

CANNON FIRE

ANNALS OF JUSTICE

By Steve LaCheen

The intercom buzzed, and my secretary said, “Your two o’clock appointment is here.”

Waiting in the outer office was a young woman in her mid-20s, of a pleasing appearance, dressed appropriately for a business appointment, wearing a smile, and extending her hand in greeting.

“Miss Cannon?” I asked, although who else would it be but the person by that name who had called several days earlier, recommended by a former client, to make the appointment she was now in the process of keeping.

“Yes,” she said, “thank you for seeing me on such short notice, but this is my only day off, and...”

“No problem. Why don’t you come into my office,” I said, turning to lead the way.

Inside, she took a seat, unbuttoned her coat, and took off her hat, revealing a head of curly orange-red hair that fairly shouted, “carrot top.” Seeing her close up, I noticed that her face was covered with her hair’s perfect complement, a full set of freckles.

“Well,” I said, “you mentioned wanting to bring a lawsuit...”

“Damn right,” she said, with a tight smile. “I want to sue the bastard for slander.”

I asked who, and why, and where, and when; and she told me that she had gotten into an argument with a fellow employee – actually a supervisor at the Nabisco plant where she worked, and he had “cursed her out,” calling her a “toilet-mouth bitch,” “a bum,” and some other choice invectives.

When she explained the genesis of the argument (I no longer remember exactly what it was), I remember thinking that what had started it hardly seemed worthwhile arguing over; and I asked if there wasn’t something else at work that was the real

reason for the escalation.

“Yeah, I guess it might be because I shot him down when he came on to me at the company picnic. Mr. High-and-Mighty has been on my case ever since, him with his high falutin’ airs. Now, he gives me grief every chance he gets, and I can’t get the shop steward to do anything about it. Look, I’m no thin-skinned little schoolgirl. I give it out, and I can take it.

I know I got a big mouth and a temper, too – they don’t call me “cannon mouth” for nothing, but I don’t need this ass making my life miserable and callin’ me names in front of my fellow workers. It’s embarrassing.”

We spent some time discussing the mechanics of the lawsuit she wanted to bring. I told her what I knew about the law of defamation, which wasn’t much, and said I would need a day or two to do some research to determine whether she did in fact have a cause of action.

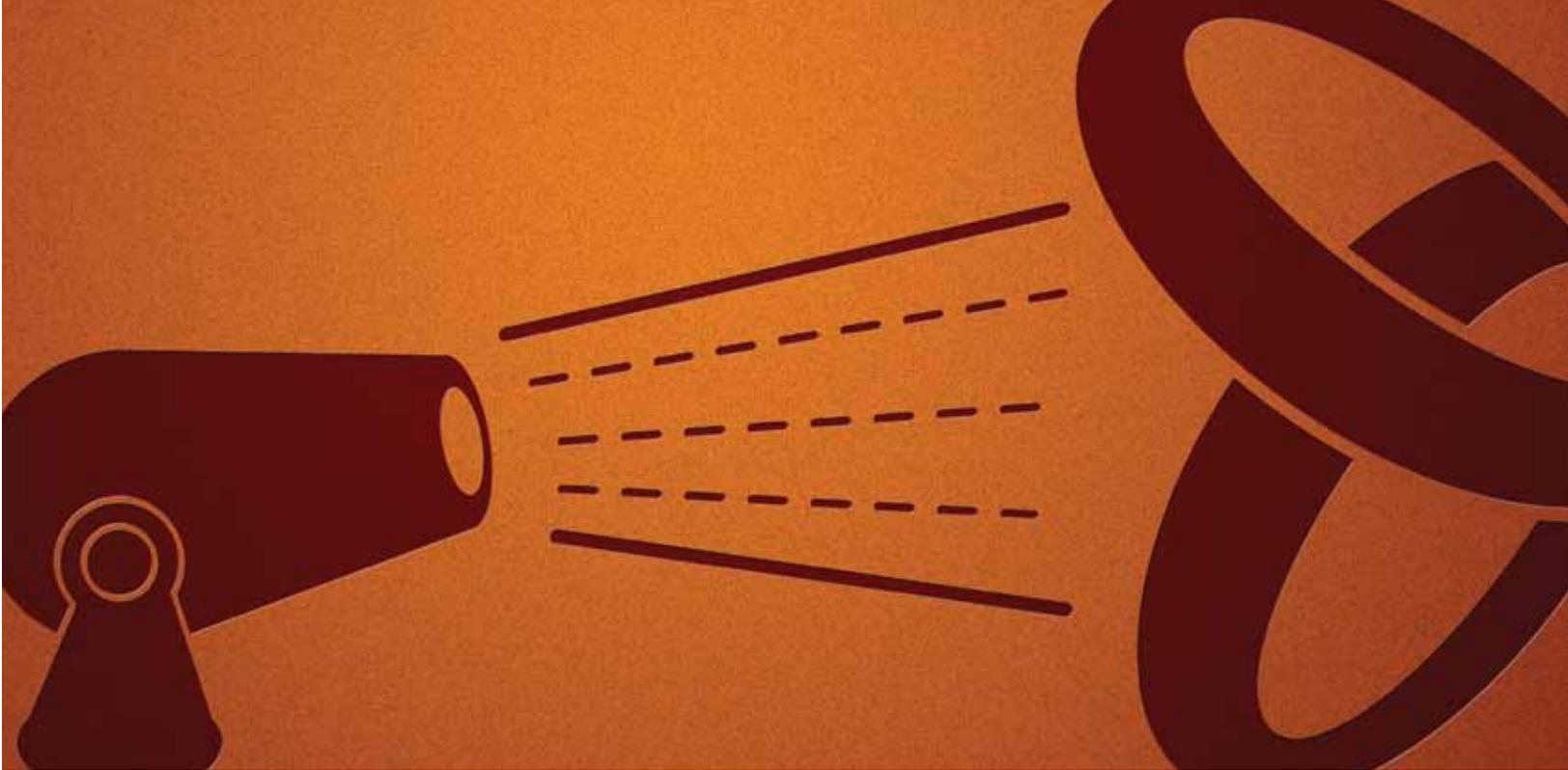
I did the research, and at our next meeting explained that, based upon the factual scenario which she had related, I thought it might be sufficient to enable me to draft a complaint, but without something more, including some actual pecuniary damage sustained by her, I didn’t see much in the way of a monetary recovery down the line. In fact, I had read cases in which plaintiffs in defamation suits had won their cases, only to be awarded nominal damages of \$1, or

