**UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF MICHIGAN**
**SOUTHERN DIVISION**

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CHRISTIAN KLEINJANS,

Plaintiff,

vs.

M. SCOTT KORPAK, MATTHEW SHANE, and ERIN MOORE, in their official and personal capcities,

Defendants.

Case No. 1:24-cv-643

Hon. Hala Y. Jarbou

Magistrate Judge Ray Kent

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**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

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## I. INTRODUCTION

On June 21, 2024, Christian Kleinjans ("Plaintiff") filed this action pursuant to 42 USC § 1983 to challenge the constitutionality of his termination from his employment as a community nutrition instructor in the Michigan State University Extension Health and Nutrition Institute in Ottawa County. Plaintiff alleges that the Defendants, as a result of pressure by the republican controlled Ottawa County Board of Commissioners, violated Plaintiff's First Amendment rights by retaliating against him for running for an Ottawa County Commissioner seat as a democrat. On July 3, 2024, Plaintiff moved for preliminary injunctive relief in the form of reinstatement to his former employment until the above-captioned suit is resolved.

A preliminary injunction is not proper in this matter. Plaintiff has not demonstrated a strong or substantial likelihood of success on the merits of his First Amendment retaliation claim because there is no connection between his candidacy for public office and his termination; Plaintiff's allegations that Defendants stated reasons for the termination are pretextual are misplaced; and injunctive relief is not necessary to maintain the status quo. In support of the arguments set forth below, Defendants have submitted several exhibits, including affidavits on behalf of each of the named Defendants, Matthew Shane, M. Scott Korpak (Scott Korpak"), and Erin Moore, all of whom have been named in their individual and official capacities.

## II. COUNTER STATEMENT OF FACTS

Plaintiff worked as a community nutrition instructor in the Michigan State University Extension Health and Nutrition Institute in Ottawa County until June 4, 2024. (Exhibit A, ¶ 3). Defendant Matthew Shane currently serves as the Associate Director for all Field Operations of Michigan State University Extension, which includes oversight of the Michigan State University Extension Office in Ottawa County. (*Id.*, ¶ 2). Defendant Scott Korpak currently serves as the Director of Michigan State University Extension Offices located in Allegan, Barry, Kent, and

Ottawa Counties. (Exhibit B, ¶ 2). Finally, Defendant Erin Moore currently serves as the Director of the Michigan State University Extension Health and Nutrition Institute. (Exhibit C, ¶ 2).

On or about November 27, 2023, Plaintiff notified the Defendants that he intended to campaign for an open Ottawa County Commissioner seat. (Exhibit A, ¶ 4; Exhibit B, ¶ 4; Exhibit C, ¶ 4). Plaintiff had not previously discussed the possibility of such a campaign with any of the Defendants. (*Id*.). On December 5, 2023, Erin Moore met with Plaintiff and explained to him that during the campaign phase of the Ottawa County Commissioner election Plaintiff could (a) take a leave of absence through the end of the campaign; or (b) continue to work as a community nutrition instructor so long as he was able to manage his work responsibilities while running for office. (Exhibit C, ¶ 6). At the December 5, 2023 meeting, Erin Moore told Plaintiff explicitly that if he was elected to the Ottawa County Board of Commissioners he would not be able to continue to work as a community nutrition instructor in Ottawa County for a number of reasons, including concerns related to potential conflicts of interest. (*Id*., ¶ 8). Defendants never told Plaintiff that he would be able to serve simultaneously as an Ottawa County Commissioner and a community nutrition instructor if he ultimately won the election. (Exhibit A, ¶ 6; Exhibit B, ¶ 6; Exhibit C, ¶ 9).

