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How to Improve and Protect Your Online Reputation

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HOW TO IMPROVE AND PROTECT YOUR ONLINE REPUTATION

By Cynthia Sharp, The Sharper Lawyer

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"Character is like a tree and reputation like a shadow. The shadow is what we think of it; the tree is the real thing." ~ Abraham Lincoln

People have always relied, in part, on word of mouth when choosing a lawyer. Now that social media is in such widespread use, online reviews have greatly supplemented word of mouth as a factor in making consumer decisions. According to ["Sink or Swim: How to Adapt to the New Legal Consumer"](#) (Nika Kabiri, Avvo), 45 percent of consumers who get referrals from friends and family also research lawyers online. The same survey revealed that reviews matter to 95 percent of consumers in helping with the hiring decision, while 49 percent classify reviews as "very important."

Naturally, entrepreneurial attorneys seek to take full advantage of the marketing potential of five-star reviews, as well they should. Certainly, Benjamin Franklin would agree as his famous adage reveals: "Hide not your talents. They for use were made. What's a sundial in the shade?"

However, before jumping onto the bandwagon full force, the cautious attorney will become educated about the potential pitfalls to which the unwary may fall prey. Ethical and other legal implications must be considered.

This article focuses on two major issues pertaining to management of online reputation: the ethics of responding to negative reviews and the ethics of obtaining positive online reviews.

Monitoring Your Online Reputation

First, you may want to learn what the cyber world is saying about you and to monitor “the chatter” on a regular basis. Even if you don’t choose to participate in social media platforms, your reputation is nonetheless being shaped. If you’ve been sticking your head in the sand, now is a good time to put yourself in the driver’s seat by participating in the conversation.

Get in the habit of regularly checking out platforms where reviews are most typically posted, such as LinkedIn, Avvo, LawyerRating, Martindale.com, Yellow Pages, Google My Business, Yahoo, Lawyers.com, Yelp, and Facebook.

Another step is to set up a Google alert that will notify you whenever you or your law firm show up in a Google search. For easy-to-follow instructions, check out [“Google Search Help > Create an Alert.”](#)

There are a number of services that will track what is being said about you with the capability of providing a sophisticated level of data. If you are interested, ask your technology advisor for a recommendation. I also direct your attention to Jeff Lantz’s excellent article [“How to Use Online Reviews and Schema to Develop New Business”](#) (*GPSolo*, March/April 2019), in which he offers suggestions as to specific companies and describes the services to expect.

The Ethics of Responding to Negative Reviews

We rely on our reputation to attract new clients. When someone says something bad about us—professionally or personally—the instinct is to defend ourselves immediately, particularly if it is untrue. In the online world, especially, this can be dangerous behavior because your post is available to the entire world forever. Even if you remove the post, the damage may have already been done.

Suggested approaches. If you are unfortunate enough to get a bad online review, stay cool and do not respond immediately. Once you have calmed down, reread the review and verify that the reviewer is actually a client. If not, inform the lawyer rating site. Avvo, for one, will remove the review while verifying the attorney’s claim that a nonclient made the post.

If it is a client who has publicly voiced a complaint, do your own investigation and reflect as to whether there is a kernel of truth. If so, implement a remedy without further delay. Based on your relationship with the client, you could reach out by phone and find out what went wrong. If the representation ended badly, further communication may obviously be unproductive.

Then, evaluate your firm's processes as well as your habits and those of your staff. The most common complaints overall involve failure to communicate, lack of attention from the attorney, failure to meet promised deadlines, and general rudeness. Are you guilty of any of these? What needs to change for you to earn positive reviews?

There are several schools of thought about whether to respond at all to negative reviews. Some believe that posting a response draws attention to the review and that the impact lessens anyway with the passage of time. Because my philosophy is to face problems in a straightforward manner, I personally recommend making a carefully calibrated response. Keep the answer brief and make sure that you do not reveal any confidential information. Adopt a professional, sympathetic tone and invite the person to contact you personally to discuss the issue.

Survey of ethics opinions. Professional responsibility and ethics committees throughout the country have provided guidance as to how a lawyer may respond to a negative review. In determining that an attorney is not ethically barred from responding generally to online reviews, the following ethics authorities all emphasize the attorney's inviolate duty of confidentiality: the Colorado Bar Association ([Ethics Op. 136](#)); the Texas Center for Legal Ethics ([Op. 662](#)); the Florida Bar ([Staff Op. 38049](#), approved by Florida Bar's Professional Ethics Committee); the Bar Association of San Francisco ([Ethics Op. 2014-1](#)); and the Los Angeles County Bar Association ([Ethics Op. 525](#)).

Formal [Opinion 2014-200](#) issued by the Pennsylvania Bar Association Legal Ethics and Professional Responsibility Committee offers the following sample response: "A lawyer's duty to keep client confidences has few exceptions and in an abundance of caution I do not feel at liberty to respond in a point-by-point fashion in this forum. Suffice it to say that I do not believe that the post presents a fair and accurate picture of the events."

Ethics opinions/case law. If you are tempted to ignore the opinions described above, be sure to read the cases described in the following paragraph. E-mail me at cindy@thesharperlady.com for citations as space limitations prevent a robust discussion.

A Georgia attorney discovered the professional folly of responding to a former client's negative online reviews by posting personal and confidential information obtained during the course of the lawyer-client relationship. Finding that she had posted the client's name, employer, amount paid in legal fees, and county in which the divorce was filed and further stated online that her former client had a boyfriend, the Georgia Supreme Court imposed a public reprimand. Similarly, disclosure of confidential information was the basis of disciplinary action taken against attorneys in Massachusetts, Colorado, and Illinois.

