

Hamilton County LAW LIBRARY NEWS

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March 2016

Removing Internet Defamation From the Internet: Solutions are Fact-Dependent

By Whitney C. Gibson and Jordan S. Cohen of Vorys, Sater, Seymour and Pease LLP. *

When it comes to handling internet defamation issues and other online reputation attacks—specifically in terms of removing the content from the internet—the solutions are, in one word: fact dependent. There is no other way to describe it; there is no perfect solution that can be applied to every instance of online defamation.

There are various options and techniques that are typically most effective, but solutions should be applied on a case-by-case basis.

After all, there are generally consequences for trying to apply the wrong solution to a particular situation, such as sending a bullying demand letter or filing a frivolous lawsuit when there is simply not a legitimate claim for defamation or otherwise.

Thus, in approaching a case, it is important to consider an array of factors, such as the following:

Search Engine Strength, Rankings

It is one thing for a person or organization to have false content published about them online, it is another to have it ranking high in search – in particular on Google. Where defamatory content appears in search is something that must be considered at the outset in weighing one's options.

If the webpage ranks highly, it is most certainly worth pursuing and trying to get it removed. If it is on the fifth page of Google results for reasonable searches, it is probably something that can be left alone.

It is important to remember that the search engines rank their results based on algorithms, and those algorithms are tweaked from time-to-time, so the harmful results can fluctuate – for better and for worse.

Potential Damage

Damages are often difficult to quantify in internet defamation matters. *(Continued on page 4)*

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Tech Tip: Accessing our National Consumer Law Center materials remotely

By: Julie Koehne, Assistant Law Librarian, Systems

The National Consumer Law Center (NCLC) has 20 consumer law treatises, many of which are well over 1000 print pages, not counting thousands of sample pleadings, practice aids and primary sources that are available online.



To access this material, call the Law Library and we will check out one of the four passwords available to you. Typically the passwords are on loan for two weeks. Passwords will automatically expire. If you would like to keep the material longer, just give us a call and renew for another two weeks.

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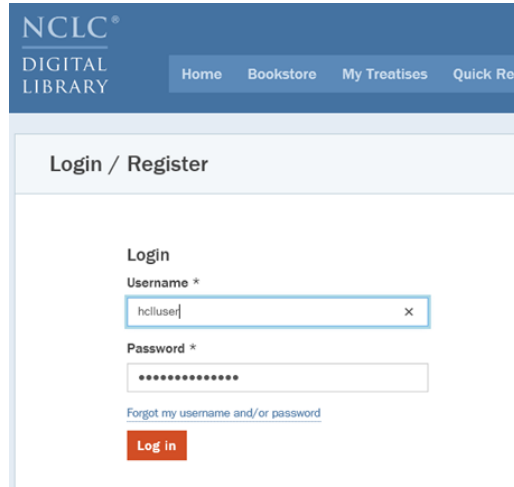
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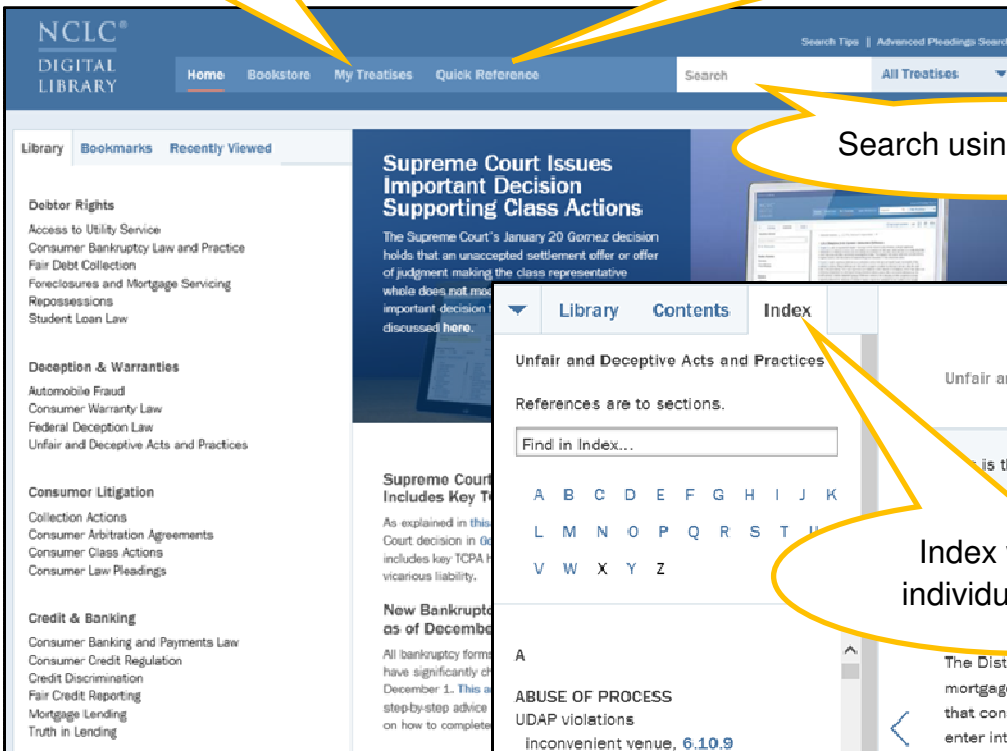
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NCLC provides many different ways to browse the content.

