



NEWSLETTER

Defending Your Online Reputation Against Astroturfing and Fake Reviews

By Jason Castillo

(This is the second in a two-part article on defending you, your law firms and your client's online reputation. In the first article I detailed a few proactive points to consider when faced with genuine negative online reviews. In this article I will focus on astroturfing and fake reviews from competitors and disgruntled ex-employees.)

Protecting your online reputation has become an extremely important topic for attorneys and the client's that they represent. I was talking to a business attorney a few months back about this issue and it was this conversation that spawned these two articles. One of her business clients was getting numerous negative anonymous comments on review websites like Yelp. Her client was convinced that these were not genuinely bad reviews – they were coming from a disgruntled ex-employee who was unceremoniously terminated a few months before the negative online reviews began popping up. The attorney had no idea where to even begin to help her client.

Increasingly more attorneys, law firms and businesses have also had to deal with this difficult dilemma – what to do about fake online reviews written by ex-employees and competitors. The effects of these negative reviews cannot be understated. Numerous studies point to the fact that a few bad reviews can lead to thousands of dollars in lost business and also the loss of clients for attorneys. For example, studies have shown that a one star increase in Yelp ratings can boost a restaurant's sales by nearly 10%! And Yelp has even recently sued unscrupulous law firms that have tried to gain an unfair advantage by having employees and others post fake reviews. In today's Web 2.0 World, both negative and positive reviews mean the loss or gain of revenue for law firms and businesses alike.

It's not surprising that two divergent online industries have sprung up in the last few years in regards to websites like Yelp, RipOffReport and even Google places and search. One is the online reputation management industry that has become a \$5 Billion a year business and seeks to legitimately cultivate and protect law firms and businesses online reputation and brand. And the polar opposite – companies that write and sell fake online reviews. These companies often contract with people in third world companies that have never legitimately used the products they endorse or post negative reviews about.

Couple this with astroturfing – and business and many law firms and business have an uphill battle defending their Internet turf. Often times, astroturfing is the act of one company falsely bad mouthing a competitor's law firm or business online. One of the most egregious examples of astroturfing involved Whole Foods CEO John Mackey who posted negative false anonymous comments in Yahoo chat rooms dedicated to stock trading about rival company Rival Oats ... right before a planned acquisition of the company.¹

Upcoming Events Calendar

April 10
Estate Planning and Probate Section 12:15
- 1:15 p.m.

Law Offices of Nancy Kaupp Ewin, Esq.
8166 La Mesa Blvd., La Mesa
Topic: TBA

April 15
Family Law Section
12:00 - 1:15 p.m.

East County Court, Dept. 7
250 E. Main Street, El Cajon
Topic: Demystifying Family Court Services:
Understanding the process and how to best
assist your clients

April 22
Civil Litigation Section 12:00
- 1:15 p.m.

BJ's Restaurant, Grossmont Center, La Mesa
Topic: A Lawyer's Refresher: Financial Records
& Financial Statements
Speaker: Richard Holstrom of RGL Financial

¹ See: Whole Foods' CEO was busy gony online

http://usatoday30.usatoday.com/money/industries/food/2007-07-12-whole-foods_n.htm

Defending your Online Reputation Against Astroturfing and Fake Reviews (continued from page 1)...

So how do you spot these fake reviews about your law firm or your client's businesses?

Attorneys and businesses may be able to identify fake reviews by any of the following signs:

- The reviews are a part of a significant spike in reviews about a particular business over a small period of time.
- A number of the reviews are written from the same email or IP address or as the business reviewed.
- They are written in overly positive language or "marketing speak."
- Many of the reviews about the business or law firm are written with very similar language.

You might ask yourself just how big is this problem? As mentioned in the previous article, after bringing an action against a numerous companies New York Attorney General Eric Schneiderman announced in September 2013 that nineteen companies agreed to stop writing fake Yelp reviews and pay over \$350,000 in fines. Some law firms were even caught up in this astroturfing dragnet because they were writing false online testimonials about their own law firms! Yelp itself recently sued two companies for selling and posting fake reviews. And Samsung was recently fined \$340,300 for hiring people to criticize HTC's products.

While many people feel that nothing can be done about these fake online reviews, you can take action to protect your law firm and your client's business if you feel that you or your client's have been the victims of fake reviews. Initially, you should write a letter to the website or company asking them to remove the fraudulent posts and threatening legal action if they don't cooperate and remove the fake content. If this does not work then it is probably time to consider legal action.

One major issue facing law firms and business, however, is the difficulty in having content removed from websites. For example, the Communications Decency Act (CDA) provides immunity for websites from third party posts. This makes it difficult to have content removed from websites – even if it is fraudulent. Many websites feel that they don't have to remove the false information because they are insulated from liability by the CDA.

