

Removing Defamatory Statements From the Internet Using a Court Order

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For businesses and professionals defamed on the internet, most simply want the false content removed. Fortunately, there are a number of ways to obtain removal, one of which is through a court order.

Websites and other entities do not want to be tasked with having to weigh the facts of any situation and making a judgment call. Therefore, most will not delete content just because a party alleges a post is false.

Most websites will, however, remove content declared false by a court, even though court orders are typically against the actual posters of the content and not the websites themselves.

In short, court ordered removal involves obtaining a judgment against the poster of defamatory content online and then presenting the court order to the websites (or, when relevant, Google) on which the false content is appearing.

Of course, obtaining a court order involves filing an actual lawsuit with legitimate claims and pursuing the authors of the harmful content. When a defendant is known (or can be identified and later named as a defendant), the parties might settle and each sign an agreed order, which can be presented to the court to grant the requested judgment.

We have seen instances in which a defendant is identified, yet that person is extremely difficult to track down and does not answer the complaint and, therefore, a plaintiff can move for a default judgment.

Similarly, it might be difficult to identify the defaming party but, following the completion of court-granted service by publication or alternative service, the plaintiff can move for and obtain a default judgment.

Crafting an order

As frequently mentioned on our blog, the [Communications Decency Act](#) immunizes websites from liability for most user-generated content. Thus, a defamed party must go after the posters themselves and, as

stated above, court orders must be against the specific online posters and not the websites on which the statements were published.

Court orders must also declare the statements in question (at the specified URL or URLs) to be false and defamatory, perhaps including in the order the actual defamatory statements – making it clear to a website, when presented with a court order, why the particular post is unlawful.

Additionally, an attorney preparing a court order should also include language mandating removal (or, rather, mandating that the defendant or the parties request removal – given that a website generally cannot be forced to remove false content when the order is against the poster).

This might include a section mandating that the parties request removal from Google, in case it becomes necessary to submit a request to Google to remove false content from its search results index.

Finally, an attorney drafting a court order might want to include additional language that can assist with the removal of future identical or substantially similar content that is later found online.

Whether the poster of the false content has published identical content elsewhere, or if another less-sophisticated website republishes a false posting, verbatim, passing it off as its own (which seems to happen a lot to Ripoff Report postings), the defamed party might not discover these identical posts until after the court order has been entered.

Thus, by incorporating a clause mandating removal of identical or substantially similar false content discovered at a later time, the plaintiff can still contact a website or Google with the court order and show that removal of the URL(s) is still mandated.

How different entities respond to court orders

In general, legitimate websites will act on valid court orders.

For example, [Pissed Consumer notes on its website](#) that it removes false content pursuant to court orders. Similarly, WordPress—upon receipt of court orders—contacts the owners of the relevant WordPress sites and ask them to take action.

When site owners do not take action within seven days, in response to court orders, WordPress typically suspends their sites and effectively removes the content.

As mentioned previously on our blog, Ripoff Report does not remove defamatory postings.

However, according to its court order [policy](#), Ripoff Report will review a valid agreed order (but not a default judgment) and redact false statements when: 1) the court order is “supported by admissible evidence, including reasonably corroborated affidavits under oath, that specifically identified statements of fact in the report on Ripoff Report are false and defamatory”; and 2) where there is no doubt that the order in anyway violates the First Amendment.

Of course, Ripoff Report does not remove entire postings, which can still rank highly in search engines. Therefore, an attorney representing a defamed party should consider submitting the court order to Google with the objective of having Google **remove the search** results pertaining to the particular Ripoff Report postings.

This same approach can be utilized for other websites that are unresponsive to court orders, including the aforementioned unsophisticated website, many of which often demand money for removal.

Google will generally remove search results linking to defamatory content in response to a valid court order, so long as it can be shown that the defamed party actually notified (or attempted to provide notification) to the posters of the content, and where it is not reasonably possible to get the content removed from the particular website(s) directly.

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