

August 31, 2026

No. 1-24-1481

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

MARYBELLE MANDEL and DAVID J. MANDEL,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiffs-Appellants and Cross-Appellees,	)	
	)	
v.	)	No. 22L626
	)	
KENNETH KROCHMAL, FERNANDO FLORES, NICO	)	Honorable
RANIERI, JOHN F. GARDINER, LAURA BERSHEID,	)	Thomas M. Cushing,
BRENT BERNAL, and NICK TRICOCI,	)	Judge, presiding.
	)	
Defendants-Appellees and Cross-Appellants.	)	
	)	

PRESIDING JUSTICE C.A. WALKER delivered the judgment of the court, with opinion.
Justice Gamrath concurred in the judgment and opinion.
Justice Pucinski dissented, with opinion.

OPINION

¶ 1 In 2021, appellant Marybelle Mandel ran for mayor of the Village of North Riverside, Illinois. During the campaign, Marybelle alleged members of an opposing political party committed numerous instances of defamation against her and her husband, fellow appellant David

Mandel.¹ The Mandels filed their complaint in the circuit court on January 19, 2022. On July 8, 2022, defendants-appellees Kenneth Krochmal, Fernando Flores, Nico Ranieri, Laura Bersheid, Brent Bernal, and Nick Tricoci filed a combined motion to dismiss the complaint pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2022)).² On January 31, 2024, the circuit court granted defendants' motion in part and dismissed it in part. On appeal, the Mandels assert the circuit court erroneously ruled that the dismissed statements were nonactionable. We affirm the court's dismissal of the nonactionable claims. Defendants contend the Mandels' claim is subject to dismissal as a "Strategic Lawsuit Against Public Participation (SLAPP)" pursuant to the Citizen Participation Act (Act) (735 ILCS 110/1 *et seq.* (West 2024)), which could entitle them to attorney fees. We remand the court's dismissal with directions for the court to consider whether a different result is warranted pursuant to the Illinois Supreme Court's recent decision in *Anderson v. Smith*, 2026 IL 131714.

¶ 2

BACKGROUND

¶ 3 In 2019, Marybelle began a four-year term as a trustee for the Village of North Riverside. Her husband, David, was a licensed realtor, and both were engaged in real estate transactions. Marybelle ran as a candidate for mayor of North Riverside during the April 6, 2021, consolidated election. Marybelle ran under the "People Before Politics" party. On January 9, 2022, following Marybelle's defeat in the election, the Mandels filed a four-count complaint, alleging defendants, who were supporters of the opposing United Party, made defamatory statements about them during the campaign.

¹For purposes of this opinion, we refer to Marybelle Mandel and David Mandel by their first names.

²Defendant-appellee John Gardiner joined with the other appellees in their motion on August 26, 2022.

¶ 4 The complaint outlines the alleged defamatory statements made during the 2021 campaign. Following a village meeting in January 2020, Flores published on the North Riverside forum that he was the “victim of hate speech” after David called him a “no good Hispanic.” Throughout the campaign, Flores went door to door in the village and stated the Mandels “hated Hispanics.” In addition, Flores told residents that David was a “criminal” and “thief” and that he was caught trying to “steal” a home from an elderly woman on the 2300 block of Seventh Avenue in North Riverside. During a village meeting on March 1, 2021, Krochmal stated Marybelle was a “criminal.” At the village meeting on March 15, 2021, Krochmal stated Marybelle was “a bagman in [David’s] criminal scheme.” He repeated the term “bagman” multiple times during the meeting, while further calling Marybelle a “liar” and “deceiver of the people.” Krochmal’s comments were later published in the *Riverside-Brookfield Landmark* newspaper.

¶ 5 During the campaign, Ranieri discussed the election with another individual on the North Riverside Concerned Citizens Public Group on Facebook. During the discussion, he asked the individual “[W]hat your solutions would be? Would it be to elect someone who has been involved in embezzling money from other [sic] for there [sic] own benefits?” The complaint alleged this comment referred to Marybelle. On March 18, 2021, Gardiner posted to the same Facebook group as Ranieri and stated, “Marybelle has multiple liens on her properties and a current building demolition order in effect in Summit [, Illinois,] due to the town declaring that property a nuisance and threat to the public safety and health of the village.” In the same post, Gardiner stated “[David] makes a habit of threatening and harassing our waste disposal workers.”

¶ 6 Between February and April 2021, Bersheid made numerous comments about the Mandels in a Facebook group. In February 2021, Bersheid stated Marybelle “ripped off an 80-year-old man,” in connection to a real estate transaction in Summit. In relation to this transaction, Bersheid

stated Marybelle had “been sued and lose [sic] her case multiple times.” In February and March 2021, Bersheid called Marybelle a “criminal” for her actions pertaining to the transaction in Summit. On March 16, 2021, Bersheid responded to a thread in the group discussing Marybelle, stating “not to mention her and her husband’s [sic] harassment of our garbage collectors.” On March 27, 2021, as part of a separate thread in the group, Bersheid stated Marybelle refuses to answer questions from residents, claiming she “just doesn’t know the answers so she deflects and attacks a Village employee.”

¶ 7 On March 9, 2021, Bernal asked the members in the Facebook group if they knew about Marybelle’s past. In this post, Bernal stated additional “details [came] out about her questionable real estate lawsuits.” He accused Marybelle’s supporters of being complicit in her behavior, stating “run with thieves and you will be called a thief.” On March 18, 2021, Bernal responded to a comment Marybelle made in a separate thread within the group, where he called her a “criminal” twice. On March 27, 2021, in replying to another resident in the group, Bernal stated the resident was “still in league with a criminal and her felon husband.” This comment was made in reference to the Mandels. Bernal responded to another comment Marybelle made in the group, where he asked “did [she] forge those documents also.” In a comment thread with another user, Bernal said “Preying on the elderly! Seems [Marybelle] does that a lot!” Bernal replied further in the thread, stating he heard about issues with a home for sale “on 23rd and say 7th,” and labeled the situation as “another senior that was preyed upon” by the Mandels. He continued, saying “senior abuse is one of the most disgusting crimes in the world” and that the senior being preyed upon was “a widow [who] barely speaks any English and was coerced into signing a long-term contract.” The contract “had a right to buy by the agent if no one purchased before the end of the contract that

[David] refused to let her break.” David finished his comment claiming “[w]hich as a real estate agent is illegal.”

