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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JEFFERY SCHROEDER, Plaintiff, v. ALLISON ARMSTRONG, *et al.*, Defendants.	Case No. _____ Judge _____ **Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction**

I. Introduction

Plaintiff Jeffery Schroeder hereby seeks a temporary restraining order and preliminary injunction against Defendants, Toledo Fire Chief Allison Armstrong, Toledo Safety Director George Kral, Battalion Chiefs Jeremy Vedra and Robert Thomas, Captain Matthew Shiple, Lieutenant Antwoine Mister, and the City of Toledo, that orders Plaintiff's immediate reinstatement to his position as Lieutenant in Toledo's Fire and Rescue Department, based on his retaliatory termination in violation of the United States First Amendment.

In November 2025, Defendants terminated Plaintiff from his decades-long employment with the Department based on a single Facebook comment he posted to his personal account during off-hours that criticized Charlie Kirk, a prominent and divisive political commentator and activist who was assassinated in September 2025. Plaintiff's comment, which he made before he learned of Kirk's death from the shooting, expressed in whole that the shooting was "[t]otally preventable and avoidable if not for the policies and beliefs like Charlie Kirk and his uneducated hateful ilk," and that Plaintiff "[w]ish[ed] the guy was a better shot," since "Kirk offers nothing but hate and division to society… and discourse would be better without him."

Schroeder's statement, which communicated his opinion that the world would be better off without Kirk's divisive and hateful influence on public discourse, was fundamental political speech that is protected under the First Amendment as confirmed by clearly established precedent from the Sixth Circuit and Supreme Court of the United States. This precedent leaves no doubt that Defendants' decision to terminate Schroeder's employment constitutes an actionable violation of his First Amendment rights. *See, e.g.*, *Watts v. United State*s, 394 U.S. 705, 705 (1969) (statement that "if they ever make me carry a rifle the first man I want to get in my sights is L.B.J." was constitutionally protected political hyperbole, rather than a true "threat" against the President of the United States); *Noble v. Cincinnati & Hamilton Cty. Pub. Libr.*, 112 F.4th 373, 384 (6th Cir.2024), fn. 3 ("*Rankin* recognizes a wide parameter of protected speech, even allowing for hyperbole that references deadly violence. … [I]t is our duty to enforce the full scope of First Amendment protection in a consistent fashion and without regard to which side of the political aisle is offended by the speech."), discussing *Rankin v. McPherson*, 483 U.S. 378 (1987).

Defendants' termination of Schroeder constitutes an especially egregious First Amendment violation because Defendants have purported to justify their actions primarily with claims about how members of the public "interpreted" his post, and that it "resulted in widespread public outrage and condemnation, with over one thousand complaints from the public," after another highly divisive and influential public figure—Chaya Raichik, the owner of the widely followed "Libs of TikTok" social media accounts—was forwarded Schroeder's comment and shared it with her millions of followers, urging them to contact the Toledo Fire Department to demand his termination.

Allowing Schroeder's termination to stand under these circumstances would be to accept that our government can take any action at all in response to its employees' political opinions as long as there are influential political figures who can rally enough of their followers to express their disagreement with those opinions. Such a phenomenon has been recognized by the Sixth Circuit as a "heckler's veto," which, if permitted to be enforced by government officials like the Defendants

here, would result in the precisely the type of "odious viewpoint discrimination that cuts to the First Amendment's core." *Defending Edn. v. Olentangy Local School Dist. Bd. of Edn.*, 6th Cir. No. 23-3630, 2025 U.S. App. LEXIS 29181, at *29-32 (Nov. 6, 2025), quoting *Bible Believers v. Wayne County*, 805 F.3d 228, 248 (6th Cir. 2015) (*en banc*).

To hold otherwise would be to cede our public discourse to extremists and those who hold the most power over the flow of information, which would inevitably result in uniformity of opinion in our public offices and provide a license for precisely the type of governmental tyranny that the First Amendment was designed to protect against. *See, e.g.*, *Snyder v. Phelps,* 562 U.S. 443, 452, 131 S.Ct. 1207, 179 L.Ed.2d 172 (2011) ("The First Amendment reflects a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open. That is because speech concerning public affairs is more than self-expression; it is the essence of self-government. Accordingly, speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.") (internal citations and punctuation omitted); *United States v. Alvarez*, 567 U.S. 709, 723, 132 S.Ct. 2537, 183 L.Ed.2d 574 (2012) ("[F]ree speech, thought, and discourse are … a foundation of our freedom.").