Plaintiff indeed won and was elected to the Ottawa County Board of Commissioners. (Compl., ECF No. 1, ¶ 38, PageID.10). On May 23, 2025, Plaintiff and Defendants met, and it was again conveyed to Plaintiff that he would not be able to serve simultaneously as an Ottawa County Commissioner and as a community nutrition instructor in Ottawa County (Exhibit A, ¶ 15; Exhibit B, ¶ 16; Exhibit C, ¶ 12). The basis for this decision was three-fold:

- Concerns relating to potential conflicts of interest between Plaintiff's responsibilities as an Ottawa County Commissioner and his work as a community nutrition instructor in Ottawa County. The Michigan State University Extension office in Ottawa County, where Plaintiff

works, is funded in part through a Memorandum of Understanding that is voted on annually by the Ottawa County Board of Commissioners. (Exhibit A, ¶ 7; Exhibit B, ¶ 7).

- Concerns that serving in both roles simultaneously would be a violation of the Incompatible Public Offices Act, MCL 15.181 *et seq*.

- Plaintiff would not realistically be able to continue work as a community nutrition instructor, which requires forty hours of work per week during normal business hours and serve as an Ottawa County Commissioner.

(Exhibit A, ¶ 16; Exhibit B, ¶ 15; Exhibit C, ¶ 12). Alternatively, Plaintiff was offered the opportunity to go on unpaid leave through December 31, 2024, the end date for his current term as an Ottawa County Commissioner. (Exhibit D). Plaintiff, however, declined to take a leave of absence and was terminated on June 4, 2024. (Exhibit E).

The decision to terminate Plaintiff was premised entirely on concerns relating to potential conflicts of interest, compliance with the Incompatible Public Offices Act, and the fact that Plaintiff would not be able to satisfy the obligations of both roles – in absolutely no way was the decision based on or related in any manner to:

- Pressure by the republican controlled Ottawa County Board of Commissioners to retaliate against Plaintiff.

- The content of any speech by Plaintiff, political or otherwise.

- Any political affiliation with the Ottawa County democratic party.

- Any other political activity of Plaintiff.

(Exhibit A, ¶ 19; Exhibit B, ¶ 15; Exhibit C, ¶ 12).

## III. ARGUMENT

Preliminary injunctions are "extraordinary remed[ies]" that courts should avoid entering "unless the movant carries [their] burden of proving that the circumstances clearly demand it." *Overstreet v. Lexington-Fayette Urban County Government*, 305 F.3d 566, 573 (6th Cir. 2002) (citing *Leary v. Daeschner*, 228 F.3d 729, 739 (6th Cir. 2000) (citations omitted)). The party

seeking injunctive relief bears a heavy burden of establishing that the drastic remedy sought is appropriate under the circumstances. *Id*.; *Stenberg v. Checker Oil Co.*, 573 F.2d 921, 925 (6th Cir. 1978). The proof required for the plaintiff to obtain a preliminary injunction is much more stringent than the proof required to survive a summary judgment motion. *Leary* at 739.

When considering a preliminary injunction, courts balance four factors: (1) whether the movant has shown a strong likelihood of success on the merits; (2) whether the movant will suffer irreparable harm if the injunction is not issued; (3) whether the issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuing the injunction." *Id*. When the preliminary injunction is sought based on a constitutional harm, "the likelihood of success on the merits often will be the determinative factor." *Commonwealth v. Beshear*, 981 F.3d 505, 508 (6th Cir. 2020) quoting *City of Pontiac Retired Emps. Ass'n v. Schimmel*, 751 F.3d 427, 430 (6th Cir. 2014) (order) (en banc) (per curiam) (citation omitted).

