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24 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
25 **COUNTY OF SAN FRANCISCO**

26 ERIC GRUBER; CHERYL SKIDMORE;  
27 EVER GONZALEZ; and JEREMY  
28 EARLS, individually and on behalf and all  
others similarly situated,

Plaintiffs,

vs.

YELP, INC., and DOES 1-10, inclusive,

Defendants.

Case No. CGC 16-554784

**CLASS ACTION**

**FIRST AMENDED COMPLAINT FOR  
DAMAGES AND INJUNCTIVE RELIEF:**

- (1) **UNLAWFUL RECORDING AND  
INTERCEPTING OF  
COMMUNICATIONS (Cal. Penal. Code §  
632.7)**
- (2) **UNLAWFUL RECORDING OF AND  
EAVESDROPPING UPON  
CONFIDENTIAL COMMUNICATIONS  
(Cal. Penal Code §632)**

**DEMAND FOR JURY TRIAL**

Action Filed: October 12, 2016

**ELECTRONICALLY  
FILED**

*Superior Court of California,  
County of San Francisco*

**08/08/2022  
Clerk of the Court**

**BY: JUDITH NUNEZ  
Deputy Clerk**

1  
2 Plaintiffs Eric Gruber, Cheryl Skidmore, Ever Gonzalez and Jeremy Earls bring this  
3 action on behalf of themselves (“Plaintiffs”) and all others similarly situated (“the Class”), and on  
4 information and belief allege against Defendant YELP, Inc. (“YELP”) and Does 1-10  
5 (collectively “Defendants”) the following:

6 **NATURE OF THE CASE**

7 1. This case is brought as a class action under California Code of Civil Procedure  
8 (“CCP”) §382. This class action lawsuit arises out of YELP’s policy and practice of illegally  
9 recording calls made to and from YELP’s Sales Representatives and prospective clients (both  
10 large and small business owners). YELP has a policy and practice by which YELP automatically  
11 "one-way" records telephone conversations (i.e., records its employees' side of telephone calls)  
12 between YELP’s Sales Representatives and prospective business owners regarding the sales of  
13 YELP’s products (advertising on YELP’s website). YELP intentionally and surreptitiously one-  
14 way recorded telephone calls between business owners and YELP’s Sales Representatives  
15 without warning or disclosing to callers that they were doing so.

16 2. For at least one (1) year prior to the original filing of this action and through to the  
17 present YELP had a consistent policy and practice of recording telephone conversations without  
18 the consent of all parties, in violation of California’s Invasion of Privacy Act (Penal Code § 630,  
19 et seq.). Specifically, YELP’s policy and practice violated Penal Code § 632.7, which prohibits  
20 the recording of a communication made from a cellular or cordless telephone without the consent  
21 of all the parties to the communication; and Penal Code § 632, which similarly prohibits the  
22 recording or intercepting (i.e. monitoring) of a confidential communication made without the  
23 consent of all parties to the communication.

24 3. As a result of YELP’s violations, hundreds of thousands if not millions of  
25 individuals who called or were called by YELP’s Sales Representatives in California to and/or  
26 from a hardwired landline, cellular or cordless telephone were one-way recorded surreptitiously  
27 and without disclosure. Therefore, these individuals are entitled to an award of statutory damages  
28 and injunctive relief as set forth in Penal Code §637.2.



1 **FICTITIOUS DEFENDANTS**

2 10. Defendants Does 1-10, inclusive, are sued herein under fictitious names. Their  
3 true names and capacities are unknown to Plaintiffs at this time. When their true names and  
4 capacities are ascertained, Plaintiffs will amend this Complaint by inserting their true names and  
5 capacities. Plaintiffs are informed and believes, and thereon alleges that each of the fictitiously-  
6 named Defendants are responsible in some manner for the occurrences alleged herein and that  
7 Plaintiffs' and the proposed Class Members' damages and penalties alleged herein were  
8 proximately caused by such Defendants.

