No. A25-0826

State of Minnesota

In Supreme Court

Paragon Restorations, LLC,
a Minnesota limited liability company,

Respondent,

v.

Robinet Productions, LLC,
a Minnesota Limited Liability Company,
& Jonn Robinet, Individually,

Appellants.

JOINT BRIEF OF AMICI PUBLIC CITIZEN, AMERICAN CIVIL LIBERTIES UNION, AND AMERICAN CIVIL LIBERTIES UNION OF MINNESOTA

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INTERESTS OF AMICUS[1]

Public Citizen is a nonprofit consumer-advocacy organization with members in all fifty states. Public Citizen appears on behalf of its members before Congress, administrative agencies, and courts on a wide range of issues involving protection of consumers and workers, public health and safety, and openness and integrity in government. Since its founding in 1971, Public Citizen has sought, in many ways, to protect the rights of consumers to voice their views. In this regard, Public Citizen has advocated for the enactment and improvement of anti-SLAPP laws in many states, helped consumers defend their rights under anti-SLAPP laws in several states, and participated as amicus curiae in cases concerning the scope and application of state anti-SLAPP laws.

The American Civil Liberties Union ("ACLU") is a nationwide, nonprofit, nonpartisan organization dedicated to the principles of liberty and equality embodied in federal and state Constitutions and in civil rights laws. The ACLU of Minnesota ("ACLU-MN") is the state-wide Minnesota affiliate of the ACLU. ACLU-MN is a private, nonprofit, nonpartisan organization supported by

[1] Pursuant to Minn. R. Civ. App. P. 129.03, this brief was authored exclusively by staff counsel for amici, and reviewed by the undersigned counsel. No counsel for a party authored the brief in whole or in part, and no person or entity, other than the amici curiae, their members, or their counsel, made any monetary contribution to the preparation or submission of the brief.

approximately 39,000 individuals in the State of Minnesota. Its purpose is to protect the rights and liberties guaranteed to all Minnesotans by the United States and Minnesota Constitutions and laws. The ACLU and ACLU-MN have a longstanding interest in protecting the freedom of expression, including through the procedural protections of anti-SLAPP laws.

STATEMENT OF THE CASE

The issue in this case is whether a Google review about Respondent Paragon Restorations by Appellant Jonn Robinet constitutes speech about "a matter of public concern" that warrants protection under Minnesota's Uniform Public Expression Protection Act ("UPEPA"), Minn. Stat. §§ 554.07-.20. Because customer reviews typically seek to inform the consumer behavior of the public at large, and because other state courts have widely recognized that such reviews typically relate to matters of public concern, this Court should hold that, generally speaking, such reviews address matters of public concern under UPEPA as a matter of law.

After having a bad experience taking photographs for Paragon, Mr. Robinet posted a warning to other businesses and potential contractors stating that Paragon was a "painful [and] unprofessional" counterpart and that Paragon had not paid for his work, and warning others not to do business with Paragon. Paragon sued both Robinet and his company, Robinet Productions

(collectively, "Robinet"), alleging that the post was false and defamatory and that no payment had been due because Robinet had neither done satisfactory work nor completed his obligations.

In response to the lawsuit, Robinet moved for special relief under the UPEPA, Minnesota's version of an anti-SLAPP law—a statute aimed at discouraging Strategic Litigation Against Public Participation. As pertinent here, the UPEPA's procedures governing special motions for expedited relief apply in

> a civil action against a person based on the person's . . . exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or the Minnesota Constitution on a matter of public concern.

Minn. Stat. § 554.08(b)(3). The district court denied Robinet's motion for special relief based on its view that his speech did not address "a matter of public concern." In consequence of that UPEPA ruling, the district court did not award Robinet attorney's fees even though it ultimately dismissed the action based on its conclusion that Robinet's contested statements expressed his opinions rather than being purported statements of fact.

On appeal, the Court of Appeals affirmed the district court's denial of Robinet's motion for special relief under UPEPA and likewise concluded that Robinet's review had not addressed a matter of public concern. *Paragon Restorations, LLC v. Robinet Productions, LLC*, 31 N.W.3d 218, 228 (Minn. Ct.

