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Yellowpages.com, Complaints, a Lawsuit, and You

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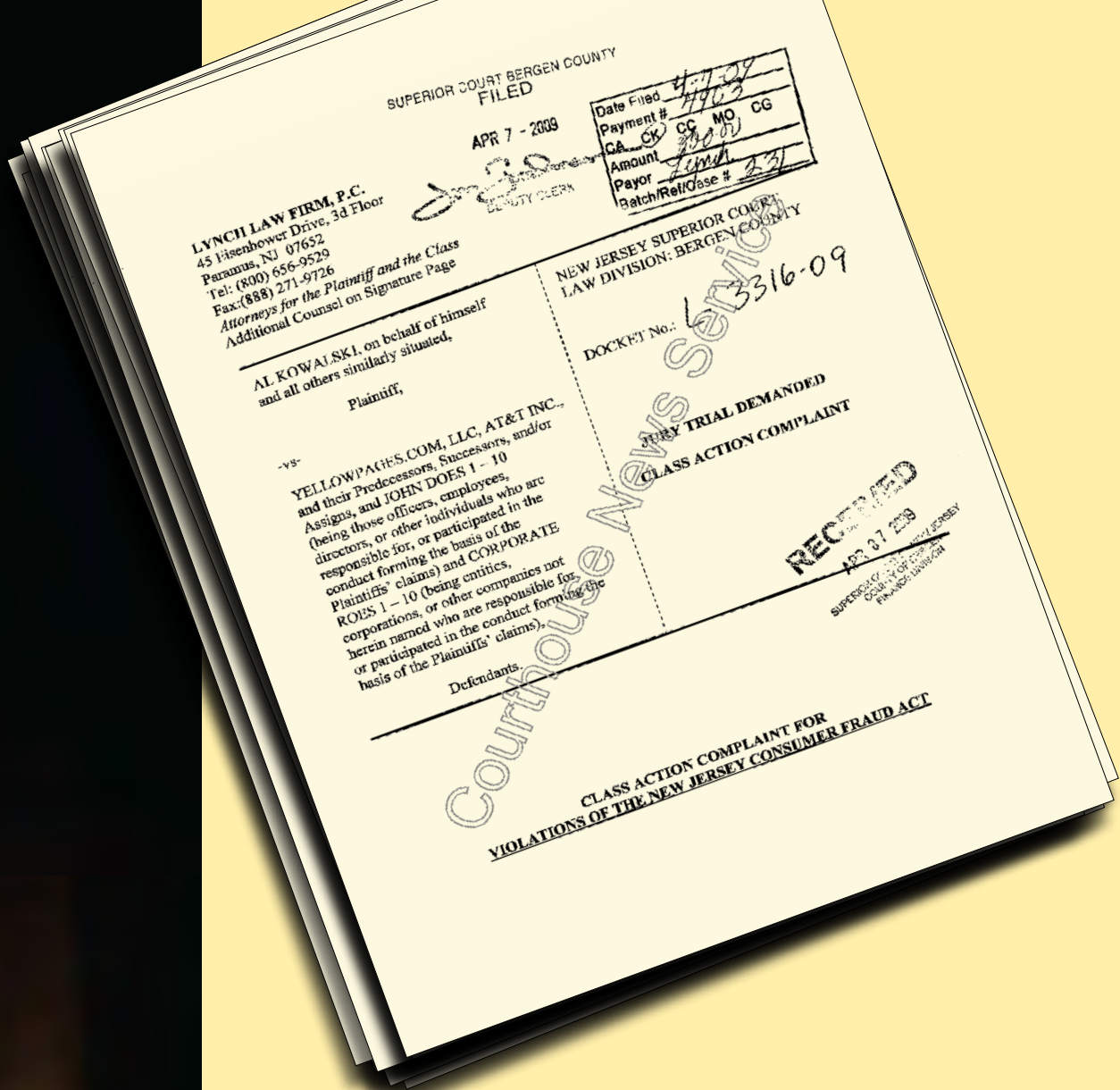
BUYER BEWARE

Yellowpages.com

Complaints, a Lawsuit, and You

By Tom Wadsworth, Editor





Editor's Note: For decades, garage door dealers have heavily depended on Yellow Pages print advertising. According to our surveys, it has typically absorbed the lion's share of a dealer's advertising budget, with the average dealer spending more than \$40,000 per year in the Yellow Pages.

Our Feb. 2009 survey indicated that the print Yellow Pages are starting to lose their grip on dealer's advertising budgets, and more dealers are starting to turn to Internet advertising options.