9 **AGENCY**

10 11. Plaintiffs are informed, believe, and thereon allege that each of the Defendants  
11 herein was, at all times relevant in this action, the agent, employee, representing partner, officer,  
12 director, subsidiary, affiliate, parent corporation, successor and/or predecessor in interest and/or  
13 joint venture of the remaining Defendants and was acting within the course and scope of that  
14 relationship. Plaintiffs are further informed, believe, and thereon allege that each of the  
15 Defendants herein gave consent to, ratified, adopted, approved, controlled, aided and abetted,  
16 and/or otherwise authorized the acts alleged herein to the remaining Defendants.

17 **JURISDICTION AND VENUE**

18 12. This Court has subject matter jurisdiction over this action under California Penal  
19 Code §§ 631, 632. 632.7 and 637.2

20 13. This Court has personal jurisdiction over the parties because Defendant YELP's  
21 principal place of business and corporate headquarters is located in the City and County of San  
22 Francisco, California. YELP continually and systematically conducts business in San Francisco,  
23 California and has employed and does employ numerous individuals within the City and County  
24 of San Francisco. Likewise, Plaintiffs are residents of California and their rights were violated in  
25 the State of California and arose out of their contact with Defendant in and from San Francisco,  
26 California.

27 14. Venue is proper in this county pursuant to California Code of Civil Procedure  
28 §395(a). Defendant's business may be found within San Francisco County. The unlawful acts, as

1 well as the course of conduct alleged herein, occurred, in part, in San Francisco County.  
2 Defendants maintain headquarters, transact business, have agents in San Francisco County, and  
3 numerous Class Members are located in San Francisco County, and Defendants are otherwise  
4 within this Court’s jurisdiction for purposes of service of process. The unlawful acts alleged  
5 herein have had a direct effect on Plaintiffs and those similarly situated within the State of  
6 California and within San Francisco County.

7 **FACTUAL ALLEGATIONS**

8 15. Plaintiffs, on information and belief, allege the following:

9 16. **Defendant YELP’s Recording Practices:** During the Class Period, YELP had a  
10 pattern and practice of illegally one-way recording the conversations of Class Members without  
11 their knowledge or consent. YELP intentionally used technology consisting of hardware and/or  
12 software to carry out a practice and policy of one-way recording calls made to and from  
13 California-based Class Members and YELP’s Sales Representatives.

14 17. YELP’s Sales Managers and Representatives were directed, trained, and instructed  
15 to, and did, one-way record telephone calls between YELP’s call centers and callers, including  
16 California Class Members.

17 18. YELP’s Sales Managers and Representatives were not trained nor instructed, or  
18 such training and instruction was not enforced or monitored, to provide Class Members notice  
19 that the conversations they were having might be one-way recorded. With respect to outbound  
20 calls from Sales Representatives and direct inbound calls to Sales Representatives, YELP did not  
21 provide a “pre-recorded” message that such monitoring and/or recording may be taking place.  
22 During the Class Period, the standard procedure for YELP’s Sales Representatives was to call  
23 business owners and simply say, “Hi I am [Sales Representative’s first name] from YELP ... .”

24 19. YELP employs Sales Managers who in turn manage a team of Sales  
25 Representatives. The Sales Representatives make sales calls within and into California on a daily  
26 basis, attempting to sell California based business owners and operators (Class Members)  
27 advertisement space on YELP’s website. The majority of their sales calls are made within or to  
28 California based companies and individuals.

1           20.     **Plaintiff Eric Gruber (“Gruber”)**: Eric Gruber is an individual and a resident of  
2 San Francisco, California. He is a small business owner. He is a solo attorney and legal  
3 practitioner who owns and operates the Gruber Law Group in San Francisco, California. His  
4 legal practice, which started in 2013, focuses on personal injury and employment matters. He is a  
5 graduate of Hamline University in St. Paul, Minnesota and the University of California, Hastings  
6 College of the Law.