¶ 8 Between January and March 2021, Tricoci distributed copies of a letter to North Riverside residents. The letter stated, “[Marybelle] and her family helped [David] swindle over \$700,000 from Banks, FDIC, and HUD. Please read his Plea Agreement. [David] went to prison for over a year and paid \$300,000 in restitution. [The Mandels] are crooked. Keep [Marybelle] away from being Mayor.” Tricoci also worked to publish the letter in the March 9, 2021, online edition of the *Riverside-Brookfield Landmark* newspaper. Between February and April 2021, Tricoci distributed a campaign flyer to North Riverside residents, which claimed, “[Marybelle] helped her imprisoned husband steal over \$700k from FHA and FDIC.” The flyer further claimed Marybelle “was arrested for shoplifting” at a Marshalls retail store in 2011. In the Facebook group, Tricoci responded to an article Marybelle posted regarding an argument he had with an individual in a parking lot. In this response, Tricoci asked “do you have a lien of [sic] case pending for the property in Summit to tear down that you have due to safety and health to the village?”

¶ 9 The complaint claimed these statements constituted defamation *per se*, from which the Mandels suffered immense damage to their reputation. Count I referred to the statements Krochmal made toward Marybelle. Count II referred to the statements Ranieri, Gardiner, Bersheid, Bernal, and Tricoci made toward her. Count III referred to the statements Flores, Gardiner, Bernal, and Tricoci made toward David. Count IV alleged the defamatory statements defendants made against the Mandels constituted intentional infliction of emotional distress. On July 8, 2022, defendants filed a combined motion to dismiss under section 2-619.1 of the Code (735 ILCS 5/2-619.1 (West 2022)). The Mandels responded to the motions on August 31, 2022, and the circuit court held a hearing on December 18, 2023.

¶ 10 Defendants asserted the complaint did not state a viable claim pursuant to section 2-615 of the Code (*id.* § 2-615). Defendants claimed the alleged statements were protected under the first amendment to the United States Constitution (U.S. Const., amend. I), as they were made during Marybelle’s campaign for village president. Moreover, defendants claimed the lawsuit was barred by the Act (735 ILCS 110/1 *et seq.* (West 2022)). Defendants claimed the Mandels’ suit was meritless and designed to influence the public to support Marybelle’s campaign over United Party candidates. Because Marybelle was considered a public figure, defendants contended that the Mandels failed to show that the alleged statements were made with actual malice.

¶ 11 In their motion to dismiss, defendants highlighted three cases to showcase the Mandels’ real estate history. First, defendants noted that, in 1999, David pleaded guilty in the United States District Court for the Northern District of Illinois after a grand jury indicted him for making a false statement to a financial institution. The grand jury indicted David in connection with a scheme where he provided false gift letters to obtain mortgage financing for unqualified buyers. The district court adopted a presentence investigation report, where David’s probation officer stated he “directed his co-defendants in the scheme.” The district court sentenced David to a year in prison. David appealed his sentence, and the United States Court of Appeals for the Seventh Circuit affirmed the district court’s finding, noting “[a] preponderance of the evidence supports the conclusion that [Marybelle] was a criminally responsible participant.” *United States v. Mandel*, 15 F. App’x 369, 374 (7th Cir. 2001). Marybelle was never charged with a crime. Marybelle, whom the court referred to by her maiden name Sanchez, “knowingly wrote and signed a gift letter” that represented she gave thousands of dollars to a pair of buyers for their down payment. *Id.*

¶ 12 Second, defendants pointed to a series of other cases involving the Mandels’ real estate business. These cases included a lawsuit Marybelle filed in 2007, when David contracted with an

80-year-old man to buy a home for \$50,000 in Summit. *Mandel v. Hernandez*, 404 Ill. App. 3d 701, 703-04 (2010). The buyer refused to tender the funds to David, and Marybelle sued for specific performance. *Id.* at 703. The buyer alleged he was elderly and unable to comprehend the agreement. Furthermore, he alleged Marybelle failed to disclose she was a licensed real estate broker and she took advantage of him. *Id.* Finally, defendants highlighted that the Village of Summit filed a complaint against Marybelle to demolish the property at issue in the 2007 purchase. *Summit v. Hernandez*, No. 2019-M5-004044 (Cir. Ct. Cook County). The circuit court found the property to be a nuisance on October 28, 2020, and filed a lien against it on August 27, 2021, for costs related to its demolition. Finally, defendants also pointed to a March 17, 2014, arrest report where Chicago police arrested a woman named “Maribel Sanchez” for alleged theft at a CVS. Sanchez is Marybelle’s maiden name. The report stated the store staff observed her placing miscellaneous items in her pocket and leaving the store without paying for them.

¶ 13 The circuit court granted defendants’ motion in part on January 31, 2024. In its order, the court identified more than 20 allegedly defamatory statements. The court dismissed many of the claims relating to the statements, finding they were either nonactionable opinion, protected speech made during the campaign, or, in the case of those calling the Mandels criminals, were at least substantially true based on the record from David’s 1999 case. But the court found the Mandels successfully pleaded defamation *per se* for claims related to statements discussing their involvement with the properties in Summit and North Riverside. Marybelle also successfully pleaded defamation *per se* with respect to the claim that she stole from Marshalls. The court denied defendant’s motion with respect to the Act, finding that, because some of the claims survived dismissal, the complaint was not meritless. The court denied the Mandels’ motion to reconsider its

dismissal order on May 16, 2024. The Mandels voluntarily dismissed the matter in the circuit court on June 24, 2024. This appeal followed.

