

Exhibit 4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE MARILYN HALL PATEL

BORIS LEVITT,)	
)	
Plaintiff,)	
)	
VS.)	No. C 10-1321 MHP
)	
YELP! INC.,)	
)	
Defendant.)	
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)	
CATS AND DOGS ANIMAL HOSPITAL,)	
INC., et al.,)	
)	
Plaintiffs,)	
)	
VS.)	No. C 10-2351 MHP
)	
YELP! INC.,)	
)	San Francisco, California
Defendant.)	Monday
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)	July 19, 2010

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff	ONGARO BURTT
Levitt:	595 Market Street, Suite 610
	San Francisco, California 94105
BY:	DAVID R. ONGARO, ESQUIRE
	AMELIA D. WINCHESTER, ESQUIRE

(Appearances continued on next page)

Reported By: *Katherine Powell Sullivan, CSR #5812, RPR, CRR*
Official Reporter - U.S. District Court

APPEARANCES (CONTINUED):

**For Plaintiffs
Cats and Dogs,
et al.:**

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**BY: ELIZABETH LEE BECK, ESQUIRE
JARED H. BECK, ESQUIRE**

THE WESTON FIRM
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Santa Clara, California 95051

BY: JACK FITZGERALD, ESQUIRE

For Defendant:

Cooley Godward
101 California Street, 5th Floor
San Francisco, California 94111-5800

**BY: MATTHEW D. BROWN, ESQUIRE
BENJAMIN H. KLEINE, ESQUIRE**

1 satisfied you have made a good faith effort to do it, then we
2 will have a phone conference and get it resolved.

3 And I want to have a phone conference with a minimum
4 number of attorneys involved in that. And that's true all
5 along the way. So I think that there's no reason why a couple
6 of these firms, even though they may be representing different
7 parties in different cases, at this point, can't get along also
8 and find a way to cooperate and try to make it as efficient as
9 possible.

10 I almost never subscribe to the notion one of my
11 colleagues had about putting these up for bids. You know, that
12 was in security cases. But maybe, maybe that's what we ought
13 to do.

14 But what I would like to see, and I will get a better
15 sense from each of you of who should be appointed -- or whether
16 some combination of the two -- is exactly what plans you have
17 for the efficient and economical disposition of this case; what
18 needs to be done first, and the dates for getting things done,
19 and getting them done expeditiously.

20 First of all, we're going to have to have a
21 consolidated amended complaint filed. And I expect that that
22 should be a joint effort.

23 I don't understand the reasoning for alleging
24 California Penal Code violations as a basis for civil claims.
25 There is no civil cause of action for extortion in the State of

1 California. The closest that it comes to it is fraud or
2 duress.

3 And if you are going to get into fraud causes of
4 action, or even the intentional infliction of -- excuse me,
5 intentional interference -- I'm sorry, that's another case --
6 intentional interference with prospective business advantage,
7 there's a lot that's required, including reliance and including
8 third parties that are identifiable and that the plaintiff
9 knows -- or the defendant, rather, knows or is aware of.

10 So I think that that's a lot of wasted time. And if
11 I'm going to entertain motions to dismiss on claims that really
12 shouldn't have been brought in the first place, there ain't no
13 attorneys' fees there, okay.

14 So I think that you ought to look at, very carefully,
15 what the pleadings provide for in each of your cases and
16 whether they even make sense.

17 I mean, it's one thing to base a 17200 claim on
18 unlawful conduct and then cite to the Penal Code Section --

19 **MS. LEE BECK:** That's what --

20 **THE COURT:** Well, but it's not a separate cause of
21 action, if you allege it as a separate cause of action. It
22 should be embodied in the 17200 claim.

23 So I think that with an amended, you know,
24 consolidated complaint -- I'm giving you some hints now for
25 what should be done, so that if we are confronted with a motion

1 they will sign off.

2 But I would like to see a result of that by next
3 Monday.

4 **MR. FITZGERALD:** Yes, Your Honor.

5 **MS. LEE BECK:** Thank you, Your Honor.

6 **THE COURT:** Thank you.

7 **MR. BROWN:** Thank you.

8 (At 3:27 p.m. the proceedings were adjourned.)

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11 **CERTIFICATE OF REPORTER**

12 I certify that the foregoing is a correct transcript
13 from the record of proceedings in the above-entitled matter.

14

15 DATE: Thursday, July 22, 2010

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17 s/b Katherine Powell Sullivan

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19 Katherine Powell Sullivan, CSR #5812, RPR, CRR
20 U.S. Court Reporter

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