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

CHICAGO TEACHERS UNION, LOCAL 1, IFT-AFT, Plaintiff, v. ILLINOIS POLICY INSTITUTE; LIBERTY JUSTICE CENTER; and AUSTIN BERG, Defendants.	Case No. 2026-L-009674 Judge Stephanie D. Saltouros Calendar Z

Defendant Liberty Justice Center's Memorandum in Support of
Motion to Dismiss Pursuant to 735 ILCS 5/2-619.1

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Introduction

A labor union has chosen to sue the non-profit law firm representing several of its members in litigation against the union—over two "meme" Tweets about that litigation. But satirical cartoons, caricatures, and illustrations have been a quintessentially American way of mocking public figures since before there was a First Amendment, *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 53–55 (1988), and they remain cherished expressions of protected speech to this day—even when those images insult, mock, taunt, and demean their subjects. Similarly, idioms like "cooked books" are also protected speech, and courts have repeatedly held that even calling someone a "traitor," "crook," "scoundrel," or "thief" is non-actionable (if colorful) commentary, rhetorical hyperbole, and opinion, rather than a verifiable accusation of a literal crime. This lawsuit against Defendant Liberty Justice Center (LJC) is a transparent attempt by the Plaintiff to chill criticism of its years-long failure to provide its members with annual financial audits as required by law, and to retaliate against LJC for representing the union members who sued Plaintiff over it. The First Amendment gives no quarter to would-be censors like Plaintiff, and Illinois' Anti-SLAPP law requires that Plaintiff pay for abusing the legal system in this way.

Plaintiff's defamation claims against LJC, based on two satirical "meme" Tweets, should be dismissed because: (1) Plaintiff has failed to allege facts showing all the required elements of defamation; and (2) regardless of the pleading deficiencies, LJC is entitled to immunity under the Illinois Citizen Participation Act. LJC is also entitled to recover its attorney's fees and costs.

Background

A. LJC Is a Public-Interest Law Firm That Represented Union Members Against Plaintiff

LJC is a non-profit, non-partisan, public-interest law firm. It represents workers, students, entrepreneurs, small businesses, and everyday Americans whose rights have been violated by powerful government actors or institutions. Schwab Decl. ¶ 2. LJC, which is head-quartered in Austin, Texas, provides pro bono representation to its clients. While the Illinois Policy Institute

(IPI) has been a client of LJC's, Plaintiff alleges no facts demonstrating any formal relationship or common conduct whatsoever in this case between LJC and its co-defendants, IPI and Austin Berg.

Plaintiff Chicago Teachers Union, Local 1, IFT-AFT (CTU) is a public-sector labor union with "approximately 30,000 members." Compl. ¶ 12. As a covered labor union under the Labor-Management Reporting and Disclosure Act of 1959, Plaintiff is required to file annual reports with the Department of Labor. 29 U.S.C. § 431. Plaintiff also has a contractual obligation pursuant to its "governing documents" to furnish an audited financial report to its members every year. Compl. ¶ 14. Between 2020 and 2023, Plaintiff admits its "finalization of these audit reports was delayed." Compl. ¶ 44. Four audit reports—2020, 2021, 2022, and 2023—had not been provided to union members as of October 2024. Compl. ¶ 44. When Plaintiff's union members sent written requests for Plaintiff to produce these financial reports, the requests were ignored or went unanswered.

So Plaintiff's union members turned to LJC for help. LJC agreed to represent the union members *pro bono*. Schwab Decl. ¶ 33. LJC sent a demand letter to Plaintiff asking for the audit reports to be furnished. *Id.* ¶ 9. Nothing happened. Having no other recourse, the union members represented by LJC sued Plaintiff in October 2024 for breach of contract for failing to furnish members with annual audit reports (the "*Weiss* lawsuit"). Schwab Decl., Ex. 1; *see also* Compl. ¶ 43. The lawsuit prompted CTU to produce abridged audit reports to its members. The first three missing audit reports—the 2020, 2021, and 2022 abridged reports—were furnished to the union members on December 13, 2024, and the last missing audit report—the 2023 abridged report—was furnished to union members in March 2025. Compl. ¶ 44. In August 2025, after producing the abridged audit reports, CTU moved for summary judgment in *Weiss* arguing that the union members' claims were moot. Ex. 2.[1] LJC opposed the motion, arguing that CTU's governing documents required CTU to furnish members with the full, unabridged financial audit reports every year. CTU claimed that it was only required to provide condensed reports to members in an electronic portal because the full, unabridged audits were available for inspection by physically

