

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION**

MILDRED CRESPO,

Plaintiff,

v.

Case No. 2025L009086

Calendar Y

ROSITA LOPEZ,

Honorable John J. Tully, Jr.

Defendant.

**DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO 735 ILCS 2-619(a)(1)**

Defendant Dr. Rosita Lopez (“Lopez”), by and through her undersigned counsel, Monica H. Khetarpal and Raseq Moizuddin of Jackson Lewis P.C., hereby submits this Motion to Dismiss Plaintiff’s Complaint with prejudice pursuant to 735 ILCS 2-619(a)(1). In support of this Motion, Defendant states as follows:

I. INTRODUCTION

The State Lawsuit Immunity Act (“SLIA”) and Illinois Court of Claims Act (“ICCA”) require all claims “sounding in tort” against State employees, like Lopez, to be litigated in the Illinois Court of Claims against the State entity, not against the individual. Plaintiff asserts three claims, (1) tortious interference with prospective economic advantage, (2) interference with contractual relationship, and (3) defamation. All of these torts are subject to the application of the SLIA and ICCA. In these claims, Plaintiff only alleges that Lopez engaged in conduct within the scope of her role as NEIU’s El Centro Advisory Council Chair. Specifically, NEIU’s El Centro Advisory Council was established by NEIU’s President and participates in setting goals, policies, and procedures related to NEIU’s El Centro campus including making recommendations regarding the need for education, training, and related services for NEIU’s El Centro program. (See **Exhibit**

A - Declaration of Dr. Rosita Lopez, Exhibit 1 – NEIU’s El Centro Advisory Council’s Bylaws.)

In her Complaint, Plaintiff alleges that Lopez, as NEIU’s El Centro Advisory Council Chair, contacted several NEIU employees to discuss her thoughts on Plaintiff’s performance as Interim Director of El Centro campus and, specifically, Plaintiff’s tumultuous handling of NEIU’s relationship with the Logan Square Neighborhood Association (“LSNA”), a community organization with a decades-long relationship with NEIU. (Compl., ¶¶ 7, 14.) Although Plaintiff alleges that Lopez tortiously interfered with Plaintiff’s contract with NEIU and/or her prospective economic advantage and defamed Plaintiff through her alleged conduct, Plaintiff does not allege that Lopez’s conduct went beyond the scope of her role as NEIU’s El Centro Advisory Council Chair. Therefore, Plaintiff’s claims are actually against the State (NEIU), and they should be dismissed under the SLIA and ICCA, which require Plaintiff to litigate her tort claims in the Illinois Court of Claims against NEIU.

If the Court decides that Plaintiff’s claims should proceed in this case, they still fail. Given the above, Plaintiff cannot establish that a third-party tortiously interfered with her alleged contract and prospective economic advantage because Lopez was NEIU’s El Centro Advisory Council Chair and, as such, a part of NEIU. Plaintiff’s tortious interference with a contract claim also fails because Plaintiff did not attach to the Complaint her alleged contract with NEIU in violation of 735 ILCS 5/2-606 and, as such, has not refuted the presumption that her employment with NEIU was at-will. Since at-will employment cannot sustain a claim for tortious interference with a contract as a matter of law, her claim should be dismissed. *Pena v. Novartis Pharms. Corp.*, No. 04 C 3790, 2004 U.S. Dist. LEXIS 20847, *6 (N.D. Ill. Oct. 13, 2004).

For the above reasons and as further detailed below, Plaintiff’s Complaint should be dismissed with prejudice.

II. **RELEVANT FACTS**

A. THE PARTIES.

NEIU is a public university located in Chicago, Illinois chartered in Illinois pursuant to the Northeastern Illinois University Law, 110 ILCS 680/25-1, *et seq.* Plaintiff, at all relevant times, was employed by NEIU. (Compl., ¶ 1.) Her most recent position was Interim Director of NEIU's El Centro campus. (*Id.*, ¶ 6.) Her duties included overseeing academic, financial, and programmatic operations of NEIU's El Centro campus. (*Id.*, ¶ 5.) Plaintiff's appointment as Interim Director was temporary and she was not guaranteed a permanent Director position. (*Id.*, ¶ 6.) NEIU intended to select a permanent Director after June 30, 2025, in an open national search. (*Id.*)