**A. Plaintiff Has Not Satisfied the Preliminary Injunction Factors.**

**1. Plaintiff is Unlikely to Succeed on the Merits.**

Plaintiff claims that Defendants violated his First Amendment rights by terminating his Michigan State University Extension employment in response to pressure from the Ottawa County Board of Commissioners republican majority in retaliation for Plaintiff running for an Ottawa County Commissioner seat as a democrat. (Compl., ECF No. 1, ¶¶ 47-54, PageID.13-15). To prevail on a claim for First Amendment retaliation generally, plaintiffs must prove (1) they engaged in protected conduct; (2) the defendant took an adverse action against them; and (3) a causal connection exists between the two. *Rudd v. City of Norton Shores*, 977 F.3d 593, 513 (6th Cir. 2020). However, a plaintiff claiming that they have been discharged from public employment in violation of the First Amendment must show not only that they were discharged because of their political activities, but that their constitutionally-protected activity was a "substantial" or

"motivating factor" behind the defendant's decision to terminate. *Conklin v. Lovely*, 834 F.2d 543, 546 (6th Cir. 1987) (quoting *Mt. Healthy City Board of Educ. v. Doyle*, 429 U.S. 274, 287 (1977).

**a. Plaintiff Cannot Prove a Causal Connection Between His Protected Activity and His Termination.**

Plaintiff's Motion for Preliminary Injunction is premised on the following allegations, none of which are supported by documentary evidence[1]:

- Defendants admitted that Plaintiff was terminated because he ran for an Ottawa County Commissioner seat as a democratic. (ECF No. 8, PageID.45).[2]
- Defendants terminated Plaintiff as a result of pressure from the republican controlled Ottawa County Board of Commissioners. (*Id*.).[3]
- Defendants terminated Plaintiff because of his political association with the democratic party, and the stated reasons for the termination are pretextual. (*Id*., PageID.50).[4]

Further, the Defendants' affidavits filed in support of this Response In Opposition, at a minimum, create disputed questions of fact regarding the following allegations:

- Plaintiff did not tell any of Defendants that he intended to run for an Ottawa County Commissioner seat until on or about November 27, 2023. (Exhibit A, ¶ 4; Exhibit B, ¶ 4; Exhibit C, ¶ 4).
- Defendants would not have not treated any employees in the Ottawa County Extension office, including Plaintiff, any differently from all other Michigan State University Extension employees located in other county extension offices as a result of political concerns relating to the Ottawa County Board of Commissioners. (Exhibit A, ¶ 20).

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[1] Plaintiff included no exhibits to his Complaint, and in support of his Motion for Preliminary Injunction attached the following exhibits: (1) May 23, 2024, letter from Matthew Shane to Plaintiff summarizing the May 23, 2024 meeting between the parties; (2) an affidavit of Plaintiff; and (3) a portion of the "Guide to Michigan County Government," which addresses broadly conflicts of interest and the Incompatible Public Offices Act. (ECF 8-1 – 8-3, PageID.55-67).

[2] Defendants' affidavits state expressly the opposite. (Exhibit A, Exhibit B, Exhibit C).

[3] Defendants' affidavits state expressly the opposite. (*Id*,).

[4] Defendants' affidavits state expressly the opposite. (*Id*.).

- Defendant Matthew Shane's discussion with Plaintiff in December 2023, wherein he told Plaintiff he was not at risk of losing his job, and that Plaintiff was not in violation of any Michigan State University Extension policies, related specifically to Plaintiff's decision to *campaign* for an Ottawa County Commissioner seat only, and did not relate to the prospect of Plaintiff serving as an Ottawa County Commissioner *should he be elected*. (*Id*., ¶ 7).

- Plaintiff was told expressly that if he was *elected* to the Ottawa County Board of Commissioners he would not be able to continue to work as a community nutrition instructor (Exhibit A, ¶ 5; Exhibit B, ¶ 5; Exhibit C, ¶ 8).

- Defendants never told Plaintiff that he would be permitted to serve simultaneously as an Ottawa County Commissioner and a community nutrition instructor in Ottawa County. (*Id*., ¶ 6; *Id*., ¶ 6; *Id*., ¶ 9).

