

THE WESTON FIRM

GREGORY S. WESTON (239944)

JACK FITZGERALD (257370)

888 Turquoise Street

San Diego, CA 92109

Telephone: (858) 488-1672

Facsimile: (480) 247-4553

greg@westonfirm.com

jack@westonfirm.com

BECK & LEE BUSINESS TRIAL LAWYERS

JARED H. BECK (233743)

ELIZABETH LEE BECK (233742)

28 West Flagler Street, Suite 555

Miami, FL 33130

Telephone: (305) 789-0072

Facsimile: (786) 664-3334

jared@beckandlee.com

elizabeth@beckandlee.com

Attorneys for Plaintiffs and the Proposed Classes**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**CATS AND DOGS ANIMAL HOSPITAL,
INC., et al., on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

YELP! INC.,

Defendant.

Case No: 2:10-cv-01340-VBF-SS

**PLAINTIFFS' NON-OPPOSITION
TO DEFENDANT YELP! INC.'S
MOTION TO CONSOLIDATE**

Hearing Date: May 10, 2010

Hearing Time: 1:30 p.m.

Judge: Hon. Valerie Baker Fairbank

CHRISTINE LaPAUSKY d/b/a D' AMES
DAY SPA, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

YELP! INC.,

Defendant.

Case No. 2:10-cv-01578-VBF-SS

1 Defendant Yelp! Inc. ("Yelp") wastes the Court's time with the present
2 motion to consolidate when Plaintiffs have repeatedly notified counsel for Yelp
3 they are willing to stipulate to consolidation.

4 On May 16, counsel for Plaintiffs in *Cats and Dogs* met with, and were
5 retained by, the sole Plaintiff in the later-filed *LaPausky* copycat action, filed a
6 notice of substitution of counsel, and as counsel for Plaintiffs in *both* actions again
7 sought to stipulate to consolidation. Yelp refused to agree to stipulation over the
8 phone that day, and has yet to respond to a proposed stipulation sent via e-mail the
9 next day.

10 Thus, Plaintiffs favor the first part of Yelp's proposed order, that:

11 1. The following related cases shall be consolidated for all purposes: *Cats and*
12 *Dogs Animal Hospital, Inc. et al. v. Yelp! Inc.*, No. CV 10-01340-VBF(SSx) (C.D.
13 Cal. filed Feb. 23, 2010); and *Christine LaPausky d/b/a D'ames Day Spa v. Yelp!*
14 *Inc.*, No. CV 10-01578-VBF(SSx) (C.D. Cal. filed Mar. 3, 2010).

15 Where the parties disagree is whether Plaintiffs needlessly must file a
16 "consolidated complaint." Plaintiffs' position is that the extensive, detailed *Cats*
17 *and Dogs* First Amended Complaint ("FAC") should serve as the consolidated
18 complaint, and the *LaPausky* Complaint, which is a verbatim copycat of the initial
19 *Cats and Dogs* Complaint, be stayed.

20 If the Court were to ignore the maxim that "plaintiff is the master of the
21 complaint"¹ and accede to Yelp's dilatory request by ordering Plaintiffs to "file a
22 consolidated and superseding amended complaint within 14 days" all plaintiffs will
23 do is refile the FAC exactly as it is now, except with the phrase "Consolidated
24 Complaint" on its cover. Yelp would then, according to its proposed order, have an
25 additional 21 days to respond to the renamed but identical complaint.

26
27 ¹ *Holmes Group, Inc. v. Vornado Air Circulation Sys.*, 535 U.S. 826, 832 (2002)
28 (citation omitted)

1 Yelp's motion to dismiss the FAC has been fully briefed and is ready for
2 hearing in two weeks. Given that Plaintiffs are happy to stay the *LaPausky* action,
3 Yelp's true motive is not to avoid answering multiple pleadings, but to needlessly
4 delay the proceedings.

5 Plaintiffs respectfully request the Court adopt their alternative proposed
6 order on consolidation, which incorporates the first part of Yelp's proposed order
7 on consolidation, but rather than needlessly asking Plaintiffs to rename their FAC
8 and resetting the scheduled hearing, instead simply stays the *LaPausky* action, any
9 further tag-along action(s), and deems the FAC the operative consolidated
10 complaint.

11
12 DATED: April 19, 2010

Respectfully Submitted,

13 /s/Gregory S. Weston

14 Gregory S. Weston

15 **THE WESTON FIRM**

16 GREGORY S. WESTON

17 JACK FITZGERALD

18 888 Turquoise Street

19 San Diego, California 92109

20 Telephone: 858 488 1672

21 Facsimile: 480 247 4553

22 **BECK & LEE BUSINESS TRIAL**
23 **LAWYERS**

24 JARED H. BECK

25 ELIZABETH LEE BECK

26 Courthouse Plaza Building

27 28 West Flagler Street, Suite 555

28 Miami, FL 33130

Telephone: 305 789 0072

Facsimile: 786 664 3334

Counsel for Plaintiffs and the
Proposed Classes

1 **CERTIFICATE OF SERVICE**

2 I, Evan Lee, declare as follows:

3 I am a resident of the state of California, over the age of 18 and not a party to
4 the within action. My business address is The Weston Firm, 888 Turquoise Street, San
5 Diego, California, 92109. On April 19, 2010, I served the following documents:

- 6 1. Plaintiffs' Non-Opposition to Defendant Yelp! Inc.'s Motion to
7 Consolidate

8 by notice of Electronic Filing, which is a notice automatically generated by the
9 CM/ECF system at the time the documents listed above were filed with this Court, to
10 lead counsel listed by CM/ECF as "*ATTORNEY TO BE NOTICED.*"

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

13 Executed on April 19, 2010 in San Diego, Florida.

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16 Evan Lee
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