Problem: Internet advertising is a complex and confusing venture, and dealers often don't know where to start. Yellow Pages salespeople are working to reclaim lost ad dollars by persuading door dealers to use Yellowpages.com for their Internet advertising.

However, certain aggressive tactics used by some Yellowpages.com offices are raising the ire of many dealers and small businesses nationwide. Plus, a 2009 class action lawsuit accuses Yellowpages.com of "fraudulent and deceptive practices."

That's why this story affects you. Read on.

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For Dan Crews of Crews Garage Door, Manassas, Va., his nightmare began on Dec. 10, 2008, when the Yellow Pages ad sales rep made a pitch for him to invest in Internet advertising.

“For some stupid reason, I believed her and signed an agreement on her laptop computer with the understanding that a copy would be e-mailed to me that evening so that I could go over the entire agreement,” says Crews.

As the sales rep requested, Crews reluctantly gave her a copy of a voided company check so they could make a direct withdrawal every month to pay for the advertising.

However, she didn’t send the agreement that evening. Nor the next day. And she didn’t return Crews’ phone calls.

On Dec. 12, Crews sent an e-mail and faxed a letter to her stating that since she did not uphold her part of the agreement, he was cancelling, taking advantage of Virginia’s three-day cooling off period for contracts.

She finally replied via e-mail, apologizing for her mistake, saying she wanted to come out again for a visit. Crews refused and reiterated that he was cancelling.

End of story, right?

Wrong.

That study revealed that seven of 11 Yellowpages.com offices had an F rating, the worst rating possible.

A few weeks later, Crews noticed that Yellowpages.com had taken money out of his company checking account. He started calling them again. The salesperson had been transferred. The district sales manager would not address the problem. The manager’s supervisor would not respond to his calls.

As of Aug. 1, 2009, Yellowpages.com had sucked more than \$5,000 from his checking account. And Crews still has never received a copy of the agreement.

“They are a bunch of two-faced crooks,” is how Crews describes Yellowpages.com.

Crews is not alone. Dozens of strong complaints about Yellowpages.com have been submitted by door dealers and small businesses all over the country. One recipient of those complaints is the Better Business Bureau.

Rated F by the BBB

On April 1, 2009, we checked the Better Business Bureau ratings of Yellowpages.com offices (whose parent company is AT&T) around the country. That study revealed that seven of 11 Yellowpages.com offices had an F rating, the worst rating possible. (The seven offices with F ratings were Boston, Mass.; Dallas, Texas; Glendale, Calif.; Henderson, Nev.; Minneapolis, Minn.; Phoenix, Ariz.; and Washington, D.C.)

Only one of the 11 Yellowpages.com locations had a rating above C. That one office had an A+ rating, yet it also had 807 complaints over the standard three-year reporting period. (That one location reported the combined complaints from Austin, San Antonio, Indianapolis, San Francisco, St. Louis, and New Haven, Conn.)

AT&T Explains

Bob Mueller, executive director of business operations for AT&T Advertising Solutions, explained the F ratings in an e-mail, saying that their customer service group is “actively working with the customers who have filed complaints with the Better Business Bureau.”

Mueller wanted to put the complaints in context. “AT&T provides advertising services to nearly one million customers,” he said. “And of these customers, the vast majority are

very pleased with the quality and value of our products and services.”

The Case of the Disappearing F Ratings

On Aug. 3, 2009, we rechecked the BBB ratings of the same Yellowpages.com offices. Surprisingly, four of the seven F ratings (Minneapolis, Boston, Phoenix, and Washington, D.C.) had disappeared, along with one “Unsatisfactory” rating (New York, N.Y.). The offices still exist, but the BBB no longer provides a rating for them.

Mueller explains that several Yellowpages.com offices are having their BBB complaints transferred to their St. Louis office, which carried an A+ rating. “This will streamline responsiveness to customers with a single point of contact,” says Mueller.

By Aug. 21, the A+ rating of the Yellow Pages’ St. Louis location had slipped to an A,

and the BBB posted this online notice:

“The Better Business Bureau has received numerous complaints against this online and phone book advertising firm. Complainants primarily allege misleading sales practices, difficulty cancelling contracts, improper billing, errors in consumer’s advertisements, and renewing advertisements automatically without consumer knowledge.”

Trouble at the Top

Yellowpages.com is headquartered in Glendale, Calif. For several months this year, the Glendale office had earned an F rating from the Better Business Bureau. In August, its BBB report, freely available online, contained a strong warning from the BBB:

“We strongly question the company’s reliability for reasons such as that they have failed to respond to complaints, their advertising is grossly misleading, they are not in compliance with the law’s licensing or registration requirements, their complaints contain especially serious allegations, or the company’s industry is known for its fraudulent business practices.”

