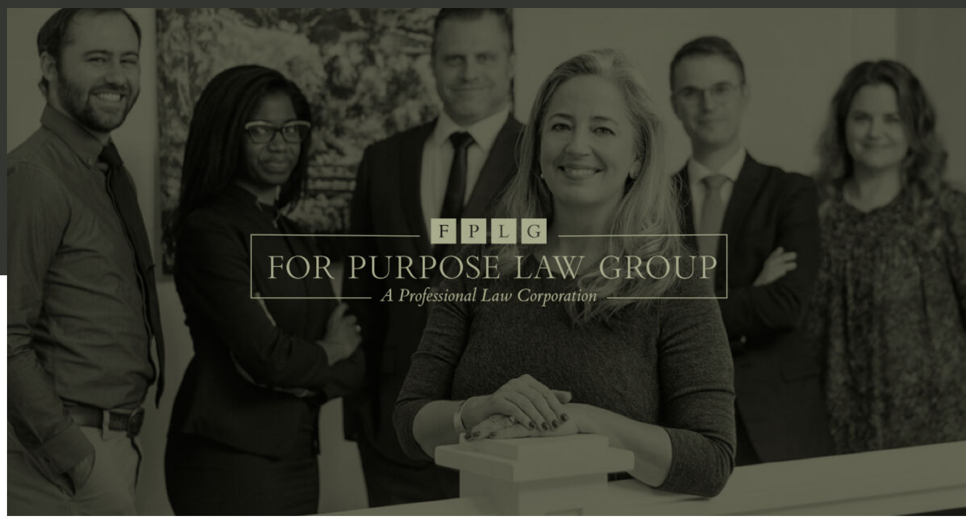
FPLG: BLOG

Nonprofits are Getting Yelped, Too.

10.13.14 | Linda J. Rosenthal, JD



“Worst . . . ever.”

“(S)ome of the staff members can be a**holes.”

These are reviews on the website of business-ratings giant Yelp by patrons of a certain facility.

It’s not about a local taco shop or tattoo parlor.

It’s a rating for a Bay-Area community center. (The name is withheld to protect the . . . well, you know.)

The Internet: a Double-Edged Sword

The internet is a great equalizer. Ordinary people now have a way to broadcast their thoughts and opinions on important – and not so important – matters.

Americans love review websites like Yelp or Angie’s List where they can read reviews or post their own comments.

But those who offer services or goods to the public are not as happy.

Yelp, a San Francisco-based business ratings giant for the past 10 years, has over 135 million viewers each month. Some 61 million reviews have been posted. And it’s growing – fast. This success is fueled by its explosive ad revenue; $233 million last year alone.

Yelp now boasts that it has reviews about nonprofits as well as for-profit businesses or professionals. Many – but not all – of the reviews for 501(c)(3) organizations are favorable.

What Can You Do About a Bad Review?

The short answer: not much.

You Can't Sue Yelp for Bad Reviews

If someone has written a really stinging review of your nonprofit, and you want to blame Yelp, you're up against a brick wall: the federal Communications Decency Act ("CDA") of 1996, 47 U.S. section 230.

What do obscenity laws have to do with bad reviews for your thrift shop? Nothing at all. But when Congress passed sweeping laws aimed at curbing online pornography, it included a much-needed protection for internet service providers. The ISPs were given immunity from liability arising from content posted by unrelated third parties.

Yelp, of course, is an online provider of content posted by third parties, so it's from suit by irate businesses (or nonprofits) who have been the targets of bad customer reviews.

And the reviewing consumers?If they are voicing opinions, that is generally protected by the First Amendment. Most reviews are anonymous anyway, and Yelp aggressively fights subpoenas for the identities of these reviewers.

Although it's possible to sue someone for libelous (untrue) statements of fact, that's a time-consuming, expensive, difficult process that may well create more bad PR than it can possibly accomplish.

Your only recourse is to try to persuade Yelp to remove or filter out an unfair negative review, or otherwise somehow identify the reviewer and plead with him or her to withdraw it.

Good luck with either of those courses of action.

New California Anti-Yelper Law

Now there's an additional roadblock that applies to frustrated victims of bad reviews who have apparently been slipping in "non-disparagement" clauses into contracts or releases signed by people who use their facilities or services.

In September, California became the first state in the U.S. to protect review-writing consumers from retaliation or retribution. The "anti-Yelper law"prohibits a provider of goods or services from inserting a provision in any consumer contract or other document that purports to waive the right to make "any statement" about the goods or services. It also makes unlawful any effort to enforce such a "non-disparagement" clause or to penalize the customer for a review. (But it doesn't prohibit a firm from bringing a meritorious defamation lawsuit that accuses the reviewing consumer from an outright lie.)

Anyone in violation of the law can face a fine up to $5,000 or a maximum penalty of $10,000 for "willful, intentional, or reckless" violations.

This law applies, of course, to nonprofits as well as to for-profits.

Conclusion

The brave new world of online consumer reviews brings a host of new challenges to commercial businesses as well as to nonprofit organizations who are targets of negative comments.