- On May 23, 2024, when Plaintiff met with Defendants, Defendants explained to Plaintiff that serving as an Ottawa County Commissioner and a community nutrition instructor in Ottawa County potentially created a conflict of interest, may violate the Incompatible Public Offices Act, and was not realistic based on the obligations of both positions. (*Id*., ¶ 16; *Id*., ¶ 15; *Id*., ¶ 12).

- The basis for the decision to terminate Plaintiff was not the result of any pressure from the republican controlled Ottawa County Board of Commissioners. (*Id*., ¶ 19; *Id*., ¶ 18; *Id*., ¶ 15).

- The basis for the decision is not related to Defendant's decision to run as a democrat for an Ottawa County Commissioner seat. (*Id*.)

To succeed on a First Amendment retaliation claim, Plaintiff must prove not only a causal connection between his efforts to run for an Ottawa County Commissioner seat as a democrat and his termination, but that his "protected-speech" was a substantial or motivating factor in his termination. *See Conklin* at 546. Here, Plaintiff submits no documentary evidence in support of the allegations in his Complaint or his Motion for Preliminary Injunction that the republican controlled Ottawa County Board of Commissioners in fact pressured Defendants to terminate Plaintiff after he was elected in May of 2024; or that Defendants terminated Plaintiff as a result of his affiliation with the democratic party. For these reasons alone, Plaintiff has not demonstrated a strong or substantial likelihood of success on the merits because he has not met his burden of proving a causal connection between his protected speech and any adverse employment action.

Further, the affidavits of Defendants directly contradict numerous allegations contained in Plaintiff's Complaint and Plaintiff's Motion for Preliminary Injunction. Specifically, Defendants testify through their affidavits as follows: (a) Plaintiff was told well in advance of the election that if he won an Ottawa County Commissioner seat he would not be able to continue to work as a community nutrition instructor in Ottawa County; (b) the republican controlled Ottawa County Board of Commissioners did not pressure Defendants to terminate Plaintiff after he was elected[5]; and (c) the decision to terminate Plaintiff was based solely and entirely on concerns relating to potential conflicts of interest, compliance with the Incompatible Public Offices Act, and the challenges associated with Plaintiff fulfilling the duties associated with both roles. Plaintiff has not demonstrated a strong likelihood of success with respect to his First Amendment retaliation claim because he will not be able to prove that his protected activity was a substantial or motivating factor behind the decision to terminate him.

**b. Plaintiff's Emphasis on Alleged Pretext Is Misplaced.**

Plaintiff's Motion for Preliminary Injunction alleges that the lawful bases for Defendants' decision to terminate his employment are pretextual. (ECF No. 8, PageID.46, 47, 50). First Amendment employment retaliation claims are analyzed under a burden-shifting framework. *Dye v. Office of the Racing Comm'n*, 702 F.3d 286, 294 (6th Cir. 2012). Once a plaintiff-employee makes a prima facie case of retaliation, the burden shifts to the employer to demonstrate "by a preponderance of the evidence that the employment decision would have been the same absent the

[5] Defendants note that there were discussions between Michigan State University Extension staff and the Ottawa County Board of Commissioners in early 2024 regarding approval of the annual Memorandum of Understanding wherein Ottawa County Commissioners suggested that Plaintiff be relocated to a different Extension office while he was campaigning. (Exhibit A, ¶¶ 9-12; Exhibit B, ¶¶ 8-11). That request was denied. (*Id.*; Exhibit F). Defendants were never otherwise pressured in any way by the Ottawa County Board of Commissioners to take any action with respect to Plaintiff's employment. (*Id.*).

protected conduct." *Id*. (quoting *Eckerman v. Tennessee Dep't of Safety*, 208 (6th Cir. 2010) (internal quotation omitted). Unlike in the *McDonnell-Douglas* burden shifting framework, the burden does not shift back to a plaintiff to show pretext. *Id*. Thus, Plaintiff's allegations that the basis for the decision to terminate Plaintiff are pretextual should be disregarded as non-dispositive.