"[I]rreparable harm is presumed in cases of constitutional violations." *Castillo v. Whitmer*, 823 F.App'x 413, 418 (6th Cir.2020). The Supreme Court has in fact "unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief." *Newsom v. Norris*, 888 F.2d 371 (6th Cir. 1989), quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). And courts within the Sixth Circuit and nationwide have routinely issued injunctions ordering that wrongly terminated plaintiffs be reinstated to their jobs. *See, e.g.*, *McGruder v. Metro. Govt. of Nashville & Davidson Cty.*, 99 F.4th 336, 344 (6th Cir.2024) (affirming the district court's injunction for reinstatement of an employee in a Title VII retaliation case, noting that limiting reinstatement would undermine the deterrent effect of Title VII); *Ahearn ex rel. NLRB v. Jackson Hosp. Corp.*, 351 F.3d 226, 233 (6th Cir.2003) (affirming district court's holding that "a

temporary injunction for interim reinstatement of the terminated employees was 'just and proper' because the threats of getting fired, closely followed by actual firings, was 'inherently chilling to union support'").

Because the record here demonstrates that Plaintiff is likely to succeed on the merits of his First Amendment claim arising from the Fire Department's wrongful termination of his employment, he hereby seeks a temporary restraining order and preliminary injunction from this Court that Defendants reinstate his employment so as to avoid further irreparable harm resulting from Defendants' unconstitutional actions.

II. Facts

The following facts are affirmed in Schroeder's complaint for this action. Plaintiff Jeffery Schroeder, a Lieutenant with the Toledo Fire and Rescue Department ("the Department"), was terminated by Defendants after 28 years of distinguished service to the Department, and 35 years of such service to the City of Toledo, due to a single comment he made on Facebook.com, off-hours, and in his personal capacity, about a matter having nothing to do with the Department or Schroeder's job responsibilities. Rather, Schroeder's Facebook comment pertained to the shooting of the prominent and controversial political commentator and activist Charlie Kirk, which was an act of political violence that became the subject of much national discourse, and which resulted in Kirk's widespread memorialization by the nation's most prominent politicians, public officials, and news outlets.

Kirk was in fact extremely divisive in his influence on public life in this nation, as illustrated by the following statements *The Guardian* published in the wake of his death: [1]

- "I think it's worth it to have a cost of, unfortunately, some gun deaths every single year so that we can have the second amendment to protect our other God-given rights. That is a prudent deal. It is rational." April 5, 2023, during event organized by TPUSA Faith, the

[1] Chris Stein, *Charlie Kirk in His Own Words: 'Prowling Blacks,' and 'The Great Replacement Strategy'*, THE GUARDIAN (Sept. 11, 2025), www.theguardian.com/us-news/2025/sep/11/charlie-kirk-quotes-beliefs.

religious arm of Kirk's conservative group Turning Point USA

- "If I see a Black pilot, I'm going to be like, boy, I hope he's qualified." Jan. 23, 2024, on *The Charlie Kirk Show*

- "Happening all the time in urban America, prowling Blacks go around for fun to go target white people, that's a fact. It's happening more and more." May 19, 2023, on *The Charlie Kirk Show*

- "If we would have said that Joy Reid and Michelle Obama and Sheila Jackson Lee and Ketanji Brown Jackson were affirmative action picks, we would have been called racists. Now they're coming out and they're saying it for us … You do not have the brain processing power to otherwise be taken really seriously. You had to go steal a white person's slot to go be taken somewhat seriously." July 13, 2023, on *The Charlie Kirk Show*

- "Reject feminism. Submit to your husband, Taylor. You're not in charge." Aug. 26, 2025, discussing news of Taylor Swift and Travis Kelce's engagement on *The Charlie Kirk Show*

- "America was at its peak when we halted immigration for 40 years and we dropped our foreign-born percentage to its lowest level ever. We should be unafraid to do that." Aug. 22, 2025, on *The Charlie Kirk Show*

- "The American Democrat party hates this country. They wanna see it collapse. They love it when America becomes less white." March 20, 2024, on *The Charlie Kirk Show*

- "America has freedom of religion, of course, but we should be frank: large dedicated Islamic areas are a threat to America." April 30, 2025, on *The Charlie Kirk Show*

- "We've been warning about the rise of Islam on the show, to great amount of backlash. We don't care, that's what we do here. And we said that Islam is not compatible with western civilization." June 24, 2025, on *The Charlie Kirk Show*