[1] The Court can also take judicial notice of the documents attached to the Schwab Declaration. *Kirchner v. Greene*, 294 Ill. App. 3d 672, 677 (1st Dist. 1998).

visiting CTU's office during business hours. In March 2026—months after the memes at issue here were posted—the Court denied CTU's motion because "a live controversy remain[ed]" over whether CTU is "obligated to provide full, unabridged audits each year."[2] *Id.*

B. Plaintiff Retaliates With This Lawsuit After LJC Posts Two Memes on X About Plaintiff's Failure To Furnish Members With Complete Financial Audits

In August 2025 and November 2025, while the dispute over CTU's audit reports remained unresolved, LJC posted the two "memes" challenged in this lawsuit on its X account. The "Cracker Barrel" Meme included the text, "@stacydavisgates, we ordered 4 audits. Will you check and see if they're ready?" along with the phrase "Cooked Books" in the style of Cracker Barrel's iconic logo. Compl. ¶ 50. The "Thanksgiving" Meme included the text, "The only thing @CTULocal1 leadership knows how to serve is EXCUSES" along with the phrase "cooking the books." Compl. ¶ 66. Plaintiff does not allege the specific person or persons who authored either meme. *Id.*

LJC published the memes not just in the middle of a hotly contested legal dispute in the *Weiss* case, but also in the midst of widespread public interest in Plaintiff's failure to timely furnish financial audit reports to its members. The *Weiss* litigation had been the subject of numerous news articles since it was filed, *see* Schwab Decl. ¶ 24, and in November 2025, the U.S. House of Representatives, Committee on Education and Workforce began an investigation into Plaintiff because "evidence indicates that CTU has failed to provide its members with complete financial audits since 2020," Ex. 4. That same month Fox News reported that Plaintiff was under congressional investigation for its financial practices. Ex. 5. In February 2026, the Wall Street Journal reported that Plaintiff's "records show that its finances haven't always received a clean slate by its official independent auditor." Ex. 6.

Plaintiff notably has not claimed defamation by any of the major media companies reporting about Plaintiff's financial practices and the congressional investigation into Plaintiff's finances—just LJC, the nonprofit organization whose lawsuit shined a light on Plaintiff's refusal

[2] In September 2026, the Court in *Weiss* granted a second motion for summary judgment filed by CTU. That decision has been appealed and, in any event, does not change the analysis concerning any element of defamation for the instant action.

to follow the law. Plaintiff filed this lawsuit claiming that LJC's memes, and specifically the "cooked books" idiom, were defamation per se. Compl. ¶¶ 50, 66.

Legal Standard

Defendants may "file a combined section 2-615 and section 2-619 motion to dismiss." *Andrews v. At World Props., LLC*, 2023 IL App (1st) 220950, ¶ 12 (citing 735 ILCS 5/2-619.1). "A motion to dismiss under section 2-615 attacks the legal sufficiency of a complaint and alleges only defects on the face of the complaint," but "the court considers matters subject to judicial notice and judicial admissions in the record. Facts in a prior court opinion are subject to judicial notice." *Kirchner*, 294 Ill. App. 3d at 677. Illinois is a fact-pleading jurisdiction; "a plaintiff cannot rely simply on mere conclusions of law or fact unsupported by specific factual allegations." *Anderson v. Vanden Dorpel*, 172 Ill. 2d 399, 408 (1996). A motion to dismiss under "section 2-619(a)(9) admits as true" the well-pleaded facts and reasonable inferences "but asserts an affirmative defense or other matter that avoids or defeats the claim." *Andrews*, 2023 IL App (1st) 220950, ¶ 12. The defendant can provide evidence to defeat the claim, and if that evidence is "not contradicted by a counteraffidavit, the court must accept the facts in the affidavit as true." *Id.*

Argument

I. Plaintiff Has Failed To State a Claim for Defamation Against LJC

Plaintiff's claims against LJC should be dismissed under § 2-615 because Plaintiff has failed to state a viable claim for defamation against LJC based on either meme. To state a claim for defamation, the plaintiff must allege sufficient facts establishing these elements: "(1) the defendant made a false statement about the plaintiff, (2) there was an unprivileged publication to a third party with fault by the defendant, and (3) the publication damaged the plaintiff." *Parker v. House O'Lite Corp.*, 324 Ill. App. 3d 1014, 1020 (1st Dist. 2001). Courts should evaluate these elements for each allegedly defamatory statement. *Mandel v. Krochmal*, 2026 IL App (1st) 241481, ¶ 13.

