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The Law in Review

An Attorney's Guide to Internet Defamation and Website Removal

2021 Edition

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Attorney's Guide to Online Defamation & Website Removal

Presented by
Paul M. Sternberg, Esq

INTRODUCTION BOOK/PHONE NUMBER

- Use Google as ex., but applies to most all search engines
 - Examples of real defamation cases. (dentist, restaurant, employee (chubbs) Emily, ZEEZO (ABDUL AZIZ), Hedge Fund
 - Common name vs. Unique Name or unique company name ex. of Texas(Harassment, name a lot in post) Bad Reviews rank higher
 - Shame businesses can't review customer
 - 75% of Americans go online everyday, 50% of the world's population is connected through social media platforms. (www.pewresearch.org)
 - CIRCULATION: USA Today-1,750,000 VS. Facebook daily users. 1.6 billion
 - billion get on the internet a day.
 - Sharing insights to our lives, we inevitably develop an online reputation.
 - "A lot rides on a positive online reputation, and it's a good idea to keep up with your digital presence at all times." It is sometimes called your e-reputation especially by the millennials
 - "A single attack against your reputation can turn from a passive comment into a complex problem that cascades down to your audience, customer base, or friend group—"
 - All attacks are unique and resolution of attacks is different. Negative items rank high on google search
- One comment breeds more comments of negativity

TELECOMMUNICATIONS LAWS

RADIO- Titanic radio/telegraph event resulting in Radio Act of 1912.

Finite wavelengths, publicly owned. public Interest programming

TELEPHONE INVENTED -Communications Act of 1934 – all forms of mass communication.

TELEVISION –Limited wavelengths, licenses . public Interest programming (2:00am)

NEWSPAPER-No mass communication, never regulated. No public interest.

NO INTERNET REGULATION, until Section 230, but limited regulation

THE FIRST AMENDMENT & PROTECTED SPEECH IN AMERICA

- “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”
- It protects people who criticize people, places and their government if they choose.
 - Truth an absolute defense, expose faulty products
 - Not mean to protect liars and defamers. These statements will not advance society. Exposes faulty products.
- *Fact can be defamatory. Opinions are not.:*
 - *Managers are embezzling versus Poor Quality Pizza*
 - Defamation law can be tricky: it deals with both the freedom of speech on one hand and the right to avoid defamation on the other
 - Even if the commenter believes what they’re saying is a worthy matter of opinion, it can still be tried as a factual statement in court.
 - Any lawyer should be able to argue this point unless obviously defamatory
 - *Can’ t couch by using “In my opinion” Ex. If it implies fast. EX, embezzling.*

- **This right ensures that governments cannot censure their citizens and that citizens can't bring lawsuits against one another for voicing their opinions**
- **What is defamation**
 - Libel versus slander, written vs. spoken. (fire example, held liable for consequential injuries)
 - Ex. Doesn't matter whether defamer believed it was true or false. Father replaced by new teacher, son believed new teacher responsible. No evidence to substantiate. Wound up paying \$100,000
 - Libel and slander may seem interchangeable when dealing with online defamation, considering people can post anything from pictures and comments to videos and audio tracks. However, it's safe to say most online defamation material is considered libel even youtube
 - E-Commerce brands are especially affected. All their revenue comes from the internet
 - Invasion of privacy- adopted child, affairs, no ones business, false light (out of context)
 - Depends on where, review site, newspaper, specificity vs broad statement
 - Business disparagement v. person

Review Websites

Past examples:

- Car parked in front of a dealership is forgotten

Present examples:

- Review of car on internet lives forever

Old: Something hits paper microfiche now readily available on internet it is a powerful tool) old days library microfiche

- Examples: of websites review sites, revenge sites, internet bullying (reported child suicides)
- Copy complaint over and over. Easy to do, no need for new verbiage. Greater chance ppl. Will see

Cubby, Inc. v. CompuServe Inc., 776 F. Supp. 135 (S.D.N.Y. 1991)

- A poster on CompuServe defamed Cubby
- Court rules CompuServe could be held liable only if distributor knew/reason to know.
- CompuServe had made no effort to review the large volume of content on its forums, it could not be held liable for the defamatory content. Even though they had made attempts to filter objectionable content.
- Still opening up a can of worms with the millions of posts, spends hundreds of \$\$\$ in court. weather, stock quotes, obviously incorrect difference in newspapers and tv stations they control all these reporters.