Reflecting on Kirk's memorialization, one widely acclaimed author and social commentator Ta-Nehisi Coates wrote in *Vanity Fair* that "[b]y ignoring the rhetoric and actions of the Turning Point USA founder, pundits and politicians are sanitizing his legacy."[2] Coates noted that Kirk "left a compendium of words" before he was killed, and that "[i]t is somewhat difficult to match these words with the manner in which Kirk is presently being memorialized in mainstream discourse" given that he "reveled in open bigotry" and "endorsed hurting people to advance his preferred

[2] Ta-Nehisi Coates, *Charlie Kirk, Redeemed: A Political Class Finds Its Lost Cause*, VANITY FAIR (Sept. 16, 2025), https://www.vanityfair.com/news/story/charlie-kirk-ezra-klein-tanehisi-coates?srsltid=AfmBOop8RRMJ4sqrbNVzCZT3whTD8yc03hPFqTYQ4fks4RCB--mwl0sp.

policy outcomes." Coates accordingly suggested that "the hard question must be asked: If you look away from the words of Charlie Kirk, from what else would you look away?"

To that effect, after having heard about Kirk's shooting, but not knowing of his death, on September 10, 2025, Plaintiff Schroeder commented from his personal Facebook account on a post by the local ABC affiliate on the shooting. His post stated, in full:

> "Thoughts and prayers. Totally preventable and avoidable if not for the policies and beliefs like Charlie Kirk and his uneducated hateful ilk. Wish the guy was a better shot. Charlie Kirk offers nothing but hate and division to society. No one would miss him and discourse would be better without him."

Soon after Schroeder made this post—communicating his fundamentally political opinion that the world would be better off without Kirk's divisive and hateful influence on public discourse—another highly influential and divisive political figure, Chaya Raichik, who runs the "Libs of TikTok" social media accounts, that are described by Wikipedia as "anti-LGBTQ" and "far-right," and which have millions of followers, inquired of the Department's Battalion Chief Jeremy Vedra about Schroeder's post, and the Department's "social media policy."

When Schroeder published this comment, he was not at work, and it was not during any hours when he was supposed to be at work. In fact, Schroeder was on vacation, published the post from a personal device as a private citizen, and not pursuant to any official duties.

Schroeder's comment had only been published for about 20 minutes before the President of the Toledo Firefighters Local 92 Union, Joe Cira, called Schroeder to notify him that Chief Armstrong had contacted Cira about it. Armstrong asked Cira to contact Schroeder to request that he delete his comment from the WTVG Facebook post. Fearing further retaliation (apart from the fact that the Fire Chief had aksed him to retract his speech in the first place), Schroeder deleted the comment from the WTVG post. In total, the comment remained published for about 30 minutes.

Soon after Schroeder made this post—communicating his fundamentally political and Constitutionally protected opinion that the world would be a better place without Kirk's divisive and

hateful influence—another highly influential and divisive political figure, Chaya Raichik, who runs the "Libs of TikTok" social media accounts, that are described by Wikipedia as "anti-LGBTQ" and "far-right," and which have millions of followers, inquired of the Department's Battalion Chief, Defendant Jeremy Vedra, about Schroeder's post, and the Department's "social media policy."

On information and belief, one of the Defendants, or another member of the Toledo Fire Department known to the Defendants, submitted Schroeder's post to Raichik—along with a photo of Schroeder pulled from his Facebook page (which was accessible only to Schroeder's Facebook "friends") and other information about his position with the Department—for the precise purpose of creating a pretext for subjecting Schroeder to unwarranted and unconstitutional discipline in response to the post. On information and belief, the Defendants all knew, before acting to impose discipline on Schroeder, that Raichik had received the information about Schroeder's post from a source inside of the Department.

Despite having no obligation to respond to Raichik's inquiry, Defendant Vedra sent Raichik an email stating that the "comment in question [wa]s under investigation." Vedra also included his phone number in this email.

Raichik then posted Vedra's email to her social media account, along with Schroeder's post, and information pertaining his employment, soliciting her millions of followers to contact the Department at Vedra's number.

