

MICHAEL A. DIAS  
JONETTE M. MONTGOMERY  
JOHN C. UMSCHIED  
SARAH M. HACKER  
ELLA R. FLORESCA  
STEVEN E. ALFIERIS  
JIMMY J. RODRIGUEZ, OF COUNSEL  
ALICIA D. WREST, OF COUNSEL



DIAS LAW FIRM, INC.  
ATTORNEYS AT LAW

502 W. GRANGEVILLE BLVD.  
HANFORD, CALIFORNIA 93230  
TELEPHONE (559) 585-7330  
FACSIMILE (559) 585-7335  
[www.diaslaw.com](http://www.diaslaw.com)

December 21, 2017

**VIA ELECTRONIC & CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**



Ms. Marguerite Melo, Esq.  
Law Offices of Melo & Sarsfield, LLP  
4216 S. Mooney Blvd.  
Visalia, California 93277

**RE: Demand to Cease & Desist**  
Our Client: Linda Miller  
Our File No.: 17.330

Dear Ms. Melo:

Dias Law Firm, Inc. represents Linda Miller, an individual, relevant to Ms. Miller's claims against your client Jennifer Rios. We have reason to believe that Ms. Rios has engaged in a series of actions, including the publication of false statements of fact regarding my client, which amount to slander per se and libel per se, in addition to other causes of action.

This correspondence shall serve as notice to your client, and those acting on her behalf, to immediately cease and desist from all actions which continue to slander and libel my client, all of which have had a devastating impact to Ms. Miller's reputation in the small community of Exeter. Ms. Miller is suffering from a very real emotional distress due to Ms. Rios' unlawful actions.

Prior to your client's false allegations against Ms. Miller, my client enjoyed a sterling reputation, both personally and professionally.

In tandem with Ms. Rios' recently-filed litigation against Exeter District Ambulance ("EDA"), your client is attempting to discredit Ms. Miller by stating that Ms. Miller has engaged in unsavory and illegal practices. For the substance of what is being stated and published about my client, I need only direct you to the complaint you filed on Ms. Rios' behalf against the EDA and others. We understand that Ms. Rios has taken these falsities and spread them around the community, with the result of injuring my client's reputation and credibility.

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Ms. Rios' termination had absolutely nothing to do with Ms. Miller and the performance by Ms. Miller of her duties for EDA. Nonetheless, you and Ms. Rios both know that my client will likely be a percipient witness in the wrongful termination suit that you brought against the EDA, its district manager and certain board members, one of which is the husband of my client.

This reality helps explain why Ms. Rios has targeted Ms. Miller.

To make matters worse, the false allegations and innuendo contained in your client's complaint against the EDA have spread like wildfire throughout Exeter, my client's hometown. As you know, Exeter is a small town of about 10,000 persons. Allegations of criminal wrongdoing – even when false and even when later redacted by the local papers – hang in the air and continue to do damage to one's reputation. For this reason, my client is willing to litigate this matter.

**BACKGROUND.**

As you know, Ms. Rios and Ms. Miller once worked together at EDA. In June, 2017, your client was fired by EDA. Your law firm has filed suit against EDA, and, also, the district manager TJ Fischer, and board members Darinda Kunkel and Tony Miller. Tony Miller and my client are married.

Of note, Tony Miller is not financially compensated by EDA for his services to the board of EDA; his fulltime "day job" is with Land o' Lakes creamery in Tulare. My client works as EDA's office staff member who bills claims among her other duties.

In addition to the falsehoods contained in your complaint, it has come to our attention that Ms. Rios has communicated these false statements "around town" and also published the same on social media sites.

Ms. Rios must immediately stop defaming my client.

Your client's actions amount to slander per se, in addition to other cause of action, as set forth below in more detail. Your client is attempting to litigate her case in the newspapers by apparently providing a copy of the complaint to the *Valley Voice* and the *Foothills Sun Gazette* (fka *Exeter Sun*) newspapers. See the attached copy of the *Valley Voice* article dated December 7, 2017, where you, Ms. Melo, are quoted in the article.

As reported in an article in the *Foothills Sun-Gazette* dated December 6, 2017, you falsely stated that Ms. Miller's job was in "jeopardy." Specifically, your statement was:

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I believe that Mr. Miller is targeting myself and several of my colleagues, and has stated such, due to Mrs. Miller attempting to have myself and my colleagues fired due to her job status being in jeopardy.

This statement of fact is false. Ms. Miller's job is not, and was not, in jeopardy. Ms. Miller has served the EDA for 12½ years with a good record of accomplishment and no record of discipline. This statement implies that Ms. Miller's management has found inappropriate and illegal conduct on her part, enough to put Ms. Miller's job in "jeopardy."

The *Valley Voice* article [Exeter Ambulance District Sued for Wrongful Termination](#) specifically quotes Ms. Rios' letter where the allegation is made that Mr. Miller was "removing what she believed to be personnel files from the EDA office" with Ms. Miller present with Mr. Miller. It continues that Mr. Miller was seen "putting them in his wife's car." A few sentences later the article continues with "Theft of governmental files is a violation of the law." These statements have attached to my client and amount to actionable defamation under the law. These statements are false and accuse my client of a serious crime. This allegation that personnel records were removed by my client and her husband are false. At no time did my client take any files, including personnel files, from the EDA office. Indeed, your client has no proof of her claim other than her "certain" feeling.

