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SMALL BUSINESS

Yelp Reviews Brew a Fight Over Free Speech vs. Fairness

Many Businesses Say Anonymity of Comments Is Unfair, Sue to Unmask Users

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By **ANGUS LOTEN** **CONNECT**

April 2, 2014 7:31 p.m. ET



Joe Hadeed says his business, Hadeed Carpet Cleaning of Springfield, Va., suffered following a string of negative online reviews. *Matt McLoone for The Wall Street Journal*

A closely watched Internet free-speech case is headed to the Virginia Supreme Court this month, with many businesses that live and die by online reviews rooting for the owner of a small, suburban carpet cleaner.

In early 2012, Joe Hadeed, owner of Hadeed Carpet Cleaning Inc., arrived at his office atop a 70,000-square-foot warehouse in Springfield, Va., to discover a critique posted on [Yelp.com](#): "Lots of hype, a mediocre cleaning and a hassle at the end. Don't go with Joe!" wrote a "Mike M." A few days later, another review, by "M.P." popped up: "I will never use them again and advise others to proceed with caution!" it said.

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Over the next several weeks, a string of similarly harsh reviews replaced more-favorable comments "as if someone had flipped a switch," said the 47-year-old Mr.

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Victor Reklaitis takes a look at which stocks traders will be watching during market action, including Yelp, Perry Ellis, and Micron Technology. Photo: Getty Images.

Hadeed, in an interview last month at his offices, where trucks drop off carpets to be washed, rinsed and dried.

Following the rash of negative Yelp reviews, business sank 30% in 2012, Mr. Hadeed says. Last year, Hadeed cleaned just 20,000 carpets, down from 29,000 in 2011. Revenue fell to \$9.5 million from

\$12 million in 2011. Mr. Hadeed said the business has let 80 workers go and sold six trucks, reducing its fleet to 54.



The Federal Trade Commission has received more than 2,046 complaints filed about Yelp from 2008 through March 4, according to data reviewed by The Wall Street Journal, following a Freedom of Information Act request. Yelp shares fell 5.7% in Wednesday trading, after the tally was posted on FTC.gov.

Most of the complaints are from small businesses that claim to have received unfair or fraudulent reviews, often after turning down a pitch to advertise on the site, according to a separate spreadsheet of complaints to the FTC about Yelp, reviewed exclusively by the Journal. For instance, a business owner in Montclair, N.J., whose name was redacted said: "I was contacted by a Yelp salesperson to advertise, which I declined, and since have only had negative posts on their site."

Yelp denies any connection between reviews and advertising on the site. "Our recommendation software doesn't punish people who don't advertise," Yelp spokeswoman Kristen Whisenand said, adding, "There has never been any amount of money you can pay Yelp to manipulate reviews."

For his part, Mr. Hadeed says he is certain that at least seven of the bad reviews about his business are fraudulent—possibly posted by competitors—because he was unable to match them to actual customers, based on time, location and sales data. One review, for instance, came from Haddonfield, N.J., where the company doesn't do business.

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In July 2012, Hadeed sued the seven reviewers for defamation, and demanded that Yelp turn over their true identities. So far, both the Alexandria Circuit Court and the Virginia Court of Appeals have sided

with Mr. Hadeed, holding Yelp in contempt for not turning over the names. Yelp in January appealed to the state Supreme Court, arguing that the reviews are protected under the First Amendment and that Mr. Hadeed offered scant evidence that they were fakes.

This month the Supreme Court could issue an order granting or denying Yelp's appeal, or schedule a hearing in Richmond, which could take place in the next 90-120 days.

"They say they have a right to put this information out there. But where's my right to defend my business?" said Mr. Hadeed, in the interview.



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Consumer-review websites—whether Yelp, Angie's List, Google + Local, Yahoo Local Listings, or Amazon.com—are shielded from liability for defamation claims stemming from user comments under the Communications Decency Act of 1996.



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In the eyes of business owners, this isn't fair.

Yelp said it receives roughly six subpoenas monthly, some of which seek the names of anonymous users. Though Yelp declined to say whether the subpoenas had increased or decreased, it said many requests for information arise from private litigation brought by business owners.

Businesses have had some success in courts going after individuals who criticize them online, though rarely, and companies like Yelp and Google Inc. remain unscathed, according to Eric Goldman, a professor at Santa Clara University School of Law who is also a director at the Public Participation Project, a Berkeley, Calif., nonprofit that promotes legislation to protect free-speech online. "We do see consumers who lose lawsuits over defamatory reviews, but rarely," he said. Many people take for granted that the Internet is full of hyperbole, and there are disincentives for businesses to sue consumers, including the fact that a lawsuit can draw attention to criticisms, he added.

The Public Participation Project said it gets a call every week from reviewers who say they are being sued by a business or threatened with a lawsuit.

Among small businesses, much of the anger is directed at Yelp, which allows its users to sign up free and post reviews under a made-up "screen name." San Francisco-based Yelp attracts 120 million visitors a month with more than 50 million customer-generated reviews on everything from local stores and restaurants to chiropractors and the parking authority. It says the vast majority of those reviewers use their real names, though a handful have reason to remain anonymous, such as medical patients, or workers at a chain or other large employer.

"There's a huge paradigm shift in the way that businesses get discovered and how they're marketed, and, as a business owner, you have to deal with that," says Vince Sollitto, Yelp's vice president of government relations.

"I feel helpless," says 63-year-old Judy Scales, who co-owns Alloy Wheel Repair Specialists of Northern Virginia with her husband. In May, a customer alerted her to a Yelp review that called her business a "shady hack-job repair service." She says the unnamed writer claimed the work was done on a wheel as it remained on the car, a practice the nine-year-old business doesn't do.

When she asked the site to remove the comments, she said a Yelp official told her the post offered a legitimate opinion and wouldn't be changed.

"Your reputation is everything," said Ms. Scales, who blames the review for a slight dip in sales last year, to about \$700,000.

In November, Yelp hired lobbyist Laurent Crenshaw, who previously worked for California Republican Darrell Issa, to push for a federal "Anti-Slapp" law, according to federal lobbying registration records. Slapp stands for Strategic Lawsuit Against Public Participation, and anti-SLAPP laws aim to prevent businesses or other powerful groups from filing baseless lawsuits against their critics.

To date, nearly 30 states, including California, Florida and Texas, have enacted or considered anti-SLAPP bills, which typically seek speedy resolutions of the cases and charge all legal fees to the losing party. "Customers have the right to their opinions without being harassed and intimidated," Mr. Sollitto adds.

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Richard Goodman

Unfortunately, the Yelp filters do not detect fake or misleading reviews posted by a customer. None of the Yelp reviews are checked for accuracy or truthfulness...and Yelp knows this. However, Yelp continues to mislead all users (including the media, advertisers, and internet users) that Yelp has a "Filter" that will "reliably" recommend or not recommend reviews. Yelp does not care about truthful or fair reviews they only want their Yelp internet traffic to increase and for users to think the Yelp reviews are reliably recommended or reliably not recommended.

Unfortunately for small businesses, the "Yelp Filter" is not reliable.. not even close.