

CAUSE NO. _____

STATE OF TEXAS,
Plaintiff,

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IN THE DISTRICT COURT OF

v.

BASTROP COUNTY, TEXAS

YELP INC.,
Defendant.

_____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE DISTRICT JUDGE:

Plaintiff, STATE OF TEXAS, acting by and through the Attorney General of Texas, KEN PAXTON (the “State,”) complains of Defendant, YELP INC., (“Yelp”) and would respectfully show Yelp has engaged in deceptive trade practices, including disparagement of the goods, services, or business of another by false or misleading representation of facts in violation of Texas Deceptive Trade Practices – Consumer Protection Act, Texas Business and Commerce Code § 17.41 et seq. (“DTPA”). Specifically, Yelp posted a “consumer notice” on the Yelp business pages of every pregnancy resource center across the nation, misleadingly stating that these centers “typically provide limited medical services and may not have licensed medical professionals onsite.” That was false. Pregnancy resource centers provide significant care and counseling to pregnant women. And they commonly provide significant medical services, and have licensed medical professionals onsite.

Worse, Yelp did *not* append this “consumer notice” to the pages of other providers that catered to pregnant women. Yelp was candid that politics were the motivation for this discrepancy: The decision to include this discriminatory “consumer notice” on pregnancy resource center Yelp pages was motivated by “the Supreme Court decision to overturn *Roe v. Wade* and *Planned*

Parenthood v. Casey.”¹ Specifically, Yelp determined that “crisis pregnancy centers do not offer abortion services.” And Yelp surmised that providing the “consumer notice” for pregnancy resource centers—and only pregnancy resource centers—would somehow “protect consumers from the potential of being misled or confused.”

In fact, however, Yelp’s consumer notice could only have exacerbated consumer confusion. Pregnancy resource centers commonly provide medical services and have licensed medical professionals on-site. And, whatever the merits of informing consumers about where they can seek an abortion, that goal is completely irrelevant to Yelp’s misleading consumer notice about whether pregnancy resource centers perform medical services or have licensed medical professionals on-site. Then, even after certain pregnancy resource centers notified Yelp of the notice’s falsehoods, Yelp refused to remove the misleading disclaimer for several months, likely diverting consumers from seeking pregnancy resource centers’ services in favor of other facilities that lacked the misleading disclosure.

Yelp’s actions violated Texas law. Although Yelp appears to have eliminated this misleading disclaimer from pregnancy resource centers’ Yelp pages, Yelp remains liable for penalties and other relief for the duration of its unlawful behavior.

I. DISCOVERY

1. The discovery in this case should be conducted under Level 3 pursuant to Texas Rule of Civil Procedure 190.4.
2. This case is not subject to the restrictions of expedited discovery under Texas Rule of Civil Procedure 169 because the State’s claims include non-monetary injunctive relief.

¹ <https://web.archive.org/web/20220823113137/https://blog.yelp.com/news/providing-consumers-with-reliable-information-about-reproductive-health-services/>

3. In addition to the claims for non-monetary injunctive relief, the State seeks monetary relief of \$1,000,000 or more, including civil penalties, attorneys' fees, restitution, and costs.

II. JURISDICTION

4. This action is brought by the Texas Attorney General Ken Paxton, through his Consumer Protection Division, in the name of the State of Texas and in the public interest under the authority granted by § 17.47 of the DTPA upon the grounds that Defendant has engaged in false, deceptive, and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, subsections 17.46(a) and (b) of the DTPA. In enforcement suits filed pursuant to section 17.47 of the DTPA, the Attorney General is further authorized to seek civil penalties, redress for consumers, and injunctive relief. The Attorney General may also seek reasonable attorneys' fees and court costs for prosecuting this action, as authorized by Texas Government Code section 402.006(c).

III. DEFENDANT

5. Defendant Yelp Inc. is a Delaware corporation with its principal place of business at 350 Mission Street, San Francisco, California 94105. It may be served with process by serving its Registered Agent: National Registered Agents, Inc., at 1999 Bryan Street, Suite 900, Dallas, Texas 75201. SERVICE OF PROCESS IS HEREBY REQUESTED.

IV. VENUE

6. Venue of this suit lies in Bastrop County, Texas, pursuant to DTPA subsection 17.47(b), because transactions forming the basis of this suit occurred in Bastrop County, Texas, and Defendant has done business in Bastrop County, Texas.

