

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Hassane Jamal
705 Cronin Dr.
Dearborn Heights, MI 48127

From: Detroit Field Office
477 Michigan Avenue
Room 865
Detroit, MI 48226

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
471-2009-03312	Mark Ellison, Investigator	(313) 226-4920

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state) **No employer/employee relationship**

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Ronda K. Suboni

Danny G. Harter,
Director

10/14/09

(Date Mailed)

Enclosures(s)

cc: Elizabeth Sobota-Perry
Human Resources Director
6045 Fenton Avenue
Dearborn Heights, MI 48127

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit **before 7/1/02** -- not 12/1/02 -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HASSANE JAMAL,

Plaintiff,

Case No.

Hon.

vs.

DANIEL PALETKO, individually and in his capacity
as Mayor of the City of Dearborn Heights, and
THE CITY OF DEARBORN HEIGHTS, a
Michigan Municipal Corporation,
jointly and severally,

Defendants.

Michael L. Stefani (P20938)
Frank J. Rivers (P62973)
Stefani & Stefani, Professional Corporation
Attorneys for Plaintiff
512 E. Eleven Mile Road
Royal Oak, MI 48067
(248) 544-3400

There is no other pending or resolved civil action
arising out of the same transaction or occurrence as
alleged in this Complaint.

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, Hassane Jamal (“Jamal”), by and through his attorneys, Stefani & Stefani, Professional Corporation, and for his Complaint against Defendants, Daniel Paletko (“Paletko”; the “Mayor”) and the City of Dearborn Heights (the “City”)(together, “Defendants”), states as follows:

Parties

1. Jamal, who is of Arab descent, was born in Lebanon on February 10, 1956.

2. Jamal emigrated to the United States in 1985.

3. Jamal openly and devoutly practices the Islamic faith.

4. The City is a Michigan municipal corporation located in Wayne County, Michigan.

5. At all relevant times, the City was liable for the conduct, acts and omissions of its employees and agents under *respondeat superior*.

6. Paletko is Caucasian and in 2004 he was elected as Mayor of the City of Dearborn Heights. At all times during the events alleged in this Complaint, the Mayor purported to be acting on behalf of the City. However, discovery in this matter may reveal that at times he took action for his own self interests.

Jurisdiction and Venue

7. This is an action for damages pursuant to Title VI of the Civil Rights Act of 1964 as amended, 42 U.S.C. §2000d *et seq.* (“Title VI”), Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. §2000e *et seq.* (“Title VII”), the Age Discrimination in Employment Act of 1967 as amended, 29 U.S.C. §621 *et seq.* (the “ADEA”), the Civil Rights Act of 1991 and the Michigan Whistleblower Protection Act, M.C.L. §15.361 *et seq.* (the “WPA”).

8. Jamal is an “employee” within the meaning of 42 U.S.C. §2000e(f), 29 U.S.C. §630(f) and M.C.L. §15.361.

9. Defendants are “employers” within the meaning of 42 U.S.C. §2000e(b), 29 U.S.C. §630(b) and M.C.L. §15.361.

10. This Court has jurisdiction over the federal claims pursuant to 28 U.S.C. §1331, 42 U.S.C. §2000e-5 and 29 U.S.C. §633a.

11. The Court has supplemental jurisdiction over the state law claim pursuant to 28

U.S.C. §1367.

12. The conduct alleged herein occurred in the Eastern District of the State of Michigan, Southern Division, and thus venue is properly before this Court pursuant to 28 U.S.C. § 1391.

13. The amount in controversy exceeds \$75,000.00, exclusive of interest, costs, and attorney fees.

General Allegations

14. Jamal realleges Paragraphs 1 through 13 as though fully set forth herein.

15. Jamal first became associated with Paletko in 2003. At that time, Paletko was Chairman of the Dearborn Heights City Council and asked Jamal to assist him in his campaign for state representative. Paletko was elected as state representative and soon thereafter he appointed Jamal to the position of community liaison.

16. In late 2003, the then-current mayor of Dearborn Heights resigned and Jamal assisted Paletko in being elected as Mayor.

17. In January 2004, the Mayor appointed Jamal to the position of Director of the Dearborn Heights Department of Community & Economic Development (“DCED”). Jamal had an excellent and long-standing working relationship with the Mayor and an exemplary work record with the City, prior to the discriminatory conduct of the Defendants described herein.