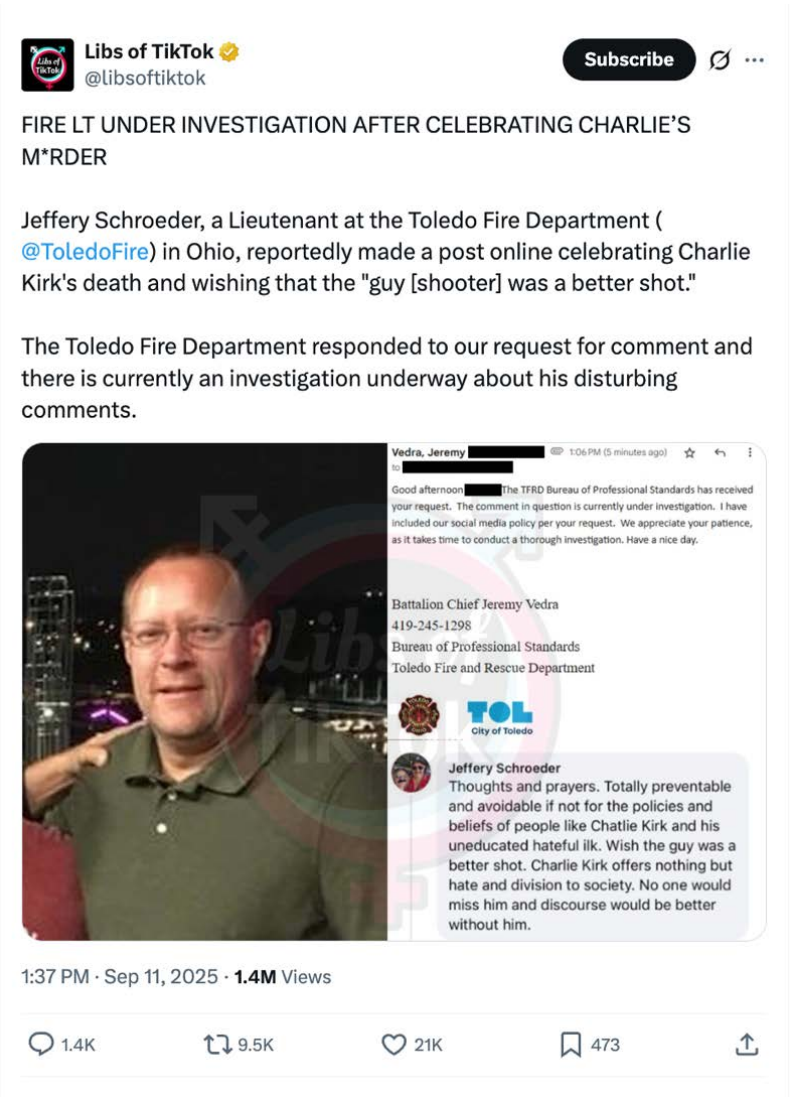

Exhibit 1

As a result of Raichik posting on her "Libs of TikTok," account, Schroeder's comment was widely disseminated and the Department received over one thousand complaints from the public. Shortly thereafter, the City of Toledo charged Schroeder with four violations of the Department's Rules and Regulations solely based on that Facebook comment. *See* **Exhibit 2**, Nov. 12, 2025, Hearing Findings. An administrative hearing was held on these charges on October 29, 2025. Defendant Allison Armstrong, the Fire Chief, was present as the hearing officer, and Defendants Robert Thomas, a Battalion Chief, Matthew Shiple, a Captain, and Antwoine Mister, a Lieutenant, presented the case against Schroeder.

Defendant Armstrong found Schroeder guilty of three of the violations, which included that Schroeder participated in "conduct detrimental, prejudicial, or subversive to the good order and discipline of the Department," violated the administrative policy against social media that "could jeopardize the health, wellness and/or security of any individual employed by the City of Toledo," and violated a policy against the "harmful use of social media." *See* **Exhibit 2**, Nov. 12, 2025, Hearing Findings, at 1-3.

According to Armstrong, who acknowledged that at the time Schroeder made the comment, he was "off duty and did not know that Mr. Kirk was murdered," the Facebook post was "widely disseminated across the world," and was "insensitive and interpreted as an endorsement of political violence against a public figure," resulting "in widespread public outrage and condemnation, with over one thousand complaints from the public." *Id.* at 4. Armstrong claimed that an "inundation of calls, emails, messages, and comments received because of [Schroeder's post] caused significant disruption to department operations," and Vedra, whose name and phone number were included in the "Libs of TikTok" viral post, "received hundreds of harassing phone calls and threats and was unable to perform his job duties temporarily," "had to change his office phone number," and "feared for his safety and had to alter his work habits to address these safety concerns." *Id.* at 4-5. "[N]umerous other department members and Engage Toledo customer service representatives received rude and harassing phone calls and emails." *Id.* at 5.

