

Please



On the heels of three FTC consent decrees involving the Consumer Review Fairness Act (CRFA), the FTC has brought two more CRFA-related complaints against home-rental businesses.

Broadly speaking, the CRFA, which became effective in 2017, makes it unlawful for a business to prohibit its customers from being able to post negative reviews online. As [predicted](#), we are seeing an increase in FTC enforcement of the CRFA in 2019. The complaints filed in June by the FTC involve home rental businesses. One, Shore to Please Vacations LLC, employed contracts with terms like, "[b]y signing below, you agree not to defame or leave negative reviews (includes any review or comment deemed to be negative by a Shore to Please Vacations LLC officer or member, as well as any review less than a '5 star' or 'absolute best' rating) about this property and/or business in any print form or on any website...." and that "[d]ue to the difficulty in ascertaining an actual amount of damages in situations like this, breaching this clause ... will immediately result in minimum

liquidated damages of \$25,000 paid by you to Shore to Please Vacations LLC." The settlement orders resulting from these complaints all include injunctive or other relief requiring those businesses to notify consumers that their non-disparagement clauses are not enforceable and barring them from using non-disparagement clauses in the future. **Takeaways:**

- The existence of a non-disparagement clause in a consumer contract, even without incidents of its enforcement by the business against consumers, is enough to constitute a violation of the CRFA.

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