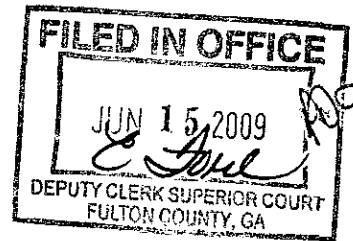


IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

OTIS L. STORY, SR.,)
)
 Plaintiff,)
)
 vs.)
)
 PAMELA STEPHENSON and the)
 FULTON-DEKALB HOSPITAL)
 AUTHORITY,)
)
 Defendants.)
 _____)

CIVIL ACTION FILE NO.
2008-CV-150333



**DEFENDANT PAMELA STEPHENSON'S RESPONSE TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Uniform Superior Court Rules 6.2 and 6.5, Defendant Pamela Stephenson ("Stephenson") hereby files this Response to Plaintiff Otis L. Story Sr.'s ("Story" or "Plaintiff") Motion for Summary Judgment, showing this Court as follows:

STATEMENT OF THE CASE

Plaintiff Otis L. Story Sr. ("Story" or "Plaintiff") is the former Chief Executive Officer of the Grady Health System (the "Health System"). Ms. Stephenson is and was at all times pertinent hereto the Chair of the Board of Trustees (the "Board") of The Fulton-DeKalb Hospital Authority (the "Authority"). The Authority was the owner and operator of the Grady Health System prior to entering into a Lease and Transfer Agreement with the Grady Memorial Hospital Corporation (the

“Corporation”) in April 2008.¹ In her official capacity as Chair of the Board of the Authority, Ms. Stephenson negotiated and executed Plaintiff’s employment contract and supervised him during his tenure as Chief Executive Officer from May 2007 through January 28, 2008.

On January 28, 2008, the Authority terminated Plaintiff’s employment. Plaintiff filed his Complaint in this litigation on May 8, 2008, asserting claims against the Authority for breach of contract, attorneys’ fees and expenses, specific performance, and Open Records Act violations. Plaintiff also asserted claims for tortious interference with contractual relations, attorneys’ fees and expenses, and punitive damages against Ms. Stephenson in her individual capacity in her connection with the termination of Plaintiff’s employment as the Health System’s former Chief Executive Officer.

Thereafter, on June 20, 2008, Ms. Stephenson timely filed her Answer to Plaintiff’s Complaint and asserted a Counterclaim against Plaintiff sounding in defamation. Because disputed issues of fact exist as to key elements of Ms. Stephenson’s prima facie defamation claim, this should Court deny Plaintiff’s Motion for Summary Judgment, in its entirety, thereby permitting this action to proceed to a trial on the merits.

¹ Under the Lease and Transfer Agreement, the Grady Health System is now owned by the Authority and operated by the Corporation. Ms. Stephenson now also serves as the Vice-Chair of the Board of Directors of the Corporation.

**RESPONSE TO PLAINTIFF'S STATEMENT
OF UNDISPUTED MATERIAL FACTS**

Ms. Stephenson's Response to Plaintiff's Statement of Undisputed Material Facts, which sets forth the material facts as to which Ms. Stephenson contends there exist genuine issues to be tried, is attached hereto and incorporated herein by reference. Pursuant to the terms of the November 25, 2008 Consent Protective Order for Confidential Information (the "Consent Protective Order") entered into by and between the parties and approved by this Court, a Motion requesting permission to file Ms. Stephenson's and Plaintiff's deposition transcripts and accompanying exhibits under seal was filed on May 15, 2009, with Ms. Stephenson's and the Fulton-DeKalb Hospital Authority's (the "Authority") Motions for Summary Judgment.

Despite the fact that Plaintiff filed the original copy of Ms. Stephenson's deposition under seal (albeit in advance of a ruling on Defendants' Motion to do so), Plaintiff's filing of excerpts from Ms. Stephenson's deposition transcript not under seal (as Exhibits to his Motion) is in direct violation of that Consent Protective Order, and Ms. Stephenson reserves all of rights to take action against Plaintiff for his conduct in contravention thereof.

