MLRC Media Law Resource Center

COMMITTEE REPORT

"WATCH" WORDS

A Glossary *

Special thanks for compiling this list go to: ***John C. Greiner***, Graydon, Head & Ritchey with assistance provided by Joe LaRue, Shaun Patsy, Lisa Caldemeyer and Stacy Cole.

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"WATCH" WORDS

Whoever coined the phrase "sticks and stones may break my bones but words will never hurt me" in all likelihood, was not a plaintiff's lawyer. Words -- often a specific word -- form the basis for many defamation actions.

Words, indeed the same words, can be dangerous or benign. Words are at the mercy of their context. And as media lawyers know, words sometimes ***are*** at the mercy of judges and juries.

Attached is a list of words and the ways in which courts have found them, in a given context, to be defamatory. It is not intended to turn ordinary terms into pariahs. But by identifying judicial opinions that have held specific words to be the potential basis for liability, it is a reminder that words, some of which seem so banal and basic, can turn hostile in the wrong company.

This compendium should offer media counsel examples and ideas for conversations with or presentations to those who write and speak for a living. This compendium serves as a valuable reminder of the ways in which words feed First Amendment litigation.

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Watch Words

AIDS

- See also "HIV Positive."

- Although not getting to the merits of the claim, the Florida Supreme Court held that a claim of defamation alleging that the defendant said the plaintiff "had AIDS" could proceed on personal jurisdiction grounds. *Quadro v. Bergeron*, 851 So.2d 665 (Fla. 2003).

- A case alleging that an article and photograph, taken together, implied that the plaintiffs had AIDS was dismissed because "the plaintiffs have failed to establish by a preponderance of the evidence that the Times defendants intended or endorsed such an implication and acted in a grossly irresponsible manner." *McCormack v. Cty. of Westchester*, 286 A.D.2d 24, 731 N.E.S.2d 58 (N.Y. App. 2001). The plaintiffs were required to prove the higher standard because the article about AIDS was a matter of great public interest. Had they been able to prove this, their defamation action may have succeeded. *See also Learo v. Auburn Publishers Inc.*, 27 Media L. Rep. 1062 (N.Y. App. 1998).

- The Supreme Court of Nebraska upheld a jury verdict awarding the plaintiff damages for a claim that the defendant libeled the plaintiff for falsely stating to numerous individuals that the plaintiff had AIDS. *McCune v. Neitzel*, 235 Neb. 754, 457 N.W.2d 803 (1990).

- A California Superior Court rejected a plaintiff's intentional and negligent infliction of emotional distress claims, which were based on a photograph of the plaintiff standing next to Magic Johnson, because the photograph broadcast by a television network did not reasonably convey to the television audience that the plaintiff was afflicted with HIV or AIDS. *Wiley v. AIDS Healthcare Foundation, Inc*., 33 Media L. Rep. 1307 (San Francisco Super. Ct. 2004).

Abortion

- A false accusation that an individual has had an abortion is actionable as defamation. *Russell v. Thomson Newspapers, Inc*., 842 P.2d 896 (Utah 1992).

Abuse / Abuser

- "An accusation of child abuse implies unlawful sexual contact and is slander per se." *Rhone v. Dickerson,* 2003 WL 22931336, *3 (Del. Com. Pl. 2003).

- "[I]f a newspaper falsely writes that school principal John Jones physically abused his pupils, principal Jones would not need to introduce survey evidence in a libel action to show that readers identified him personally as the abuser, or that the article injured his reputation. In such a case, the trier of fact can draw the necessary inferences from the evidence before it, without the assistance of surveys." 92 Trademark Rep. 1241, 1295.

- "In almost all states, anonymity is promised to those who report elder mistreatment, and breach of this guarantee of confidentiality is grounds for liability." Seymour Moskowitz & Michael J. DeBoer, *When Silence Resounds: Clergy and the Requirement to Report Elder Abuse and Neglect,* 49 DePaul L. Rev. 1, 38 (1999) (citation omitted).

- "The accusation that someone is an animal abuser . . . is defamatory *per se.* These statements are facts susceptible to being proved false and tend to harm reputation." *Katzenbach v. Grant,* 2005 WL 1378976, *13 (E.D. Cal. 2005).

- Statements by a psychologist who had testified in child custody proceeding to television reporter, which to some extent reconveyed child's own remarks, in effect labeled father a child sexual abuser and thus were defamatory; psychologist repeated child's allegations and then declared that child's fear and anxiety of further abuse were genuine. *Rosenberg v. Helinski*, 328 Md. 664, 616 A.2d 866 (Md. 1992).

Accomplice

- Television talk show host's allegedly defamatory statement, that anti-abortion activist was "accomplice" to doctor's murder, based upon his actions in including doctor's name on website list which he posted of physicians who performed abortions, and in later striking "X" through doctor's name following murder, was protected by First Amendment, as non-literal rhetorical hyperbole; circumstances under which statement was made, during emotional debate about highly charged issue of significant public concern, were such that no reasonable viewer would have concluded that talk show host was literally saying that activist should be charged with felony. *Horsley v. Rivera*, 292 F.3d 695 (Ga. Ct. App. 2002).

- Words that falsely charge a punishable offense, such as acting as criminal accomplice, constitute slander per se. *Rippett v. Bemis*, 672 A.2d 82 (Me. 1996).

- Defendant published, in effect, that certain of plaintiff's property, which was insured, had burned; that there were a number of suspicious circumstances surrounding the destruction of the property, which caused the insurance company to refuse to pay the loss; that the insurance company at least suspected plaintiff of burning the property himself or being an accomplice therein; and that it was reported that plaintiff had burned the insured property. The court held the statements were libelous per se. *World Pub. Co. v. Mullen*, 61 N.W. 108 (Neb. 1894).

Addict

- Untrue statement that woman is drug addict is "libelous per se." *Miles v. McGrath*, 4 F.Supp. 603 (D.C. Md. 1933).

- Where genuine disputes of material fact exist, such as whether the plaintiff was actually using cocaine at the time of the statement, it is up to the trier of fact to determine whether calling one a drug addict is libelous. *Kirckof v. Brown*, Civil No. 01-476 (D. Minn. 2002).

Adopted

- There are no reported cases which address the question of whether publishing a claim that someone is adopted is actionable as defamation/libel.

Adulteration of Products

- "[I]t is actionable without proof of damage to say of a physician that he is a butcher . . ., of an attorney that he is a shyster, of a school teacher that he has been guilty of improper conduct as to his pupils, of a clergyman that he is the subject of scandalous rumors, of a chauffeur that he is habitually drinking, of a merchant that his credit is bad or that he sells adulterated goods, of a public officer that he has accepted a bribe or has used his office for corrupt purposes . . . since these things discredit [one] in his chosen calling." W. Page Keeton et al., *Prosser and Keeton on the Law of Torts,* § 112, at 791 (5th ed.1984); *see also Four Star Stage Lighting, Inc. v. Merrick,* 56 A.D.2d 767, 768, 392 N.Y.S.2d 297 (App. Div. 1977) (holding that "words are libelous if they affect a person in his profession, trade, or business by imputing to him any kind of fraud, dishonesty, misconduct, incapacity, unfitness or want of any necessary qualification in the exercise thereof"). *Treppel v. Biovail Corp.*, 2004 WL 2339759, *10 (S.D.N.Y. 2004).

Adultery

- See also "Affair," "Infidelity," "Running Around," and "Unfaithful."

- Illinois recognizes five categories of defamatory statements that are considered actionable per se, including those imputing adultery or fornication. *Brennan v. Kadner*, 814 N.E.2d 951 (Ill. App. Ct. 2004); *Muzikowski v. Paramount Pictures Corp.*, 322 F.3d 918 (7th Cir. 2003).

- The false accusation of a woman of adultery is libelous per se. *Firestone v. Time, Inc.*, 305 So. 2d 172 (Fla. 1974).

- It is actionable per se for a libelous publication to accuse either a man or woman of adultery or fornication. *Baird v. Dun & Bradstreet*, 285 A.2d 166 (Pa. 1971).

- Statements imputing a crime to another are defamatory, as are statements imputing adultery or extramarital sexual relations. *Gorman v. Swaggart*, 524 So. 2d 915 (La. Ct. App. 1988).

- The words "an affair" impute the crime of adultery and are, therefore, actionable as slander per se. *Meyer v. Somlo*, 105 A.D.2d 1007 (N.Y. App. Div. 1984).

- "It is axiomatic that some types of statements are considered so damaging to a person's reputation that they are considered slander or libel per se and a plaintiff need not prove special damages to set forth a valid cause of action. One such type of statement is that which charges a person with the crime of adultery." *Ahrens v. Stalzer*, 2004 WL 1796489, *9, 2004 N.Y. Slip Op. 50864(U) (N.Y. Dist. Ct. 2004).

- Because a newspaper published an article charging a teacher with criminal acts, based on information supplied by the teacher's ex-husband, when it had ample reason to doubt his veracity and mental state, a jury could find it acted with malice. *Luper v. Black Dispatch Publ. Co.*, 675 P.2d 1028 (Okla. Ct. App. 1983).

- Plaintiffs filed a class action against defendants, a television station and various broadcast executives and other affiliated parties claiming that a certain movie depicting the execution of a Saudi Arabian princess for adultery was insulting to and defamatory of followers of the Islamic faith. Defendants filed a motion to dismiss. The court granted defendants' motion, dismissing the action with prejudice. The court found that the viewers had failed to allege special damages as required in such a case because while the complaint alleged that over 600 million persons were damaged, it failed to allege any special damages they incurred. *Talal v. Fanning*, 506 F. Supp. 186 (D. Cal. 1980).

- When one alleged that a woman who was three months pregnant had committed adultery, the harm caused to her reputation, in the eyes of her husband, was sufficient to maintain an action for defamation when the husband's actions towards his wife indicated that he believed the accusations. *Ellis v. Price*, 990 S.W.2d 543 (Ark. 1999).

- Libel award was proper when defendant published untrue accusations made in divorce proceedings and included in the article references to a sex study from which one could infer that plaintiff was a sexual deviate, despite a retraction from plaintiff's husband. *Shumate v. Johnson Publishing Co.*, 139 Cal. App. 2d 121 (Cal. Ct. App. 1956).

- One cannot sue for defamation to himself, when someone alleges his spouse committed adultery. *Larrimore v. Dubose*, 827 So.2d 60 (Ala. 2001) (holding that an allegation of adultery by one spouse does not defame the other spouse); *Nelson v. Associated Press, Inc.*, 667 F. Supp. 1468 (D. Fla. 1987) (a charge of adultery against one spouse does not result in guilt by association to the other spouse).

Affair

- See also "Adultery," "Infidelity," "Running Around," and "Unfaithful."

- It is not defamatory for a spouse to infer that one may be engaging in infidelity or may have been unfaithful when seeking advice from close friends. The defendant used the words "running around" or "having an affair" in reference to her husband, and the court found none of these to be defamatory. *Watson v. Watson*, 209 So.2d 528 (1968).

Alcoholic

- Statements made by employers, supervisors, or business associates regarding the effect of drug or alcohol use by the plaintiff on the job may constitute per se defamation because it indicates an unfitness to perform the duties of employment. *Welch v. Chicago Tribune Co.*,

340 N.E.2d 539 (Ill. App. 1975); *Lara v. Thomas*, 512 N.W.2d 777 (Iowa 1994); *Affolter v. Baugh Constr. Oregon*, 51 P.3d 642 (Or. Ct. App. 2002).

- The Restatement (Second) of Torts seeks to protect expressions of opinion based on disclosed or assumed nondefamatory facts. Thus, if one writes, without more, that a person is an alcoholic, he may well have committed a libel prima facie; but if he writes that he saw the person have a martini at lunch and accordingly states that he is an alcoholic, there is no prima facie case for libel. RESTATEMENT (SECOND) OF TORTS § 566(c) (1977). Adopted by *Lyons v. Globe Newspaper Co.*, 612 N.E.2d 1158 (Mass. 1993).

- The publication of a police report listing someone as charged with a "DUI" or its variants is not libelous where the media has a qualified privilege exercised in good faith, even if the DUI charge is subsequently dismissed. *Minton v. Thomson Newspapers, Inc.*, 333 S.E.2d 913 (Ga. Ct. App. 1985).

- To assert or imply as a fact that the judgment of another was regularly impaired by alcohol is defamation. *Varian Med. System v. Delfino*, 113 Cal. App. 4th 273, 291 (2003).

Altered Records

- Statement that a veterinarian altered or "doctored" records was held to be defamatory in *Reilly v. Associated Press*, 59 Mass. App. Ct. 764, 1216, 32 Media L. Rep. 2293 (2003).

Alzheimers

- There are no reported cases which address the question of whether publishing a claim that someone suffers from Alzheimers is actionable as defamation/libel.

Ambulance Chaser

- To call one "an ambulance chaser" in a fact-based publication can reasonably be interpreted to mean that he is an attorney who improperly solicits clients; it remains for a jury to determine whether the challenged statement was in fact understood in a defamatory sense. *Flamm v. American Ass'n of University Women*, 201 F.3d 144 (2nd Cir. 2000).

Anarchist

- Falsely publishing that an individual is an anarchist is libelous. *Lewis v. Daily News Co.*, 81 Md. 466 (Md. 1895).

Anorexia

- There are no reported cases which address the question of whether publishing a claim that someone suffers from anorexia is actionable as defamation/libel.