even one cent.

“It’s not about the money,” she said. “If I win, I don’t want his damn money. I want the son of a bitch’s signature on a check. For a dollar or a dime, I don’t care. It’ll be the perfect apology. And I might even frame it, just for show.”

She was adamant. Even after I said I could not take such a case on a contingent fee, she agreed to pay whatever costs were incurred, and pay me a fee of \$500, win or lose. I never thought to mention, “draw.”

In fact, I had read cases in which plaintiffs in defamation suits had won their cases, only to be awarded nominal damages of \$1, or even one cent.



I drafted a complaint, and had it filed and served on the defendant. Within days, I received preliminary objections, alleging that the complaint failed to state a cause of action because, the alleged defamatory words weren't slanderous as a matter of law, and, therefore, the complaint was deficient in failing to allege any "special damages" sustained by the plaintiff.

Slander involves speaking base and defamatory words that tend to prejudice the reputation, office, trade, business, profession, or means of livelihood of another. Words are slanderous *per se*, which charge commission of a crime of moral turpitude; affliction with a loathsome, communicable disease; tend to injure a person in his office, trade, business or profession; or charge a woman with being unchaste. All other spoken defamatory words are not actionable in the absence of special damages.

Where the words are not slanderous *per se*, the plaintiff must, in addition to the above, allege and prove extrinsic facts and circumstances showing the defamatory nature of the spoken words under the circumstances that render them injurious to plaintiff. Not all words that are offensive, distasteful, outrageous, or of a grossly insulting nature can be said to be slanderous *per se*, and words of mere abuse, without proof of special damages are not

actionable.

Back to the books. Bad news. Calling someone a name, even cursing them, did not constitute slander, and even if it were, truth was a defense. Worse yet, the complaint failed to allege pecuniary damage, as there was none. We were likely to end up out of court. But I had an idea.

Back to the books. More bad news. "Webster's Dictionary" was no help. None of the definitions of the several invectives cast at Miss Cannon qualified as an exception to the general rule. But Webster was a little out of date and maybe not the last word. I remembered that I had at home a copy of a modern slang dictionary, and, sure enough, although I found no help in the definitions of the other insults heaped on Ms. Cannon, I hit pay dirt with definition #9 (of 15) for "bum," which read:

bum. *n...* **9.** A promiscuous woman, esp. if uneducated and unsophisticated; a cheap prostitute. 1930: "Picking up bums in public dance halls..." J.T. Farrell. Very common since c.1940."

Dictionary of American Slang, Wentworth & Flexner, Eds.

Crowell Co., NY, 1960, p. 74, no. 9

I incorporated that definition into my response to the defendant's preliminary objections. After argument in motions court, the judge dismissed the objections and ordered the defendant to file an answer on the merits to the complaint, which he found to sufficiently allege slander *per se*.

No answer was ever forthcoming. I agreed to an extension, and then another, but, still no answer. I reached out for my client, first by letter, which went unanswered, then by telephone. It took three tries before I got a return call, at which time Ms. Cannon said she didn't want me to take any further action just yet. She wanted the matter stayed until further notice, and assured me that she would contact me when it was the right time.

Several more months passed, then, a postcard from my client. It was a picture postcard from Niagara Falls. The message read, "Drop the case. Don't need apology. Don't need check. Best signature: A Marriage License!" It was signed, "The Cannon." ■

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