Stratton Oakmont v Prodigy Services Index #94-031063 (N.Y. SUP. Ct., Nassau County, Jan. , 1995)

- Wolf of Wall Street- DiCaprio
- Prodigy Liable – conscious choice to exercise editorial control greater liability than Prodigy Wolfs of Wall Street
- Prodigy promoted its self regulation. Board Leaders
- Not binding on other fed circuits or state courts. They would have to litigate every case. Only answer: legislation
- Legal Liability would be overwhelming Not binding on other fed circuits or state courts. They would have to litigate every case.
- Only answer: legislation
- Legal Liability would be overwhelming In the end Prodigy liable. CompuServe not. What to do

Understanding Liability Under the CDA and the DMCA

- **Communications Decency Act of 1996**

- Understanding its history/ Unintended Consequences
- The CDA was the first major attempt by the United States Congress to regulate indecent material . Unintended consequences
- Besides the attempt to regulate indecent material and obscenity, a section of the Act stated that internet service operators are not to be mistaken for publishers
- The “publisher” of online comments is the initial comment poster, and websites are not legally liable for the communications of third parties using their service. Good/Bar Reviews, Valuable/ Not
- Sort of like an owner of a copy machine not responsible for what people copy unless he is copying his own material that is illegal. Telephone Line Same Principal.. Book Store
- If publisher/site same CDA does not apply.
- Not going anywhere, In new NAFTA agreement
- Copyright Lawsuit by Lawyer- check box, copyright
- Compare- European Court of Justice- right to be forgotten...

CDA – COMMUNICATION DECENCY ACT OF 1996

- *If a website owner isn't responsible for defamatory comments posted on their pages or listings, are they ever to blame in a defamation scenario?*
- The CDA helps protect the value of platforms like Facebook or Twitter and search engines like Google
- It discourages blaming the parent site for any statements made by the millions and millions of visiting internet users who are free to speak their minds
- Editing or commas doesn't lose CDA Organizing it no loss
- As long as Website doesn't materially change/ go to far and become publisher.
- Now, there is a carve out provision, lewd, terrorism....
- So, you can see it is like the Wild West

PARKER v. GOOGLE

422 F.Supp.2d 492 (2006)

- In Parker v. Google, Inc., a case from the early 2000s, a man alleged that the search engine Google archived defamatory content about himself and made that content available via search
- The defamatory messages made about Mr. Parker on a third-party website were displayed by Google as an authorized biography when internet browsers searched his name in the Google query
- According to Mr. Parker's case, he sought to sue Google for multiple violations including defamation, invasion of privacy, racketeering, and negligence among a handful of others
- No Human Intervention, hence does not meet necessary elements

Zeran v. America Online, Inc., [129 F.3d](#) 327 (4th Cir. 1997), ^[2][cert. denied](#), [524 U.S.](#) 937 (1998),

- First Case to challenge the CDA
- The Fourth Circuit held that each of the plaintiff's claims was barred by the CDA, holding that Section 230 "creates a federal immunity to any cause of action that would make service providers liable for information originating with a third-party user of the service." In the words of the *Zeran* court:
- [L]awsuits seeking to hold a service liable for its exercise of a publisher's traditional editorial functions – such as deciding whether to publish, withdraw, postpone or alter content – are barred. The purpose of this statutory immunity is not difficult to discern. Congress recognized the threat that tort-based lawsuits pose to freedom of speech in the new and burgeoning Internet medium. ... Section 230 was enacted, in part, to maintain the robust nature of Internet communication
- Facts: six days after the [Oklahoma City bombing](#), a message was anonymously posted on [America Online's](#) (AOL)
- [bulletin board](#) advertising items with slogans glorifying the bombing of the [Alfred P. Murrah Federal Building](#)
- Zeran, the plaintiff, had nothing to do with it, but his number was placed in the statement. Zeran, threatened. AOL removed but someone posted again. He sued AOL. And lost.
- Congress has provided such a clear expression with the CDA. It is even retroactive.
- Drastic decision and downhill from here