7           21.     In 2013/2014, Gruber was approached via calls to his cell phone and email by  
8 YELP Sales Representatives regarding purchasing advertisement space on YELP’s website. Over  
9 the ensuing years, Gruber was contacted via phone a dozens times or more by YELP’s Sales  
10 Representatives aggressively attempting to sell him advertisement space. During the Class  
11 Period, Gruber discussed numerous confidential business related and financial issues with the  
12 YELP Sales Representatives including his own business’ confidential financial situation, business  
13 strategies, and business practices as well as his own personal finances and sometimes his own  
14 personal life. Many of these conversations Gruber had with YELP’s Sales Representatives were  
15 one-way recorded by YELP’s Sales Managers and/or Sales Representatives without notice or  
16 consent by Gruber. Gruber had a reasonable expectation that these conversations were private  
17 and not being eavesdropped on or recorded because YELP failed to provide the now common  
18 pre-recorded message that the call may be “monitored or recorded for quality assurance  
19 purposes”. The failure to provide such warnings or actual live notice that such conversations  
20 might be monitored and recorded provided Plaintiff the reasonable expectation that such  
21 conversations were private, confidential and not being monitored and recorded. Further, Gruber  
22 had a reasonable expectation of privacy because he was working with YELP Sales  
23 Representatives on how to best benefit his business and personal life through the exchange of  
24 confidential business and financial information. During these calls Gruber was never given notice  
25 or warning that his conversation with the Sales Representatives was being recorded without his  
26 knowledge.

27           22.     **Plaintiff Cheryl Skidmore (“Skidmore”)**: Skidmore is an individual who resides  
28 in Costa Mesa, California. Skidmore is a small business owner who owns and operates Fun With

1 Horses, a recreational riding program, located in Brea, California. During the Class Period,  
2 Skidmore was contacted on her cell phone by YELP Sales representatives regarding purchasing  
3 advertisement space on YELP's website for her riding program. On information and belief,  
4 many of these conversations Skidmore had with YELP's Sales Representatives were one-way  
5 recorded by YELP's Sales Managers and/or Sales Representatives without notice or consent by  
6 Skidmore. Skidmore had a reasonable expectation that these conversations were private and not  
7 being recorded because YELP failed to provide the now common pre-recorded message that the  
8 call may be "monitored or recorded for quality assurance purposes". The failure to provide such  
9 warnings or actual live notice that such conversations might be monitored and recorded provided  
10 Plaintiff the reasonable expectation that such conversations were private, confidential and not  
11 being recorded. Further, Plaintiff had a reasonable expectation of privacy because she was  
12 working with YELP Sales Representatives on how to best benefit her business and personal life  
13 through the exchange of confidential business and financial information. During these calls  
14 Skidmore was never given notice or warning that her conversation with the Sales Representatives  
15 was being recorded without her knowledge.

16       23. **Plaintiff Ever Gonzalez ("Gonzalez"):** Gonzalez is an individual who resides in  
17 Novato, California. At the relevant times herein, Gonzalez owned and operated North Bay  
18 Automotive, an automotive repair shop located in San Rafael, California. During the Class  
19 Period, Gonzalez was contacted on his cell phone by YELP Sales representatives regarding  
20 purchasing advertisement space on YELP's website for his automotive repair shop. On  
21 information and belief, many of these conversations Gonzalez had with YELP's Sales  
22 Representatives were one-way recorded by YELP's Sales Managers and/or Sales Representatives  
23 without notice to or consent by Gonzalez. Gonzalez had a reasonable expectation that these  
24 conversations were private and not being recorded because YELP failed to provide the now  
25 common pre-recorded message that the call may be "monitored or recorded for quality assurance  
26 purposes". The failure to provide such warnings or actual live notice that such conversations  
27 might be monitored and recorded provided Plaintiff the reasonable expectation that such  
28 conversations were private, confidential and not being monitored and recorded. Further, Plaintiff

1 had a reasonable expectation of privacy because he was working with YELP Sales  
2 Representatives on how to best benefit his business and personal life through the exchange of  
3 confidential business and financial information. During these calls Gonzalez was never given  
4 notice or warning that his conversation with the Sales Representatives was being recorded  
5 without his knowledge.

