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Your Reputation Precedes You, Counsel

Taking control of your online image

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Lawyers, like most people, want good reputations. We would like others to think and speak highly of us, to write gently about us and to give us the most stars whenever asked. Even our colleagues of questionable character, marginal competence or tarnished history want to be proud of their reputations. This is not incongruous. As Thomas Paine noted: "Reputation is what men and women think of us; character is what God and angels know of us." Today, your reputation may depend on what the internet says first about you. And the chances are it may not be good.

Two centuries after Paine, came another American with common sense, Warren Buffet, who said, "It takes 20 years to build a reputation and five minutes to ruin it. If you think about that, you'll do things differently." Two minor issues with that: 1) many of us have considered the downside and still did nothing differently, and 2) destroying a reputation no longer requires five minutes. Today it takes a nanosecond to put an eternally damning video or selfie or Facebook post or YouTube link or email or sound bite before millions and millions and millions of people.

On the other hand, reputations no longer take 20 years to build, either. They seem to happen overnight. Consumer brands, movie stars and restaurants become "iconic" in months. Overnight sensations are commonplace, and "instant classic" is not an oxymoron. With the fusion of marketing and social media, there is no longer any formula for success; there is an algorithm. More on this, below.

Here is the problem for lawyers' online reputations. Cyberspace contains an unfathomable and growing reservoir of information, misinformation, facts, alternate facts, opinions, articles, comments, images, documents and secrets about each of us. There is information from millions (at least) of public and private sources, information from documents whose originals have long since been disappeared, information that was wrong when published and has not improved with age, information created to be self-serving or planted with a sinister purpose, information that has been troubling us for years as well as information we never knew to exist. This information—often out of context, unverified and unrefuted—can surface at any time and be used for any purpose.

Not all that information is favorable. Not all of it is accurate. Some is embarrassing. Some can jeopardize our careers, our marriages, our self-confidence. We live with the constant threat that negative information—unfavorable or dangerous information—can rise from the internet and destroy our reputations before we can explain what happened, answer any questions or rectify any wrongs. Our reputations can suffer irreparable damage from untruths, ancient issues, sensationalized headlines, vindictive antagonists and a host of other causes. To make it worse, negative information glides quickly up the web search pages, burying the favorable media below. Like bad news making the front page. It's in the algorithm.

Our reputations and our practices are damaged whenever negative information is published in any way. Consider when a potential client Googles your name, and the first item to appear is your AVVO rating of 6 out of 10 since you haven't "claimed your profile." It's ranked even higher than your website, which is so far down on page two that someone finds your 2007 parking ticket and your Judgment of Divorce before they ever learn about your million dollar verdicts or your Woman of the Year Award. Adding insult, sometimes when a web search reveals negative information about you (or someone of similar name)—true or otherwise—the searcher retransmits that spicy tidbit, unrebutted, to an alumni website, a Facebook page or a news outlet.

Most, if not all, of my clients have serious concerns about their reputations. Some have already been convicted of crimes. Some will ultimately be disciplined (all discipline is published). Some have done nothing at all to be ashamed of; but they worry nonetheless. There is even a watchdog (or gadfly, depending on your point of view) who trolls the ethics decisions and writes a blog that publicizes and holds up for scorn the names of attorneys, with details of their cases. To his credit, he invites the attorney to respond, but the damage is done, and the blog merely amplifies the internet impact. The question is, once the negative media has begun to harm our reputations, how do we stop the bleeding?

With this question in mind, Bob Frawley and Franco Pietrafesa of the NJSBA Business Law Section invited Moshe Zchut (try saying "Scoot" while clearing your throat) to address the bar at the 2017 NJSBA-ICLE Business Law Symposium earlier this month. Zchut, the CEO of NetLZ Consulting, an East Hanover-based internet services firm, is an expert on reputation defense, a euphemism for burying negative online information. Zchut began by explaining how search engines work, confiding that, "When we are talking about search engines, we are really talking about Google."

The Israeli-trained Zchut explained how Google constantly trolls the entire internet at the speed of light for information. It trolls Facebook, Twitter and LinkedIn, cataloguing every word. Google trolls the blogs and the blawgs and the op-ed pages. It trolls uncountable archives, official records, reviews, databases and more. To store and then to access that information in usable form, Google has developed eye-poppingly sophisticated algorithms—mathematical equations that locate, triage, evaluate, interpret and weigh digital information, all with the goal of offering the information on pages where it ranked, ten on a page, according to its perceived relevance. So, if you were to run a search for, say, "George Washington," it would be hard to anticipate which piece of information would come out on top, although Wikipedia may be there because of the frequency with which it had been consulted. If that same information is tweeted, republished and included in a letter to the editor somewhere, it will become increasingly hard to bury.

According to Zchut, it is nearly impossible to get Google to modify its algorithm, even in face of bizarre results. He showed a screen shot of the Google search engine being asked, "Did the Holocaust happen?" The item that came up first was an article entitled, "Ten Reasons the Holocaust Didn't Happen." After protracted protests from many responsible sources asking that Google tweak the algorithm to prevent that result, Google grudgingly did so. Now, that crazy article comes up eighth, still on the first page. Old algorithms die hard.

Zchut told of his attorney/client who had been a defendant in an employment suit many years earlier in another state. Newspapers at the time ran the story with lurid headlines such as, "Attorney Charged with Sexual Harassment." The matter was resolved civilly, and there was no issue with the bar in that jurisdiction. The attorney came to New Jersey, made full disclosure, opened an office and became quite prominent. The entire time, any online search of his name invariably turned up the old articles, despite the mountain of positive press he had received in the interim. After a decade of that, the attorney decided to fight back.

"You have to fight social media with social media, and you have to fight science with science," says Zchut. He warned that no solution is perfect, and that there is not much we can do to fight the negative media, so the object is to bury it. Negative and derogatory information typically gets ranks

higher than positive information, making burial difficult. Lawyers can do a lot of this, themselves, said Zchut, but it takes time and focus. He acknowledged that professional assistance would be advisable in most cases, since an internet expert should know how to package the information to work well in the algorithms. He urged lawyers with reputation issues to take advantage of the platforms that have become available for self-promotion. With websites, Facebook, Twitter, LinkedIn, Yelp, publicists, internet analytics, blogs, YouTube and Instagram, any lawyer with a laptop can disseminate favorable information to countless people without leaving home. "Even if you don't like AVVO and have nothing to do with it, when you are trying to save your online reputation, AVVO can be your friend! Claim your profile and fill it out completely. Facebook, too. And LinkedIn. Put as much relevant information out there as you can. Even include your hobbies." Other ideas are to write a blog, contribute to someone else's blog, do some CLEs, be interviewed, join civic and religious organizations and get into their newsletters. Just fill cyberspace with positive information.

Of course, the best advice is to stay out of trouble and make sure all the headlines are laudatory. But when that fails, be ready to embrace the monster. After all, you have a reputation to defend. •

Next Week...

Family Law

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