NEMET CHEVROLET, LTD v. CONSUMERAFFAIRS.COM 564 F. Supp. 2d 544

- According to Nemet Chevrolet, LTD., the Consumer Affairs review website hosted user complaints about the dealership that violated defamation and other laws
- Nemet was outraged that internet users posted allegedly false negative reviews of their dealership and the used cars purchased there
- The representatives of Nemet Chevrolet, LTD. also alleged that the review website had solicited posts from users, organized them in particular categories that would be especially damaging to the dealership, and edited them themselves

NEMET CASE RESULTS

- The court ruled that the website's behavior wouldn't disqualify them from immunity under the CDA because it did not make them content creators or liable to be sued for the comments
- The court concluded that the dealership failed to make any perceptible argument on how a website operator "creates" the website content by contacting potential users with questions
- In the end, ConsumerAffairs.com was never identified as an information content provider and never tried for defamation
- Nemet is out of business

HASSELL v. BIRD, & YELP 247 Cal.App.4th 1336

- Lawyer and client involved in a fee dispute
- Lower Court went with Hassell
- The California Supreme Court sided with Yelp in the end, finding it unlawful to force the company to remove reviews on a legal dispute of which they were not a party. Recently, Court refused to hear case.
- This was the exact purpose of the CDA and its intended protection of companies such as Yelp. Yelp won..
- Overturning the CDA and suing a website for defamatory comments is very difficult to accomplish. It would take new, creative arguments to justify suing a website or website owner since the CDA has been protecting such entities since the dawn of the internet decades ago.
- **Current Events**
 - NAFTA.
 - Congressmen David Nunez v. Twitter re: Allowing accounts to assault him. People following those accounts went from approx. 10,000 to 400,000.
 - Name of website not defamatory

POSSIBLE CHANGES TO SECTION 230

- PRESIDENTS:
- Trump- Drafted Executive Order , but tabled. Wanted the Section to more narrowly define.. Also, collect complaints about political bias
- Biden- Also, not a fan. Revoke immediately. Propagating falsehoods
- CONGRESS:
- Republicans-Punish arbitrary or discriminatory moderation. Grant immunity for decisions within TOS and w/ reasonable explanation.
- Democrats- More content removed , erode protections of section 230
- Tech Companies:
- Zuckerberg, leading the way. Somewhere between phone and newspaper. 24 hours to remove certain posts. What happens if they are wrong. Violation of first amendment.

DMCA

- The Digital Millennium Copyright Act
 - The DMCA was penned in 1998 (signed into law by President Bill Clinton) and implements two 1996 treaties of the World Intellectual Property Organization (WIPO)
 - The purpose of the DMCA was to criminalize the production, use, and dissemination of various technology, devices, or services that are used to circumvent measures controlling access to copyrighted works
 - Send take down notice to website. Safe harbor. Civil (profits fines
 - criminal penalties. 5 years repeat offender 10,000
 - Find an individual Website, ISP, SEARCH ENGINE
- Must prove you are the owner.

VIACOM v. YOUTUBE, GOOGLE INC No. 07 Civ. 2103, 2010 WL 2532404 (S.D.N.Y 2010).

- Viacom claimed copyright infringement and sought more than \$1 billion in total damages
- Claimed YouTube, Google owned. was engaging in intentional copyright infringement on a massive scale by hosting a contended 160,000 unauthorized clips of Viacom's entertainment programming
- To avoid liability, Google relied on the 1998 Digital Millennium Copyright Act's "safe harbor" provision . Carves out a protection for passive, essentially not knowing. How could they?
- In a district ruling, the court acknowledged that YouTube was protected by the DMCA and granted a summary judgement in their favor
- Viacom source of revenue., split ads /generat interest in their proگرامing

MAKING THE DECISION TO SUE

- *Should* you sue? Fed Court likely to appear on Google search . Strong Authority, so ranks high in algorithm. No disposition, only complaint seems to appear.
- Sometimes, the process of seeking compensation is grueling and may not always end with the resolution people expect it to
- Each case can vary widely and results may swing in your favor or not
- Having an experienced legal team supporting your case in its earliest stages is your best method to ensuring success
- What if on page 3 or 4 , will it fight its way up. What if algorithm changes and is page 1
- Review your name and all derogatory adjectives possible.

