

When Cyberbullies Strike: BEST RESPONSE TECHNIQUES



If you're harassed on the Internet, go to the police immediately and report harassment. If nothing happens, complain of aggravated harassment.

This advice comes from attorney John Sarcone III, Esq, who represented Shirley Koshi, DVM, a cyberbullying victim who took her own life in February 2014. Filing such a complaint, he said, alerts police to contact the person responsible, order him or her to stop, and put the offender on notice that any further online attacks could result in an arrest.

The events leading to Koshi's death began last summer in New York City when 2 women presented a sick cat they said they had found in a nearby public park. Two weeks later, the cat, Karl, was still recovering from upper respiratory disease when another woman demanded that he be returned

to her. That woman, Gwen Jurmark, said she was Karl's rightful owner because she had adopted him from a shelter years before and paid to have him neutered. Jurmark had then released him into a park where he lived with other cats. Koshi refused to let Karl go back to the park because of his health and, instead, adopted him and took him home. In October, Jurmark sued Koshi in Bronx Civil Court for Karl's custody and later led protests outside Koshi's practice and, with others, launched an aggressive Internet campaign against her.¹

On February 16, police found Koshi dead in her home, apparently of a drug overdose. "I'm told she left a note referencing that the extreme emotional distress she'd been enduring was too much," Sarcone said, adding that police have the note and are continuing to investigate her death.

Jurmark's "lawsuit was frivolous, demanding a court order to Dr. Koshi to return the cat," Sarcone said. After Koshi died, he said, New York City Animal Care and Control picked up the animals in her home, including Karl, and took them to a shelter. He does not know where Karl is today, he said, but believes that Jurmark retrieved him with the intention of returning him to the feral cat colony.

State Laws Vary

In New York, second-degree aggravated harassment, which includes electronic communication with intent to harass, annoy, threaten, or alarm, is a misdemeanor that can land a convicted person in jail for as much as a year.²

Sarcone said of his defense in the custody suit: "Gwen Jurmark's behavior was reckless and irresponsible and should be punished...monetarily



TAKING THE BITE OUT OF SOCIAL MEDIA

It may seem that clients—or even strangers masquerading as clients—can anonymously defame veterinarians on social media, then hide behind the First Amendment with impunity. But the tide is beginning to turn, according to a recent *Wall Street Journal* article.⁵

Later this year, the Virginia Supreme Court will examine the case of Joe Hadeed, a carpet cleaner whose business declined 30% in 2012 following a series of negative reviews on the consumer website Yelp.⁵ Hadeed sued 7 Yelp users for fraudulent reviews; he said he believed some were from competitors and demanded that the site reveal the reviewers' identities. After the Alexandria Circuit Court and the Virginia Court of Appeals ruled in his favor and held Yelp in contempt for not releasing the names, the company appealed, citing the First Amendment and arguing that the businessman failed to prove the reviews in question were false.⁵ "They say they have a right to put this information out there. But where's my right to defend my business?" Hadeed said.⁵ Many veterinarians may be asking the same question.

Exceptions to the Rule

Hate speech and defamation are clear exceptions to the constitutional protection generally accorded to free speech. Internet companies such as Yelp, Facebook, Google, and Amazon have a legal protection: Section 230 of the federal Communications Decency Act, enacted in 1996, states, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."⁶ This relieves website providers of liability for their users' defamatory statements.

Yelp's content guidelines frown on "threats, harassment, lewdness, hate speech, and other displays of bigotry," and state, "Your contributions should be unbiased and objective. For example, you shouldn't write reviews of your own business or employer, your friends' or relatives' business, your peers or competitors in your industry..."⁷ Yelp also counsels reviewers to stick to the facts and avoid misrepresentation and exaggeration, but adds, "We don't take sides when it comes to factual disputes, so we expect you to stand behind your review."⁷ Yelp provides an online support center and allows business owners to flag reviews that clearly violate its guidelines.