Lopez is NEIU's El Centro Advisory Council Chair. (*Id.*, ¶ 2.) The El Centro Advisory Council operates pursuant to its bylaws, which identify its purpose and procedures. (*Id.*, ¶ 12; *see also* Ex. A, ¶ 3.) The El Centro Advisory Council was created to act as an advisory body for plans, training and other services related to NEIU's El Centro campus. (*See* Ex. A, ¶ 4; *see also* Ex. A, Ex. 1 – NEIU's El Centro Advisory Council Bylaws.) Specifically, the El Centro Advisory Council represents NEIU's interests as they relate to NEIU's broader community, which is the purpose of NEIU's El Centro program. (Ex. A, ¶ 4; *see also* **Exhibit B** – NEIU, El Centro, <https://www.neiu.edu/academics/el-centro> (last visited September 9, 2025.¹)) As Chair, Lopez's responsibilities included convening meetings, appointing committees, and preparing the agenda for meetings. (Ex. A, ¶ 4, Ex. 1.) Plaintiff worked with the El Centro Advisory Council to discuss NEIU's El Centro campus's financial stability and fundraising efforts as well as NEIU's relationship with the LSNA. (Compl., ¶ 11.)

¹ The Court can take judicial notice of NEIU's El Centro webpage as it is publicly accessible and from a public university. *People v. Ayres*, 2025 IL App (5th) 240669, n. 1.

B. PLAINTIFF'S COMPLAINT.

On July 18, 2025, Plaintiff filed her Complaint against Lopez. In Count I of her Complaint, Plaintiff alleges that Lopez intentionally interfered with prospective economic advantage by allegedly inducing NEIU to not offer Plaintiff the role of El Centro campus Director. (*Id.*, ¶¶ 26-27.) In Count II of her Complaint, Plaintiff alleges that Lopez interfered with a contractual relationship between NEIU and Plaintiff by allegedly inducing NEIU to remove Plaintiff as Interim Director of NEIU's El Centro campus. (*Id.*, ¶¶ 32-33.) In Count III of her Complaint, Plaintiff alleges that Lopez defamed Plaintiff by allegedly making disparaging and false statements regarding Plaintiff. (*Id.*, ¶¶ 37-38.) Plaintiff's Complaint does not attach a copy of Plaintiff's alleged contract with NEIU for her Interim Director position.

III. ARGUMENT

The Court should dismiss Plaintiff's Complaint with prejudice because it lacks subject matter jurisdiction over Plaintiff's claims. *See* 735 ILCS 5/2-619(a)(1) (defendants may file a motion to dismiss if "the [C]ourt does not have jurisdiction of the subject matter of the action."). Although Plaintiff sued Lopez, her claims are actually against NEIU because Plaintiff only alleges that Lopez engaged in conduct within the scope of Lopez's role at NEIU as El Centro's Advisory Council Chair. Plaintiff also seeks monetary relief against Lopez, but any judgment against her would subject NEIU to liability, which further demonstrates that Plaintiff's claims are actually against the State (NEIU).

Plaintiff's claims for tortious interference with a contract and prospective economic advantage also fail because Lopez was working for NEIU and, as such, her alleged conduct cannot satisfy the third-party prong of a tortious interference claim. Plaintiff also cannot sustain a claim for tortious interference with a contract because her employment was terminable at-will.

As demonstrated in more detail below, Plaintiff's claims should be dismissed in their entirety.

A. THE SLIA AND ICCA BAR PLAINTIFF'S CLAIMS.

The SLIA provides that the State cannot be sued unless one of a limited number of exceptions applies. 745 ILCS § 5/1. The ICCA creates one such exception, requiring all claims against the State "sounding in tort" to proceed exclusively before the Illinois Court of Claims. 705 ILCS § 505/8(d); *see also Jenkins v. Lee*, 209 Ill. 2d 320 (Ill. 2004). As demonstrated below, Plaintiff cannot circumvent the application of the SLIA and ICCA by asserting her claims against Lopez because the determination of whether a state law claim is brought against the State "turns upon an analysis of the issues involved and the relief sought, rather than the formal designation of the parties." *Currie v. Lao*, 148 Ill. 2d 151, 158 (1992). Here, both the issues involved and the relief sought show that Plaintiff's tort claims against Lopez are actually against the State (NEIU), and the Court should dismiss Plaintiff's Complaint with prejudice.

