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THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DANIEL A. BERNATH, an individual,
Plaintiff,

v.

TABITHA J OF EUGENE OREGON, and
YELP, INC.,
Defendants.

Case No. 1305-06167

ORDER

Defendants Yelp Inc.'s Special Motion to Strike (ORS 31.150) came before this Court for regularly scheduled hearing on August 14, 2013. Based on the pleadings, declarations and oral argument in this matter, the Court hereby FINDS:

1. The statements at issue in this matter regarding the Yelp review posted by "Tabitha J" were made in a public forum, in furtherance of the exercise of the constitutional right to free speech, concerning an issue of public interest.
2. Plaintiff cannot establish a probability that he will prevail on his claims against Yelp Inc.
3. Yelp Inc. is an interactive computer service as defined by the Communications

1 Decency Act (48 U.S.C. § 230). Yelp did not create or contribute to the review at
2 issue in this case, which was created by “Tabitha J”, another information content
3 provider. Defendant’s claims seek to treat Yelp as the publisher of Tabitha J.’s
4 content, and therefore are precluded by the Communications Decency Act.

5 Yelp Inc.’s Special Motion to Strike is therefore GRANTED.

6
7 IT IS HEREBY ORDERED that all claims at issue in this case relating to the Yelp
8 review posted by defendant “Tabitha J”, including all claims set forth in Plaintiff’s Complaint
9 and First Amended Complaint, and all current claims against Yelp Inc., are dismissed with
10 ~~without~~ prejudice.

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12 DATED this 26 day of August, 2013.

13
14 [DRAFT]

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16 _____
HONORABLE HENRY KANTOR
CIRCUIT COURT JUDGE

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18 Submitted by:
19 Anthony McNamer, Esq.
20 OSB No. 1798911
21 Of Attorneys for Defendant Yelp, Inc.
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