

1 **THE WESTON FIRM**  
 2 GREGORY S. WESTON (239944)  
 3 JACK FITZGERALD (257370)  
 4 888 Turquoise Street  
 5 San Diego, CA 92109  
 6 Telephone: (858) 488-1672  
 7 Facsimile: (480) 247-4553  
 8 greg@westonfirm.com  
 9 jack@westonfirm.com

**BECK & LEE BUSINESS TRIAL  
 LAWYERS**  
 JARED H. BECK (233743)  
 ELIZABETH LEE BECK (233742)  
 Courthouse Plaza Building  
 28 West Flagler Street, Suite 555  
 Miami, FL 33130  
 Telephone: (305) 789-0072  
 Facsimile: (786) 664-3334  
 jared@beckandlee.com  
 elizabeth@beckandlee.com

9 **Attorneys for Plaintiffs and the Proposed Classes**

10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 CATS AND DOGS ANIMAL  
 13 HOSPITAL, INC.; ASTRO  
 14 APPLIANCE SERVICE; BLEEDING  
 15 HEART, LLC d/b/a BLEEDING  
 16 HEART BAKERY; CALIFORNIA  
 17 FURNISHINGS, INC. d/b/a SOFA  
 18 OUTLET; CELIBRÉ, INC.; J.L. FERRI  
 19 ENTERTAINMENT, INC. d/b/a  
 20 ADULT SOCIALS; LE PETITE  
 21 RETREAT DAY SPA, LLC; SAN  
 22 FRANCISCO BAY BOAT CRUISES,  
 23 LLC d/b/a MERMAIDS CRUISE;  
 24 WAG MY TAIL, INC.; and ZODIAC  
 25 RESTAURANT GROUP, INC. d/b/a  
 26 SCION RESTAURANT, on behalf of  
 27 themselves and all others similarly  
 situated,

Case No: 2:10-cv-01340-VBF-SS  
 Pleading Type: Class Action

**PLAINTIFFS' OPPOSITION TO  
 DEFENDANT YELP! INC.'S EX  
 PARTE APPLICATION TO  
 CONSOLIDATE RELATED  
 CASES FOR ALL PURPOSES  
 AND TO SET DATES FOR  
 CONSOLIDATED AMENDED  
 COMPLAINT, RESPONSIVE  
 PLEADING, AND JOINT  
 SCHEDULING CONFERENCE**

Judge: Hon. Valerie Baker Fairbank  
 Action Filed: February 23, 2010

Plaintiffs,

v.

YELP! INC.,

Defendant.

1                   **PLAINTIFFS’ OPPOSITION TO YELP’S *EX PARTE* MOTION**

2                   Having been served with the Complaint in this case a month ago, on  
3 February 25, 2010, and having already secured Plaintiffs’ agreement to a two-week  
4 extension in which to answer, Yelp now seeks to:

- 5                   • cancel the Scheduling Conference that, on March 3, the Court set for  
6                   April 26, and not reschedule it for at least three months<sup>1</sup>;  
7                   • delay the beginning of discovery by at least three months;  
8                   • delay any response to the Complaint by at least two months; and  
9                   • further delay its response to the Complaint by a month, without showing  
10                  any need or basis, even if the Court denies Yelp’s motion.<sup>2</sup>

11                  But contrary to Yelp’s representation that months of delay are “in the interest of  
12 orderly case management” (Mot. at 7), suspension is *not necessary*.

13                  Rather than addressing any genuine concern that *LaPausky’s* nearly  
14 verbatim copycat complaint—which is entirely subsumed in the *Cats and Dogs*  
15 First Amended Complaint—makes case management unruly, Yelp seeks to  
16 leverage the copycat filing to delay advancement of this action. But the relief  
17 *Plaintiffs* seek in their own *ex parte* motion for consolidation,<sup>3</sup> is a *more efficient*,  
18 *fairer*, and *complete* solution, which Yelp would surely prefer if it were genuinely  
19 interested in efficiency rather than delay.

20                  By consolidating the cases, designating the *Cats and Dogs* First Amended  
21 Complaint as the consolidated complaint, and appointing The Weston Firm and

22 \_\_\_\_\_  
23 <sup>1</sup> Yelp asks that the Court order Plaintiffs to file a consolidated complaint 30 days  
24 after deciding its motion (not “within” 30 days); that Yelp be allowed 30 more  
25 days to Answer; and that a scheduling conference be held no earlier than 30 days  
26 later. (Yelp Ex Parte Mot. at 3, ¶¶3-5.)