1. The "Issues Involved" in Plaintiff's Claims Demonstrate They Are Against the State (NEIU).

"[A]n action is against the State where there are: (1) no allegations that an agent or employee of the State acted beyond the scope of his authority through wrongful acts; (2) the duty alleged to have been breached was not owed to the public generally independent of the fact of State employment;; and (3) where the complained-of-actions involve matters ordinarily within that employee's normal and official functions of the State." *Jenkins*, 209 Ill. 2d at 330 (internal quotation marks and citations omitted).

All of those factors exist here. Regarding the first factor, Plaintiff does not allege that Lopez acted beyond the scope of her authority. Plaintiff also does not allege that she is suing Lopez in her individual capacity or that Lopez advanced any personal interests through her alleged conduct.

Plaintiff only alleges that Lopez contacted Plaintiff and other NEIU employees to discuss Plaintiff's performance as NEIU's Interim Director of El Centro campus, including Plaintiff's handling of NEIU's relationship with LSNA and her interactions with NEIU's El Centro Advisory Council. (Compl., ¶ 9 (Lopez sent an email to NEIU's Provost and Plaintiff regarding LSNA's use of El Centro for meetings); ¶ 12 (Lopez emailed Plaintiff regarding Plaintiff's question about Advisory Council officers); ¶ 16 (Lopez emailed Dr. Gabriel Cortez, an NEIU Professor, to assert her opinion that Plaintiff should not be offered a permanent Director position); and ¶ 17 (Lopez contacted Plaintiff's staff regarding Plaintiff's management style and/or skills)). These allegations show that Lopez only discussed NEIU-related issues, such as Plaintiff's handling of LSNA and its impact on both NEIU and NEIU's broader community, and whether Plaintiff would be a good fit to continue in a role that requires contact with NEIU's broader community, like LSNA. In doing so, Lopez did not act beyond the scope of her role as NEIU's El Centro Advisory Council Chair, in which she is responsible for consulting with NEIU regarding El Centro and its relationship with NEIU's broader community. (Ex. A, ¶ 4, Ex. 1.)

Regarding the second factor, Lopez's alleged duty to Plaintiff arises from her role as NEIU's El Centro Advisory Council Chair. If Lopez did not serve as NEIU's El Centro Advisory Council Chair, she could not have observed or discussed Plaintiff's interactions with LSNA and the El Centro Advisory Council with other NEIU employees. She also could not have initiated or been copied on communications with other NEIU employees regarding Plaintiff's performance as Interim Director for NEIU's El Centro campus. In other words, without her role as NEIU's El Centro Advisory Council Chair, Lopez could not have impacted Plaintiff's employment at NEIU in the manner Plaintiff alleges in her Complaint. (*Id.*) Moreover, Illinois courts reject the notion that individuals simply have a general duty not to interfere with economic or contractual

relationships or not to defame. *Cortright v. Doyle*, 386 Ill. App. 3d 895, 904 (1st Dist. 2008) (dismissing plaintiff's defamation and interference with prospective economic advantage and contractual relationship claims against individual defendants, in part, because defendants' duties arose from their employment); *see also Wozniak v. Conry*, 288 Ill. App. 3d 129 (4th Dist. 1997). As such, Plaintiff cannot rely on a general duty to sustain her claims; she must allege that Lopez breached a more specific duty that stemmed from something other than her role as NEIU's El Centro Advisory Council Chair. She has not done that here.