Anti-Semite

- To call one an anti-Semite is not defamatory per se under the law of Indiana or Ohio. *Rambo v. Cohen*, 587 N.E.2d 140, 148-149 (Ind. App. 1992); *Condit v. Clermont County Review*, 110 Ohio App.3d 755, 675 N.E.2d 475 (Ohio Ct. App. 1996).

Arrested

- It is not defamatory to report that one was arrested, while leaving out material facts surrounding the arrest, so long as the individual really was arrested. *Mohr v. Grant*, 108 P.3d 768 (Wash. 2005).

- A person whose picture has been published and incorrectly identified as having been arrested (or identified in any other way which would be defamatory) may recover for defamation. *Peck v. Tribune Co.*, 214 U.S. 185 (1909). However, if the one pictured is a public official, he must prove actual malice on the part of the media to maintain his suit. *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *Jones v. New Haven Register*, 763 A.2d 1097 (Conn. Super. Ct. 2000).

- A news report inaccurately stating that someone was arrested may constitute defamation when (a) the reporter got his information from a police report; and (b) the report clearly indicated that the person in question was a "witness," not a "suspect." In such a situation it is a question for the jury as to whether the reporter exercised "reasonable care" in his reporting. *Franks v. The Lima News*, 672 N.E.2d 245 (Ohio Ct. App. 1996).

Ass

- Words attributed to defendant, a candidate in political campaign, which were reported in an article written by defendant newsman and published in defendant newspaper, and which characterized plaintiff, who opposed defendant in campaign, as a "horse's ass," "a jerk," "an idiot" and "paranoid" did not constitute a basis for a libel action. *Blouin v. Anton*, 431 A.2d 489 (Vt. 1981).

Atheist

- There are no reported cases which address the question of whether publishing a claim that someone is an atheist is actionable as defamation/libel.

Attempted Suicide

- There are no reported cases which address the question of whether publishing a claim that someone has attempted suicide is actionable as defamation/libel.

Bad Moral Character

- There are no reported cases which address the question of whether publishing a claim that someone is of bad moral character is actionable as defamation/libel.

Bagman

- There are no reported cases which address the question of whether publishing a claim that someone is a bagman is actionable as defamation/libel.

Backed out

- It is not defamatory to allege that an individual "backed out" of a settlement. *Luchansky v. Jagnow*, Mahoning App. No. 97CA191 (Sept. 11, 1998).

Bankrupt

- A false statement that a merchant is bankrupt is held to be libelous per se. *Dun and Bradstreet, Inc. v. O'Neil*, 456 S.W.2d 896 (Tex. 1970); *Hirshfield v. Ft. Worth National Bank*, 18 S.W. 743 (Tex. 1892); *Denton Publishing Company v. Boyd*, 460 S.W.2d 881 (Tex. 1970).

Bigamist

- There are no reported cases which address the question of whether publishing a claim that someone is a bigamist is actionable as defamation/libel.

Bigot

- To call one a "bigot" is not actionable as defamation or libel. *Raible v. Newsweek*, 341 F. Supp. 804, 807 (W.D.Pa. 1972) ("[T]o call a person a bigot or other appropriate name descriptive of his political, racial, religious, economic or sociological philosophies gives no rise to an action for libel.").

Bilk

- It is not libelous to restate prior accusations that plaintiff had been accused by State Attorney General of bilking customers. *Brake and Alignment World v. Post-Newsweek*, 10 Media L. Rep. 2457, 2458 (Fla. Cir. Ct. 1984).

- When statement that plaintiff "bilked thousands of dollars" from charities was made with egregious and reckless disregard for plaintiff's unblemished reputation, damage award for defamation is justified. *Trentecosta v. Beck*, 714 So.2d 721 (La. Ct. App. 1998).

Bi-sexual

- In jurisdiction where defamation per se is limited to the classic categories of infamous crime, loathsome disease, and impeachment in trade or profession, the bare allegation that an individual is gay or bisexual constitutes an accusation which does not rise to the level of defamation. As a matter of law and absent any extrinsic, explanatory facts, per se it does not hold that individual up to disgrace, ridicule or contempt. *Donovan v. Fiumara*, 442 S.E.2d 572 (N.C. Ct. App. 1994). Calling someone "bisexual" was not slander per se because the statement does not allege the presence of a "loathsome disease" or impute the commission of a crime.

Black Market

- Falsely accusing someone of being involved with the "black market" has been held to be defamatory as a matter of law. *Las Vegas Sun v. Franklin*, 74 Nev. 282, 287, 329 P.2d 867 (1958).

Blackmail

- Where no reasonable reader concluding would have thought the term "blackmail" used in a heated debate was a literal accusation of crime, there is no defamation. *Greenbelt Coop. Publishing Ass'n v. Bresler*, 398 U.S. 6 (1970).

Bootlegger

- Description of a political candidate as a "former small-time bootlegger" was held to be defamatory in *Roy v. Monitor-Patriot Co.*, 254 A.2d 832 (N.H. 1969), *rev'd on other grounds*, 401 U.S. 265 (1971).

Brainwash

- There are no reported cases which address the question of whether publishing a claim either that someone has brainwashed another, or has been brainwashed, is actionable as defamation/libel.

Bribery

- News media's report that a plaintiff had bribed two people was not actionable as libel when the plaintiff was subsequently found to have only bribed one person; his reputation was not damaged by the report of an extra bribe. *Ali v. Moore*, 984 S.W.2d 224 (Tenn. Ct. App. 1998).

- An accusation that one has solicited a bribe is a question of fact. To find that such an accusation is libel, the jury must conclude that the one making the accusation knew or should have known that his statements were false. Such speech is stripped of constitutional

protection and exposes the defendant to damages for libel. *DiBella v. Hopkins*, 403 F.3d 102, 115 (2d Cir. 2005).

- When the group or class defamed is sufficiently small, the words may reasonably be understood to have personal reference and application to any member of it so that he is defamed as an individual, he can recover for defamation. Thus the statement that "that jury was bribed" may reasonably be understood to mean that each of the twelve jurymen has accepted a bribe. *Berry v. Safer*, 293 F. Supp. 2d 694 (D. Miss. 2003).

Brothel

- A wife could recover damages from a newspaper publisher in a libel action after his newspaper published an article that stated she was arraigned for operating a brothel because the article, when read by the ordinary reasonable person, imputed unchastity. *Lysacker v. Bemidji Pioneer Pub. Co.*, 130 N.W. 850 (Minn. 1911).

Bulimic

- There are no reported cases which address the question of whether publishing a claim that someone is bulimic or suffers from bulimia is actionable as defamation/libel.

Bum

- While language imputing unchastity to a woman was actionable per se, without further averment, and without proof of special damages, the alleged tortfeasors' statements charging the injured individual with being a bum or a tramp was not actionable per se, unless an innuendo was pleaded to explain the meaning of the language used and to show that it was used in a defamatory sense. *Pearlstein v. Draizin*, 190 Misc. 27 (N.Y. Misc. 1947).

- The word "bum" may be considered rhetorical hyperbole and, therefore, not necessarily defamatory under the standard announced in *Letter Carriers v. Austin*, 418 U.S. 264 (1974). *See also Street v. National Broadcasting Co.*, 645 F.2d 1227, 1232 (6th Cir. 1981).

Buy Votes

- Libel action would lie against newspaper for charge of vote buying. *Heilman v. Shanklin*, 60 Ind. 424 (1878).

Call Girl

- When a media source incorrectly labels or implies that someone is a call girl, libel will lie if the plaintiff is able to show malice on the part of the publisher. *Montandon v. Triangle Publications, Inc.*, 45 Cal. App. 3d 938 (Cal. Ct. App. 1975).

Camel Jockey

- In Indiana, calling someone a camel jockey is defamation per quod. *Northern Ind. Public Svc. Co. v. Dabagia*, 721 N.E.2d 294, 303 (Ind. App. 1999). The court stated that if, for example, the slur was intended to mean that the plaintiff was a thief, then the statement would have been defamatory. Where it is necessary, however, to prove the defamatory nature of the statement and where it is not defamatory on its face, it cannot be defamation per se.

Charged

- In California, a statement is slander per se if it falsely "charges any person with crime…" *Simon v. Shearson Lehman Bros., Inc.*, 895 F.2d 1304 (11th Cir. 1990) (quoting Cal. Civ. Code § 46) ("Thus, a statement is *slander per se* if it charges a person with crime or directly injures a person's professional reputation.").

- In Massachusetts, the Supreme Court has similarly held that an imputation of a crime is defamatory per se. *Jones v. Taibbi*, 400 Mass. 786 (1987); *Stone* v. *Essex County Newspapers, Inc.,* 367 Mass. 849, 853 (1975).

- In Georgia, it may be defamatory to falsely state that an individual has been charged with a crime. In *Edmonds v. Atlanta Newspapers*, 92 Ga.App. 15, 87 S.E.2d 415 (1955), the Georgia court held that reporting that an individual had been charged with a crime when, in fact, it was his son who had been charged is not defamatory where the reporter fairly reported what was in the police report and did not act with actual malice. *Id*. at 21-22. Conversely, this indicates that where there is no privilege and where sufficient malice is found, it may be defamatory to allege falsely that an individual has been charged with a crime.

- The statement that plaintiffs "may be" charged with criminal conduct diminishes their standing in the community and is little different from an assertion that plaintiffs have actually been charged with certain crimes; hence, such a statement is libelous per se, i.e., not susceptible of a nondefamatory interpretation. *Lawrence v. Bauer Publishing & Printing*, 446 A.2d 469 (N.J. 1982).

- The Third Circuit Court of Appeals has declined to follow New Jersey in extending libel per se status to false assertions that a plaintiff "may be" or "is going to be" charged with criminal conduct. *St. Surin v. Virgin Islands Daily News*, 21 F.3d 1309 (3d Cir. 1994).

- There is no defamation when a newspaper correctly reports that the plaintiff had been arrested and charged with the crime of stalking, and no reasonable person could interpret the report to mean that he had been found guilty. *Molin v. The Trentonian*, 687 A.2d 1022 (N.J. Super. Ct. 1997).

Cheats

- To call one "a cheat" is libelous per se. *Shubert v. Variety, Inc.*, 128 Misc. 428, 429 (N.Y. Misc. 1926).

- Falsely calling another a cheater, when done with malice, is actionable as libel. *Celle v. Filipino Reporter Enters.*, 209 F.3d 163 (2d Cir. 2000).

- A false accusation of cheating on one's taxes is defamatory. *Leavell v. Kieffer*, 189 F.3d 492, 495 (7th Cir. 1999).

- When a press release used language such as "lied to," "cheated," "manipulated," "stole[] from," and "conspired and acted to defraud" to inaccurately describe a bank's conduct, reasonable jurors could find that such a characterization amounted not simply to "colorful adjectives and common parlance," but to negligence and defamation. *Penobscot Indian Nation v. Key Bank*, 112 F.3d 538, 560 (1st Cir. 1997).

- When newspaper published an alleged underlying message that a plaintiff was dishonest and intentionally misleading or cheating the public, it is immune from defamation liability if it is clear that defendants were expressing point of view only and no reasonable reader could have interpreted the statements as factual assertions of dishonesty. *Phantom Touring, Inc. v. Affiliated Publications*, 953 F.2d 724 (1st Cir. 1992).

- Phrases and words such as "fingers in the pot," "cheating," and "stealing from the public," when read in proper context, cannot be understood as accusing a plaintiff of committing any criminal offense. Rather, such remarks fall in the category of what the courts have chosen to call "rhetorical hyperbole" or "the conventional give and take in our economic and political controversies." *Palm Beach Newspapers, Inc. v. Early*, 334 So.2d 50 (Fla. Dist. Ct. App. 1976).

- In the absence of actual malice, there was no recovery for defamation under federal labor laws where union official made false accusations of employer cheating during a contractual dispute concerning calculation of employee overtime pay. *Davis Co. v. United Furniture Workers*, 674 F.2d 557 (6th Cir. 1982).

- Summary judgment was entered for employer on defamation claim, where he stated plaintiff employee was cheating on her time sheets. Although he failed to add the discrepancy was only three and a half hours, the statement was substantially true. *Austin v. Belton*, 2002 U.S. Dist. LEXIS 714 (D. Tex. 2002).

- Iowa courts have also repeatedly held that it is libel per se to publish statements accusing a person of being a liar, cheater or thief. *King v. Sioux City Radiological Group, P.C.,* 985 F. Supp. 869, 877 (D. Iowa 1997).

Chicken Butt

- The California Court of Appeal has held that "chicken butt" is not actionable as defamation because it is too vague to be proven true or false. *Seelig v. Infinity Broadcasting Corp*., 97 Ca. App. 4th 798 (2003).

Collusion

- A printed statement that a plaintiff appeared to have been in collusion with ruffians on a train who assaulted passengers to prevent Republican clerks from going to a city to vote was defamatory and actionable per se. *Snyder v. Fulton*, 34 Md. 128 (1871). To make defamatory words actionable per se, when they are written or published, it is not necessary that they should charge a party with a crime or offence that would subject him to indictment or ignominious punishment. There is a broad and just distinction, in this respect, between spoken words and words written or published. Expressions, which tend to render a man ridiculous, or degrade him in the esteem and opinion of the world, would be libelous if printed, though they would not be actionable if spoken. Thus, if they tend to injure his reputation and expose him to public hatred, contempt or ridicule. *Id*. at 134–135.

Communist (or Red)

- The California Court of Appeal stated in dicta that it may be defamatory to falsely refer to someone as a Communist. *Finke v. Walt Disney Co*., 110 Cal. App. 4th 1210 (2003).

