

EXHIBIT 6

CV 10-01321 EMC
CV 10-02351 EMC

Document comparison by Workshare Professional on Tuesday, May 24, 2011
10:44:27 AM

Input:	
Document 1 ID	file://C:\Users\14421\Desktop\101122 Plaintiffs Second Amended Complaint.doc
Description	101122 Plaintiffs Second Amended Complaint
Document 2 ID	file://C:\Users\14421\Desktop\110523 Third Amended Complaint (updated).doc
Description	110523 Third Amended Complaint (updated)
Rendering set	GDCrendering

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	178
Deletions	138
Moved from	10
Moved to	10
Style change	0
Format changed	0
Total changes	336

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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 BORIS Y. LEVITT D/B/A RENAISSANCE
18 RESTORATION, CATS AND DOGS
19 ANIMAL HOSPITAL, INC., TRACY CHAN
20 D/B/A MARINA DENTAL CARE and
21 PROFESSIONAL CONSTRUCTION GROUP,
22 INC., and JOHN MERCURIO D/B/A PAVER
23 PRO WHEEL TECHNIQUES; on behalf of
24 themselves and all others similarly situated,

25 Plaintiffs,

26 v.

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

Defendants.

Case No. CV 10-01321 MHP Consolidated
with CV 3: 10-cv-02351 MHP

**SECOND ~~THIRD~~ AMENDED AND
CONSOLIDATED CLASS ACTION
COMPLAINT FOR**

**1) VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200;**

2) CIVIL EXTORTION; and

**3) ATTEMPTED CIVIL
EXTORTION**

Jury Trial Demanded

Plaintiffs Boris Y. Levitt, d/b/a Renaissance Restoration, a/k/a Renaissance Furniture
Restoration (“Levitt” or “Plaintiff”), Cats and Dogs Animal Hospital, Inc. (“Cats and Dogs” or
“Plaintiff”), Tracy Chan, d/b/a Marina Dental Care, a/k/a Marina Dental Care (“Chan” or “Plaintiff”)
and Professional Construction Group, Inc. d/b/a Paver Pro (“Paver Pro”), and John Mercurio d/b/a
Wheel Techniques (“Wheel Techniques” or “Plaintiff”) on behalf of themselves and all others

1 similarly situated, file this class action ~~Second~~Third Amended and Consolidated Complaint (hereafter
2 “SACTAC”) against Defendant Yelp! Inc. (“Yelp” or “Defendant”) and Does 1 through 100,
3 inclusive.

4 INTRODUCTION

5 1. Plaintiffs bring this action on behalf of themselves and other similarly situated
6 businesses and persons nationwide who were subject to extortion and/or attempted extortion by
7 Defendant to obtain payments for advertising during the four years prior to the commencement of this
8 lawsuit, through the final resolution of this lawsuit. This class action challenges Defendant’s unfair
9 and unlawful conduct – in violation of California’s Unfair Competition Laws and liability for civil
10 extortion and attempted civil extortion – directed towards businesses and their owners.

11 2. Defendant’s website allows users to post reviews of businesses. Users are able to rank
12 businesses using a star rating of one to five stars with five stars being the highest. Defendant then
13 gives the business an overall star rating based on some of the reviews. Upon information and belief,
14 the overall star rating of some businesses is based on reviews that Defendant has posted. Defendant’s
15 website draws over 25 million people each month who are able to search for and review the public
16 ratings of businesses.¹

17 3. Defendant’s website represents that “Yelp is the fun and easy way to find, review, and
18 talk about what’s great – and not so great, in your area,” that Yelp is “Real People. Real Reviews,”
19 and that its purpose is to “connect people with great local businesses.”

20 4. Defendant, however, actually makes money by selling advertisements to businesses
21 located throughout the country. Contrary to the representations Defendant makes to the general
22 public, a business’s reviews are often connected to whether a business advertises with Defendant.

23 5. Defendant states on its website that advertising allows a business to increase its
24 exposure by the placement of advertisements above Yelp search results and on related business
25 pages. Yelp also states that an advertising subscription allows a business to enhance its business page
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28 ^{1/} Defendant’s website states that “[a]s of December 2009, more than 26 million people visited Yelp
in the past 30 days.”

1 with a photo slideshow and prevents similar businesses from advertising on the middle of the page.
2 Yelp further states on its website that “[p]aying advertisers can also promote a favorite review at the
3 top of their Yelp page, but can never change or re-order other reviews.” In addition, Defendant states
4 that, “Yelp has an automated filter that suppresses a small portion of reviews –it targets those
5 suspicious ones you see on other sites.” Defendant offers businesses advertising subscriptions for
6 amounts ranging from \$300 to \$1,200 per month.

7 6. Defendant maintains that reviews may only be removed from Yelp if: 1) A user
8 removes the review; 2) Yelp removes the review for violating the Terms of Service or Content
9 Guidelines; or 3) “The review may have been suppressed by Yelp’s automated software system. This
10 system decides how established a particular reviewer is and whether a review will be shown based on
11 the reviewer’s involvement on Yelp. While this may seem unfair to you, this system is designed to
12 protect both consumers and businesses alike from fake reviews (i.e., a malicious review from a
13 competitor or a planted review from an employee). The process is entirely automated to avoid
14 human bias, and it affects both positive and negative reviews. It’s important to note that these
15 reviews are not deleted (they are always shown on the reviewer’s public profile) and may reappear on
16 your business page in the future” [collectively “**Yelp Review Terms**”] (emphasis added).²

17 7. Upon information and belief, Yelp will manipulate the reviews of businesses
18 nationwide to instill fear in businesses that if they do not purchase advertising, Yelp will manipulate
19 their reviews – in a manner that does not comply with its Review Terms – so that for example: 1)
20 Positive reviews are “removed” or “filtered”; 2) negative reviews are suddenly posted, sometimes,
21 upon information and belief, by Yelp itself or by individuals acting on behalf of Yelp; 3) negative
22 reviews are posted by users even though the reviews do not comply with the Yelp Terms and
23 Conditions; 4) a business is unable to designate itself in categories for Yelp users to search; or 5)
24 negative reviews, which were previously filtered, are sometimes revealed or rearranged for reasons

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27 2/ Since the filing of this lawsuit, Yelp has permitted website users to see filtered reviews,
28 however, website users must click on a separate link and type in a code to do so. The filtered reviews
do not impact the overall star rating that Yelp lists for the business. Thus, upon information and
belief, Yelp can edit the overall star rating a business receives by manually filtering (or un-filtering)
reviews.

1 unrelated to the automated review filter. Upon information and belief, Yelp's manipulation of
2 reviews – in a manner that does not comply with its own Review Terms – is done strategically, and in
3 conjunction with or under the guise of the automated filter, to induce business owners to pay for
4 advertising with Yelp.

