KlearGear.com Not The Only Retailer Willing To Fine Customers Over Bad Online Reviews

December 26, 2013 - Last week, we told you about case of online retailer KlearGear.com. The company attempted to fine one of its customers $3,500 for a bad online review which was posted on RipoffReport.com. When the customer refused to pay the fine, the company hired a collection agency which subsequently reported the fine as a bad debt on customer's credit report. Attorneys are now involved in the case but, according to a report from CNN, KlearGear isn't the only company using this tactic.

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In the KlearGear case, the company included something called a non-disparagement clause in its online terms of service. This type of clause is quite common in many types of contracts. For instance, companies often include language which prohibits non-disparagement in employee contracts. Simply put, by signing the contract you may be giving up your First Amendment right to criticize your employer at a later date.

But non-disparagement clauses in retail agreements are not at all common. At least, they have not been common to this point. It is highly unlikely that any such clause would withstand court scrutiny in a lawsuit even if the parties actually signed such an agreement the old fashioned wayâ€¦ with pen and ink. Such a clause simply doesn't serve the public interest. Including such a clause in a website's terms of service makes it even more likely that a court will uphold it.

With that said, when you make a retail purchase, the last thing that you are probably thinking about is having to sue the retailer to protect your credit. Nobody wants to go through something like that.

According to the CNN report though, more companies are including this type of non-disparagement language in their terms of service. If correct, we can expect to see the increased necessity for similar lawsuits in the future.

Bottom line is that consumers need to be reading the fine print in online agreements. We don't anticipate that large retailers will include this type of language in their agreements because the risk of public backlash is just too high. But small retailers may be tempted. The old adage, "buyer beware," applies. You'll find the CNN report below.

byJim Malmberg

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