Jamal Is Asked To Disregard HUD Regulations To Arrange Payment For A Facility Repair

18. The City receives annual funding from the U.S. Department of Housing and Urban Development (“HUD”), to be applied towards various public facility development and improvement programs. Jamal’s duties as DCED Director included overseeing the administration of these programs and ensuring that the federal funding was spent in compliance with HUD

regulations.

19. Bill Zimmer (“Zimmer”) was the City’s Building & Maintenance Manager. Zimmer’s job responsibilities included ensuring that the City’s publicly funded facilities were in good condition and arranging for repairs when necessary.

20. On or about October 1, 2008, Zimmer came to Jamal’s office and advised Jamal that the boiler in the Berwyn Center building had recently become inoperable. The Berwyn Center is a HUD-funded senior citizen activity center located in the City.

21. Zimmer provided Jamal with bid proposals from three contractors to whom Zimmer had offered the job of repairing the boiler, although Zimmer told Jamal that he had already decided which of three contractors would be awarded the project. The lowest bid proposal was for approximately \$9,000. Zimmer told Jamal that he [Jamal] needed to immediately arrange for payment of the boiler repair project from the City’s HUD funding.

22. Jamal advised Zimmer that under HUD regulations, in order to utilize HUD funds for the boiler repair, the City was first required to advertise the repair project for public bids so that minority-owned contractors would have an opportunity to bid on the project. Jamal told Zimmer that the provision mandating that the project be offered to minority-owned contractors could only be waived if the City proved that the project qualified as an “emergency” as defined by HUD guidelines.

23. Jamal also informed Zimmer that, irrespective of whether the project qualified as an emergency, HUD regulations also required the City to advise prospective bidders in advance that the repair project would be subject to the provisions of the Davis-Bacon Act (the “DBA”). The DBA is a federal statute under which the contractor that was awarded the project would be required to compensate its workers at no less than the prevailing local wage rate. Prior to

awarding the contract, the City was required to obtain an acknowledgement from the contractor that it would comply with the DBA.

24. Zimmer angrily replied that the City didn't have time to comply with all of the "usual bullshit" HUD requirements because the boiler situation was an "emergency". Zimmer told Jamal that he [Jamal] had better find a way to waive all the HUD requirements and pay for the boiler repair out of the HUD funds because the Mayor would be angry if the boiler repair money had to be deducted from the City's general fund.

25. Jamal told Zimmer that he would inquire with HUD regarding whether it would grant a waiver of the minority bid requirement, but even if the City received the waiver, it would still have to obtain an acknowledgment from the contractor that it would comply with the DBA. Zimmer angrily responded that telling the contractor he had selected that it was required to pay wages subject to the DBA would probably cause the contractor to rescind its bid. Zimmer told Jamal that he was "sick and tired" of Jamal's "bullshit" and that if Jamal did not make arrangements to have the boiler repair paid out of HUD funds, he [Jamal] "would not be happy". Zimmer then stormed out of the office.

Jamal Reports To The Mayor About The Request To Disregard HUD Regulations

26. The following day, the Mayor met with Jamal. The Mayor told Jamal that Zimmer had advised him [the Mayor] that Jamal had refused Zimmer's request to process the payment for the boiler project out of HUD funds. Jamal informed the Mayor that he had refused Zimmer's request because it would violate HUD regulations for the City to process a payment out of HUD funds without first advising contractors that the project was subject to the DBA and offering the project for minority bids or obtaining a waiver.

27. The Mayor told Jamal in an abrupt tone that he "did not care how" Jamal arranged

to have the HUD funds applied to the repair payment, so long as Jamal made sure the funds got applied.

28. The following week, Jamal reviewed the City's inspection records for the Berwyn Center. The inspection records suggested that, although Zimmer had characterized the boiler repair as an "emergency", the boiler had not recently become inoperable, as Zimmer had indicated. Rather, Zimmer had known the boiler was inoperable for several months but simply failed to arrange for the repairs while the weather was still warm.

29. Jamal also made inquiries with representatives from Plante Moran, the City's auditor, and the U.S. Department of Labor, with respect to whether there was some way for the boiler project to be exempt from the DBA. Both Plante Moran and the DOL advised Jamal that because the projected cost of the boiler repair was in excess of \$2,000, there was no way for the City to legally avoid complying with the DBA provisions.

