THE WESTON FIRM GREGORY S. WESTON (239944) 888 Turquoise Street San Diego, CA 92109 3 Telephone: (858) 488-1672 Facsimile: (480) 247-4553 greg@westonfirm.com 5 JACK FITZGERALD (257370) 2811 Sykes Court Santa Clara, CA 95051 Telephone: (408) 459-0305 jack@westonfirm.com BECK & LEE BUSINESS TRIAL LAWYERS JARED H. BECK (233743) 10 ELIZABETH LEE BECK (233742) Courthouse Plaza Building 11 28 West Flagler Street, Suite 555 Miami, FL 33130 12 Telephone: (305) 789-0072 Facsimile: (786) 664-3334 13 jared@beckandlee.com 14 elizabeth@beckandlee.com 15 **Attorneys for Plaintiffs and the Proposed Classes** 16 UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA 17 CATS AND DOGS ANIMAL HOSPITAL, Case No. 3:10-cv-02351 MHP 18 INC.; ASTRO APPLIANCE SERVICE; Pleading Type: Class Action BLEEDING HEART, LLC; CALIFORNIA Action Filed: February 23, 2010 FURNISHINGS, INC.; CELIBRÉ, INC.; J.L. 20 FERRI ENTERTAINMENT, INC.; LE DECLARATION OF GREGORY S. PETITE RETREAT DAY SPA, LLC; SAN WESTON IN SUPPORT OF PLAINTIFFS' 21 FRANCISCO BAY BOAT CRUISES, LLC: OPPOSITION AND CROSS-MOTION WAG MY TAIL, INC.; and ZODIAC 22 RESTAURANT GROUP, INC., on behalf of Judge: The Hon. Marilyn Hall Patel 23 themselves and all others similarly situated, Date: July 19, 2010 24 Time: 2:00 p.m. Plaintiffs, 25 v. 26 YELP! INC., 27 Defendant. Cats and Dogs Animal Hospital, Inc.et al. v. Yelp! Inc., Case No. 3:10-cv-02351 MHP

Levitt v. Yelp! Inc.

Doc. 14 Att. 2

I, Gregory S. Weston, declare:

- 1. I am a member of good standing in the State Bars of California and Florida, and the United States District Courts for the Northern, Central, and Southern Districts of California. I make this declaration in support of Plaintiffs' Opposition to Yelp's Motion for Consolidation (Dkt. No. 64) and Cross-Motion for:
 - (a1) Designation of *Cats and Dogs* as lead action and stay of *Levitt* action or, in the alternative, (a2) Consolidation of *Cats and Dogs* and *Levitt* actions, deeming the *Cats and Dogs* First Amended Complaint as the operative complaint;
 - (b) Appointment of The Weston Firm and Beck & Lee Business Trial Lawyers as interim class counsel; and
 - (c) Submission of fully-briefed Motion to Dismiss for hearing.
- 2. My firm was appointed the sole Class Counsel by the Hon. Margaret M. Morrow to represent purchasers of approximately 145 condominiums in *Adachi et al. v. Carlyle/Galaxy San Pedro L.P. et al.*, No. 09-793 (C.D. Cal.), which settled in 2009 on a class-wide all-cash basis for approximately \$1.35 million.
- 3. I am attorney of record for the indirect purchaser class in *In re Korean Airlines* Co. Ltd. Antitrust Litigation, MDL No. 1891, a class action pending in the Central District of California.
- 4. My firm is counsel for the proposed class of condominium purchasers in *Kenneally v. Bank of Nova Scotia et al.*, No. 3:09-cv-02039-WQH-JMA (S.D. Cal.) a class action involving fraud in the sale of approximately 250 condominiums in San Diego, and at least nine other consumer class actions brought under California's Unfair Competition Law, False Advertising Law and Consumer Legal Remedies Act..
- 5. I am a graduate of the Ohio State University and Harvard Law School and have devoted substantially all of my practice to representing plaintiffs in class actions.
- 6. Before founding The Weston Firm, as an attorney at the firm now called Robbins, Geller, Rudman & Dowd ("RGR&D"), I represented plaintiffs in the following class actions:

