a fraudulent business practice.

24           46.    Defendant made deceptive statements and misrepresentations on its website and  
25 through its customer service representatives regarding the fact that Yelp reviews were not  
26 manipulated by Yelp or the employees of Yelp.  
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1           47. Defendant offered to or did in fact manipulate the reviews of businesses following  
2 the offer of advertising to each of the Class members in violation of public policy.

3           48. Defendant unlawfully attempted to and or did in fact commit extortion by  
4 unlawfully using fear (the removal of positive yelp reviews) to induce the Class members to pay  
5 for advertising on Yelp.

6           49. Accordingly, Defendant has violated Cal. Bus. & Prof. Code § 17200 *et seq.*,  
7 proscription against engaging in unfair and unlawful business practices and Plaintiff and the Class  
8 members are entitled to injunctive relief and equitable relief in the form of restitution and  
9 disgorgement of all earnings, profits, compensation and benefits Defendant obtained as a result of  
10 such unfair and unlawful business practices.

11           50. As a result of the conduct described above, Defendant has been and will be unjustly  
12 enriched at the expense of Plaintiff and the Class. Specifically, Defendant has been unjustly  
13 enriched by receiving substantial monies and profits from advertisements paid for by business  
14 owners hoping to avoid negative manipulations of their reviews. Further, both Plaintiff and the  
15 Class have been deprived of money, either in the form of lost revenues or in payments made to  
16 Defendant for advertising, as a result of Defendant's wrongful conduct and unlawful acts and  
17 practices and derogatory reviews of Plaintiff and the Class member's businesses, which have  
18 resulted in financial losses to Plaintiff and Class members. Plaintiff and the Class members,  
19 therefore, have sustained injury in fact.

20           51. Plaintiff and members of the Class seek a court order requiring Defendant to  
21 immediately cease such violations of consumer protection and unfair competition statutes and  
22 enjoining them from continuing to deceptively advertise or conduct business via the unlawful or  
23 unfair business acts and practices and deceptive and misleading advertising complained of herein.

24           52. Plaintiff additionally requests an order requiring Defendant to disgorge its ill-gotten  
25 gains as described above and awarding Plaintiff and Class members full restitution of all monies  
26 wrongfully acquired by Defendant by means of such unlawful business practices, acts of unfair  
27 competition and false advertising, plus interest and attorney fees so as to restore any and all  
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1 monies to Plaintiff and the Class which were acquired and obtained by means of such deceptive,  
2 unfair, or unlawful business practices.

3 53. These violations serve as unlawful predicate acts for purposes of Business and  
4 Professions Code § 17200, and remedies are provided therein under Business & Professions Code  
5 § 17203.

6 **WHEREFORE**, Plaintiff Boris Levitt prays for relief as follows:

7  
8 **SECOND CAUSE OF ACTION**

9 (Violation of Business & Professions Code § 17500 *et seq.*)

10 (Plaintiff Levitt v. Defendant Yelp! Inc.)

11 54. Plaintiff incorporates by reference paragraphs 1 through 53 inclusive, as though  
12 fully set forth herein.

13 55. Plaintiff asserts this cause of action on behalf of himself and the Class.

14 56. California Business & Professions Code § 17500 *et seq.* prohibits the use of false  
15 and misleading statements to induce a party to enter into any obligation, including the purchase of  
16 goods.

17 57. Upon information and belief, Defendant made deceptive statements and  
18 misrepresentations to business owners and through its website regarding its unbiased reviews to  
19 induce businesses and persons, including Plaintiff and the Class, to utilize free business Yelp  
20 accounts.

21 58. Upon information and belief, once a business is on Yelp, Yelp contacts the business  
22 owner to attempt to sell the business advertising. Only after a business is contacted does Yelp  
23 reveal that it manipulates its review system depending on whether a business purchases  
24 advertising.