The Mayor Becomes Angry After Jamal Refuses To Disregard HUD Regulations

30. That same week, Jamal advised the Mayor that because Zimmer had known the boiler was inoperable for months, the repair was probably not an "emergency" under HUD regulations and the City might not qualify for a waiver of the minority bid requirement. Jamal told the Mayor that it would be dishonest for the City to apply for the waiver without disclosing to HUD that Zimmer had known for months that the boiler needed repair. Jamal also reminded the Mayor that in any event, the City still had to comply with the DBA requirements.

31. In response to Jamal's statements in the above paragraph, the Mayor became visibly angry and told Jamal that the Mayor's "friend" (apparently referring to Zimmer) had advised him that Jamal was "not part of the team" based on Jamal's refusal to process the HUD payment without making certain the HUD regulations were followed. The Mayor told Jamal that

it was important to him that Jamal arrange for payment of the boiler repair out of HUD funds because the Mayor had to help his “friend”, and also because the Mayor did not want the City’s general fund to pay for the repair.

32. The Mayor told Jamal that Jamal should be “willing to look the other way”, which Jamal understood to mean that the Mayor wanted him to process the HUD payment without making sure that the HUD regulations were adhered to. The Mayor told Jamal that if HUD found out about any impropriety related to the boiler repair payment, the City would “deal with it” at that time. Jamal told the Mayor that he was not willing to process the payment if it violated HUD regulations.

33. The Mayor then told Jamal that maybe he [Jamal] was wrong about the HUD requirements. The Mayor directed Jamal to contact HUD and ask whether the City might be able to obtain a waiver of both the advertising requirement and the DBA provisions.

34. In late October 2008, Jamal contacted Jeanette Harris, the Regional Director of Community Planning & Development for HUD. Jamal asked Harris whether the City would qualify for a waiver of the minority bid requirement even though Zimmer had known for months that the boiler was inoperable. Jamal also advised Harris that the City had accepted bids for the boiler repair job without advising the contractors about the DBA requirements.

35. Harris told Jamal that even though Zimmer had known about the boiler problem previously, there was a slight chance that HUD would still qualify the boiler repair as an “emergency”, and approve a waiver of the minority bid requirement, since it was urgent that the Berwyn Center’s boiler was working during the coming winter months. However, Harris told Jamal that under no circumstances could the City accept bids for the project without complying with the DBA provisions.

36. Jamal informed the Mayor that Harris had advised him that while the City might be able to obtain a minority-bid waiver, it could not accept bids for the boiler project without first advising the contractors about the DBA requirements and obtaining their acknowledgment. Jamal told the Mayor that, especially after the conversation he had with Harris, he was not willing to process the HUD payment unless the City complied with the DBA. The Mayor appeared to become angry and told Jamal in a hostile tone, “You could still just look the other way”.

37. After Jamal refused to process the HUD payment, the Mayor’s demeanor towards him changed. Whereas the Mayor had always acted congenially towards Jamal and openly praised his job performance during their long-standing professional relationship, Jamal noticed that the Mayor became distant and hostile towards him.

**Jamal Complains After The Mayor Violates
Regulations In Order To Hire A White Female**

38. In early February 2009, the Dearborn Heights City Council approved the posting of two employment positions in the City’s Neighborhood Stabilization Program (“NSP”). The NSP is a federal program designed to assist families and individuals in avoiding mortgage foreclosures and is subsidized with federal Stimulus Package funds. As DCED Director, Jamal was responsible for administering the program for the City.

39. Under both federal and State regulations, as well as the City’s own policy, the City was required to post the employment positions to the general public and conduct interviews before selecting candidates, to ensure that minority applicants had an opportunity to apply and be considered for the positions. When the positions were announced, Jamal began drafting a job description to be included in the job posting and publications advertising the positions.

40. The City received numerous inquiries about the positions even though the jobs had not yet been posted. In particular, Zaneib Hussein, a female of Arab descent, advised Jamal as well as the Mayor and the City's Human Resources Director Elisabeth Sobota-Perry, that she was interested in applying for the NSP position. Ms. Hussein had worked for the City part-time since approximately 2007 as a program assistant in the DCED. By all accounts, Ms. Hussein was a hard worker who was well-respected by her supervisors and co-workers. Jamal noted Ms. Hussein's enthusiasm regarding the NSP position and advised her to apply for the position with Human Resources.