- The Arizona Supreme Court has held that a reference to a person as a Communist, while noting the political climate at the time of the statement in 1985, could be characterized as defamatory and is a question that should be decided by a jury. *Yetman v. English*, 168 Ariz. 71 (1991).

- It is libelous per se to characterize a person as a Communist or a Communist sympathizer. *Spanel v. Pegler*, 160 F.2d 619 (7th Cir. 1947); *Utah State Farm Bureau Federation v. National Farmers Union Service Corp.*, 198 F.2d 20 (10th Cir. 1952) (construing Utah law); *Phoenix Newspapers v. Church*, 447 P.2d 840 (Ariz. 1968); *MacLeod v. Tribune Publishing Co.*, 343 P.2d 36 (Cal. 1959); *Toomey v. Farley*, 138 N.E.2d 221 (N.Y. 1956); *Grant v. Reader's Digest Assoc.*, 151 F.2d 733 (2d Cir. 1945) (holding that it is libelous under New York law to write of a lawyer that he has acted as agent of the Communist party and is a believer in its aims and methods); *Toomey v. Jones*, 124 Okla. 167, 254 P. 736 (1926).

- It is defamatory to accuse one of being a Communist, if the one so accused can show injury. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 331 n.4, 94 S.Ct. 2997, 3002 n.4, 41 L.Ed.2d 789 (1974) (stating in dicta that accusations that one is "a 'Leninist' and a 'Communist-fronter' . . . are generally considered defamatory"); *McAndrew v. Scranton Republican Publishing Co.*, 364 Pa. 504, 72 A.2d 780 (1950) (holding that it is not defamatory per se to accuse one of being a Communist).

Con

- A newspaper may be held liable for libel when it publishes an article falsely alleging that a plaintiff was running a con game, if the newspaper was negligent in publishing the article. *Stone v. Banner Pub. Corp.*, 677 F. Supp. 242 (D. Vt. 1988).

- Calling the plaintiff a "con artist" could be found to imply that the plaintiff obtained money or property from others by fraud, or was otherwise deceitful. *Yancey v. Hamilton*, 786 S.W.2d 854, 858, 17 Media L. Rep. 1012 (Ky. 1989).

Confidence Man

- To falsely publish of one that he is a confidence man is libelous and actionable per se in that such accusations tend to expose the plaintiff to public contempt and blacken his reputation. *Manget v. O'Neill*, 51 Mo. App. 35 (Mo. Ct. App. 1892).

Conspirator

- There are no reported cases which address the question of whether publishing a claim that someone is conspirator is actionable as defamation/libel.

Convicted

- Where a plaintiff did not argue that he was not convicted of robbery, as state department of corrections Web site provided, and information divulged was not confidential and was not false, he failed to allege defamation or deprivation of liberty. *Wells v. Goord*, 29 Fed. Appx. 693 (2d Cir. 2002).

Correspondent

- There are no reported cases which address the question of whether publishing a claim that someone is correspondent is actionable as defamation/libel.

Corrupt

- Commercial was reasonably capable of defamatory meaning, and jury should have been allowed to determine if the statement imputed corrupt conduct to political candidate, and if so, whether the media consultant knew that such an imputation was false. *Camp v. Yeager*, 601 So. 2d 924 (Ala. 1992).

- It is libelous to impute to anyone holding an office that he has been guilty of improper conduct in office or has been actuated by wicked, corrupt or selfish motives. *Wofford v. Meeks*, 129 Ala. 349 (Ala. 1900).

- When the ordinary reader might have read the statements as accusing plaintiffs of fraudulent, if not illegal, activity, a charge of corrupt or criminal conduct was actionable as libel. *Kelly v. Schmidberger*, 806 F.2d 44 (2d Cir. 1986).

Corruption

- Although news editors may comment on the manner in which public officials performed their duties, any allegation that charged a public official with an offense punishable by indictment, such as corruption, or that tended to bring an individual into public hatred, contempt or ridicule, or charged an act odious and disgraceful in society, was libel per se. *Wofford v. Meeks*, 129 Ala. 349 (1900).

- Plaintiff gambling operators filed a defamation suit against defendant news media after a broadcast that addressed corruption in the jai-alai industry and the potential link to an arson of plaintiffs' gambling fronton. The court affirmed an order that held plaintiffs were limited public figures, and that defendant did not act with actual malice. *Silvester v. American Broadcasting Cos.*, 839 F.2d 1491 (11th Cir. 1988).

- The article in question impugned the motives of the trial court, misstated the reason for its ruling, and charged it with corruption. The publisher admitted the defamatory nature of the article, but pointed to the finality of the ruling as a defense to the contempt proceeding. After review, the court held that the article constituted a contempt scandalizing the trial court despite the fact that the case was not pending when the article was published. Because the defamatory nature of the article was clear beyond a reasonable doubt, there was jurisdiction to proceed with contempt proceedings against the publisher irrespective of the finality of the subject case. *State ex rel. Attorney Gen. v. Hildreth*, 74 A. 71 (Vt. 1909).

- Merely to say that an appointive public official has been "removed" from office, without imputing corruption or incompetency, was not an actionable libel. *Griffin v. Westchester County Publishers, Inc.*, 50 N.Y.S.2d 270 (N.Y. Misc. 1944).

Cosa Nostra

- Publication accused public-figure plaintiff of being a member of the Cosa Nostra. Absent proof with "convincing clarity" that the allegations were made with knowledge that they were false in their alleged implications against him, or were made with reckless disregard of whether they were false or not, a public-figure plaintiff cannot prevail in a defamation suit. *Cerrito v. Time, Inc.*, 302 F. Supp. 1071, 1073-74 (D. Cal. 1969), *aff'd*, 449 F.2d 306 (9th Cir. 1971).

Coward

- There are no reported cases which address the question of whether publishing a claim that someone is a coward is actionable as defamation/libel.

Crank

- "Where one scholar calls another a "crank" for having taken a position that the first scholar considers patently wrongheaded, the second does not have a remedy in defamation." *Dilworth v. Dudley*, 75 F.3d 307, 311, 24 Media L. Rep. 1542 (7th Cir. 1996).

Crazy

- Statements that person was "crazy" did not rise to level of defamation. *Wetzel v. Gulf Oil Corp.*, 455 F.2d 857, 863 (9th Cir. 1972) (if in the context of an argument); *Kryeski v. Schott Glass Techns., Inc.*, 626 A.2d 595 (Pa. Super. 1993).

- Plaintiff was seriously injured, her husband was killed, and their personal property was destroyed by fire. The publishers released an article describing a domestic dispute between plaintiff and her husband, in which he purportedly physically abused plaintiff and set their house on fire. Plaintiff brought a defamation action, and the publishers filed a motion to dismiss the action. The court dismissed the claims for defamation, holding that the statements attributed to plaintiff that the decedent "just went crazy" and that she "fought off" the clutches of "her crazed mate" were not defamatory because nothing that could be considered libelous was directed to plaintiff. *Ritzmann v. Weekly World News, Inc.*, 614 F. Supp. 1336 (D. Tex. 1985).

- While such epithets as "liar" and "crazy" standing alone have a defamatory meaning, when viewed in context that they are to state nothing more than an opinion that a plaintiff was not correct or accurate or truthful in her statement, their pejorative connotation and legal actionability fades away. Such statements amount to no more than an opinion based upon facts set forth in the article. *Kanenson v. Shaffner*, 16 Pa. D. & C.3d 533 (Pa. D. & C. 1981)

Crime Family

- Publication accused public-figure plaintiff of being a member of the Cosa Nostra. Absent proof with "convincing clarity" that the allegations were made with knowledge that they were false in their alleged implications against him, or were made with reckless disregard of whether they were false or not, a public-figure plaintiff cannot prevail in a defamation suit. *Cerrito v. Time, Inc.*, 302 F. Supp. 1071, 1073-74 (D. Cal. 1969), *aff'd*, 449 F.2d 306 (9th Cir. 1971).

- Newspaper reported that plaintiff-mayor had participated in a series of meetings with known organized crime family members at a restaurant. Though these allegations were false, they were used in the article to link the mayor either directly or inferentially to various insidious activities of organized crime figures. In finding that the plaintiff-mayor had been libeled, the court noted how little effort the publisher made to check the truth of the allegations and concluded that the allegations were made with actual malice and with reckless disregard for their truth. *Alioto v. Cowles Communs., Inc.*, 430 F. Supp. 1363 (D. Cal. 1977).

- Newspaper article that mentioned plaintiff's restaurant in connection with Mafia activity did not constitute libel per se because it could not reasonably be read to accuse plaintiff of having committed a crime or of lacking honesty in his trade. *Grisanzio v. Rockford Newspapers, Inc.*, 477 N.E.2d 805 (Ill. App. Ct. 1985).

Criminal

- Absent exceptional circumstances, the mere allegation that a plaintiff knows a criminal is not defamatory as a matter of law. *Romaine v. Kallinger*, 109 N.J. 282, 292, 537 A.2d 284, 289 (N.J. 1988). *See, e.g.*, *Gonzales v. Times Herald Printing Co.*, 513 S.W.2d 124 (Tex. Civ. App. 1974) (statement that plaintiff's husband was engaged in the sale and importation of narcotics did not defame her); *Rose v. Daily Mirror, Inc.*, 284 N.Y. 335, 31 N.E.2d 182 (1940) reh'g denied, 285 N.Y. 616, 33 N.E.2d 548 (1941) (plaintiff not defamed by being mistakenly described as the widow of a mobster); *cf. Bufalino v. Associated Press*, 692 F.2d 266 (2d Cir. 1982) (mere imputation of family relationship with Mafia leader not defamatory; characterization of plaintiff as a political contributor with alleged mob ties found to have a potentially defamatory meaning), *cert. denied,* 462 U.S. 1111, 103 S.Ct. 2463, 77 L.Ed.2d 1340 (1983).

- Under Kansas law, an inmate may not assert libel claims against one who has published a record of his criminal activity because his public reputation was so diminished with respect to his criminal convictions that he could not be further injured by any allegedly false statements published on that subject. *Lamb v. Rizzo*, 391 F.3d 1133 (10th Cir. 2004).

- The publication of a written statement attributing criminal activity to a plaintiff is libel per se, for which no special damages need be pled. The Ninth Circuit has adopted this position (*Religious Tech. Ctr. v. Scott*, 1996 U.S. App. LEXIS 8954, *23-24 (9th Cir. 1996)), as has Colorado (*Ramsey v. Fox News Network, L.L.C.*, 351 F. Supp. 2d 1145 (D. Colo. 2005)); *Washburn v. Lavoie*, 357 F. Supp. 2d 210 (D.D.C. 2004) (libel per se is restricted by courts to crimes with severe consequences, such as crimes leading to social ostracism, or even, as in past English courts, crimes punishable by corporal punishment); *Finger v. Pollack*, 74 N.E. 317 (Mass. 1905); *Pesce v. First Nat'l Stores, Inc.*, 1983 Mass. App. Div. 64 (Mass. Ct. App. 1982).

- The statement that plaintiffs "may be" charged with criminal conduct diminishes their standing in the community and is little different from an assertion that plaintiffs have actually been charged with certain crimes; hence, such a statement is libelous per se, i.e., not susceptible of a nondefamatory interpretation. *Lawrence v. Bauer Publishing & Printing*, 446 A.2d 469 (N.J. 1982).

- The Third Circuit Court of Appeals has declined to follow New Jersey in extending libel per se status to false assertions that a plaintiff "may be" or "is going to be" charged with criminal conduct. *St. Surin v. Virgin Islands Daily News*, 21 F.3d 1309 (3d Cir. 1994).

- Statements to the press by a federal officer relating to an ongoing criminal investigation were absolutely privileged against claims of defamation. *Sauber v. Gliedman*, 283 F.2d 941 (7th Cir. 1960).

Cronyism

- There are no reported cases which address the question of whether publishing a claim that someone is guilty of cronyism is actionable as defamation/libel.

Crook

- "Crook" is a word of general disparagement rather than a direct allegation of specific criminal conduct and it is not slander per se. *Waymire v. DeHaven*, 858 S.W.2d 69 (Ark. 1993); *Moore v. Waldrop*, 2005 Tex. App. LEXIS 4105 (2005); *Eggleston v. Whitlock*, 242 Ill. App. 379 (1926); *Villemin v. Brown*, 193 A.D. 777 (N.Y. App. Div. 1920).

- The New York Appellate Division is split on the question of whether "crook" is libelous per se. While *Villemin* held it is not, *Weiner v. Leviton*, 230 A.D. 312 (N.Y. App. Div. 1930) held that it is; to call one a "crook" is to accuse him of being a criminal, and is slanderous per se. *See also Dietrich v. Hauser*, 45 Misc. 2d 805 (N.Y. Misc. 1965).

Cult

- To allege that one is a member of a cult may give rise to an action for defamation, but special damages must be pled to sustain it. *Kennedy v. Children's Serv. Soc'y*, 17 F.3d 980 (7th Cir. 1994).

- A description of a plaintiff as a "cult" was defamatory per se in *Landmark v. Conde Nast*, 1994 WL 836356, 23 Media L. Rep. 1283 (N.Y. App. 1994).

Deadbeat

- The innuendo that one is a deadbeat is clearly defamatory and a jury should determine whether that meaning was the one actually conveyed. *Utecht v. Shopko Dept. Store*, 324 N.W.2d 652 (Minn. 1982).

Defaulter

- A charge that one is a "defaulter" is actionable as tending to bring the plaintiff into disgrace or disrepute. *Missouri Pac. Transp. Co. v. Beard*, 176 So. 156 (Miss. 1937).