5 8. Upon information and belief, Yelp knows that when a business's overall star rating
6 declines or the business has negative reviews, the business itself suffers, and that therefore a business
7 fears the posting of negative reviews or the removal of positive reviews on its Yelp review page.
8 Yelp intentionally – either implicitly or explicitly – threatens businesses by using this fear to force
9 businesses to agree to pay for advertising on Yelp.

10 9. Due to Yelp's conduct, businesses and/or their owners who fear facing a negative drop
11 in the overall star rating and/or positive reviews of their businesses agree to purchase advertising to
12 avoid Yelp's manipulation of the business's reviews. Those businesses are injured by the loss of
13 money they are forced to pay Yelp in advertising costs.

14 10. Upon information and belief, as a result of Yelp's review manipulations – in a manner
15 that does not comply with its Review Terms – the businesses who decline to purchase advertising
16 have negative reviews, which otherwise would not have been posted on the Yelp review page,
17 attached to their businesses. In addition, ~~and upon information and belief~~, positive reviews are also
18 removed to induce a business to advertise. As a result, fewer Yelp users view the business page and
19 fewer existing customers patronize the business, which causes a decrease in the business's revenues.
20 Therefore, the businesses that do not purchase advertising are injured – as a result of Defendant's
21 conduct – by a loss of sales, revenues and/or assets. In addition, due to the posting of negative
22 reviews and/or removal of positive reviews, the business's reputation is injured.

23 11. As a result of Yelp's actions, Plaintiffs bring a claim for a violation of California
24 Business and Professions Code section 17200 for unfair and unlawful conduct by Defendant and for
25 civil extortion and attempted civil extortion.

26 THE PARTIES

27 12. Plaintiff Boris Levitt, a resident of San Mateo County, owns and operates a business
28 called Renaissance Furniture Restoration, which is located in San Francisco, California.

1 20. Upon information and belief, “Yelp.com,” is a website developed, owned, maintained,
2 altered, and operated by Defendant, as an internet application and website that utilizes Web 2.0 user-
3 website interaction.

4 21. “Yelp.com” consists of an online search engine and directory of businesses. Each
5 business listed on Yelp.com has a unique Yelp.com listing page, which provides basic business
6 information and user-generated ratings and reviews. Once a business listing is created, individuals
7 registered on the “Yelp.com” website may rate and review the business.

8 22. To rate and review businesses, internet users simply register on the Yelp.com website.
9 When logged into his or her personal profile, the registered user is able to view reviews he or she has
10 posted even if Yelp has removed them from the public review page for the business. Accordingly, the
11 posting user may not realize that his or her review has been removed by Yelp.

12 23. Any internet user (whether registered or not) can browse Yelp.com to find ratings and
13 reviews of businesses.

14 24. Ratings-based websites, including “Yelp.com,” are highly popular and have great
15 power to direct the flow of commerce in a given area. Due to their widespread usage, a business’s
16 reputation is often connected to the reviews it receives on a ratings-based website.

17 25. Businesses may not opt out of being listed on the “Yelp.com” website.

18 26. Defendant allows businesses listed on the “Yelp.com” website to register for free
19 “Business Owner Accounts,” which provides owners with: 1) the ability to track how many people
20 view their page; 2) the ability to update business information (such as hours of operation); and 3) a
21 limited ability to send messages directly to a reviewer.

22 27. Yelp further offers businesses with Yelp Business Owner Accounts the opportunity to
23 designate the business under certain Yelp search categories. Yelp users can then search for the
24 business under the applicable category.

25 **Yelp Advertising**

26 28. Upon information and belief, the “Yelp.com” website’s only stream of revenue is from
27 the sale of advertisements on the “Yelp.com” website and Yelp’s sales personnel are paid, in part,
28 through commissions.

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29. Yelp refers to businesses that purchase advertising as Yelp “Sponsors.”

30. The term “Non-Sponsor” as used in this SACTAC, refers only to those businesses to which Yelp offered paid advertising subscriptions, but which declined to purchase any advertising.

31. Non-Sponsors routinely see positive reviews disappear from their Yelp.com listing pages soon after declining to become a Yelp Sponsor.

32. Non-Sponsors routinely see an increase in the number of negative reviews on their Yelp.com listing pages soon after declining to become a Yelp Sponsor.

33. Sometimes such negative reviews are false. Examples of false reviews are reviews that concern services or goods not offered by the business, or purporting to be from customers or patients who never patronized the business.

34. Upon information and belief such false negative reviews are sometimes generated by Yelp personnel or others who act on behalf of Yelp or at Yelp’s direction, or who are compensated in some form by Yelp.~~35.~~ Although such false negative reviews violate Yelp’s Terms of Service, Yelp regularly fails and refuses to remove such reviews for Non-Sponsors.

~~36-35.~~ The decline of their Yelp.com rating and the posting of false negative reviews harms Non-Sponsors. Non-Sponsors frequently see a drop in the number of customers patronizing their businesses, and a decrease in income and profits.

~~37-36.~~ To coerce businesses to advertise with Yelp, Yelp sales people – either implicitly or explicitly – represent to businesses that Yelp has the power to manipulate Yelp.com business listing pages, and that Yelp will yield that power in favor of the business if it becomes a Yelp Sponsor and against the business if it declines to become a Yelp Sponsor.

37. Upon information and belief, approximately 200 Yelp employees or individuals acting on behalf of Yelp have written reviews of businesses on Yelp.

38. In fact, in the New York Times Bits Blog, dated May 12, 2008, Jeremy Stoppelman, Yelp’s chief executive officer, admitted that Yelp has paid users to write reviews. At the time of the posting, Mr. Stoppelman wrote, in explaining that Yelp does not pay “for reviews directly anymore” that “in any of the 16 cities where we have community managers . . . we do not pay for reviews.

1 Community managers in active communities are encouraged to review since they are model
2 citizens...³

3 39. The mere representation of the ability to manipulate page content is sufficient to instill
4 in businesses the fear that, through such manipulation, the business will suffer if it elects not to
5 become a Yelp Sponsor. Businesses frequently become Sponsors, not based on a cost-benefit analysis
6 of the advertising, but simply because they fear the consequences of declining a Sponsorship.

7 39.40. Yelp in fact manipulates Yelp.com business listing pages in favor of Yelp Sponsors
8 and detrimentally to Yelp Non-Sponsors by (a) relocating or removing negative reviews of Sponsors;
9 (b) posting positive reviews of Sponsors and urging others to do the same; (c) allowing Sponsors to
10 choose the order in which reviews appear on their Yelp.com listing pages; (d) removing positive
11 reviews of Non-Sponsors; (e) posting negative reviews of Non-Sponsors and urging others to do the
12 same; and (f) enforcing Yelp's Terms of Service for Sponsors, but refusing to enforce Yelp's Terms
13 of Service for Non-Sponsors.