Determining the Culprit

- A good rule of thumb for online defamation is the “speaker” is always responsible (as opposed to the “publisher” of the website being responsible)
- Competitors, Disgruntled Employees, Resentful Customers, Extortionists (Ukraine Example)
- Sue Who
- Now date, time of defamer

Determining the Culprit (cont'd)

- Communications Decency Act of 1996, which states:
 - “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” 47 U.S.C. § 230(c)(1)
- Suit must be extremely specific, most cases should identify culprit, if you cannot use email address or any identifier
- What happens if you still cannot..

Identifying Anonymous Persons

- Usually know people who are angry and do it right away. They don't wait a year. Also you can usually identify through subpoena. No one really anonymous other than library.

But In case you don't know:

- If you have an idea who is behind it. Have them sign an affidavit saying not behind the attack. Guilty parties will likely refuse. Eliminate possible culprits
- Many times, people go to great lengths to hide their identity
- VPN (Virtual Private Networks), Burner Emails, and more to ensure anonymity.
- Cyber investigators can obtain the Internet Protocol (IP) computer's unique identification number of anonymous posters. Linguistic Expert
- Another way to identify anonymous persons is to sue a John Doe subpoena the third-party website hosting the defamatory content.

IDENTIFYING ANNONYMOUS PERSONS (CONTINUED)

- Get email address or recovery email address Ex. GMAIL, go to google, time stamp they will provide(VERY IMPORTANT), look up at itools.com , subpoena ISP
- Always REQUEST everything

THE GOAL

- *Is your mission to have the defamatory comment removed from the internet OR monetary damages?*
- *Does the entire forum page contribute to the defamatory claims made against you or your business? Multiple posts ? You cant go after everyone. NY Park*
- You have to consider your intent before you can determine the scope of your case

ASSOCIATED COSTS

- You'll have to consider the legal expenses as well as those people hired on during the investigation to discover the culprit
- There is also the cost of potential risk should the situation get out of hand
- *Is the harm done to your reputation equal or greater than the associated costs of pursuing the attacker? Everyone has access to the lawsuit and its salacious details.*
- You may suggest a cease and desist letter, a useful tactic that may help you avoid an extensive lawsuit. Of course, then it is out of your hands.

CEASE AND DESIST LETTER

- Requests that any defamatory comment be removed immediately before legal intervention comes into play. Try to make it a contract or something else b/c defamation cases are hard and this makes it a little easier. Don't push them against the wall, customize letter no boilerplate ONE CHANCE BF SUIT.
- Can be an easier alternative to court involvement; It's an opportunity to present the attacker with a chance to avoid a legal fight and to settle the case without hassle
- You will also want to try and get an Agreed Judgment/ Default Judgement/Comfort Judgement to get some websites to remove
- However, once a letter is sent, it's out of your hands and can't be taken back, but than a lawsuit is too. Give them a CARROT
- Terms of Service, sometimes transfers ownership of your original copyrighted material to website. Lawsuit was won, Plaintiff got copyright sued. Court ruled non-adhesive and it was signed away. By the way another lawyer COPYRIGHT SUED ON THAT BASIS.
- Make it right by doing what they are complaining about

IN THE EVENT OF A LAWSUIT

- In the lawsuit, the victim of defamation must explicitly state any defamatory comment(s) made against them by the culprit
- Pleading the actual statements makes them accessible to the public, and from there open to talk and interpretation. Press, nosey neighbors...
- **Information available on WHOIS**
 - owner of site, who hosts
 - Proxy owner
 - Subpoena owner of site for Information will provide details: IP (static or dynamic) address

SLAPP/ANTI-SLAP PROCEDURE

- **Strategic Lawsuit Against Public Participation**

- **A SLAPP**

- This is a tool to silence or harass individuals from criticizing another by making them spend a large sum of money to defend baseless suits
- The defendant is expected to succumb to fear, intimidation, legal expenses, or else become burned out to the point of dropping the case .
- Ex. Trying to protestors against Trump
- In Texas