However, you may be successful at having false content removed through either a defamation lawsuit or a trademark claim under the Lanham Act. Because managing companies and clients online reputation has become paramount, some law firms have recently begun online defamation practice groups. Over the last two years the law firm Vorys, Sater, Seymour and Pease has developed an entire practice area devoted to address online reputation management and defamation issues. According an attorney at the firm, the firm estimates they are working on 20-30 cases at any given time and online defamation currently accounts for nearly 70% of the work performed by the firm's Internet Crisis Group. If you think that your law firm or client's reputation has been unfairly harmed, it may be time to consider a defamation lawsuit against the offending party.

The Lanham Act may also be another path to redress. Trademark law seeks to protect a company's mark and prohibits false advertising by competitors. Negative reviews are essentially false advertising and under the Lanham Act businesses can recover significant damages if a violation is found. A few of the remedies include treble damages, disgorgement of the competitors' profits, costs of corrective advertising and attorney's fees if the publication of the false review is willful – which many times it is. Often times a subpoena may be necessary to find the identity of the anonymous poster.

A 2012 Pennsylvania case illustrates that these are valid methods to combat these fraudulent negative online reviews. In the case, a marble and Granite business discovered that several posts on various product review websites originated from its competitor's IP address. The court decided that the fake reviews possibly constituted defamation and trademark infringement, thus creating a possible violation of the Lanham Act and the Court subsequently denied the competitor's motion to dismiss the case (see: NTP Marble, Inc. v. AAA Hellenic Marble, Inc., 2012 U.S. Dist. LEXIS 93856 (E.D. Pa. Feb. 24, 2012)).

The bottom line is that it's an uphill battle to get malicious reviews removed. I believe the best strategy is to be proactive and put effort into your online reputation before anything ever happens – don't wait until there's a negative review damaging your online reputation. That way your positive feedback will outweigh any negativity that reaches your profiles. If you are vigilant and consistently work on your positive reviews, a few bad eggs won't have that large of an impact.

For example, if you have no online reviews and a disgruntled employee decides to bash your firm online, then that's all your prospects are going to see. But if there are several positive reviews and you already have a high rating, that one negative or malicious review won't have as much juice. Readers will see that the good heavily outweigh the bad.

And if fraudulent negative reviews begin to pile up, it might be time to consider further action. Write a letter threatening legal action to the website hosting the fake content. If this does not work, it may be time to consider legal action. If you don't have experience handling online defamation or Lanham Act claims, then consult with an attorney or firm who has experience in this area. You must work hard to protect the reputation and goodwill you have painstakingly built over the years and you must also work to protect the clients and businesses that you counsel and represent.

About the author... Jason Castillo is the Director of Legal Education with Attorney Credits, a local CLE company based in Carlsbad. He lives in El Cajon with his wife and two young daughters. Special thanks to Andres Hernandez of Wingman Legal Tech for his contributions to the article.

Foothills Bar Association: Giving Back To The Community For Law Week

By Carolyn Brock, Esq.

This year, the Foothills Bar Association has decided to try a new approach to Law Day and will be putting on four 1-hour free legal clinics for the public rather than the one-on-one consultations. We hope to accomplish a similar purpose in providing the public with much needed legal information. These are being coordinated by the San Diego County Law Library East County Branch and will be held at the Law Library, East County Regional Center 250 E. Main Street in El Cajon. The clinic information is as follows:

April 28: 12 – 1 p.m. will be a Family Law Basics panel discussion which will include a question and answer period by Garrison Klueck, Esq. and Traci Hoppes, Esq. of the Law & Mediation Office of Garrison Klueck.

April 28: 1 – 2 p.m. will be a Landlord Tenant panel discussion head up by James McKinley, Esq. of Kimball, Tirey & St. John.

April 29: 12 – 1 p.m. will be a Conservatorship panel discussion which will include a question and answer period by Miranda Franks, Esq. and Nancy K. Ewin, Esq.

April 29: 1 - 2 p.m. will be a legal clinic on Restraining Orders by Kim Marie Staron, Esq.

Everyone is welcome and all sessions are free! These should be highly informative sessions designed for the benefit of the public. Seating is limited. To confirm attendance or for more information, please call Benita Ghura at the Law Library: (619) 441-4451

Foothills Bar Association's Membership Drive

By: Kathy Mills, Esq.