A. Plaintiff Has Failed To Allege Falsity

The cornerstone of defamation is publication of a false statement of fact. "In defamation actions, statements that are capable of being proven true or false are actionable, whereas opinions are not." *Seitz-Partridge v. Loyola Univ. of Chicago*, 2013 IL App (1st) 113409, ¶ 29. "Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas." *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339–40 (1974). "[T]he 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). "[W]hether or not a statement is a factual assertion that could give rise to a defamation claim is a question of law for the court." *Id*. Here, Plaintiff cannot recover for defamation against LJC because the memes do not present false statements of fact. To the contrary, the memes are protected speech because (1) the memes are rhetorical hyperbole and opinion, and (2) to the extent any "facts" are conveyed through the memes, the facts are substantially true.

1. LJC's Memes Are Protected Opinion

Cartoons, caricatures, and illustrations—more likely to be called "memes" in the modern era—have long enjoyed protection under the First Amendment. "Despite their sometimes caustic nature, from the early cartoon portraying George Washington as an ass down to the present day, graphic depictions and satirical cartoons have played a prominent role in public and political debate," and "[f]rom the viewpoint of history it is clear that our political discourse would have been considerably poorer without them." *Hustler Mag., Inc. v. Falwell*, 485 U.S. 46, 54 (1988). Because they communicate opinion rather than fact, caricatures exploiting "unfortunate physical traits or politically embarrassing events" or delivering "slashing and one-sided" commentary are protected under the First Amendment from claims of defamation. *Hustler* is illustrative. The Supreme Court held that a liquor advertisement with the title, "Jerry Falwell talks about his first time," that featured a parody interview with the televangelist describing a "drunken incestuous rendezvous with his mother in an outhouse" was not defamation because the advertisement "could

not reasonably be understood as describing actual facts" or "actual events." *Id.* at 57 (quotation marks omitted). Jokes at another's expense—even *Hustler's* tasteless one—are not defamatory.

Moreover, cartoons are widely recognized as conveying opinion, not fact. "Cartoons are seldom vehicles by which facts are reported; quite the contrary, they are deliberate departures from reality designed forcefully, and sometimes viciously, to express opinion." *Keller v. Miami Herald Pub. Co.*, 778 F.2d 711, 718 (11th Cir. 1985). Because cartoons convey opinion, they rarely support a claim for defamation. *See, e.g.*, *Miskovsky v. Tulsa Trib. Co.*, 678 P.2d 242, 250 (Okla. 1983) (affirming dismissal of defamation claim based on a cartoon depicting a U.S. Senate candidate "sucking upon a sewer pipe" because the cartoon "does no more than express the writer's opinion of the political tactics of plaintiff's political campaign"); *Yorty v. Chandler*, 91 Cal. Rptr. 709, 712 (Cal. Ct. App. 1970) (cartoon mocking a mayor as unqualified for a federal cabinet position and mentally insane was protected opinion); *Mendoza v. Gallup Indep. Co.*, 764 P.2d 492, 493 (New Mex. App. Ct. 1988) (cartoon depicting a city councilman as being affiliated with the Mexican Mafia was not defamation because it "alerts all but the most careless readers that the descriptions were no more than rhetorical hyperbole" and were "pure opinion"); *Wecht v. PG Pub. Co.*, 510 A.2d 769, 773 (Pa. Super. Ct. 1986) (similar); *Ramunno v. Cawley*, 705 A.2d 1029, 1039 (Del. 1998) (cartoon was "non-actionable opinion"); *Ferreri v. Plain Dealer Publ'g Co.*, 756 N.E.2d 712, 721 (Ohio App. 2001) ("The political cartoon similarly constitutes an editorial opinion and not an assertion of fact."); *Ireland v. Edwards*, 584 N.W.2d 632, 638 (Mich. App. 1998) ("[P]arodies, political cartoons, and satires are generally entitled to protection").