STATEMENT OF FACTS

Plaintiff Otis L. Story Sr. is the former Chief Executive Officer of the Grady Health System (the "Health System"). (See Pl.'s Compl. ¶ 6; Defs.' Answer ¶ 6.) Ms. Stephenson is and was at all times pertinent hereto the Chair of the Board of Trustees (the "Board") of the Authority. (See Pl.'s Compl. ¶ 8; Defs.' Answer ¶ 8.)

The Fulton-DeKalb Hospital Authority (the "Authority") was the owner and operator of the Health System prior to entering into a Lease and Transfer Agreement with the Grady Memorial Hospital Corporation (the "Corporation") on April 7, 2008. (Defs.' Answer ¶ 9.) Under the Lease and Transfer Agreement, the Health System is now owned by the Authority and operated by the Corporation. Stephenson also serves as the Vice-Chair of the Board of Directors of the Corporation. (Stephenson Countercl. ¶ 4.)

In 2006, the Board started a search for a new Chief Executive Officer for the Health System. (Deposition of Pamela S. Stephenson, Esq. ("Stephenson Dep.") 83, Dec. 3 & 20, 2008.)² As Chair of the Board, Ms. Stephenson was integrally involved in the Authority's search process. (Stephenson Dep. 83-88.) After an extensive executive search, the Authority offered the position to Plaintiff in April 2007, and agreed that an employment contract would be prepared forthwith to finalize the terms of employment. (Stephenson Dep. 88, Ex. 3; Deposition of Christopher Edwards, M.D. ("Edwards Dep.") 14-16, Mar. 18, 2009, a true and correct copy of the relevant excerpts of which were attached to Ms. Stephenson's Motion for Summary Judgment as Exhibit "B.")

² Pursuant to the terms of the November 25, 2008 Consent Protective Order For Confidential Information, a Motion requesting permission to file Ms. Stephenson's confidential deposition transcript and relevant excerpts therefrom under seal as Exhibit "A" to Ms. Stephenson's Motion for Summary Judgment was filed concurrently therewith. Ms. Stephenson's confidential deposition transcript and relevant excerpts therefrom are being withheld pending resolution of that Motion.

The Authority authorized Ms. Stephenson, in her capacity as Board Chair, to execute a contract with Plaintiff on behalf of the Authority. (Stephenson Dep. 88-89, Ex. 3, 279-80; Edwards Dep. 20-21.) On or about May 1, 2007, Plaintiff and Ms. Stephenson met at her law offices to finalize the terms of Plaintiff's proposed employment contract. (Deposition of Otis L. Story Sr. ("Pl. Dep.") 183-185, Dec. 4 & 20, 2008;³ Stephenson Dep. 91, 93.) The Authority maintains that, after agreeing on the principal terms of the contract form, Plaintiff signed the signature page of the contract and left Ms. Stephenson's offices without seeing the final document. (Stephenson Dep. 203-209, 220-225.) A version of the contract form was sent to Amos Carty, Esq., Plaintiff's then-attorney. (Story 183; Stephenson Dep. 206, Ex. 8.) The Authority did not hear back from Mr. Carty, so Ms. Stephenson signed the contract form on or about the week of May 14, 2007. (Stephenson Dep. 210, 213, Ex. 11.)

Ms. Stephenson, in her official capacity as Board Chair, acted in a supervisory capacity over Plaintiff during his tenure as Chief Executive Officer of the Health System. The Board's Executive Committee is vested with the authority to monitor and evaluate the Health System's Chief Executive Officer's performance. As a member of the Authority's Executive Committee in her capacity as Chair of the Board, Ms. Stephenson was chiefly responsible for communicating the Board's

³ Pursuant to the terms of the November 25, 2008 Consent Protective Order For Confidential Information, a Motion requesting permission to file Mr. Story's confidential deposition transcript and relevant excerpts therefrom under seal as Exhibit "C" to Ms. Stephenson's Motion for Summary Judgment was filed concurrently therewith. Mr. Story's confidential deposition transcript and relevant excerpts therefrom are being withheld pending resolution of that Motion.

expectations of the Chief Executive Officer to him. (See Affidavit of Pamela S. Stephenson, Esq. ("May 15, 2009 Stephenson Aff.") ¶ 4, Ex A. §§ 5.6, 6.1 & 7.1-7.2.1, May 15, 2009 (a true and correct copy of the Bylaws of the Fulton-DeKalb Hospital Authority (as amended Nov. 22, 2004)); Story Dep. 214-215, 220, 243-244.)