Armstrong also asserted that the Department's "social media pages were also inundated with negative comments, complaints, and tags in response to [Schroeder's] actions," that were described as "'hateful,' 'inhumane,' 'insensitive,' 'vile,' 'disgusting,' 'evil,' 'horrific,' 'heartless,' 'unprofessional,' 'horrible,' 'abhorrent,' 'incites violence,' 'disturbing,' 'offensive,' 'unacceptable,' and 'unethical.'" *Id.* According to Armstrong, the "department [was required] to implement station lockdowns and increased security measures," because of the post, which also "created frustration and distress amongst employees within the department, undermining department morale and safety." *Id.*

In truth, Schroeder's comment did not cause any material disruption to the Toledo Fire Department's operations. Any such acts taken by the Department outside of its normal operations either did not constitute a material disruption, and/or resulted from the Department's own unreasonable decisions

Based on the three "guilty" findings she made after Schroeder's disciplinary hearing, on November 12, 2025, Defendant Armstrong immediately terminated Schroeder's employment as a City of Toledo Fire Lieutenant after decades of service. In his capacity as the City of Toledo's Safety Director, Defendant George Kral sustained Armstrong's decision to terminate Schroeder, and finalized his removal from the Department.

III. Law & Argument

A. When First Amendment rights are implicated in a motion for a preliminary injunction, "the crucial inquiry" is "whether the plaintiff has demonstrated a likelihood of success on the merits," and "even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief."

"A district court must balance four factors when considering a motion for a preliminary injunction: (1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury absent the injunction; (3) whether the injunction would cause substantial harm to others; and (4) whether the public interest would be served by the issuance of an injunction." *Bays v. City of Fairborn*, 668 F.3d 814, 818-19 (6th Cir. 2012) (citing *Certified Restoration Dry Cleaning Network, LLC v. Tenke Corp.*, 511 F.3d 535, 542 (6th Cir. 2007)). "In First Amendment cases, however, 'the crucial inquiry is usually whether the plaintiff has demonstrated a likelihood of success on the merits. This is so because . . . the issues of the public interest and harm to the respective parties largely depend on the constitutionality of the [state action].'" *Id.* (quoting *Hamilton's Bogarts, Inc. v. Michigan*, 501 F.3d 644, 649 (6th Cir. 2007)); *see also Liberty Coins, LLC v. Goodman*, 748 F.3d 682, 689 (6th Cir. 2014), *cert. denied*, 135 S. Ct. 950 (2015) (quoting *Obama for America v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012)) ("[W]hen a party seeks a preliminary injunction on the basis of a

potential constitutional violation, 'the likelihood of success on the merits often will be the determinative factor"). Indeed, here, the "public interest analysis and the question of whether [Schroeder] will suffer irreparable injury entirely depend[s] on whether [his termination from Toledo's Fire and Rescue Department was] constitutional." *Id.*; *see also Newsom v. Norris*, 888 F.2d 371 (6th Cir. 1989) (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)) ("The Supreme Court has unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief.").

B. Under clearly established precedent from the Sixth Circuit and Supreme Court of United States, Plaintiff is substantially likely to succeed on the merits of his claim that Defendants wrongfully terminated his employment as a Toledo firefighter based on protected political speech.

To prevail on his First Amendment retaliation claim, Plaintiff Schroeder must demonstrate that these three elements are met: (1) "that he engaged in constitutionally protected speech," (2) "that he suffered an adverse action likely to chill a person of ordinary firmness from continuing to engage in protected speech," and (3) "that the protected speech was a substantial or motivating factor in the decision to take the adverse action." *Wood v. Eubanks*, 25 F.4th 414, 428-29 (6th Cir. 2022) (quoting *Westmoreland v. Sutherland*, 662 F.3d 714, 718 (6th Cir. 2011)). Based on the indisputable facts of this matter and well-established Sixth Circuit and Supreme Court precedent, Plaintiff's claim meets all three of these elements.

1. Plaintiff's Facebook comment regarding Kirk was constitutionally protected political speech.

First, under the prevailing three-pronged test that is used within the Sixth Circuit to determine whether a public employee's speech is constitutionally protected, Plaintiff's statement that Kirk's shooting was "[t]otally preventable and avoidable if not for the policies and beliefs like Charlie Kirk and his uneducated hateful ilk," and "[w]ish[ed] the guy was a better shot," since "Kirk offers nothing but hate and division to society… and discourse would be better without him," was political speech protected by the First Amendment. Under this test, (1) "the employee must have

spoken as a private citizen, not pursuant to his or her official duties," (2) "the speech must involve matters of public concern," and (3) "the employee's interests, as a citizen, in commenting upon matters of public concern, must outweigh the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees." *Myers v. City of Centerville*, 41 F.4th 746, 760 (6th Cir. 2022) (quoting *inter alia Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006); *Connick v. Myers*, 461 U.S. 138, 142 (1983); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968)) (internal citations and punctuation omitted).

