

IN THE COURT OF COMMON PLEAS IN THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

Christopher Rhone and	:	
Christine Rhone,	:	C.A. No. 03-06-0143
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
Delphine E. Dickerson,	:	
	:	
Defendant.	:	
	:	

Inquisition at bar to determine damages

Submitted: October 8, 2003

Decided: October 16, 2003

Compensatory damages awarded to the Plaintiffs

Christopher Rhone and Christine Rhone, 317 West Wind Drive, Dover, Delaware 19901,
Pro Se Plaintiffs.

Delphine E. Dickerson, 29 Anchor Lane, Post Office Box 188, Dover, Delaware 19903-
0188, Pro Se Defendant.

Trader, J.

In this civil action for defamation of character I award damages to Christopher Rhone and Christine Rhone. The defendant's statement that each of the plaintiffs was a child abuser constitutes slander per se and damaged the reputation of Christopher Rhone and Christine Rhone in the community as well as caused them mental anguish.

The relevant facts are as follows: The defendant, Delphine E. Dickerson, is a sister of Christine Rhone. In April 2003, the Family Court of the State of Delaware granted custody of defendant's two children to the plaintiffs. In June 2003, the defendant filed an action in the Family Court to regain custody of her children. After the hearing in the Family Court, the defendant stated to a representative of the Division of Health and Social Services that each of the plaintiffs was a child abuser and had a history of child abuse. She made a similar statement to a Dover police officer as well as another representative of the Division of Health and Social Services.

On June 26, 2003, the plaintiffs filed a civil action in this court alleging defamation of character. The defendant did not file an answer to the plaintiffs' complaint and on August 14, 2003 the plaintiffs filed a motion for default judgment. The defendant failed to appear at the hearing on the plaintiffs' motion and a default judgment was entered against the defendant on the issue of liability. A hearing on damages was scheduled for October 8, 2003.

At the hearing on damages, each plaintiff testified to the damage to his or her reputation. Christopher Rhone testified that as a result of the defendant's statement, he was shifted from a job where he went into the community to a desk job. Christopher Rhone is a Navy recruiter and he is afraid that these statements will impair his opportunity for advancement. Christine Rhone is a certified medical assistant and she

testified that the defendant's statements damaged her reputation and caused her personal humiliation and mental anguish. She also testified that her neighbors came to her and asked if she abuses children.

Defamation is a tort that is divided into two separate categories. One is libel and the other is slander. *Spence v. Funk*, 396 A.2d 967, 970 (Del. 1978). Libel is written defamation, and slander is oral. *Id.* "[T]he elements of defamation are: 1) defamatory communication; 2) publication; 3) the communication refers to the plaintiff; 4) a third party's understanding of the communication's defamatory character; and 5) injury." *Delaware Express Shuttle v. Older*, 2002 WL 31458243 at *21 (Del.Ch.) *citing Bloss v. Kershner*, 2000 WL 303342 at *6 (Del. Super. Ct.), *aff'd* 793 A.2d 1249 (Del. 2001); *Read v. Carpenter*, 1995 WL 945544 at *2 (Del. Super. Ct.) *aff'd* 670 A.2d 1340 (Del. 1995).

Claims of slander, unlike libel, usually require proof of special damages. *Delaware Express Shuttle* at *21 *citing Read* at *2. Slander per se, however, requires no proof of special damages. *Delaware Express Shuttle* at *21 *citing Spence*, 396 A.2d at 970. There are four categories of slander per se: 1) maligning a person in his or her trade or business; 2) imputing a crime of moral turpitude; 3) implying a person suffers from a loathsome disease; and 4) imputing unchastity to a woman. *Id.*

False accusations of child abuse are slander per se because child abuse is considered a crime of moral turpitude. *Dobson v. Harris*, 530 S.E.2d 829, 833 (N.C. 2000). There are situations, however, when a person has a legal obligation to report the abuse. "[A]ll fifty states have codified mandatory reporting statutes that impose a duty to report suspected or observed child abuse upon specified persons or institutions,

particularly those that work regularly with children.” *Id.* Because individuals are responsible for reporting child abuse, state statutes also grant immunity to those who abide by this law from both criminal and civil liability. *Id.* at 834. Along with this immunity comes a statutory assumption that reports of child abuse to the appropriate state agency are made in good faith. *Id.*; 16 Del.C. Sec. 906 provides for immunity from civil liability for anyone participating in good faith in the making of a report of child abuse.