Since the Foothill Bar Association runs on a fiscal year of July 1 to June 30, the membership drive for the 2014-2015 year will be launching this coming July. As the new Membership Committee chair, I am pleased to announce a new incentive for new members to join early. If you are not a current member and join the Foothill Bar Association now, you get the last few months of the 2013-2014 year for free. For example, if you join in April, your membership will last for 15 months from April 2014 through the end of June 2015. That's 3 extra months at no extra cost and 3 months to take advantage of our excellent MCLE programs and other membership benefits such as this newsletter. So if you are not already a member of the Foothill Bar Association, get plugged-in now and join us!

Foothills Bar Association Notice of Board Meeting:

The Foothills Bar Association Board of Directors meets on the third Tuesday of each month. The next meetings will be April 15, 2014 at the Kriger Law Firm, 8220 University Avenue, 2nd Floor conference room, La Mesa, CA 91942. Meetings begin at 4:45 p.m. and continue until business is completed. If you want your voice to be heard in policy discussion and upcoming events planning or would simply like to learn more about the organization, your attendance is welcome.

THE END OF AN ERA – THE LAST CIVIL COURTROOM IN EAST COUNTY CLOSES

by Mark R. Raftery

After years of insufficient funding from the State of California, the San Diego County Superior Court closed its last full time civil courtroom in El Cajon on January 13, 2014 and transferred Judge Eddie Sturgeon to Department 67 at the Hall of Justice in downtown San Diego. With his reassignment, Judge Sturgeon also took his current case load of approximately 900 civil cases with him.

The closure of Department 14 as a general civil department “marks the end of a one-year effort to consolidate most Superior Court civil operations to the Central Courthouse in downtown San Diego,” according to recent News Release from the Superior Court. To deal with an unprecedented \$33,000,000 budget reduction over the last few fiscal years, the San Diego County Superior Court has shuttered the courthouse in Ramona, closed the business offices in East County and South Bay, closed both the East and South County Civil operations, and lost over 300 employees. Over the last five years, the East County Division of the Superior Court alone has lost twenty-five percent of its work force.

The closure of Department 14 marks the first time in over thirty years that the over 500,000 people of East County have not had a courtroom in El Cajon to resolve general civil matters involving, for example, personal injury, business, and real estate disputes. Currently, all civil cases arising out of the East County that previously would have been filed in El Cajon, and heard by Judge Sturgeon, must now be filed in downtown San Diego, and will be randomly assigned to one of several Independent Calendar Judges.

His transfer to Department 67 marks the first time that Judge Sturgeon, first appointed to the Municipal Court by Governor George Deukmejian in 1988, and elevated to the Superior Court in 1998, has ever presided over a courtroom anywhere other than in El Cajon. He is the only San Diego County Superior Court Judge who has spent an entire judicial career in East County.

Born and raised in El Cajon, Judge Sturgeon graduated from San Diego State University. He then graduated from the University of Santa Clara School of Law in 1974 and returned to El Cajon to practice law. He had a general civil practice and eventually a large criminal defense practice before being appointed to the bench. He has always enjoyed and will miss the “camaraderie and collegiality of the East County bar.”

Although he understands the budget realities that caused the closing of his civil department in El Cajon, Judge Sturgeon has characterized the closing of all civil operations in El Cajon as a “travesty” that will deeply and adversely affect the administration of justice for the people of East County. It is “deeply disappointing,” he said, that people from East County, as well as the South Bay, must now travel to downtown San Diego to inspect court records, file pleadings, and attend hearings.

Although he “looks forward” to joining the downtown bench and working in the Central Division he remains “committed to returning one or more civil courtrooms to East County and South Bay” as soon as additional funding is received by the State of California. He is “cautiously optimistic” that additional funding will be provided to the San Diego Superior Court by the State of California as the economy improves. He welcomes the continued support of the East County legal community and especially the Foothills Bar Association in working to return one or two civil departments to East County and South Bay. Keith Jones, the newly elected President of the Foothills Bar Association, has pledged that the Association is “committed to working closely with the court” to make that happen.

The Foothills Bar Association seeks a chairperson for the criminal law section. Responsibilities will involve scheduling speakers for lunch time MCLE programs on topics of interest and providing Section meeting status reports to the Foothills Board of Directors. Interested attorneys should contact Cheryl Stengel at clstengel@outlook.com.

CIVIL LITIGATION SECTION UPDATE

APRIL 2014

By Cheryl Stengel, Esq.

On Tuesday, April 22, 2014, the Civil Litigation will present the MCLE program, "A Lawyer's Refresher: Financial Records & Financial Statements", with speaker Richard Holstrom of RGL Forensics. The program will be from 12:00 noon to 1:15 p.m. at BJ's Restaurant in Grossmont Center in La Mesa.