Beginning in July 2007, Ms. Stephenson spoke with Plaintiff on multiple occasions about the Authority's concerns with Plaintiff's performance, including, but not limited to, Plaintiff's contact with the media and legislature, questions regarding Plaintiff's expenses, and compliance with the purchasing and policy procedures. (Stephenson Dep. 306-09.)

In October 2007, continuing issues with Plaintiff's performance prompted the Authority to propose an amendment to Plaintiff's contract to extend his probationary period. (Stephenson Dep. 61, Ex. 9, 65-66, 293, 311.) The issues included Plaintiff's unapproved offer of employment to Dr. William Bithoney; Plaintiff's comments to the media; and Plaintiff's closure of services without Authority approval. (Stephenson Dep. 66-68.) Other Authority Board members and personnel at Emory also expressed concerns about Plaintiff's communications, decision making, and leadership. (Edwards Dep. 72-79, 83-84.)

Ms. Stephenson, on behalf of the Authority, sent Plaintiff a memorandum on or about November 1, 2007, detailing the Authority's concerns with Plaintiff's conduct and requesting that his probationary period be extended in lieu of the termination of Plaintiff's employment. (Stephenson Dep. 69-70, 239, 242-43, Ex. 46.) Plaintiff was not willing to extend the probationary period, but he was on

notice that his failure to adhere to the purchasing policies, contracting agreements, and the directives of the Authority could lead to the termination of his employment for cause. (Stephenson Dep. 308, 312-13, 335-36, Ex. 46.)

On January 28, 2008, the Authority met in executive session at 1:00 p.m. (Stephenson Dep. 282, Ex. 19.) At that time, Mr. Timothy Jefferson, Esq., the Authority's Vice President of Legal Affairs, presented the Authority with a proposed notice to Plaintiff, signed by Ms. Stephenson as Board Chair, detailing multiple reasons for the termination of his employment for cause. (Stephenson Dep. 275, 282-83, Exs. 19 & 22; Story Dep. 7, 48-68, Ex. 81.)

The Authority voted to present the notice to Plaintiff, and at the Board's executive session that evening, the Authority terminated Plaintiff's employment for cause. (Stephenson Dep. 268, 274-75, 282, Ex. 19; Story Dep. 11-16.) Contrary to Plaintiff's assertion, Ms. Stephenson did not "unilaterally" terminate Plaintiff nor did she do so without notice or prior warning.

Some months thereafter, Plaintiff was introduced to Mr. Daniel Copeland, a local political lobbyist and activist in Atlanta's African-American community, at church. (Deposition of Daniel Copeland ("Copeland Dep.") 13-14, May 13, 2009, the relevant excerpts of which are attached as Exhibit "A" to Ms. Stephenson's Response to Plaintiff's Statement of Undisputed and Material Facts.) Sometime between May 1 and 14, 2009, Plaintiff and Mr. Copeland met at a Starbucks coffee shop to discuss Plaintiff's termination of employment from the Grady Health System and a proposal by Mr. Copeland's to mediate the dispute between Plaintiff

and the Authority. (Copeland Dep. 18-21.) During the meeting at Starbucks, Plaintiff told Mr. Copeland that Ms. Stephenson was “out to get [Plaintiff]” and that she was “totally unprofessional.” (Copeland Dep. 23.)