¶ 14

JURISDICTION

¶ 15 The circuit court of Cook County granted the defendants' motion to dismiss in part on January 31, 2024. The court granted the Mandels' motion for voluntary dismissal on June 24, 2024, terminating all remaining claims in the suit. The Mandels filed their timely notice of appeal on July 19, 2024, which requested this court to review the January 31, 2024, order. See *Safeway Insurance Co. v. Ebjiimi*, 2025 IL App (1st) 231543, ¶ 82 (appellate court jurisdiction is "limited to a review of the orders listed in the appellant's notice of appeal"). Defendants Flores, Bersheid, Bernal, and Tricoci timely filed their notice of cross-appeal on July 29, 2024. This court has jurisdiction pursuant to Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994) and Rule 303 (eff. July 1, 2017).

¶ 16

ANALYSIS

¶ 17

Combined Motion to Dismiss Under Section 2-619.1

¶ 18 Section 2-619.1 of the Code allows for combined motions to dismiss under sections 2-615 and 2-619, each of which we review *de novo*. *Krewionek v. McKnight*, 2022 IL App (2d) 220078, ¶ 20. A motion to dismiss under section 2-615 challenges the legal sufficiency of the complaint. *Martin v. Fifth Third Bank, National Ass'n*, 2026 IL App (1st) 250705, ¶ 14. We accept as true all well-pleaded facts and draw all reasonable inferences in favor of the plaintiff. *Id.* Illinois is a fact-pleading state; plaintiffs must allege facts sufficient to bring their claim within a legally recognized cause of action. *Id.* A section 2-615 motion attacks a complaint on its face, while in comparison, a section 2-619 motion raises another affirmative matter that defeats the claim. See *540 North Lake Shore Drive Condominium Ass'n v. MCZ Development Corp.*, 2025 IL App (1st) 230733, ¶ 29. A

motion to dismiss under section 2-619 admits the legal sufficiency of the complaint but raises defenses, or another affirmative matter appearing on its face or established by external submissions, that defeat the claim. *Lincoln University v. Logan County*, 2025 IL App (4th) 241012, ¶ 43. Under section 2-619, the movant essentially says “yes, but”; the movant states that, even if the complaint is legally sufficient, an affirmative matter exists that defeats the claim. *Id.* An affirmative matter negates the cause of action completely or refutes crucial conclusions of law or material fact contained in or inferred from the complaint. *Scifo v. Haeger*, 2025 IL App (2d) 240531, ¶ 5 (citing *Village of Arlington Heights v. City of Rolling Meadows*, 2025 IL 130461, ¶ 14). The affirmative matter must be evident from the face of the motion to dismiss or supported by affidavit or other evidentiary materials. *Niemiec v. Markel Insurance Co.*, 2025 IL App (1st) 242222, ¶ 13. When reviewing a section 2-619 motion to dismiss, the court must view the pleadings and affidavits in a light most favorable to the plaintiff. *Id.*

¶ 19

Defamation

¶ 20 In their complaint, the Mandels alleged the defendants’ statements constituted defamation *per se*. A defamation action provides redress for false statements of fact that harm the plaintiff’s reputation. *Kapotas v. Better Government Ass’n*, 2015 IL App (1st) 140534, ¶ 30 (citing *Brennan v. Kadner*, 351 Ill. App. 3d 963, 968 (2004)). A defamatory statement is one that harms a person’s reputation to the extent it lowers the person in the eyes of the community or deters the community from association with the person. *Green v. Rogers*, 234 Ill. 2d 478, 491 (2009). Generally, to state a claim for defamation, plaintiffs must allege sufficient facts showing (1) the defendant made a false statement about them, (2) the defendant made an unprivileged publication of the statement to a third party, and (3) the publication caused damages. *Project44, Inc. v. FourKites, Inc.*, 2024 IL 129227, ¶ 20.

¶ 21 Statements found to be defamatory *per se* are thought to be so obviously and materially harmful to the plaintiff that injury to their reputation may be presumed. *Bryson v. News America Publications, Inc.*, 174 Ill. 2d 77, 87 (1996). If a defamatory statement is found actionable *per se*, the plaintiff need not plead damages. *Id.* Illinois recognizes five categories of statements that are defamatory *per se*: (1) statements imputing the commission of a crime, (2) statements imputing infection with a loathsome communicable disease, (3) statements imputing an inability to perform or want of integrity in performing employment duties, (4) statements imputing a lack of ability or that otherwise prejudice a person in the person's profession or business, and (5) statements imputing adultery or fornication. *Tuite v. Corbitt*, 224 Ill. 2d 490, 501 (2006). A defamation *per se* claim must be pleaded with a heightened level of precision and particularity, as a properly pleaded claim relieves the plaintiff of proving actual damages. *Rogers*, 234 Ill. 2d at 495.

¶ 22 To plead a statement imputed the commission of a crime, the crime in question must (1) be an indictable offense, (2) involve moral turpitude, and (3) be punishable by death or imprisonment rather than by fine. *Doe v. Catholic Diocese of Rockford*, 2015 IL App (2d) 140618, ¶ 46. While the words do not need to meet the pleading requirements of a criminal indictment, the words must fairly impute the commission of a crime. *Id.* For a statement to impute the ability or integrity of the plaintiff's profession, the statement must be directly associated with the plaintiff's job skills or functions. *Jaros v. Village of Downers Grove*, 2020 IL App (2d) 180654, ¶ 61. An attack on personal integrity is not necessarily an attack on professional integrity unless those words disparage certain characteristics that are peculiarly valuable in the plaintiff's profession. *Id.* Even if a plaintiff alleges a statement is defamatory *per se*, it is not actionable if it is reasonably capable of an innocent construction. *Tuite*, 224 Ill. 2d at 502; *Rogers*, 234 Ill. 2d at 499. Under the innocent construction rule, a court must give the allegedly defamatory words their natural and obvious

meaning and interpret them as they appear to have been used and according to the idea they were intended to convey to the reasonable reader. *Hadley v. Subscriber Doe*, 2014 IL App (2d) 130489, ¶ 23. The rule requires courts to consider the statement in context, giving the words their natural and obvious meaning; if the statement may be innocently interpreted or reasonably interpreted as referring to someone other than the plaintiff, the statement is not actionable *per se*. See *Tuite*, 224 Ill. 2d at 512 (citing *Bryson*, 174 Ill. 2d at 94).