6       24.     **Plaintiff Jeremy Earls (“Earls”)**: Earls is an individual who resides in  
7 Lakewood, California. Earls owns and operates North Star Smog, a smog inspection station  
8 located in Long Beach, California. During the Class Period, Earls was contacted on his cell  
9 phone by YELP Sales representatives regarding purchasing advertisement space on YELP’s  
10 website for his smog inspection station. On information and belief, many of these conversations  
11 Earls had with YELP’s Sales Representatives were one-way recorded by YELP’s Sales Managers  
12 and/or Sales Representatives without notice or consent by Earls. Earls had a reasonable  
13 expectation that these conversations were private and not being recorded because Defendant  
14 failed to provide the now common pre-recorded message that the call may be “monitored or  
15 recorded for quality assurance purposes”. The failure to provide such warnings or actual live  
16 notice that such conversations might be monitored and recorded provided Plaintiff the reasonable  
17 expectation that such conversations were private, confidential and not being monitored and  
18 recorded. Further, Plaintiff had a reasonable expectation of privacy because he was working with  
19 YELP Sales Representatives on how to best benefit his business and personal life through the  
20 exchange of confidential business and financial information. During these calls Earls was never  
21 given notice or warning that his conversation with the Sales Representatives was being recorded  
22 without his knowledge.

23       25.     Plaintiffs, on information and belief, allege that YELP, during the proposed Class  
24 Period, had a pattern and practice or eavesdropping and recording conversations of thousands of  
25 Class Members without their knowledge or consent. Because there were no warnings that calls  
26 would be recorded, Plaintiffs and Class Members had a reasonable expectation that their  
27 telephone conversations with Defendant’s YELP’s employees and agents were, and would  
28 remain, private to the parties on the telephone. The secret monitoring and recording of these



1 conversations without notice and consent is an invasion of privacy and highly offensive and  
2 intrusive to a reasonable person including Plaintiffs and Class Members.

3 **CLASS ACTION ALLEGATIONS**

4 26. Plaintiffs bring this action individually and as a class action on behalf of an opt-out  
5 class (the “Class”) defined as follows:

6 **Penal Code § 632.7:** All individuals who, from October 12, 2015, to May 24,  
7 2017 (the “Class Period”), while physically present in California and using a  
8 cellular device, participated in an outbound telephone conversation with a sales  
9 representative of YELP or its agent who one-way recorded the conversation  
without first informing the individual that the conversation was being recorded.

10 **Penal Code § 632.7 Subclass:** All individuals who, from October 12,  
11 2015, to May 24, 2017 (“the Class Period”), while physically present in  
12 California and using a cellular device, participated for the first time in an  
outbound telephone conversation with a sales representative of YELP  
or their agent who one-way recorded the conversation without first  
informing the individual that the conversation was being recorded.

13 27. Plaintiffs reserve the right under Rule 3.765(b), California Rules of Court, to  
14 amend or modify the class description with greater specificity or further division into a subclasses  
15 or limitations to particular issues.

16 28. This action is brought, and may properly be maintained, as a class action pursuant  
17 to California Code of Civil Procedure §382 (and the analogous provisions of Federal Rules of  
18 Civil Procedure 23(a)(1)-(4) and 23(b).)

19 29. Defendants, via their unlawful actions, have violated Plaintiffs and the Class  
20 Members’ privacy rights under California’s Invasion of Privacy Act, California Penal Code §630  
21 et seq. There is a well-defined community of interest in the litigation and the questions of law  
22 and fact raised by Defendant’s alleged violations of the Penal Code, as Plaintiffs seek to represent  
23 the Class containing numerous members who were one-way recorded by Defendant without their  
24 knowledge or consent. Further, the proposed Class is clearly ascertainable and Class Members  
25 easily identifiable via Defendant’s phone system records and/or Defendant’s telephone  
26 company’s record of calls, recordings, and supporting documents. As described below, this  
27 action also satisfies the numerosity, commonality, predominance, typicality, adequacy, and  
28 superiority requirements of these provisions.

1           **Numerosity:**

2           30.     A class action is the only available method for the fair and efficient adjudication of  
3 this controversy. Although the exact number and identities of Class Members are unknown to  
4 Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs are  
5 informed and believes that the Class includes hundreds of thousands of individuals. On  
6 information and belief, therefore, Plaintiffs allege that the members of the Class are so numerous  
7 that joinder of all members is impractical, if not impossible. Membership in the Class will be  
8 determined upon analysis of, *inter alia*, telephone systems records maintained by Defendants.