41. In approximately the third week of February 2009, the Mayor came to Jamal's office, accompanied by a young Caucasian female. The Mayor introduced the female as Rachel Thomas and advised Jamal that Thomas had been hired for one of the two NSP positions, and that she would start work the following week. Jamal was shocked, since the City hadn't yet posted the positions and in fact he hadn't even finished drafting the job description.

42. Jamal advised the Mayor that the City was an Equal Opportunity employer and that it would violate federal, state and City regulations for the City to hire Thomas without having first advertised the positions. Jamal explained to the Mayor that circumventing the advertising requirement would prevent Ms. Hussein from applying for the position and would improperly preclude other minority applicants from having an opportunity to apply for the position.

43. The Mayor told Jamal that he had hired Thomas as a favor for a friend of his who was a former district court judge. When Jamal again attempted to explain that placing Thomas in the position without posting the job violated regulations and was unfair to Ms. Hussein and other minority applicants, the Mayor abruptly interrupted Jamal and told him that Ms. Hussein

could apply for the other NSP position and that he [the Mayor] “didn’t want to hear any more” from Jamal about rules and regulations.

The Mayor Retaliates After Jamal Reports The Mayor’s Violation To Human Resources

44. The following week, Jamal was advised by Human Resources Director Sobota-Perry that Thomas had been officially hired and assigned to a temporary full-time NSP position at the direction of the Mayor.

45. Jamal told Sobota-Perry that hiring Thomas for the NSP position without advertising the job violated federal, State and City regulations. Jamal told Sobota-Perry that the regulations were in place to ensure that minority applicants were not excluded from the hiring process, and that Thomas’ hiring had prevented Ms. Hussein from applying for the position, as well as other minority applicants.

46. Jamal reminded Sobota-Perry that both she and Jamal had told Ms. Hussein on numerous occasions in the past that she would have an opportunity to apply for a full-time position with the City when one became available, and now that a position had become available, it was summarily awarded to Thomas, a white female.

47. Sobota-Perry told Jamal that she understood that the rules required the NSP positions to be posted before selections were made, but that she had no choice but to hire Thomas since the Mayor had directed her to do so. Later that day, Ms. Hussein came to Jamal’s office, crying and distraught. Ms. Hussein told Jamal that she had heard about Thomas being hired for the NSP position and could not understand why she had not been given an opportunity to interview for the position.

48. The same day, Jamal was summoned to the Mayor's office. As soon as Jamal entered the office, the Mayor began to yell at Jamal in a hostile tone, asking Jamal why he had contacted Sobota-Perry about the hiring of Rachel Thomas.

49. The Mayor then called Sobota-Perry to his office and directed her to play an audio recording for Jamal. The recording was apparently a phone message from a female City Council member. In the message, the council member stated that she had heard that the Mayor was pressuring a director to hire a woman without going through the proper procedure. The council member stated that she planned to report the matter to a local television station.

50. When the recording ended, the Mayor started to yell at Jamal again, telling Jamal that hiring Thomas was very important to him and that he [Jamal] should not have objected. The Mayor told Jamal that he was trying to get past his anger over Jamal's refusal to arrange for the boiler repair payment, but Jamal was "doing it to him again" by openly objecting to the Thomas hiring. The Mayor told Jamal in a threatening tone that he "had better fix this mess", referring to the recording of the council member.

51. On or about March 9, 2009, Krissy Kremerz, the Mayor's assistant, advised Jamal that the Mayor had removed him from his duty of administrating the NSP and assigned it to Kremerz. Prior to his complaints about the hiring of Rachel Thomas, Jamal had not been advised that his work on the NSP was less than satisfactory, and he was given no reason for his removal.

52. In mid-March 2009, a City Councilperson advised Jamal that the Mayor was upset over the boiler repair and Rachel Thomas incidents and that he [Jamal] should start looking for another job. On numerous occasions over the next several weeks, the Mayor told Jamal that he was upset with Jamal because of the boiler repair and Thomas incidents.

53. On or about June 8, 2009, the Mayor summoned Jamal to his office. When Jamal arrived, the Mayor was present along with Sobota-Perry. The Mayor told Jamal that he was putting him “on notice” and he gave Jamal a document which purported to state numerous job-performance related deficiencies on the part of Jamal.