As detailed above, the affidavits of Defendants are explicit: the decision to terminate Plaintiff was premised entirely on concerns relating to potential conflicts of interest, the Incompatible Public Offices Act, and the logistical challenges of Plaintiff fulfilling both roles. (Exhibit A, ¶ 16; Exhibit B, ¶ 15; Exhibit C, ¶ 12). In no way was the decision to terminate Plaintiff the result of pressure by the republican controlled Ottawa County Board of Commissioners. (*Id*., ¶ 19; *Id*., ¶ 18; *Id*., ¶ 15). In no way was the decision to terminate Plaintiff connected with his political affiliation with the Ottawa County democratic party. (*Id*.) Thus, the decision to terminate Plaintiff would have been the same absent Plaintiff's protected-speech.

**c. Defendants' Concerns Relating to Conflicts of Interest and Compliance with the Incompatible Public Offices Act.**

Plaintiff was elected to the Ottawa County Board of Commissioners on May 7, 2024. (Compl., ECF No. 1, ¶ 38, PageID.10). No Defendants ever told Plaintiff that he would be permitted to maintain his employment as a community nutrition instructor if he was elected to the Ottawa County Board of Commissioners, and in fact, Plaintiff was told expressly that if he was elected he would not be permitted to continue to work as a community nutrition instructor. (Exhibit A, ¶¶ 5, 6; Exhibit B, ¶¶ 5, 6; Exhibit C, ¶¶ 8, 9). This was communicated to Plaintiff shortly after he shared his plans to campaign for an Ottawa County Commissioner seat and was reiterated by Defendants when the parties met on May 23, 2024. (*Id*., ¶ 16; *Id*., ¶ 15; *Id*., ¶ 12). Defendants have consistently communicated to Plaintiff that the reason he could not simultaneously serve as an

Ottawa County Commissioner and as a community nutrition instructor in Ottawa County is due to the following:

- Concerns relating to potential conflicts of interest between Plaintiff's responsibilities as an Ottawa County Commissioner and his work as a community nutrition instructor. The Michigan State University Extension office in Ottawa County, where Plaintiff works, is funded in part through a Memorandum of Understanding that is voted on annually by the Ottawa County Board of Commissioners. (Exhibit A, ¶ 7; Exhibit B, ¶ 7).

- Concerns that serving in both roles simultaneously would be a violation of the Incompatible Public Offices Act, MCL 15.181 *et seq*.

- Plaintiff would not realistically be able to continue work as a community nutrition instructor, which requires forty hours of work per week during normal business hours and serve as an Ottawa County Commissioner.

(*Id*.). Plaintiff claims that Defendants could have resolved these issues without requiring Plaintiff to relinquish his position as a community nutrition instructor. (ECF No. 8, PageID 47-50). That doesn't matter. Defendants disagree that accommodations could have been put in place that would have allowed Plaintiff to serve in both roles, but even assuming Plaintiff is correct on this point, terminating Plaintiff based on the above-described issues does not impair or infringe on his First Amendment rights. Plaintiff is an at-will employee, and under Michigan law, as a general rule, an at-will employee may be terminated at any time and for any reason. *Authier v. Ginsberg*, 757 F.2d 796, 798 (6th Cir. 1985) (citing *Lynas v. Maxwell Farms*, 279 Mich. 684, 687; 273 N.W. 315, 316 (1937)).

Plaintiff also claims that the Defendants did not otherwise properly deal with potential conflicts of interest or compliance with the Incompatible Public Offices Act in this case, or are somehow incorrect that these issues present at all. (*Id*.). Again, Defendants disagree, but even if Plaintiff is correct, if the Defendants' assessment and handling of concerns relating to conflicts of interest and compliance with the Incompatible Public Offices Act was somehow wrong, this also does not support Plaintiff's claim for First Amendment Retaliation. *See Connick v. Myers*, 461

U.S. 138, 146 (1983) (holding that a "government employer's dismissal of [a] worker may not be fair, but ordinary dismissals from government service which violate no fixed tenure or applicable statute or regulation are not subject to judicial revie even if the reasons for the dismissal *are alleged to be mistaken or unreasonable*.") (emphasis added) (citing *Bd. of Regents v. Roth*, 408 U.S. 564 (1972); *Perry v. Sniderman*, 408 U.S. 593 (1972); *Bishop v. Wood*, 426 U.S. 341 (1976)).

