

Removing Defamatory Statements From the Internet Using a Court Order

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Colleen M. Devanney

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Most businesses and professionals defamed on the internet 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 make a judgment call. Therefore, most will not delete content just because a party alleges a post is false.

Many 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.

Obtaining a court order does involve filing an actual lawsuit with legitimate claims and pursuing the online poster. When a defendant is known (or the plaintiff can identify the unknown person and name him or her a defendant), the parties might settle and each sign an agreed order. The parties can then present the order to the court for the judge to grant the requested judgment.

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

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

Crafting an order

As frequently discussed 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. As mentioned, court orders must be against the specific posters and not the websites on which the posters published the statements.

Court orders must also declare the statements in question (at the specified URL(s)) to be false and defamatory, perhaps including in the order the actual defamatory statements. When either party (or a plaintiff when the court grants a default judgment) submit a court order to a website, this makes it clear to the website why the particular post is unlawful.

Additionally, an attorney preparing a court order should also include language mandating removal. In many instances, this mandate might actually be an obligation to *request* that content be removed, as a website generally cannot be forced to remove false content when the order is against the poster.

For instance, a section might mandate that the parties request Google remove the offending search results. This is important to include when it becomes necessary to submit a request to Google to remove false content from its search results index. For example, when removal is not possible, like from Ripoff Report.

Finally, an attorney drafting a court order might want to include additional language that can assist his or her client in removing 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 states](#) 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 — effectively removing the content.

As mentioned previously on our blog and above, 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.

Parties can utilize this same approach for other websites that are unresponsive to court orders. This included more unsophisticated websites or sites operating outside the U.S., 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. But a defamed party must demonstrate that it actually notified (or attempted to provide notification) to the posters of the content, plus it must not be reasonably possible for the plaintiff to get the particular website(s) to remove the content directly.

For more information, contact Colleen Devanney at 855.542.9192 or cmdevanney@vorys.com. Read more about the practice at <http://www.defamationremovalattorneys.com/>.