The BBB report continues:

“This company offers pay per click advertising contracts to businesses nationwide. The contracts are verbal and recorded via audio tape. Contracts are for 12 months, and are binding based on verbal confirmations by advertisers. We believe that it may be unwise to agree to a verbal contract of this nature.”

We asked Bob Mueller about these recorded verbal contracts. “Like many other companies in our and other industries, we also enter into valid and enforceable agreements over the telephone,” he said.

Class Action Lawsuit Filed

These “verbal contracts” are a key reason behind a 32-page class action lawsuit filed on April 7, 2009, against Yellowpages.com in the Superior Court of New Jersey in Bergen County. The lawsuit was filed by the Lynch Law Firm on behalf of Al Kowalski, a plumber in Rochelle Park, N.J., “and all others similarly situated.”

The suit’s opening statement declares, “This action concerns deceptive and fraudulent business practices perpetrated by Yellowpages.com upon consumers and business consumers throughout the United States.”

The suit alleges that Yellowpages.com’s tactics are “akin to the age old basic principles of extortion.” The document further claims that their methodology “violates basic principles of New Jersey’s Consumer Fraud

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Act as well as the basic tenements [sic] of every consumer protection statute throughout the United States.”

Same Song, Different State

Dan Crews and Al Kowalski have much in common. They’re both small-business owners who desired some kind of online advertising. Yet, like most business owners, they needed some guidance in a world of search engine algorithms, spiders, metatags, and the complex science of attracting Web visitors.

Unlike Dan Crews, Kowalski never even signed a contract, according to the suit. But, like Crews, on the next business day, Kowalski contacted Yellowpages.com via phone and fax, stating that he did not wish to pursue any relationship with Yellowpages.com in the future, says the suit.

However, he was told he could not cancel the order. The contract was in force because the Yellowpages.com salesperson had recorded Kowalski’s verbal assent over the phone. In spite of no signed contract and his expressed and written wishes to cancel, the suit alleges that Yellowpages.com then posted his advertising online and started billing the client anyway.

As with Crews, “all of Plaintiff’s other calls to Yellow Pages have been ignored,” states the lawsuit. In addition, Kowalski was subsequently “threatened by representatives of Yellow Pages with adverse reporting on his credit report” if he failed to pay, says the court filing.

Common Complaints

The 200+ complaints against the Glendale, Calif., office vary, but are remarkably consistent with the Crews story in Virginia, the lawsuit in New Jersey, and our investigation of scores of complaints throughout the country. The BBB summarizes these complaints against Yellowpages.com’s headquarters in an online statement:

“Complainants allege various errors with listings, and inability to have corrections made. Other complainants report difficulty cancelling service and receiving credits or refunds. Customers complain they are unable to reach live representatives to cancel services or discuss problems. The company responds by reminding clients that their agreement is binding for 12 months.”

Dealer Survey Reveals Problems

Seeing many similarities among the complaints we studied, in August, Door & Access Systems conducted a survey of 79

garage door dealers from coast to coast. We sought to learn (1) the frequency of door dealer problems with Yellowpages.com and (2) the nature of these problems, if any.

These 79 door dealers were selected because (1) in a previous D&AS survey, they had indicated some familiarity with Yellowpages.com, or (2) a Web search revealed that they were using a Web site that was “powered by Yellowpages.com.”

None of these dealers were selected because we knew they had negative experiences with Yellowpages.com. Further, to avoid attracting responses only from those with complaints, the invitation to the online survey said nothing about problems with Yellowpages.com.

Dealer Survey: 54% Report Problems

Of the 79 door dealers, 33 completed the survey. Of the respondents, 73 percent had purchased online advertising services from Yellowpages.com. Of those who had purchased these services (online ads, listings, or Web sites), more than half (54%) said they

cancelled the ad. They have the ability to turn off my phone, so I paid it. But I do feel that was theft.” —Arizona dealer

An Expensive Learning Experience

After completing our survey, Henry Tarnow and Bud Helgemo of Tarnow Door, Farmington Hills, Mich., contacted us. Like others, Tarnow Door had a list of complaints (nine to be exact), but they focused on Yellowpages.com’s ineffective results.

Having contracted with Yellowpages.com for an online display ad, Tarnow Door kept track of all contacts received versus the amount of money spent.

“It ended up costing us \$100 per phone call,” says Helgemo. “It was a very expensive learning experience.”