54. Jamal was shocked since, prior to the boiler repair incident and the hiring of Rachel Thomas, Jamal had received excellent performance appraisals and the Mayor had never advised him that his work was less than satisfactory. Jamal became stressed out from worrying that his employment would be terminated, and he took several days off from work.

55. On or about June 19, 2009, the City Attorney, Gary Miotke, called Jamal at home and directed him not to report to work.

56. On July 6, 2009, Defendants terminated Jamal’s employment. Jamal was devastated by his termination and has remained unemployed since then.

COUNT I
Age, Race, Religion and National Origin Discrimination in
Violation of the ADEA, Title VII and the Civil Rights Act of 1991

57. Jamal realleges Paragraphs 1 through 56 as though fully set forth herein.

58. Jamal’s duty of administering the NSP was taken away and reassigned to Krissy Kremerz, the mayor’s assistant. On information and belief, following the termination of Jamal’s employment, his other duties were assigned to Kremerz as well. Jamal was well qualified for his duties and was more qualified than Kremerz.

59. Kremerz is Caucasian and on information and belief, she is approximately 29 years old, was born in the United States and does not practice the Islamic faith.

60. At all relevant times, Defendants were aware that Jamal is a member of a protected class with respect to his age, race, national origin and religion.

61. Defendants engaged in discriminatory practices against Jamal regarding the terms and conditions of his employment on the basis of age, race, national origin and religion, including but not limited to subjecting Jamal to harassing and humiliating acts, wrongfully terminating Jamal's employment on July 6, 2009 and replacing him with a younger, Caucasian and non-Islamic employee who was born in the United States.

62. At all times, Defendants acted with malice towards Jamal and with conscious disregard of Jamal's rights, all because of Jamal's age, race, national origin and religion.

63. As a direct and proximate result of the Defendants' discriminatory and wrongful acts, Jamal has suffered and will continue to suffer economic and non-economic damages, including but not limited to:

- a. loss of wages and other benefits;
- b. loss of employment opportunities;
- c. damage to professional reputation;
- d. attorney fees;
- e. emotional distress;
- f. humiliation;
- g. embarrassment; and
- h. loss of self esteem and mental anguish.

WHEREFORE, Jamal respectfully requests that this Court enter judgment in his favor and against Defendants in whatever amount in excess of \$75,000.00 the trier of fact finds him to be entitled, plus punitive damages, costs, attorney fees and statutory interest from the date this Complaint is filed.

COUNT II
Retaliation in Violation of Title VI and Title VII

64. Jamal realleges Paragraphs 1 through 63 as though fully set forth herein.

65. Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. §2000d.

66. The NSP is a program which receives Federal financial assistance.

67. Title VII provides that no employer shall “fail or refuse to hire... or ... limit, segregate, or classify... applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.” 42 U.S.C. §2000e-2.

68. Defendants were aware that Zaneib Hussein is a member of a protected class in that she is of Arab descent. Defendants were also aware that Ms. Hussein was interested in applying for the NSP position.

69. Defendants intentionally hired Rachel Thomas for the NSP position without posting the job and disregarded Jamal when he complained and advised Defendants that Thomas’ hiring violated federal regulations and unlawfully precluded Hussein, and other minority individuals, from applying and being considered for the NSP position, in violation of Title VI and Title VII.

70. Federal law prohibits retaliation against an individual because he or she opposed or reported a suspected violation of Title VI.

71. Title VII forbids an employer from retaliating against an employee because of the employee's opposition to "any practice made an unlawful practice" by Title VII, or the employee's participation in "an investigation, proceeding, or hearing under [Title VII]." 42 U.S.C. § 2000e-3(a).

72. When Jamal complained and advised Defendants that hiring Rachel Thomas for the NSP position without posting the job violated federal regulations and unlawfully precluded Hussein, and other minority individuals, from applying and being considered for the NSP position, he engaged in protected activity under Title VI and Title VII.

73. The Defendants subjected Jamal to retaliation and harassment, including but not limited to terminating Jamal's employment on July 6, 2009, because he engaged in the protected activity described above.

74. Defendants' actions constitute retaliation in violation of Title VI and Title VII.

75. At all times, Defendants acted with malice towards Jamal and with conscious disregard of Jamal's rights, all because of Jamal's protected activity.