¶ 23 Only statements capable of being proven are actionable for a defamation claim. *Coghlan v. Beck*, 2013 IL App (1st) 120891, ¶ 40. The first amendment prohibits defamation actions based on loose, figurative language that no reasonable person would believe presented facts. *Imperial Apparel, Ltd. v. Cosmo's Designer Direct, Inc.*, 227 Ill. 2d 381, 397 (2008). Merely subjective characterizations lacking precise and readily understood meanings are nonactionable statements, as no reasonable person would regard them as anything more than colorful hyperbole. See *id.* at 401.

¶ 24 To determine whether a statement is protected from defamation claims, the court must consider (1) if the statement has a precise and readily understood meaning, (2) if it is verifiable, and (3) if the literary or social context signals that it has factual content. *Id.* at 398. Generally, where an alleged defamatory statement lacks a specific factual context, the statement is not objectively verifiable and is nonactionable opinion. *Jacobson v. Gimbel*, 2013 IL App (2d) 120478, ¶ 35. Illinois recognizes truth as an absolute defense to defamation; a defendant only needs to prove the “substantial truth” of the statement to utilize this defense. *Andrews v. At World Properties, LLC*, 2023 IL App (1st) 220950, ¶ 16. A party shows the statement is substantially true where the “gist”—the heart of the matter in question—of the allegedly defamatory material is true.

Id. When no reasonable jury could find the defendant did not establish the substantial truth of the allegedly defamatory statement, a defendant may raise the matter in a motion to dismiss. *Id.*

¶ 25 It is important to note that the allegedly defamatory statements made toward Marybelle occurred while she served as a Village trustee and candidate for mayor. As a candidate for public office, Marybelle was a public figure, and therefore she must prove by clear and convincing evidence that the defendants acted with actual malice in making their allegedly defamatory statements. See *Hardiman v. Aslam*, 2019 IL App (1st) 173196, ¶ 6. Because it is crucially important that people should discuss the character and qualifications of candidates for public office, a candidate pursuing a defamation action must demonstrate a defendant made the statement with knowledge that it was false or with reckless disregard of whether it was false or not. *Matchett v. Chicago Bar Ass’n*, 125 Ill. App. 3d 1004, 1011 (1984) (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 270, 279-80 (1964)). When a person runs for public office, she puts her character in issue so far as it relates to her fitness and qualifications; therefore, her conduct and actions are fair game for comment. *Maag v. Illinois Coalition for Jobs, Growth & Prosperity*, 368 Ill. App. 3d 844, 850 (2006). For Marybelle, it is not enough that she sufficiently pleaded with the elements of defamation; she must plead the defendants acted with actual malice for the statements made during her campaign for mayor. See *Green v. Rogers*, 384 Ill. App. 3d 946, 961 (2008) (an individual running for village trustee was a public official from the time he announced his campaign until the election). Our supreme court has held that allegations that the statements were false, that the defendant knew the statement was false, or that he made the statement with reckless disregard to its truth or falsity are sufficient to withstand a motion to dismiss. *Krueger v. Lewis*, 342 Ill. App. 3d 467, 472-73 (2003), see *Colson v. Stieg*, 89 Ill. 2d 205, 215-16 (1982).

¶ 26 On appeal, the Mandels challenge the portions of the circuit court’s January 31, 2024, order granting defendants’ motion to dismiss. Specifically, they seek reversal of the circuit court’s findings that the dismissed statements were nonactionable under section 2-615 or substantially true under section 2-619. We address both arguments below.

¶ 27 *Nonactionable Statements*

¶ 28 First, the Mandels claim the circuit court misapplied *Imperial Apparel* when it found some of the defendants’ statements nonactionable. In *Imperial Apparel*, 227 Ill. 2d at 398, our supreme court explained, when determining whether a statement is protected from defamation claims, the court evaluates the alleged statement from the perspective of an ordinary reader. The *Imperial Apparel* court reviewed the companion text to an advertisement between competing men’s fashion stores in which the defendant called its competitor’s offerings “ ‘[c]heap [i]mitators.’ ” *Id.* at 386. The text continued, calling the products “ ‘rags’ ” and that the store was a “ ‘flea market style warehouse.’ ” (Internal quotation marks omitted.) *Id.* Finally, the text finished with the statement “ ‘They can at best poorly imitate what we create ... for we are Italian and they are not!’ ” (Internal quotation marks omitted.) *Id.* The court reviewed the language, stating that, while the text was artless and a shameless appeal to ethnic prejudice, an ordinary reader would not perceive it as making objectively verifiable assertions about the plaintiff’s business. *Id.* at 401. Ill-informed, mean-spirited hyperbole is not necessarily defamatory *per se*. *Maag*, 368 Ill. App. 3d at 850. Whether a statement is legally actionable depends on its specificity. The more vague or indefinite a statement is, the more likely it is to be considered a nonactionable opinion. *Wynne v. Loyola University of Chicago*, 318 Ill. App. 3d 443, 452 (2000).

¶ 29 Here, Flores’s assertion that David called him a “no good Hispanic” and his statement that the Mandels “hated Hispanics” were an appeal to ethnic prejudice in a similar fashion to the

advertisement in *Imperial Apparel*. An ordinary reader would not perceive these statements as an objectively verifiable assertion about how the Mandels felt about members of the Hispanic community. These statements are loose, figurative statements and are nonactionable as a defamation claim.