14 40.41. By manipulating the overall star rating of businesses, Yelp itself provides information
15 and content posted on its website (namely the overall star rating of a business) because the overall
16 star rating of a business does not represent the reviews posted by third-party users. Upon information
17 and belief, Yelp drafts the content of some reviews, either through its employees or through its Yelp
18 Elite members or other agents – with malice to induce businesses to advertise – which also impacts
19 the reviews of businesses.

20 **Plaintiffs' Experiences with Yelp**

21 **Non-Sponsors**

22 **Boris Levitt**

23 41.42. Levitt owns a business called Renaissance Furniture Restoration.

24 42.43. Levitt did not voluntarily list his business on Yelp.com.

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28 ^{3/} Saul Hansell, *Why Yelp Works*, NEW YORK TIMES, May 12, 2008,
<http://bits.blogs.nytimes.com/2008/05/12/why-yelp-works/?apage=1>.

1 43-44. In early 2008, Levitt signed up for a free business account on Yelp.com. After doing
2 so, Levitt's business received several positive reviews and one negative review on Yelp.com. In early
3 May 2009, several of the positive Yelp reviews disappeared from Levitt's business's review page
4 causing the overall star rating of Levitt's business to decline.

5 44-45. On or about May 13, 2009, Levitt contacted Yelp to inquire about why a positive
6 review of his business had disappeared. Levitt subsequently exchanged several emails with "Kris"
7 from Yelp User support, who indicated that she could not assist him in removing the review, but that
8 she would send his request to the Yelp engineering team to review.

9 45-46. In July 2009, Levitt was contacted twice by phone by a female Yelp sales
10 representative who wanted Levitt to purchase advertising from Yelp.

11 46-47. During the second telephone conversation, the sales representative told Levitt that his
12 business was doing very well on Yelp because in July alone his business had 261 Yelp page views,
13 but that Levitt's business would have an even greater number of Yelp page views if Levitt paid Yelp
14 at least \$300.00 a month to advertise. In response, Levitt told the sales representative that he felt that
15 he did not need to advertise on Yelp because there was a high volume of users reviewing his business
16 page, and his business had an overall rating of 4.5 stars. Levitt also asked the sales representative if
17 Yelp could restore the 5-star reviews that had disappeared during last several months.

18 47-48. At the time Levitt was contacted by the sales representative, he had seven 5-star
19 reviews, one 4-star review, and one 1-star review.

20 48-49. Two days after Levitt's conversation with Yelp's employees – during which he
21 declined to purchase advertising – six out of the seven 5-star reviews were removed from his business
22 page leaving Levitt with an overall star rating of 3.5 stars. As a result, during the month of August,
23 Levitt's business Yelp page received only 158 page views as opposed to the 261 page views Levitt's
24 business experienced in July of 2009. Levitt's monthly income—~~which correlated almost directly to~~
25 ~~the page views Levitt's Yelp review page received~~—declined in response.

26 49-50. Upon information and belief, Yelp manipulated the reviews of Levitt's business
27 because he did not purchase advertising as a threat and with the intent to instill fear in Levitt that he
28

1 needed to purchase advertising to avoid a further decrease in the positive reviews posted about his
2 business.

3 ~~50. Since then, and as~~ 51. As a result of Yelp's manipulations, Levitt's business revenues
4 ~~experienced a decline that corresponded almost directly to the decline in page views~~ declined. Due to
5 the decline in the average or overall star rating of his business, the reputation of Levitt's business also
6 suffered as result of Yelp's manipulations.

7 ~~51.~~ 52. To increase his overall star rating, Levitt attempted to contact the user who posted the
8 one-star review. While the user did not respond when Levitt contacted her through Yelp's messaging
9 system, when contacted via Facebook, the user immediately removed the one-star review. Upon
10 information and belief, Yelp blocked Levitt's communications with the user to ensure that he would
11 continue to fear that if he did not advertise, his overall star rating would remain low.

12 ~~52.~~ 53. In addition, in March 2010, Yelp removed Levitt's business from the multiple
13 categories of services he had designated on his business account and restricted him to one category.
14 Upon information and belief, the category restriction was to further induce Levitt to pay Yelp for
15 advertising, and if Levitt had advertised with Yelp, the restriction would have been lifted.

16 ~~53. Since~~ 54. After Levitt declined to purchase advertising from Yelp, every 5-star
17 review posted on Levitt's Yelp business page was removed within 2-3 days after the Yelp user posted
18 his or her review of Levitt's services. As of the filing of Plaintiff's original Complaint, ten out of
19 eleven of the 5-star reviews had been removed from Levitt's business's Yelp review page. Upon
20 information and belief, Yelp repeatedly removed positive reviews from Levitt's business Yelp review
21 page to instill fear in him that if he did not pay Yelp to advertise, that Yelp would cause his
22 business's overall star rating to remain low.

23 ~~54.~~ 55. As a result of Yelp's conduct, fewer Yelp users viewed Levitt's business's Yelp page
24 and fewer customers patronized his business, which caused a decrease in Levitt's business revenues.
25 Therefore, Levitt was injured -- as a result of Defendant's conduct -- by a loss of sales,
26 revenues and/or assets. In addition, due to the posting of negative reviews and/or removal of
27 positive reviews, Levitt's business's reputation was injured.

28 **Plaintiff Cats and Dogs**

1 ~~55-56.~~ Dr. Perrault is a veterinarian and the owner of Cats and Dogs, which is located in
2 Long Beach, California.

3 ~~56-57.~~ Dr. Perrault did not voluntarily list his business on Yelp.com.

4 ~~57-58.~~ On September 12, 2009, Dr. Perrault became aware of a negative review posted by
5 “Chris R.” on the Cats and Dogs Yelp.com listing page.

6 ~~58-59.~~ Concerned about the review’s language, possible falsity, and the adverse impact it
7 could have on his business, Dr. Perrault cross-referenced the factual information alleged in the review
8 with his client history.

9 ~~59-60.~~ Upon finding that the review of Chris R. referenced a visit that occurred over 18
10 months prior to its posting (6 months outside of Yelp’s 12-month policy), Javier Vargas, the Hospital
11 Manager at Cats and Dogs, called Yelp on or around September 15, 2009, to request that the review
12 be removed from the Yelp.com website for violating Yelp’s review guidelines.

13 ~~60-61.~~ Yelp subsequently removed the review from the Cats and Dogs Yelp.com listing page.