App. 2025). In reaching that conclusion, the Court of Appeals relied on its previous decision in *J&D Dental v. Hou*, 26 N.W.3d 491 (Minn. App. 2025), which upheld the denial of a UPEPA motion by a consumer who had been sued over her review of her dentist's office. *Paragon Restorations, LLC v. Robinet Productions, LLC*, 31 N.W.3d at 227. Applying the content, form and context test for determining whether speech addresses a matter of public concern, the *Hou* court acknowledged that because Hou had posted her criticisms to an online forum for reviewing businesses, the form of her speech weighed in favor of concluding that it was on a matter of public concern. *Hou*, 26 N.W.3d at 501-502. However, there the Court of Appeals held that because her speech was about her personal experience with the business and was not expressly addressed to any "broader public issues" or "matter[s] of public import," it was not speech on a matter of public concern. *Id.* at 499-501 (content), 502 (context). Applying that same analysis to Robinet's criticisms of Paragon, the Court of Appeals held that his speech was not covered by UPEPA because it was only about his personal experience with the business and not about any broader issues. *Paragon Restorations, LLC*, 31 N.W.3d at 228.

Amici submit this brief because the reasoning of the Court of Appeals cuts off UPEPA's important protection for consumer speech, and threatens to deprive future consumers of access to candid discussions from Minnesotans that consumers in this state and elsewhere may want to consider in selecting

goods and services. Amici urge this Court to clarify that consumer reviews about business may be, and often are, matters of public concern within the meaning of UPEPA, even when they focus on the consumer's individual experience rather than broader issues of the day.

ARGUMENT

I. Consumer Review Sites Play a Significant Role in Helping Consumers Select Goods and Services, and Posts to Those Sites Necessarily Address Matters of Public Concern Within the Meaning of UPEPA.

People post customer reviews precisely because they seek to communicate to members of the public about a matter of significant concern: which companies deserve the public's trust and which ones do not. To be sure, these reviews often describe granular experiences with specific companies. But the same might be true of someone who writes an op-ed about being denied an opportunity to vote, or who takes to Facebook to criticize the curriculum at their child's school. The point of posting to sites like Google and Yelp, instead of just writing a private sticky note and keeping it stashed in a kitchen drawer, is to express an opinion that the reviewer expects will be of concern to the general public. Thus, these reviews presumptively address "matter[s] of public concern" under UPEPA. *See* Minn. Stat. § 554.08(b)(3).

To understand why online reviews implicate matters of public concern, even when they narrowly describe individual experiences, it is important to

understand how online reviews influence the public's behavior. They play a major role in informing the public about both the good and bad features of doing business with various local companies. Yelp and other consumer review sites thrive because they fill a need felt by consumers and small businesses alike:

> [W]ord-of-mouth [can be] a powerful purveyor of new customers, but with the classic local community structure breaking apart in an online era, how could individuals know which businesses to trust? Yelp was the answer—an online review site in which customers shared their experiences, helping others make informed decisions about restaurants, auto-repair shops, and more.

Megan Marrs, *The Complete Guide to Yelp Reviews: Getting, Removing & More* (July 17, 2020), https://www.wordstream.com/blog/ws/2013/07/22/yelp-reviews (last accessed May 15, 2026).

Surveys over the past ten years consistently show that most consumers turn to sites such as Google and Yelp to find useful information to guide them in deciding what private businesses they ought to patronize—that more than 90% of consumers look at online reviews, and more than 90% of customers characterize online reviews as a vital part of their investigations before purchase.[2] The Federal Trade Commission has similarly recognized the

[2] Rosie Murphy, *Local Consumer Review Survey 2026: Star Ratings Keep Rising, Old Reviews Don't Cut It*, (Feb. 11, 2026), https://www.bright local.com/research/local-consumer-review-survey/; Vicinus, *Top 10 Review Sites For Customers* (June 11, 2025), https://vicinus.ai/blog/top-10-review - sites-for-customers/; Smith & Anderson, *Online Reviews*,

important role that honest consumer reviews play in shaping public opinion about businesses and products.[3]

Lawsuits against reviewers, such as the one in this case, threaten that speech-based ecosystem. Of course, no business is ever going to sue, or threaten suit, over a positive review, no matter how ill-advised or even phony. The threat of being sued for a negative review unfairly puts a legal thumb on the scale and distorts the marketplace of ideas about the quality of local businesses. But a legal regime that enables consumers to post their experience freely, without having to worry about the legal bills they would incur if a business takes offense at something they said and brings a non-meritorious lawsuit, facilitates the free flow of information about local businesses. Construing UPEPA as presuming that consumer reviews posted to review sites are addressed to an issue of public interest enables the marketplace of ideas to function the most smoothly.