Just like this litany of doodles, LJC's memes are protected opinion. In deciding whether a challenged statement is fact or opinion, courts consider "whether the statement has a precise and readily understood meaning; whether the statement is verifiable; and whether the statement's literary or social context signals that it has factual content." *Solaia Tech., LLC v. Specialty Pub. Co.*, 221 Ill. 2d 558, 581 (2006). All of these factors weigh in favor of holding that LJC's memes are protected opinion, not objectively verifiable statements of fact.

Starting with factor one, LJC's memes do not have a "precise and readily understood meaning." Meaning is determined based on context. "[A] written or oral statement is to be considered in context, with the words and the implications therefrom given their natural and obvious meaning." *Chapski v. Copley Press*, 92 Ill. 2d 344, 352 (1982). To illustrate this principle, the bald statement that an employee "was fired because of incompetence" was nonactionable opinion because, *inter alia*, "incompetence" is simply too vague, *Hopewell v. Vitullo*, 299 Ill. App. 3d 513, 520 (1st Dist. 1998), but the statement that a doctor was negligent because he "cut[] his patient's artery" was not protected opinion, *Tunca v. Painter*, 2012 IL App (1st) 093384, ¶ 48. The difference between these cases is that the defendant in *Tunca* provided specific factual information that conveys exactly *why* the doctor was negligent—because he cut the patient's artery—but the defendant in *Hopewell* did not provide supporting factual information that conveyed how the employee was incompetent, leaving the reader guessing.

"Cooked books," like "incompetence" in *Hopewell*, is devoid of specific facts that would make it clear to a reader *precisely* what CTU has done—and Plaintiff notably does not assert that the phrase, taken literally, is defamatory. Instead, Plaintiff's boilerplate assertion is that the memes somehow accuse Plaintiff of "engaging in fraud and deceptive accounting," Compl. ¶¶ 52, 67, but those specific accusations appear *nowhere* in the Tweets (nor in the *Weiss* litigation that prompted the memes). The Court should reject this allegation as conclusory. The complete context of each meme, which includes the entire Tweet as well as the *Weiss* litigation that prompted them, reveals multiple other possible meanings. A listener could understand the memes to mean any number of things: satirizing Plaintiff for its delay (because the financial reports were produced years late), its lack of transparency (because the financial reports it belatedly produced were abridged), or its incompetence (based on the delay)—among many other possible meanings.

But even if Plaintiff's conclusory interpretation of the memes is accepted at face value, Plaintiff's pleaded meaning is *still* too imprecise to be actionable. Indeed, courts readily find similar (and worse) statements to be non-defamatory. "[T]he terms 'corrupt director,' 'bully tactics,' and 'fraud machine' do not have a 'precise and readily understood meaning.'" *Coghlan v.*

Beck, 2013 IL App (1st) 120891, ¶ 50; *see also Imperial*, 227 Ill. 2d at 397 (citing *Phantom Touring, Inc. v. Affiliated Publications*, 953 F.2d 724, 728 (1st Cir. 1992), for the holding that "calling a play 'a rip-off, a fraud, a scandal, a snake-oil job' was mere hyperbole and, thus, constitutionally protected"). The assertion that Plaintiff engaged in "fraud" and "deceptive accounting"—which, again, appears nowhere in the two memes—is factually-nondescript hyperbole that, like the litany of insults found in the caselaw, cannot be defamatory.

As for factor two, LJC's memes are not verifiable. For this factor, the focus "is on whether the allegedly defamatory statement contains an objectively verifiable assertion." *Schivarelli v. CBS, Inc.*, 333 Ill. App. 3d 755, 760 (1st Dist. 2002) (holding that the phrase "you're cheating the city" lacked an objectively verifiable meaning). Plaintiff contends that LJC's memes accuse Plaintiff of "fraud and deceptive accounting," Compl. ¶¶ 52, 67. They don't. But it is well established that imprecise accusations of misconduct, without any other factual context, are not actionable as a matter of law. *Mandel*, 2026 IL App (1st) 241481, ¶ 35 (calling plaintiff "a 'thief' and 'criminal'…constitute[s] mere name-calling," asking plaintiff "did you forge those documents also" and claiming that plaintiff "preyed on the elderly," without more, were nonactionable statements). Like the statements in *Mandel*, any statement that Plaintiff engaged in "fraud and deceptive accounting"—which, again, the memes do not do—would be "too broad, conclusory, or vague for the ordinary reader to objectively verify." *Id.* at ¶ 36.

