

Doctor Lawsuits over Online Reviews by Patients (or their family members)

Prepared by Eric Goldman, Santa Clara University School of Law

Updated May 21, 2014

Parties	Cite	Background	Resolution
Nevyas v. Morgan	309 F. Supp. 2d 673 (E.D. Pa. 2004) 921 A.2d 8 (Penn. App. Ct. March 9, 2007) Nos. 1470 EDA 2012, 1715 EDA 2012 January 23, 2013	Doctor sued Lasik patient for gripe site on Lanham Act false advertising grounds.	Federal court dismissed for lack of standing. After the parties entered a settlement agreement, Nevyas believed Morgan violated the settlement agreement and sued for contempt. The court modified the injunction but didn't find contempt. The appellate court affirmed the district court.
Bosley Medical Institute, Inc. v. Kremer	403 F.3d 672 (9 th Cir. 2005) and 2007 WL 935708 (S.D. Cal. 2007)	Hair restoration doctor sued website griper for trademark infringement and cybersquatting.	Court dismissed the federal trademark infringement case but remanded the state trademark and ACPA claims. On remand, the district court denied the defense's dismissal/summary judgment motions. The parties subsequently settled in August 2007.
Barrett v. Rosenthal	146 P.3d 510 (Cal. Sup. Ct. 2006)	Doctor sued email list operator for defamation for republishing an email criticizing the doctor.	Case dismissed per 47 USC 230.
Gilbert v. Sykes	53 Cal. Rptr. 3d 752 (Cal. App. Ct. 2007)	Plastic surgeon sued patient for griping website.	Case dismissed per anti-SLAPP law.
Alvi Armani Medical, Inc. v. Hennessey	629 F. Supp. 2d 1302 (S.D. Fla. 2008)	Hair restoration doctor sued website for posting negative patient comments.	Court held 47 USC 230 didn't apply to claim for unfair trade practices but defamation claim dismissed; case settled in February 2009.
Biegel v. Norberg	San Francisco Superior Ct. case # CGC-08-472522 (filed Feb. 25, 2008)	Chiropractor sued patient over Yelp review. See http://www.citmedialaw.org/threats/biegel-v-norberg	Parties settled in early 2009; patient replaced the review with a statement.
Kim v. IAC/InterActive	2008 WL 3906427 (Cal.	Dentist sued patient and Ticketmaster/CitySearch for	Case dismissed per anti-SLAPP law;

Corp.	App. Ct. 2008)	defamation over CitySearch review.	defendants awarded attorney's fees of nearly \$27k; but Dr. Kim declared bankruptcy.
Reit v. Yelp, Inc.	29 Misc.3d 713 (N.Y. Sup. Ct. 2010)	Dentist sued Yelp for defamation and unfair business practices.	Case dismissed per 47 USC 230 and other grounds.
Wong v. Jing	189 Cal. App. 4 th 1354 (Cal. App. Ct. 2010)	Dentist sued Yelp and a patient's family member over a negative review.	Case voluntarily dismissed against Yelp; case against review author partially dismissed on anti-SLAPP grounds; dentist ordered to pay over \$80k in attorney's fees.
Foda v. Capital Health	2010 WL 2925382 (N.D. Cal. 2010)	A doctor asserted that anonymous posts (apparently written by a wife to describe her husband's experiences) to RateMDs.com were defamatory. The doctor sought a subpoena to RateMDs to identify the posters.	The court rejected the subpoena request because the posts didn't appear to be defamatory.
Rahbar v. Batoon	San Francisco Superior Ct. case # CGC-09-492145 (filed Sept. 2, 2009) case # CGC-10-502884 (filed August 20, 2010) case # CGC-11-515742 (filed Sept. 8, 2011)	Dentist sued patient for defamation and other claims over Yelp review. Initial complaint at http://www.scribd.com/doc/24291878/iiiiiii-III-Iwiiiiiiiiiii Background: http://www.usatoday.com/news/opinion/editorials/2010-06-09-editorial09_ST_N.htm Appellate ruling at www.courts.ca.gov/opinions/nonpub/A132294.DOC	Initial case dismissed on anti-SLAPP grounds; dentist ordered to pay \$43k in attorney's fees (July 21, 2010). Second case dismissed as another SLAPP and dentist ordered to pay another \$26k (July 12, 2011). Affirmed on appeal October 16, 2012.
McKee v. Laurion	Case # 69-DU-CV-10-1706 (Minn. Dist. Ct. Apr. 28, 2011) On appeal: A11-1154 (Minn. App. Ct. Jan. 23, 2012) Supreme Court opinion on January 30, 2013.	Doctor sued patient's son for defamation for critical online remarks. District court opinion: http://www.onpointnews.com/docs/Mckee-v-Laurion.pdf Appellate court reversed, saying that 6 of the statements were potentially facts instead of opinions and potentially injurious to reputation. Thus, the case can go to the jury on those statements. Appellate opinion (2012 WL 177371): http://www.mncourts.gov/opinions/coa/current/opa111154-012312.pdf Supreme Court opinion:	Minnesota Supreme Court granted summary judgment to defendant on all 6 statements revived by appellate court.