14 ~~61-62.~~ A second negative review, from “Kay K.,” appeared on the Cats and Dogs Yelp.com
15 listing page within five days of the “Chris R.” review’s removal. The review read:

16 *The only reason I am even giving one star is because it wouldn't allow me to continue without*
17 *it . . . otherwise, I would have given them no stars. Dr. Perrault is the rudest vet I've ever*
18 *been to . . . probably one of the rudest people I've had the displeasure of meeting. I agree with*
19 *the previous reviews about making you feel like an unfit mom. My pup had been sick and I had*
20 *a theory on what the problem may have been and he wouldn't even entertain the idea, but*
instead, made me feel bad because my dog got sick. And, my poor dog was terrified of him!
He made me feel like I was 2 inches tall and repeatedly looked down his nose at me. Oh, and
OVER PRICED! OMG! Who does he think he is??? I did not feel welcomed by him nor his
staff. I paid you for a service! No need to treat me so bad!

21 ~~62-63.~~ Soon after the appearance of these negative reviews, Dr. Perrault and Mr. Vargas
22 began receiving frequent, high-pressure calls from Yelp sales representatives, who promised to
23 manipulate Cats and Dogs’ Yelp.com listing page in exchange for Cats and Dogs purchasing
24 an advertising subscription.

25 ~~63-64.~~ For example, on or about January 5, 2010, Cats and Dogs received a Yelp sales call
26 from “Kevin.” Kevin said that Cats and Dogs could advertise with Yelp for a minimum payment of
27 \$300 per month, with a minimum 12-month commitment. Kevin stated that if Cats and Dogs
28 purchased a one-year advertising subscription from Yelp:

- 1 a. Yelp would hide negative reviews on the Cats and Dogs Yelp.com listing page, or
2 place them lower on the listing page so internet users “won’t see” them;
3 b. Yelp would ensure negative reviews will not appear in Google and other search engine
4 results;
5 c. Yelp would allow Cats and Dogs to decide the order that its reviews appear in on its
6 Yelp.com listing page; and
7 d. Cats and Dogs could choose its “tagline,” i.e., the first few lines of a single review
8 shown on every search result page in which Cats and Dogs appears (for instance,
9 “Veterinarian in Long Beach”).

10 64-65. Dr. Perrault declined the offer, saying that he wanted to track referrals from Yelp for
11 three months without ads, but might thereafter be willing to test Yelp’s advertising potential.

12 65-66. Within a week of declining Kevin’s advertising offer, the negative review from Chris
13 R. – despite violating the Yelp Terms– suddenly reappeared on the Cats and Dogs Yelp.com listing
14 page.

15 66-67. Upon information and belief, Yelp posted the review – despite the fact that it violated
16 its own Terms – as a threat to cause Dr. Perrault to fear that if he did not pay Yelp money to
17 advertise, the negative review would remain.

18 67-68. Soon after, “Kay K.” posted a second negative review. This review was added on
19 January 6, 2010, one day after Kevin’s sales call:

20 *I’ve already left one review about how bad a vet Dr. Perrault is, but I wanted to add*
21 *something. I’ve been reading other people’s reviews and I must have gone to a different Cats*
22 *and Dogs Animal Hospital with a vet named Dr. Perrault. Oh wait, no . . . he’s the only one.*
23 *Maybe it’s a Dr. Jeckyl / Mr. Hyde thing?! I don’t know. But the guy’s an @\$\$. No other way*
24 *around it. He’s a jerk, a D-Bag, And so arrogant. I ran in to him in a neighborhood store*
25 *right after he saw my poor sick dog at his clinic and he looked right at me, recognized me,*
26 *rolled his eyes and looked away!!!! Seriously, someone needs to knock this guy down to the*
27 *size he really is. He needs to drop his Napoleon complex and be a professional. After my*
28 *horrible experience with him, I took my sick dog to Bixby Animal Clinic and I have never had*
a more pleasant vet experience! Go there instead! My dog loved everyone there! Sorry to
rant, but I just wanted to get the word out there. Don’t spend the money on this overpriced
errogent vet. It’s not worth it!

68. On or about January 12, 2010, Mr. Vargas contacted Yelp to protest the reappearance
of the “Chris R.” review and the highly negative, inflammatory “Kay K.” reviews.

1 69. On January 13, 2010, Mr. Vargas received via email the following response from

2 Yelp:

3 *We wanted to let you know that we've taken a close look at the reviews by Chris R and Kay K,*
4 *and after careful evaluation, we have decided to leave both intact. Because we don't have*
5 *firsthand knowledge of a reviewer's identity or personal experience, we are not in a position*
6 *to verify your claims that these reviewers are the same person, or that they are connected to*
7 *the recent vandalism at your hospital. If a review appears to reflect the personal opinion and*
8 *experiences of the reviewer while adhering to our review guidelines [link], it is our policy to*
9 *allow the reviewer to stand behind his or her review.*

10 70. As of January 18, 2010, a Yelp.com search for "veterinarian in Long Beach" displayed
11 the following tagline for Dogs and Cats:

12 *"Dr. Perrault is the most inept/rude veterinarian I have ever met. He had my rescue dog*
13 *cowering and barking in the corner of the exam room within seconds of meeting him. He*
14 *berated me for 20..."*71. Upon information and belief, Yelp re-posted the "Chris R" and
15 two "Kay K" reviews and/or manufactured its own reviews to instill fear in Dr. Perrault to
16 advertise so that he could avoid the negative reviews and tagline.

17 72-70. Compare Cats and Dogs' tagline to the tagline (as of January 18, 2010) of Bixby
18 Animal Clinic, a Long Beach veterinary business that is a Yelp Sponsor (and the same company the
19 mysterious Kay K. referred users to in her second Cats and Dogs review):

20 *"This place IS awesome. I brought my little man (Bruin) to Dr. A. as a puppy for the puppy*
21 *package. They have great hours and were able to accomodate me AFTER work so I never*
22 *had to take extra time . . ."*

23 73-71. As a result of Yelp's conduct, fewer Yelp users viewed the Cats and Dogs Yelp page
24 and fewer customers patronized the business, which caused a decrease in business revenues.
25 Therefore, Cats and Dogs was injured – as a result of Defendant's conduct – by a loss of sales,
26 revenues and/or assets. In addition, due to the posting of negative reviews, Cats and Dogs' business's
27 reputation was injured.

28 **John Mercurio**

72. Wheel Techniques is a wheel body shop and is owned by John Mercurio.

73. Mercurio did not voluntarily list his business on Yelp.

74. In or around late 2008 and early 2009, negative reviews started appearing on Wheel
Technique's Yelp review page by reviewers who had never visited Wheel Techniques. Specifically,
Wheel Techniques had no record of the names of the reviewers having visited the shop, or records of

1 performing the work described in the reviews during or anywhere close to the time referenced in the
2 reviews.

3 75. For example, on March 5, 2009, “Kevin T” posted a one-star review of Wheel
4 Techniques, but Wheel Techniques had no records of “Kevin T’s” name in its system, and could not
5 locate the type of problem he identified, regarding a weld job, on any invoice during or around the
6 time period of “Kevin T’s” review.