Finally, on factor three, the social context here clearly signals that LJC's memes are opinion. As discussed above, satirical cartoons pre-date the founding of this country and have long been recognized as a vehicle for expressing opinions. *Supra* § I.A.1. As courts have recognized, the fact these were published to a social media platform also signals that the memes were opinion, not fact. "Twitter's forum is equally—if not more—informal and 'freewheeling'" than other internet fora such as blogs and forums, and "the fact that Defendant's allegedly defamatory statement…appeared on Twitter conveys a strong signal to a reasonable reader that this was Defendant's opinion." *Ganske v. Mensch*, 480 F. Supp. 3d 542, 553 (S.D.N.Y. 2020).

The bottom line is that satirical cartoons are protected opinion. LJC's memes cannot support a claim for defamation because any reader seeing the memes on social media would understand that the memes are hyperbolic rhetoric, not entries in an encyclopedia reporting facts about Plaintiff. Plaintiff's remedy is not litigation; it is "self-help" through its own speech countering LJC's opinion. *Gertz*, 418 U.S. at 340.

2. Any "Facts" Implied in LJC's Memes Are Substantially True

To the extent LJC's cartoons are interpreted as conveying any verifiable "facts," Plaintiff has still failed to allege falsity because the "facts" are substantially true. "[T]ruth is an absolute defense to defamation, and only the 'substantial truth' is required for this defense. Such demonstration is made where the defendant shows that the 'gist' or 'sting' of the allegedly defamatory material is true." *Andrews*, 2023 IL App (1st) 220950, ¶ 16. "In Illinois, an allegedly defamatory statement is not actionable if it is substantially true, even though it is not technically accurate in every detail." *Gist v. Macon Cnty. Sheriff's Dep't*, 284 Ill. App. 3d 367, 371 (4th Dist. 1996). Questions are generally nonactionable because they do not signal factual content. *See Mandel*, 2026 IL App (1st) 241481, ¶ 36. Whether a statement is substantially true is a question "of law" and "may be raised in a motion to dismiss." *Andrews*, 2023 IL App (1st) 220950, ¶ 16.

Underscoring that LJC's memes are opinion, Plaintiff does not identify with particularity any specific "fact" conveyed in either LJC meme. Without differentiating between Defendants, Plaintiff broadly alleges that Defendants' "social media posts falsely accus[e] CTU of 'cooking the books,' fraudulent accounting, and engaging in 'potential criminal conduct,' among other acts of misconduct." Compl. ¶ 3. The only allegations concerning falsity that are particularized to LJC are (1) that the Cracker Barrel Meme was a "false and defamatory factual accusation that CTU was 'cooking the books,' that is, engaging in fraud and deceptive accounting," Compl. ¶ 52, and (2) that the Thanksgiving Meme was a "false and defamatory factual accusation that CTU was engaged in fraud and criminal conduct by accusing CTU of 'cooking the books,' that is, engaging in fraud and deceptive accounting in connection with CTU's audits," Compl. ¶ 67. These "facts" are conclusory and lack the specificity required to survive dismissal. *See Mandel*, 2026 IL App

(1st) 241481, ¶¶ 35–36 (holding that statements calling plaintiff a "thief" or "criminal," asking whether plaintiff "forge[d]" a document, and accusing plaintiff of "prey[ing] on the elderly" were not actionable). Plaintiff's pleaded interpretation regarding the factual meaning of LJC's memes—that LJC accused Plaintiff of fraud and deceptive accounting—cannot survive dismissal because that accusation is too broad, vague, and conclusory.

Moreover, the potential "facts" conveyed through LJC's memes are substantially true. To the extent LJC's memes are interpreted as criticizing Plaintiff and its leadership for delay in producing the audit reports, that fact is true. Plaintiff concedes that "the 2020, 2021, and 2022 reports" were not available until "December 13, 2024" and "the 2023 report" was not available until "March 2025." Compl. ¶ 44. Plaintiff alleges that not completing the reports sooner was because of "delays." *See* Compl. ¶ 44 ("The finalization of these audit reports was delayed…"), ¶ 45 ("Despite these delays…"), ¶ 46 ("the cause of delays"), ¶ 5 ("the completion of several years' audit reports were delayed"). To the extent LJC's memes are interpreted as criticizing Plaintiff and its leadership for not being transparent because it did not electronically furnish complete financial reports, that fact is true. Plaintiff alleges that it only furnished members with "*summary* financial reports." Compl. ¶ 5 (emphasis added). Because any "fact" conveyed in LJC's memes is substantially true and truth is an absolute defense, Plaintiff's defamation claims against LJC must be dismissed for failure to plead falsity.