Plaintiff must show covered by the SLAPP act. Obviously, they do not mention SLAPP, SO YOU MUST LOOK AT IT CLOSELY

Non Movant: has to meet the heightened pleading standard requiring clear and specific evidence of the defamation

- Publication and it was false, requisite degree of fault, damages unless per se like crime

- **ANTI-SLAPP**

- laws have been put into place to deter this type of behavior in legal proceedings

THE STRIESAND EFFECT

- An online archive, called the California Coastal Records Project, photographed the California coastline for its records
- Streisand found the photos and noticed the online collection included shots of her Malibu Mansion for the public to see. She wanted photographs removed
- Because of her legal efforts, her private home's location went from being known by only a handful of people to hundreds of thousands of international visitors to the archive.
- She eventually withdrew her case
- David Nunez v. Twitter re: Allowing accounts to assault him. Went from 10,000 users to 400,000 users .

STATUE OF LIMITATIONS

- Deadlines for filing specific types of lawsuits vary between cases and from state-to-state
- The window of time that victims of an online defamation attack can open a case begins (typically) on the day in which the attacker first posted the defamatory comment(s).
NATIONWIDE BI-WEEKLY ADMINISTRATION, INC., Plaintiff-Appellant, BELO CORP Defendants-Appellees. 512 F.3d 137 (2007)
 - You'll have to check with your state
 - Why:
 - To encourage plaintiffs to bring actions within a timely manner and with reasonable diligence,
 - To prevent the possibility of destroyed or lost evidence by the defendant,
 - But, if past the statue, sue for permanent injunction, specify defamatory comments.
may help now/future

BUILDING A DEFENSE/PLAINTIFF'S CASE

DEFENSE

- Truth is accepted as a complete defense to any defamation claim made against the victim.

PLAINTIFF

- To win your case, you will have to prove a few things to the court:
 - A defamatory comment was made against you or your organization that included false statements
 - The statement in question was published or communicated to a third person
 - Someone is at fault, and they displayed at least negligence in their mishandling of information
 - Your or your organization's reputation suffered because of the defamatory comment

THE SINGLE PUBLICATION RULE

- The "Single Publication Rule" prevents multiple suits from being filed for the same instance of defamation (no matter how many times it gets reprinted)
- Because so much content is repeated and disseminated to multitudes of people, the rule helps make sure people aren't sued indefinitely for the reappearance of defamatory comments
- The legal system needs to work like a well-oiled machine, and having unnecessary and multiple cases for the same statement gradually erodes at its efficacy.

The “Discovery” Exception

- This exception overrules traditional statutes of limitations and deadlines in extremely rare instances
- The “discovery” rule applies to certain situations where the subject of a defamation attack did not come across defamatory statements until a while after they were made (or else too close to the deadline for proper legal action). Now very difficult because of the internet.

POTENTIAL EXTENSIONS OF SOL

- Delaying a statute of limitations' "clock" (as it's called) or else pausing the window of time can help extend the filing deadline
- In the defendant's absence (or relocation to another state), the "clock" essentially stops running
- If someone's reputation comes under attack while under the age of 18—or else they were legally incapacitated when the statement was made—the "clock" won't begin to run until they reach legal adulthood or declared legally competent and able to defend themselves
- Statue has passes. LasT Idea, New Permanent Injunction not to do it anymore. Recite old defamatory content. At least you have something
- Prevents future attacks, identifies culprit, maybe Law/CDA changes.

