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Client Bulletin



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Responding to a Malicious Online Review

The internet allows a business to scale its marketing effort with great service and content, as opposed to a big print and broadcasting budget. Unfortunately, that same effect can also empower malicious reviewers and disgruntled former employees. Available legal remedies have not quite caught up to the internet age, when one considers the common law element of “publication” under libel and slander and what that means with the speed and pervasiveness of Google, Yelp and other social media. Small claims courts in Ohio are specifically prohibited from hearing libel and slander cases [Ohio Rev. Code 1925.02 (A)(2)(a)(i)]. So, if you wanted to sue someone posting a malicious review, you would do that in a court of common pleas, which would typically be expected to take longer and cost more. Before you resort to that, it’s worth considering what you can do for yourself and what you may or may not be able to persuade an organization such as Google to do as far as taking down the review.

First, in terms of what you can do for yourself:

- ◆ What is objectively true and false about a review, black and white, without any shades of gray, so that you can write a short, courteous reply that avoids a protracted online back and forth that only digs a deeper hole for your business?
- ◆ For example, if your records show that a reviewer was never a customer, but only an employee, use that for the basis of drafting and posting a reply, as in: “Bob, while we do recall you as a former employee, we don’t ever recall having you as a customer. Please call me if you would like to discuss this further – it’s important to us that our customers have a good experience with our business.”
- ◆ Think about starting a review campaign with your customers. For example, you could simply ask for reviews by giving a pre-printed slip to a customer, or emailing customers after with a link to write a review. With that, you can try to turn a negative review into an outlier. You might combine this with a customer survey – anyone responding to the survey might get a coupon off for the next purchase, for example.

Second, in terms of what you can do with the webmaster, look into Google’s terms and conditions for reviews. This may be a steep climb after multiple efforts citing specific violations of specific written terms of use, but it would appear our hypothetical of a review by a former employee violates at least some of the following reviewer terms and conditions:

Local review policies and How to Report Inappropriate Reviews - <https://support.google.com/places/answer/2622994?hl=en>

“Conflict of interest: Reviews are most valuable when they are honest and unbiased. If you own or work at a place, please don’t review your own business or employer....”

“Impersonation: Don’t post reviews on behalf of others or misrepresent your identity or connection with the place you’re reviewing....”

How to respond to reviews - https://support.google.com/places/answer/184271?hl=en&ref_topic=1656749

If you have any questions or comments, please feel free to contact us.

Law Firm Sponsorships

Manos, Martin & Pergram is the Presenting Sponsor for the Council for Older Adults' "Rock the Boat Caribbean Cruise" fundraiser on September 6, 2014, to support all programs and services offered by the Council for Older Adults for Delaware County senior citizens. Information regarding "Rock the Boat" can be obtained on the Council's website—www.growingolder.org/cruise/.

The law firm is also a bronze sponsor of the Sarah Moore Home's golf scramble at Oakhaven Golf Club, 2871 U.S. 23 North, Delaware, Ohio, beginning at 10 a.m. on Friday, August 22. Please contact Sarah Moore Home at (740) 362-9641 to register.

Have you Been Thinking About Having Your Estate Plan Drafted but Just Have Not Gotten Around to it? READ ON!

It is estimated that 70% of adults do not have a will. Many people put off drafting their estate plan for various reasons: busy schedules, perceptions that planning is only for estate tax avoidance, or fears about end of life issues. Whatever the reason may be, you should know that **EVERYONE NEEDS AN ESTATE PLAN** – young or old, wealthy or not. Having a well-crafted will, financial power of attorney, living will, and health care power of attorney will ensure that:

- ◆ Your hard-earned assets are divided among your loved ones according to *your* wishes and not how Ohio's Intestacy Law prescribes.
- ◆ Your favorite charity or educational institution receives any donations *you* may wish to give.
- ◆ Your children are placed with the guardian *you* want and not who the court designates.
- ◆ Your end-of-life wishes are made known, namely those related to artificial nutrition and life sustaining measures.
- ◆ Your financial and healthcare decisions are made by someone *you* trust when you are unable to speak for yourself.

Remember, what you do today will affect your family's future. A thoroughly laid out plan will help ease their stress if you become ill or after you are gone. *It's time to get your affairs in order and protect your family.* **Contact attorney Elizabeth Miceli at (740) 363-1313 to set up an appointment.** Evening and weekend hours are available to accommodate your busy schedule.

Notice

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

If you have friends or associates who you think would enjoy receiving a copy of this Client Bulletin, please feel free to forward it on. Thank you.

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