These newspaper articles contain other falsehoods against my client.

#### **CAUSES OF ACTION.**

Libel is effected "by writing, printing, picture, effigy, or other fixed representation to the eye," which exposes a person to "hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation." Civil Code §45. Libel, as defined by statute, has been determined to include statements posted on an Internet bulletin board or website. We have reason to believe that your client has posted libelous material regarding my client on social media sites.

Slander is effected by oral utterance (including a "communication by radio or any mechanical or other means"), which, briefly stated, (1) imputes (a) criminality, (b) disease, (c) occupational incompetence or dishonesty, or (d) impotence or want of chastity, or which (2) causes actual damage. Civil Code §46. Your client's false statements of fact is slander per se under the law. We have very good reason to believe that Ms. Rios continues to slander my client to persons in the community, including and especially to my client's coworkers.

With a review of the facts of this case, we are certain that an action against your client for these false statements would be successful.

**DAMAGES.**

In defamation contexts, general damages include the "loss of reputation, shame, mortification, and hurt feelings." Civil Code §48a(d)(1). Thus, these damages essentially compensate the defamed plaintiff for emotional distress and damage to reputation. Douglas v Janis (1974) 43 CA3d 931, 940; Correia v Santos (1961) 191 CA2d 844, 856.

Damages are recoverable for both forms of defamation: libel and slander. Civil Code §44. Each form presumes the defendant's publication or utterance of a "false and unprivileged publication." Civil Code §45-46. Here, Ms. Rios had no privilege when it comes to her false statements and allegations involving my client. We are certain that these statements were made by your client well beyond the four corners of your complaint filed against EDA.

It is important for your client to note that a plaintiff is not required to plead or prove special damage to recover damages for a false oral utterance that is slanderous per se. See Albertini v. Schaefer (1979) 97 CA3d 822, 829. An oral utterance is slander per se if it fits within one of the first four categories listed in Civil Code §46, as follows:

1. Charges any person with crime, or with having been indicted, convicted, or punished for crime;
2. Imputes in [the person] the present existence of an infectious, contagious, or loathsome disease;
3. Tends directly to injure [the person] in respect to his office, profession, trade or business, either by imputing to him general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to his office, profession, trade, or business that has a natural tendency to lessen its profits; [or]
4. Imputes to [the person] impotence or a want of chastity.

Under the facts of the present case, each of numbers 1 and 3 above apply to this case, and therefore the 'per se' element has been satisfied. In short, damages to Ms. Miller's reputation are presumed under the Civil Code. For a statement that charges a person with a crime to be slanderous per se, the crime usually must be one involving moral turpitude that is indictable or punishable by imprisonment. This criteria is met as the false charges by your client against my client involve moral turpitude and is certainly indictable.

Essentially, Ms. Rios has falsely stated that my client has engaged in the crime of the 'Theft of government files.' Also, the allegation by Ms. Rios that my client was expert at breaking into offices is slander per se. The *Valley Voice* article stated "She recounted what she told the police to her lawyers...that I was certain that it was Mr. Miller and Mrs. Linda Miller because she was an expert at getting inside that safe which was difficult to open even with the code." Though there was no proof of my client breaking into the safe on the

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day in question when narcotics were stolen, Ms. Rios was "certain" that Ms. Miller was a thief, a burglar and a co-conspirator in a crime.

These statements have caused substantial injury to my client in that she was breaking into offices and was conspiring with her husband to remove personnel files at night, clearly stating that my client is an untrustworthy thief who is not qualified to work at EDA. Those statements are defamatory and actionable.

Moreover, the implication from Ms. Rios' falsehoods is that my client is only working for the EDA because her husband is on the board. That is false, as Mr. Miller took on his unpaid position in November 2016, and my client has worked for the EDA since 2005.

If defamatory language is libel per se or slander per se, the trier of fact is allowed to presume general damages from the mere publication of the defamatory words. Contento v Mitchell (1972) 28 CA3d 356, 358. For the reasons set forth above, our client has a libel per se and slander per se cause of action against your client.

It is important to keep in mind that the mere existence of a lawsuit between Ms. Rios and EDA does not allow Ms. Rios to spread falsehoods about my client.

**CEASE AND DESIST DEMAND.**

Ms. Miller is determined to make sure that all defamatory statements immediately cease, including the bringing of an action against your client.

My client hereby demands that Ms. Rios immediately take (or refrain from taking) the following actions:

1. Cease and desist from taking any action which slanders or libels my client. This includes false statements of fact about my client which harm her reputation, character and trustworthiness.
2. Cease and desist from publishing anything regarding my client that is false on any social media site, including Facebook.
3. Cease and desist from spreading false and defamatory remarks about Linda Miller, her work skills and honesty.
4. Confirm to us promptly in writing that Jennifer Rios has taken, and agrees to take, all of the above-described actions.

We look forward to receiving word that you have complied with our requests as outlined above. In the meantime, nothing in this letter shall be deemed a waiver of any rights, remedies, or defenses of my client, all of which are hereby expressly reserved.

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We request a response within one week of the date of this letter.

Very truly yours,

DIAS LAW FIRM, INC.



Steven E. Alfieris, Esq.

SEA/bmr

cc: Client  
Valley Voice newspaper  
Foothills Sun-Gazette newspaper

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