

DECISIONS AND OPINIONS
OF THE
SUPREME COURT
OF THE
REPUBLIC OF LIBERIA.
APRIL TERM, A. D. 1922.

W. D. WOODIN & COMPANY, Appellant, v. JOSEPH T. GIBSON, acting in his official capacity as Postmaster, Harper, Maryland County, Appellee.

ARGUED, 1922. DECIDED JANUARY 29, 1923.

Dossen, C. J., Johnson and Witherspoon, JJ.

1. In all actions for libel the plaintiff must in his complaint set out the libellous communication complained of as it is the right of the defendant to be apprised of the facts expected to be proved against him so that he may both obtain the opinion of the court whether the allegations support the charge, as well as be in a position to properly defend the action.
2. The libellous matter alleged should not be merely appended to the complaint but embodied therein.
3. Actions of slander are divided into two general classes; the one where the words alleged to have been spoken charged the defendant with an indictable offense or tend to render the party odious or ridiculous in his personal or business relations; the other when the words alleged to have been spoken are not actionable *per se*, but only because some special damage resulted therefrom. In the former kind of action the plaintiff need not prove special damage, but in the latter special damage must both be alleged and proven.
4. A principal is not generally liable for the wilful acts or misdeeds of his agent whereby damage is done to another unless the principal originally commanded, or subsequently assented to, the act. He is liable to third persons for the misfeasance or negligence of the agent, only in cases where the latter acts within the scope of his authority as agent.
5. It would work incalculable harm to make a company or corporation responsible for every unauthorized act of its agent.

Mr. Chief Justice Dossen delivered the opinion of the court:

Action of Damages for Libel and Slander. Appellee, who was plaintiff in the court below, brought an action of damages in the Circuit Court of the fourth judicial circuit, Maryland County against appellant, for an alleged libel and slander. In the first count of plaintiff's complaint, he alleged, *inter alia*, that on the 11th day of March, A. D. 1921, defendant, through its former agent Mathew Joseph Cooper, at the aforesaid City of Harper, did in the presence of divers persons speak of and concerning the plaintiff, the following false, slanderous and defamatory words, i.e. you, referring to plaintiff, have suppressed my letters, meaning thereby that said plaintiff, in his official capacity, had suppressed certain letters of defendant, which would impute to him the said plaintiff, the committing of an offense punishable by law, and thereby impair plaintiff's reputation, character and good name.

In the second count of the complaint, plaintiff further alleges that on the 18th day of March, A. D. 1921, at the place aforesaid, the defendant maliciously intending to injure him, the said plaintiff, in his reputation, good name, fame and character, did compose into and publish of and concerning said plaintiff certain false, slanderous and defamatory statements in a libellous communication to the Postmaster General of the Republic of Liberia, a copy of which was annexed to said complaint. For these alleged injuries plaintiff claimed damages in the sum of five thousand dollars.

Defendant demurred and prayed that the action be dismissed :

(a) Because plaintiff has no cause of action as the alleged false, scandalous and defamatory words were spoken, as plaintiff avers, by one Mathew Joseph Cooper the former agent of the company, outside of his authority and capacity as agent aforesaid, and hence can not legally be traced to the defendants, he not acting at that particular time in the capacity of agent for defendant.

(b) Because the complaint is seriously defective, as plaintiff has failed to set forth, and aver, with sufficient certainty the alleged defamatory words as in all actions of this nature the defamatory words must be set out accurately, and with sufficient certainty in order that the court may judge whether they constitute a cause of action, and whether they are actionable *per se* or only actionable by reason of special damages, and that defendant may have notice of what plaintiff intends to charge him with.

(c) Because plaintiff has neglected to lay the alleged libellous communication fully or in part, nor in the second count of his complaint, avers in a certain, specific, intelligent, and sufficient

manner, the exact false, scandalous, and defamatory matter; as in all actions for libel and slander plaintiff must not only set forth the words according to their tenor or effect, but that he must set forth the whole article or libellous communication, or that portion of it containing the defamatory matter, and if the meaning of the words and sentences or their application is obscure or doubtful (as in this action) the exact libellous communication, or that portion which contains the libellous and defamatory matter, be fully set out, with an innuendo to explain words double and doubtful in their meaning and application.

