

**ST. PAUL, THE PROBLEMS OF BEING HUMAN
AND OF
SMALL BUSINESSES DEALING WITH ANGIESLIST.COM
By Donald W. Hudspeth**

Like many people with a standard Midwest religious upbringing I struggle to do the right thing and, sometimes, to know just what that is under the circumstances. But, as St. Paul discussed in [Romans 7](#)¹ “being good is not that easy, even when we are so inclined” (and he was a Saint). Hardly a week goes by I do not regret some act or omission – usually one made in passing while I was working on something else. I understand the likelihood of such mistakes and work to understand and accept such human failings in others.

This leads me to the problems that I see my business owner clients having with public review sites like [AngiesList.com](#). The [Angie's List Membership Agreement](#) for Angie’s List states in Article 14 that the customer is not to post unfair or unreasonable reviews. In particular Article 14(c) states that the customer:

Will not submit any reviews that may be considered by AngiesList to be unlawful, harassing, libelous, abusive, threatening, obscene, profane hateful, offensive, harmful, vulgar, distasteful, invasive of another person’s privacy or proprietary rights or racially, ethnically or otherwise objectionable.²

But, contrary to these rules of posting, my small business clients have been severely hurt by AngiesList subscribers who “game the system.” For example, one of my firm’s business owners had a negative review posted by his customer who (accidentally or on purpose) listed the wrong number for the business. Because of the wrong phone number, AngiesList could not notify the business of the negative review – *nor did it try by Googling my client to obtain a correct phone number or email address*. (It would seem with such great power would come great responsibility.)

By the time my client learned of the negative post the response time had passed. In addition to having a wrong phone number, the posting was factually inaccurate and encouraged other prospective customers not to do business with them. The “don’t ever do business with this so and so” kind of post.

Under city, state, county and federal law, my business client would be served with notice of the complaint, and would be given the opportunity to defend itself before an impartial judge or jury. It could perhaps even countersue for breach of contract

¹ [Romans 7:15](#) I do not understand what I do. For what I want to do I do not do, but what I hate to do. New International bible (© 1984)

² [Angie's List Membership Agreement](#) Web. July 22, 2012. Note: Membership Agreement subject to change without notice.

and/or trade disparagement. What my business owner client really wanted was “due process,” which the law affords and AngiesList does not. When my client later learned of the complaint and contacted AngiesList about the false, and hereto unknown, post, the local AngiesList representative declined to remove the negative post or allow my business client the opportunity to respond. This one post essentially destroyed my client’s business because locally, virtually everyone checks Angie’s List before hiring a business in the construction trade.

In another case one of my business client’s customers unilaterally breached a signed and enforceable contract (after the customer had signed, [storm chasers](#) knocked on the customer’s door and offered to do the work for half price), then the customer used an extremely negative post with the [Better Business Bureau](#) (about the alleged extreme unfairness of the business seeking to enforce the written contract on which it had already partially performed) to force the business to accept the breach.

Again, the review was one-sided and encouraged others not to do business with them. The customer basically stated to the business: “Refund my \$1000 deposit or this post will go live in one week and destroy your business.” The negative and abusive post was particularly harmful in this case because it would go live right before a huge trade show in a local arena – at which and from which the business would hope to derive its next six months of business. So, again the business acceded.

Even worse are the malicious postings to so-called “fraud report” sites ([ripoffreport.com](#) is an example) which posts are often nothing more than venting by persons with an axe to grind. We may understand the right and need to vent – but how, where and at what personal cost to the business owner) and social cost in the loss of a good business? And, where is the justice and due process in all of this? Google theoretically (and actually) can monetize ripoffreport.com entries which match search terms, and so [will elevate them to the front page](#) because the search term results also contain negative words in association with the search term. To aggravate matters, ripoffreport.com has a strict “Non-removal policy“. Even if the review is unfair or inaccurate, even if the aggrieved party obtains an injunction through a court ordering it be removed, even if the original author wants to remove the post, [it stays](#).

In the above cases the business owners could have likely prevailed at law – at least in part - on the customer’s over-stated facts and assertions. And, the businesses could have perhaps prevailed on their counterclaims for breach of contract and trade disparagement. But the business owners could not afford the negative review, which of course “thousands upon thousands” of potential customers could see on the internet.

As a matter of public policy of course we all want to be able to make informed decisions about providers of goods and services, and we want justice for consumers in their dealings with small businesses. But now, due to the power of the Internet, and the apparent acquiescence of third party review sites – which are ostensibly neutral in policy but which in practice allow, if not encourage, unfair and unreasonable results – businesses lack the means to have a fair determination of business disputes. Now it is just a power game of the consumer and the internet against the small business. Justice is not served where the business must risk its very existence to contest a single claim and sometimes is denied the right to do even that.

It comes back to St Paul. Each of us has done wrong; each of us has a bad day at work and has caused a client inconvenience or harm. Most of us, like St. Paul, seriously hate that. But, we do not expect or deserve to have our lives ruined by those who would take advantage of the situation. Third party review sites need to be regulated – or to self regulate – to afford due process. Otherwise, they will increasingly become a tool of extortion by an unreasonable, and often lawfully incorrect, consumer.³

³ In the vast majority of my business to business cases the party “acting out” is not doing so from “evil,” but because it does not know what the law is. I submit much the same thing is occurring with consumers who assume they are right, but may not prove to be so in fair adjudication of the matter.