Depression

- A statement about an individual, characterizing the person as having an alleged "psychiatric problem," "depression," and of being "sad," creates enough innuendo that the plaintiff has

mental problems to be actionable as defamation per quod. *Kanjuka v. Metrohealth Med. Ctr.*, 151 Ohio App.3d 183, 2002-Ohio-6803, 783 N.E.2d 920 (2002).

Disorderly House

- Where defendant-newspaper published report, drawn straight from a police record, that a non-public figure plaintiff had been charged with keeping a disorderly house, the defendant is liable for the false report only if some fault on its part can be shown. *Slocum v. Webb*, 375 So.2d 125 (La. App. 1979).

Delinquent

- Where a publication imputes insolvency, financial embarrassment, unworthiness of credit, or failure in business to a plaintiff, it is libelous per se. *Sarkees v. Warner-West Corp.*, 37 A.2d 544 (Pa. 1944).

    - Agreed; but for the words to be considered defamatory per se, they must "relate to or affect the plaintiff in his business." *Andoscia v. Coady*, 99 R.I. 731, 736, 210 A.2d 581 (R.I. 1965).

- Allegation that plaintiff is a delinquent debtor is not libelous per se, but is instead libelous per quod and requires allegation and proof of special damages. *Sumner v. First Union Nat'l Bank*, 409 S.E.2d 212 (Ga. Ct. App. 1991); *Hudson v. Pioneer Service Co.*, 346 P.2d 123 (Ore. 1959).

- Bank defamed plaintiffs when it falsely reported to credit agency that they were delinquent on payments on loan. *Jaramillo v. Gonzales*, 50 P.3d 554 (N.M. Ct. App. 2002).

- A communication by a member of a credit association to the other members, blacklisting a person as a delinquent debtor, is libelous if it is made for the purpose of coercing the payment of a debt. *Hartman Co. v. Hyman*, 87 Pa. Super. 358 (1926).

Derelict

- A statement which tends to disparage a person in the way of his office, profession or trade, or which can be interpreted as meaning that a person was derelict in his professional duties is defamatory per se. *Haugh v. Schroder Inv. Mgmt. N.A., Inc.*, 2003 WL 21136096, *1.

- A public officer guilty of dereliction of duty which may result in loss of life may not be heard to complain merely because plain and severe language is used in alleged defamatory publication condemning his dereliction. *Williams v. Standard-Examiner Pub. Co.*, 27 P.2d 1 (Utah 1933).

Devil Worship

- There are no reported cases which address the question of whether publishing a claim that someone is a devil worshiper is actionable as defamation/libel.

Disbarred

- A published report of an ongoing disciplinary process against an attorney, which could lead to disbarment, is not libel when it clearly states the procedural progress of the case. *Estiverne v. Louisiana State Bar Ass'n*, 863 F.2d 371 (5th Cir. 1989).

- Where plaintiff-attorney had been disbarred, so that the published language complained of was truthful and there was no issue of fact for trial in the case, summary judgment for defendant is appropriate. *Fletcher v. Norfolk Newspapers*, 239 F.2d 169 (4th Cir. 1956).

Dishonest

- An attorney could not be sanctioned for accusing a district judge of being "dishonest" because the other terms the attorney used to describe the judge — "ignorant," "ill-tempered," "buffoon," "sub-standard human," and "right-wing fanatic" — made it clear that the attorney intended only to signal his general contempt for the judge, rather than to accuse him of corruption. *Standing Comm. on Discipline of the U.S. Dist. Ct. v. Yagman*, 55 F.3d 1430 (9th Cir. 1995).

- A false defamatory statement which suggests that someone has committed a dishonest or illegal act is slander per se. *Fun Spot of Florida v. Magical Midway of Cent. Fl.*, 242 F. Supp. 2d 1183 (M.D. Fla. 2002); *Mathis v. Cannon*, 556 S.E.2d 172 (Ga. Ct. App. 2001) (libel per se under O.C.G.A. § 51-5-4(a)(3)); *Shapiro v. Massengill*, 661 A.2d 202, 211 (Md. Ct. App. 1995).

- To call a journalist a libeler or dishonest and to say that he is so in reference to a number of people is defamatory in the constitutional sense, even if said in the overall context of an attack otherwise directed at his political views. *Buckley v. Littell*, 539 F.2d 882 (2nd Cir. 1976).

Double-Crosser

- It is libelous per se to charge a man with being a "double-crosser." *Peck v. Coos Bay Times Pub. Co.*, 259 P. 307 (Or. 1927).

Drug Addict

- Where genuine disputes of material fact exist, such as whether the plaintiff was actually using cocaine at the time of the statement, it is up to the trier of fact to determine whether calling one a drug addict is libelous. *Kirckof v. Brown*, Civil No. 01-476 (D. Minn. 2002).

Drug Dealer

- To call one a drug dealer is libelous per se. *Diaz v. Espada*, 8 A.D.3d 49 (N.Y. App. Div. 2004); *Taylor v. Brinker International Payroll Corp.*, (N.D. Ill. 2002).

- Where Plaintiff admits the substantial truth of allegation that he stole from drug dealers, he has no action for liable against the one who published the allegation. *Robinson v. Globe Newspaper Co.*, 26 F. Supp. 2d 195 (Me. 1998).

Drunkard

- A charge that plaintiff was taken to a hospital as a drunk is libelous per se, while merely calling him a drunk might not be—the addition of the reference to needing treatment at a hospital makes this charge more injurious to plaintiff's reputation. *Morrison v. News Syndicate Co., Inc.*, 287 N.Y.S. 451 (N.Y. App. Div. 1936).

DUI

- The publication of a police report listing someone as charged with a "DUI" or its variants is not libelous where the media has a qualified privilege exercised in good faith, even if the DUI charge is subsequently dismissed. *Minton v. Thomson Newspapers, Inc.*, 333 S.E.2d 913 (Ga. Ct. App. 1985).

Embezzler

- Written words imputing the crime of embezzlement are libelous per se. *Missouri Pac. Transp. Co. v. Beard*, 176 So. 156 (Miss. 1937).

- Newspaper was found to have libeled public official plaintiffs when it published an article that could be understood to accuse the plaintiffs of engaging in embezzlement by reference to a convicted embezzler in the article and editorial, by the juxtaposition of the article with an unrelated headline concerning fraud, and by reference to a special fund. *Empire Printing Co. v. Roden*, 247 F.2d 8 (9th Cir. 1957).

Ex-Convict

- Words which charge that plaintiff was an ex-convict are actionable as libel or slander. *Locke v. Gibbons*, 299 N.Y.S. 188 (1937); *Morrissey v. Prov. Telegram Co.*, 32 A. 19 (R.I. 1895).

Fag

- "Fag" is not slander per se, but may be the basis for defamation action. *Moricoli v. Schwartz*, 361 N.E.2d 74 (Ill. App. Ct. 1977).

Fairy

- A description of department store salesmen as "fairies" was held to be defamatory per se in *Neiman-Marcus v. Lait*, 13 F.R.D. 311 (S.D.N.Y. 1952).

Fascist

- An allegation that one is a fascist is not actionable as defamation in California. *Buckley v. Littell*, 539 F.2d 882, 891–95 (Cal Ct. App. 1976). *See also Condit v. Clermont County Review*, 110 Ohio App.3d 755, 675 N.E.2d 475 (Ohio Ct. App. 1996); *Raible v. Newsweek*, 341 F. Supp. 804, 807 (W.D. Pa. 1972) ("[T]o call a person a bigot or other appropriate name descriptive of his political, racial, religious, economic or sociological philosophies gives no rise to an action for libel.").

- An allegation that one is a fascist is not defamatory per se under the law of Mississippi. *Barton v. Barnett*, 226 F. Supp. 375 (D. Miss. 1964). *See also Mullenmeister v. Snap-On Tools Corp.*, 587 F. Supp. 868 (S.D.N.Y. 1984).

Felon

- To falsely accuse another person of being a convicted felon is defamatory. But if the substance of the accusation is true, it is not defamatory to report that the person is a felon. *Carpenter v. Drechsler*, 1991 U.S. Dist. LEXIS 15743 (D. Va. 1991)

Fired

- The mere statement that a person had been fired is not defamatory as a matter of law, *Johnson v. State*, 182 S.E.2d 701 (Ga. Ct. App. 1971), even when the statement was false. *Picard v. Brennan*, 307 A.2d 833 (Me. 1973).

- While the mere statement of discharge from employment does not constitute libel, publication of a discharge would be defamatory if the publication contains an insinuation that the discharge was for some misconduct. *Nichols v. Item Publishers, Inc.*, 132 N.E.2d 860 (N.Y. 1956); *Davis v. Ross*, 754 F.2d 80, 84 (2d Cir. 1985); *Afftrex, Ltd. v. General Electric Co.*, 161 A.D.2d 855 (N.Y. App. Div. 1990) (statement that plaintiff was fired from his previous job because he was an "evil man" sufficiently implied that his discharge from employment was for misconduct such as to be susceptible to a defamatory interpretation).

Fix / Fixed / Fixer

- Falsely alleging that a person bribed a judge and "fixed" a case is defamatory. *McCall v. Courier-Journal & Louisville Times Co.*, 623 S.W.2d 882, 7 Media L. Rep. 2118 (Ky. 1998).

- Where "fixer" is capable of both a defamatory and non-defamatory meaning, the context of the article does not clearly indicate a non-defamatory meaning, and the defendants were aware of its defamatory meaning, it is up to a trier of fact to determine whether a reasonable

person could have understood the term to be defamatory. *Sprague v. Amer. Bar. Ass'n*, No 01-382, 2003 U.S. Dist. LEXIS 15518, 31 Media L. Rep. 2217 (E.D. Penn., July 21, 2003) (denying summary judgment to defendants).

Flim Flam

- There are no reported cases which address the question of whether publishing a statement alleging that one is a "flim flam artist" is actionable as defamation/libel.

Flit

- There are no reported cases which address the question of whether publishing a statement alleging that one has flitted is actionable as defamation/libel.

Fraud

- An allegation of fraud is not defamation per se in Michigan. *Nehls v. Hillsdale College*, 65 Fed. Appx. 984 (6th Cir. 2003).

- An imputation of dishonesty or fraud is defamatory. *Community for Creative Non-Violence v. Pierce*, 259 U.S. App. D.C. 134 (D.C. Cir. 1987); *Quartana v. Utterback*, 789 F.2d 1297 (8th Cir. 1986); *S. Volkswagen, Inc. v. Centrix Fin., LLC,* 357 F. Supp. 2d 837 (D. Md. 2005); *Lyman v. New England Newspaper Pub. Co.*, 190 N.E. 542 (Mass. 1934).

- According to Illinois law, a statement made in reference to a corporation is defamatory per se if it assails the corporation's financial position, business methods, or accuses the corporation of fraud or mismanagement. *DSC Logistics, Inc. v. Innovative Movements, Inc.*, 2004 U.S. Dist. LEXIS 1412 (D. Ill. 2004).

- Any words spoken of a person in relation to his trade or profession, which tend to impair his credit, or which charge him with fraud or indirect dealing, are actionable as defamation in New York, *Cappellino v. Rite-Aid, Inc.*, 152 A.D.2d 934 (N.Y. App. Div. 1989), and South Carolina, *Nash v. Sharper*, 93 S.E.2d 457 (S.C. 1956).

- The description of a theatre production as "a rip-off, a fraud, a scandal, a snake-oil job" was held to be no more than rhetorical hyperbole. *Phantom Touring v. Affiliated Publications*, 953 F.2d 724 (1st Cir. 1992).

Gambling House

- There are no reported cases which address the question of whether publishing a statement alleging that one has or runs a gambling house is actionable as defamation/libel.

Gang Banger

- The Montana Supreme Court held that a police chief's reference to a resident as a "gang banger," without any specific accusation of criminal activity, was not slanderous per se. *Anderson v. City of Troy*, 317 Mont. 39, 68 P.3d 805 (2003). The expression was similar to words like "crook, a creep, a gangster, a hoodlum, or any one of a thousand other vague terms" that "only convey the vague [nondefamatory] message that someone is a bad person." *Id*. at 808.

Gangster

- Plaintiff-business contended that the use of the name "Credit Consultant, Inc." in a play and its similarity to its trade name, "Credit Consultants," identified the business with the fictional character delineated as a villain, criminal and gangster. The business charged that such a portrayal was libel. The court determined that the business failed to prove that the fictional character in the play was or was likely to be identified as or with him and entered a judgment in favor of the broadcasting company. *Landau v. Columbia Broadcasting System, Inc.*, 128 N.Y.S.2d 254 (N.Y. Misc. 1954).

Gay

- It is defamation per se to call one "gay" in Louisiana. *Manale v. New Orleans*, *Dep't of Police*, 673 F.2d 122 (5th Cir. 1982).

- To call one "gay" or homosexual does not amount to defamation per se in Massachusetts, *Albright v. Morton*, 321 F. Supp. 2d 130 (D. Mass. 2004). *See also Donovan v. Fiumara*, 442 S.E.2d 572 (N.C. 1994); *Lehman v. Wellens*, 407 N.W.2d 567 (Wis. Ct. App. 1987).

Gouges

- Where "gouges" is used to capture attention in a headline and is supported by fact, it is not actionable as defamation. *White v. Berkshire-Hathaway, Inc*., __ N.Y.S.2d __, 2005 WL 2623276 (N.Y.Sup., Oct. 4, 2005). This is especially true, as stated by the court, because it is not "shockingly offensive" nor as "inflammatory" as some other non-actionable words.