Indeed, the Court can look to Paragon's own behavior in assessing the likelihood of public concern about the information that consumers can find in

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https://www.pewresearch.org/internet/2016/12/19/online-reviews/ (Dec. 19, 2016).

[3] FTC, *A warning letter (or ten) for businesses: comply with the FTC's Consumer Review Rule* (Dec. 22, 2025), https://www.ftc.gov/business-guidance/blog/2025/12/warning-letter-or-ten-businesses-comply-ftcs-consumer-review-rule.

online reviews. A Google search for "Paragon Commercial Builders," reveals that there are currently eighteen glowing reviews for plaintiff and no critical reviews (Robinet's criticism apparently having been removed), and that plaintiff posts responses to positive reviews. Moreover, the very fact that Paragon has spent its own money on filing this lawsuit over Robinet's review, and has alleged that the reviews will cost it business, shows that Paragon is acutely aware of the likelihood that many members of the public will be interested in, and may be influenced by, reviews of its services from critics such as Robinet.

There is another important reason for this Court to hold that consumer reviews presumptively implicate matters of public concern: such a presumption would serve the purposes animating anti-SLAPP laws by correcting the financial imbalance between businesses bringing SLAPP suits and consumers defending them. In many SLAPPs, the plaintiff seeks not so much to obtain a remedy for wrongful speech but to stop the criticism, and intimidate future critics, by imposing the costs of litigation on the critics. Generally, the defendants in SLAPP suits tend to be individuals, non-profit groups, or publications that have less financial ability to sustain a lengthy litigation than the plaintiff does. For these groups, it is often safer to stay quiet

instead of taking the risk that speaking out will trigger a costly lawsuit. And plaintiffs know it.[4]

Indeed, in a SLAPP suit, the speaker loses just by having to litigate—that is, by having to spend money on lawyers with no hope of recovering those expenses; not to speak of suffering the anxiety that comes with being a defendant.[5] If the challenged speakers were plaintiffs, who stood to recover an award of damages, they might be able to afford counsel by entering into a contingent fee agreement; but it is hard to conceive of how a contingent fee agreement for the defense against a lawsuit would work. Given the fact that SLAPP suits are intended to do their work by wearing down the critic, the result is too often that, rather than continue to engage in effective criticism, the critic—who derives no financial benefit from keeping his or her speech online—accepts a settlement such as withdrawing or retracting true statements, and/or paying a small amount to the plaintiff. At the same time, the fact that the critic has had to back down—or has spent tens of thousands of dollars to litigate the case—sends a message to other potential critics that this is a company, or a political figure, that is just too expensive to criticize.

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[4] Amici do not mean to suggest that Paragon had such bad intent here.

[5] By suing Jonn Robinet's company in addition to Robinet himself for his posting, Paragon ensured that Robinet would have to hire counsel to defend against the litigation.

As a result, SLAPPs are an effective means of suppressing criticism both in the short run and in the long run. And they deprive the community of valuable commentary that elected officials and their appointed agencies can use to formulate public policy, and that members of the public can use effectively to help decide what businesses to patronize, and what goods or services to buy or avoid, not to speak of deciding what candidates or policies to support. Only a rule of law that treats online consumer reviews as presumptively within the protection of UPEPA best evens the playing field between businesses and consumers. Such a construction of UPEPA also preserves the role of the marketplace of ideas, rather than the courtroom, as the principal means of testing the veracity of criticisms of business conduct and product quality.

II. Courts in Other States Hold That Reviews Based on Personal Experiences Address Matters of Public Concern Protected by Anti-SLAPP Laws.

