

1200/25-8561.XCW/kmc/sh

STATE OF INDIANA)	IN THE JAY CIRCUIT COURT
) SS:	
COUNTY OF JAY)	SITTING AT PORTLAND, INDIANA
LORI PHILLIPS,)	
)	
Plaintiff,)	
)	
v.)	Cause No.: 38C01-2507-CT-000010
)	
DUSTIN MOCK, Individually, JEFF HOPKINS,)	
Individually, CITY OF PORTLAND POLICE)	
DEPARTMENT, and CITY OF PORTLAND,)	
INDIANA,)	
)	
Defendants.)	

**DEFENDANTS DUSTIN MOCK, JEFF HOPKINS, AND THE PORTLAND POLICE
DEPARTMENT’S MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS**

INTRODUCTION

This Court should grant Defendants Dustin Mock, Jeff Hopkins, and the Portland Police Department’s Motion to Dismiss because Plaintiff’s Complaint fails to state a claim upon which relief may be granted. In particular, dismissal is appropriate because: (1) the Portland Police Department is not a suable entity; and (2) Mock and Hopkins cannot be sued in their individual capacities. As set forth in more detail below, this Court should dismiss all claims contained in Plaintiff’s Complaint.

PLAINTIFF’S ALLEGATIONS

Plaintiff alleges that she has been the Clerk-Treasurer since January 1, 2016 and during her tenure, she has been tormented, harassed, and defamed by representatives of Portland Police Department (“PPD”), especially after Dustin Mock was appointed to Chief of PPD. [Complaint, ¶¶ 9-10]. Plaintiff alleges that Mock instituted a harassment claim against her, including allegations that she violated City policies and procedures in her capacity as Clerk-Treasurer.

[Complaint, ¶ 11]. Plaintiff alleges that the City conducted an investigation into the claim and on June 12, 2024, the City's Board of Works stated that Chief Mock's allegations were untrue and the investigation was to be closed. [Complaint, ¶¶ 12-13]. Plaintiff alleges that Chief Mock ordered PPD representatives to prohibit Plaintiff's access to the radio/dispatch area, which violates PPD's standard operating procedures. [Complaint, ¶ 14].

Plaintiff alleges that through 2024 and 2025, Mock and Hopkins have made statements against Plaintiff, including that Plaintiff "had stuck her nose where it does not belong" and that she "had better watch her back." [Complaint, ¶ 15]. Plaintiff alleges that these statements demonstrate inherent threats against her physical person, which led to credible fear for her own safety and physical well-being. [Complaint, ¶ 15]. Plaintiff alleges that she was told that Mock and Hopkins had reviewed and distributed video surveillance footage of Plaintiff exercising during non-working hours and in workout attire while in an exercise room located within the City's facilities. [Complaint, ¶ 16]. Plaintiff alleges that Mock and Hopkins assured her that all surveillance cameras were non-functional when the room was converted to an exercise facility. [Complaint, ¶ 17].

Plaintiff alleges that she discovered the surveillance cameras were functional and recording private conversations on February 14, 2025 at a Board of Works meeting. [Complaint, ¶ 18]. Plaintiff alleges that the City's Mayor, Jeff Westlake, tossed the flash drive across a table to Plaintiff. [Complaint, ¶ 18]. Plaintiff alleges that the flash drive had multiple recordings of Plaintiff exercising and having private conversations on her cellphone and one of the conversations included "nay-saying" certain colleagues. [Complaint, ¶ 19]. Plaintiff alleges that Mock and Hopkins disseminated the recordings to Mayor Jeff Westlake. [Complain, ¶ 20]. Plaintiff alleges that she discovered Mock and Hopkins distributed the recordings to a former PPD employee.

[Complaint, ¶ 21]. Plaintiff alleges that Mock published disparaging and defamatory statements focused at Plaintiff to a third-party while in the City's facilities. [Complaint, ¶ 22]. Plaintiff alleges that the statements included commenting that the facility's security was to prevent Plaintiff from being in places she "shouldn't be" and Plaintiff needed to "quit sticking her nose into business that doesn't pertain to her." [Complaint, ¶ 22].

Plaintiff brings a claim of intentional infliction of emotional distress based on the respondeat superior theory of liability. [Complaint, ¶¶ 23-27]. Plaintiff alleges that representatives of PPD acted with extreme and outrageous conduct towards her, including the inherent threats against her person and secretly recording Plaintiff in what was believed to be moments of privacy and disseminated the recordings to third parties. [Complaint, ¶ 25]. Plaintiff alleges that "Defendants are liable for the actions of Defendants' representatives as such occurred while such representatives were in the scope of their employment with Defendants." [Complaint, ¶ 27]. Plaintiff also brings claims of tortious interference with prospective business advantage and defamation per se based on the actions of the "representatives of Defendants." [Complaint, ¶¶ 28-37].