- The Apple iPod iTunes Antitrust Litigation (N.D. Cal.) (nationwide consumer class certified and RGR&D appointed class counsel)
- Bruce v. Crompton Corp. (Los Angeles Co. Sup. Ct.)
- In re Carbon Black Antitrust Litigation (D. Mass.)
- In re Digital Music Antitrust Litigation (S.D.N.Y.) (RGR&D appointed interim class counsel)
- In re Graphics Processing Units Antitrust Litigation (N.D. Cal.)
- In re International Air Transportation Surcharge Antitrust Litigation (N.D. Cal.)
- In re Medical Waste Services Antitrust Litigation (D. Utah) (RGR&D appointed interim class counsel)
- Ross et al. v. Metropolitan Life Insurance Company (W.D. Pa.)
- Williams v. Interinsurance Exchange of the Automobile Club (San Diego Co. Sup. Ct.) (California consumer class certified, RGR&D appointed class counsel)
- 7. On January 12, 2010, Dr. Gregory Perrault, the owner of Cats and Dogs Animal Hospital, contacted me and informed me that he felt the sales employees of the website Yelp.com were attempting to extort him into purchasing an advertising package that would require him to spend \$3600 a year.
- 8. Dr. Perrault knew of me because he was a member of the class described above in ¶ 2. Together with co-counsel, Beck & Lee Business Trial Lawyers, The Weston Firm spent the next six weeks investigating Dr. Perrault's claims and preparing the first Complaint, which was filed February 23, 2010, and served on Defendant Yelp! Inc. the next day.
- 9. Subsequently, more than 200 other small business owners contacted The Weston firm and Beck & Lee with stories similar to Dr. Perrault's, and our firms continue to receive numerous inquiries each day. Of these small businesses, 60 have retained The Weston Firm and Beck & Lee to pursue claims against Yelp and serve as class representatives alongside Cats and Dogs Animal Hospital, Inc.
- 10. Our firm, along with Beck & Lee, spent substantial further time interviewing these small business owners and preparing the First Amended Class Action Complaint ("Amended Complaint"), which was filed on March 16, 2010. The Amended Complaint added a great amount of detail concerning Yelp's unlawful business practices, included several more

1	I declare under penalty of perjury under the laws of the state of California and the United		
2	States that the foregoing is true and correct.		
3	Executed on June 10, 2010 in San Diego, California.		
4			
5	s/ Gregory S. Weston		
6	Gregory S. Weston		
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
	4		

1	Respectfully Submitted,
2	
3	Jack Fitzgerald Jack Fitzgerald
5	THE WESTON FIRM GREGORY S. WESTON
6	888 Turquoise Street San Diego, CA 92109
7	Telephone: (858) 488-1672 Facsimile: (480) 247-4553
8	greg@westonfirm.com
9	JACK FITZGERALD 2811 Sykes Court
10	Santa Clara, CA 95051 Telephone: (408) 459-0305
11	jack@westonfirm.com
12	BECK & LEE BUSINESS TRIAL LAWYERS
13	JARED H. BECK ELIZABETH LEE BECK
14	Courthouse Plaza Building 28 West Flagler Street, Suite 555
15	Miami, FL 33130
16	Telephone: (305) 789-0072 Facsimile: (786) 664-3334
17	jared@beckandlee.com elizabeth@beckandlee.com
18 19	Attorneys for Plaintiffs and the Proposed Classes
20	
21	
22	
23	
24	
25	
26	
27	
	5

Exhibit A

yelpes WEB LOG "Reaching for the fifth star."

« Additional thoughts on last week's lawsuit, or How a Conspiracy Theory is Born | Main | More Updates to Yelp for Android (and a few for iPhone) »

MARCH 01, 2010

We're Increasing Transparency and Eliminating 'Favorite Review'

Posted by Jeremy, Yelp CEO

User trust is the foundation on which Yelp is built and the reason 31 million consumers turned to the site last month to find a great local business. Today we're announcing two important product changes to reinforce that trust and make it even more clear that Yelp treats review content equally for all businesses, with no connection between advertising and reviews.

Specifically, we're adding the ability to see reviews filtered by our review filter and we're discontinuing the "Favorite Review" feature that's part of our advertising package.

Why? Because while Yelp has seen tremendous growth in just a few years, we're still new to a lot of people. Despite our best efforts to educate consumers and the small business community, myths about Yelp have persisted. We've said all along we believe these incorrect notions stem from the combination of the filter and this advertising feature -- and we're practicing what we preach. Lifting the veil on our review filter and doing away with "Favorite Review" will make it even clearer that displayed reviews on Yelp are completely independent of advertising -- or any sort of manipulation. We also hope it will demonstrate the importance of a safeguard such as our filter and the unique challenge we face daily to maintain the integrity of the review content on our site.

