

# Q&A: Recent ruling on Yelp reviews explained

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Technology is having a big impact on how companies do business, and no better example of that may exist than Yelp reviews.

The online site recently was sued by a business for allegedly rigging reviews and writing fake negative reviews to get the business to pony up for advertising. A trial court tossed the case, saying the business failed to state a proper claim, and the 9th Circuit Court of Appeals recently agreed.

Yelp has faced accusations by a number of businesses for strong-arming companies into buying ads, but the courts ruled that Yelp is not committing economic extortion.

Donna Catalfio, a shareholder at Gallagher & Kennedy PA in Phoenix, answers questions about the recent Yelp ruling.



Enlarge Photo

Donna Catalfio

**How did the court rule to help Yelp over businesses?** In early September, the 9th U.S. Circuit Court of Appeals issued a decision in a case brought by small business owners against Yelp finding the trial court correctly dismissed the case because the businesses failed to state a proper claim. The businesses had alleged that Yelp attempted to extort advertising payments from them by manipulating actual user reviews and by authoring negative reviews.

The businesses claimed Yelp engaged in extortion by creating fake negative reviews and posting them on business sites to induce businesses to buy advertising. Also, the businesses claimed Yelp manipulated authentic positive postings (by removing them) and negative postings (by reposting them and/or moving them to the top) to induce businesses to buy advertising.

The Court found this particular group of businesses did not have sufficient evidence that Yelp created fake reviews for the case to go forward.

**Could the recent ruling by the U.S. 9th Circuit Court of Appeals have a broader impact for online reviews?** Most of the commentators and articles I have seen grossly misstate the actual scope of the ruling. For example, commentators have stated that the court ruled Yelp could manipulate content if it wanted to. But the court did not give Yelp carte blanche to manipulate content. In reality, the reach of its ruling is fairly limited.

**What can businesses do after this ruling to try to stop what some view as unfair practices by Yelp?** From a legal perspective, business owners can look to see if other states have more favorable extortion laws than California and they can examine the viability of other claims. They can also seek out more specific evidence of creation of fake reviews by Yelp. However, there are additional legal hurdles to successfully bringing claims against Yelp the 9th Circuit did not address, such as the broad scope of immunity that online content providers are given by federal law. Therefore, the best option may be one that does not involve the courts.