Graft

- While graft may have a defamatory meaning, it is for the jury to determine whether it was intended to be used in its most sinister sense. *Int'l Text-Book Co. v. Leader Printing Co.*, 189 F. 86 (N.D. Ohio 1910). *See McClure Co. v. Philipp*, 170 Fed. 910 (2d Cir. 1909).

- An allegation that "you and your gang got rich allowing gambling dens and brothels to operate openly, [that you] misused county funds to build roads to your own property, [and that you profited] by cheating ignorant Negroes and [from] various other grafts" is libelous per se. *West Memphis News, Inc. v. Bond*, 206 S.W.2d 449 (Ark. 1947).

- The word "graft," when used in connection with the conduct of a public officer, implies sometimes actual theft and always want of integrity, and its use in that respect is actionable per se. *State v. Winterrowd*, 249 P. 664 (Mont. 1926).

Guilty

- To falsely imply that one is guilty of an offense for which he was indicted is defamatory, because it states a fact tending to prejudice the plaintiff's good name. *Sun Printing & Pub. Assoc. v. Schenck*, 98 F. 925 (2d Cir. 1900). *See Boswell v. Phoenix Newspapers*, 730 P.2d 178 (Ariz. Ct. App. 1985) (holding that it was defamation for a newspaper, through its own negligence and that of its reporter, to incorrectly state that the plaintiffs had pled guilty to burglary); *Fraser v. Park Newspapers*, 246 A.D.2d 894 (N.Y. App. Div. 1998) (holding that a newspaper's false report that the plaintiff had pled guilty to lewd acts was defamation because it had an entirely different connotation than a report that an individual had been accused of a crime or distasteful acts).

- In a libel action for falsely reporting that the plaintiff pled guilty to welfare fraud, the newspaper was not protected by the statutory privileged that protected "truthful reports" received from arresting officers or police authorities where the newspaper received its information from a welfare fraud investigator. *Heard v. Neighbor Newspapers, Inc.*, 383 S.E.2d 553 (Ga. 1989).

Gutless

- It is not defamation per se to call someone "a gutless bastard." *Fleming v. Kane County*, 636 F. Supp. 742 (D. Ill. 1986).

Hatchet Man

- "Such an epithet is not libelous because it is not a statement of fact, but rather a judgmental statement in which the maker of the same expresses his views. It is similar to calling someone a 'scalawag,' a 'rake,' or a 'scoundrel.'" *Miskovsky v. Oklahoma Publishing Co.*, 654 P.2d 587, 7 Media L. Rep. 2607 (Okla.), *cert. denied*, 459 U.S. 923 (1982).

Herpes

- Published accusations that plaintiff has herpes is defamatory unless they are true. *Blakey v. Continental Airlines*, 1997 U.S. Dist. LEXIS 22068 (D.N.J. 1997).

Hit Man

- When a news report that plaintiff was a "hit man" is true, there can be no claim for defamation. *Brooks v. American Broadcasting Cos.*, 999 F.2d 167 (6th Cir. 1993).

HIV Positive

- See also "AIDS."

- A statement imputing a positive HIV status is libel per se. *Bolalin v. Guam Publs., Inc.*, 4 N. Mar. I. 176 (N. Mar. I. 1994).

- Newspaper advertisement incorrectly stating that dentist specialized in treating HIV patients did not constitute libel per se because advertisement did not charge improper conduct or lack of skill or integrity in a dentist's profession of dentistry. *Sweet v. Utter Co.*, 1998 Conn. Super. LEXIS 2346 (Conn. Super. Ct. 1998).

- A California Superior Court rejected a plaintiff's intentional and negligent infliction of emotional distress claims, which were based on a photograph of the plaintiff standing next to Magic Johnson, because the photograph broadcast by a television network did not reasonably convey to the television audience that the plaintiff was afflicted with HIV or AIDS. *Wiley v. AIDS Healthcare Foundation, Inc.*, 33 Media L. Rep. 1307 (San Francisco Super. Ct. 2004).

Homophobic

- It is not defamatory to call someone homophobic. *Lester v. Powers*, 596 A.2d 65 (Me. 1991).

Homosexual

- A statement implying that one is a homosexual is not defamatory. *Albright v. Morton*, 321 F. Supp. 2d 130 (D. Mass. 2004); *Lehman v. Wellens*, 407 N.W.2d 567 (Wis. Ct. App. 1987).

- Merely accusing one of being a homosexual is not defamatory per se, but accusing one of being a pedophile or sex offender raised statement to defamatory per se. *Miles v. Nat'l Enquirer, Inc.*, 38 F. Supp. 2d 1226 (D. Colo. 1999).

- A published statement imputing homosexuality to another is defamatory per se, under the law of Louisiana. *Manale v. New Orleans, Dep't of Police*, 673 F.2d 122 (5th Cir. 1982). *See also Murphy v. Pizarrio*, 1995 WL 565990 (S.D.N.Y. 1995); *Nacinovich v. Tullet & Tokyo Forex*, 257 A.D.2d 523 (N.Y. App. Div. 1999) (holding that cartoons depicting a plaintiff as a homosexual or implying such were defamatory per se); *Donovan v. Fiumara*, 442 S.E.2d 572 (N.C. Ct. App. 1994).

- In Missouri, an allegation of homosexuality is defamatory because (1) homosexuality is still viewed with disfavor, (2) deviant sexual intercourse is a misdemeanor in Missouri, and (3) the allegation imputes unchastity. *Nazeri v. Missouri Valley College*, 860 S.W.2d 303 (Mo. 1993).

- A false accusation of homosexuality is generally actionable as defamation. *Gray v. Press Communs., LLC*, 775 A.2d 678 (N.J. Super. Ct. 2001).

- A false imputation of homosexual act is slander per se because it equaled an accusation of unchastity where defendant's alleged sexual activity was between unmarried individuals. *Schomer v. Smidt*, 170 Cal. Rptr. 662 (Cal. Dist. Ct. App. 1980).

- Children could not recover for defamation based on injurious and defamatory statements made by a publisher and author regarding their deceased father having been a homosexual. *Flynn v. Higham*, 149 Cal. App. 3d 677 (Cal. Ct. App. 1983).

- Statements to business associates implying that plaintiff was a homosexual who propositioned male clients were defamatory per se because they maligned the plaintiff in his professional conduct. *Q-Tone Broadcasting, Co. v. Musicradio*, 1994 Del. Super. LEXIS 453 (Del. Super. Ct. 1994).

Hooker

- Calling someone a "hooker" is actionable as defamation. *Ford v. Rowland*, 562 So.2d 731 (Fla. 5th DCA 1990).

Hypocrite

- It is libelous per se to falsely charge that a person is a hypocrite. *Newby v. Times-Mirror Co.*, 188 P. 1008 (Cal. Ct. App. 1920); *Schwimmer v. Commercial Newspaper Co.* 131 Misc. 552 (N.Y. Misc. 1928) (but holding that if the case proved not so plain as to permit the court to decide that the libeler went beyond the limits of fair criticism, the question became one of fact and had to go to the jury).

Idiot

- "Idiot" is not defamatory when the speaker did not intend it to be taken as a literal statement of fact. *Robel v. Roundup Corp.*, 59 P.3d 611 (Wash. 2002).

- Words "horse's ass," "jerk," "idiot" and "paranoid" may be insulting, abusive, unpleasant and objectionable, but they are not defamatory in and of themselves; thus, they cannot give rise to an action for libel per se, and context must determine whether or not they are defamatory. *Blouin v. Anton*, 431 A.2d 439 (Vt. 1981).

Illegal

- Imputation of illegal acts is defamatory per se in Florida. *Piplack v. Mueller*, 121 So. 459 (Fla. 1929); *Layne v. Tribune Co.*, 146 So. 234 (Fla. 1933). *See also Woodmont Corp. v. Rockwood Ctr. P'ship.*, 811 F. Supp. 1478, 1484 (D. Kan. 1993) (imputation of illegal act is defamatory under Kansas law); *Metromedia, Inc. v. Hillman*, 400 A.2d 1117 (Md. 1979); *Corabi v. Curtis Publishing Co.*, 273 A.2d 899 (Pa. 1971); *Stearns v. McManis*, 543 S.W.2d 659, 661-62 (Tex. Civ. App. 1976).

- A false statement that someone had done something unprofessional and illegal is libel per se. *Harris v. Bethesda Lutheran Homes, Inc.*, No. 99 C 50062 (N.D.Ill. 2001).

- An employer has an absolute right to report the suspected illegal activity of his employee to appropriate law enforcement; public policy precludes a suit for defamation in such circumstances. *Williams v. Taylor*, 129 Cal. App. 3d 745, 753–54 (Cal. Ct. App. 1982).

- Imputation of illegal acts is not defamatory per se, but may be defamatory, depending upon the context. *Lane v. Arkansas Vly. Pub'g Co.*, 675 P.2d 747 (Colo. Ct. App. 1983) (An article in the form of an opinion which could imply the commission of illegal activity is actionable if the context in which it appears suggests it was meant literally. But, it is not actionable if it would be understood as rhetorical hyperbole meant to express an opinion on the plaintiff's performance of his job.).

- "[A]bsent assertions of illegal or at least ethically improper conduct, it is not defamatory to criticize a politician for using his or her office for personal gain." *West v. Thomson Newspapers,* 872 P.2d 999, 1010 (Utah 1994) (holding that the accusation that politician "manipulated" the press by trying to use his political position to influence information disseminated to the public was not defamatory).

- Comments clearly going to the merits of a controversy under public scrutiny, but which could be interpreted as a charge of illegal activity, are not libelous because in that context an audience may anticipate efforts to persuade by the use of rhetoric and epithet. *Information Control Corp. v. Genesis One Computer Corp.*, 611 F.2d 781 (9th Cir. 1980).

- Stating that one "had no indication that anything illegal occurred" does not defame anyone. *Wecht v. PG Pub. Co.*, 510 A.2d 769 (Pa. Super. 1986).

- Imputation that an act is "unlawful" is not defamatory per se. *State v. Caubarreaux Used Cars*, 520 So.2d 1180, 1183 (La. Ct. App. 1988) ("To accuse one of doing something unlawful does not necessarily imply, in the mind of a person of ordinary intelligence and sensitivity, that a crime has been committed. The average person in today's world is well aware of the fact that there are many activities which are unlawful but which are not criminal in nature. Thus, for these reasons, we find that it was not defamatory per se for the State to make such statements.")

Illegitimate

- "A states to B that C is an illegitimate child. A has defamed C's mother." Restatement (Second) Torts § 564 (1977), comment (e).

Illicit Relations

- A statement alleging that plaintiff had "illicit sexual relations" was sufficient to support a jury's finding that defendant had defamed her. *Minyard Food Stores v. Goodman*, 80 S.W.3d 573 (Tex. 2002).

Immoral

- A memo painting plaintiff as immoral, irresponsible, and incompetent, was sufficient to support a jury's finding that defendant had defamed her. *South Padre Island v. Jacobs*, 736 S.W.2d 134, 141–42 (Tex. App. 1986).

Incompetent

- Falsely alleging that one is incompetent in his job is defamatory in California. *Gallant v. City of Carson*, 27 Cal. Rptr. 3d 318 (Cal. Ct. App. 2005). *See also Carney v. Memorial Hospital and Nursing Home*, 475 N.E.2d 451 (N.Y. 1985); *Fort Washington Resources, Inc. v. Tannen*, 846 F. Supp. 354 (E.D. Pa. 1994).

- Stating that one is incompetent in his job is not actionable, because it is just opinion (which is not actionable as defamation). *Newman v. Hansen & Hempel Co.*, (N.D.Ill. 2002).

Indicted

- There are no reported cases which address the question of whether publishing a claim that someone has been indicted is actionable as defamation/libel.

Industrial Espionage

- A statement accusing an employee of being an "industrial spy" may be defamatory per se. *Swick v. Liautaud*, 662 N.E.2d 1238 (Ill. App. 1996).

Infidelity

- See also "Adultery," "Affair," "Running Around," and "Unfaithful."

- It is not defamatory for a spouse to infer that one may be engaging in infidelity or may have been unfaithful when seeking advice from close friends. The defendant used the words "running around" or "having an affair" in reference to her husband, and the court found none of these to be defamatory. *Watson v. Watson*, 209 So.2d 528 (La. 1968).

Informer

- It is not defamation to refer to one as an informer. *Connelly v. McKay*, 176 Misc. 685, 686 (N.Y. Super. Ct. 1941) ("At most the language claimed to have been used accuses the plaintiff of giving information of violations of the law to the proper authorities. . . . It is true that informers are not always held in too high esteem, and violators of the law might have good cause to shun one who engaged in such practice, but, nevertheless, such acts cannot constitute a foundation upon which to build an action for slander.")

Insane

- The general rule is that publication that a person is insane or of unstable mind is libelous per se. *Mattox v. News Syndicate Co.*, 176 F.2d 897, 901 & n.5 (2d Cir. 1949), *cert. denied,* 338 U.S. 858 (1949) (L. Hand, J.); *Beatty v. Ellings*, 285 Minn. 293, 303, 173 N.W.2d 12 (1969) ("Calling a person 'insane' undoubtedly could be considered defamatory if used in the sense of being mentally disordered or incapable of functioning competently, but to label an activity or idea as 'insane' is probably no more than a figure of speech characterizing the activity or idea as foolish or ridiculous"); *Bishop v. New York Times Co.*, 135 N.E. 845 (N.Y. 1922).