		http://www.mncourts.gov/opinions/sc/current/OPA111154-0130.pdf	
Lynch v. Christie	2011 WL 3920154 (D. Me. Sept. 7, 2011) 2012 WL 2367375 (D. Me. June 21, 2012) 2012 WL 5874841 (D. Me. Nov. 20, 2012), http://pub.bna.com/eclr/11cv70_112012.pdf	Chiropractor sued former patient for Facebook and website postings.	The court denied the patient's anti-SLAPP motion because the judge concluded "that Lynch is highly likely to persuade a jury that Christie fabricated her story." In June 2012, the court granted Lynch an attachment on Christie's real property of \$100k. In Nov. 2012, the court denied Christie's summary judgment motion.
Pensler v. Hostetler Pensler v. Cuevas Pensler v. Bender	10 CH 35876 (filed 8/19/10) 10 CH 35238 (filed 8/16/10) 09 CH 18628 (filed 6/10/09) All in Cook County Court	Defamation claims against patients for their Yelp and CitySearch reviews. See case writeup at http://www.myfoxchicago.com/dpp/news/investigative/dr-jay-pensler-yelp-citysearch-reviews-20101115 Docket at http://www.cookcountyclerkofcourt.org Bender motion to dismiss at http://www.onpointnews.com/docs/pensler-v-bender_MTD.pdf	Hostetler case voluntarily dismissed June 2011 Cuevas case voluntarily dismissed Dec. 2012 Bender case voluntarily dismissed Dec. 2012
Henry v. Does 1-100	CIV095020 Apparently related: CIV1002670 Henry v. Carson CIV1003042 Henry v. Tamara M. All in Marin Superior Court	Cosmetic surgeon sued patients over Yelp and DoctorScorecard reviews. See http://www.marinij.com/rosskentfieldgreenbrae/ci_15444079	Does and Tamara M. suits dismissed Jan. 31, 2011 Carson suit dismissed March 16, 2011
Filler v. Walker	BC462605 (Cal. Superior Ct.)	Doctor sued patient for online review. See CMLP page: http://www.citmedialaw.org/threats/filler-et-al-v-walker-et-al	Patient won anti-SLAPP motion and got fee award of \$50k.
Dr. John Doe v. Google	1:11-cv-07814 (N.D. Ill.). Google removed the case to federal court on Nov. 3,	Two doctors sued Google for publishing patient reviews	Voluntarily dismissed by plaintiffs Nov. 2011

	2011		
Saleh v. Bailey	Oregon district court (dismissed Sept. 27, 2012)	Dentist sued patient for Yelp review News report on lawsuit filing http://www.katu.com/news/local/168245106.html News report on case http://www.katu.com/news/local/Dentist-loses-defamation-suit-after-former-patient-criticizes-him-online-171622011.html	Dismissed per Oregon's anti-SLAPP law
Braverman v. Yelp	2013 NY Slip Op 31407 (N.Y. Sup. Ct. June 28, 2013)	Dentist sued Yelp for allegedly defamatory reviews. Opinion: http://scholar.google.com/scholar_case?case=7431657123194601479&hl=en&as_sdt=2&as_vis=1&oi=scholar	Dismissed per Section 230.
Loftus v. Nazari	2:10-cv-00279-WOB-JGW (E.D. Ky. May 13, 2014)	Plastic surgeon sued patient for posting to Vitals, NewsVine and Buskia. Opinion: http://www.gpo.gov/fdsys/pkg/USCOURTS-kyed-2_10-cv-00279/pdf/USCOURTS-kyed-2_10-cv-00279-0.pdf	Dismissed on summary judgment.
Soto v. Doe	No. CL 11-3439 (VA. Cir. Ct.)	Plastic surgeon sued commenters at RateMDs for allegedly defamatory posts. For more, see http://www.scribd.com/doc/99034972/Soto-v-Doe-Motion-to-Quash	Pending
Tuli v. Votour	Massachusetts State Court	Patient's husband posts blog about doctor's service that doctor claims is defamatory. Complaint http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1350&context=historical Boston Globe article http://www.bostonglobe.com/lifestyle/health-wellness/2013/03/30/surgeon-suit-over-criticism-posted-online-patient-husband-part-wave-such-claims/TLAp5DOMpZISPevfLL6BII/story.html?camp=newsletter	Pending