Tracking Effectiveness

Like Tarnow Door, Edward Stover of Armada Contracting, Jefferson, La., tracked the effectiveness of contacts received from their Yellowpages.com ad. He says his sales rep told him that he must have an online display ad

“Complete scam ... There was a big difference between what they told us would happen and what we received.”

had problems with Yellowpages.com.

It should be noted that our survey sample was small and that 46 percent said they had no problems. For example, Doug Clark of Arrow Garage Door, San Jose, Calif., added the comment: “I have been with AT&T Yellowpages.com for about two years now, with no complaints.”

Of those who had problems with Yellowpages.com, the most common problems related to lack of results, poor service, making promises that weren’t kept, and difficulty cancelling (see Survey Says, p. 42).

Dealers Speak Out

Some dealers added strong comments:

“Complete scam ... There was a big difference between what they told us would happen and what we received.” —Ohio dealer

“These people are notorious for not delivering. They have you believe you are to get one thing and you get another ... I wish more of these bozos would be exposed.” —California dealer

“My Yellowpages.com ad was paid for through my local phone company. The phone company billed me for two years after I

or his print ad would cost more. Even though the cost of the Internet ad was only \$42 a month, he wanted to see if it paid off.

“I have a very cutting-edge Web site, and I track every visitor using StatCounter and Google Analytics. After a year of advertising with a basic ad on Yellowpages.com, my Web site registered 24 clicks from Yellowpages.com,” he reports.

The cost per click worked out to \$21 per click, an expensive venture by almost any standard. Stover says his free business listings on Google and Craigslist.com generated 24 times more visitors to his Web site.

Read the Fine Print

At renewal time, you’d think that Stover would simply e-mail his decision to cancel, and the issue would be settled. Not so.

He studied his contract with Yellowpages.com. “I realized that, technically, AT&T could and would most likely auto-renew me because my e-mailed cancellation was not a written notice,” says Stover.

Stover may be right.

Door & Access Systems obtained a copy

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of Yellowpages.com's 4,000-word "Terms and Conditions for Internet Advertising," dated Dec. 22, 2006. It states, "All of your notices, demands, and other communications must be in writing and will be deemed to have been given if mailed by certified mail, postage prepaid, or if delivered by overnight courier to our address as shown on our Web site."

Stover quickly sent his sales rep a registered letter informing AT&T to not renew services. End of story? Not entirely.

AT&T Calling ... or Not

"Since cancelling, I have been getting tons of calls from other AT&T sales reps across the country begging me to sign up for new and more expensive advertising on Yellowpages.com," Stover says. "These guys will not take no for an answer. Because of these calls, I recently complained to the FCC, FTC, and the BBB."

Too many calls, or too few, seem to be a recurring problem. As the BBB report on the Glendale, Calif., Yellowpages.com headquarters says, "Customers complain they are unable to reach live representatives to cancel services or discuss problems." Plus, according to our dealer survey, the most common complaint is: "They were very slow and/or unresponsive to our concerns."

At the same time, "The only people who call us back are their collection people," says Ty Gilbert of Ty Gilbert Construction, Rush City, Minn.

This is the actual Terms & Conditions. It contains 4,067 words, more words than are found in this entire feature story.

SURVEY SAYS... Common Problems Reported by Door Dealers

Our survey* asked door dealers, "What kind of problem(s) did you experience with Yellowpages.com?" We then listed 14 problems and asked respondents to "check all that apply." Here are the problems they reported, in order of frequency.

1. "Their services generated very little business for us." (54%)
2. "They were very slow and/or unresponsive to our concerns." (54%)
3. "They made verbal promises that they didn't keep." (46%)
4. "We found it difficult to cancel their service." (39%)
5. "They posted information on our Web site (or ad) that we didn't want." (39%)
6. "They limited the number of clicks we could receive." (39%)
7. "They made written promises that they didn't keep." (31%)
8. "Their services generated no business for us." (23%)
9. "Their reports of clicks or traffic to my Web site (or ad) were unbelievably high." (23%)
10. "They harassed us for payment." (23%)
11. "They demanded payment even though they didn't provide the promised services." (15%)
12. "Without my knowledge, they took money out of my bank account or credit card." (15%)
13. "They made it difficult for us to get our domain name back from them." (8%)
14. "We had to hire/seek an attorney to fight them." (8%)

*The online survey was conducted Aug. 10-14, 2009. E-mail invitations were sent to 79 garage door dealers throughout the United States. A total of 33 dealers responded, and 24 indicated they had contracted for services with Yellowpages.com. When the 24 were asked, "Have you had any problems with Yellowpages.com?" 54 percent said yes.

"It's in the Contract"

Gilbert's complaints are many. Yellowpages.com placed the wrong phone number and the wrong photo on his Web site. The site's "Photo Gallery" says "Coming Soon," even though Gilbert says he has given them more than 300 photos.