Discussion topics will include "GAAP", deciphering income statements, balance sheets, other financial statements, and which financial records to use in different types of cases, including alter ego, property damage, lost profits, and other types of cases.

Richard Holstrom has been involved in the field of Forensic Accounting exclusively since 1980. Mr. Holstrom is a Certified Public Accountant, a Certified Fraud Examiner and is certified in Financial Forensics. He is a Member of several professional organizations including the California Society of Certified Public Accountants, the American Institute of Certified Public Accountants, and the National Association of Certified Fraud Examiners. Mr. Holstrom has been designated as an accounting expert in State Courts of California and Nevada and Federal Courts in California, Arizona and Hawaii. He has worked extensively with insurance companies and attorneys focusing his career on forensic accounting, fraud, measurement of damages and litigation support. He has provided expert testimony in both depositions and at trial in excess of 100 times in the past 10 years. He has participated in many seminars and presentations on these topics.

The seminar is free to members of the FBA and \$10.00 for nonmembers. The cost of your lunch will be whatever you choose from BJ's menu, although you are not obligated to order lunch. Walk in registrants will be accommodated as space allows. Please RSVP.

This program has been approved for 1.0 hour of MCLE general credit by the State Bar of California. If you have any suggestions for speakers or upcoming meetings, please contact section co-chairs, Mark Raftery at mraftery@epsten.com or Cheryl Stengel at clstengel@outlook.com.

Henry J. Kahrs has worked exclusively in the field of Forensic Accounting since 1985. Mr. Kahrs is a Certified Public Accountant, accredited in business valuation by the American Institute of CPAs and is certified in Financial Forensics. His professional membership includes the California Society of Certified Public Accountants, the American Institute of Certified Public Accountants, the National Association of Certified Fraud Examiners and the National Association of Forensic Economics. He has been named as an expert in hundreds of cases and testified at trial, arbitration and deposition. Case issues have included business valuation, shareholder disputes, corporate and partnership dissolution, marital dissolution, contract disputes, real estate, fraud, bankruptcy, construction, intellectual property damages and workers compensation. He is a frequent speaker on these topics and has authored professional education courses.

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The Family Court needs settlement conference judges. Please volunteer and share your expertise.

Contact Kelly Fabros at 619-456-4065 or Kelly.Fabros@SDCourt.CA.Gov.

Events/Programs at the Law Library

Downtown Location:

Learn how to become a quick and efficient legal researcher using the Lexis database. Dana Corcoran, our Lexis Representative, will teach you how to formulate your search query, navigate within the database, and use the special functions unique to Lexis. Armed with the proper techniques, legal research becomes an easier task. To learn more about this program, visit our [registration page](#).



Date: Thursday, April 24 2014
Time: 12-1 p.m.
Location: [Downtown San Diego](#)
MCLE: One hour general participatory credit.
Register: [online](#)

SAVE THE DATE – APRIL 26

In partnership with the [Bilateral Safety Corridor Coalition](#) and the [Lawyers Club of San Diego](#), the [Law Library](#) presents a special training program for attorneys on human trafficking, a modern-day form of slavery.

Join us for a complimentary breakfast and learn:

- How to define human trafficking in multiple jurisdictions;
- Who traffickers are and how they operate;
- How to interview/depose/examine a victim;
- Criminal justice system response to human trafficking;
- How to address immigration and other legal issues;
- How California State courts are responding to human trafficking; and
- Progressive laws and jurisdictions leading the way.

For more information, see our [save the date page](#).



Date: Saturday, April 26 2014
Time: 8:30-1:00 p.m.
Location: [Downtown San Diego](#)
MCLE: Three and one-half hours general participatory credit.

Chula Vista Location:

Join us for an exciting program on estate planning and wealth building with [Gary Laturno, Esq.](#), a member of the [Speaker's Bureau Program](#), and an expert in finance and real estate. During the housing crisis, Mr. Laturno successfully counseled hundreds of business and legal professionals. He is also a frequent speaker at local, state and national events on the topics of real estate and personal finance. To learn more about the program and our speaker, visit our [registration page](#).

Date: Wednesday, April 16 2014



Time: 11:30-12:30 p.m.
Location: [Chula Vista](#)
MCLE: One hour general participatory credit.
Register: [online](#)

Join the SDVLP Family Law Clinic By Benita Ghura, Librarian



DID YOU KNOW THAT 74% OF ALL FAMILY LAW CASES IN SAN DIEGO ARE SELF-LITIGATED? This puts a huge burden on the limited resources of the judiciary and court personnel. What can be done? Well, one solution created by the San Diego Volunteer Lawyer Program (SDVLP) and the San Diego Law Library is to offer a family law clinic.