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Quick Reference pinpoints



Search using Keywords

Index within the individual treatise.

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Unless contracts are terminated as a result of the online content, or if there is a significant loss in business that can be clearly tied to the defamatory content, it can be difficult to prove damages.

Nevertheless, a business can still be harmed daily if it has false and defamatory content ranking highly on Google, such as a Ripoff Report posting among the top few results, which is highly visible to prospective customers and clients (and, thus, causing them to lose business and hurt other existing or prospective relationships).

Harmed parties must, therefore, determine how harmful (or potentially harmful) the content is and how much they are actually suffering (or could suffer); an objective evaluation, including looking at current search rankings is helpful. Moreover, they must consider their budget and risk tolerance, and ultimately they must ask themselves whether they can afford not to take action and not get the content removed.

Terms of Service / Removal Options

It is always beneficial to be familiar with a website's terms of service and policies. For instance, some websites will explain that they are willing to remove content pursuant to a valid court order (or through other means); others will not, such as Ripoff Report; and some might have vague or ambiguous terms or might not address removal at all, in which case it might be helpful to craft an argument in requesting removal (especially if they explain certain behavior, i.e. defamation, is prohibited by its users) – even with an order.

Jurisdiction

Jurisdiction is obviously an important consideration, especially if contemplating filing a lawsuit. The identity of the defendant (and where he or she is located) is certainly a major factor in terms of where to potentially file. Also, the available legal claims is important.

Additionally, if a plaintiff is unable to serve a defendant through traditional means, service by publication might be necessary, but this is more difficult in certain states, such as Florida.

Statute of Limitations

If a lawsuit is even worth considering, the statute of limitations is crucial. Each state imposes a statute of limitations for bringing defamation claims, limiting the time in which a plaintiff can bring a libel or slander claim. A short time period (noting most states have one or two year statutes of limitation) can be problematic if an allegedly defamed party does not take action quickly. For starters, removal of defamatory content often involves obtaining a court order, which requires filing a lawsuit.

If the defendant's identity is unknown, it might be necessary to issue subpoenas to third-party websites or entities. These non-party companies only maintain data and records for a certain period of time. Thus, even if a lawsuit is not time-barred, it can still be difficult to obtain important information.

Weighing of Factors

The above five factors are just some of what is necessary to think about before filing a lawsuit or taking other action in response to defamation online. Others include analyzing the characteristics of the attacker and, as alluded to above, considering costs.

When evaluating the different potential responses, it ultimately should come down to a balancing of different factors: on the one side there is the harm and one must balance that, on the other side, with the cost of a particular response, the risk(s) associated with that response and the likelihood of that response being successful.

