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# Negative Online Reviews: Recommendations for Navigating an “Ethical Minefield”

The way in which prospective customers or clients get referrals from prior clients is undoubtedly shifting. Instead of word-of-mouth referrals from trusted friends and family, potential clients today get their recommendations from a host of online options – Google+, Yelp and Avvo are just the tip of the iceberg. In fact, 90 percent of consumers say that they read online reviews before visiting a business.<sup>1</sup> Law firms and other businesses should pay heed to that statistic, as a one-star increase in Yelp rating leads to a five to nine percent increase in revenue.<sup>2</sup> With that type of revenue on the line, when a disgruntled client or customer leaves a

negative review about your business, your natural, instinctual reaction is to leap to the defense of the business’s reputation. However, responding to critical online reviews can have detrimental consequences that may actually cause more harm than the review itself.

For that reason, careful attention needs to be given to whether and to what extent a response is appropriate and, indeed, wise. The overarching consideration to remember is that the underlying events (i.e., the facts and circumstances that produced the negative review) cannot be changed. This leaves only one thing within your control: your response.

## Should You Respond at All?

Before responding, it is critical to consider, in theater parlance, the setting and the cast of characters. An online forum lends itself to overly pointed, oftentimes uncivil commentary that otherwise reasonable persons would generally not give in a face-to-face conversation.<sup>3</sup> This is not a new phenomenon, of course, and researchers have found that even when conversations were initially reduced to letters or telephone calls, subsequent online critiques posted by the client contain levels of vitriol absent from those prior communications.<sup>4</sup>

It is partly for this reason that the best response to a negative review is almost always silence. Engaging the online “letter writer” can amount to throwing gasoline on a fire – a fire that is on display for all internet users to rubberneck. Responding to negative reviews with silence cuts off further dispute, debate

or response, and avoids any prospect of a back-and-forth firefight. By not engaging the online reviewer, any possible debate about the merits of the underlying complaint are not publicized or exposed.

Attorneys, particularly, should reel back the impulse to respond defensively to negative online reviews. Other online reviewees – like restaurants, movie theaters, dating services and the like are not subject to the rules of confidentiality that apply to lawyers. In that regard, the American Bar Association (ABA) and all states each have a rule outlining the protection of client confidences for attorneys, even when the scope of the representation has concluded. By way of example, ABA Model Rule 1.6(a) provides that “[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized to carry out the representation or the disclosure is permitted by paragraph (b).” Suffice it to say, defense of one’s business reputation is not a disclosure that “is permitted by paragraph (b).”

In fact, the ABA has offered commentary on Model Rule 1.6(a) that is particularly instructive in considering a response to a negative online review: “The confidentiality rule...applies not only to matters communicated in confidence by the client, but also to all information relating to the representation, whatever its source.”<sup>5</sup> Cases reprimanding attorneys who ignored these rules in the context of responding to online reviews are already on the books. In one Colorado case, the court upheld the suspension of an



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attorney’s license for responding to two negative online reviews.<sup>6</sup> Specifically, the court held that divulging the nature of the underlying cases against the clients and how the attorney was paid was a violation of attorney-client confidentiality, regardless of the fact that the client had already disclosed the information in the review.<sup>7</sup> Similarly, a special master upheld a public reprimand of a Georgia attorney who responded to a negative online review by posting the name of the former client, her employer, how much the client had paid her, the county in which the client’s case was filed, and that the client had a boyfriend (a relevant fact in the underlying proceeding, which was a divorce).<sup>8</sup>

If anyone in your organization is considering responding substantively to a negative review, understand that “anything you say can and will be held against you.” Even if the business is not subject to confidentiality restrictions, a poorly conceived response to a bad online review can have more adverse consequences than a complete lack of response.

### If You Respond, What Should You Say?

If you do choose to respond, there are some guidelines which help mitigate any potential blowback a response may trigger. First, resist the urge to debate

the merits of the critique, even if done in a passive manner. It is also important to never admit anything that might be seen as a dereliction of duty. Marketing experts have offered the “Triple A” response to online reviews:

- Acknowledge the customer’s concern,
- Account for what happened,
- And, if appropriate, explain what corrective Action will be taken to correct the problem.<sup>9</sup>

Limiting your response to a general expression of regret demonstrates the humanity behind your business. As fictional entities, businesses cannot respond to reviews on their own. A remorseful response necessarily means that a person – a living, breathing human being – read the review and prepared a response. This can humanize the business and make it harder for the reviewer to maintain an overly critical demeanor. Further, acknowledging your regret puts a limit on any further response from the reviewer.

Obviously, even a perfectly crafted response to a heated, negative review may not yield ideal results. “True believers” will never be satisfied and will never accept an expression of regret, no matter how thoughtful or well-intentioned. Be prepared that these keyboard correspondents may even try to throw your response back in your face: “If you were really disappointed about my experience, you’d give me my money back!” Fortunately for business

owners, such an inflamed reply to a measured, “humanizing” response is likely to come across poorly to anyone reading the follow-up, reflecting worse on the reviewer than you or your business. If you are met with a further screed in reply to your “humanizing” statement, silence is the only advisable way to respond.

In extreme cases, a negative online review may amount to defamation. If the underlying facts of the review are simply untrue and the allegations are sufficiently poisonous as to cause significant business harm, consulting an attorney may be a viable option. An attorney should be able to quickly assess whether a Yelp critique or other negative publication is defamatory.<sup>P</sup>

1 Erskine, *20 Online Reputation Statistics That Every Business Owner Needs to Know* (Sep. 19, 2017) [forbes.com/sites/ryanerskine/2017/09/19/20-online-reputation-statistics-that-every-business-owner-needs-to-know/#3a5cd54cc5c9](https://forbes.com/sites/ryanerskine/2017/09/19/20-online-reputation-statistics-that-every-business-owner-needs-to-know/#3a5cd54cc5c9) [as of Jul. 3, 2018].

2 Luca, *Reviews, Reputation, and Revenue: The Case of Yelp.com* (September 2011) [hbs.edu/faculty/Publication%20Files/12-016\\_a7e4a5a2-03f9-490d-b093-8f951238dba2.pdf](https://hbs.edu/faculty/Publication%20Files/12-016_a7e4a5a2-03f9-490d-b093-8f951238dba2.pdf) [as of Jul. 3, 2018].

3 Konnikova, *The Psychology of Online Comments* (October 23, 2013) [The New Yorker newyorker.com/tech/elements/the-psychology-of-online-comments](https://www.newyorker.com/tech/elements/the-psychology-of-online-comments) [as of Jul. 3, 2018].

4 *Ibid.*

5 ABA Model Rule 1.6 Comment [3].

6 *People v. Isaac*, 2016 Colo. Discip. LEXIS 109, \*5 (2016).

7 *Ibid.*

8 *In the Matter of Skinner*, 295 Ga. 217, 218.

9 Robertson, ARTICLE: *Online Reputation Management in Attorney Regulation* (2016) 29 *Geo. J. Legal Ethics* 97, 121.