In or about April to early May 2008, Mr. Copeland invited Plaintiff to join his golf foursome at a charity event for the 100 Black Men of DeKalb County. (Pl.’s Br. Ex. H.) Plaintiff agreed to attend and at the tournament on May 19, 2008, Plaintiff joined a foursome that included: Plaintiff, Mr. Copeland, Mr. Gregory Russell, and Mr. Terrance Lewis. (*See generally id.*) Throughout the tournament, Plaintiff made a number of disparaging comments to Mr. Copeland and others in attendance about Ms. Stephenson including, but not limited to: “that bitch tried to destroy me;” “[Ms. Stephenson] was no good;” and “I [Plaintiff] will destroy that bitch.” (Copeland Dep. 23-24, 57-58.) Later in the day, Plaintiff made assertions that Ms. Stephenson, a married woman, “had a crush” on Plaintiff and that Plaintiff “could get after her if he wanted to.” (Copeland Dep. 55-56.) Plaintiff stated to Mr. Copeland: “I could F[***] the B[****] if I wanted to.” (Copeland Dep. 56.)

Following the May 19, 2008 golf tournament, Mr. Copeland and Mr. Brown repeated to Ms. Stephenson several of the statements made by Plaintiff about her, including, but not limited to, that Ms. Stephenson was “dishonest,” the “orchestrator and planner of an attempt to remove Plaintiff as CEO” of the Grady Health System, that Ms. Stephenson was “out to get [Plaintiff],” and that she was “totally unprofessional.” (Stephenson Dep. 125-32; Copeland Dep. 23.)

Following the termination of Plaintiff's employment in January 2008, Ms. Stephenson had a conversation with a long-term client contact regarding her ongoing legal representation of that corporate entity. (Affidavit of Pamela S. Stephenson ("June 15, 2009 Stephenson Aff.") ¶ 3, June 15, 2009.) Ms. Stephenson represented this client since 2001. (*Id.* ¶ 4.) In 2007, Ms. Stephenson's annual billings for that client exceeded \$150,000.00 in connection with her legal representation, advice, and counsel. (*Id.* ¶ 4.) Ms. Stephenson's client contact reported to her that he had heard derogatory comments about her including, but not limited to, that she orchestrated Plaintiff's termination of employment because Plaintiff had rejected her personal advances. (*Id.* ¶ 5.) The client informed Ms. Stephenson that he was terminating her representation due to these disparaging comments. (*Id.* ¶ 6.) The termination of that ongoing representation has caused Ms. Stephenson economic and financial harm. (*Id.* ¶ 7.)

SUMMARY JUDGMENT STANDARD

It is well settled in Georgia that, "[w]hen ruling on a motion for summary judgment, the opposing party should be given the benefit of all reasonable doubt, and the court should construe the evidence and all inferences and conclusions therefrom most favorable toward the party opposing the motion." *Bruscato v. Gwinnett-Rockdale-Newton Cmty. Serv. Bd.*, 290 Ga. App. 638, 639, 660 S.E.2d 440, 441 (citing *Shortnacy v. N. Atlanta Internal Med.*, 252 Ga. App. 321, 321-22, 556 S.E.2d 209, 211 (2001) (citations omitted)). "In such a posture, 'the non-movant is not required to produce evidence demanding judgment for that party, but only to

present evidence which raises a material issue of fact . . . while a movant's evidence is to be carefully scrutinized, a respondent's evidence is to be treated with indulgence.” *Walker v. Sapelo Island Heritage Auth.*, 285 Ga. 194, 196-97, 674 S.E.2d 925, 927 (citing *Layfield v. Dep't of Transp.*, 280 Ga. 848, 850, 632 S.E.2d 135, 137 (2006)). See *Crisp Reg'l. Nursing & Rehab. Ctr. v. Johnson*, 258 Ga. App. 540, 541, 574 S.E.2d 650, 652 (2002) (citation omitted) (“[T]he party opposing the motion should be given the benefit of all reasonable doubt, and the court should construe the evidence and all inferences and conclusions therefrom most favorably to the party opposing the motion.”).