A decision recognizing that online reviews presumptively implicate matters of public concern within the meaning of UPEPA would be consistent with how other state courts have interpreted anti-SLAPP laws. Courts in several other states have held that, whether under UPEPA or other anti-SLAPP laws, reviews of the qualities of businesses open to the public and products sold to the public speak to issues of public concern. Contrary to the Court of Appeals' decision in this case, other state court decisions do not

require any express mention of "broader public issues." And when a case challenging such a review is found to be subject to dismissal because it lacks merit, the case is subject not only to dismissal but to an award of attorney fees because the suit was, indeed, a SLAPP.

Most recently among these cases, the Kentucky Court of Appeals held in *Andes Roofing v. Rusnak*, that a consumer's Google review of a roofing company fell under the protection of Kentucky's adoption of UPEPA without any discussion of "broader public issues." 726 S.W.3d 13 (Ky. App. 2025). The Court stated (*id.* at 19),

> Rusnak's statements concerned Andes Roofing's quality of work, business acumen, and trustworthiness. Considering that the UPEPA was intended to have broad application to consumer complaints, we conclude that Rusnak's statements regarding Andes Roofing come within the ambit of the UPEPA as the statements involved a matter of public concern under KRS 434.462(1)(c). See *Davenport Extreme Pools*, 698 S.W.3d at 155.

The *Davenport* decision cited in the above passage, was also discussed in the Court of Appeals decision in this case. *Davenport Extreme Pools & Spas v. Mulflur*, 698 S.W.3d 140, 150 (Ky. App. 2024). The *Davenport* court stated that "the [UPEPA]'s drafters clearly intended the procedures to apply widely to . . . speech relating to consumer opinions, commentary, complaints, reviews, and ratings of businesses," *id.* at 155, and, for that reason, held the defendants' statements—both in private communications with other consumers and in

several social media posts—"fall under the UPEPA's procedural provisions." *Id.*

In this case, the Court of Appeals read *Davenport* narrowly as being limited to deciding that a private expression of criticism of a business could implicate a matter of public concern. The court opined that *Davenport* had not addressed, at all, whether published consumer reviews speak to a matter of public concern. *Paragon Restorations, LLC*, 31 N.W. 3d 218. However, the Court of Appeals failed to take account of *Davenport* having addressed several social media posts (which were quoted in the opinion, *see* 698 S.W.3d at 148-149). And, in any event, the later Kentucky decision in *Andes Roofing* cites *Davenport Extreme Pools* to support UPEPA's "broad application to consumer complaints" about businesses on social media sites. *Davenport Extreme Pools & Spas*, 698 S.W.3d 140.

Other courts have similarly construed their own states' anti-SLAPP laws as protecting consumer reviews generally. In California, for example, courts consistently hold that the type of speech at issue here—a review published on a consumer review site—is within the protection of the statute because it is "provided to aid consumers." *Makaeff v. Trump U.*, 715 F.3d 254, 262–63 (9th Cir. 2013); *Piping Rock Partners v. David Lerner Associates*, 946 F. Supp. 2d 957, 969 (N.D. Cal. 2013), *aff'd*, 609 Fed. Appx. 497 (9th Cir. 2015); *Grenier v. Taylor*, 183 Cal. Rptr. 3d 867, 876 (Cal. Ct. App. 2015). Similarly, *Demetriades*

v. Yelp, Inc., recognized that Yelp's web site is a public forum and "contains matters of public concern in its reviews of restaurants and other businesses." 175 Cal. Rptr. 3d 131, 143 (Cal. Ct. App. 2014); *see also Abir Cohen Treyzon Salo v. Lahiji*, 40 Cal. App. 5th 882, 887-888 (2019) (citing *Demetririades* as standing broadly for the proposition that postings on consumer review sites are protected by California's anti-SLAPP law).[6]

Following these principles, the California Court of Appeals ruled, in *Chaker v. Mateo*, that statements posted on two review websites, RipoffReport.com and Topix, addressed issues of public interest because they "plainly fall within in the rubric of consumer information about [plaintiff's]