9           **Commonality and Predominance:**

10          31.     Plaintiffs and the Class share a community of interest because there are numerous  
11 common issues of fact and law that predominate over any questions and issues solely affecting  
12 individual members. Such common factual and legal issues include, but are not limited to, the  
13 following:

14                 a.     Whether YELP had a policy or practice of one-way recording wireless  
15 telephone calls to and/from the proposed Class Members;

16                 b.     Whether YELP had a policy or practice during the Class Period of not  
17 disclosing/providing notice to the proposed Class Members that their wireless conversations  
18 might be one-way recorded;

19                 c.     Whether YELP had a policy or practice during the Class Period of not  
20 obtaining consent from the proposed Class Members to the one-way recording of wireless  
21 telephone conversations;

22                 d.     Whether YELP violated California Penal Code § 632.7 during the  
23 proposed Class Period by one-way recording telephone conversations between the proposed Class  
24 Members on cellular or cordless telephones in California and Defendant's Sales Representatives  
25 without knowledge or consent of the Class Members.

26                 e.     Whether Class Members are entitled to statutory damages of \$5,000 under  
27 Penal Code §637.2 for every violation of Penal Code §§ 631, 632, and 632.7.

28

1           **Typicality:**

2           32.     Plaintiffs' claims are typical of the claims of the proposed Class. Plaintiffs' and all  
3 Class Members' claims are based on the same legal theories and arise out of the same common  
4 course of conduct and unlawful policies or practices of YELP, resulting in the same injury to  
5 Plaintiffs and Class Members and same statutory damages, as alleged herein.

6           **Adequacy of Representation:**

7           33.     Plaintiffs will fairly and adequately represent the Class. Plaintiffs have the same  
8 interests in the litigation of this case as the Class Members. Plaintiffs are committed to vigorous  
9 prosecution of this case and have retained competent counsel who are experienced in class actions  
10 of this nature. Plaintiffs are not subject to any individual defenses different from those  
11 conceivably applicable to the Class as a whole. Plaintiffs and their counsel are not aware of any  
12 interest adverse to those of the other proposed Class Members.

13           **Superiority of Class Action:**

14           34.     A class action is superior to other available methods for the fair and efficient  
15 adjudication of this controversy because individual litigation of the claims of all Class Members  
16 is impractical. The nature of this action and the format of laws available to Plaintiffs and Class  
17 Members identified herein make the class action format a particularly efficient and appropriate  
18 procedure to redress the wrongs alleged herein. If each Class Member were required to file an  
19 individual lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage  
20 since they would be able to exploit and overwhelm the limited resources of each individual class  
21 member with their vastly superior financial and legal resources. Requiring each class member to  
22 pursue an individual remedy would also discourage the assertion of lawful claims by Class  
23 Members who would be disinclined to file an action against YELP .

24           35.     Even if every Class Member could afford individual litigation, the court system  
25 could not. It would be unduly burdensome to the courts in which individual litigation of  
26 numerous cases would proceed. Individualized litigation would also present the potential for  
27 varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all  
28 parties and to the court system resulting from multiple trials of the same factual issues leading to

1 establishment of inconsistent rulings and standards. The prosecution of individual actions may  
2 create a risk of adjudications that as a practical matter may be dispositive of the Class Members  
3 interest not parties to those adjudications or that may impede or impair the ability of those non-  
4 party Class Members to protect their own interest. Further, it will allow the illegal actions (that  
5 are difficult to discover due to their covert nature) and very real harm suffered by numerous  
6 putative Class Members to continue unabated due to most individuals' inability to pursue and  
7 enforce such individual claims because of the limited statutory penalty. By contrast, the conduct  
8 of this action as a class action, with respect to some or all of the issues presented herein, presents  
9 fewer management difficulties, conserves the resources of the parties and the court system, and  
10 protects the rights of each Class Member. Plaintiffs anticipate no management difficulties in this  
11 litigation.

12 36. Further, the YELP has also acted, or has refused to act, in respects generally  
13 applicable to the Class, thereby making appropriate final and injunctive relief, or corresponding  
14 declaratory relief, with regard to Class Members as a whole, as requested herein. Likewise,  
15 YELP's conduct, as described herein, is unlawful, ongoing, and will continue unless restrained  
16 and enjoined by this Court.