Now you can take a look at any business listing on Yelp and see for yourself the work the review filter has done behind the scenes. Perhaps helping to protect one business from malicious reviews that might stem from a competitor.

Recent Posts

Yelp for iPhone Updated! We Go Medieval on Check-Ins

JUNE 09. 2010

Vide-OH-my! That Makes Me Wanna Buy

JUNE 07, 2010

Yelp Eats! Week

JUNE 07, 2010

Yelp Mobile: The Bridge Between Online Search and Offline Buying

JUNE 04, 2010

No Reservations About It - Yelp Integrates OpenTable

JUNE 03, 2010



Search



Links

Yelp.com

Press Page

FAQ

Community Blog

Jobs

Yelp Business Owner's Guide

Yelp on Facebook

Follow us on Twitter

The Yelp Web Log

The official voice of Yelp HQ in San Francisco. It's a place for us to talk about press, product and policy at Yelp.com.

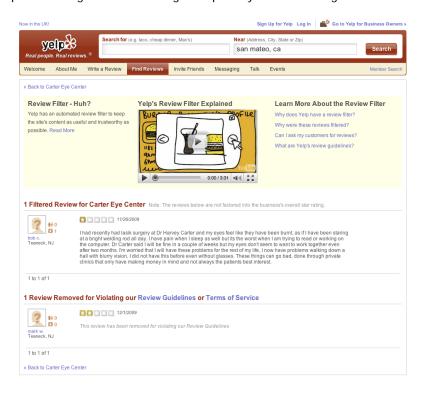
Archives

June 2010

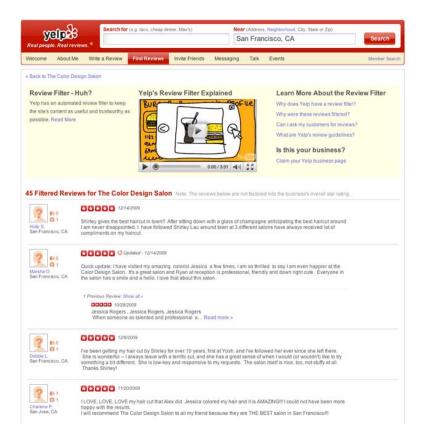
May 2010

April 2010

Yelp Official Blog: We're Increasing Transparency and Eliminating 'Favorite Review'



Or, conversely, protecting consumers from reviews that look like they could have come from an employee, not a customer.



But most importantly, you can see that Yelp's review filter works just the same for advertisers and non-advertisers alike. There is not -- nor ever has been -- a bias. So will Yelp be easier to game now? No, our engineers remain hard at

March 2010 February 2010 January 2010 December 2009 November 2009 October 2009 September 2009

More...

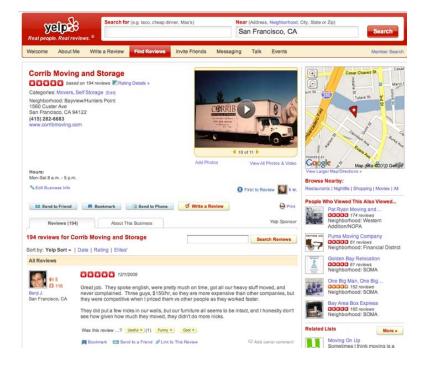
Looking for the Community Blog?

See what's going on in other Yelp Communities!

work to make sure that Yelp is the most useful and helpful online resource for everyone.

Additionally, while the "Favorite Review" feature as part of our ad product was clearly labeled as such, it led some people to the wrong conclusions about whether businesses could control the review content on their page. (They can't.) So, to eliminate the opportunity for that misconception, we've eliminated the feature.

These aren't the only changes we've made today. We've also announced that advertisers on Yelp will soon have the ability to add a video to the slide show on their business page -- a suggestion made most recently during Yelp's ongoing series of educational meetings with business owners across the country. Additionally, in an effort to more formally integrate feedback from the business community, we've created a Small Business Advisory Council whose members will provide Yelp management with guidance and perspective regarding the concerns of small business owners.