[6] Several unreported California appellate decisions similarly hold, citing cases such as *Chaker* and *Wilbanks*, that because "negative reviews are effectively 'warning[s] not to use' or patronize the business, and '[are i]n the context of information ostensibly provided to aid consumers,' such reviews become 'directly connected to an issue of public concern.'" *Olson v. Kelly*, 2020 WL 1225994, at *1 (Cal. Ct. App. Mar. 13, 2020); *Olson v. Sardi*, 2020 WL 2079150, at *2–3 (Cal. Ct. App. Apr. 30, 2020) (fact that plaintiff is a private therapist who "works with a relatively small group of clients" does not prevent Yelp review from being an issue of public interest); *Simoni v. Swan*, 2019 WL 5485209, at *6–7 (Cal. Ct. App. Oct. 25, 2019); *Sacks v. Haslet*, 2018 WL 4659509, at *8 (Cal. Ct. App. Sept. 28, 2018); *Amato v. Bermudez*, 2018 WL 3689494, at *5–6 (Cal. Ct. App. Aug. 3, 2018) ("Under the broadly construed anti-SLAPP statute, consumer reviews of businesses open to the public are routinely viewed as matters of public interest."); *Hays v. Gagliardi*, 2017 WL 5591470, at *4 (Cal. Ct. App. Nov. 21, 2017); *Hooshmand v. Griffin*, 2017 WL 1376370, at *1 (Cal. Ct. App. Apr. 17, 2017); ("There is now a well-established body of law recognizing that consumer Internet postings are protected speech activities under the anti-SLAPP law."); *Kagewerks, Inc. v. Bessmon Kalasho*, 2014 WL 6066112, at *4–5 (Cal. Ct. App. Nov. 14, 2014).

business and were intended to serve as a warning to consumers about his trustworthiness." 209 Cal. App. 4th 1138, 1146-47 (Cal. Ct. App. 2012). The court also considered that the plaintiff had

> posted a profile on the Web site and it generated responses from other members of the community . . .. Having elected to join the topix Web site, Chaker clearly must have recognized that other participants in the Web site would have a legitimate interest in knowing about his character before engaging him on the Web site. Thus, here Chaker himself made his character a matter of public interest as the term has been interpreted.

Id.

Similarly, in *Piping Rock Partners, Inc.*, the court upheld the defendants' invocation of California's anti-SLAPP law because

> as in *Chaker* and *Wilbanks [v. Wolk*, 17 Cal. Rptr.3d 497 (2004)], Dobbs's statement is a warning to consumers not to do business with plaintiffs because of their allegedly faulty business practices. . . . Accordingly, the Court finds that defendants have made a threshold showing that plaintiffs' suit arises from an act in furtherance of the defendants' rights of petition or free speech.

946 F. Supp. 2d at 969.[7]

[7] One possible exception to the general rule in California that consumer reviews are necessarily speech on an issue of public interest is *Woodhill Ventures v. Yang*, 283 Cal.Rptr.3d 507 (Cal. App. 2021), in which a celebrity with over a million social media followers on Instagram and Twitter incited his followers to make threatening calls to a local bakery because of alleged errors decorating his son's birthday cake. The extreme facts of that case bear no resemblance to this appeal.

Similarly, both Washington and Texas courts have held that consumer reviews of businesses come, by definition, within the protection of those states' anti-SLAPP laws. *AR Pillow Inc. Maxwell Payton*, 2012 WL 6024765, at *5 (W.D. Wash. Dec. 4, 2012); *Morrison v. Profanchik*, 578 S.W.3d 676, 682 (Tex. Ct. App. 2019); *Floyd v. Aalaei*, 2016 WL 11472821, at *5 (E.D. Tex. Apr. 28, 2016), *report and recommendation adopted*, 2016 WL 4472777 (E.D. Tex. Aug. 25, 2016) (citing several Texas state court decisions); *see also Nandigam Neurology v. Beavers*, 639 S.W.3d 651, 668 (Tenn. App. 2021) (defendant's Yelp review held to be speech on matter of public concern protected by Tennessee Public Participation Act).

III. Courts Generally Hold That Reviews of Businesses Address Matters of Public Interest and Concern and Hence Receive Heightened Protection Under the First Amendment.

Not only have other state courts held that online reviews concern matters of public concern for purposes of anti-SLAPP laws, they also recognize that—by making goods and services available to the public—the businesses being reviewed have necessarily opened themselves to public comment. Thus, even apart from anti-SLAPP cases, courts in at least six states have issued such decisions in defamation cases.