¶ 30 Krochmal's claims that Marybelle was a "criminal" and a "bagman" are less vague than Flores's statements against David. An ordinary reader might perceive Marybelle as someone who participated in a crime and/or collected the money involved with it. A "criminal" is one involved in illegal activities or who has been convicted of a crime. Black's Law Dictionary (12th ed. 2024). A "bagman" is someone who collects and distributes money illegally obtained. *Id.* Yet, while a reader may read Krochmal's claims and perceive that Marybelle is a criminal, these statements do not directly accuse Marybelle of a crime; these statements are too loose and figurative to be actionable *per se*. See *Dubinsky v. United Airlines Master Executive Council*, 303 Ill. App. 3d 317, 329-30 (1999) (use of the word "crook" without any specific factual context was not actionable *per se*). Similarly, Krochmal's statements calling her a "liar" and "deceiver of the people" are mere name-calling and are nonactionable without additional factual support. See *O'Sullivan v. Martin*, 2026 IL App (1st) 250612-U, ¶ 26 (citing *Costello v. Capital Cities Media, Inc.*, 111 Ill. App. 3d 1009, 1016 (1982)).

¶ 31 Ranieri's post in the Facebook group that refers to "elect[ing] someone who has been involved in embezzling money" is a loose and figurative statement. Given the alleged time of the statement, the place in where the statement was made, and the wording "elect someone," an ordinary reader can glean that Ranieri is referring to a select number of people that are running for mayor in North Riverside, which included Marybelle but did not exclusively refer to Marybelle. If an allegedly defamatory statement can be interpreted as referring to someone other than the

plaintiff, it cannot be actionable *per se*. *Andrews*, 2023 IL App (1st) 220950, ¶ 26; *Tuite*, 224 Ill. 2d at 503. The record does not show that Marybelle ran unopposed in the 2021 election. Without additional factual support, Ranieri’s statement is too vague to be actionable as defamation *per se*; any claims based off this statement are dismissed under section 2-615. See *Wynne*, 318 Ill. App. 3d at 452.

¶ 32 The complaint alleges Gardiner claimed David “makes a habit of threatening and harassing our waste disposal workers.” It also alleges Bersheid stated the Mandels committed “harassment of [the Village’s] garbage collectors.” The Mandels allege these statements are defamatory *per se*, as they imputed the commission of a criminal offense. Yet these statements are too vague to afford the ordinary reader the notion that they can objectively verify that the Mandels committed any sort of harassment. See *Younge v. Berman*, 2025 IL App (2d) 240354, ¶ 40 (a letter requesting an investigation into possible harassment was not defamatory *per se*, as when given its general meaning, the words do not “identify certain criminal offenses”). Without additional factual support, we cannot find that a reasonable person would find these actions imputed the commission of a crime. See *Dobias v. Oak Park & River Forest High School District 200*, 2016 IL App (1st) 152205, ¶ 97 (when considering whether a statement imputes the commission of a crime, the court must review the statement from the eyes of a reasonable reader). Gardiner and Bersheid’s statements are too vague to be actionable as defamatory *per se*, and the claims related to them were properly dismissed pursuant to section 2-615.

¶ 33 Similarly, Bersheid’s statement that Marybelle “attacks a village employee” is not an actionable statement, as the word “attack” is a broad term that prevents an ordinary reader from understanding the type of attack that occurred, if one happened at all. One reader may understand the word as the usage of language in a back-and-forth online conversation. Another may

understand the word to refer to a physical altercation. The broad scope of the word “attack” renders it lacking in the necessary detail for it to have a precise and readily understood meaning. See *Hopewell v. Vitullo*, 299 Ill. App. 3d 513, 519-20 (1998) (broad usage of the term “incompetent” made an allegedly defamatory statement nonactionable, as it lacked the necessary detail to have a precise and readily understood meaning). This allegation is not pleaded with the precision nor particularity required for a defamation *per se* claim. *Rogers*, 234 Ill. 2d at 492.

¶ 34 In addition, Bersheid’s statement that Marybelle was a “criminal” is not as specific as Krochmal’s. The complaint alleges that Krochmal’s assertions were connected to the idea that Marybelle was a bagman in David’s scheme when they alleged Krochmal’s comments arose from a series of Village meetings in March 2021 and were reprinted in the newspaper. In comparison, the complaint alleges Bersheid called Marybelle a “criminal” for ripping off an old man without pleading additional facts to support the falsity of the statement. The complaint seeks to support this allegation with screenshots of the allegedly defamatory statements on social media, yet the screenshots do not show her calling Marybelle a “criminal.” The allegation is not pleaded with the precision and particularity necessary to permit the court to conduct initial review of its defamatory content. *Id.* Like Krochmal, Bersheid’s statements that Marybelle is a “criminal” are too vague to be actionable without additional factual support. *Dubinsky*, 303 Ill. App. 3d at 329.

¶ 35 The same can be said for Bernal’s statements that Marybelle is a “thief” and “criminal.” Without additional factual support, these statements constitute mere name-calling and are not actionable. *Costello*, 111 Ill. App. 3d at 1016. The complaint alleges Bernal accused Marybelle of forging documents, when he asked her, “did you forge those documents also.” Bernal’s comment came without any context for an ordinary reader to objectively verify. The complaint shows Bernal’s statement came as a response to Marybelle discussing the Village’s financial obligations.

Marybelle made no reference to any potential documents that Bernal could have mentioned in his response. Under *Imperial Apparel*, Bernal's statement is nonactionable.