7 76. Around the same time, Wheel Techniques also began receiving frequent telephone
8 calls from Yelp requesting that it purchase advertising.

9 77. Upon information and belief, Yelp employees or individuals acting on behalf of Yelp
10 posted some or all of the false reviews on the Wheel Techniques Yelp review page prior to or soon
11 after soliciting Wheel Techniques for advertising as a threat to induce Wheel Techniques to advertise.

12 78. In 2009, Mercurio, perplexed at why Wheel Techniques maintained an overall star
13 rating of 2.5 or 3 stars, called Yelp to inquire about why one of his competitors, known in the
14 industry for its “shotty work,” maintained an overall Yelp star-rating of five stars. In response,
15 Mercurio was told by Yelp that it was because his competitor advertised and that “we work with your
16 reviews if you advertise with us.”

17 79. On or about March 8, 2010, Wheel Techniques was contacted by Yelp to purchase
18 advertising. At the time Wheel Techniques was contacted for advertising, a five-star review was
19 listed at the top of its Yelp review page.

20 80. Wheel Techniques declined to purchase advertising and expressed frustration with
21 what it believed to be an advertising scam. Within minutes, a one-star review was moved to the top of
22 its Yelp review page.

23 81. Upon information and belief, Yelp placed the one-star review at the top of the Wheel
24 Techniques review page as a threat to cause Wheel Techniques to fear that if it did not pay Yelp
25 money to advertise, the negative review would remain at the top of its Yelp review page and/or
26 additional negative reviews would appear, and lower its overall star rating.

27 82. Mercurio was told several times that a former Yelp employee stated that Yelp, upon
28 information and belief, terminated a group of sales employees around the time that this and similar

1 lawsuits were filed as a result of scamming related to advertising. Mercurio was also told that the
2 computers of sales employees were, at one point, frozen to prohibit employees from being able to
3 change reviews.

4 83. As a result of Yelp's conduct, fewer customers patronized the business, which caused
5 a decrease in business revenues. Therefore, Wheel Techniques was injured – as a result of
6 Defendant's conduct – by a loss of sales, revenues and/or assets and was recently forced to file for
7 bankruptcy. In addition, due to the posting of negative reviews, Wheel Techniques business's
8 reputation was injured. Wheel Techniques also, upon information and belief, lost large amounts of
9 business from insurance company referrals due to the negative reviews that were, upon information
10 and belief, posted by Yelp and/or the maintenance of a negative overall star rating due to Yelp's
11 manipulative conduct.

12 SPONSORS

13 Dr. Tracy Chan, DDS

14 74-84. Dr. Tracy Chan is a licensed dentist. Chan's office, Marina Dental Care, is located in
15 San Francisco ~~where she has operated for the past 10 years,~~ California.

16 75-85. Chan did not voluntarily list her business on Yelp.com.

17 76-86. Prior to spring 2008, Chan's business's overall Yelp star rating was approximately 4.5
18 or 5 five stars. There were approximately 30 reviews on Dr. Chan's Yelp review page.

19 77-87. In or around May or June of 2008, Chan started getting telephone calls from a Yelp
20 representative named Quinn Zimmerman ("Zimmerman"). Zimmerman would call Chan frequently,
21 offering her the opportunity to become a business sponsor. Zimmerman told Chan that if she became
22 a business sponsor (i.e., paid for advertising on Yelp), that Yelp could offer her lots of benefits, such
23 as the opportunity to keep Chan's business ratings high by hiding or burying bad reviews, and by
24 keeping positive reviews at the top of the Marina Dental Care Yelp page and negative reviews at the
25 bottom of the page. Further, Zimmerman indicated that Chan could put pictures on the Yelp page,
26 and track and increase the number of page views per month.

27 78-88. In addition to the benefits Zimmerman offered Chan, Zimmerman told her that
28 although many Yelp reviews were manipulated by a computer system, Yelp employees also had the

1 ability to remove reviews from a business's Yelp page. Zimmerman offered Chan advertising for
2 between \$300-\$500 per month.

3 ~~79.89.~~ In or around August 2, 2008, Chan ultimately declined to purchase Yelp advertising
4 from Zimmerman.

5 ~~80.90.~~ Within 2 to 3 days of the time in which Chan told Zimmerman that she did not want to
6 purchase advertising from Yelp, Yelp removed nine 5-star reviews from Chan's Yelp review page.
7 As a result, the overall star rating of Marina Dental Care dropped from 5 stars to 3 stars.

8 ~~81.91.~~ After the drop in Marina Dental Care's overall star rating, Chan called Zimmerman to
9 attempt to determine why the drop in the star rating had occurred. Zimmerman told Chan that Yelp
10 "tweaks" tweaks the ratings every so often and that he could help her if she signed up for advertising
11 services with Yelp.

12 ~~82.92.~~ Upon information and belief, Yelp removed positive reviews of Chan's business as a
13 threat to cause Chan to fear that if she did not purchase advertising that her business's overall star
14 rating would stay low. Chan – due to the representations made by Zimmerman and the immediate
15 decline in the reviews of her business – believed that Yelp manipulated Marina Dental Care's reviews
16 to induce her to advertise.

17 ~~83.93.~~ As a result, and out of fear of further manipulations, Chan felt compelled to sign up
18 for advertising on Yelp so that Yelp would reinstate the positive reviews. Chan feared that if she did
19 not pay for advertising, the posting of negative reviews would continue, and her business would
20 suffer. On August 11, 2008, Dr. Chan signed a one-year contract with Yelp for advertising. Within
21 days of signing the contract, Marina Dental Care's overall star rating increased to 4 stars and various
22 five star reviews were reinstated by Yelp. Upon information and belief, the positive reviews were
23 reinstated not because of Yelp's automated review filter (or because a user re-posted), but because of
24 Chan's purchase of advertising.

25 ~~84.94.~~ In October 2008, Zimmerman asked Chan to start paying an increased payment of
26 \$500.00 a month to advertise with Yelp. Chan said no, and in response, she noticed that her reviews
27 were again declining.

28

1 85.95. In October 2008, Chan – fed up with what she believed to be extortion – decided to
2 cancel her Yelp advertising contract. Following the termination of her contract, Yelp removed
3 positive reviews on the Marina Dental Care Yelp page and replaced them with negative reviews.
4 Upon information and belief, Yelp’s removal of positive reviews was not done pursuant to the Yelp
5 Review Terms, but because Chan decided to terminate her advertising contract. Upon information
6 and belief, Yelp removed the positive reviews to cause Chan to fear that if she did not pay Yelp for
7 advertising, Yelp would continue to remove positive reviews from her business’s Yelp listing.