The first two prongs of this test are not in dispute here, as Defendants acknowledged during his disciplinary hearing that Plaintiff's statement was made during his off-hours in his personal capacity and related to a matter of public concern. As for the third prong, Defendants cannot "carry their [ ] burden" under the applicable analysis set forth by the Supreme Court in *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968), and "demonstrate that the 'potential disruptiveness' of [Schroeder's] speech 'was enough to outweigh whatever First Amendment value it might have had.'" *Myers* at 764 (quoting *Waters v. Churchill*, 511 U.S. 661, 681 (1994)).

This requires "a context-specific inquiry, examining 'whether the [speech] impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, or impedes the performance of the speaker's duties or interferes with the regular operation of the enterprise." *Myers* at 764–66 (quoting *Rankin v. McPherson*, 483 U.S. 378, 388 (1987)). And where, as here, the "employee's speech substantially involved matters of public concern," the "employer may be required to make a particularly strong showing that the employee's speech interfered with workplace functioning before taking action." *Whitney v. City of Milan*, 677 F.3d 292, 298-299 (6th Cir. 2012) (quoting *Leary v. Daeschner*, 228 F.3d 729, 737-38 (6th Cir. 2000)). *See also Myers*, 41 F.4th at 760 (quoting *Lane v. Franks*, 573 U.S. 228, 241 (2014)) ("Speech concerns such matters 'when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.'").

Here, there is no possible showing that Schroeder's political views influenced his work as a Toledo Fire Lieutenant, or that his off-hours Facebook comment, published in his personal capacity, would have "impeded the performance of his duties" as a Fire Lieutenant, or had any legally cognizable "detrimental impact on close working relationships" within the Department, or "impaired discipline" within the Department, or "interfered with the regular operation" of the Department in any material way. *E.g.*, *Noble v. Cincinnati & Hamilton Cty. Pub. Libr.*, 112 F.4th 373, 382 (6th Cir. 2024) ("[T]he Library fired [plaintiff] for a post made on his private Facebook page while he was at home and not working, which raises more First Amendment red flags. There is no evidence that [plaintiff] took his politics to work or that his views on … BLM protests or any other political matter ever interfered with how he performed his job.").

Moreover, in this case, any disruption that occurred—including the "over one thousand complaints from the public" via "phone calls," "emails," and "social media" comments, and "station lockdowns and increased security measures,"——as a result of Schroeder's mere expression of his political opinion could not warrant Defendants' incursion on free speech under the First Amendment. *See Scarbrough v. Morgan Cty. Bd. of Edn.*, 470 F.3d 250, 258 (6th Cir. 2006) ("[T]he detrimental impact on the work environment results directly from [plaintiff's] intended speech and his religious beliefs. It would contravene the intent of the First Amendment to permit the [defendant] effectively to terminate [plaintiff] for his speech and religious beliefs in this way."). Indeed, the Supreme Court has "covered this ground repeatedly in free speech cases." *Fulton v. City of Philadelphia*, 593 U.S. 522, 615 (2021). "In an open, pluralistic, self-governing society, the expression of an idea cannot be suppressed simply because some find it offensive, insulting, or even wounding. *Id.* (quoting *Matal v. Tam*, 582 U.S. 218, 223 (2017)) ("Speech may not be banned on the ground that it expresses ideas that offend"); *Hurley v. Irish-American Gay*, 515 U.S. 557, 579 (1995) ("[T]he law … is not free to interfere with speech for no better reason than promoting an approved message or discouraging a disfavored one, however enlightened either purpose may strike the

government"); *Texas v. Johnson*, 491 U.S. 397, 414 (1989) ("If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable"); *FCC v. Pacifica Foundation*, 438 U. S. 726, 745 (1978) (opinion of Stevens, J.) ("[T]he fact that society may find speech offensive is not a sufficient reason for suppressing it. Indeed, if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitutional protection"); *Street v. New York*, 394 U. S. 576, 592 (1969) ("[T]he public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers"); *Cf. Coates v. Cincinnati*, 402 U. S. 611, 615 (1971) ("Our decisions establish that mere public intolerance or animosity cannot be the basis for abridgment of . . . constitutional freedoms").