¶ 36 With respect to Tricoci's statement that the Mandels "preyed on the elderly," the usage of the word "preyed" is too broad, conclusory, or vague for the ordinary reader to objectively verify. See *Hopewell*, 299 Ill. App. 3d at 519-20. Furthermore, under *Imperial Apparel*, Tricoci's inquiry to Marybelle, where he asked does she "have a lien pending on the property in Summit," is a nonactionable statement. The third prong of the *Imperial Apparel* test asks whether the statement's literary or social context signals that it has factual content. *Imperial Apparel*, 227 Ill. 2d at 398. The context of Tricoci's statement came about after Marybelle posted an article about him in the Facebook group. Tricoci responded to add clarity to her post. An ordinary reader reviewing the transaction would see Tricoci's inquiry as an attempt to clarify stories he heard about her during the campaign and not a statement of fact he or she could objectively verify. Given the context, Tricoci's inquiry does not assert a statement of fact and is nonactionable.

¶ 37 We share the dissent's concern that social media has added a new dimension of nastiness to our elections. We also agree that the courts are a proper venue to siphon legitimate speech from defamatory smears. However, this does not remove the plaintiffs' requirement to plead ultimate facts to support their cause of action. See *Chandler v. Illinois Central R.R. Co.*, 207 Ill. 2d 331, 349 (2003). The complaint is deficient when it fails to allege the facts necessary for recovery. *Id.* The Mandels decided to allege the defendants' statements were defamatory *per se* and, as such, were required to allege facts with a level of precision and particularity that would allow the court to review the defamatory nature of the statements. *Rogers*, 234 Ill. 2d at 492. While this occurred for a number of statements, on which the court denied dismissal under section 2-615, the remaining claims were deficient on their face to warrant dismissal.

¶ 38

Substantial Truth

¶ 39 Next, the Mandels assert the circuit court erred by relying on the Seventh Circuit’s opinion to conclude the defendants’ statements accusing them of being criminals were substantially true. The Mandels claim the circuit court used the Seventh Circuit’s opinion to protect statements unrelated to David’s 1999 case that were used solely to impute criminality. The record clearly contradicts this argument. A statement is not actionable if it is substantially true, meaning the “gist” or “sting” of the statement at issue is true. *Younge*, 2025 IL App (2d) 240354, ¶ 33 (citing *Harrison v Chicago Sun-Times, Inc.*, 341 Ill. App. 3d 555, 563 (2003)). A court considering the issue of substantial truth must focus on the heart or “highlight” of the allegedly defamatory material, not on minor details or items of secondary importance. *Kopolovic v. Shah*, 2012 IL App (2d) 110383, ¶ 43.

¶ 40 Here, the defendants’ statements calling the Mandels a “criminal,” “bagman,” “thief,” and “embezzler” seek to impute the idea that they directly participated or assisted in a criminal embezzlement scheme. The Seventh Circuit’s opinion clearly outlines that David pleaded guilty to making a false statement to a financial institution. *Mandel*, 15 F. App’x at 372. The court affirmed the district court’s finding that David was an “organizer or leader” of a criminal scheme, where he “directed at least one other participant in the criminal activity.” *Id.* at 375. The Seventh Circuit identified that participant as Marybelle because the record showed she knowingly wrote and signed the gift letters, which contained false representations. *Id.* at 374.

¶ 41 During the campaign, Flores called David a “criminal” and “thief.” Tricoci claimed Marybelle helped David “swindle” and “steal” funds from various agencies. Tricoci went further and called the Mandels “crooked.” These statements all referred to David’s 1999 case, his plea agreement, and the district court’s finding that Marybelle was a “criminally responsible

participant.” Tricoci does not outright state that Marybelle was a “swindler”; rather he asserts she “helped” her husband David to swindle. This is supported by the record in the 1999 case, which does not outright state that Marybelle swindled the victims in David’s scheme; rather, it outlines how she assisted David in doing so. These statements are substantially true, and any claims based on these statements are dismissed under section 2-619.

¶ 42 In the section above, we noted several statements were too vague to be considered actionable defamatory statements. Krochmal called Marybelle a “criminal,” “bagman,” “liar,” and “deceiver of the people.” Ranieri insinuated Marybelle was “involved in embezzling money.” Bersheid called Marybelle a “criminal.” Bernal called Marybelle a “criminal” and a “thief.” To the extent these statements would be actionable, these statements refer to David’s 1999 case and are not actionable. Similarly, we found Tricoci’s inquiry to Marybelle was nonactionable under section 2-615. But to the extent that it is actionable, it is substantially true, as Marybelle filed a lawsuit pertaining to the property. *Hernandez*, 404 Ill. App. 3d at 703. In 2019, the village of Summit filed a complaint seeking to demolish Marybelle’s property. Summit, No. 2019-M5-004044. The circuit court in that case ordered demolition in 2020, and the village filed a lien against it the following year. To the extent Tricoci’s inquiry is actionable, any claims based on it are subject to dismissal under section 2-619.

¶ 43 *Strategic Lawsuit Against Public Participation*

¶ 44 Finally, we note, in addition to their claims that the allegedly defamatory statements were nonactionable or substantially true, defendants contend the Mandels’ complaint is a “Strategic Lawsuit Against Public Participation” (SLAPP) that should be dismissed based on the Act (735 ILCS 110/1 *et seq.* (West 2024)). In *Anderson*, the Illinois Supreme Court provided the appropriate framework for evaluating a motion to dispose of a “SLAPP” under the Act. See *Anderson*, 2026

IL 131714, ¶¶ 30-32. Because the circuit court did not have the benefit of our supreme court's decision in *Anderson*, we remand for reconsideration consistent with principles articulated therein.

¶ 45

CONCLUSION

¶ 46 The ruling of the circuit court is affirmed as the court did not err in dismissing the nonactionable statements in the complaint. We do not consider the decision of the circuit court to deny defendants' motion under the Act, but instead we remand the matter for the circuit court to consider whether a different result is warranted pursuant to the Illinois Supreme Court's decision in *Anderson*, 2026 IL 131714.

¶ 47 Affirmed and remanded with directions.

¶ 48 JUSTICE PUCINSKI, dissenting:

¶ 49 I respectfully dissent. This dissent concerns plaintiff Marybelle Mandel only.