8 86.96. In March 2009, after Yelp had – once again – removed several positive reviews, Chan
9 attempted to post a negative review about Yelp’s conduct towards her to the Marina Dental Care
10 Yelp review page. Within two to three days, Yelp removed six positive reviews – all of which were 4
11 or 5-star ratings – from the Marina Dental Care Yelp page. As a result, the Marina Dental Care
12 overall Yelp star rating fell to 3 stars. Upon information and belief, Yelp’s removal of the positive
13 reviews was not done pursuant to the Yelp Review Terms, but to induce Chan to pay for advertising
14 and/or to retaliate against her to discourage her from posting negative information about Yelp.

15 87.97. In May 2010, Chan posted a negative review about Yelp to her own website. Within
16 two days, Yelp removed six positive reviews from the Marina Dental Care Yelp page dropping the
17 overall star review of Chan’s business from 4 stars to 3.5 stars.

18 88.98. That same month, Chan wrote a letter to Yelp, which described her experiences. In
19 response, Yelp removed additional positive ratings from the Marina Dental Care Yelp page and the
20 Marina Dental Care overall star rating fell to 2.5 stars. Upon information and belief, Yelp’s removal
21 of the positive reviews was not done pursuant to the Yelp Review Terms, but to induce Chan to pay
22 for advertising and/or to discourage her from posting negative information about Yelp.

23 89.99. Thereafter Chan called Yelp’s New York office to inquire about Yelp’s automated
24 review system and spoke with “Paul.” Paul stated that the review process was all automated, but
25 when pressed, Paul admitted to Chan that Yelp manually adds and removes reviews based on its own
26 discretion. He also admitted that Yelp’s primary revenue stream is from Sponsors.

27 90.100. As of spring 2010, Yelp had filtered 77 reviews of Chan’s office, 75 of which
28 were positive reviews, meaning that the positive reviews were not factored into Chan’s office’s

1 overall star rating on Yelp. Upon information and belief, the filtering was not done by entirely by the
2 automated filter, but primarily by Yelp as an attempt to threaten Chan so that she would pay for
3 advertising with Yelp.

4 91.101. As a result of Yelp's manipulation of the Marina Dental Care reviews, Chan
5 lost money in advertising costs she paid to Yelp to avoid Yelp's manipulation of the reviews of her
6 business in a manner that did not comply with the Yelp Review Terms. Chan also experienced a
7 decline in new patients that corresponded almost directly to the decline in Yelp star ratings.

8 92.102. In addition and as a result of Yelp's conduct, fewer Yelp users viewed Chan's
9 business's Yelp page and fewer patients patronized her business, which caused a decrease in Chan's
10 business revenues. Therefore, Chan was injured – as a result of Defendant's conduct – by a loss of
11 sales, revenues and/or assets. In addition, due to the posting of negative reviews and/or removal of
12 positive reviews, Chan's business's reputation was injured.

13 Paver Pro

14 93.— Paver Pro is a landscaping business located in Hayward, California.

15 94.— Paver Pro did not voluntarily list itself on Yelp.com.

16 95.— In or around August 2009, five 5-star reviews were removed from Paver Pro's Yelp
17 review page. At the same time, two negative reviews, including a one-star review, written by "Shirin
18 H" remained on Paver Pro's Yelp review page. As a result, Paver Pro's overall Yelp star rating
19 declined.

20 96.— By early September 2009, Paver Pro received approximately seven or eight more
21 positive reviews on its Yelp review page.

22 97.— During the first week of September 2009, approximately five of the positive reviews
23 were removed from Paver Pro's Yelp review page. The two negative one-star reviews remained on
24 Paver Pro's Yelp review page.

25 98.— Upon information and belief, Yelp removed positive reviews of Paver Pro's business
26 as a threat to cause Paver Pro to fear that if it did not purchase advertising that its business's overall
27 star rating would be low. Upon information and belief, Yelp maintained the negative reviews,
28

1 including one written by "Shirin H", which violated the Yelp Content Guidelines or Terms of
2 Service, on Paver Pro's public review page as an implicit threat to further

3 cause Paver Pro to fear that if it did not purchase advertising, that its business's Yelp overall
4 star rating would remain low.

5 99. On September 9, 2009, Paver Pro purchased advertising from Yelp for approximately
6 \$300 a month so that the positive reviews it received would be reinstated on the Paver Pro Yelp
7 review page.

8 100. After Paver Pro purchased advertising from Yelp, many of the positive reviews that
9 had disappeared were reinstated to the Paver Pro Yelp review page.

10 101. As of January 23, 2010, Paver Pro's business had an overall Yelp star rating of 4 stars.

11 102. In or around March 23, 2010, Paver Pro decided to stop advertising with Yelp.com.

12 103. By April 6, 2010, approximately two weeks later, Paver Pro's overall Yelp star rating
13 had fallen to 3 stars. Upon information and belief, Yelp removed positive reviews of Paver Pro's
14 business from the public review page as a threat to cause Paver Pro to fear that if it did not start
15 advertising again, that its business's overall star rating would remain low.

16 104. As a result of Yelp's manipulation of the Paver Pro reviews, Paver Pro lost money in
17 advertising costs it paid to Yelp to avoid Yelp's manipulation of the reviews of its business in a
18 manner that did not comply with the Yelp Review Terms. Paver Pro also experienced a decline in
19 customers.

20 105. In addition and as a result of Yelp's conduct, fewer Yelp users viewed Paver Pro's business's
21 Yelp page and fewer customers patronized the business, which caused a decrease in Paver Pro's
22 business revenues. Therefore, Paver Pro was injured as a result of Defendant's conduct by a loss
23 of sales, revenues and/or assets. In addition, due to the posting of negative reviews and/or removal of
24 positive reviews, Paver Pro's business's reputation was injured. **Other Businesses and Persons'**

25 **Experiences with Yelp**

26 ~~106.103.~~ Upon information and belief, Defendant manipulated the reviews for hundreds
27 or thousands of other businesses before and/or after a Yelp customer service representative spoke to a
28 person or business about advertising on Yelp. Upon information and belief, Defendant manipulated

1 the reviews, under the guise of or in conjunction with its automated filter, to cause fear in that
2 ~~business~~businesses or ~~person~~persons that if ~~it~~they did not purchase advertising, Yelp would cause
3 negative reviews to appear or positive reviews to disappear, which would, in turn, decrease the
4 overall star rating of the business or person and cause it to incur a decrease in sales, assets, profits,
5 and/or revenues, harm to the business's or person's reputation, and a loss in advertising costs.³⁴
6 Defendant's conduct impacted businesses and persons located nationwide and therefore impacted
7 interstate commerce.

8 CLASS ACTION ALLEGATIONS

9 ~~107.104.~~ Plaintiffs bring this action on behalf of themselves and all others similarly
10 situated, pursuant to Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3).