(d) That in action of damages for libel and slander in which special damages are prayed for, the declaration of plaintiff should also contain an allegation of the plaintiff's damages, and all the elements upon which the claim for said special damages are based must be set forth. It is not sufficient to allege special damages generally as plaintiff has done in this action, but special damages must be specifically alleged, and must be such as flow naturally from the acts complained of; plaintiff failing and neglecting to set out distinctly and intelligibly his name, complaint, the manner in which he has been damaged, and that such damages can be traced to the action of the defendants, renders the said complaint bad and defective; the action should therefore have been dismissed in the trial of the case in the court below.

The jury returned a verdict in favor of plaintiff, awarding him the sum of six thousand dollars, and judgment was accordingly entered, and it is from this judgment that the defendants have appealed and brought the case up to this court for review.

The pleadings and evidence are voluminous, but we will only discuss such parts of the records and the bill of exceptions as are essential to a decision of the questions presented for our consideration.

The first point in the bill of exceptions is as follows:

Because on the 24th day of November, A. D. 1921, Your Honor after hearing arguments in support of his demurrer to plaintiff's complaint in this case, sustained said complaint, and ordered the case submitted to a jury.

In all actions for libel, the plaintiff must set out and have embodied in his complaint the libellous communication complained of. It is the right of the defendant to have set out in the complaint the circumstances that are to be proved against him, so that he may obtain the opinion of the court whether the circumstances support the charge of which complaint is made and also that he may be in a position to properly defend the action.

In inspecting the records, we find that the alleged libellous letter was not embodied in the second count of the complaint, but was simply appended thereto. This made-up pleading is clearly irregular and defective. The said count should therefore have been struck from the records.

With reference to the point in the bill of exceptions we will here observe that verbal slanders are divided into two classes. The first class comprises cases where the words spoken are actionable in themselves, as for instance where the matter charged amounts to an indictable offense, or tends to render the party slandered odious or ridiculous or comes home directly to the business of said party as to charge an official of Government with committing an act of official misconduct, as was laid in the complaint filed in this case. In all such cases, the plaintiff need not prove special damages, they arise by inference of law. (*Ditchfield v. Dossen et al*, I Lib. L. R. 492.) The second class embraces cases in which the words spoken are only actionable by reason of special damages. In such cases the nature of the damages sustained must be properly laid in the complaint, and proved.

The next point in the bill of exceptions, which claims our attention is that relating to the verdict of the jury which defendant claims was manifestly contrary to law, evidence, and the legal instructions of the court; and this brings us to a consideration of the question raised by defendant in his answer, as to how far, a company is responsible for the acts of its agents.

Generally a principal is not liable for the wilful acts or misdeeds of his agent whereby damage is done to another unless he originally commanded, or subsequently assented to, the act. He is liable to third persons for the misfeasance or negligence of the agent, in the course of the agency; but the responsibility of the principal is limited to cases properly in the scope of the agency. (Story on Agency, 454.) The record clearly shows that the conversation during which Mathew Joseph Cooper, the defendants' former agent, is alleged to have uttered the libellous words set out in plaintiff's complaint, took place at the post office in Harper, but there was nothing to show whether the letters referred to were the letters of the said Mathew Joseph Cooper or those of his principal W. D. Woodin & Co., the defendant in this case. In any case it does not clearly appear that the said Mathew Joseph Cooper was acting in

the scope of his agency at the time. To make a corporation or company responsible for every unauthorized act of its agent would work incalculable harm.

The verdict of the jury was therefore manifestly against the law and evidence in the case, and the judgment based on said verdict can not be supported.

The judgment should be reversed, and the costs ruled against appellee and it is so ordered.

Arthur Barclay, for appellant.

E. J. S. Worrell, for appellee.