Regarding the third factor—whether the actions Plaintiff complains of involve matters ordinarily within the individual's normal and official State functions—Plaintiff alleges that Lopez made numerous comments to NEIU employees about Plaintiff's performance as NEIU's Interim Director of its El Centro campus. (Compl., ¶¶ 9, 12, 16, 17.) However, Plaintiff does not allege that Lopez's conduct fell outside the scope of her role as NEIU's El Centro Advisory Council Chair. In fact, NEIU's El Centro Advisory Council bylaws confirm that Lopez's conduct regarding Plaintiff's performance fell within the normal functions of that role. (Ex. A, Ex. 1.) Specifically, El Centro Advisory Council members, and the Chair in particular, have authority to discuss goals, policies, and procedures for NEIU's El Centro campus, which impact NEIU and its broader community, including LSNA. (Ex. A, ¶ 4, Ex. 1.) Moreover, Plaintiff's role as Interim Director of the El Centro campus required her to interact directly with El Centro's Advisory Council and specifically Lopez, as its Chair. (Ex. A, ¶ 4.) As Plaintiff alleges in her Complaint, Lopez's concerns with Plaintiff initially arose out of Plaintiff's interactions and communications with LSNA. (Compl., ¶ 9.) Lopez's concerns continued as Plaintiff appeared to create a negative impact on the long-standing relationship between LSNA and NEIU. As its bylaws state, NEIU's El Centro Advisory Council's purpose is to serve NEIU's El Centro campus with an aim toward providing

recommendations and analysis related to its various needs. (Ex. A, ¶ 4, Ex. 1.) Lopez's alleged comments fall squarely within that role because they addressed an Interim Director's treatment of LSNA, a broader community organization strongly affiliated with NEIU and its El Centro campus. Notably, Plaintiff does not allege that any of Lopez's conduct referenced Plaintiff in any manner outside her role at NEIU or that it impacted any aspect of Plaintiff's work outside of NEIU.

Based on the above, the Court should reject Plaintiff's form-over-substance assertion that her claims are against Lopez individually, and the Court should dismiss Plaintiff's Complaint with prejudice pursuant to the SLIA and ICCA.

2. The “Relief Sought” in Plaintiff’s Complaint Would Subject NEIU to Liability.

The Court should also dismiss Plaintiff's claims because a judgment for Plaintiff could either control the actions of the State or subject it to liability. *Welch v. Ill. Supreme Ct.*, 322 Ill. App.3d 345, 348-49 (3rd Dist. 2001). Plaintiff seeks only monetary damages in this action. *See* Compl., Wherefore clauses (“Plaintiff Mildred Crespo demands compensatory damages in an amount in excess of Five Hundred Thousand dollars...”). If the Court entered a judgment in Plaintiff's favor, NEIU would face liability for that judgment because, as explained above, Lopez acted entirely within the scope of her role as NEIU's El Centro Advisory Council Chair. Pursuant to the State Employee Indemnification Act, NEIU would be required to indemnify Lopez in that situation. *See supra* Section A(1); *see also* 5 ILCS 350/2(d) (“unless the court or jury finds that the conduct or inaction which gave rise to the claim or cause of action was intentional, willful or wanton misconduct and was not intended to serve or benefit interests of the State, the State shall indemnify the State employee for any damages awarded and court costs and attorneys' fees assessed as part of any final and unreversed judgment, or shall pay such judgment.”) Again, Plaintiff does not allege that Lopez acted outside the scope of her authority or that her alleged

conduct involved anything except Plaintiff’s performance as Interim Director of NEIU’s El Centro campus. In this context, Lopez, individually, would not bear responsibility for any judgment—NEIU would, which Plaintiff underscores by seeking half a million dollars in monetary damages for each of her counts. For this reason alone, this Court lacks jurisdiction to adjudicate her claims, and the Court should dismiss the Complaint. *See Nikelly v. Stubing*, 204 Ill. App. 3d 870, 876 (1990) (the court found that plaintiff’s allegations “establish that at all relevant times defendants acted within their authority as agents of the State, and the State thus could be made to answer for their actions,” meaning it was “a lawsuit against the State of which the Court of Claims has exclusive jurisdiction.”).

Moreover, a judgment for Plaintiff would also restrict NEIU’s ability to rely on the El Centro Advisory Council’s consultation for decisions related to NEIU’s El Centro’s campus. Here, Plaintiff’s performance as the Interim Director of El Centro’s campus directly impacted NEIU’s relationship with the El Centro campus and the broader community, including LSNA’s relationship with El Centro. Through its bylaws, NEIU’s El Centro Advisory Council exists to provide recommendations and advice in this exact situation. (Ex. A, ¶ 4, Ex. 1.) Lopez fulfilled her role as NEIU’s El Centro Advisory Council Chair through her comments regarding Plaintiff’s handling of El Centro’s relationship with LSNA. If the Court holds Lopez responsible here, NEIU would have to second-guess whether it could receive or implement advice and counsel from the El Centro Advisory Council on issues the El Centro Advisory Council was created to address. The law does not allow a judgment that creates that type of control over the State. *See Cortright*, 386 Ill. App. 3d at 902-903 (dismissing claims against individual because a judgment for plaintiff would directly influence State employees’ decisions to handle departmental personnel issues).