2. Plaintiff's termination from his decades-long employment as a Fire Lieutenant was an adverse action likely to chill a person of ordinary firmness from continuing to engage in protected speech.

As to the second element of his claim for First Amendment retaliation, Schroeder's termination from the Department was an adverse action likely to chill a person of ordinary firmness from continuing to engage in protected speech. Indeed, "[t]he term 'adverse action' has traditionally referred to 'actions such as discharge, demotions, refusal to [h]ire, nonrenewal of contracts, and failure to promote." *Handy-Clay v. City of Memphis*, 695 F.3d 531, 545 (6th Cir. 2012) (quoting *Fritz v. Charter Twp. of Comstock*, 592 F.3d 718, 724 (6th Cir. 2010)); *see also* also *See v. City of Elyria*, 502 F.3d 484, 494 (6th Cir. 2007) (holding that discharge is "undeniably . . . an adverse action that would chill the free speech rights of an ordinary person").

3. Plaintiff's termination was solely based on his political Facebook comment that is protected speech.

Lastly, as reflected by Defendant Armstrong's findings from the disciplinary hearing, the sole motivating factor behind Plaintiff's termination was his Facebook comment regarding Kirk, protected speech. *See* **Exhibit 2**, Nov. 12, 2025, Hearing Findings.

Indeed, Defendants' termination of Schroeder constitutes an especially egregious First Amendment violation because Defendants have purported to justify their actions primarily with claims about how members of the public "interpreted" his post, and that it "resulted in widespread public outrage and condemnation, with over one thousand complaints from the public," after another highly divisive and influential public figure shared Schroeder's comment with her millions of followers, urging them to contact the Toledo Fire Department to demand his termination.

Allowing Schroeder's termination to stand under these circumstances would be to accept that our government can take any action at all in response to its employees' political opinions as long as there are influential political figures who can rally enough of their followers to express their disagreement with those opinions. Such a phenomenon has been recognized by the Sixth Circuit as a "heckler's veto," which, if permitted to be enforced by government officials like the Defendants here, would result in the precisely the type of "odious viewpoint discrimination that cuts to the First Amendment's core." *Defending Edn. v. Olentangy Local School Dist. Bd. of Edn.*, 6th Cir. No. 23-3630, 2025 U.S. App. LEXIS 29181, at *29-32 (Nov. 6, 2025), quoting *Bible Believers v. Wayne County*, 805 F.3d 228, 248 (6th Cir. 2015) (*en banc*).

To hold otherwise would be to cede our public discourse to extremists and those who hold the most power over the flow of information, which would inevitably result in uniformity of opinion in our public offices and provide a license for precisely the type of governmental tyranny that the First Amendment was designed to protect against. *See, e.g.*, *Snyder v. Phelps,* 562 U.S. 443, 452, 131 S.Ct. 1207, 179 L.Ed.2d 172 (2011) ("The First Amendment reflects a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open. That is because speech concerning public affairs is more than self-expression; it is the essence of self-government. Accordingly, speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.") (internal citations and punctuation omitted); *United States v. Alvarez*, 567 U.S. 709, 723, 132 S.Ct. 2537, 183 L.Ed.2d 574

(2012) ("[F]ree speech, thought, and discourse are … a foundation of our freedom.").

Thus, as all three elements of his claim for retaliatory termination in violation of the First Amendment have been met, Plaintiff is substantially likely to succeed on the merits of this claim.

C. A preliminary injunction against Defendants is warranted here since Plaintiff is substantially likely to succeed on the merits of his First Amendment retaliation claim.

Here, as Schroeder is substantially likely to succeed on the merits of his First Amendment retaliation claim premised on his wrongful termination, the imposition of a preliminary injunction against Defendants ordering the reinstatement of his employment. *Bays*, 668 F.3d at 818-19 (quoting *Hamilton's Bogarts, Inc.*, 501 F.3d at 649) ("In First Amendment cases, however, 'the crucial inquiry is usually whether the plaintiff has demonstrated a likelihood of success on the merits."). Furthermore, the remaining three factors still weigh in favor of this Court granting injunctive relief.