Facebook's community standards state, "Facebook does not tolerate bullying or harassment. We allow users to speak freely on matters and people of public interest, but take action on all reports of abusive behavior directed at private individuals. Repeatedly targeting other users with unwanted friend requests or messages is a form of harassment."⁸ Facebook's statement on violence and threats is strong: "Safety is Facebook's top priority. We remove content and may escalate to law enforcement when we perceive a genuine risk of physical harm, or a direct threat to public safety."⁸ However, Facebook's advice on reporting abuse may not reassure someone who feels bullied, harassed, or threatened: "Please keep in mind that reporting a piece of content does not guarantee that it will be removed from the site. Because of the diversity of our community, it's possible that something could be disagreeable or disturbing to you without meeting the criteria for being removed or blocked."⁸

and through the criminal justice system....We were planning to sue Gwen and all the individuals who participated in this." Although Koshi's suicide left the custody case unresolved, Sarcone said a wrongful death suit is still possible if one of the veterinarian's surviving relatives chooses to initiate it.

Each state has different legislation against Internet bullying, says attorney John E. Owens, Esq, American Veterinary Medical Law Association president. Owens, who is married to a veterinarian, also has a degree in zoology and previously worked at the University of Florida's College of Veterinary Medicine.

In Florida, Owens said, cyberharassment or cyberstalking of adults is a third-degree felony carrying a penalty of up to 5 years in prison and a \$5,000 fine. However, he said, there must be more than one incident and the offensive electronic communication must be proven to have caused substantial emotional harm and served no legitimate purpose. In other states, such as Maryland, the only cyberbullying law applies to minors, he said.

Veterinarians at Risk

Koshi's suicide "has caused a chill through the profession," said David Carser, BVSc, LLB, CML, president and founder of the Veterinary Defence Association (VDA), an international nonprofit organization.

“I personally get a chill every time I think of the misery Shirley Koshi was subjected to. And all she was doing was looking after the best interests of a stray cat that most certainly was not the property of the person who saw fit to make it her life’s work to destroy Dr. Koshi,” he said.

Carser joined veterinarian Craig Greenwood, BVSc, CML, business manager Amber Carser, and legal researcher Debra Parsons in an email interview to discuss how veterinarians are particularly susceptible to cyberbullying because they “lean toward being artistic (right brain); they are sensitive, vulnerable, and individualistic. The veterinary profession is isolated and there is not much support and camaraderie within the profession.

“All these factors (see **Veterinarians at Risk**) can work together to create the perfect storm,” they noted. “The mix of misunderstanding, emotions, and irrational thoughts leads some people to feel they have to take re-

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VETERINARIANS AT RISK

Members of the Veterinary Defence Association, an international nonprofit organization, gave these reasons why veterinarians are particularly susceptible to cyberbullying:

- Veterinarians are generally isolated with little support.
- They are primarily healers and often feel inadequate in the business environment.
- The veterinary profession has the highest suicide rate, perhaps 4 times higher than the general population and twice that of doctors and dentists.
- The profession is unique in that it deals with the client, not the patient directly, and there can be conflict between the patient’s needs and the client’s wants.
- Money is always an issue. Veterinarians rarely, if ever, are able to perform a thorough and complete diagnostic workup because of the owners’ financial constraints. The owners, however, often have human medicine expectations.
- Medicine can be challenging for lay people, who may resort to emotional and subjective reactions.



venge on veterinarians, often under the guise/excuse/misperception that they should act as advocates to stop the vet harming more animals.

“People have been taking revenge on veterinarians since veterinarians ever existed. But what is new is that they now have the immense power of the media, which gives them enormous ability to do massive damage.... (They) think they are immune to responsibility and liability for their actions, because they feel protected by the facelessness and anonymity of the media....The posts on media often escalate as one derogatory post feeds another...until it blows completely out of proportion.”