- In spite of the general rule, it is not defamation per se to accuse one of being insane in the following jurisdictions (although it is still defamation if plaintiff can prove damages). *Mills v. Kingsport Times-News*, 475 F. Supp. 1005 (D. Vir. 1979).

- California does not hold an accusation of insanity to be libel per se. "However, in a case involving the unambiguous and considered publication to an employer that an employee has a specified mental disorder serious enough to make him unfit for his job, California courts would unquestionably follow other courts and hold the publication defamatory on its face." *Hoesl v. United States*, 451 F. Supp. 1170, 1173 (N.D. Cal. 1978).

Insider Trading

- A New York federal court held that a book's description of a complex financial transaction that did not specifically accuse the plaintiff of any criminal wrongdoing could, nonetheless, be reasonably interpreted as accusing the plaintiff of insider trading. *Lucking v. Maier and HarperCollins Publishers, Inc.*, 32 Media L. Rep. 1246 (S.D.N.Y. 2003).

Insolvent

- A statement that a company is insolvent is defamatory per se. *Medina v. United Press Associations*, 16 Misc. 2d 876, 877, 185 N.Y.S.2d 366 (N.Y. Super. Ct. 1959) (finding the statement was defamatory because it "force[s] the assumption that business would be lost because of the publication"); *Van-Go Transport v. N.Y. City Bd. Of Educ.*, 971 F. Supp. 90 (E.D.N.Y. 1997).

- A statement that a person is insolvent is defamatory per se. *McCann v. Shell Oil Co.*, 551 A.2d 696 (R.I. 1988).

Intimate

- There are no reported cases which address the question of whether publishing a claim that someone has been intimate is actionable as defamation/libel.

Intolerance

- There are no reported cases which address the question of whether publishing a claim that someone has engaged in intolerance is actionable as defamation/libel.

Jerk

- Words "horse's ass," "jerk," "idiot" and "paranoid" may be insulting, abusive, unpleasant and objectionable, but they are not defamatory in and of themselves; thus, they cannot give rise to an action for libel per se, and context must determine whether or not they are defamatory. *Blouin v. Anton*, 431 A.2d 439 (Vt. 1981).

Jilted

- The California Court of Appeal has held that "jilted" is not actionable as defamation because it was used as humorous banter by a radio station commenting on a reality television show participant. *Seelig v. Infinity Broadcasting Corp*., 97 Ca. App. 4th 798 (2003).

Junkie

- A statement to the effect that plaintiff "knew a junkie" was, as a matter of law, non-defamatory. *Romaine v. Kallinger*, 537 A.2d 284 (N.J. 1988). The court found the statement was not "of and concerning" the plaintiff and did not impute any criminal activity to the plaintiff herself.

- There are no reported cases which address the question of whether publishing a claim that someone is a junkie is actionable as defamation/libel by the person called a junkie.

Kept Women

- There are no reported cases which address the question of whether publishing a claim that someone is a kept woman is actionable as defamation/libel.

Kinky

- There are no reported cases which address the question of whether publishing a claim that someone is kinky is actionable as defamation/libel.

Ku Klux Klan

- An allegation of membership in the Ku Klux Klan is defamatory. Restatement (Second) Torts § 559, ill. 2 (1977).

Lazy

- It has been held defamatory to state "lazy black employees" in an action by an African-American employee. *Weathers v. Marshalls of MA, Inc*., 2002 WL 1770927 (E.D. La., July 31, 2002).

Lesbian

- Falsely calling someone a lesbian has been found to be defamatory. *Thomas v. BET Sound State Restaurant*, 61 F. Supp. 2d 448 (D. Md. 1999).

Liar

- Accusing a person of being a liar is defamatory per se. *Baker v. State*, 137 S.W.2d 938 (Ark. 1940); *Colvard v. Black*, 36 S.E. 80 (Ga. 1900); *King v. Sioux City Radiological Group, P.C.,* 985 F. Supp. 869, 877 (D. Iowa 1997); *Galloway v. Zuckert*, 447 N.W.2d 553, 554 (Iowa. Ct. App. 1989), *cert denied*, 494 U.S. 1057 (1990); *Dwyer v. Libert*, 30 Idaho 576, 167 P. 651; *Riley v. Lee*, 88 Ky. 603, 11 S.W. 713 (1889); *Paxton v. Woodward*, 31 Mont. 195, 78 P. 215; *Ramsey v. Zeigner*, 444 P.2d 968 (N.M. 1968); *Anderson v. The Augusta Chronicle*, 585 S.E.2d 506 (S.C. Ct. App. 2003).

- Accusing a person of being a liar is not defamatory per se, but may be defamatory, depending on the context in which the accusation was uttered. *Bickling v. Kent General Hosp., Inc.*, 872 F. Supp. 1299, 1309 (D. Del. 1994); *Gill v. Delaware Park, LLC.*, (D. Del. 2003) (holding that "liar" is not libelous where the average reader is more likely to view the charge as an epithet instead of a statement of fact); *Piersall v. Sportsvision of Chicago*, 230 Ill. App. 3d 503, 510, 595 N.E.2d 103 (Ill. Ct. App. 1992); *Boese v. Paramount Pictures Corp.*, 952 F. Supp. 550, 554 (N.D. Ill. 1996) ("Courts have found that calling someone a liar or implying as much might permit defamation recovery."); *Heimbach v. Riedman Corp.*, 175 F. Supp. 2d 1167 (D. Minn. 2001); *Dwyer v. Smith*, 867 F.2d 184 (4th Cir. 1989) (applying Virginia law); *Robel v. Roundup Corp.*, 59 P.3d 611 (Wash. 2002).

- To call someone a "paid liar" is an assertion of fact. As such, it differs from calling one a "liar," which may be just a statement of opinion. The accusation that one is a "paid liar" is thus actionable as defamation, and cannot be overcome by defendant's claim that he was merely stating an opinion. *Edwards v. Nat'l Audubon Society*, 556 F.2d 113, 121 n.5 (2d Cir. 1977), *cert. denied*, 434 U.S. 1002, 98 S.Ct. 647, 54 L.Ed.2d 498 (1977).

Live-in Friend

- There are no reported cases which address the question of whether publishing a claim that someone is a live-in friend is actionable as defamation/libel.

Loser

- The California Court of Appeal has held that "local loser" is not actionable as defamation because it is too vague to be proven true or false. *Seelig v. Infinity Broadcasting Corp*., 97 Ca. App. 4th 798 (2003).

- "Loser wannabe lawyer" has been held to be too rhetorical in nature and not capable of being proved true or false to be actionable as defamation. Ferlauto v. Hamsher, 74 Cal. App. 4th 1394 (1999).

Mafia

- See also "Mobster."

- A statement linking plaintiff to the Mafia is defamatory per se. *Lega Siciliana Social Club, Inc. v. St. Germaine*, 77 Conn. App. 846, 825 A.2d 827 (Conn. App. Ct. 2003).

- Newspaper article that mentioned plaintiff's restaurant in connection with Mafia activity did not constitute libel per se because it could not reasonably be read to accuse plaintiff of having committed a crime or of lacking honesty in his trade. *Grisanzio v. Rockford Newspapers, Inc.*, 477 N.E.2d 805 (Ill. App. Ct. 1985).

- Mere imputation of family relationship with Mafia leader is not defamatory. *Bufalino v. Associated Press*, 692 F.2d 266 (2d Cir. 1982)

Malfeasance

- Statement that employee was guilty of malfeasance was defamatory. *Girsberger v. Kresz*, 633 N.E.2d 781, 793 (Ill. App. Ct. 1993) (holding that statement that employee was guilty of misconduct and malfeasance was defamatory).

- Statement that a politician was guilty of malfeasance in office was defamatory. *Diesen v. Hessburg*, 455 N.W.2d 446 (Minn. 1990).

Malpractice

- To accuse one of professional malpractice is not defamatory per se, but may still be defamatory if damages are shown, so long as the statement would be taken as a statement of fact and not merely opinion. *Remick v. Manfredy*, 238 F.3d 248, 263 (3rd Cir. 2001) (applying Pennsylvania law, the court held that "in light of the context" a letter accusing attorney of malpractice was written, it was opinion and thus not defamatory).

Mental Disease

- A false accusation of insanity, mental imbalance, or mental disease is libelous per se. *Bishop v. New York Times Co.*, 135 N.E. 845 (N.Y. 1922).

Misappropriated Funds

- See also "Illegal." To accuse one of misappropriating funds would constitute an accusation of illegal activity.

- Accusing one of misappropriating funds is actionable per se. *Miles v. Perry*, 529 A.2d 199 (Conn. App. Ct. 1987) (affirming trial court's decision that allegations made by the defendants at a church meeting to the effect that the church treasurer had misappropriated church funds were defamatory per se).

Mobster

- See also "Mafia."

- "The word 'mobster' also is informally identified with the words 'criminal, felon, crook, law breaker, scofflaw, and gangster.' The words criminal, felon, crook, law breaker, scofflaw, gangster or mobster all connote the same type of person about whom those meanings may be ascribed; one who breaks or violates the law." *Antonelli v. Field Enterprises, Inc.*, 115 Ill. App.3d 432, 435, 450 N.E.2d 876, 9 Media L. Rep. 1848 (Ill. App. 1983).

Moral Delinquency

- There are no reported cases which address the question of whether publishing a claim that someone is a moral delinquent is actionable as defamation/libel.

Nazi

- It is libelous per se to charge one with being a Nazi. *Buckley v. Littell*, 539 F.2d 882, 893 n.11 (2d Cir. 1976) (dictum) (fellow traveler of Nazis or Fascists), *cert. denied,* 429 U.S. 1062, 97 S.Ct. 785, 50 L.Ed.2d 777 (1977); *Christopher v. American News Co.*, 171 F.2d 275, 279 (7th Cir. 1948) (libelous per se to charge that plaintiff was "a Nazi or otherwise an adherent and sponsor of the unpatriotic and subversive theories of white supremacy and racial superiority"); *Derounian v. Stokes*, 168 F.2d 305, 307 (10th Cir. 1948); *Thomas v. Hunt*, 58 N.Y.S.2d 754, 755–56 (N.Y. Super. Ct. 1945); *Hartmann v. Winchell*, 187 Misc. 54, 63 N.Y.S.2d 225, 227 (N.Y. Super. Ct. 1946); *Holy Spirit Ass'n. for the Unification of World Christianity v. Harper & Row, Publishers, Inc.*, 101 Misc.2d 30, 420 N.Y.S.2d 56, 59 (N.Y. Super. Ct. 1979) (dictum); *Herald News Co. v. Wilkinson*, 239 S.W. 294 (Tex. Civ. App. 1922).

- It is not defamatory per se to make a charge of Nazism or Fascism at a time when the country is not at war with a Nazi or Fascist country, and when the charge merely refers to the person's political beliefs or views. *Barton v. Barnett*, 226 F. Supp. 375, 376–77 (D. Miss. 1964).

- Children could not recover for defamation based on injurious and defamatory statements made by a publisher and author regarding their deceased father having been a Nazi. *Flynn v. Higham*, 149 Cal. App. 3d 677 (Cal. Ct. App. 1983).

Necrophiliac

- There are no reported cases which address the question of whether publishing a claim that someone is a necrophiliac is actionable as defamation/libel.

Overdose

- There are no reported cases which address the question of whether publishing a claim that someone has overdosed is actionable as defamation/libel.

Paramour

- There are no reported cases which address the question of whether publishing a claim that someone is a paramour is actionable as defamation/libel.

Paranoid

- Accusing someone of being paranoid may be considered defamatory. *Bratt v. International Business Machines Corp*., 392 Mass. 508, 467 N.E.2d 126 (1984) (The Massachusetts Supreme Court held that in that particular circumstance, the information was privileged.) Use of the word is not defamatory per se. *Blouin v. Anton,* 139 Vt. 618, 431 A.2d 489, 7 Media L. Rep. 1714 (1981). ("Such words may be insulting, abusive, unpleasant and objectionable, but they are not defamatory in and of themselves.")

Patronage

- There are no reported cases which address the question of whether publishing a claim that someone engages in patronage is actionable as defamation/libel. Only libel or defamation cases discuss "loss of patronage" as harm caused by defamation.

Payoff

- The use of "payoff" will only likely be defamatory if used in a way that concretely accuses someone of a criminal act. *Lizotte v. Welker,* 45 Conn. Supp. 217, 231, 709 A.2d 50 (1996) ("the statements 'contributions to slush funds,' 'part of the fix,' 'secret, illegal and corrupt deals,' 'payoffs,' 'blatant coverup attempt' and 'maneuvers with political and corrupt implications' are examples of rhetorical hyperbole of which '[n]o reader could have thought that either the speakers at the meetings or the newspaper articles reporting their words were charging [the plaintiff] with the commission of a criminal offense.' *Greenbelt Coop. Publishing Ass'n v. Bresler,* 398 U.S. 6, 14, 90 S.Ct. 1537 (1970).")

Pedophile

- *Definition:* "Pedophilia literally means "love of children," an inaccurate description of a personality disorder in which an adult attempts to obtain sexual gratification through contact with children. See, also, Webster's Third New International Dictionary (1986) 1665 where "pedophilia" is noted as a condition "in which children are the preferred sexual object." *Bowman v. Parma Bd. of Educ.*, 44 Ohio App.3d 169, 72, 542 N.E.2d 663, 666 (Ohio Ct. App. 1988).

- Accusing one of being a pedophile is defamatory per se. *Miles v. Nat'l Enquirer, Inc.*, 38 F. Supp. 2d 1226 (D. Colo. 1999); *Hoch v. Rissman, Weisberg, Barrett, Hurt, Donahue & McLain, P.A.*, 742 So.2d 451 (Fla. Dist. Ct. App. 1999).