As to the injury at stake here, it is well established that the "loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury," and Defendants' termination of Plaintiff's employment based solely on his constitutionally protected speech causes continued irreparable injury until his employment is restored. *See Elrod*, 427 U.S. at 373 (plurality opinion of Brennan, J.); *id.* at 374-75 (Stewart, J., concurring in judgment) (termination from employment for political reasons violated First Amendment rights; injunctive relief properly accorded under such circumstances); Ohio Rev. Code § 124.34 ("No officer or employee shall be reduced in pay or position, fined, suspended, or removed, or have the officer's or employee's longevity reduced or eliminated, except … [for cause]."); *Newsom*, 888 F.2d at 375 ("[I]t is constitutionally impermissible to terminate even a unilateral expectation of a property interest in a manner which violates rights of expression protected by the First Amendment."); *Miller v. City of Cincinnati*, 622 F.3d 524, 540 (6th Cir. 2010) (citing *Connection Distributing Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998)) ("When a constitutional violation is likely . . . the public interest militates in favor of injunctive relief because 'it is always in the public interest to prevent violation of a party's

constitutional rights.'"). As noted above, courts within the Sixth Circuit and nationwide have routinely issued injunctions ordering that wrongly terminated plaintiffs be reinstated to their jobs. *See, e.g.*, *McGruder, Ahearn, supra. See also Milliron v. Louisville & Jefferson Cty. Metro. Sewer Dist.*, 867 F.Supp. 559, 564 (W.D.Ky.1994) (granting preliminary injunction requiring the reinstatement of employee who was allegedly terminated due to his union activities because "an award of monetary damages and reinstatement to his position after a trial on the merits is not an adequate remedy for a deprivation of First Amendment rights") And finally, there is no cognizable injury to Defendants that will result from the Court granting Plaintiff injunctive relief.

Thus, given that all four factors favor Plaintiff, an injunction ordering the reinstatement of his employment is warranted here. *See Newsom*, 888 F.2d at 373–79 (affirming district court's preliminary injunction that ordered reinstatement of inmate advisors terminated in retaliation for making First Amendment protected complaints against disciplinary board chairman); *see also ACLU Fund of Mich. v. Livingston Cty.*, 796 F.3d 636 (6th Cir. 2015) (affirming district court's preliminary injunction against jail's mail policy based on finding that proponent likely to succeed on First Amendment claim).

D. A temporary restraining order is warranted here given that Plaintiff is being irreparably harmed by the continuous impingement of his First Amendment rights by Defendants.

Where the time required to hear a request for a preliminary injunction is too long to prevent irreparable harm, a temporary restraining order ("TRO") may issue while a court considers a request for a preliminary injunction. *See* Charles Alan Wright, et al., Temporary Restraining Orders, 11A Federal Practice and Procedure § 2951 (3d ed. 2019); *Doe v. Franklin Cty. Children's Servs.*, S.D.Ohio No. 2:20-CV-4119, 2020 U.S. Dist. LEXIS 145489, at *3-4 (Aug. 13, 2020) ("A temporary restraining order is meant 'to prevent immediate and irreparable harm to the complaining party during the period necessary to conduct a hearing on a preliminary injunction.'"). "While a court is

permitted to consider the four factors required for issuance of a preliminary injunction, immediacy and irreparability of harm are threshold considerations and 'all that is required' for a TRO." *Id.*

In this case, every single day that Plaintiff is denied his ability to serve and be employed with Toledo's Fire and Rescue Department on the sole basis of his constitutionally protected political speech constitutes irreparable injury to Plaintiff, warranting that a TRO is issued by the Court. *See Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) ("When constitutional rights are threatened or impaired, irreparable injury is presumed."); *Miller*, 622 F.3d at 540 ("[E]ven minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief."); *see generally ACLU Fund of Mich.*, 796 F.3d (affirming district court decision to grant preliminary injunction against jail's mail policy after granting TRO based on finding that proponent likely to succeed on First Amendment claim).

IV. Conclusion

For the foregoing reasons, Plaintiffs respectfully request that this Court grant this Motion and issue a temporary restraining order and preliminary injunction against Defendants to reinstate Plaintiff in his former position as Lieutenant for Toledo's Fire and Rescue Department, after having unlawfully terminated Plaintiff based on his First Amendment protected political speech.

Respectfully submitted,

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Certificate of Service

I hereby certify that on this 27th day of January, 2026, I served this motion upon Jeffrey Charles, Attorney for the City of Toledo, by emailing him a copy to Jeffrey.Charles@toledo.oh.gov. I have also spoken previously with Mr. Charles about this matter, who has confirmed that he is counsel for the City regarding this matter and has instructed me to communicate with Defendants through him. Further, I contacted Mr. Charles by phone today to advise him of the filing of this motion.

/s/ Peter Pattakos
Peter Pattakos (0082884)

Attorney for Plaintiff