



# Taking Yelp, Ratings Sites to the Cleaners

Negative online ratings posters beware. A recent court case involving a carpet company could affect apartment communities' reputations.

**A** court decision was handed down in early January that should have a significant impact on anonymity when it comes to ratings and reviews posted online. The court decision was from a case in Virginia: *Yelp vs. Hadeed Carpet Cleaning*. The carpet establishment's owner said that anonymous users were leaving bad reviews about his company on Yelp. That's no surprise, right? Marketing professionals and property managers and their supervisors are sometimes shocked when reading them.

What was different about this case was that Hadeed alleges that these individuals weren't real customers of his. This is important because it established a Yelp "terms of service" violation. Hadeed's attorneys issued a subpoena demanding the list of the seven anonymous reviewers. The final ruling from the judge in Alexandria said that Yelp had to comply with Hadeed's request.

However, the court said that false statements made deliberately are not protected by First Amendment rights and agreed that Mr. Hadeed provided sufficient reason to think the users might not have been his customers.

In a 25-page majority opinion, The Washington Times reports that Judge William G. Petty said, "Generally, a Yelp review is entitled to First Amendment protection because it is a person's opinion about a business that they patronized.

"The anonymous speaker has the right to express himself on the Internet without the fear that his veil of anonymity will be pierced for no other reason than because another person disagrees with him," Judge Petty wrote.

## So You Subpoena the Online Culprits, Now What?

Negative posts certainly can be an annoyance, and Mr. Hadeed had to file a lawsuit to obtain this information. He may file another if he learns the identities of non-customers who were deliberately out to injure his business.

- If a property management company sued a former resident for negative (and probably) untruthful posts, rather than just expressions of opinion, what is the company's end game? Thousands of dollars in legal fees spent in pursuit of a judgment against someone who probably will never have the ability to pay. If we see cases like this in rental housing, they will probably be brought by an independent rental owner who also happens to be a lawyer.

- If the poster is found to be someone who was just spewing negative commentary for kicks, then the management company would have to consider that person's worth, and if the recovery would be worth the cost of the lawsuit.

- If the poster is found to be someone who works for another competing apartment community, or is a former employee of that community now working for the competition, and whose goal was to damage its competitor's reputation, then chances are that investing the time and money could be worthwhile.

— John McDermott, NAA Legal Counsel

Petty continued, if “the reviewer was never a customer of the business, then the review is not an opinion; instead, the review is based on a false statement” and not subject to First Amendment protection, the opinion stated.

The impact of this decision is enormous for the apartment industry. Much has been written and shared about how apartment ratings sites such as ApartmentRatings.com, especially anonymous posts made there, have affected apartment communities. Think about this, though: If apartment owners could find cause that individuals are leaving posts on these sites who were never residents or write things that are grossly untrue, could the apartment industry threaten such lawsuits to obtain this same information? At a minimum, do you think this would make peo-

ple think twice before directing libelous online comments at communities?

The First Amendment of the U.S. Constitution does not allow individuals to commit libel against proprietors or against other individuals. If what is being said (or written) is not true, it should be called out for what it is. The apartment industry should be pleased that the courts have ruled in this manner, as it might hold people accountable for what they say online, just as they would be held accountable in a face-to-face conversation. ■■

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The critical importance of authentic, certified ratings and reviews only continues to grow in the apartment industry. As we've seen in the broader consumer market with reviews of other products, services and businesses, the authenticity of reviews is of extreme value to the customer making a purchasing decision as well as to the ongoing brand reputation of the business in question.

At Pegasus Residential, Director of Marketing and Employee Development Bevan White takes proactive steps to certify resident ratings and reviews. By quickly and effectively responding to both residents and prospects, Bevan and his team can connect with residents a greater sense of the customer service they would receive living at a Pegasus community and how much Pegasus does to make their residents happy.

— Scott Asher, VP, Operations and Marketing, Apartment Guide