B. Plaintiff Has Failed To Allege Fault

Plaintiff's complaint must also be dismissed for failure to allege "fault." *Parker*, 324 Ill. App. 3d at 1020. Where, as here, the plaintiff is a public figure, the actual malice standard applies and plaintiff must allege "that the defendant published the defamatory falsehood either with knowledge that it was false, or with a reckless disregard of whether it was false or not." *Jacobson v. CBS Broad., Inc.*, 2014 IL App (1st) 132480, ¶¶ 26, 36. The actual malice standard also applies when the plaintiff seeks punitive damages for speech on a matter of public interest. *Imperial*, 227 Ill. 2d at 395. Here, the actual malice standard applies, and Plaintiff has failed to allege actual malice.

1. The actual malice standard applies for two reasons. First, Plaintiff is a public figure. "Union officers are generally held to be public figures for purposes of union business where their activities place them in a controversy that invites scrutiny of their integrity, character and professional ability. Indeed, many courts have determined that union officers or officials constitute public figures and must show actual malice in defamation actions." *Dubinsky v. United Airlines Master Exec. Council*, 303 Ill. App. 3d 317, 337 (1st Dist. 1999). Second, Plaintiff seeks punitive damages, *see* Compl. ¶¶ 56, 73, and the financial activities of public-sector unions are clearly a matter of public interest: "To suggest that speech [on public sector union spending] is not of great public concern—or that it is not directed at the 'public square'—is to deny reality." *Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 912 (2018) (citation omitted).

2. Plaintiff has failed to allege that LJC acted with actual malice. The actual malice standard safeguards "the principle that debate on public issues should be uninhibited, robust, and wide-open." *N.Y. Times v. Sullivan*, 376 U.S. 254, 279–80 (1964). When the actual malice standard applies, the plaintiff must allege "that the statement was made with…knowledge that it was false or with reckless disregard of whether it was false or not." *Phila. Newspapers, Inc. v. Hepps*, 475 U.S. 767, 772 (1986) (quotation marks omitted). "Reckless disregard" means "the defendant in fact entertained serious doubts as to the truth of his publication." *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968).

Here, Plaintiff has only made "bare" allegations related actual malice. Plaintiff's burden at the pleading stage "is not satisfied by the bare allegation that a defendant acted maliciously and with knowledge of the falsity of the statement; the plaintiff must allege facts from which actual malice may be inferred." *Davis v. John Crane, Inc.*, 261 Ill. App. 3d 419, 431 (1st Dist. 1994). Plaintiff has six allegations related to LJC acting with actual malice. Four of the allegations—that "LJC acted with actual malice"—are bare allegations. *See* Compl. ¶¶ 53, 56, 68, 73. The two other allegations are conclusory. Plaintiff alleges that "Defendants have known the true facts about CTU's audit reports because CTU had provided them to [LJC] in a different lawsuit…" Compl. ¶ 6; *see also* Compl. ¶ 46 (same). But what Plaintiff fails to allege is why or how access to these

audit reports through the *Weiss* litigation informed LJC's belief about the truth of LJC's memes. That missing link is fatal to satisfying Plaintiff's burden to allege actual malice.

Next, Plaintiff's allegations regarding actual malice are deficient for an independent reason: Plaintiff has not brought the actual malice inquiry home to the LJC employee responsible for the memes. When a plaintiff sues an organizational defendant, "the state of mind required for actual malice" must "be brought home to the persons in the [] organization having responsibility for the publication…" *Sullivan*, 376 U.S. at 287. It is not enough for a plaintiff to allege generally that an organization acted with actual malice because plaintiff's burden is to allege actual malice from the employee responsible for the challenged statement. *Reed v. Nw. Pub. Co.*, 124 Ill. 2d 495, 517 (1988). Here, all six of Plaintiff's allegations related to LJC acting with actual malice only refer to the LJC generally. Compl. ¶¶ 4, 46, 53, 56, 68, 73. That is deficient. To survive dismissal, Plaintiff's allegations on actual malice must (1) identify the specific LJC employee responsible for preparing the memes, and (2) allege facts showing that the responsible LJC employee disbelieved or seriously doubted the truth of whatever "facts" were conveyed in the memes. Because none of Plaintiff's allegations satisfy this burden, Plaintiff has failed to allege fault.