V. PUBLIC INTEREST

7. Plaintiff has reason to believe that Defendant is engaging in, has engaged in, or is about to engage in, the unlawful acts or practices set forth below. Plaintiff has further reason to believe Defendant has caused injury, loss, and damage to the State of Texas, and has caused adverse effects to the lawful conduct of trade and commerce, thereby directly or indirectly affecting the people of this State. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas is of the opinion that these proceedings are in the public interest.

VI. TRADE AND COMMERCE

8. Defendant has, at all times described below, engaged in trade and commerce as defined by subsection 17.45(6) of the DTPA.

VII. CLAIM FOR RELIEF

9. The State's claims for monetary relief including penalties and attorneys' fees and costs are in excess of \$100,000 and could exceed \$1,000,000. The State also seeks nonmonetary, injunctive relief.

VIII. ACTS OF AGENTS

10. Whenever in this Petition it is alleged that a Defendant did any act, it is meant that Defendant performed or participated in the act or Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of Defendant.

IX. NOTICE BEFORE SUIT

11. Yelp has been given notice of the alleged unlawful conduct described below at least seven days before filing suit, as may be required by subsection 17.47(a) of the DTPA.

X. APPLICABLE LAW

12. The DTPA prohibits “false, misleading, or deceptive acts or practices in the conduct of any trade or commerce” DTPA § 17.46 (a).

13. Section 17.47 of the DTPA authorizes the Consumer Protection Division to bring an action for temporary and permanent injunction whenever it has reason to believe that any person is engaged in, has engaged in, or is about to engage in any act or practice declared unlawful by the DTPA.

XI. FACTUAL ALLEGATIONS

A. *Background*

14. Yelp is a company founded in 2004 and features a platform in which users can connect with businesses by publishing online public reviews of those businesses on a publicly accessible page that Yelp maintains. Yelp claims its platform contains “trusted local business information, photos and review content.”²

15. Pregnancy resource centers, also known as crisis pregnancy centers, are businesses that provide pregnant women and their families with a wide range of services that support them through childbirth and into infancy. These services include prenatal services, such as pregnancy tests, ultrasound, and information about abortion. Pregnancy resource centers do not perform abortions. These centers are located throughout the State of Texas, including Bastrop County. Most pregnancy resource centers are nonprofit organizations. According to a 2020 study, pregnancy resource centers served over 1.8 million clients in 2019, furnishing \$266 million in services at little or no cost to their clients.³

² <https://www.yelp-press.com/company/fast-facts/default.aspx#:~:text=With%20trusted%20local%20business%20information.make%20an%20appointment%20or%20purchase> (last visited September 5, 2023).

³ Charlotte Lozier Institute, *Pregnancy Centers Stand the Test of Time* 24 (2020).

16. In 2019 the Charlotte Lozier Institute conducted a study in which 2,700 pregnancy resource centers were surveyed. The survey revealed that these centers collectively employed 10,215 licensed medical professionals.⁴ The 10,215 licensed medical professionals accounted for 25% of all paid staff and 12% of all volunteers at these centers.⁵

B. Yelp’s Misleading and Disparaging Disclaimer

17. On May 2, 2022, the news organization Politico published a leaked draft opinion of the United States Supreme Court’s opinion in *Dobbs v. Jackson*. And, on June 24, 2022, the United States Supreme Court issued its formal opinion in that case (142 S. Ct. 2228 (2022)). The formal opinion materially resembled the draft opinion, and it provided that *Roe v. Wade* and *Planned Parenthood v. Casey* were overruled and that the U.S. Constitution does not guarantee a right to an abortion.

18. Days after the draft opinion, Yelp’s CEO Jeremy Stoppelman issued a lengthy public statement expressing his support for abortion rights and affirming his “realiz[ation] [that] we need[] to take action.”⁶ Among other things, he boasted that Yelp provides special assistance to “select organizations that are fighting the legal battle against abortion bans.” He proclaimed that “[r]emaining silent on the issue of reproductive rights flies in the face of any public pledges professing a desire to create more diverse and inclusive companies.” And he attempted to rally the business community behind the pro-abortion cause: “We need more business leaders to use their platform and influence to help ensure that reproductive rights are codified into law.”