¶ 50 Starting from the end, this case is not a SLAPP action. It claims damage to Marybelle's reputation and does not seek to interfere with defendants' participation in government. In fact, it is the other way around. The defendants clearly sought to interfere with her participation in government. She was a public official running for office. The lawsuit was filed well after the election.

¶ 51 The language used by the defendants was not opinion, was not truthful, was never verified, and was defamation, as the reason for the language was simply to disparage Marybelle's reputation in the community.

¶ 52 It is true that a claim is protected from defamation damages if it is verifiable. Here the defendants did nothing to verify the truth of their statements about Marybelle. They acted with reckless disregard for the truth or falsity of the statements, and that is sufficient to withstand a motion to dismiss.

¶ 53 In 1919, Justice Oliver Wendell Holmes Jr. stated clearly: “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic.” *Schenck v. United States*, 249 U.S. 47, 52 (1919). Since then, we have understood that free speech, while protected by the first amendment, is not without some restriction.

¶ 54 We have also understood that defamation is one restriction and it is actionable when it ruins a person’s reputation unless truth is the defense. To state a cause of action for defamation, as alleged here, the plaintiff must allege that (1) the defendant made a false statement about the plaintiff, (2) the defendant made an unprivileged publication of that statement to a third party, and (3) the publication caused damage. *Prakash v. Parulekar*, 2020 IL App (1st) 191819, ¶ 55 (citing *Kainrath v. Grider*, 2018 IL App (1st) 172270, ¶ 32).

¶ 55 *Goral v. Kulys* provides some guidance:

“ ‘In Illinois, there are five categories of statements that are considered defamatory *per se*: (1) words that impute a person has committed a crime; (2) words that impute a person is infected with a loathsome communicable disease; (3) words that impute a person is unable to perform or lacks integrity in performing her or his employment duties; (4) words that impute a person lacks ability or otherwise prejudice[] that person in her or his profession; and (5) words that impute a person has engaged in adultery or fornication.’ ” *Goral v. Kulys*, 2014 IL App (1st) 133236, ¶ 41 (quoting *Green v. Rogers*, 234 Ill. 2d 478, 491-92 (2009)).

¶ 56 In *Goral*, the plaintiff’s complaint was dismissed once the trial court and the appellate court found that the “[d]efendant did not directly accuse plaintiff of violating state law ***. Instead, defendant conditioned his statements upon the existence of other facts ***. *** Defendant attached

the online records *** to his motion to dismiss. As defendant’s statements were true, they cannot form the basis of a defamation claim.” *Id.* ¶ 44.

¶ 57 That is not the case here. Defendants accused Marybelle of violating several Illinois laws and did not provide any, not one shred, of public record or documentation to prove the truth of their words.

¶ 58 In this case Nico Ranieri said Marybelle “embezzled.” Embezzlement is a violation of Illinois law (see 720 ILCS 5/16-1 (West 2024)), which covers theft. Embezzlement does not have its own specific statute. The notes for this statute contain a section on embezzlement. Marybelle has not been arrested for, charged with, tried for, or convicted of breaking this Illinois law. The defendants provided no official documentation to prove this allegation. It is a clear untruth. That makes it defamation.

¶ 59 Laura Bersheid said that Marybelle “ripped off an 80-year-old man.” Exploitation of a senior citizen is a violation of section 17-56 of the Criminal Code of 2012 (Criminal Code) (720 ILCS 5/17-56 (West 2024)). The law describes exploitation of a senior as someone who “stands in a position of trust or confidence with the elderly person” and “by deception or intimidation obtains control over the property of an elderly person or a person with a disability.” *Id.* § 17-56(a)(1). The statute defines an elderly person as someone 60 years of age or older. *Id.* § 17-56(c)(1). The defendants provided no official documentation to prove this allegation. It is a crime. Marybelle has never been arrested for, charged with, tried for, or convicted of breaking this Illinois law. The statement is a clear untruth. It is defamation.

¶ 60 Bersheid also stated that Marybelle harassed our [(the Village’s)] garbage collectors. This is arguably the only alleged defamation of Marybelle’s *official* conduct. However, it was never documented or proven to be true. For this allegation alone, the *New York Times Co. v. Sullivan*,

376 U.S. 254, 280 (1964), standard of actual malice “with knowledge that it was false or with reckless disregard of whether it was false or not” must clearly be met. Thankfully, the circuit court denied dismissal for statements like this in its January 31, 2024, order.

¶ 61 Brent Bernal said Marybelle “preyed upon a senior.” This would be the financial exploitation of a senior citizen, a violation of section 17-56 of the Criminal Code (720 ILCS 5/17-56 (West 2024)). Defendants provided no official documentation to prove this allegation. Marybelle has never been arrested for, charged with, tried for, or convicted of a violation of this law. It is untrue. It is defamation. Again, thankfully, the circuit court denied dismissal for statements like this in its January 31, 2024, order.

¶ 62 He also said that Marybelle was a “criminal,” thus implying that she had been convicted of some crime. Since that is not true, it is defamation. He also said that she “forged” something, a violation of section 17-3 of the Criminal Code (*id.* § 17-3). Marybelle has not been arrested for, charged with, tried for, or convicted of a violation of this law. Defendants provided no official documentation to prove this allegation. It is untrue. It is defamation.

¶ 63 Nick Tricoli said Marybelle is a “swindler.” This would be a violation of section 17-56(c)(4) (720 ILCS 5/17-56(c)(4) (West 2024) (obtaining money under false pretenses)). Defendants provided no official documentation to prove this allegation. Marybelle has never been arrested for, charged with, tried for or convicted of violating this law. It is untrue. It is defamation.