II. LJC Is Entitled to Immunity Under the Citizen Participation Act

Regardless of Plaintiff's pleading deficiencies, Plaintiff's claims against LJC should be dismissed under § 2-619, and attorney's fees and costs should be awarded to LJC, because LJC is immune from suit under the Illinois Citizen Participation Act. This Act is Illinois's version of an anti-SLAPP Act, where "SLAPP" refers to a Strategic Lawsuit Against Public Participation. "SLAPPs are lawsuits that use the threat of monetary damages and/or substantial defense costs to either deter individuals from exercising their political rights or punish them for doing so." *Anderson v. Smith*, 2026 IL 131714, ¶ 15. The Act applies to LJC's memes, and so LJC is immune.

A. The Citizen Participation Act Applies

The Citizen Participation Act applies to LJC's memes because the memes are protected speech on an issue of public concern. Illinois enacted the Act in 2007 and amended it in 2025. Under the 2007 version of the Act, the defendant was required to satisfy a two-part test: "(1) the

movant's acts were in furtherance of his rights to petition, speak, associate, or otherwise participate in government to obtain favorable government action and (2) plaintiff's claims are *solely* based on, related to, or in response to the movant's exercise of these rights." *Anderson*, 2026 IL 131714, ¶ 18 (emphasis added).[3] In 2025, the Legislature broadened the Act's speech protection and removed the second part of the test: "The claim does not need to solely pertain to the moving party's constitutional rights as this Act applies regardless of the motives of the person who brought the claim…" 735 ILCS 110/15. Under the 2025 version that controls this case, the Act applies when a "claim is based on, relates to, or is in response to any act or acts of the moving party in furtherance of the moving party's rights of petition, speech, association, or to otherwise participate in government, including freedom of the press." *Id.* When the Act applies, the defendant is "immune from liability." *Id.*

Speech on matters of public concern directed at the general public is protected under the Act, as the statute provides that "opining, reporting, or investigating matters of public concern is participating and communicating with the government." *Id.*[4] It is well-established that "the Act expressly encompasses exercises of political expression directed at the electorate as well as government officials." *Wright Dev. Grp., LLC v. Walsh*, 238 Ill. 2d 620, 636 (2010); *see also Satkar Hosp. Inc. v. Cook Cnty. Bd. of Rev.*, No. 10 C 6682, 2011 WL 4431029, at *5 (N.D. Ill. Sept. 21, 2011) ("The Act applies when a defendant's speech is "directed at the public and addressed possible political corruption" because that is "an obvious matter of public concern.").[5]

[3] Because the 2025 amendments only took effect in 2026, there are few cases in Illinois interpreting the operative version of the Illinois Citizen Participation Act, and the framework for applying the law changed with the 2025 amendments. *Anderson*, 2026 IL 131714, ¶ 1 n.1.

[4] This clause of the Act refers to the "press," but "press" should be broadly construed and covers LJC: "The liberty of the press is not confined to newspapers and periodicals. It necessarily embraces pamphlets and leaflets… The press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion." *Lovell v. City of Griffin*, 303 U.S. 444, 452 (1938). The Legislature twice confirmed that the Act "should be construed broadly," 735 ILCS 110/3, and "shall be construed liberally," *id.* at 110/30.

[5] Even under the more restrictive pre-2025 version of the Act, courts routinely found that commentary on political issues directed to the general public satisfied the requirement for speech

Here, LJC's speech about Plaintiff's timeliness in producing financial audit reports is a matter of public concern that qualifies for protection under the Act. Plaintiff is a public-sector labor union, Compl. ¶ 12, and Plaintiff is required by federal law to file certain financial reports, *see* 29 U.S.C. § 431. Those financial reports indicate that Plaintiff has spent millions in political activities and lobbying. Schwab Decl. ¶ 23. That easily qualifies as a matter of public interest. "To suggest that speech [on public sector union spending] is not of great public concern—or that it is not directed at the 'public square'—is to deny reality." *Janus*, 585 U.S. at 912 (citation omitted). LJC's speech on Plaintiff's financial reporting practices qualifies for protection because the speech was an act "in furtherance of [LJC's] rights of petition, speech, association, or to otherwise participate in government." For that reason, the Act applies.

