

IN THE SUPREME COURT OF IOWA

NO. 18-1170
GRUNDY CO. CASE NO. CVCV059487

SCOTT COOPER
Plaintiff-Appellant,

vs.

CITY OF REINBECK, REINBECK
TELECOMMUNICATIONS UTILITY, and TIM JOHNSON,
MAYOR OF THE CITY OF REINBECK
Defendant-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
IN AND FOR GRUNDY COUNTY
HONORABLE BRADLEY J. HARRIS, JUDGE

APPELLANT'S REPLY BRIEF

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STATEMENT OF ISSUES PRESENTED FOR REVIEW

**I. WERE THE STATEMENTS AGAINST MR. COOPER
DEFAMATORY *PER SE*?**

Barreca v. Nickolas, 683 N.W.2d 111 (Iowa 2004)

APPELLANT'S ARGUMENTS

I. THE STATEMENTS AGAINST SCOTT COOPER ARE DEFAMATORY *PER SE*.

The statements made by Tim Johnson are clearly statements that qualify as defamation *per se*. While the Defendants correctly identified the four categories of defamation *per se*, their contention that Tim Johnson's statements are not defamatory *per se* is incorrect.

The four categories of *per se* defamatory statements include, "imputation of (1) certain indictable crimes, (2) loathsome disease, (3) incompetence in occupation, and (4) unchastity". *Barreca v. Nickolas*, 683 N.W.2d 111, 116 (Iowa 2004) The statements published by Tim Johnson against Scott Cooper fall squarely within the categories of defamation *per se* as they relate specifically to his occupational performance and include allegations of criminal behavior.

First, the defamatory statements relate to Mr. Cooper's competency as an employee at Reinbeck Telecommunications. *See id. See also Amick v. Montross*, 220 N.W. 51, 55-56 (Iowa 1928)(Iowa has recognized defamatory statements related to occupations are defamatory *per se*). As stated in his Mr. Cooper's appellate brief, this includes the false allegations that he locked other employees out of credit card records and customer files. Mr. Johnson

also alleged Mr. Cooper was in some way at fault for the telephone service outage.

Further, the statements alleging Mr. Cooper had committed a crime by forging a signature qualify as defamation *per se*. *Barreca*, N.W.2d at 116; *McMinemee v. Smith*, 93 N.W. 75, 75 (Iowa 1903) (accusation of stealing was slander *per se*).

As previously noted, Tim Johnson directly accused Mr. Cooper of engaging in an “illegal transaction”. Johnson stated, “The signature [on a city Bond] was done by Scott via either a stamp or cutting and pasting a signature from a previous document. The RTU Board did not issue any warnings nor did they take any action on this illegal transaction.”

The statements made against Mr. Cooper clearly qualify as defamation *per se* under Iowa law. As such, damages are presumed in this case.

CONCLUSION

The district court erred in granting the Defendants motion for summary judgment and the matter should be reversed and remanded for a trial on the merits.

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