"They lied to us about the number of clicks," he adds. "We've never gotten one call off this in 8-9 months, yet they say we go

"The only people who call us back are their collection people."

through 4,000 clicks per month."

Frustrated with constant problems, Gilbert wants his domain name back (www.tygilbertconstruction.com), but he says they won't give it to him. Why?

"It's in the contract," he says.

He appears to be correct. The Dec. 22, 2006, version of Yellowpages.com's "Terms and Conditions for Internet Advertising," which was still being used in 2009, states, "If you do not have a URL, we will procure a URL and will pay the applicable domain name registration fees to the registrar and maintain ownership."

It further states, "If you already own the registration for the desired URL, you must transfer the URL to us."

AT&T Responds

We asked AT&T's Mueller, "For your Web site customers, do you require that you maintain ownership of their domain name and/or require them to transfer their URL to you?"

"No," he replied in an e-mail. "For those customers who request that we develop a Web site for them, we do not have a policy requiring that we own any domain name or that they transfer ownership of an existing domain name to us."

We thought Mueller's response contradicted the actual language of the contract. Thinking that we might be discussing different contracts, we asked Mueller for a current copy of Yellowpages.com's "Terms and Conditions for Internet Advertising."

Mueller did not comply, saying, "There are various contracts and addendums used with our advertisers. As such, it is unclear what agreement or documents you want."

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Finding a Way

But back to Ty Gilbert. After Yellowpages.com took more than \$8,000 in payments out of his credit card, he had had enough.

"We stopped payment on the credit card, but they still found a way to take money out of the card," says Gilbert. "I'm sick to my stomach over this."

Automatic Withdrawals

Shaun Moore of All American Door in Fridley, Minn., had fought for months to get Yellowpages.com to uphold their end of a contract that he signed on July 29, 2008. According to the contract, Yellowpages.com agreed to provide a five-page Web site, 4800

**She had discovered
that someone had
suddenly taken
\$4,000 out of their
checking account.**

guaranteed clicks to his Web site annually, a call-tracking number, and an online ad.

However, the supplied Web site never had more than three pages, and Moore had a list of other problems that never seemed to get resolved. Frustrated, in December 2008, he cancelled the credit card that Yellowpages.com had been using to absorb his monthly payment of about \$2,000.

That got their attention. After making amends in late February 2009, Moore sent Yellowpages.com a check for about \$4,000 to cover his January and February payments. He says that writing the check seemed to be the

only way to get Yellowpages.com to respond to his concerns. But the problems continued.

A Rude Awakening

In late March, his wife woke him up early one morning. She had discovered that someone had suddenly taken \$4,000 out of their checking account. After calling their bank, they soon learned that the culprit was Yellowpages.com.

Moore, furious over the intrusion, says he never authorized such a withdrawal. He further says that his bank described the act as "fraud." Moore got his \$4,000 back and refused to have any further dealings with Yellowpages.com.

"These Guys Are Different"

"We value our customers above all else," says AT&T's Mueller. "We have an outstanding customer service group that works to address any and all complaints that are brought to its attention." He continues, "Our sales representatives are professional advertising consultants who wish to help the businesses we serve."

Yet, of the dozens of Yellowpages.com customers we contacted, many had a distinctly different assessment of the business practices of Yellowpages.com.

As the New Jersey lawsuit states, "Yellow Pages' disregard for the principles and equity of good faith and fair dealing ... is appalling and must be stopped immediately."

Bud Helgemo of Tarnow Door summed up his experiences: "When we sell something, we back it up. We don't want anyone saying anything bad about us. But these guys are different."

Helgemo's advice for other door dealers?

"Shop and compare. Don't trust AT&T just because of the name." ■

To comment on this story, send an e-mail to the editor at trw@tomwadsworth.com.

7 Tips for Door Dealers

1. Know the details before you sign—or verbally accept—any contract.
2. If a contract is long and complicated, ask your attorney to review it before signing. The legal fees may be a pittance compared to the long-term cost of a deceptive contract.
3. Be wary of any company that records your phone conversation and considers the recording to be a binding contract.
4. Shop around. Get bids from other companies, especially when purchasing services that don't have well-established rates.
5. Be wary of any business contract that automatically renews. If it does, make sure you know exactly how and when to cancel.
6. Just because consumers often used the printed Yellow Pages, don't assume that Internet users commonly use Yellowpages.com.
7. Just because Yellow Pages knows how to print an ad, don't assume that Yellowpages.com knows how to provide an effective online ad or Web site.