Not only did these lawyers violate [ABA Model Rule of Professional Conduct 1.6: Confidentiality of Information](#), they also blew it from a marketing standpoint. Reputation management efforts approached from a positive standpoint have greater impact than negative campaigns that simply take the original victim down to the attacker's level.

Other avenues. Certainly, you can file a defamation suit if your case meets the legal standards. An award of \$350,000 in punitive damages made to Florida Attorney Ann-Marie Giustibelli was upheld by a Florida appeals court in *Blake v. Ann-Marie Giustibelli, P.A.* based on defamatory online posts made by a former client.

Keep in mind that the best way to deal with negative reviews is to get more positive reviews. Indeed, the negative review loses its power as additional clients rave about your fabulous service.

The Ethics of Obtaining Positive Online Reviews

The first course of business is to review the rules of professional conduct, ethics opinions, and cases of your state to determine whether testimonials are permitted, and, if so, what restrictions (if any) are imposed. Next, ensure that your method of obtaining the reviews complies with

ethical standards. Because ethics committees and courts of most states have not yet issued opinions in this realm, we can draw on opinions from other jurisdictions for initial guidance.

Reviews obtained by third-party vendors. A number of companies offer a service that automates your online review process. Naturally, I'm in favor of systematization of any area of your practice so long as ethical considerations are addressed.

The North Carolina State Bar recently chimed in on the ethics aspect, ruling that "a lawyer may participate in an online service for soliciting client reviews that collects and posts positive reviews to increase the lawyer's ranking on internet search engines." In adopting [2018 Formal Ethics Opinion 7](#), the North Carolina State Bar imposed the following requirements: (1) The lawyer must obtain informed consent from the client before disclosing contact information; full disclosure of the process of the third-party vendor is explicitly mandated. (2) Reviews of three stars or less do not have to be posted so long as informed consent has been obtained. (3) An attorney may contact clients who posted a negative review "to address the client's concerns." After the interaction, the attorney may ask the third-party vendor to reach out to the client to request a revised review if the client has agreed. Specific rules are set forth with respect to obtaining the revision. This short ethics opinion is worth reading. It could serve as a model for any law firm wishing to automate the online review process.

Paying for reviews. One obvious way to get more reviews is to provide monetary compensation for an online rating. Before I conducted research for this article, I would have advised, "Hands down. Absolutely. Not!" Then, I ran across [Ethics Opinion 1052](#) issued by the New York State Bar Association on March 25, 2015.

The attorneys seeking this opinion wished to extend to clients a \$50 credit on their legal bills if they would rate the lawyer on Avvo. The Ethics Commission approved the practice provided "the credit against the lawyer's bill is not contingent on the content of the rating, the client is not coerced or compelled to rate the lawyer, and the ratings and reviews are done by the clients and not by the lawyer." The opinion applies to Avvo or other such websites that allow clients to evaluate their lawyers.

Notwithstanding this opinion, I do not recommend this practice. Ethics committees in other jurisdictions might not adopt the same point of view. Also, paying for reviews simply doesn't sit right with me. Why not earn the loyalty of clients who will then be thrilled to speak on your behalf?

False positives. Most of us will choose a product or service with a five-star rating above one with a mere four-star rating. Perhaps we shouldn't be so trusting; many of the reviews are simply fake. This includes those appearing on Google, Facebook, Yelp, and retailers including Amazon. A Google search using the term "fake reviews generator" showed 47,900,000 results demonstrating the popularity of the topic. Those who rely on online reviews in making purchasing decisions may want to check out MarketWatch's recent post "[10 Secrets to Uncovering Which Online Reviews Are Fake](#)".

Apparently, a number of lawyers have jumped into the game, hiring companies to post fake reviews from fake clients. If you have subscribed to such a practice in your own firm, I implore you to stop it right now and remove all fake reviews.

As a starting point, it's simply not right because it violates the trust of the community, which is antithetical to the image that any lawyer should want to portray. Instead of putting time, energy, and money into fake reviews, why not spend resources on improving client service that will elicit positive reviews?

Furthermore, the practice of obtaining and posting fake reviews violates the ABA Model Rules of Professional Conduct. One of the grounds for a 2015 disbarment of an Indiana attorney was his active manipulation of Avvo reviews.

Federal Trade Commission. Attorneys are subject not only to the jurisdiction of the state's ethics committee, but also to scrutiny by the Federal Trade Commission (FTC).

Those using testimonials or endorsements in their advertising are advised to review regulations promulgated by the FTC in the arena of "[Endorsements and Testimonials in Advertising](#)."

In early 2019, the FTC flexed its enforcement arm. Cure Encapsulations, a retailer of weight-loss supplements, used the services of <http://amazonverifiedreviews.com> to write and post fake

reviews that were guaranteed to be a certain length and would be either a 4- or 5-star review. Ultimately, the company forked out \$12.8 million in fines. Both the reputation and the bank account of the company suffered a huge hit. Could a lawyer or law firm survive such a penalty if untoward marketing practices were scrutinized by the FTC?

Rules of the platform. Make sure that you have carefully reviewed the user agreement, contract, or guidelines when you participate in an online review platform.

For example, soliciting reviews on Yelp goes against its [Business Account Guidelines](#). As Yelp suggests, “The businesses that do best on Yelp are the ones that provide a great customer experience to everyone who walks in the door without any expectation or encouragement that they write a review.” At least once in the past, Yelp has sued a law firm, alleging fake reviews. Since the case settled, no opinion is available for review.

Conclusion

Adopting a methodical process for managing an attorney’s online reputation is an investment worth making. Careful review of pertinent case law and model rules of professional conduct will help ensure that the lawyer stays out of the crosshairs of ethics committees in the course of trying to build a positive image.

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