¶ 64 Fernando Flores said that Marybelle was a “thief.” This would be a violation of section 16-1 (*id.* § 16-1), obtaining money under false pretenses. The Criminal Code defines “knowingly mak[ing] a false or deceptive statement addressed to the public for the purpose of promoting the sale of property or services” as a deceptive practice if done with the intent to defraud. *Id.* § 17-1. Defendants have provided no official documentation to prove this allegation. Marybelle has never

been arrested for, charged with, tried for or convicted of a violation of this law. It is untrue. It is defamation.

¶ 65 *Van Horne v. Muller*, 185 Ill. 2d 299 (1998), clarifies the issue. In that case, the plaintiff alleged that the defendant made statements that the plaintiff, a well-known Chicago professional football player, threatened and assaulted him. The court stated:

“A statement is considered defamatory if it tends to cause such harm to the reputation of another that it lowers that person in the eyes of the community or deters third persons from associating with him. [Citations.] Certain limited categories of defamatory statements are deemed actionable *per se* because they are so obviously and materially harmful to the plaintiff that injury to the plaintiff’s reputation may be presumed. A plaintiff need not plead or prove actual damage to his or her reputation to recover for a statement that is actionable *per se*.” *Id.* at 307 (citing *Bryson v. News America Publications, Inc.*, 174 Ill. 2d 77, 87 (1996)).

¶ 66 In *Van Horne*, Justice Bilandic ruled that the statements made about the plaintiff were defamation *per se* while affirming that the defendant broadcaster’s employer was not responsible for negligent hiring. *Id.* at 316.

¶ 67 In *Project44, Inc. v. FourKites, Inc.*, Justice Holder White found that a corporation’s competitor making an unprivileged false statement alleging accounting errors to a third party satisfied the test for defamation *per se*: “A statement is defamatory *per se* if its harm is obvious and apparent on its face.” *Project44, Inc. v. FourKites, Inc.*, 2024 IL 129227, ¶ 20 (citing *Hadley v. Doe*, 2015 IL 118000, ¶ 30).

¶ 68 In *Sullivan v. Schiman*, 2026 IL App (3d) 250543, our colleagues in the Third District found for Dr. William Sullivan, an emergency room doctor who was publicly accused by one of

his patients, the defendant, of significant professional misconduct. The trial court found for Dr. Sullivan but awarded him only \$1 for defamation *per se*. *Id.* ¶ 2.

¶ 69 The appellate court reversed the award and sent it back to the trial court with directions to reevaluate the damages. “A statement is defamatory *per se* if its harm is obvious and apparent on its face.” *Id.* ¶ 34 (citing *Owen v. Carr*, 113 Ill. 2d 273, 277 (1986)). “This principle is particularly evident in cases involving reputational or emotional harm.” *Id.* ¶ 37. “The law recognizes that reputational harm is difficult to measure.” *Id.* ¶ 55.

¶ 70 But the lead plaintiff here was a public official. Is not the bar for defamation higher? Does not she have to prove actual malice because defendants knew their statements were false or acted with reckless disregard of their falsity?

¶ 71 *New York Times v. Sullivan* remains the foundational case where defamation against a public official’s *official* conduct is alleged. There, the United States Supreme Court held:

“The constitutional guarantees require, we think, a federal rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with ‘actual malice’—that is, with knowledge that it was false or with reckless disregard of whether it was false or not.” *New York Times*, 376 U.S. at 279-80.

Here, the allegations of defamation are about a public official’s private life, not public official conduct, allegations that were never officially documented or properly researched by private individual defendants, not a newspaper.

¶ 72 Of course, *New York Times v. Sullivan* was about a newspaper publishing allegedly defamatory statements, and the instant case is about local individuals publishing allegedly defamatory statements about the private life of a public official, Marybelle. The test is the same.

Did the plaintiff prove that the statements were made with actual malice, “with knowledge that [they were] false or with reckless disregard of whether [they] were false or not”? *Id.* at 280.

¶ 73 Our colleagues in the Third District specifically looked at whether the action of the defendant, by alleging the plaintiff committed a crime, was defamation. The mayor of Burr Ridge, Gary Grasso, challenged the defendants for stating and publishing that he had defrauded the government. The court said: “the complaint alleged that these statements constituted defamation *per se*, as they falsely imputed that plaintiff had committed a crime. Plaintiff further asserted that defendants had the ‘resources, means and knowledge to verify the truth’ before publication ***.” *Grasso v. Mottl*, 2026 IL App (3d) 240717, ¶ 9. “The *** accusations that plaintiff committed tax fraud impute the commission of a criminal offense and fall within the ambit of defamation *per se*.” *Id.* ¶ 22. The trial court granted summary judgment to the defendants, but the appellate court found that the plaintiff had sufficiently alleged actual malice when defendants had not investigated the truth of their statement and that reckless disregard for the truth defeated summary judgment. The special concurrence, written by Justice Anderson, put it all into perspective:

“[W]e cannot allow a litigant to stroll into a deposition, pull a Jon Lovitz and announce, ‘Yeah, I had no idea it was false. Yeah, that’s right, Yeah,’ then demand summary judgment because no one possesses contrary evidence from inside his head. That may be the ticket for comedy. It is not the ticket for summary judgment.” *Id.* ¶ 49 (Anderson, J., specially concurring).

¶ 74 Society is advancing at an alarming rate of loose speech, aided by social media, unfettered press and media, artificial intelligence, fake news, and a diminishing moral code. People, communities, and businesses, along with public officers, candidates, and officials, see the damage

that weak defamation standards can and are causing at every level. Courts may be the only place left to wrangle speech into truth.

¶ 75 I believe it is defamation to say someone has violated a law without some fact-based truth behind the claim. These defendants defamed Marybelle for their own purpose, with no verification, with no truth to their claims, and ruined her reputation. This should be unacceptable in any democracy. It should certainly be unacceptable in Illinois.

***Mandel v. Krochmal*, 2026 IL App (1st) 241481**

Decision Under Review: Appeal from the Circuit Court of Cook County, No. 22-L-626;
the Hon. Thomas M. Cushing, Judge, presiding.

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