11 ~~108.105.~~ The subclasses that Plaintiffs seek to represent are defined as follows:

- 12 a) **Non Sponsors:** All similarly situated businesses and persons nationwide who were in
13 contact with Yelp regarding the option to advertise on Yelp, declined to purchase
14 advertising, and as a result of not purchasing advertising, were subject to the
15 manipulation of the reviews of their businesses by Yelp – in a manner that did not
16 comply with Yelp's representations regarding its Review Terms⁴⁵ – during the four
17 years prior to the commencement of this lawsuit, through the final resolution of this
18 lawsuit.

19 _____
20
21 ^{34/} Many stories have been published that describe similar allegations relating to Yelp's conduct.
22 *See e.g. Yelp and the Business of Extortion 2-0,2,0*, available at <http://www.eastbayexpress.com/eastbay/yelp-and-the-business-of-extortion-20/Content?oid=1176635>; see also
<http://www.yelp.com/biz/yelp-san-francisco>.

23 ^{45/} For purposes of both subclass definitions, Review Terms means, as set forth in the complaint,
24 Yelp's public representation that reviews may only be removed from Yelp if: 1) A user removes the
25 review; 2) Yelp removes the review for violating the Terms of Service or Content Guidelines; or 3)
26 "The review may have been suppressed by Yelp's automated software system. This system decides
27 how established a particular reviewer is and whether a review will be shown based on the reviewer's
28 involvement on Yelp. While this may seem unfair to you, this system is designed to protect both
consumers and businesses alike from fake reviews (i.e., a malicious review from a competitor or a
planted review from an employee). The process is entirely automated to avoid human bias, and it
affects both positive and negative reviews. It's important to note that these reviews are not deleted
(they are always shown on the reviewer's public profile) and may reappear on your business page in
the future."

1 b) **Sponsors:** All similarly situated businesses and persons nationwide who were in
2 contact with Yelp regarding the option to advertise on Yelp, whose reviews were
3 manipulated by Yelp in a manner that did not comply with Yelp’s representations
4 regarding its Review Terms and who thereafter purchased advertising during the four
5 years prior to the commencement of this lawsuit, through the final resolution of this
6 lawsuit (“Sponsors”).

7 ~~109~~.106. This action has been brought and may be properly maintained as a class action
8 under Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3).

9 ~~110~~.107. Defendant has acted or refused to act on grounds that apply generally to the
10 Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the
11 Class as a whole.

12 ~~111~~.108. Numerosity: The Class is so numerous and geographically dispersed that
13 joinder of all Class members is impracticable. Upon information and belief, there are hundreds, if not
14 thousands, of similarly situated businesses and persons nationwide.

15 ~~112~~.109. 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 Class.
17 Such questions of law or fact include, but are not limited to:

18 a) Whether Defendant unlawfully committed extortion, and/or attempted extortion, as a
19 predicate for a violation of California Business & Professions Code § 17200 et seq.;

20 and

21 b) Whether Defendant unfairly manipulated the reviews of businesses of Plaintiffs and
22 the Class to encourage them to advertise in violation of California Business &
23 Professions Code § 17200 et seq.;

24 c) Whether Defendant is liable for civil extortion to Plaintiffs and the Class; and

25 d) Whether Defendant is liable for attempted civil extortion to Plaintiffs and the Class.

26 ~~113~~.110. Typicality: Plaintiffs’ claims are typical of the claims of the Class, and
27 Plaintiffs have no interests that are adverse or antagonistic to the interests of the other members of the
28 Class.

1 manipulate the reviews of their business in a way that would cause them financial harm and harm to
2 their business' reputations.

3 ~~124, 118.~~ As a result, Defendant unlawfully attempted to and/or did in fact commit
4 extortion, as set forth in California Penal Code sections 518, 519, 523, ~~524 and/or 524,~~ the Hobbs Act,
5 civil extortion and civil attempted extortion by intentionally and unlawfully using fear (the removal
6 of positive reviews and/or the addition or manipulation of negative reviews by implicit or explicit
7 threats to cause injury to Class members' businesses) to induce the Class members to consent to pay
8 Defendant for advertising.

9 ~~122.~~ As a result, ~~Sponsor Class members were injured in the form of advertising payments~~
10 ~~they made to Defendants, and are entitled to restitution.~~

11 ~~123.~~ For ~~Non Sponsor Class members, Defendants took a direct ineffectual step towards~~
12 ~~committing extortion by attempting to make the Class members fear that if they did not purchase~~
13 ~~advertising, their overall star rating and/or public reviews would decline.~~

14 ~~124.~~ ~~Non Sponsor Class members were injured by Defendant's conduct by the harm caused~~
15 ~~to the reputations of their businesses, a decline in their business assets and profits, and goodwill. As~~
16 ~~such, they are entitled to injunctive relief~~

17 119. Defendant's conduct is unfair and harms competition by favoring businesses that
18 submit to Yelp's manipulative conduct and purchase advertising to the detriment of competing
19 businesses that decline to purchase advertising and have their reviews negatively manipulated by
20 Yelp.

21 120. Defendant's conduct further constitutes unfair competition because the harm caused
22 by Defendant's manipulation of Class members' reviews to class members, including damage caused
23 to their sales, revenues and/or assets and business reputations, greatly outweighs any benefit to
24 Defendant in advertising sales. Any reason, justification and/or motive for Yelp's manipulations of
25 Class members' reviews does not justify the substantial financial and reputational harm businesses
26 have suffered.

27 ~~125.~~ ~~The~~121. In addition, the harm to class members caused by Defendant's conduct,
28 which includes threats, retaliation, extortion and/or attempted extortion, is substantially injurious to

1 consumer class members, and constitutes unfair competition. Class members have lost sales, profits,
2 revenues, assets, advertising payments, and their business reputations have been harmed due to
3 Defendant's conduct. Defendant's actions have devastated businesses that are struggling to survive in
4 today's economy.

5 122. Defendant's conduct towards Class members – most of whom did not choose to be on
6 Yelp in the first place – is also immoral and unethical. The substantial harm to Class members caused
7 by Defendant's conduct further outweighs any benefits to Defendant or to competition generally and
8 violates public policy.

9 123. Both Plaintiffs and the Class have been deprived of money, either in the form of lost
10 business revenues and/or assets or in payments made to Defendant for advertising, as a result of
11 Defendant's wrongful conduct and unlawful acts and practices. Plaintiffs and the Class members,
12 therefore, have sustained injury in fact.

13 124. As a result, Sponsor Class members were injured in the form of advertising payments
14 they made to Defendants, and are entitled to restitution.

15 ~~126, 125.~~ Sponsor Class members are entitled to equitable and injunctive relief in the
16 form of restitution and disgorgement of all earnings, profits, compensation and benefits Defendants
17 obtained as a result of such unfair and unlawful business practices. Defendant has been unjustly
18 enriched by receiving substantial monies and profits from advertising payments made by Plaintiffs
19 and the Class to avoid negative manipulations of their reviews.