Most consumers probably won't notice the product changes announced here, but we hope this new ability to "look under the hood" will help everyone understand the lengths we've taken to ensure Yelp is the most trusted resource on the internet for connecting people with great local businesses.

Posted at 10:49 AM | Permalink

Exhibit B

1	THE WESTON FIRM				
2	GREGORY S. WESTON (239944)				
2	JACK FITZGERALD (257370)				
3	888 Turquoise Street				
4	San Diego, CA 92109				
	Telephone: (858) 488-1672				
5	Facsimile: (480) 247-4553				
6	greg@westonfirm.com				
	jack@westonfirm.com				
7					
8	BECK & LEE BUSINESS TRIAL LA JARED H. BECK (233743)	AWYERS			
9	ELIZABETH LEE BECK (233742)				
	28 West Flagler Street, Suite 555				
10	Miami, FL 33130				
11	Telephone: (305) 789-0072				
10	Facsimile: (786) 664-3334				
12	jared@beckandlee.com				
13	elizabeth@beckandlee.com				
14					
15	Counsel for Plaintiffs and the Proposed Classes				
15	UNITED STATES DISTRICT COURT				
16					
17	CATS AND DOGS ANIMAL	Case No: 2:10-cv-01340-VBF-SS			
18	HOSPITAL, INC., et al., on behalf of	Pleading Type: Class Action			
	themselves and all others similarly				
19	situated,	PLAINTIFFS' NOTICE OF			
20	Situation,	TAKING RULE 30(B)(6)			
	Plaintiffs,	DEPOSITION OF DEFENDANT			
21					
22	v.	Judge: The Hon. Valerie Baker			
23	102	Fairbank			
	YELP! INC.,				
24					
25	Defendant.				
26		and or r			
27					
28					

Pursuant to the Federal Rule of Civil Procedure 30(b)(6), Plaintiffs will take before a notary public or officer duly authorized to administer oaths in the State of California, the deposition of Defendant Yelp!, Inc. ("Yelp") by the person(s) with most knowledge regarding:

- 1. Issues related to class certification, including all elements under Fed. R. Civ. P. 23;
 - 2. The number and location of businesses listed on Yelp.com;
- 3. Yelp's practices and policies regarding the solicitation of Sponsors or advertisers on its website;
- 4. Yelp's practices and policies regarding contacting businesses to sell advertising subscriptions;
- 5. Yelp's practices and policies regarding contacting businesses concerning hosting Yelp "Sponsored Events";
 - 6. The division between sales and content management at Yelp;
- 7. Any manipulation or removal of content on Yelp.com in exchange for payment;
 - 8. The Yelp algorithm or review filter;
 - 9. Yelp's Terms of Service and Review Guidelines;
- 10. Yelp's processes, practices and procedures concerning the review of user-generated reviews claimed to have violated Yelp's Terms of Service or Review Guidelines;
- 11. The number and location of businesses which contract or have contracted to become sponsors with Yelp;
- 12. The role of the "Yelp Elite Squad" in promoting or soliciting businesses to become Yelp sponsors;
- 13. The role of Yelp "Scouts" or "Ambassadors," or other persons compensated by Yelp, in promoting or soliciting businesses to become Yelp

1

12

13 14

16

15

17

18 19

20

21

22

23 24

25

26 27

28

14. All documents produced by any party or non-party relevant to class certification issues; and

Yelp's financial information, including revenue from the sale of advertising subscriptions.

Plaintiffs will take the deposition of the following, at the date and time indicated below or a comparable date and time agreed to by the parties:

<u>Name</u>	Date & Time	Location
Corporate representative(s) of Yelp!, Inc.	June 21, 2010 at 9:00 am and continuing from day to day as necessary	650 Mission St., 2 nd Floor San Francisco, CA 94103

Dated: May 5, 2010

Respectfully Submitted,

Gregory S. Weston

THE WESTON FIRM

GREGORY S. WESTON

JACK FITZGERALD

888 Turquoise Street

San Diego, CA 92109 Telephone: 858 488 1672

Facsimile: 480 247 4553

BECK & LEE BUSINESS TRIAL LAWYERS

JARED H. BECK

ELIZABETH LEE BECK

Courthouse Plaza Building

28 West Flagler Street, Suite 555

Miami, FL 33130

Telephone: 305 789 0072

Facsimile: 786 664 3334

Counsel for Plaintiffs and the **Proposed Classes**