Sanjay Perti and Prosthetic Specialists of Washington, LLC v. John Does 1-10	13-2-08747-2 (Seattle 3/19/2013)	Defamation lawsuit against unknown defendants for postings to SuperPages and HealthGrades	Pending
Zahl v. Fennes	2:13-cv-06000-JLL-MAH (D. N.J. complaint filed Oct. 8, 2013)	Complaint: http://digitalcommons.law.scu.edu/historical/532/	Pending

Related but factually distinguishable cases:

Parties	Cite	Background	Resolution
Becker v. Hooshmand	841 So.2d 561 (Fla. Dist. Ct. App. 2003)	Florida doctor sued a chatroom moderator from Pennsylvania for her posts about the doctor.	Court upheld personal jurisdiction in Florida. The parties ultimately settled with a confidential cash payment to the plaintiff and a permanent injunction against further defamation of the plaintiff.
Lifestyle Lift v. Leonard	Case No. 07-14450 (E.D. Mich. complaint filed Oct. 19, 2007)	Trademark lawsuit against operator of infomercial review website.	Dismissed for lack of jurisdiction.
Lifestyle Lift v. RealSelf	2:08-cv-10089-PJD-RSW (complaint filed Jan. 7, 2008 and answer/counterclaims filed March 3, 2008)	Cosmetic surgery procedure system sued review website for user reviews.	Case settled May 2008.
Townson v. Liming	2010 WL 2767984 (Tex. App. Ct. 2010)	Townson, a non-patient, posted negative information about a doctor, such as drinking on the job.	Court upheld a TRO against Townson.
Lifestyle Lift Holding Co. Inc. v. Prendiville	768 F. Supp. 2d 929 (E.D. Mich. 2011)	Cosmetic surgery procedure system sued a doctor for defamation, trademark infringement and other claims based on his critical online remarks.	Court dismissed for lack of personal jurisdiction.
Tener v. Cremers	89 A.D.3d 75 (N.Y. App. Div. 2011)	Doctor sued another doctor over a Vitals.com comment saying "Dr. Tener is a terrible doctor. She is mentally unstable and has poor skills.	District court dismissed on statute of limitations grounds

	2012 NY Slip Op 32022(U) (N.Y. Superior Ct. Aug. 1, 2012)	Stay far away!!!" Appellate ruling: http://www.nycourts.gov/reporter/3dseries/2011/2011_06543.htm District court ruling on remand: http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1118&context=historical	and because the statements are non-actionable opinion.
Darm v. Craig	Case 1107-08823, Oregon Circuit Court	Doctor sued blogger for defamation for discussing the doctor's prior Oregon discipline and the suspension of his California license. http://www.portlandmercury.com/portland/the-1-million-twitter-fight/Content?oid=4525873 http://brianrowe.org/wp-content/uploads/2011/08/Craig_Memo_Special_Motion.pdf http://mlrcblogsuits.blogspot.com/2011/10/darm-v-craig.html	Settled.
Courtney v. Vereb	2012 WL 2405313 (E.D. La. June 25, 2012)	In a lawsuit between two psychiatrists over one doctor's posting to Angie's List about the other, Angie's List is protected by 47 USC 230	Angie's List dismissed on a motion to dismiss.
Lee v. Makhnevich	11-civ-8665 (S.D.N.Y. complaint filed Nov. 29, 2011)	Patient sued dentist for using Medical Justice's form contract to suppress reviews Complaint: http://www.citizen.org/documents/Lee-v-Makhnevich-complaint.pdf Opinion rejecting motion to dismiss: http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1347&context=historical	Pending