17 **FIRST CAUSE OF ACTION**

18 **Unlawful Recording and Intercepting of Communications**

19 **Violation of Penal Code §632.7**

20 **(All Plaintiffs Against Defendant YELP and Does 1-10)**

21 37. Plaintiffs incorporate by reference in this cause of action each allegation of all of  
22 the foregoing paragraphs as if fully restated herein, and further allege against Defendants and  
23 Does 1-10, and each of them, as follows:

24 35. Plaintiffs allege that during the Class Period that Plaintiffs and Class Members  
25 each participated in at least one telephone call with YELP's employees or agents that was made  
26 to or within California while the Class Members were on a cellular or cordless telephone.

27 36. Plaintiffs allege that during the Class Period Defendant had a policy and practice  
28 of using a telephone system that enabled Defendant to surreptitiously, without knowledge or

1 consent, one-way record conversations between its Sales Representatives and Class Members on  
2 cellular or cordless telephones.

3 37. Plaintiffs allege that during the Class Period Defendant had a policy and practice  
4 of using a telephone system surreptitiously, without knowledge or consent, to one-way record  
5 conversations between its Sales Representatives and Class Members on cellular or cordless  
6 telephones.

7 38. Plaintiffs allege that during the Class Period Defendant had and followed a policy  
8 or practice of not providing notice or warning to Plaintiffs or Class Members that their cellular  
9 and cordless telephone communications with Defendant's Sales Representatives were to be one-  
10 way recorded. Because YELP did not disclose to Plaintiffs and Class Members their calls were  
11 one-way recorded, YELP did not obtain, nor could have obtained, express or implied consent to  
12 the monitoring and recording of said conversations. As a result Plaintiffs and Class Members had  
13 an objectively reasonable expectation of privacy from the surreptitious and covert practice of  
14 one-way recording conversations.

15 39. With respect to outbound calls from Sales Representatives and direct inbound calls  
16 to Sales Representatives, YELP has failed to provide even the now common and simple pre-  
17 recorded message that such sales calls may be "monitored or recorded for quality assurance  
18 purposes". The failure to provide such warnings or actual live notice that such conversations may  
19 be monitored and recorded provided the Plaintiffs and Class Members the reasonable expectation  
20 that such conversations were private, confidential and not being monitored and recorded. The  
21 failure of such warnings would provide a reasonable person the belief and security that their  
22 discussions were not being recorded and they could discuss confidential financial or personal  
23 information that they would not normally want recorded. As the California Supreme Court has  
24 stated, "in light of the circumstances that California consumers are accustomed to being informed  
25 at the outset of a telephone call wherever a business entity intends to record the call, it appears  
26 equally plausible that, in the absence of such an advisement, a California consumer reasonably  
27 would anticipate that such a telephone call is not being recorded, particularly in view of the strong  
28 privacy interest most persons have with regard to personal financial information frequently

1 disclosed in such calls.” (*Kearney v. Salomon Smith Barney* (2006) 39 Cal. 4<sup>th</sup> 95.)

2 40. YELP's conduct as described herein violated California Penal Code § 632.7(a).  
3 Under Penal Code § 637.2, Plaintiffs and Class Members are therefore entitled to \$5,000 in  
4 statutory damages per violation, even in the absence of proof of actual damages, the amount  
5 deemed proper by the California Legislature. Plaintiffs and Class Members are also entitled to  
6 injunctive relief to enjoin further violations.

7 **SECOND CAUSE OF ACTION**

8 **Unlawful Recording of Confidential Communications**

9 **Violation of Penal Code §632**

10 **(All Plaintiffs Against Defendant YELP and Does 1-10)**

11 41. Plaintiffs incorporate by reference in this cause of action each allegation of all of  
12 the foregoing paragraphs as if fully restated herein, and further allege against Defendants and  
13 Does 1-10, and each of them, as follows:

14 42. Plaintiffs allege that during the Class Period that Plaintiffs and Class Members  
15 each participated in at least one telephone call with YELP's employees or agents that was made  
16 to or within California while the Class Member was on a hardwired landline telephone.

17 43. Plaintiffs allege that during the Class Period YELP had a policy and practice of  
18 using a telephone system that enabled YELP to surreptitiously, without knowledge or consent,  
19 one-way record conversations between its Sales Representatives and Class Members on a  
20 hardwired landline telephone.

