

Publications

Cease and Desist Letter an Effective Response Technique for False Online Reviews When Strong Legal Grounds Exist

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CLIENT ALERT | 9.23.2014

Businesses and individuals have increasingly become victims of false online reviews. When a party has been the subject of such damaging internet posts, there are a variety of techniques an attorney or other hired professional (e.g. PR or ORM expert) can utilize to assist his or her client.

On the legal side, a cease and desist letter is often among the most effective solutions, if used in the right circumstances. These letters, often referred to as demand letters, essentially warn their recipients that if they do not end their harmful conduct or perform the requested action within the specified period, the sender will proceed with litigation.

In many, if not most, of these internet defamation cases, the false online reviews are posted anonymously or pseudonymously. Once the identity of a false review's author is known – often discovered through [the subpoena process](#) – an attorney can send them a letter to accomplish the following: 1) request removal of the damaging statements or entire post; and 2) make the person aware that the attorney's client is prepared to proceed with the lawsuit if the online attacks do not cease.

As alluded to above, a cease and desist letter is a valuable tool when a harmed party has a good legal basis for sending one – especially when attaching the actual filed complaint or complaint the attorney intends to file.

But if a letter is sent without a strong legal basis, it gives off the impression that the client (and attorney) is bullying that person, particularly in the context of a business review written by a customer. Legal counsel should ask how the company would be perceived in the court of public opinion – as a bully or a victim?

Back in March, a [New York business came under fire after its attorney sent a threatening letter to an online reviewer](#) and that letter went viral – first posted by Gawker.com and then circulating to other

websites and mainstream media such as the New York Post and CBS New York.

In this particular case, a man posted a 2-star review on Yelp about this business, in which he expressed his displeasure with the service he received and said that he “cannot recommend them based on my experience.” On the surface, there was nothing disparaging about this 2013 review, and it seemed to be based on fact.

Accordingly, many readers of the initial story went straight to Yelp, where they posted unfavorable reviews of the business to lower the business’s online rating and, accordingly, its reputation. Although these reviews did not stay up on Yelp long, the impact could still be seen in search results — the most likely place prospective customers would turn to for information on the business.

In May, anyone Googling the business likely would have seen four news stories about the threatening letter among the top six Google search results for the business’s name. Today, only one of those stories is among the top six results today and there are just three on the first page. But the original piece from Gawker ranks third and it is difficult to not see its eye-catching headline and accompanying snippet.

And, for what it is worth, the Gawker piece did not reflect very well on the actual attorney either.

In short, cease and desist letters are often very effective and frequently lead to the removal of harmful — and actually false — online postings and can limit further attacks. But attorneys should tread lightly if they lack a strong legal basis for sending a cease and desist letter, as it may wind up creating more harm for the client (and maybe even the attorney) than the original negative review itself.

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