In the event, however, that the court finds that the report of child abuse was not made in good faith, the reporter will be found guilty of slander per se. This is true even when the report is made to a government agency dealing with the protection of children. In *Brown v. Farkas*, the court found the defendant guilty of slander per se when he called the department to children and family services alleging the plaintiff was “bragging of sexual contact with his daughter.” 511 N.E. 2d 1143, 1146 (Ill. App. Ct. 1986). The trial court found that the statement was not made in good faith because the defendant “did not know the statement to be true and had no reasonable basis to know that it was true.” *Id.* Similarly, in *Kroh v. Kroh*, a wife was found guilty of slander per se when she reported to the Department of Social Services that her husband molested their child because the court found the report as in bad faith. 567 S.E. 2d 760, 766 (N.C. Ct. App. 2002).

In the case at bar, the allegations of child abuse was made to members of the general public as well as to representatives of government agencies. Additionally, the defendant did not appear in court and contends that she made a report of child abuse to a government agency in good faith.

Statements made to anyone, other than to a government agency regulating child safety, accusing another person of child abuse is slander per se. *See Kroh v. Kroh*, 152

N.C.App. 347, 356 (N.C. Ct. App. 2003). In *Ramirez v. Rogers*, the operator of a gymnastics school was found guilty of slander per se when she told the producers of a television show that the operator of a competing school was under investigation for child abuse. 540 A.2d 475, 477 (Me. 1988).

In the case before me the defendant made a defamatory communication that referred to each of the plaintiffs and the statement was false. When Christopher Rhone resided in Virginia, he was investigated for spanking his child. But the police did not file a criminal charge against him and the statement that he or his wife was a child abuser is false. Under 18 Va. C. Sec. 2-572 it is a crime to commit an assault and battery against a family member or member of the household.

The defendant's statements that the plaintiffs are child abusers constitute accusations that Christopher Rhone and Christine Rhone committed crimes of moral turpitude. An accusation of child abuse implies unlawful sexual contact and is slander per se. The Superior Court in *Stidham v. Wachtel*, 21 A.2d 282-283 (Del. Super. Ct. 1941) listed the types of damages that may be awarded in a slander case. The Court explained:

In such a case as this, damages may be of several kinds: 1. Nominal damages; 2. Compensatory damages, which may be either (a) General, or (b) Special; and 3. Exemplary or punitive damages. (1) Nominal damages at least must be given where the words spoken are actionable per se and the plaintiff prevails. (2)(a) General compensatory damages may be given in addition to nominal damages where the words spoken are actionable per se and the plaintiff prevails, and this notwithstanding there is no evidence of actual damage. General compensatory damages are such as the law will presume to be the natural or probable consequence of the defendant's conduct and for the harm, which normally results from such defamation. (b) Special compensatory damages can be given only when alleged in the pleadings and proven by evidence...(3) Exemplary or punitive damages

can be given only where claimed in the pleading and supported by the evidence of malice or other required facts. *Id.*

In the case at bar, no exemplary damages were alleged in the pleadings and therefore no exemplary damages can be awarded. Also no special damages are alleged in the pleadings. But since I determine that the defendant's statements constituted slander per se, I can award nominal or compensatory damages. Since each plaintiff has testified that substantial damage has been done to his or her reputation, I will award general compensatory damages to each of the plaintiffs.

Accordingly, I award Christopher Rhone damages in the amount of \$250.00 and I award Christine Rhone damages in the amount of \$250.00. In accordance with these findings of fact and conclusions of law, judgment is entered on behalf of Christopher Rhone and against Delphine Dickerson for the sum of \$250.00, plus costs of these proceedings. Judgment is also entered on behalf of Christine Rhone and against Delphine Dickerson for the sum of \$250.00, plus the costs of these proceedings.

IT IS SO ORDERED.

Merrill C. Trader
Judge