In Nevada, for example, the state supreme court has concluded that that "a place of public accommodation has voluntarily injected itself into the public concern for the limited purpose of reporting on its goods and services." *Pegasus*

v. Reno Newspapers, 57 P.3d 82, 92 (Nev. 2002). Moreover, "[c]ourts within the Ninth Circuit have routinely treated online business reviews as matters of public concern." *Johnson v. Greene*, 2025 WL 2508381, at *6 (D. Idaho Sept. 2, 2025).

New York courts, too, have accepted that proposition. For example, in addressing a defamation case over a restaurant review, the First Department said, "The review of the restaurant was of interest to the public who might patronize it and was privileged under the First Amendment." *Twenty-Five East 40th St. Rest. Corp. v. Forbes*, 37 A.D.2d 546, 546 (N.Y. App. Div. 1st Dept. 1971), *aff'd*, 30 N.Y.2d 595 (1972). That same approach protected a news report about a small business that operated a vacation home for dogs; the Appellate Division was satisfied that the article addressed an issue of public concern, *Campo Lindo for Dogs v. New York Post Corp.*, 65 A.D.2d 650, 650 (N.Y. App. Div. 3d Dept. 1978). This concept was applied specifically to consumer reviews in *Penn Warranty Corp. v. DiGiovanni*, 10 Misc.3d 998, 1004 (N.Y. Sup. Ct. 2005), and *Intellect Art Multimedia v. Milewski*, 24 Misc.3d 1248(A) (N.Y. Sup. Ct. 2009), both of which determined, "The courts have recognized that personal opinion about goods and services are a matter of legitimate public concern and protected speech."

Indeed, any review of a restaurant, a musical or theatrical performance, or products, will necessarily focus on the personal experience of the reviewer

with that dining establishment, performance or product, and not with any more general class of restaurants, performances or products. But it is well established that such reviews are addressed to matters of public concern. *Unelko Corp. v. Rooney*, 912 F.2d 1049, 1056 (9th Cir. 1990); *Puryear L. P.C. v. Fishback*, 939 N.W.2d 659 (Iowa App. 2019) (critical review of a law firm); *American Future Sys. v. Better Business Bureau*, 872 A.2d 1202, 1211 (Pa. Super. 2005), *aff'd*, 923 A.2d 389 (Pa. 2007) (criticism of a telemarketing firm).

Treatment of consumer reviews as a matter of public concern was similarly addressed in *Neumann v. Liles*, 369 P.3d 1117, 1125 (Or. 2016). Although that case arose from a motion to dismiss under Oregon's anti-SLAPP law, the "matter of public concern" issue was addressed as part of the discussion of the First Amendment's protection of speech. *Neumann* held that reviews posted on a consumer review site about a wedding venue addressed matters of public concern. The Oregon Supreme Court said in *Neumann* that it found a matter of public concern because "Liles's review was posted on a publicly accessible website, and the content of his review related to matters of general interest to the public, particularly those members of the public who are in the market for a wedding venue," *Id.* at 1125.

That same reasoning should apply to reviews posted by consumers of their individual experiences with a given company. The total of public knowledge about any given business is no more than the sum total of hundreds

or thousands of discrete experiences of individual consumers with that company. Each member of the consuming public has a legitimate interest in learning about other consumers' experience. A rule that treats each consumer review as within the legitimate interests of all members of the consuming public best protects the broader interests of consumers generally.

CONCLUSION

The Court should hold that online business reviews are presumptively addressed to matters of public concern. The judgment below should be vacated and the case remanded for a proper application of the scope of UPEPA as it relates to online business reviews.

Respectfully submitted,

Dated: May 15, 2026

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CERTIFICATION OF BRIEF LENGTH

I hereby certify that this brief complies with the typeface requirements and word limitations as required by Minn. R. Civ. App. P. 132.01, subd. 3(c)(1). This brief contains 4,261 words, exclusive of the cover page, table of contents, table of authorities, and signature blocks. This brief was prepared using Microsoft Word for Microsoft Office 365 with 13-point font.

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