ARGUMENT AND CITATION OF AUTHORITY

I. PLAINTIFF'S STATEMENTS ABOUT MS. STEPHENSON'S VIRTUE CONSTITUTE ACTIONABLE SLANDER PER SE.

As characteristic of Plaintiff throughout this litigation, he takes an altogether too narrow view of Ms. Stephenson's prima facie defamation claim. Plaintiff adduces deposition testimony given by Plaintiff and Ms. Stephenson in December 2008 and unauthenticated copies of various local newspaper articles to advance why his Motion for Summary Judgment should be granted.⁴ But as this Court is well aware, the evidentiary record in this case was not closed in December 2008, and the parties continued to engage in their course of discovery until just recently, including the mutually agreed-upon taking of Mr. Daniel Copeland's deposition on May 13,

⁴ Plaintiff's use of unauthenticated copies of newspaper articles purportedly retrieved from the Internet is entirely impermissible at summary judgment, and these articles should be stricken from Plaintiff's papers. Any arguments based thereupon should be ignored by this Court when considering Plaintiff's Motion. Furthermore, at least one of the articles contains handwriting of unknown origin.

2009. That Plaintiff ignores the substance of Mr. Copeland's deposition testimony in his summary judgment briefing is telling, particularly given the relevance of that testimony to Ms. Stephenson's defamation claim. Plaintiff's Motion thus fails even to acknowledge – much less address – critical evidence that is pertinent to Ms. Stephenson's claim.

At the outset, Ms. Stephenson notes that, “[a]s a general rule, the question whether a particular publication is [slanderous], that is whether the published statement was defamatory, *is a question for the jury.*” *S. Bus. Machs. of Savannah, Inc. v. Norwest Fin. Leasing, Inc.*, 194 Ga. App. 253, 259, 390 S.E.2d 402, 407-08 (1990) (citing *Thomason v. Times-Journal*, 190 Ga. App. 601, 601, 379 S.E.2d 551, 552 (1989) (emphasis added)). O.C.G.A. § 51-5-4 provides:

- (a) Slander or oral defamation consists in:
 - (1) Imputing to another a crime punishable by law;
 - (2) Charging a person with having some contagious disorder or with being guilty of some debasing act which may exclude him from society;
 - (3) Making charges against another in reference to his trade, office, or profession, calculated to injure him therein; or
 - (4) Uttering any disparaging words productive of special damage which flows naturally therefrom.
- (b) In the situation described in Paragraph (4) of Subsection (a) of this Code section, special damage is essential to support an action; in the situations described in Paragraphs (1) through (3) of

Subsection (a) of this Code section, damage is inferred.

O.C.G.A. § 51-5-4 (2008).

Plaintiff selectively ignores that both O.C.G.A. §§ 51-5-4(a)(1) and 51-5-4(a)(2) provide statutory bases for Ms. Stephenson's claim. (See Pl.'s Br. 17.) Plaintiff erroneously asserts that, "Stephenson utterly fails to make any allegation or evidentiary showing that Story ever accused her of engaging in criminal misconduct . . . or of engaging in any debasing act." (*Id.*) To the contrary, Ms. Stephenson does present evidence sufficient to raise factual issues as to the sufficiency of her defamation per se claim. That Plaintiff flatly ignores that evidence, which is properly before this Court, renders his Motion fatal.

Mr. Copeland testified that, during an all day golf tournament on May 19, 2008, sponsored by the 100 Black Men of DeKalb, Plaintiff portrayed Ms. Stephenson as an 'available' woman of easy virtue.

Q: In any of your conversations with Mr. Story, do you recall whether in any of those conversations he indicated that he thought that Ms. Stephenson wanted to sleep with him?

A: As I recall on the golf course, that came up in some kind of way - - maybe had a crush on him, Ms. Stephenson had a crush on him

Q: So Mr. Story indicated that he thought Ms. Stephenson was interested in him in something other than a professional way.

A: Yeah . . . I know she didn't want to sleep with him. I just knew that. It would have to have been if he had a chance he could have or something like that .

...

.....

A: It came up that somebody had a crush on somebody. He had a crush on her or something like that. I do remember that. I can recall that conversation

Q: [H]e thought somebody was interested in somebody.