Attorney Owens said he agrees with the VDA team. “Veterinarians seem to be a little more sensitive to criticism” than most professionals, he said. “They’re passionate about what

they do and they love it. Negative reviews become very personal.” Since the individuals who complain are passionate about animal rights and protecting their pets, “It makes for a volatile mix sometimes,” he said.

In Koshi’s case, he said, “The sad part is, I don’t know that she did anything wrong. You had 2 passionate groups on either side of the issue and she became the battleground.”

No Defining Line

Owens noted that since there is no bright line marking the point where free speech becomes harassment, proving intent is difficult when it is a question of “a person’s right to express an opinion versus a statement that is harmful, dangerous, and deliberately false,” and judges often err on the side of free speech.

“The big issue is that if it’s an opinion,



WHERE TO GO FOR ADVICE:

- American Veterinary Medical Law Association: 202-449-3818, info@avmla.org
- Cyberbullying Research Center: cyberbullying.us
- Veterinary Defence Association: 773-944-0386 (U.S.), 1-877-883-2201 (Canada), veterinary-defence-association.org
- Wired Safety: wiredsafety.org

it's probably not defamation, but it can still be harassment," Owens said. The blog post, "Is This the Worst Vet of 2013?," that one of Koshi's detractors published on December 31, 2013, is one example.³ "The intent was clearly beyond animal rights...even animal rights activists are like, 'This was way overboard,'" he said.

The defining line between protected free speech and harassment "is one of reasonableness," according to the VDA team. "If a media post is factually correct and consists of fair comment and is objective, then freedom of expression rules and the author's right to publish is protected."

While the First Amendment clearly does not protect hate speech, "the Supreme Court...to our knowledge, has yet to provide clarity in terms of cyberbullying of the nature faced by Dr. Koshi," they said.

'Act Quickly'

If bullied online, "Act quickly. Don't let it get out of control." They recommended reporting abusive posts to the website manager and asking that they be removed; flooding the same site with positive testimonials; applying

for an urgent court injunction or restraining order to have the post removed and further posts blocked, if necessary; and suing for damages.

"Veterinarians have to accept that they're not going to please everybody and there are always going to be detractors...no matter what you do, you're going to be called out by them," Owens said.

"The best thing you can do is step away for a day or so," he recommended. "If you have a staff member you can trust, have them respond...it separates the situation from the emotion...If you do respond, take the high road. Do not engage in a war of passion...It never works out for the veterinarian. Be professional, be succinct, and then just leave it at that."

Owens is "a big fan of mediation" if disputes do not involve criminal behavior, but, he said, "if it does get to harassment, contact local law enforcement, and make a complaint."


Reach out to the local veterinary community during a cyberbullying crisis, especially when feeling isolated, Owens said. "Look at the closest veteri-

narian or the person you worked for previously. Find a mentor and ask them how to deal with it...Typically, local VMAs are really good for that.

"The AVLMA offers a free e-newsletter, webinars, and an annual continuing education session to educate veterinarians and attorneys on the state of the law." A future webinar will likely deal with bad reviews, including cyberbullying issues, he said.

"Stand together...This needs to happen on a national scale," the VDA team advises. Joining associations like the VDA is easy and effective; the VDA helps members by compiling responses to cyber, newspaper, and other defamatory articles that explain the facts and limit any damage to the member's professional reputation.

'A National Crisis'

New York attorney Sarcone is now crusading for tougher laws against cyberbullying. In a video on the website Ban the Veterinary Abuse Network,⁴ he said, "My message is to any politician that's out there, federal or state, that this is a great opportunity for you to get ahead of the curve on something that is a national crisis." 

See Aids & Resources, back page, for references & suggested reading.

Suzanne Smither has 30 years of journalism, editing, management, and research experience. Her writing has been published in numerous newspapers and periodicals, and she has written 6 books about cats.

Editor's note: This is a follow-up to A Disturbing Trend: Veterinary Cyberbullying in the April issue.