PUBLIC vs. PRIVATE CASES vs. LIMITED PURPOSE PUBLIC FIGURE

- In a defamation claim, public individuals (such as celebrities and political figures) and private individuals (the average citizen) may be required to present differing proof of defamation. Private = Negligence
- *New York Times Co. v. Sullivan* - From this case, the court developed the “malice standard” that’s still in effect today
- In this landmark United States Supreme Court case, the court ruled that an act of malice must be proven before reports about public officials are considered defamatory
- Public figures demand scrutiny and can defend themselves. Equipped to handle public scrutiny.
- Trump has made rumblings about changing this.
- Limited Public Figure- *Journeyman v. Kobe Bryant*

INVITED DEFAMATION

- Something to discuss with your client before attempting to sue is the topic of “invited defamation” (made famous in cases such as *Johnson v. City of Buckner*, 610 S.W.2d 406)
- In certain scenarios, these cases can alter the definition of defamation in court and make winning a case tremendously more difficult.
- Ex. Gives prospective employer to call previous job. OR two people verbally fighting

Proof Required for Lawsuit

- You will have to review your state's specific defamation laws to be certain of your requirements and the documentation that will be needed. In most jurisdictions, you can't waive SOL
- Proof required against a culprit: You will have to evaluate the situation and learn whether proof of malice or proof of negligence is required
- Public figures typically must produce proof of malice when presenting a case in court, , malice requires concrete knowledge that the poster knew what they said would be false and damaging
- Private individuals can open a lawsuit after only gathering proof of negligence on the culprit's part
- Limited Public Figure- *Kahl v. Bureau of National Affairs, Inc. DC Appeals Court Standard is actual malice.* In sum, the Court of Appeals concluded that "Kahl's active role in the controversy concerning the shootout and in the debate over taxes and the federal government means that he is a limited-purpose public figure in this case."

MALICE V. NEGLIGENCE

- **Proof of Malice**

- Malice: An attack that was made by someone who knew their statement was false when they wrote it or else acted with reckless disregard for the truth in their statement

- **Proof of Negligence**

- You must prove to the court that the attacker acted with reckless disregard for the truth of their claim. You can accomplish this by presenting examples of how the defendant didn't use the appropriate level of care

PROOF OF DAMAGES

- In addition to the intent behind the post, a defamation case will require proof of damages (or potential for damage) that the defamatory posts incited
- This can be a statement of quarterly earnings before and after an attack, proving a loss in revenue following defamatory statements
- You can tally up how much your company lost in the process and add it to the associated court fees to arrive at a final compensation value
- Easier since internet

Preparing all of this !! YOUR LAWSUIT

- In case you settle- get a statement of settlement or never proven, dismissed
- .
- Your eventual goal shapes your entire case, from the length of time involved to the type of evidence required from you and your legal team
- Your intention in a defamation case should be to minimize the damage done to your client's reputation and remove any related defamatory statements from the internet
- A defamation lawsuit isn't a way to secure excessive funds, but instead a way to make up for defamation to you or your company

COURT ORDER

- details required in a defamation court order are:
 - A clear, explicit representation of the original defamatory statement. Date, Location. Remember you are preparing for Google or Websites ToS
 - A section which states exactly how the statement violated website terms as well as your proof of negligence or malice
 - Proof of a damaged reputation (any hard evidence supporting a drop in customers, following, or revenue because of the defamation)
 - Compensation requested as well as a clause for removal of defamation from online sources. MAKE IT RIGHT
 - Agreed Judgment/Default Judgement usually not accepted by google and other websites Maybe a comfort order.
 - Clause against future “reprinting” of the defamatory statement
 - It may also assist you in prompting Google to remove associated false content from its result listings. This means getting rid of any related search results or aggregated content that quotes the defamatory statement and displays it on result listings.

Google and other websites do on a case by case basis. Now, It is very difficult

COURT ORDER CONTINUED

- Google and others do it on a case by case basis because of this
- Lumen Database- 6,000 REQUESTS A DAY. Will be on it, request by email, doesn't show up under persons name sometime. Best to give to website to remove. Typically Non-dischargeable in B/R
- Govinfo.gov-permanat unless you seal the record

REMOVING DEFAMATORY CONTENT FROM WEBSITE

- Some websites never purge: News articles, Ripoff reports, other websites protected by CDA. Ex.obituary, must pay arbitrator -

