

What to Do if You Are Defamed on Social Media

Article

Amundsen Davis Reputation & Crisis Management Alert

October 4, 2023

Everyone is a little braver when hiding behind their keyboard. Words fly a little easier online where the speaker and target of the speech do not occupy the same physical space. The exponential echoes of manufactured gossip and defamation, however, spread even faster online.

Social media platforms like X (formally Twitter), Facebook, Instagram, Reddit, YouTube, Discord, and Twitch are the new arenas for discussion, community, and yes, defamation and harassment. Many platforms allow users to post anonymously which only further emboldens online impersonation, cyberstalking, blackmail, and other unlawful speech.

Not all offending speech is defamation, however. An online post, tweet (or retweet), video, or comment is online defamation only if it is a (1) false statement about a specific person; (2) posted or communicated to another person (or to the internet generally); and (3) damages a person's reputation. If you believe you have been defamed online, there are several steps you can take to squarely address it, to unmask anonymous posters, and to hold them accountable.

PRESERVE EVIDENCE

Before you report the offending online content or block the user, preserve evidence of the defamation including comments or retweets. Take screenshots of the offending content and the defamer's profile. Download the offending video or record the livestream. If you receive any messages from others concerning the offending content, save those as well.

If the offending content was deleted before you could preserve it, online tools like the Wayback Machine can be used to show how a specific website (or social media account) appeared in the past. Those tools have their limits so it is critical to preserve this evidence immediately.

REPORT TO THE PLATFORM

Every social media platform has terms of service which provide specific ways for users to report prohibited posts. Posts which promote violence, divulge private information (such as someone's credit card number or street address (doxing), or

PROFESSIONALS

Max Goodman
Partner

RELATED SERVICES

Reputation & Crisis
Management

which are otherwise harassing violate those policies. If the offending post falls into those categories, you can report the post directly to the platform (after you preserve the post). Reporting the post is the quickest path to its removal.

If the nature of the online defamation is sufficiently extreme, then a letter to the defamer (from a law firm) possibly followed by a lawsuit may be appropriate.

DEMAND LETTER

If the defamer's posts are not removed or if they keep creating new accounts to further defame you, a demand letter from a law firm may discourage them. In the letter (which is served to the defamer), your attorney outlines the offending conduct, attaches the defamatory posts, and demands that they take down the offending accounts or posts while threatening to sue if they do not comply. The letter is accompanied by a demand that they preserve key evidence should a lawsuit become necessary. If they destroy or delete evidence after receiving that preservation letter, they will be penalized in the lawsuit.

LAWSUIT TO UNMASK ANONYMOUS USERS

Online offending speech often supports lawsuits alleging defamation, false light invasion of privacy, intentional or negligent infliction of emotional distress among other claims seeking removal of the offending speech and monetary damages. Lawsuits are especially useful however, to **unmask anonymous users**.

Victims of anonymous defamatory online posts, reviews, blackmail, cyberstalking, or other harassment can file a type of a lawsuit called a "John Doe" lawsuit. In a John Doe lawsuit, the court allows the claim to proceed against the unknown user. Attorneys then use these John Doe lawsuits to subpoena the platform hosting anonymous poster (for example, Facebook) and begin the process of unmasking that user. Those platforms will, however, often only produce the IP address (i.e. the unique identifying number assigned to every device connected to the internet) of the anonymous poster. A subsequent subpoena to the corresponding internet service provider (e.g. Comcast or AT&T) is then required to obtain the anonymous defamer's identity. (Social media companies do not make it easy to unmask anonymous users). The John Doe lawsuit can then be amended to name the user as the defendant and they can be held accountable for their unlawful conduct.

There are options for those who are victims of defamation on public platforms even when you don't know who is behind the comments. With the proper documentation and legal guidance those victims can protect their reputation and seek justice.

What to Do if You Are Defamed on Social Media