19. Three months later, in August 2022, Yelp did what Stoppelman suggested it should: It “use[d] [its] platform and influence to” elevate abortion providers and disparage pregnancy centers

⁴ <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-sends-letter-google-urging-fair-access-crisis-pregnancy-centers> (last visited September 5, 2023).

⁵ *Id.*

⁶ <https://www.fastcompany.com/90749901/yelp-ceo-why-companies-need-to-take-a-stand-on-reproductive-rights> (last visited September 28, 2023).

that do not provide abortions. Specifically, Yelp added its misleading disclaimer on the business pages of pregnancy resource centers across the nation, which read as follows: “This is a Crisis Pregnancy Center. Crisis Pregnancy Centers typically provide limited medical services and may not have licensed medical professionals onsite.”⁷ The disclaimer flagged every pregnancy resource center, regardless of the kind of medical services offered and regardless of whether the center actually had licensed medical professionals onsite.

20. This same Yelp disclaimer, however, was *not* added to other facilities that cater to pregnant women—specifically, facilities that provide abortion services, even if those facilities did not in fact have licensed medical professionals on site.

21. Yelp proclaimed that its motivation for the disclaimer was to “provid[e] consumers with reliable and useful information.” In fact, however, Yelp’s disclaimer provided users with misleading information. And Yelp’s disclaimer remarkably did not even provide the *true* information—as it was permitted to do—that pregnancy resource centers do not provide abortion services.

22. Upon information and belief, Yelp’s pregnancy resource center disclaimer caused many consumers to seek services from facilities that did not have the disclaimer instead of going to a pregnancy resource center.

23. In an attempt to have this false and misleading disclaimer removed from its business page, at least one pregnancy resource center offered to provide Yelp copies of its employees’ medical licenses and a full accounting of medical services offered at its centers. However, despite the center’s attempts to correct the misinformation in its page, Yelp refused to remove its false disclaimer for months.

⁷ <https://www.msn.com/en-us/news/politics/tennessee-joins-multistate-coalition-alleging-yelp-discriminates-against-crisis-pregnancy-centers/ar-AA17f3dH> (last visited September 5, 2023).

24. On February 7, 2023, Texas Attorney General Ken Paxton, and Attorneys General for twenty-three other states drafted a letter to Yelp CEO Jeremy Stoppelman, explaining that Yelp’s disclaimer was misleading and overbroad because it flagged every pregnancy resource center, including those that do, in fact, have medical professionals onsite.⁸ The Attorneys General pointed out that no similar disclaimer had been displayed on pages of Planned Parenthood and similar facilities that perform abortion services.⁹ In fact, many abortion facilities do not operate onsite emergency rooms to handle surgery-related complications, and some abortion sites must resort to flying in out-of-state physicians to provide these services.¹⁰ Consequently, the Attorneys General explained that to the extent any businesses should be flagged for providing limited medical services, or for not having licensed medical professionals onsite, it should be Planned Parenthood and other similar clinics.¹¹

25. In or around February 2023, after approximately six months of displaying false and misleading disclaimers on the business pages of pregnancy resource centers, Yelp finally removed the misleading disclaimer regarding the alleged lack of medical professionals and medical services onsite, replacing it with a new disclaimer that stated: “This is a Crisis Pregnancy Center. Crisis Pregnancy Centers do not offer abortions or referrals to abortion providers.” Yelp’s general counsel responded to the February 7th letter of the attorneys general, disputing the claims that the original disclaimer was misleading, but informing the attorneys general that it had “update[d]” the disclaimer.¹²

⁸ <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-sends-letter-google-urging-fair-access-crisis-pregnancy-centers> (last visited September 5, 2023).

⁹ *Id.*

¹⁰ *Id.* (citing Sharon Bernstein & Gabriella Borter, *In post-Roe U.S., abortion providers seek licenses across state lines*, REUTERS (June 25, 2022)).

¹¹ *Id.*

¹² <https://www.ag.ky.gov/Press%20Release%20Attachments/2022-02-08%20Letter%20to%20States%27%20AGs%20re%20CPCs.pdf> (last visited September 5, 2023).