25 59. As a result of Defendant's practices, Plaintiff and the Class lost money in the form  
26 of advertising costs they were forced to pay to Defendant or lost revenues due to Defendant's  
27 manipulation of their reviews.

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1           60.     Accordingly, Defendant has violated Cal. Bus. & Prof. Code § 17500 *et seq.*,  
2     proscription against using false and misleading statements to induce business owners to join Yelp  
3     and Plaintiff and the Class members are entitled to injunctive relief and equitable relief in the form  
4     of restitution and disgorgement of all earnings, profits, compensation and benefits Defendants  
5     obtained as a result of such unfair and unlawful business practices.

6           61.     As a result of the conduct described above, Defendant has been and will be unjustly  
7     enriched at the expense of Plaintiff and the Class. Specifically, Defendant has been unjustly  
8     enriched by receiving substantial monies and profits in advertising costs received as a result of its  
9     unfair and unlawful business practices.

10          62.     Further, both Plaintiff and the Class have been deprived of money as a result of  
11     Defendant's wrongful conduct and unlawful acts and practices and, therefore, have sustained  
12     injury in fact.

13          63.     Plaintiff and members of the Class seek a court order requiring Defendant to  
14     immediately cease such violations of consumer protection and unfair competition statutes and  
15     enjoining it from continuing to deceptively advertise or conduct business via the unlawful or  
16     unfair business acts and practices and deceptive and misleading advertising complained of herein.

17          64.     Plaintiff additionally requests an order requiring Defendant to disgorge its ill-gotten  
18     gains as described above and awarding Plaintiff and Class Members full restitution of all monies  
19     wrongfully acquired by Defendant by means of such unlawful business practices, acts of unfair  
20     competition and false advertising, plus interest and attorney fees so as to restore any and all  
21     monies to Plaintiff and the Class which were acquired and obtained by means of such deceptive,  
22     unfair or unlawful business practices.

23                 **WHEREFORE**, Plaintiff Boris Levitt prays for relief as follows:

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75. Upon information and belief, Defendant in fact maintains a biased review system whereby it manipulates reviews based on a business or person's purchase of advertisements.

76. Upon information and belief, Defendant actually manipulates its review system after contacting a business regarding the purchase of advertisements.

77. As such, upon information and belief, Defendant used false and misleading statements to induce business owners to maintain Yelp business accounts so that Defendant could contact the business regarding the purchase of advertisements.

78. Plaintiff and members of the Class justifiably relied upon Defendant's false and misleading statements regarding the unbiased review system.

79. As a direct and proximate result of the above described practices, Plaintiff and members of the class sustained damages in an amount to be proven at trial.

**WHEREFORE**, Plaintiff Boris Levitt prays for relief as follows:

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, as a result of the foregoing, Plaintiff Boris Levitt prays for relief as  
3 follows:

4 1. Declaring this action to be a proper class action maintainable under California Code  
5 of Civil Procedure § 382, certifying an appropriate Class and certifying Plaintiff as Class  
6 Representative;

7 2. Enjoining Defendant from conducting its business through the unlawful acts and  
8 practices described in this Complaint;

9 3. Requiring Defendant to disgorge its ill-gotten gains, as appropriate;

10 4. Awarding Plaintiff and the Class restitution, as appropriate;

11 5. Awarding Plaintiff and the Class damages, including punitive damages, as  
12 appropriate;

13 6. Awarding pre- and post-judgment interest;

14 7. Awarding Plaintiff all costs and expenses, including attorneys' fees, including fees  
15 permitted under Cal. Code Civ. Proc. § 1021 *et seq.*; and

16 8. Granting such other and further relief as this Court may deem necessary, proper,  
17 and/or appropriate.

18 **JURY DEMAND**

19 1. Plaintiff demands a trial by jury.  
20

21 DATED: March 12, 2010

**MURRAY & ASSOCIATES**

22  
23 By: 

24 Lawrence D. Murray  
25 Attorneys for Plaintiff BORIS LEVITT  
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