A: Yeah.

.....

A: I know he said something about he could get after he if he wanted to. I remember him saying stuff like that. I remember him saying that day out in the conversation 'I could F[***] the B[*****] if I wanted to,' something like that. I was like man, Pam . . . Pam is married. That was it.

(Copeland Dep. 54-56.)

“Slander or oral defamation consists in [i]mputing to another a crime punishable by law,’ O.C.G.A. § 51-5-4(a)(a), which adultery is.” *Baskin v. Rogers*, 229 Ga. App. 250, 251-52, 493 S.E.2d 728, 730 (1997) (citation omitted). See O.C.G.A. § 16-6-19 (2008). Georgia courts have held previously that, “to state that [a] plaintiff, a pure and chaste lady of unblemished character, was ‘a public whore,’ in the presence of [others], was actionable.” *Veazy v. Blair*, 86 Ga. App. 721, 726, 72 S.E.2d 481, 485 (1952). In addition, “[w]ords charging a person with illegal sexual intercourse with another impute a crime and are actionable per se.” *Baskin*, 229 Ga. App. at 252, 493 S.E.2d at 730 (citing *Ivester v. Coe*, 33 Ga. App. 620, 620, 127 S.E. 790, 791 (1925)). “Accusing [a married woman] of [] sexual relations with any person other than [her husband] constitutes slander per se, meaning no special

damages nor malice need be shown.” *Id.* See also O.C.G.A. § 51-5-4(b) (2008); *Shiver v. Valdosta Press*, 82 Ga. App. 406, 410, 61 S.E.2d 221, 224 (1950) (“When language used is actionable per se malice is implied . . .”).

“The Supreme Court of Georgia has recently explained that in order to constitute slander per se the words must be injurious on their face, extrinsic facts may not be considered, and it is inappropriate to rely on innuendo” *Bullard v. Boulder*, 286 Ga. App. 218, 219, 649 S.E.2d 311, 313 (2007). “[A] court looks to the plain import of the words spoken in order to ascertain whether the words constitute slander per se. To be slander per se, the words are those which are recognized as injurious on their face – without the aid of extrinsic proof.” *Id.* (citing *Bellemeade, LLC v. Stoker*, 280 Ga. 635, 637, 631 S.E.2d 693, 695 (2006)).

In this case, not only did Mr. Copeland testify that Plaintiff made statements regarding Ms. Stephenson’s purported “crush” on him, Plaintiff also made statements to Mr. Copeland about Ms. Stephenson’s sexual proclivities, i.e., that she was ‘available’ to someone other than her husband. Plaintiff’s statements are patently false and flagrantly inciting. Ms. Stephenson has been married faithfully to her husband since October 3, 2001. Despite any of Plaintiff’s personal quibbles with Ms. Stephenson, her leadership of the Fulton-DeKalb Hospital Authority, or her abilities as a lawyer or a public official, she is neither a “bitch” nor a common “public whore.” See *Webster’s New Collegiate Dictionary* 112 (1981) (defining a “bitch” as “a lewd or immoral woman”).

The evidence is unambiguous – Plaintiff's statements about Ms. Stephenson constitute slander per se or are sufficient to raise an issue of fact as to the sufficiency of Ms. Stephenson's defamation claim. "Even if the term[s used by Plaintiff] were ambiguous, [which they are not], a jury could ascribe the illicit meaning to the word[s] and find slander." *Baskin*, 229 Ga. App. at 252, 493 S.E.2d at 730. Accordingly, Plaintiff's Motion for Summary Judgment should be summarily denied.

II. BECAUSE FACTUAL DISPUTES EXIST AS TO WHETHER CERTAIN OF PLAINTIFF'S STATEMENTS ABOUT MS. STEPHENSON AND HER PROFESSION CONSTITUTE ACTIONABLE SLANDER, THIS COURT SHOULD DENY PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT.