Based on all of the above, Plaintiff’s claims against Lopez are, in effect, claims against the

State (NEIU). As a result, and pursuant to the SLIA and ICCA, the Court should dismiss these claims with prejudice. *Richman v. Sheahan*, 270 F.3d 430, 441 (7th Cir. 2001) (dismissing state law tort claims against individual employees of the state because plaintiff's claims against them were deemed claims against the state); *Aguero v. Univ. of Ill.*, 2017 U.S. Dist. LEXIS 228054, at *21 (C.D. Ill. Mar. 30, 2017) (granting defendants' motion to dismiss and stating that the claims against individual officers would be considered a claim against the state where the decision not to extend plaintiff's contract would have been within the scope of the board's authority or a matter ordinarily within the board's normal and official functions); *White v. City of Chi.*, 369 Ill. App. 3d 765, 779-80 (Ill. App. Ct. 2006) (finding that the case had to be brought in the Illinois Court of Claims because defendants state's attorneys' alleged misconduct occurring during the investigation of a criminal case occurred within the scope of their employment); *Jackson v. Alvarez*, 358 Ill. App. 3d 555, 561 (4th Dist. 2005) (affirming the trial court's decision to dismiss plaintiff's state law claim and stating that defendant's conduct, even if grossly careless, still falls within the scope of her authority); *Murphy v. Smith*, 844 F.3d 653, 658 (7th Cir. 2016) (a person cannot evade sovereign immunity by naming state employees as defendants when the real claim is against the State of Illinois).

B. LOPEZ WAS NOT A THIRD-PARTY INTERFERING WITH PLAINTIFF'S CONTRACT OR PROSPECTIVE ECONOMIC ADVANTAGE AND, AS SUCH, HER TORTIOUS INTERFERENCE CLAIMS FAIL.

If the Court finds that Plaintiff's claims are not subject to the exclusive jurisdiction of the Illinois Court of Claims and are not against NEIU, Plaintiff's claims for tortious interference with contract and prospective economic advantage still fail. Under Illinois law, both the tort of interference with prospective economic advantage and interference with a contract require the defendant to act toward a third party in a way that results in interference with the contract or the

prospective relationship. *BMC Prods. v. HMK Gr. Cos.*, Case No. 86 C 4849, 1986 U.S. Dist. LEXIS 17356, *7 (N.D. Ill. Nov. 21, 1986). A plaintiff cannot state a claim for tortious interference if the claim is based on conduct between the plaintiff and the defendant, rather than conduct directed by the defendant toward a third party. *Premier Trans., LTD. v. Nextel Comm'n, Inc.*, Case No. 02 C 4536, 2002 U.S. Dist. LEXIS 21803, *9-10 (N.D. Ill. Nov. 8, 2002).

Here, Plaintiff asserts claims against Lopez but does not refute that Lopez's alleged conduct occurred within the scope of her role as NEIU's El Centro Advisory Council Chair. Specifically, Plaintiff only alleges that Lopez, as NEIU's El Centro Advisory Council Chair, contacted Plaintiff and other NEIU employees regarding her opinions on Plaintiff's performance as Interim Director of NEIU's El Centro campus. (Compl., ¶ 9 (Lopez sent an email to NEIU's Provost and Plaintiff regarding LSNA's use of El Centro for meetings); ¶ 12 (Lopez emailed Plaintiff regarding Plaintiff's question about El Centro Advisory Council officers); ¶ 16 (Lopez emailed Dr. Gabriel Cortez, an NEIU Professor, to assert her opinion that Plaintiff should not be offered a permanent Director position); and ¶ 17 (Lopez contacted Plaintiff's staff regarding Plaintiff's management style and/or skills)). As discussed above, Lopez does not qualify as a third party—she worked for NEIU—and thus could not have interfered with Plaintiff's appointment as Director of El Centro campus, which was not a guaranteed position for Plaintiff anyway. *BMC Prods.*, 1986 U.S. Dist. LEXIS 17356, *7-8 (where the complaint alleges that the individual's actions were, in essence, acts of the alleged third party, the claim must be dismissed because a defendant "cannot be liable for breach of its own business advantage.").