B. Plaintiff Has Not Produced Clear and Convincing Evidence Against Immunity

Because LJC has demonstrated that the Act applies, the burden shifts to Plaintiff who must "prove by clear and convincing evidence that the defendant's acts were not genuinely aimed at procuring a favorable government outcome, which is also a subjective inquiry." *Anderson*, 2026 IL 131714, ¶ 32; 735 ILCS 110/20. This is a high standard—"clear and convincing" means "the quantum of proof that leaves no reasonable doubt in the mind of the fact finder as to the truth of the proposition in question" and requires "more than a preponderance while not quite approaching the degree of proof necessary to convict a person of a criminal offense." *Bazydlo v. Volant*, 164 Ill. 2d 207, 213 (1995). "If, after reviewing the pleadings and supporting documents, the trial court determines that a material factual dispute remains regarding whether the defendant's acts were not seriously aimed at procuring a favorable government outcome, the plaintiff has failed to meet his burden, and the trial court must grant the motion to dismiss under the Act." *Anderson*, 2026 IL 131714, ¶ 32.

Plaintiff cannot satisfy its burden to prove with clear and convincing evidence that LJC's speech was not genuinely aimed at procuring favorable government action. Plaintiff effectively

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to be aimed at procuring favorable government action. *See Stoneback v. Olickal*, 2026 IL App (1st) 240650-U, ¶ 49; *Chicago Reg'l Council of Carpenters v. Jursich*, 2013 IL App (1st) 113279, ¶ 19.

concedes that LJC's speech was aimed at shaping public perception regarding Plaintiff's obligations related to financial audits. Compl. ¶ 17 ("CTU's claims against LJC arise out of its statements directed at Illinois citizens, including CTU, CTU's members, and Chicago voters."); *see also* Compl. ¶¶ 7, 16, 18 (similar). Because the Act expressly protects speech regarding the "operation of government" and "the making of public policy and decisions," 735 ILCS 110/5, Plaintiff's concession is fatal to satisfying its burden to prove with clear and convincing evidence that LJC's speech was not genuinely aimed at procuring favorable government action.

Plaintiff also cannot dispute that LJC's lawsuit—and the speech related to LJC's lawsuit, including the memes challenged here—actually resulted in favorable government action. After LJC sued Plaintiff seeking production of the missing audits reports, the federal government began an investigation into Plaintiff with the purpose of determining whether federal reform was required "to protect unions members' rights." Ex. 4 at 1. Even now, LJC is pursuing an appeal in the *Weiss* litigation to argue that Plaintiff is required to furnish members with electronic portal access to unabridged reports rather than summary audit reports. LJC's goal with the *Weiss* litigation—and the memes challenged here—is to procure the favorable government outcome of forcing the union to act with complete financial transparency towards its members. That LJC's memes express this message through humor does not undermine the seriousness of LJC's aim in seeking favorable government action. 735 ILCS 110/5 (protecting "other expressions").

C. LJC Is Entitled To Its Attorney's Fees and Costs for This Motion

The Illinois Citizen Participation Act also provides for a mandatory award of attorney's fees for a successful motion: "The court shall award a moving party who prevails in a motion under this Act reasonable attorney's fees and costs incurred in connection with the motion." 735 ILCS 110/25. If the Court grants LJC's motion to dismiss, LJC will submit a supplemental filing with its attorney's fees and costs for bringing this motion.

Conclusion

LJC respectfully requests that the Court dismiss the Complaint with prejudice and grant such other relief as the Court deems fit.

Dated: October 23, 2026

Respectfully submitted,

/s/ David M. Friebus

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Certificate of Service

The undersigned attorney hereby certifies that the foregoing **Memorandum in Support of Motion to Dismiss Pursuant to 735 ILCS 5/2-619.1** was filed with the Clerk of Court via Odyssey eFileIL on October 23, 2026. Notice of this filing will be sent to the following via email and via the Court's e-filing system:

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[x] Under penalties provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct.

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