**d. Affirmative Relief in the Form of Reinstatement During the Pendency of this Case is Not Necessary to Maintain the Status Quo.**

The purpose of a preliminary injunction is to preserve the status quo until a trial on the merits. *S. Glazer's Distribs. Of Ohio LLC v. Great Lake Brewing Co.*, 860 F.3d 844, 848 (6th Cir. 2017) (citing *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981). The proof required for the plaintiff to obtain a preliminary injunction is much more stringent than the proof required to satisfy a motion for summary judgment. *Leary* at 739. This already stringent burden is even more difficult to meet where a plaintiff seeks an injunction not to merely maintain the status quo pending resolution of the case but to obtain affirmative relief. *Schrier v. Univ. of Colorado*, 427 F.3d 1253, 1259 (10th Cir. 2005). Preliminary injunction motions seeking affirmative relief must be more closely scrutinized than a motion for preliminary injunction that seeks to simply maintain the relative positions of the parties. *See Id.*; *Johnson v. Kay*, 860 F.2d 529, 540 (2nd Cir. 1988).

Plaintiff was terminated from his at-will employment with Michigan State University Extension on June 4, 2024, and now, through his Motion for Preliminary Injunction seeks an order that he be reinstated to his former position for the duration of the above-captioned suit. (ECF No. 8, PageID.54). Plaintiff has not demonstrated that this is the type of case that would warrant such affirmative relief. Such an order is not required to maintain the status quo of the parties or to preserve the Court's ability to render a meaningful judgment on the merits at the conclusion of this

case in the form of economic damages and reinstatement if Plaintiff succeeds on his First Amendment retaliation claim.

**2. The Remaining Preliminary Injunction Factors.**

Given Plaintiff's lack of likelihood of success on the merits, the Court does not need to carefully weigh the remaining preliminary injunction factors. *Gonzales v. Nat'l Bd. of Med. Exam'rs*, 225 F.3d 620 (6th Cir. 2000) ("Although no one factor is controlling, a finding that there is simply no likelihood of success on the merits is usually fatal."). With that said, Plaintiff has not satisfied the remaining three preliminary injunction factors.

**a. Plaintiff Has Not Made a Strong Showing of Irreparable Harm.**

Plaintiff relies on *Elrod v. Burns*, 427 U.S. 347 (1976), which holds that minimal infringement on a plaintiff's First Amendment rights constitutes an irreparable injury, to argue broadly that a preliminary injunction is warranted here. (ECF No. 8, PageID.51). However, absent a showing of a substantial likelihood of success on the merits, Plaintiff has failed to show irreparable injury. *See Connection Distrib. Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998) (stating "*to the extent that [Plaintiff] can establish a substantial likelihood of success on the merits of its First Amendment claim*, it also has established the possibility of irreparable harm as a result of the deprivation of the claimed free speech rights") (emphasis added).[6]

**b. The Balance of Harms and the Public Interest Factors Favor Defendants.**

As to the final two preliminary injunction factors – the balance of equities and the public interest – both factors weigh in favor of denying Plaintiff's Motion for Preliminary Injunction.

[6] Plaintiff also argues that as a result of his termination he will have to devote time to looking for a new job, which will negatively impact his campaign for reelection to the Ottawa County Board of Commissioners. (ECF No. 8, PageID.41, 53). This inconvenience does not rise to the level of irreparable harm. *See Carver v. Dennis*, 104 F.3d 847, 851 (6th Cir. 1997) (holding that the First Amendment does not confer a right to run for office).