Moreover, Plaintiff alleges she had a contract with NEIU for her Interim Director position. (Compl., ¶ 30.) Given the above, however, Plaintiff's allegations are against NEIU. In such a case, Plaintiff cannot sustain a claim for tortious interference with a contract because she makes the

allegations against the other contracting party, NEIU. *See DP Serv. v. Am. Int'l*, 508 F. Supp. 162, 168 (N.D. Ill. 1981) (“[o]ne contracting party does not have a cause of action against the other for conspiring to breach their contract or for wrongfully interfering with its own contract.”).

For these reasons, the Court should dismiss Plaintiff’s claims for tortious interference with contract and prospective economic advantage.

C. PLAINTIFF WAS AN AT-WILL EMPLOYEE AND CANNOT SUSTAIN A TORTIOUS INTERFERENCE WITH CONTRACT CLAIM AS A MATTER OF LAW.

Because Plaintiff bases her tortious interference with a contract claim on her alleged contract with NEIU for her Interim Director role, she must attach to her Complaint a copy of that alleged contract or an affidavit attesting to her inability to retrieve or attach the alleged contract to her Complaint. 735 ILCS 5/2-606 (“[i]f a claim or defense is founded upon a written instrument, a copy thereof, or of so much of the same as is relevant, must be attached to the pleading as an exhibit or recited therein, unless the pleader attaches to his or her pleading an affidavit stating facts showing that the instrument is not accessible to him or her.”). If a plaintiff fails to attach a contract pursuant to Section 2-606, the Court may dismiss the claim. *Velocity Inv., LLC v. Alston*, 397 Ill. App. 3d 296, 300 (2d Dist. 2010). Plaintiff did not attach a copy of her alleged contract with NEIU to her Complaint or recite any terms except for her alleged employment term, which is insufficient. *Sherman v. Ryan*, 392 Ill. App. 3d 712, 732-33 (1st Dist. 2009). Plaintiff also did not attach an affidavit attesting to why she could not have attached the alleged contract. Therefore, Plaintiff failed to comply with Section 2-606 and the Court should dismiss Plaintiff’s tortious interference with contract claim.

Because Plaintiff failed to attach her alleged contract, she also failed to rebut her at-will employment relationship with NEIU. *See Pena*, 2004 U.S. Dist. LEXIS 20847, *3 (“[t]he at-will

presumption can be overcome if parties demonstrate that [the parties] contracted otherwise.”). Here, Plaintiff has not and cannot rebut that presumption, which means that her employment with NEIU was at-will. *Id.* at *6. An at-will employee “cannot state a claim for tortious interference with an employment contract,” and this provides grounds for dismissal with prejudice. *Id.*; *see also Prudential Ins. Co. v. Sipula*, 776 F.2d 157, 162 (7th Cir. 1985) (interference with a contract cannot occur where both parties can terminate the contract for any reason). Therefore, the Court should dismiss Plaintiff’s claim for tortious interference with a contract against Lopez with prejudice.

CONCLUSION

For all of the reasons stated above, Defendant Dr. Rosita Lopez respectfully requests that the Court dismiss this action, with prejudice, and for any additional relief deemed just and appropriate.

Dated: September 9, 2025

Respectfully submitted,

By: **DR. ROSITA LOPEZ**

/s/ Monica H. Khetarpal
One of Her Attorneys

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CERTIFICATE OF SERVICE

I, Raseq Moizuddin, an attorney, certify that on September 9, 2025, I caused a true and correct copy of the foregoing ***Defendant's Motion to Dismiss Plaintiff's Complaint Pursuant to 735 ILCS 2-619(a)(1)*** to be filed with the Court by electronic filing protocols, and that same will therefore be electronically served upon all attorneys of record registered with the Court's electronic filing system.

/s/ Raseq Moizuddin