

FIFTEENTH COURT OF APPEALS OF TEXAS

State of Texas v. Arity 875, LLC

State v. Arity 875 · No. 15-25-00082-CV · Decided December 4, 2025

SUMMARY

This document is Arity 875, LLC's response letter to the Texas Fifteenth Court of Appeals regarding the State's notice of supplemental authority in State v. Arity 875, LLC. The letter distinguishes State v. Yelp, Inc. and argues that Yelp supports affirmance of the trial court's ruling, including on purposeful availment and the limits of pleadings-based jurisdictional allegations.

OPINION

PER CURIAM.

ACCEPTED 15-25-00082-CV FIFTEENTH COURT OF APPEALS AUSTIN, TEXAS 12/4/2025 12:56 PM CHRISTOPHER A. PRINE CLERK FILED IN 15th COURT OF APPEALS AUSTIN, TEXAS 12/4/2025 12:56:38 PM CHRISTOPHER A. PRINE December 4, 2025 Clerk Via Electronic Filing Christopher A. Prine Fifteenth Court of Appeals William P. Clements Building 300 W. 15th Street, Suite 607 Austin, Texas 78701 Re: Response to Notice of Supplemental Authority, State v. Arity 875, LLC, (15-25- 00082-CV)1 Dear Mr. Prine, Defendant-Appellee Arity 875, LLC ("Arity 875") writes in response to Plaintiff-Appellant's ("the State") notice of this Court's decision in State v. Yelp, Inc., No. 15-24-00040-CV, 2025 WL 2936466 (Tex.

App. [15th Dist.] Oct. 16, 2025). Yelp's purposeful availment analysis is distinguishable, and the decision supports Arity 875's arguments for affirmance in key respects. The lynchpin of Yelp's purposeful availment analysis was that Yelp, Inc. ("Yelp") itself had posted a "Consumer Notice" on the business pages for Texas crisis pregnancy centers in its app.

That is, Yelp "'deliberately reached out beyond its home by appending the Consumer Notice to Crisis Pregnancy Centers in Texas.'" 2025 WL 2936466, at *9 (cleaned up). See also *id.* at *11 (emphasizing that "Yelp took specific actions to target its communication at persons who were seeking help from Texas Crisis Pregnancy Centers") (bold emphasis added).

Here, the State does not allege that Arity 875 engaged in any comparable communications. Moreover, unlike Yelp, Arity 875 does not publish a website or app directed to Texas or, necessarily, derive revenue from the same. Yelp is more like the defendants in *UMG Recordings, Inc. v. Kurbanov*, 963 F.3d 344 (4th Cir. 2020) and *Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218 (9th Cir.

2011), cases the State cited in its opening brief but are distinguishable because, in both, the defendant was displaying ads to the defendant's own user base on a website the defendant owned and operated—factors that demonstrated the defendant's purposeful availment of the forum. See Arity 875 Appellee Br. at 34. Analogues to Yelp's app here, if any, are the various apps on which any advertising is displayed, not Arity 875.

After all, the State does not 1 It was recently discovered that this letter was inadvertently filed in the trial court on October 30, 2025 and as such is hereby submitted for this Court's consideration. allege, nor could it, that Arity 875 owns or operates a website or app on which it displays location-targeted advertisements to its own "user base." See *id.* Tellingly, the State's reply brief offered no response on this point.

Not least, Yelp had employees in Texas (see 2025 WL 2936466, at *8), whereas the undisputed evidence here establishes that Arity 875 does not (see Arity 875 Appellee Br. at 11). Meanwhile, Yelp supports affirmance in at least two ways.

First, this Court reaffirmed that, when the trial court does not issue factual findings or legal conclusions, as here, "we presume all factual disputes were resolved in favor of the trial court's decision unless they are challenged on appeal." 2025 WL 2936466, at *3 (citation omitted).

The State failed to cite, much less engage with, that standard on appeal. See Arity 875 Appellee Br. at 14 n.9. Second, this Court held that "allegations supporting jurisdiction" must be "included in the petition"—not "asserted elsewhere." See 2025 WL 2936466, at *4, *5. Yet here, the State routinely attempts to expand the appellate record with assertions completely absent from the State's First Amended Petition.

See, e.g., Arity 875 Appellee Br. at 20-21, 43-44, 54. Respectfully submitted,

W. Reid Wittliff Wittliff | Cutter | Saba, PLLC Automated Certificate of eService This automated certificate of service was created by the eFiling system.

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Carlos.Fernandez@oag.texas.gov 12/4/2025 12:56:38 PM SENT Madeline Fogel
madeline.fogel@oag.texas.gov 12/4/2025 12:56:38 PM SENT Richard RMcCutcheon
richard.mccutcheon@oag.texas.gov 12/4/2025 12:56:38 PM SENT W. Reid Wittliff
reid@wittliffcutter.com 12/4/2025 12:56:38 PM SENT Jake Sommer jake@zwillgen.com
12/4/2025 12:56:38 PM SENT Kelsey Harclerode kelsey@zwillgen.com 12/4/2025 12:56:38 PM
SENT Sudhir V. Rao sudhir.rao@zwillgen.com 12/4/2025 12:56:38 PM SENT