

7. Defendant Miller did slander Plaintiff to Harold Brown, Elaine Brown and Kevin Brown on several occasions between the dates of January 01, 2002, and September 6, 2003, with intent to destroy Plaintiff's credibility, consortium and to damage Plaintiff's reputation with his clients. Defendant did then demand that the Browns substitute Walter Eugene Barrett's services for those of the Plaintiff by intimidating the Browns and threatening to withdraw if they did not hire Walter Eugene Barrett instead of Plaintiff. The Browns subsequently paid Walter Eugene Barrett \$3000.

8. Defendant Miller did slander Plaintiff to Joel and Cindy Costello repeatedly between July, 2002, and April, 2004. Defendant Miller also charged the Costellos for the services of another private investigator for work done by the Plaintiff. This act constitutes a restraint of trade; damages are in both reputation and business.

9. Defendant Miller did slander Plaintiff to Steve Gartin repeatedly from September, 2002, until March, 2004, and repeatedly attempted to substitute Walter Eugene Barrett's services for those of the Plaintiff. The Alternative Defense Counsel disbursed funds to Walter Eugene Barrett for one interview with State Attorney General Investigator, Gary Clyman and refused to acknowledge the efforts of the Plaintiff and refused to pay Plaintiff, for a complete investigation on case number 02CR3011. The Honorable Leland Anderson requested that Defendant Miller submit a request to Brian Shaha of the Alternative Defense Counsel, to appoint the Plaintiff, so he may be compensated for his diligent investigative service, which was in fact submitted to complete the above mentioned case matter. Instead of doing this, Defendant Miller requested Mr. Walter E. Barrett to be appointed on this investigation that was already completed. This being done, Mr. Barrett was, instead of the Plaintiff, in fact compensated.

10. Defendant Miller did slander Plaintiff to Chas Clements repeatedly from April, 2003, to March, 2004.

11. Defendant Miller and confederate Walter Eugene Barrett threatened clients with going to jail if they did not pay Defendant Miller as and when he requested. Because of these threats, prospective and current clients may feel intimidated and threatened. Many persons come to Plaintiff only in disguise or in rental cars, to provide security from stalking, and to protect their lives from unwanted, unpredictable intrusions instigated by the Defendant and Walter Eugene Barrett.

12. Defendant Miller did libel Plaintiff in his Motion to Withdraw from Case #00CR3371, filed in the Jefferson County District Court on April 15, 2004, in paragraph ?? . Here Defendant Miller refers to Plaintiff as "a quasi-private investigator" for the purpose of defaming Plaintiff in the eyes of his client, Steve Gartin, the Jefferson County Court and the Alternate Defense Counsel, all of whom received a copy of the pleading. That pleading is within the public record. *The law makes the publication of a libel a crime, not because of injury to the reputation of an individual, but because such publication tends to affect injuriously the peace and good order of society.* Bearman v. People, 91 Colo. 486, 16 P.2d 425 (1932).

13. The characterization of Plaintiff as a "quasi-private investigator" is libelous on its face. It clearly exposes Plaintiff to hatred, contempt, ridicule and obloquy because of the great confidence clients place in this investigator's ability to compile exculpatory evidence in their behalf. Such a published libel might well create questions in a client's mind.

14. Defendant Miller included the Alternate Defense Counsel in the copy list of his Motion to Withdraw for the stated purpose of "seeing to it that he [Plaintiff] never works in this town again" due to Defendant Miller's slandering Plaintiff to several clients and associates of Plaintiff. *Intent is presumed if the libel is not qualifiedly privileged. In prosecutions for criminal libel under this section, if*

the publication is libelous per se and is not qualifiedly privileged, intent is presumed; but if the publication is qualifiedly privileged, it being the law that intent must be established beyond a reasonable doubt, defendant may introduce evidence on this issue. Bearman v. People, 91 Colo. 486, 16 P.2d 425 (1932).

And privilege may be lost if the libelous matter is given wide circulation. In an action for criminal libel under this section, it is held that a letter addressed to the president of a hospital association charging a doctor with criminal and immoral acts in connection with his management of the institution, if privileged, lost its character as such by reason of the wide distribution of copies of the letter by defendant and offered evidence to negative intent, was properly rejected. Bearman v. People, 91 Colo. 486, 16 P.2d 425 (1932).

15. Defendant Miller's slander and libel are not protected or privileged speech. *Test articulated for evaluating when speech is protected opinion: (1) The statement complained of should be examined to determine if it is cautiously phrased in terms of apparency, e.g., "in my opinion"; (2) the entire published statement must be examined in context, not just the objectionable word or phrase; and (3) all the circumstances surrounding the statement, including the medium of dissemination and the audience to whom it is directed, should be considered.* Burns v. McGraw Hill Broadcasting Co., 659 P.2d 1351 (Colo. 1983).

16. Defendant Miller's statements and publications consistently point to Mr. Walter Eugene Barrett as the "real" investigator as though Attorney Miller is either a cheerleader for Mr. Barrett or has a vested interest in Mr. Barrett's investigation business to the detriment of Plaintiff's business. *It is inappropriate to require that defamatory false statements must be made with "actual malice", where one private person disseminates defamatory statements about another private individual in the victim's community. Rather, in a purely private context, a less restrictive culpability standard may be used to meet the state's legitimate interest in controlling constitutionally unprotected conduct injurious to its citizens.* People v. Ryan, 806 P.2d 935 (Colo. 1991), cert. denied, 502 U.S. 860, 112 S. Ct. 177, 116 L.Ed.2d 140 (1991).

17. On or about December 01, 2003, Defendant Miller borrowed \$1000 from the Plaintiff. When it came time to repay the loan, the Defendant attempted to extort the Plaintiff by stating that he would not follow through with representation in Plaintiff's traffic case unless Plaintiff paid him \$1000. Attorney Miller offered to represent Plaintiff in that case as repayment for Plaintiff referring over \$100,000 in cases to Defendant Miller.

18. Attorney Miller has attempted to extort numerous clients including the following: Kevin Brown, Tomas Garcia, Steve Gartin, Rich Wyatt, Gregory Eliason, Joel Costello and Chas Clements. He did so by threatening them with "going to jail" for lack of representation by Defendant. He consummated his threats in the case of Joel Costello, presently in jail. Steve Gartin remains in jeopardy due to Attorney Miller's threats and subterfuge. Attorney Miller has established a pattern of conduct that creates a prima facie extortion case against him and his confederate and business partner, Walter Eugene Barrett.

19. On information and belief, Defendant Miller and confederate Walter Eugene Barrett have conspired to co-opt clients Plaintiff has referred to Attorney Miller to promote and facilitate the diversion of investigation services for Attorney Miller's and his confederate Walter Eugene Barrett's benefit, thus negligently and recklessly causing damages of many kinds to Plaintiff and others.

20. Due to the repeated slanders, libel, and the malice evinced by the continuing pattern of actions in conspiracy with Walter Eugene Barrett, and due to their negligent, reckless, and tortious activities of harassment and intimidation, Plaintiff will seek punitive and exemplary damages in addition to direct