Sometimes it can be beneficial to first think about the lower risk and lower cost responses and then move upwards and determine what you are most comfortable with and what makes the most sense in the particular situation.

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For more information, contact [Whitney Gibson](#).

Read more about the practice at <http://www.defamationremovalattorneys.com/>.

Unpaid Subscriptions: Revocation of Privileges

We have some subscribers whose library privileges will be revoked March 1 for non-payment of 2016 subscriber invoices. We have to take that step but we will happily reinstate privileges upon payment in full. We hope we haven't disappointed those subscribers in any way. Call Vanessa at 513.946.5300 if you need more information or a replacement invoice.



Indiana Practice Materials on Westlaw

The Law Library is adding the West Indiana Practice series and Indiana Encyclopedia to its Westlaw offerings. Westlaw is available for use in the Law Library's computer room by current subscribers and local government officials. If you practice in Indiana, we think you'll be very happy with this addition. Can't get to the Law Library? No problem. If you are a current subscriber or a local government official in Hamilton County, you are welcome to request that we send particular sections to you via email.

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<http://lawlibrary.hamiltoncountyohio.gov/classes/cle/>

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Wednesday, March 23

Noon-1pm

Speaker: Susan Reale

Approved for 1.0 hour of general CLE in Ohio

Lexis CLE: The Modern Campfire: Advanced Research Tips

Thursday, April 28

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Speaker: Suzanne Morris

Approved for 1.0 hour of general CLE in Ohio

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[Ask a librarian](#) for more information.

- Complete Congressional Record bound version and daily version back to 1980
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- Other important congressional material
- 65 GPO best-selling legal titles
- Reports, decisions, and records, complete collection of the official case law of some of the United States' most important U.S. Federal Agencies such as:
- Federal Communications Commission (FCC)
- National Labor Relations Board (NLRB)
- Securities and Exchange Commission (SEC)



You and the Legal System: Bankruptcy/Debtor's Rights

Attorney Arthur J. Southard is our next speaker in the *You and the Legal System* series for the public. Mr. Southard will discuss Bankruptcy/Debtor's Rights on Friday, March 18 at noon in the Law Library.

The program is free to the public. To register, call 513.946.5300 or register via our website at <http://lawlibrary.hamiltoncountyohio.gov/classes/you-and-the-legal-system/>

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact [Laura Dixon-Caldwell](#).

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service.



Bankruptcy Resources

Law Library subscribers have access to a variety of resources on Bankruptcy. If you have questions about these resources, contact the reference staff at

reference@cms.hamilton-co.org or
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Bankruptcy courts & procedures
KF1527 .E9 200

Bankruptcy deskbook
KF1524 .L435 2014

Bankruptcy fundamentals
KFO221 .B34 2013

Bankruptcy litigation
KF1527 .S6 2014

Collier bankruptcy manual
KF1524 .C59 4th ed. 2014

Consumer bankruptcy handbook, with forms
KF1040 .Z9 S65 2014

Consumer bankruptcy law and practice
KF1040.Z9 S65 2013

Creditors' rights in Chapter 11 cases
KF1544 .C542 2014

LexisNexis Ohio annotated bankruptcy law
handbook
KFO221.A29 A53 2015

Solve your money troubles: debt, credit and
bankruptcy
KF1501 .L46 2013

Online Resources: Remote Access*

Fastcase Bankruptcy Treatise Library

Advanced Chapter 11 Bankruptcy Practice,
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Bankruptcy Litigation Manual

Ginsberg & Martin on Bankruptcy, 5th Edi-
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Ordin on Contesting Confirmation, 5th Edi-
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ceedings, 6th Edition T

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Bankruptcy Law Report Letters

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Indexes & Tables

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Chapter 13 Bankruptcy: Keep Your Property
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How to File for Chapter 7 Bankruptcy

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When You Have to File for Bankruptcy

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