26. Curiously, the letter also stated that Yelp’s original disclaimer was an attempt to address alleged misrepresentations by pregnancy resource centers.¹³ As support for the notion that pregnancy resource centers make “misrepresentations,” Yelp’s general counsel cited to a 2018 Gizmodo.com article that alleged pregnancy resource centers purchased Google Ad space to run ad campaigns “that often used ambiguous phrases like ‘Think you are pregnant? Get answers,’ or ‘Considering abortion?’ to lead people to click on them and draw them away from abortion providers and to their anti-abortion pregnancy centers instead.”¹⁴ Yelp and Gizmodo made these assertions despite pregnancy resource centers routinely offering abortion consultation services and providing information on abortions. And Yelp’s claim about pregnancy resource center “misrepresentations” is particularly strange because the Google Ad campaigns that it cited to do not appear to contain misrepresentations.

27. Moreover, Yelp’s general counsel’s response failed to address or explain the reason for Yelp’s disparate treatment between pregnancy resource centers and clinics that offer abortions. As stated above, for nearly six months Yelp singled out pregnancy resource centers for an alleged lack of medical professionals on site, effectively dissuading innumerable consumers who may otherwise have utilized these centers for medical and other services. To date, clinics offering abortion services are free of any sort of disclaimers on Yelp, even if they lack licensed medical professionals onsite, while the webpages for pregnancy resource centers universally contain the updated disclaimer.

C. Conclusion

28. Yelp specifically targeted pregnancy resource centers nationwide with their false and misleading disclaimer. Other types of facilities, such as Planned Parenthood and clinics

¹³ *Id.*

¹⁴ *Id.*

performing abortion services, did not have disclaimers placed on their webpages even if the disclaimer would have been *true* for that facility. Defendant disparaged the services of pregnancy resource centers through Defendant's misleading consumer disclaimers, in which Defendant misrepresented that pregnancy resource centers lacked licensed medical professionals at their facilities. On information and belief, Defendant's misrepresentations and failure to disclose the presence of licensed medical professionals at pregnancy resource centers dissuaded consumers from visiting these clinics in favor of clinics that perform abortion services.

XII. DTPA VIOLATIONS

29. Plaintiff incorporates Paragraphs 1 through 28, as is fully set forth herein.

30. Defendant has in the course and scope of trade and commerce engaged in false, misleading, or deceptive acts or practices declared unlawful in section 17.46(a) of the DTPA, including by engaging in conduct specifically defined to be false, deceptive, or misleading under section 17.46(b) by:

- (a) causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services (§ 17.46(b)(2));
- (b) causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another (§ 17.46(b)(3));
- (c) disparaging the goods, services, or business of another by providing a false or misleading representation of facts (§ 17.46(b)(8)); and
- (d) failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed (§ 17.46(b)(24)).

XIII. CONDITIONS PRECEDENT

31. All conditions precedent to Plaintiff's claims for relief have been performed or have occurred.

XIV. PRAYER

32. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited according to the law to appear and answer herein; and that after due notice and trial, a PERMANENT INJUNCTION be issued. Plaintiff prays that the Court will issue an ORDER enjoining Defendant, its officers, agents, servants, employees, and any other persons in active concert or participation with Defendant from the following:

- a. Misrepresenting the status or amount of licensed medical professionals onsite in pregnancy resource centers;
- b. Misrepresenting the services offered by pregnancy resource centers; and
- c. Posting any further false and/or misleading disclaimers or representations regarding pregnancy resource centers.

Plaintiff further requests that this Court award money damages and restitution of monies for pregnancy resource centers.

33. Plaintiff further requests that Defendant be ordered to pay to the State of Texas:

- A. Civil penalties of up to \$10,000.00 per violation of the DTPA;
- B. Civil penalties of up to \$250,000.00 per violation of the DTPA, when the act or practice that acquired or deprived money or other property from consumers who were 65 years of age or older when the act or practice occurred;
- C. Pre-judgment and post-judgment interest on all awards of restitution, damages, or civil penalties, as provided by law;
- D. All costs of Court, costs of investigation, and reasonable attorney's fees pursuant to Texas Government Code section 402.006(c); and
- E. Decree that all of Defendants' fines, penalties or forfeitures are not dischargeable in bankruptcy. *See* 11 U.S.C. Section 523(a)(7).

34. Plaintiff prays for all further relief, at law or inequity, to which it is justly entitled.

Respectfully submitted,

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