- **Via a Terms of Service (TOS) Agreement:**

- Court orders can be presented to websites with the intent to remove defamatory comment. Some will and some will not.
- Example: Ripoff Report Will Not remove
 - Arbitration Program and others that you have to pay for removal. Don't be complainant, Google may pick it up.
 - Phantom Defendants
 - Even lawyers have been allegedly defamed . Client was upset Lawyer, who rides a bull on his commercial faces criminal prosecution for computer fraud and threats against site and attorneys who rep sites. Wichita Journal. **Case still pending Case # 6:18-cr-10099-EFM-01-02 careful of websites.** Example Ukraine
- The court order should present a clear case with facts of TOS violations against the website in question. Google done case by case basis Google all or nothing. Websites some or all

REMOVING DEFAMATORY CONTENT ON A WEBSITE CONTINUED

- Lumen Database- 6,000 REQUESTS A DAY. Will be on it, request by email, doesn't show up under persons name sometime. Best to give to website to remove. Typically
- Defamation Monetary Judgments Non-dischargeable in B/R

DRAFTING A COURT ORDER

- You'll need to obtain a court order to enter at trial
- A court order may be something as simple as marking a date for trial in the appropriate court or as complex as preparing months of past documents and reports into a lengthy statement to bring before a judge
- The court order will announce exactly who is being brought to trial and for what purposes (you must single out a specific individual)
- Each court order must also explicitly state the defamatory statement that is at the root of the case
- **This is the best solution, but it still will appear in Lumen at bottom**

COMMON WEBSITES

- COMPLAINTBOARD.COM
- CONSUMERAFFAIRS.COM (1.0 M COMPLAINTS)
- PISSEDCONSUMER.COM (1.2 M COMPLAINTS)
- RIPOFFREPORT.COM (ARBITRATOR ANNONYMOUS NOW, LAWYERS HAVE BEEN POSTED, OWNER IN HIDING) (READ 2011 US JUDGMENT) (2.5M COMPLAINTS) (since 1999)
- BADARKANSASATTORNEYS.COM
- THE DIRTY.COM
- RATE MY PROFESSOR.COM

All have different Terms of Service that are long be creative.

Another reason they rank high



COMMON TERMS OF SERVICE VIOLATIONS

- Illegal activities
- Malicious/Deceptive Practices
- Hate Speech
- Harassment
- Sexually Explicit Material
- Defamatory Content
- Extortion sites (Google other sites not yet)

RESTORING YOUR REPUTATION

- New content and fresh online campaigns will draw more positive attention to you or your company
- Partnering with a reputation management company.
- Some good some bad
 - Reputation management companies are well-suited to handle defamation cases as they frequently partner with defamation attorneys and, as a result, have decades of experience in defamation law. Articles should help
- **Be careful!! It took me a while to find a good one and I do it myself. Never newspapers. Canadian firm, \$169 month to monitor. U can do that yourself. I have a company. Or maybe you want become an expert, help you get business**
 - Articles
 - have to be neutral or Google will not rank
 - Some companies republish to build up clientele
 - Some companies don't do anything or do it poorly
 - Change company name..

CONCLUSION

- The keys to success in a defamation case are:
 - Reacting to defamation as quickly as possible to avoid losing the opportunity to counter it. Neg comments are more powerful on Google
 - Understanding your case and free speech, and how online defamation is handled in court
 - Hiring an experienced legal team who is familiar with Defamation Law
 - Determining who is responsible for the defamation attack and whether you should sue the individual for compensation
 - Penning a comprehensive court order defining:
 - proof of the defamation
 - proof of its negative effect on your reputation
 - clauses that encompass the full present and future appearance of the defamatory statement
 - Send to website
 - Work with website
 - Hire a reputation management company Second or third page.
 - Wild West
 - Check your reputation monthly. SOL is ticking. I do. I believe if people knew harm they would not do it.
 - What does the future hold:
 - Adhere to court orders by naming them. If search engines want to fight the can. But, most want
 - Insurance for people defamed in the course of work.

BEST COURSE OF ACTION

- Read TOS
- Arbitration certain websites only. Arbitrators are anonymous, complaints against them on web
- See if they will.
- File lawsuit : State over Federal
- Try to get a comfort order, agreed judgment, default order
- Present to website during arbitration
- Submit to search engines
- SEO

Current Events

- IN Australia, GOOGLE held liable for defamation of prominent attorney George Defteros. Accused of mafia attorney with a link. Never proven, dropped
- Dublin just started Defamation act in 2009