26 <sup>2</sup> See Yelp Ex Parte Mot. at 3, n.2.

27 <sup>3</sup> Dkt. No. 16.

1 Beck & Lee Business Trial Lawyers as interim class counsel, the Court can  
2 provide Yelp with the neatness it professes to want without needlessly delaying the  
3 case *at least* three months to Plaintiffs’ prejudice.

4 Rather than recite the arguments made in Plaintiffs’ *ex parte* motion,  
5 Plaintiffs briefly make only the following additional two points in opposition to  
6 Yelp’s Motion:

7 First, the case schedule in the coming weeks is *already* “sequenced logically  
8 to allow sufficient time for consolidation, orderly preparation of post-consolidation  
9 complaint and responsive pleading, and resolution of the lead counsel issue” (Mot.  
10 at 2 & 7), all while providing ample time to meet and confer on Rule 26 issues and  
11 prepare a Joint Rule 26(f) Report by April 12. Yelp’s Answer to *Cats and Dogs’*  
12 First Amended Complaint is due in *seven days*, on April 1, and undoubtedly Yelp  
13 is prepared to timely file its responsive pleading if the Court does not extend  
14 Yelp’s time by three months. In granting Plaintiffs’ motion to designate the *Cats*  
15 *and Dogs* First Amended Complaint as the consolidated complaint, the Court  
16 would not thereby prejudice Yelp. In other words, designating the *Cats and Dogs*  
17 First Amended Complaint as the consolidated complaint would not create any new  
18 work for Yelp requiring a three-month delay, nor would it interfere with the case’s  
19 current schedule, including the April 26 conference.

20 Second, Yelp’s motion shows *LaPausky’s* counsel is acting contrary to the  
21 best interests of the Class. Without advising *Cats and Dogs’* counsel, Mr. Marron  
22 has apparently consented entirely to Yelp’s requested delays seeking to thwart the  
23 case’s progression. Moreover, *LaPausky’s* counsel has served a “Notice of

24 //

25 //

26 //

27

1 Unavailability of Counsel” in which he claims to not even be accepting *notices* in  
2 the case for at least six weeks.<sup>4</sup>

3 Plaintiffs respectfully request that the Court consolidate the *Cats and Dogs*  
4 and *LaPausky* actions, but otherwise deny the delay-in-the-form-of-relief that Yelp  
5 seeks. Instead, Plaintiffs respectfully request that the Court address Yelp’s  
6 concerns by granting Plaintiffs’ *ex parte* motion to consolidate, designating the  
7 *Cats and Dogs* First Amended Complaint as the consolidated complaint, and  
8 appointing *Cats and Dogs*’ counsel as interim class counsel.

9  
10 DATED: March 25, 2010

Respectfully Submitted,

11  
12 s/Gregory S. Weston

13 Gregory S. Weston

14 Jack Fitzgerald

15 **THE WESTON FIRM**

16 888 Turquoise Street

San Diego, California 92109

17 Telephone: 858 488 1672

18 Facsimile: 480 247 4553

19 **BECK & LEE BUSINESS TRIAL**  
20 **LAWYERS**

Jared H. Beck

21 Elizabeth Lee Beck

22 Courthouse Plaza Building

28 West Flagler Street, Suite 555

23 Miami, FL 33130

24 Telephone: 305 789 0072

25 <sup>4</sup> See Exhibit E to the Declaration of Gregory S. Weston in Support of Plaintiffs’  
26 Ex Parte Motion for Reassignment, Consolidation, Designation of Lead Case, and  
27 Appointment of Interim Lead Counsel (Dkt. No. 16).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Facsimile: 786 664 3334

Counsel for Plaintiffs and the  
Proposed Classes

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**CERTIFICATE OF SERVICE**

I, Evan P. Lee, declare:


I am employed in the City and County of San Diego, State of California in the office of a member of the bar of this court at whose discretion the following service was made. I am over the age of 18 and not a party to the within action. My business address is The Weston Firm, 888 Turquoise Street, San Diego, California 92107. On **March 24, 2010**, I served the following Documents:

**1. Plaintiffs' Reply in Opposition to Defendant Yelp! Inc.'s Ex Parte Application to Consolidate**

- (a) via electronic filing, using the Court's Case Management/Electronic Case Filing system, to all parties listed for electronic service, **AND**
- (b) via facsimile and email to Ron Marron, Plaintiff's counsel in No. CV 10-01578 VBF (SSx), at Facsimile: (619) 564-6665; e-mail: ron.marron@gmail.com.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on March 25, 2010, in San Diego, California.

  
Evan P. Lee