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To: Jonathan Fishbane
Date: May 14, 2019
Re: Supplement on Defamation ***per se***

Defamation is divided into two categories: defamation *per quod* and defamation *per se*. The difference between the two claims hinges on the nature of the alleged false statements. When words on their face, and without the aid of extrinsic proof, are injurious, they are said to be defamatory *per se* **and no proof of damages is necessary to establish liability**. See Fun Spot of Florida, Inc. v. Magical Midway of Cent. Florida, Ltd., 242 F. Supp.2d 1183, 1197 (M.D. Fla. 2002) (citing Hoch v. Rissman, 742 So.2d 451 (Fla. 5th DCA 1999)).

With slander *per se*, damages are presumed from the nature of the slanderous statements in question. In the seminal case of Campbell v. Jacksonville Kennel Club, 66 So.2d 495, 497 (1953), the Florida Supreme Court ruled that a communication is actionable per se - without a showing of special damage – "if it imputes to another (i) a criminal offense amounting to a felony, or (ii) a presently existing venereal or other loathsome and communicable disease, or (iii) conduct, characteristics, or a condition incompatible with the proper exercise of his lawful business, trade, profession, or office, or (iv) the other being a woman, acts of unchastity." These categories have been further explained and, apparently, expanded by the Courts over the years.

For example, now "[a] false defamatory statement which suggests that someone has committed a dishonest or illegal act is slander *per se*." Fun Spot of Florida, Inc. at 1197; Risk Ins. & Reinsurance Sols. v. R + V Versicherung, 04-61119-CIV, 2007 WL 9700868, at *7 (S.D. Fla. June 6, 2007).

Accordingly, Lichter's description of the parent and school board member as "criminal" would likely be deemed as defamation *per se*, since this would surely suggest that a dishonest or illegal act has been committed.