20 126. For Non-Sponsor Class members, Defendants took a direct ineffectual step towards
21 committing extortion by attempting to make the Class members fear that if they did not purchase
22 advertising, their overall star rating and/or public reviews would decline.

23 ~~127. Both Plaintiffs and the Class have been deprived of money, either in the form of lost~~
24 ~~business revenues and/or assets or in payments made to Defendant for advertising, as a result of~~
25 ~~Defendant's wrongful conduct and unlawful acts and practices. Plaintiffs and the Class members,~~
26 ~~therefore, have sustained injury in fact.~~ Non-Sponsor Class members were injured by Defendant's
27 conduct by the harm caused to the reputations of their businesses, a decline in their business assets
28 and profits, and goodwill. As such, they are entitled to injunctive relief.

1 128. Plaintiffs and members of the Class seek a court order requiring Defendant to
2 immediately cease such violations of consumer protection and unfair competition statutes and
3 enjoining Defendant from continuing to conduct business via the unlawful or unfair business acts and
4 practices complained of herein.

5 129. Plaintiffs additionally request an order requiring Defendant to disgorge its ill-gotten
6 gains as described above and awarding Sponsor Class Members full restitution of all monies
7 wrongfully acquired by Defendant by means of such unlawful business practices and acts of unfair
8 competition, plus interest and attorney fees so as to restore any and all monies to Plaintiffs and the
9 Class that were acquired and obtained by means of such unfair and unlawful business practices.

10 130. These violations serve as unlawful predicate acts for purposes of Business and
11 Professions Code § 17200, and remedies are provided therein under Business & Professions Code §
12 17203.

13 **SECOND CAUSE OF ACTION**

14 (Civil Extortion)

15 (Sponsors and Non-Sponsors v. Defendant)

16 131. Plaintiffs incorporate by reference paragraphs 1 through 130 inclusive, as though fully
17 set forth herein.

18 132. Defendant obtained property from Plaintiff Chan and the Sponsor Class members -
19 with their consent - in the form of advertising payments.

20 133. Defendant attempted to obtain property from Plaintiffs Levitt, Cats & Dogs, Mercurio
21 and Non-Sponsor Class members in the form of advertising payments.

22 134. Defendant wrongfully threatened to or did manipulate the reviews, and overall star
23 ratings, of businesses and/or persons – in a way that did not comply with its own Review Terms – to
24 cause fear in businesses and/or their owners that if they did not pay Yelp for advertising, Yelp would
25 manipulate the reviews of their business in a way that would cause them financial harm and harm to
26 their business' reputations.

27 135. As a result, Defendant unlawfully committed civil extortion by intentionally and
28 unlawfully using fear (the removal of positive reviews and/or the addition or manipulation of

1 negative reviews by implicit or explicit threats to cause injury to Class members' businesses) to
2 induce the Class members to consent to pay Defendant for advertising.

3 136. As a result, Sponsor Class members were harmed by paying advertising payments to
4 Defendant as a result of the threats, and are entitled to damages in an amount to be proven at trial.

5 137. For Non-Sponsor Class members, Defendant took a direct ineffectual step towards
6 committing extortion by attempting to make the Class members fear that if they did not purchase
7 advertising, their overall star rating and/or public reviews would decline.

8 138. Non-Sponsor Class members were injured by Defendant's conduct by the harm caused
9 to the reputations of their businesses, a decline in their business assets and profits, and goodwill, and
10 are entitled to damages in an amount to be proven at trial.

11 139. The acts of Defendant were so outrageous, willful, wanton and in reckless disregard to
12 Plaintiffs and the Class as to entitle Plaintiffs and the Class to punitive damages in an amount to be
13 proven at trial.

14 **THIRD CAUSE OF ACTION**

15 **(Attempted Civil Extortion)**

16 **(Non-Sponsors v. Defendant)**

17 140. Plaintiffs incorporate by reference paragraphs 1 through 139 inclusive, as though fully
18 set forth herein.

19 141. Defendant attempted to obtain property from Plaintiffs Levitt, Cats & Dogs, Mercurio
20 and Non-Sponsors in the form of advertising payments.

21 142. Defendant wrongfully threatened to or did manipulate the reviews, and overall star
22 ratings, of businesses and/or persons – in a way that did not comply with its own Review Terms – to
23 cause fear in businesses and/or their owners that if they did not pay Yelp for advertising, Yelp would
24 manipulate the reviews of their business in a way that would cause them financial harm and harm to
25 their business' reputations.

26 143. As a result, Defendant unlawfully committed attempted civil extortion by intentionally
27 and unlawfully using fear (the removal of positive reviews and/or the addition or manipulation of
28

1 negative reviews by implicit or explicit threats to cause injury to Class members' businesses) to
2 induce the Class members to consent to pay Defendant for advertising.

3 144. For Non-Sponsor Class members, Defendant took a direct ineffectual step towards
4 committing extortion by attempting to make the Class members fear that if they did not purchase
5 advertising, their overall star rating and/or public reviews would decline.

6 145. Non-Sponsor Class members were injured by Defendant's conduct by the harm caused
7 to the reputations of their businesses, a decline in their business assets and profits, and goodwill, and
8 are entitled to damages in an amount to be proven at trial.

9 146. The acts of Defendant were so outrageous, willful, wanton and in reckless disregard to
10 Non-Sponsors as to entitle Non-Sponsors to punitive damages in an amount to be proven at trial.

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1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, as a result of the foregoing, Plaintiffs pray for relief as follows:

3 1. Declaring this action to be a proper class action maintainable under Federal Rules of
4 Civil Procedure 23(b)(2) and 23(b)(3), certifying appropriate subclasses and certifying Plaintiffs as
5 Class Representatives;

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

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

9 4. Awarding restitution, as appropriate;

10 5. Awarding pre- and post-judgment interest;

11 6. Awarding damages in an amount to be proven at trial;

12 7. Awarding punitive damages in an amount to be proven at trial;

13 8. Awarding Plaintiffs all costs and expenses, including attorneys' fees, fees permitted
14 under California Code Civil Procedure section 1021 et seq.; and

15 8-9. Granting such other and further relief as this Court may deem necessary, proper,
16 and/or appropriate.

17
18 DATED: ~~November 17, 2010~~ May 23, 2011 **ONGARO BURTT & LOUDERBACK LLP**

19
20
21 By: /s/ David R. Ongaro
22 David R. Ongaro
23 Attorneys for Plaintiff Boris Y. Levitt *et al.*

24 ~~101122 PLAINTIFFS SECOND~~ 110523 THIRD AMENDED COMPLAINT (UPDATED).DOC
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