First, Plaintiff states without support that "Defendants will not suffer harm from an injunction." (ECF No. 8, PageID.53). This ignores two obvious harms that Defendants will suffer if Plaintiff is immediately reinstated to his former position. First, there is legitimate and well-founded concern that if Plaintiff is serving simultaneously as an Ottawa County Commissioner and a community nutrition instructor that will create a conflict of interest, and may also be a violation of the Incompatible Public Offices Act, MCL 15.181 *et seq*. In addition, forcing Michigan State University Extension to reinstate Plaintiff will have a negative effect on harmony amongst co-workers within the Ottawa County Extension office and will interfere with the regular operations of Michigan State University Extension. See *Gillis v. Miller*, 845 F.3d 677, 684 (6th Cir. 2017) (applying the balancing test laid out in *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968), which balances a Plaintiff's First Amendment interests against a public employer's interests in efficiently managing a public agency).

With respect to the final preliminary injunction factor, the public interest, this factor primarily addresses the impact of the injunctive relief on non-parties. *Hunter v. Hamilton Cty. Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011). Plaintiff argues that this factor weighs in favor of reinstating Plaintiff for the duration of the lawsuit because it will prevent the chilling of political speech and opposition to the republican controlled Ottawa County Board of Commissioners. (ECF No. 8, PageID.53-54). First, the record here is clear – the Defendants did not succumb to pressure by the Ottawa County Board of Commissioners to retaliate against Plaintiff for running as a democratic candidate in Ottawa County. Further, Plaintiff fails to explain how reinstating him to his former position as a community nutrition instructor will prevent a chilling effect on political speech amongst other Michigan State University Extension employees, Ottawa County residents, or anyone else for that matter.

## IV. Defendants Reserve All Affirmative Defenses

Plaintiff filed the above-captioned suit on June 21, 2024. (ECF No. 1). Plaintiff filed his Motion for Preliminary Injunction on July 3, 2023. (ECF No. 7). As part of Plaintiff's Motion for Preliminary Injunction he also sought a temporary restraining order (*Id.*). The Court entered an order on July 3, 2024, denying Plaintiff's request for a temporary restraining order and requiring an expedited response to the Motion for Preliminary Injunction. (ECF No. 11). The Court entered a stipulated order on July 10, 2024, requiring Defendants to respond to the Motion for Preliminary Injunction on or before July 24, 2024, and to file their first responsive pleadings on or before August 19, 2024. (ECF No. 14). Defendants reserve all affirmative defenses, which will be fully addressed and set forth as part of its first responsive pleadings, and do not otherwise waive any available defenses through the filing of this Response in Opposition to Plaintiff's Motion for Preliminary Injunction.

## V. Conclusion

For the foregoing reasons, Defendants, Matthew Shane, M. Scott Korpak, and Erin Moore respectfully request that this Court deny Plaintiff's Motion for Preliminary Injunction.

Respectfully Submitted,

Date: July 24, 2024

Matthew R. Daniels
Attorney for Defendants

**Index of Exhibits**

Exhibit A – Affidavit of Matthew Shane

Exhibit B – Affidavit of M. Scott Korpak

Exhibit C – Affidavit of Erin Moore

Exhibit D – May 29, 2024 Letter from Jessica Nakfour to Plaintiff

Exhibit E – June 4, 2024 Letter from Jessica Nakfour to Plaintiff

Exhibit F – January 5, 2023 Letter from Matthew Shane to Joe Moss and John Gibbs

**CERTIFICATE OF COMPLIANCE**

As required by LCivR 7.2(b)(i), I hereby certify that this brief includes 4,293 words including headings, footnotes, citations and quotations and not including the case caption, cover sheet, any table of contents, table of authorities, the signature block, attachments, exhibits, and affidavits. This word count was generated by Microsoft Word, the processing software utilized to draft this brief.

Matthew R. Daniels