LEGAL STANDARD

If a complaint fails to state a claim upon which relief may be granted, it will be dismissed. Ind. Trial Rule 12(B)(6). When ruling on a motion to dismiss, a court will not review the facts supporting the claim, but rather the legal sufficiency of the claim. *Trail v. Boys and Girls Clubs of Northwest Indiana*, 845 N.E.2d 130, 134 (Ind. 2006). A claim is sufficient if it sets forth any set of circumstances upon which the plaintiff would be entitled to relief. *Id.* In so ruling, the court will accept the facts alleged in the complaint as true, consider the pleadings in a light most favorable to the non-moving party, and make reasonable inferences in favor of the non-moving

party. *Id.* Thus, when it is apparent that the facts are incapable of supporting relief under any circumstances, a motion to dismiss is appropriate. *Id.*

ARGUMENT

I. PORTLAND POLICE DEPARTMENT IS NOT A SUABLE ENTITY.

This Court should dismiss the Portland Police Department because it is not a suable entity. *See* Ind. Code §§ 36-1-4-1 *et seq.*, 36-1-4-3, 36-1-2-23. Under Indiana law, a unit, meaning a county, municipality, or township, may be sued. Ind. Code §§ 36-1-4-3, 36-1-2-23. A municipality means a city or town. Ind. Code § 36-1-2-11. As Portland Police Department is only a division of the Town of Schererville, it does not meet the definition of municipality (nor unit) and is not a suable entity. *See Martin v. Fort Wayne Police Dept.*, 2011 WL 781383, at *6 (N.D. Ind. Feb. 28, 2011) (interpreting Indiana law to hold that a municipal police department has no separate legal existence from the municipality and instead is only a division or arm of the municipality that does not have the capacity to be sued). Therefore, Plaintiff cannot state a claim against the Portland Police Department fail and it should be dismissed.

II. DUSTIN MOCK AND JEFF HOPKINS CANNOT BE SUED IN THEIR INDIVIDUAL CAPACITIES.

This Court should dismiss Dustin Mock and Jeff Hopkins because they cannot be sued in their individual capacities based on the allegations in the Complaint. Under Ind. Code § 34-13-3-5(b), a plaintiff is barred from suing employees who were acting within the scope of their employment at the time the alleged loss was sustained. Ind. Code § 34-13-3-5(b); *see also Bushong v. Williamson*, 790 N.E.2d 467, 471 (Ind. 2003). The allegations in Plaintiff's Complaint, taken as a whole, establish that Mock and Hopkins were acting within the scope of their employment at the time of the alleged loss, thereby precluding the claims against them in their individual capacities.

In particular, throughout her Complaint, Plaintiff refers to Mock and Hopkins as “representatives of Defendants” when describing the actions that they allegedly took that constituted intentional infliction of emotional distress, tortious interference, and defamation per se. [Complaint, ¶¶ 25, 27, 30-31, 37]. Specifically, Plaintiff alleges that “representatives of Defendants” previously identified in the Complaint as Mock and Hopkins issued “inherent threats” against her, recorded her within the City’s facilities, disseminated the recordings to others, and published statements and allegations regarding Plaintiff’s misconduct in her profession. [Complaint, ¶¶ 15-16, 20-22]. Plaintiff’s allegations indicate that Mock and Hopkins were acting in the scope of their employment with the City of Portland when the alleged actions occurred. This is further supported by the fact that Plaintiff specifically alleges that “Defendants are liable for the actions of Defendants’ representatives as such occurred while such representatives were in the scope of their employment with Defendants.” [Complaint, ¶ 27]. Last, both Mock and Hopkins were served at their place of employment, thus further evidencing the fact that Plaintiff is pursuing the claims against each in the scope of the employment. [See Dkt. Entries for Summons and Returns on Service at 319 N. Meridian Street, Portland, Indiana].¹ Plaintiff’s scope of employment allegations “provide[] an immediate and early indication that the employee is not personally liable” and a motion to dismiss is appropriate. *Bushong*, 790 N.E.2d at 472. Thus, although Plaintiff names Mock and Hopkins in their individual capacities, the allegations in the Complaint put them within the scope of their employment at the time of the alleged actions. Therefore, this Court should dismiss Dustin Mock and Jeff Hopkins in their individual capacities.²

¹ Portland Police Department is located at 319 N. Meridian Street, Portland, Indiana. The summons were addressed to Dustin Mock and Jeff Hopkins “c/o City of Portland Police Department.”

² The claims against the City of Portland for the alleged actions of Mock and Hopkins as employees of the City of Portland would still remain. The City of Portland is the only properly named Defendant under the circumstances as set forth in the Complaint.

CONCLUSION

WHEREFORE, Defendants, DUSTIN MOCK, JEFF HOPKINS, and THE PORTLAND POLICE DEPARTMENT, respectfully request that this Court grant their Motion to Dismiss in its entirety and/or for any relief deemed just and proper.

Respectfully Submitted,

/s/ Katlyn M. Christman

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CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2025, I electronically filed the foregoing **DEFENDANTS DUSTIN MOCK, JEFF HOPKINS AND CITY OF PORTLAND POLICE DEPARTMENT'S MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS** using the Indiana E-Filing System (IEFS). I also certify that on DATE, the following persons were served electronically with the foregoing document through the IEFS:

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