Peeping Tom

- An accusation of being a peeping Tom is defamatory per se. *Brown v. Fawcett Publications, Inc.*, 196 So.2d 465 (Fla. App. 1967); *Browder v. Cook*, 59 F.Supp. 225 (D.C. Idaho 1944).

Perjurer / Perjury

- Where a person is accused of lying in a judicial proceeding, a factfinder could reasonably find that the statements are not of opinion but can be proved or disproved, rendering them capable of a defamatory meaning. *Milkovich v. Lorain Journal*, 497 U.S. 1 (1990).

- An accusation of being a "perjurer" is defamatory per se. *Orth v. Featherly*, 87 Mich. 315, 49 N.W. 640 (1891).

- Members of a jury are subject to criticism, and criticism, even if severe, was not libelous. However, to charge that members of a jury perjured themselves in rendering a certain verdict was libelous. *Welch v. Tribune Pub. Co.*, 47 N.W. 562 (Mich. 1890).

Pervert

- Accusing someone of being a pervert may be construed as opinion, and is not actionable under libel law. *Simpson v. Burrows*, 90 F. Supp. 2d 1108 (D. Or. 2000). If harm is alleged and proved, the use of the term may be sufficient to form the basis for a libel action, but is not defamatory per se. *See Post Pub. Co. v. Peck*, 199 F. 6 (C.A. 1912).

Pimp

- Use of term "pimp" by itself, in caption of a photo of a sports celebrity and his wife on television network's Web site was capable of implying that he and his wife were involved in criminal activity involving prostitution, as required to establish defamation. *Knievel v. ESPN*, 393 F.3d 1068 (Mont. 2005).

- However, some courts have held using the word does not constitute defamation per se. *Hughes v. Hughes*, 122 Cal. App. 4th 931, 19 Cal. Rptr. 3d 247 (Cal. App. 2004); *Brooks v. American Broadcasting Companies, Inc.*, 932 F.2d 495, 18 Media L. Rep. 2121 (6th Cir. 1991).

- Other courts have held use of the word is equivalent to charging a crime, and is slanderous per se. *Lander v. Wald*, 218 App. Div. 514 (N.Y. 1926).

Pirate

- Referring to someone as a pirate is not libelous per se. *Alvord-Polk, Inc. v. F. Schmacher & Co*., 37 F.3d 996 (3rd Cir. 1994); *Heft v. Burk*, 302 So.2d 59 (La. App. 1974).

Plagiarist

- There are no reported cases which address the question of whether publishing a claim that someone is a plagiarist is actionable as defamation/libel.

Pockets Public Funds

- Where "pocket" means "to steal," the term may be capable of defamatory meaning. The only case that addresses the issue merely touches on the possibility, which is not consequential to its holding. *Liberty Nat. Life Ins. Co. v. Daugherty*, 840 So.2d 152 (Ala. 2002).

Profiteering

- To be held out as a "profiteer," in a time of war, is libelous per se. *Lunn v. Littauer*, 187 N.Y. App. Div. 808 (N.Y. 1919).

Prostitute

- A statement imputing prostitution is libel per se. *Clark v. American Broadcasting Companies, Inc.*, 684 F.2d 1208, 1213 (6th Cir. 1982) ("the portrayal of an individual as a prostitute would damage her reputation and tend to cause third persons not to associate with that individual"); *Bolalin v. Guam Publs., Inc.*, 4 N. Mar. I. 176 (N. Mar. I. 1994).

Pusher

- A false accusation that someone has the criminal status of being a "drug pusher" may be defamatory and actionable. *Pullum v. Johnson*, 647 So.2d 254 (Fl. App. 1994).

Pyramid Scheme

- There are no reported cases which address the question of whether publishing a claim that someone is connected to a pyramid scheme is actionable as defamation/libel.

Queer

- Calling someone a "queer" is slanderous per se. *Noward v. Maguire*, 22 A.D.2d 901, 255 N.Y.S.2d 318 (N.Y. App. 1964); *Buck v. Savage*, 323 S.W.2d 363 (Tex. App. 1959). Additionally, a correctional officer's alleged statement that inmate was a "queer" was slanderous per se because it imputed the crime of sodomy. *Thomas v. Bynum*, 2003 WL 553277 (Tex. App. 2003).

Quit

- It is not defamatory to say that someone quit his job. *San Antonio Express News v. Dracos*, 922 S.W.2d 242, 248 (Tex. App. 1996).

Quack

- Regardless of its innuendo and meaning, use of the word "quack" is defamatory. *World's Dispensary Med. Ass'n v. Collier*, 186 Misc. Rep. 217 (N.Y. Super. Ct. 1914).

- Calling someone, especially a doctor, a "quack" is libel per se. *Velikanje v. Millichamp*, 67 Wash. 138, 120 P. 876 (1912).

Racist

- To call a person a racist is not defamatory. *Stevens v. Tillman*, 855 F.2d 394, 402 (Cal Ct. App. 1988) (the term "racist" is "hurled about so indiscriminately that it is no more than a verbal slap in the face . . . [and is] not actionable unless it implies the existence of undisclosed, defamatory facts"); *Raible v. Newsweek*, 341 F. Supp. 804, 807 (W.D. Pa. 1972) ("to call a person a bigot or other appropriate name descriptive of his political, racial, religious, economic or sociological philosophies gives no rise to an action for libel").

Racket

- It is libelous per se to charge one with running a racket. *Marr v. Putnam*, 246 P.2d 509 (Or. 1952).

Racketeer

- To accuse someone of being a racketeer may be defamatory per se. *See Curtiss-Wright Corp. v. Mitchell*, 10 F. Supp. 91 (D.C. Va. 1935).

Rapist

- It is defamatory to falsely accuse someone of being a rapist. *People v. Beauharnais*, 408 Ill. 512, 97 N.E.2d 343 (Ill. 1951); *Collin v. Smith*, 447 F. Supp. 676 (D.C. Ill. 1978); *City of Cincinnati v. Black*, 8 Ohio App.2d 143, 220 N.E.2d 821 (1966).

Rip off

- Use of the phrase in reference to someone is not actionable as libel. *Telephone Systems Intern., Inc. v. Cecil*, 2003 WL 22232908 (S.D.N.Y. 2003).

- The description of a theatre production as "a rip-off, a fraud, a scandal, a snake-oil job" was held to be no more than rhetorical hyperbole. *Phantom Touring v. Affiliated Publications*, 953 F.2d 724 (1st Cir. 1992).

Running Around

- See also "Adultery," "Affair," "Infidelity," and "Unfaithful."

- It is not defamatory for a spouse to infer that one may be engaging in infidelity or may have been unfaithful when seeking advice from close friends. The defendant used the words "running around" or "having an affair" in reference to her husband, and the court found none of these to be defamatory. *Watson v. Watson*, 209 So.2d 528 (La. 1968).

Satanism

- A union resolution describing the plaintiff as "Principal from Hell" and "Satan" is nothing more than exaggerated hyperbole. *Roth v. UFT*, 5 Misc.3d 888, 787 N.Y.S.2d 603 (N.Y. 2004).

Scab

- The U.S. Supreme Court has held that the use of the word "scab" or "scabs" referring to individuals as traitors *by a union in a labor dispute* was not defamatory and was protected under Federal law. However, the holding was limited to labor disputes. *Letter Carriers v. Austin*, 418 U.S. 264 (1974).

- A false accusation of someone being a "scab" may be defamatory. *Dunn v. Air Line Pilots Ass'n*, 193 F.3d 1185 (11th Cir. 1999). But, where an allegation of being a "scab" is factually true, it is not defamatory. *Id*.

Scandal

- The description of a theatre production as "a rip-off, a fraud, a scandal, a snake-oil job" was held to be no more than rhetorical hyperbole. *Phantom Touring v. Affiliated Publications*, 953 F.2d 724 (1st Cir. 1992).

Scandalmonger

- There are no reported cases which address the question of whether publishing a claim that someone is a scandalmonger is actionable as defamation/libel.

Scoundrel

- Calling someone a "scoundrel" is defamatory, but may require pleading special damages. *State v. Haider*, 150 N.W.2d 71 (N.D. 1967).

- "[O]ne might refer to an individual as a 'scoundrel,' while another thinks him a 'saint.' Such characterizations are not factual, but rather judgmental. Accordingly, they cannot form the basis of a libel action, as they cannot be verified as true or false." *Miskovsky v. Oklahoma Pub. Co.*, 654 P.2d 587, 7 Media L. Rep. 2607 (Okla.), *cert. denied*, 459 U.S. 923 (1982).

Seducer

- Falsely alleging someone is a "seducer of innocent girls" is defamatory per se. *Finch v. Vifquain*, 11 Neb. 280, 9 N.W. 43 (1881).

Sexual Harassment

- There are no reported cases which address the question of whether publishing a claim that someone has engaged in sexual harassment is actionable as defamation/libel.

Sexual Misconduct

- Words imputing sexual misconduct to a man could be defamatory per se. *Rejent v. Liberation Publications*, 197 A.D.2d 240 (N.Y. App. Div. 1994).

Sex Offender

- Merely accusing one of being a homosexual is not defamatory per se, but accusing one of being a pedophile or sex offender raised statement to defamatory per se. *Miles v. Nat'l Enquirer, Inc*, 38 F. Supp. 2d 1226 (D. Colo. 1999).

Sharp Dealing

- An allegation of "sharp dealing" is nothing more than a harsh opinion. *Wilkow v. Forbes, Inc*., 241 F.3d 552, 37 Bankr. Ct. Dec. 126, 29 Media L. Rep. 1410 (7th Cir. 2001).

- However, where the allegation is clearly untrue, it may be defamatory. *Naihaus v. Louisiana Weekly Pub. Co*., 176 La. 240, 145 So. 527 (1933).

Short in Accounts

- Where a false imputation that someone is "short in his accounts" is made, it is actionable as defamation. *Gulf Refining Co. v. Morgan*, 61 F.2d 80 (4th Cir. 1932). But where extrinsic facts where necessary to reach the conclusion of financial irresponsibility, special damages must be plead. *Mahana v. Echo Pub. Co*., 181 Cal. 233, 183 P. 800 (1919).

Shyster

- In order for an allegation that a person is a "shyster" to be actionable as defamation, special damages must be alleged and proved. *Lewis v. Baton Rouge Oil & Chemical Workers Union*, 387 So.2d 1311 (La. App. 1980).

- An article referring to a plaintiff as a "shyster Jew" is actionable as defamation in Pennsylvania. *Norton v. Glenn*, 2002 PA Super. 71, 797 A.2d 294 (2002).

- Other courts have held it is actionable per se when used in reference to an individual. *Gribble v. Pioneer Press Co.*, 34 Minn. 342, 25 N.W. 710 (1885).

Skank

- The California Court of Appeal has held that the term "skank" is not actionable as definition because it has no generally recognized meaning and there have been no decisions holding that the term constitutes actionable defamation. *Seelig v. Infinity Broadcasting Corp*., 97 Ca. App. 4th 798 (2003); *see also Hobbs v. Imus*, 266 A.D.2d 36, 698 N.Y.S.2d 25 (1999).

Sleazebag

- Referring to someone as a "sleazebag" or "sleaze-bag" is merely an opinion, and not actionable as defamation. *Henderson v. Times Mirror Co*., 669 F. Supp. 356, 14 Media L. Rep. 1659 (D. Colo. 1987).

Slob

- An Arkansas appellate court has held that a statement made by a bank officer to a third party that an individual was a "big, fat, damn slob" was defamatory. *Superior Fed. Bk. v. Mackey*, 129 S.W.3d 324 (Ark. App. 2003) ("There is no doubt that [this statement] [is] defamatory in nature. [It carries] a meaning that Mackey was incompetent in running his business and did not possess the human mental wherewithal to do so.")

Slumlord

- Characterizing a person as a "slumlord" is actionable as defamation. *Ramunno v. Cawley*, 705 A.2d 1029 (Del. 1998). However, it is not considered defamation per se because it is capable of an innocent construction. *Raski v. Columbia Broadcasting System, Inc*., 103 Ill. App. 3d 577, 431 N.E.2d 1055 (Ill. App. 1981).

Slush Fund

- Statements referring to contributions as "slush funds" were not actionable as defamation. *Lizotte v. Welker*, 45 Conn. Supp. 217, 709 A.2d 50 (Conn. Super. Ct. 1996). Other states have held it is actionable. *Langer v. The Courier-News*, 46 N.D. 430, 179 N.W. 909 (1920).

Slut

- To call one a "slut" is defamation per se in Illinois. *Bryson v. News Am. Publs.*, 672 N.E.2d 1207 (Ill. 1996). *See also Smith v. Atkins*, 622 So.2d 795 (La. Ct. App. 1993) (Court increased a defamation award to $5,000 on proof that a college teacher referred in class to plaintiff, a female student, as a "slut," causing negative reactions by her fellow students and requiring plaintiff to seek psychiatric help for depressive disorder.).

Sneak

- A statement that, without innuendo, accuses a person of operating a business on a "sneak" basis, and that tends to injure the person in business, is defamation per se. *Nichols v. Bristow Pub. Co.*, 330 P.2d 1044 (Okla. 1958). The same court held it was not defamation per se to call someone a "sneak," even when such words were intended to annoy. *Jones v. Hill*, 193 Okla. 653, 146 P.2d 294 (1944).

