

# PUBLIC RELATIONS

>>ALERT

## COMBATTING AND PREVENTING NEGATIVE AND HOSTILE EMPLOYEE REVIEWS

Given the power of social media, a single online negative review is capable of having long-lasting effects on companies. In addition to reviews from customers, companies also need to be prepared for reviews from employees on websites like Glassdoor, a popular forum for current and former employees to anonymously review companies and their management.

Most PR firms and the clients they serve are already familiar with Glassdoor. Those that have not yet had an employee post a review are likely to encounter it soon. Increasingly, prospective employees, potential business partners, and even current clients and customers are turning to Glassdoor as a source of information about the culture and inner-workings of companies, making it important for companies to maintain a positive presence on the site. In fact, in a sign of increasing transparency, the author recently counseled a client to investigate social media, including Glassdoor, as part of its due diligence process in considering firms for potential acquisition. Glassdoor policies, however, prevent companies from editing or controlling the reviews that are posted. As a result, some reviews on Glassdoor will inevitably be negative or openly hostile, even in the best-managed companies. Companies do, however, have a variety of strategies to combat—and actually prevent—negative employee reviews. This column will address those strategies.

### UTILIZING GLASSDOOR PROCEDURES

Once a negative review has been posted on Glassdoor, a PR firm, or its client, has a few options. First, companies can flag

### THE BOTTOM LINE

PR firms and their clients faced with negative and hostile employee reviews on Glassdoor have viable remedies. Companies should first try to have the offending review removed from Glassdoor. If that is not possible, companies can post a response to have the last word. Companies also have legal options available in situations where a review is truly defamatory and includes false statements of fact. Finally, to avoid future negative reviews, companies can implement internal complaint procedures and an employee non-disparagement policy. By utilizing a combination of these tools, companies can minimize the impact and frequency of negative employee reviews and avoid the Glassdoor problem facing many companies today.

reviews that violate Glassdoor's Community Guidelines or Terms of Use. These rules primarily prohibit:

- >> copyright violations;
- >> disclosure of confidential information;
- >> promotion of anything illegal;
- >> abusive or discriminatory language; and,
- >> comments directed to identifiable or named individuals, with the exception of corporate public figures.

Many of the negative reviews that companies find particularly problematic run afoul of one or more of Glassdoor's

categories of impermissible conduct, and are thus subject to removal by what Glassdoor refers to as its "content-moderation team" (just imagine having that job title). Comments directed to identifiable individuals at a company provide the company with a potentially effective approach to having a negative review removed. Although not commonly known or appreciated, Glassdoor, pursuant to its Community Guidelines, only allows reviews of identifiable individuals if they concern individuals who are in senior management or the C-Suite of a company. This means that Glassdoor's Guidelines do not allow reviews that include negative comments about identifiable individuals outside of a company's senior management. By

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this guideline, Glassdoor precludes reviews that identify—whether by name or by position/title—any employee other than those that are the public face of a company. For example, a review that calls out a human resources director or a vice president of marketing likely violates Glassdoor’s guidelines. The same is true for a review that references an executive assistant—even the executive assistant to the CEO. Thus, this author has successfully assisted companies, including PR firms, in having Glassdoor remove negative reviews about mid-level and other employees pursuant to the Glassdoor Community Guidelines.

A review is subject to removal when it violates one or more of Glassdoor’s policies. The removal process is triggered by simply flagging the review which prompts Glassdoor’s internal review of the content with a commitment to responding within 48 hours. Glassdoor also provides companies the opportunity to include confidential comments at the time of flagging to explain why a review violates Glassdoor’s terms and guidelines. It is important to recognize that Glassdoor will not edit or redact any offending parts of a review, but will instead remove an offending review in its entirety. The reason for this is that Glassdoor and other social media sites want to ensure themselves the protections of the Communications Decency Act of 1996. This law shields internet providers from liability for content posted by users if they are simply providing a forum for the

content to be posted, and not acting as creators of the content. If the flagging process proves unsuccessful in having Glassdoor remove the post, companies also have the opportunity to respond in writing to the review. Glassdoor, in fact, gives companies the last word, unlike most other online review sites.

### OTHER LEGAL REMEDIES

There are also legal remedies available to a PR firm if a Glassdoor review contains false and defamatory factual statements. Available legal relief may include a court injunction to have the review removed. However, Glassdoor will not make any determinations of fact, and will not remove an alleged defamatory review until a court has ruled the post to be defamatory. Obtaining an order from a court can be an arduous and costly process, with no guarantee of success. However, pursuing such a remedy may be warranted if the review is truly defamatory. For reviews that are merely a statement of opinion—which are generally legally protected—Glassdoor’s remedies of flagging and responding are likely the only options available.

### PREVENTING NEGATIVE EMPLOYEE REVIEWS

Companies are encouraged to take proactive measures to prevent such reviews from ever being posted at all, thereby avoiding the Pandora’s Box of issues that are unleashed when a negative review is posted

on Glassdoor. Well-run PR firms should have an internal process for accepting, reviewing, and addressing employee complaints. This allows companies to have the opportunity to manage issues before they are aired publicly. Another important legal tool available to companies is to make sure that companies have updated their employment policies, handbook, and confidentiality agreements to include state-of-the-art non-disparagement provisions. These provisions need to be constructed with care because National Labor Relations Board administrative law judges have found certain non-disparagement provisions to be overbroad and void. However, a carefully crafted provision can both avoid legal attack and discourage employees from posting negative reviews on Glassdoor and other websites.

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