

## Dealing with false, damaging online reviews

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*Today, many consumers use online business rating and review websites such as Yelp and Angie's List to choose products and services. If your company or business deals with the general public, you probably are well aware of this trend. You also may have successfully used rating and review websites to advertise and shape public opinion about your business. Maybe you've even enlisted your employees to join in the effort to promote your business online.*

*But with increased reliance on such websites by both companies and customers, the likelihood of a disgruntled current or former employee giving your business false, damaging reviews has risen dramatically. What can you do to protect yourself?*

### ***Danger of false online reviews***

Generally, online rating and review websites are extremely helpful to businesses and consumers alike. Former customers can rate your business or company on a certain scale, which potential consumers can review. For example, Yelp allows former customers to rate your company on a scale of one to five, and any Internet user can access your ratings and review them. Many consumers choose to use certain products and services based on such ratings. Indeed, you may have used Yelp or a similar service to check out a restaurant or hotel yourself.

But with customers becoming increasingly reliant on online review websites, the danger of a false negative or damaging review has become a growing threat to a business's reputation. A false negative review can exist forever, shaping the opinions of thousands of potential customers and causing your company incalculable harm.

In addition, companies have few options available for dealing with false negative reviews. Many reviews are posted anonymously, making it very difficult to identify the source and accuracy of the review. As a result, there's a serious risk that someone who bears a grudge against your business, including a disgruntled current or former employee, will post a false review criticizing or attacking your company. Two recently decided Virginia court cases, which have attracted national attention, show the danger that false online reviews can pose to businesses.

### ***Dietz v. Perez***

One of the cases, decided just recently, went to trial in Fairfax County. Christopher Dietz, the owner of Dietz Development, a home renovations contractor based in Washington, D.C., sued Jane Perez, a Fairfax City resident, for defamation after she posted a negative review of his work on Yelp and Angie's List.

The case arose in 2011 after Perez hired Dietz to perform \$9,500 in renovations on her townhouse. The duo clashed over the job, and Perez ended up firing Dietz. Soon after, she wrote scathing reviews on Yelp and Angie's List, which included assertions that he billed for work he never performed and trespassed on her property. She even implied that he stole her jewelry.

On Yelp, Perez gave Dietz a one-star review, stating: "Bottom line[,] do not put yourself through this nightmare of a contractor." He responded to her reviews by posting statements accusing her of stealing from him when she failed to pay him for his work and prevented him from retrieving valuable equipment from her house.

Dietz sued Perez for defamation, requesting damages of \$750,000 for the lost business caused by her reviews and for his pain and suffering. She

turned around and sued him for defamation based on the comments he posted about her. In 2012, the trial court ordered Perez to edit and remove her inflammatory comments. But after an appeal, the Supreme Court of Virginia overturned that order.

The case proceeded to trial, and the court finally decided in January 2014 that each party had defamed the other. As a result, neither Dietz nor Perez is entitled to damages. *Dietz Development v. Perez*, No. CL-2012-0016349 (Fairfax County, VA, filed Oct. 31, 2012).

### ***Yelp v. Hadeed***

The other Virginia case highlighting the dangers of false, damaging online reviews involved a defamation suit against Yelp itself. The lawsuit was brought by Hadeed Carpet Cleaning, a business based in Alexandria. In early 2012, Hadeed examined its negative reviews on Yelp and found that information in anonymous postings by seven individuals didn't match any data in its customer database. The following month, Hadeed sued the seven individuals for defamation in Alexandria Circuit Court. Because the reviews were posted anonymously, the company called the individuals John Does One through Seven in court papers.

A day after filing suit, Hadeed issued a subpoena requiring Yelp to identify the people who posted the allegedly defamatory comments. Although Yelp doesn't require reviewers to use their actual names, the company does save the Internet provider (IP) address from which each posting is made. Yelp refused to hand over the requested information.

The Alexandria court initially ordered Yelp to identify the anonymous posters, but the company appealed that ruling to the Virginia Court of Appeals. In its appeal, Yelp argued that the Virginia law permitting subpoenas requesting the identity of anonymous online posters violates the Free Speech Clause of the First Amendment to the U.S. Constitution. The appeals court rejected Yelp's argument.

The court recognized that speech by anonymous individuals is protected by the First Amendment, but it ruled that the anonymous postings weren't protected because false speech has no First Amendment protection. The court explained that Hadeed had presented sufficient evidence that the

individuals who posted the comments never were customers, and as a result, the reviews were false and not protected by the U.S. Constitution. Therefore, the court ordered Yelp to hand over the individuals' identifying information to Hadeed. *Yelp, Inc. v. Hadeed Carpet Cleaning, Inc.*, 62 Va. App. 678, 752 S.E.2d 554 (Va. Ct. App. 2014).

### ***Responding to false reviews***

So how do you deal with the risk of false reviews? The best defense against false, damaging online reviews is to keep thorough business records of all transactions. That information is extremely valuable when you discover negative reviews, whether they're posted by current or former employees or supposedly dissatisfied customers, because it will allow you to compare the information in the damaging posts to your customer records. In making those comparisons, you may be able to identify any false posts like Hadeed Carpet Cleaning did.

Once you confirm that negative posts are fake, your business has several options. First, you can notify the website that manages the online reviews. Some websites, including Yelp, will cooperate in flagging and removing false reviews if you prove the postings are false. If a website refuses to cooperate, filing a lawsuit against the individual reviewers is always an option. Just remember, you need to have evidence that the reviews are false. Keeping accurate and thorough business records is therefore essential.

### ***Bottom line***

In response to the threat of false, negative online reviews, you should adopt or improve your business's record keeping. Implementing good documentation methods will allow you to identify and respond to false posts more easily and accurately — reducing the risk of any harm that may arise when a disgruntled current or former employee or a dissatisfied customer decides to strike back at your business.

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