S.O.B. / Son of a Bitch

- "The expression 's.o.b.,' only not abbreviated, is not necessarily defamatory, because it is informal, and does not rise to the level of contempt or hatred. *Harris v. Levy*, 353 So.2d 1065 (La. Ct. App. 1978).

- In North Carolina, calling someone a son of a bitch is actionable if the plaintiff can prove special damages. *Ringgold* v. *Land,* 193 S.E. 267 (N.C. 1937).

- In South Carolina, calling someone a son of a bitch is not actionable per se. *Smith v. Phoenix Furniture Co*., 339 F. Supp. 969, 971 (D.C.S.C. 1972).

Sodomist

- In Ohio a picture of a male plaintiff depicted in an act of sodomy captioned "Bob Guccione Discovers Vaseline" was held libelous per se. *Guccione v. Hustler Mag*., 7 Media L. Rep. 2077 (Ohio App. 1981).

Sold Influence

- There are no reported cases which address the question of whether publishing a claim that someone sold influence is actionable as defamation/libel.

Sold Out

- There are no reported cases which address the question of whether publishing a claim that someone sold out is actionable as defamation/libel.

Spy

- There are no reported cases which address the question of whether publishing a claim that someone is a spy is actionable as defamation/libel.

Sticky Fingers

- It was defamatory for an employer to characterize a former employee as having "sticky fingers." *May v. Frauhiger*, 716 N.E.2d 591, 593 (Ind. Ct. App. 1999).

Stool Pigeon

- Union officials' statements that a member was a "stool pigeon" were held to be actionable as defamation in *Soley v. Ampudia*, 183 F.2d 277 (5th Cir. 1950).

Street Person

- There are no reported cases which address the question of whether publishing a claim that someone is a street person is actionable as defamation/libel.

Stuffed the Ballot Box

- There are no reported cases which address the question of whether publishing a claim that someone "stuffed the ballot box" is actionable as defamation/libel.

Stupid

- A few cases conclude that publishing that someone is stupid is not libelous because it represents opinion. *Daniels v. Alvarado*, (E.D.N.Y. 2004) (No citation on loislaw); *Newman v. Hansen & Hempel Company*, (N.D. Ill. 2002) (No citation on loislaw).

Suicide

- In Michigan, a plaintiff who performs assisted suicides is "libel proof." Such an individual already has a reputation so low that no statement could lower his/her reputation any more. *Kevorkian v. American Medical Association*, 602 N.W.2d 233 (Mich. App. 1999).

- An old New York case finds it is libelous per se to publish that someone committed suicide who was in fact alive. *Cady v. Brooklyn Union Publishing Co*., 51 N.Y.S. 198 (N.Y. 1898).

- In Colorado, publishing that an individual's death was a "probable suicide" is libel per quod, if libel at all, but the plaintiffs could not recover because they failed to plead special damages. The court characterized libel per quod as any libel that "does not carry a defamatory imputation on its face." *Stump v. Gates*, 777 F. Supp. 808, 825-26 (D. Colo. 1991).

Swindle

- In the Sixth Circuit, the word "swindle," which the court noted is commonly substituted for "defraud," is not defamatory when used in a factually and substantially accurate manner. *Orr v. Argus-Press Co*., 586 F.2d 1108 (6th Cir. 1978).

Swindler

- In Connecticut, it is not slander per se to label someone a swindler because that allegation does not assert that someone is guilty of a crime. *Yakavicze v. Valentukevicious*, 84 Conn. 350 (1911).

- References to plaintiffs as "cheats" and "swindlers" could create the defamatory implication that they failed to pay their debts. *Ty v. Celle*, 1997 WL 167041 (S.D.N.Y. 1997).

Thief

- The allegation that a person is a thief constitutes defamation/slander per se in Maryland. *Carter v. Aramark Sports & Entertainment Service*s, 835 A.2d 262 (Md. Ct. Spec. App. 2003). Publishing that someone is a thief is libelous per se in Utah. *Murphree v. First Utah Bank*, 293 F.3d 1220, 1222 (10th Cir. 2002); *Western States Title Insurance Co. v. Warnock*, 415 P.2d 316 (Utah 1966). *See also Mathis v. Cannon*, 556 S.E.2d 172 (Ga. App. 2001); *Northern Ind. Public Svc. Co. v. Dabagia*, 721 N.E.2d 294, 303 (Ind. App. 1999); *Holtzscheiter v. Thomson Newspapers, Inc.*, 506 S.E.2d 497 (S.C. 1998); *Bobenhausen v. Cassat Ave. Mobile*, 344 So.2d 279 (Fla. App. 1st Dist. 1977); *O'cana v. Espinosa*, 347 P.2d 1118 (Colo. 1960); New York, *Gordon v. Hyman*, 221 N.Y.S. 429 (N.Y. 1927).

- Court upheld a $25,000 defamation award based on plaintiff's testimony that he was embarrassed and humiliated by having been stopped at a Wal-Mart gardening center and accused in front of other customers of stealing three bags of soil, which he was actually in the process of returning for a refund. *Thomas v. Busby*, 670 So.2d 603 (La. Ct. App. 1996).

- Iowa courts have also repeatedly held that it is libel per se to publish statements accusing a person of being a liar, cheater or thief. *King v. Sioux City Radiological Group, P.C.,* 985 F. Supp. 869, 877 (D. Iowa 1997).

- To call a man a thief is actionable per se, without the addition of a colloquium. *Rubenstein v. Lee*, 192 S.E. 85 (Ga. Ct. App. 1937).

- In Mississippi, it is not actionable per se to call someone a thief unless the accusation is for felonious stealing. One must accuse another of a crime involving moral turpitude and infamous punishment in order for the accusation to be actionable per se. *Speed v. Scott*, 787 So.2d 626, 633 (Miss. 2001).

- In Texas, calling someone a thief is not defamatory per se unless it imputes a common law or statutory crime. *Skillern v. Brookshire*, 58 S.W.2d 544 (Tex. Civ. App. Beaumont 1933).

- In California, a foe's charge of "thief" would be reasonably interpreted as loose figurative language and hyperbole, not a claim that the plaintiff actually had a criminal past. Thus, such an accusation would not be actionable. *Rosenaur v. Scherer*, 88 Cal. App. 4th 260 (Calif. App. 2001).

- In Vermont, a plaintiff must prove actual damages in order to prove that being called a thief is defamatory. *Crump v. P & C Food Markets, Inc.*, 576 A.2d 441 (Vt. 1990).

- In Illinois, the word "thief" in its ordinary acceptation imputes the crime of larceny and is actionable per se, but if the word be spoken of the defendant in relation to a past act or transaction, which was known to the hearers, and which past act or transaction was not larceny, nor indictable as a crime, the use of the word is not actionable. *Zurawski v. Dziennik, Etc., Corp*., 2 N.E.2d 956 (Ill. App. 1936).

Thug

- Calling someone a "thug," without more, is not defamatory, for thug is a name that does not impute any particular crime to the plaintiff; also, it is informal, and does not rise to the level of contempt or hatred. *Garrett v. Kneass*, 482 So.2d 876 (La. Ct. App. 1986).

- "While it may be true that characterization as a "thug" may not support a claim of defamation . . . the defendants [have not] established to the Court's satisfaction that under no circumstances could Commisso's remark be considered defamatory." *Lacorte v. Hudacs*, 884 F. Supp. 64, 70 (N.D.N.Y. 1995).

Traitor

- Calling someone a "traitor to the company" is defamatory per se in California. *Rodriguez v. North American Aviation, Inc*., 252 Cal. App. 2d 889, 894 (Cal. App. 1967).

- Calling another a "traitor" when an individual is determined to be using figurative or hyperbolic language that would negate the impression that the individual was asserting an objective fact is not libelous in Hawaii. *Gold v. Harrison*, 962 P.2d 353 (Ha. 1998) (citing a Supreme Court decision noting that using "traitor" in the definition of a union "scab" is not defamatory because the word is used "in a loose, figurative sense"). *See also Nat'l Ass'n of Letter Carriers v. Austin*, 418 U.S. 264, 284 (1974); *West v. Thomson Newspapers*, 872 P.2d 999, 1010 (Utah 1994); *Phantom Touring, v. Affiliated Publications*, 953 F.2d 724, 727 (1st Cir. 1992); *DRT Construction Co., Inc. v. Lenkei*, 576 N.Y.S.2d 724 (N.Y. App. Div. 1991); *Baker v. Los Angeles Herald Examiner*, 721 P.2d 87 (Cal. 1986); *Crawford v. United Steel Workers, AFL-CIO*, 335 S.E.2d 828 (Va. 1985).

Unethical

- Because an attorney is required to adhere to disciplinary rules, charging an attorney with unethical conduct is defamatory per se. *Carwile v. Richmond Newspapers*, 82 S.E.2d 588

(Va. 1954); *Colmar v. Greater Niles Tp. Pub. Corp.*, 141 N.E.2d 652 (Ill. App. 1957). Charges of dishonesty or unethical practices made by an employer against a former employee impute unfitness for employment and are libelous per se. *Munsell v. Ideal Food Stores*, 494 P.2d 1063 (Kan. 1972).

Unfaithful

- See also "Adultery," "Affair," "Infidelity," and "Running Around."

- It is not defamatory for a spouse to infer that one may be engaging in infidelity or may have been unfaithful when seeking advice from close friends. The defendant used the words "running around" or "having an affair" in reference to her husband, and the court found none of these to be defamatory. *Watson v. Watson*, 209 So.2d 528 (La. 1968).

Unmarried Mother

- There are no reported cases which address the question of whether publishing a claim that someone is an unmarried mother is actionable as of defamation/libel.

Unprofessional

- An oral communication that imputes to another conduct, characteristics, or a condition incompatible with the proper exercise of his lawful business, trade, profession or office is slander per se in Florida. *Campbell v. Jacksonville Kennel Club*, 66 So.2d 495 (Fla. 1953); *Wolfson v. Kirk*, 273 So.2d 774 (Fla. Ct. App. 1973); *Sprovero v. Miller*, 404 So.2d 793 (Fla. Ct. App. 1981). *See also Anderson v. Kammeier*, 262 N.W.2d 366 (Minn. 1977).

- Defamatory words falsely spoken of a person, which impute to the party unfitness to perform the duties of an office or employment of profit, or the want of integrity in the discharge of the duties of such an office or employment, are actionable in themselves without proof of special damages. *Dixon v. Chappell*, 118 S.W. 929 (Ky. 1909); *Harris v. Bethesda Lutheran Homes, Inc.*, No. 99 C 50062 (N.D. Ill. 2001).

- Criticism of the manner in which an attorney conducted matters under his supervision could amount to defamation. *Fairfield v. Hagan*, 248 Cal. App. 2d 194 (1967). But see *Cochran v. NYP Holdings, Inc.,* 58 F. Supp. 2d 1113, 1121 (C.D. Cal. 1998), which held that a statement that suggested that defense attorney Johnnie Cochran lied and exhibited unethical conduct was not actionable as a matter of law because the statement appeared in an opinion column and the author used "loose, figurative, and hyperbolic" speech throughout the column.

Unscrupulous

- Where "unscrupulous" is used to capture attention in a headline and is supported by fact, it is not actionable as defamation. *White v. Berkshire-Hathaway, Inc.*, __ N.Y.S.2d __, 2005 WL

2623276 (N.Y.Sup., Oct. 4, 2005). This is especially true, the court stated, because it is not "shockingly offensive" nor as "inflammatory" as some other non-actionable words.

- The description of an individual as unscrupulous is one that would, if false, be libelous per se. *Chalpin v. Amordian Press*, 515 N.Y.S.2d 434 (N.Y. App. Div. 1987). However, the court held that it was a word of opinion that is not capable of being found true or false. *See also Elliott v. Roach*, 409 N.E.2d 661 (Ind. App. 1980).

Unsound Mind

- There are no reported cases which address the question of whether publishing a claim that someone is of unsound mind is actionable as of defamation/libel.

Unworthy of Credit

- Publication of non-payment of a debt is libelous per se. *Hinkle v. Alexander*, 417 P.2d 586 (Or. 1966); *Martin v. Outboard Marine Corp.*, 113 N.W.2d 135 (Wisc. 1962).

- Publication of non-payment of a debt is not libelous per se. *Whitby v. Associates Discount Corp.*, 207 N.E.2d 482 (Ill. App. 1965). The allegation that a person has refused to pay a money debt is not per se defamatory if that person is not engaged in a vocation in which credit is necessary for the proper and effectual conduct of his business. *M. Rosenberg & Sons v. Craft*, 29 S.E.2d 375, 378 (Va. 1944).

V.D.

- New York follows the principle that absent proof of harm to reputation a plaintiff may not recover on a claim of a defamation unless, of course, he can prove malice. *France v. St. Clare's Hosp.*, 441 N.Y.S.2d 79 (N.Y. App. Div. 1981).

Vice Den

- There are no reported cases which address the question of whether publishing a claim that someone or something is a vice den is actionable as of defamation/libel.

Witch

- In dicta, a court noted "as a matter of law, that witches on broomsticks are fiction and fantasy." *Ford v. Rowland*, 562 So.2d 731, 17 Media L. Rep. 2121 (Fla. App. 1990).

Whore

- Saying of another, "There you are, you old whore. You are nothing but a damned old whore" imports unchastity on the part of the person addressed, and is slanderous per se because it carries with it an imputation of a criminal offense. *Spry v. Corum*, 163 N.E. 526 (Ind. Ct. App. 1928); *Ferber v. Brueckl*, 243 S.W. 230 (Mo. Ct. App. 1922).