The clinic operates every Wednesday from 3:30 – 5:45 p.m. at the Law Library’s downtown location and represents low-income individuals in all areas of family law such as dissolution of marriage, restraining orders, adoptions and paternity cases to name a few. The clinic is only able to accept clients if there are enough volunteer attorneys willing to represent the

clients on a pro bono basis. To date, approximately, 45 individuals have received help from the clinic’s 13 volunteer attorneys.

The clinic is a great way for new attorneys to gain practical, real-life experience in a supportive environment. For experienced attorneys, the clinic is a rewarding experience to give back to the community and mentor new attorneys. In addition, attorney volunteers earn credit towards a California State Bar Wiley W. Manuel Certificate for Pro Bono Services.

All attorneys who volunteer for the clinic may attend a free one hour training session held prior to each clinic. The trainings cover a variety of topics in family law basics such as child custody and visitation, child and spousal support and domestic violence restraining orders. The training sessions occur every Wednesday from 2:00 – 3:00 p.m. at the Law Library. All attendees receive one hour MCLE credit.

In addition to the training sessions, new attorneys receive guidance and mentoring from experienced attorneys. Initially, the new attorney pairs up with an experienced attorney during the client interview until the new attorney becomes more comfortable with the interview process. As the new attorney gains experience, the option to represent clients directly from intake to judgment, including court appearances, is available. A SDVLP supervising attorney is always available to answer questions, even for direct representation cases.



To learn more or to sign up for the clinic, contact Kris Jacobs at kjacobs@sdvlp.org. To learn more about the programs available at the San Diego Law Library, contact Benita Ghura at: bghura@sdcpill.org.

Benita Ghura, Esq | Librarian
250 E. Main Street, El Cajon, CA 92020
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FOOTHILLS BAR ASSOCIATION OF SAN DIEGO COUNTY

Service, Professionalism, Collegiality

FOOTHILLS BAR ASSOCIATION FAMILY LAW SECTION MEETING

Tuesday, April 15, 2014

12:00 pm - 1:15 pm

DEMYSTIFYING FAMILY COURT SERVICES:

*Understanding the process and how
to best assist your clients*

- *Opportunity for Q&A*
- *Updates on rules and procedures*

SPEAKERS:

Evelyn Mason, FCS Supervisor
Additional FCS counselors TBD

LOCATION:

East County Court House - Department 7
250 East Main Street, El Cajon, CA 92020

COSTS:

Free for members of the Foothills Bar Association
\$10 for Non-Members and Guests (*payable at the door*)

*This presentation qualifies for one unit (1.0 credit hour) toward
California Minimum Continuing Legal Education (MCLE).*

For questions, please contact Traci Hoppes at (619) 448-6500 or

tracihoppes@yahoo.com



**FOOTHILLS BAR ASSOCIATION
OF SAN DIEGO COUNTY**
Service, Professionalism, Collegiality

THE CIVIL LITIGATION SECTION OF
THE FOOTHILLS BAR ASSOCIATION PRESENTS:

**“A Lawyer’s Refresher:
Financial Records and Financial Statements”**

Speaker:

Richard Holstrom of RGL Forensics

**Tuesday, April 22, 2014 – Noon to 1:15 p.m.
BJ’s Restaurant, Grossmont Center, La Mesa**

The seminar is free to members of the FBA and \$10.00 for nonmembers. The cost of your lunch will be whatever you choose from BJ’s menu, although you are not obligated to order lunch. Walk in registrants will be accommodated as space allows. Please RSVP.

This activity has been approved for 1.0 hour of MCLE general credit by the State Bar of California. The FBA certifies this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing mandatory minimum continuing legal education.

Mark Raftery and Cheryl Stengel, Civil Litigation Section Co-Chairs

Registration for the Seminar on April 22, 2014

Name _____ **Persons Attending** _____

Telephone _____

Please RSVP to Cheryl Stengel. E-mail clstengel@outlook.com or telephone: 619-269-2126.

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CIVIL LITIGATION:	Cheryl Stengel, Mark R. Raftery ESTATE
PLANNING:	Nancy Kaupp Ewin, Carolyn R. Brock

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MEMBERSHIP	Chair: Kathy Mills, Bradley Schuber
ADDRESS CHANGES	Chair: Kathy Mills, Bradley Schuber

SUBMISSIONS

Your submissions are welcome! Send articles, letters, flyers, and other non-advertising submissions to Cheryl Stengel at clstengel@outlook.com.

ADDRESS CHANGES

Send change of address or telephone number to Kathy Mills at kmills@krigerlawfirm.com.

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