21 45. Plaintiffs allege that during the Class Period YELP had and followed a policy or  
22 practice of not providing notice or warning to Plaintiffs or Class Members that their hardwired  
23 landline telephone communications with Defendant's Sales Representatives were to be one-way  
24 recorded. Because YELP did not disclose to Plaintiffs and Class Members their calls were being  
25 one-way recorded YELP did not obtain, nor could have obtained, express or implied consent to  
26 the monitoring and recording of said conversations. As a result Plaintiffs and Class Members had  
27 an objectively reasonable expectation of privacy from the surreptitious and covert practice of one-  
28 way recording conversations.



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C. An order declaring that Defendant’s actions, as described herein, violate California Penal Code §§ 631, 632, 632.7;

D. A judgment for an award of statutory damages to Plaintiffs and Class Members for each violation pursuant to California Penal Code § 637.2;

E. A permanent injunction under Penal Code § 637.2 enjoining Defendant from engaging in further conduct in violation of California Penal Code § 630, et seq.;

F. That Plaintiffs, the Class Members, and represented parties be awarded reasonable attorneys’ fees and costs pursuant to, Code of Civil Procedure § 1021.5, and/or other applicable law;

G. An award of pre and post-judgment interest to extent allowed by law, and

H. For such other and further relief as this Court may deem appropriate.

Dated: August 8, 2022

By: Matthew Fisher

Matthew H. Fisher  
**DA VEGA | FISHER | MECHTENBERG, LLP**  
Attorneys for the Plaintiffs and the Proposed Class



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**DEMAND FOR JURY TRIAL**

Plaintiffs, on behalf of themselves and all others similarly situated, hereby demand a trial by jury for all issues so triable.

Dated: August 8, 2022

By: Matthew Fisher

Matthew H. Fisher  
**DA VEGA | FISHER | MECHTENBERG, LLP**

Attorneys for the Plaintiffs and the Proposed Class

2 **PROOF OF SERVICE**

3 I am employed in the County of Los Angeles; I am over the age of eighteen years and am not a  
 4 party to the within action; and my business address is 300 West Glenoaks Boulevard, Suite 300,  
 Glendale, California 91202.

5 On **August 8, 2022**, I served the document(s) described as

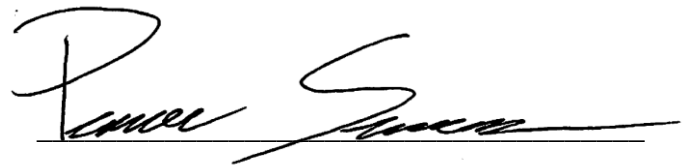
6 **FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES AND**  
 7 **INJUNCTIVE RELIEF**

8 on the party (or parties) in this action by delivering a true copy (or copies) addressed as follows:

<p>9 Brian A. Sutherland          10 Christine M. Morgan          11 Chris J. Pulido  <b>REED SMITH LLP</b>          12 101 Second Street, Ste 1800          San Francisco, CA 94105          BSutherland@ReedSmith.com          CMorgan@ReedSmith.com          CPulido@ReedSmith.com          QLa@reedsmith.com          CMosqueda@ReedSmith.com          15 <i>Attorney(s) for Defendant Yelp,</i>          16 <i>Inc.</i></p>	<p>Matthew S. Da Vega          Matthew H. Fisher  <b>DA VEGA FISHER</b>  <b>MECHTENBERG LLP</b>          232 East Anapamu Street          Santa Barbara, CA 93101          mfisher@mdmflaw.com          mdavega@mdmflaw.com    <i>Attorney(s) For Plaintiff</i>  <i>Eric Gruber</i></p>	<p>Zareh A. Jaltorossian  <b>KP LAW</b>          150 East Colorado Blvd.          Suite 206          Pasadena, CA 91105          zjaltorossian@kplitigators.com    <i>Attorney For Plaintiff</i>  <i>Eric Gruber</i></p>
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 18 **XXX BY ELECTRONIC MAIL:** I caused to be served by electronic transmission (e-mail) to  
 19 the parties and/or their attorney(s) of record stated above. The document(s) was/were  
 transmitted by electronic transmission. The transmission was reported as complete and  
 20 without error.

21 I declare under penalty of perjury under the laws of the State of California and the United  
 States that the foregoing is true and correct. Executed on **August 8, 2022** at Glendale,  
 22 California.

23  
 24 

25 Parker Swanson