Even assuming, *arguendo*, as Plaintiff purports to do, that Ms. Stephenson maintains no claim for slander per se under O.C.G.A. §§ 51-5-4(a)(1) and 51-5-4(a)(2), there are several other issues of fact as to Plaintiff's statements about Ms. Stephenson with regard to her and her profession that preclude an entry of summary judgment in favor of Plaintiff.⁵ See O.C.G.A. § 51-5-4(a)(3) (2008).

Plaintiff's argument on these issues in his Motion is three pronged: 1) Plaintiff's statements about Ms. Stephenson were mere opinion; 2) Ms. Stephenson is a public figure and therefore she must prove that Plaintiff's statements were made with actual malice; and 3) that Plaintiff's statements do not constitute slander per se because the statements do not "impune [sic] Stephenson's trade or

⁵ As indicated by the discussion and analysis contained in Section I, *supra*, Plaintiff's statement that the excerpts from Ms. Stephenson's deposition testimony contained on page two of his brief constitute "the sole basis of [Ms.] Stephenson's claim" is false. (Pl.'s Br. 2.)

businesses.” (Pl.’s Br. 4.) Not only do Plaintiff’s arguments fail as a matter of law, but each of them also relies on disputed facts that go to the heart of Ms. Stephenson’s prima facie case; Plaintiff’s Motion should necessarily be denied.

A. Questions of Fact Exist As To Whether Plaintiff’s Statements Constitute Mere Opinion Or Are Actionable As Slander Per Se.

Again, “[a]s a general rule, the question whether a particular publication is [slanderous], that is, whether the published statement was defamatory, *is a question for the jury.*” *Stalvey v. Atlanta Bus. Chronicle, Inc.*, 202 Ga. App. 597, 599, 414 S.E.2d 898, 901 (1992) (citations omitted) (emphasis added). “Proof of special damages is not required for slander or oral defamation that consists of “[m]aking charges against another in reference to his trade, office, or profession, calculated to injure him therein.” *McGee v. Gast*, 257 Ga. App. 882, 883, 572 S.E.2d 398, 400 (2002) (citing O.C.G.A. § 51-5-3(a)(3)). “To determine whether a declaration constitutes slander per se, a court must look to the ‘plain import of the words spoken,’ and cannot enlarge their meaning by innuendo.” *Id.* (citing *Palombi v. Frito-Lay, Inc.*, 241 Ga. App. 154, 156, 526 S.E.2d 375, 377 (1999)).

Ms. Stephenson testified at her deposition as follows about conversations occurring between Mr. Copeland and Plaintiff during an all day golf tournament the two gentlemen attended together on May 19, 2008, which was sponsored by the 100 Black Men of DeKalb:

Q: What is the basis for [your counterclaim]?

A: [Plaintiff’s] assertion to people in the public related to my honesty.

.....
A: What he said was . . . that I orchestrated an attempt to and had a plan to remove him as CEO and he said that to people he played golf with at an event.

.....
A. There were other individuals there.

.....
A: The potential in the profession that I am in, dishonesty is a problem.

(Stephenson Dep. 125-32.)

“The authorities indicate that the charge [complained of by a defamation plaintiff] must be of something that affects his character generally in his trade.” *Holder Constr. Co. v. Ed Smith & Sons, Inc.*, 124 Ga. App. 89, 91-92, 182 S.E.2d 919, 921 (1971). Plaintiff claims that his statements about Ms. Stephenson being “dishonest,” the “orchestrator and planner of an attempt to remove Plaintiff as CEO” of the Grady Health System, that Ms. Stephenson was “out to get [Plaintiff],” and that she was “totally unprofessional” are mere opinion. (Copeland Dep. 23.) But “[t]here is, however, no ‘wholesale defamation exception for anything that might be labeled opinion.’” *Gast v. Brittain*, 277 Ga. 340, 341, 589 S.E.2d 63, 64 (2003) (citing *Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990)).

To say otherwise would ignore the fact that expressions of opinion may often imply the assertion of objective fact The pivotal questions are whether [the] statements can reasonably be interpreted as stating or implying defamatory facts about plaintiff and, if so, whether the defamatory assertions are capable of being proved false.