76. As a direct and proximate result of Defendants' retaliation, Jamal has suffered and will continue to suffer economic and non-economic damages, including but not limited to:

- a. loss of wages and other benefits;
- b. loss of employment opportunities;
- c. damage to professional reputation;
- d. attorney fees;
- e. emotional distress;
- f. humiliation;
- g. embarrassment; and

h. loss of self esteem and mental anguish.

WHEREFORE, Jamal respectfully requests that this Court enter judgment in his favor and against Defendants in whatever amount in excess of \$75,000.00 the trier of fact finds him to be entitled, plus punitive damages, costs, attorney fees and statutory interest from the date this Complaint is filed.

COUNT III
Violation of the Michigan Whistleblower Protection Act

77. Jamal realleges Paragraphs 1 through 76 as though fully set forth herein.

78. The WPA provides:

“An employer shall not discharge, threaten or otherwise discriminate against an employee regarding the employee’s compensation, terms, conditions, or privileges of employment. . .[because the employee] **reports or is about to report.** . .a violation or suspected violation of a law or regulation or rule. . .to a public body. . .” MCL §15.362. (Emphasis added)

79. The City, the Mayor and HUD each satisfy the definition of a “public body” under the WPA.

80. Jamal reported a possible violation of law, rule or regulations when he reported to the Mayor and HUD that arranging for payment of the boiler repair out of HUD funds without submitting the job for minority bids and complying with the DBA could possibly violate HUD regulations.

81. Jamal also reported a possible violation of law, rule or regulation when he complained to the Mayor and the Human Resources Director that hiring Rachel Thomas for the NSP position without first posting the job violated federal and State regulations and City policy.

82. These reports by Jamal constituted reports of violations or suspected violations of law, rule or regulation under the WPA.

83. Defendants were aware that Jamal made the above reports.

84. Defendants retaliated against Jamal because he made the above reports. The retaliation included, but was not limited to, subjecting Jamal to harassment, threats and wrongfully terminating Jamal's employment on July 6, 2009.

85. Defendants' actions constitute violations of the WPA on the part of the Defendants.

86. As a direct and proximate result of Defendants' violation of the WPA, Jamal has suffered and will continue to suffer economic and non-economic damages, including but not limited to:

- a. loss of wages and other benefits;
- b. loss of employment opportunities;
- c. damage to professional reputation;
- d. emotional distress;
- e. humiliation;
- f. embarrassment; and
- g. loss of self esteem and mental anguish.

WHEREFORE, Jamal respectfully requests that this Court enter judgment in his favor and against Defendants in whatever amount in excess of \$75,000.00 the trier of fact finds him to be entitled, plus costs, attorney fees and statutory interest from the date this Complaint is filed.

Respectfully submitted,

**Stefani & Stefani,
Professional Corporation**

/s/ Michael L. Stefani
512 East Eleven Mile Road
Royal Oak, MI 48067-2741
(248) 544-3400
mike@stefani-law.com
P20938

DEMAND FOR JURY TRIAL

Plaintiff, Hassane Jamal, by and through his attorneys, Stefani and Stefani, Professional Corporation, hereby demands a trial by jury.

Respectfully submitted,

**Stefani & Stefani,
Professional Corporation**

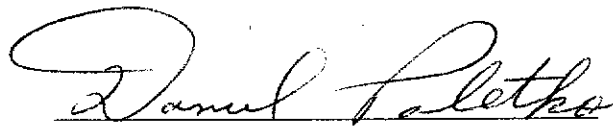
/s/ Michael L. Stefani
512 East Eleven Mile Road
Royal Oak, MI 48067-2741
(248) 544-3400
mike@stefani-law.com
P20938

EXHIBIT 3

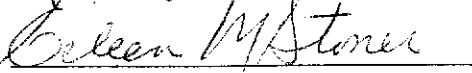
knowledge, and states that if sworn as a witness, can testify competently to the facts stated herein:

1. I am Mayor of Dearborn Heights. I stand for re-election on November 3, 2009.
2. I am a Defendant in this lawsuit. I vigorously deny all allegations of wrongdoing in this matter.
3. The Plaintiff, through his agents, has attempted to extort a favorable settlement in this matter by threats made by his agents.
4. Specifically, at a meeting on August 6, 2009 at Panera Bread, Zouher Abdel-Hak told me that "bad things will happen if you do not bring Hassane Jamal back as a City employee."
5. Also present at the meeting were City Attorney, Gary Miotke and Nabil Fakh.
6. I refused to re-hire Mr. Jamal.
7. A citizen of the City told me that Mr. Abdel-Hak told him that he had obtained a copy of my divorce papers and that bad things would happen.
8. Not long thereafter, absentee voters received selected copies of papers from my divorce file.
9. The documents sent to voters contained absolutely false statements, including that my wife had to go on food stamps because of our divorce.
10. I believe this was done to hurt my re-election campaign, recklessly and without regard to the truth.

Further Affiant sayeth not.


 DANIEL PALETKO

Subscribed and sworn to before me this 27th day of October, 2009.


 Notary Public,
 WAYNE Co., Michigan
 My Commission Expires: 4-4-14

EILEEN M. STONER
 NOTARY PUBLIC, STATE OF MI
 COUNTY OF WAYNE
 MY COMMISSION EXPIRES OCT 4, 2014
 NOTING IN COUNTY OF WAYNE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HASSANE JAMAL,

Plaintiff,

v

Case No. 2:09-cv-13903-BAF-MJH
HON. BERNARD A. FRIEDMAN
Magistrate Judge Michael Hluchaniuk

DANIEL PALETKO, individually and in his capacity
as Mayor of the City of Dearborn Heights, and
THE CITY OF DEARBORN HEIGHTS, a
Michigan Municipal Corporation,
jointly and severally,

Defendants.

MICHAEL L. STEFANI (P-20938)
FRANK J. RIVERS (P-62973)
Stefani & Stefani, P.C.
512 E. Eleven Mile Road
Royal Oak, MI 48067
(248) 544-3400
Attorneys for Plaintiff

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.
By: **RONALD G. ACHO** (P-23913)
JAMES R. ACHO (P-62175)
33900 Schoolcraft
Livonia, MI 48150-1392
(734) 261-2400
Attorneys for **Defendants**

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

NOW COME the Defendants, DANIEL PALETKO and THE CITY OF DEARBORN
HEIGHTS, by and through their attorneys, **CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.**

by **RONALD G. ACHO** and **JAMES R. ACHO**, and for their Answer to Plaintiff's Complaint, state as follows:

Parties

1. Answering Paragraph 1, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

2. Answering Paragraph 2, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

3. Answering Paragraph 3, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

4. Answering Paragraph 4, Defendants admit the allegations contained therein.

5. Answering Paragraph 5, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

6. Answering Paragraph 6, Defendants deny the allegations contained therein in part. Defendants admit that Mayor Paletko is Caucasian, and in 2004 was elected as Mayor of the City of Dearborn Heights. However, at all times herein, Mayor Paletko was acting on behalf of the City of Dearborn Heights, and at no time during his dealings with his employee, Plaintiff Hassane Jamal, did Mayor Paletko ever act in his own self interest.

Jurisdiction and Venue

7. Answering Paragraph 7, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

8. Answering Paragraph 8, Defendants admit the allegations contained therein.

9. Answering Paragraph 9, Defendants admit the allegations contained therein.

10. Answering Paragraph 10, Defendants admit the allegations contained therein.

11. Answering Paragraph 11, Defendants admit the allegations contained therein.

12. Answering Paragraph 12, Defendants admit the allegations contained therein.

13. Answering Paragraph 13, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

General Allegations

14. Answering Paragraph 14, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

15. Answering Paragraph 15, Defendants deny each and every allegation contained therein for the reason that same are untrue. At the time Mayor Paletko was running for office in 2003, Plaintiff Jamal was working for Mayor Paletko's *opposition*, Miles Handy.

16. Answering Paragraph 16, Defendants deny each and every allegation contained therein for the reason that same are untrue. Plaintiff Jamal never "assisted" Mayor Paletko in his

election. In fact, there was no election – Mayor Paletko was appointed by the City Council after then-Mayor Ruth Canfield stepped down.

17. Answering Paragraph 17, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

**Jamal Is Asked To Disregard HUD Regulations
To Arrange Payment For A Facility Repair**

18. Answering Paragraph 18, Defendants admit the allegations contained therein.

19. Answering Paragraph 19, Defendants admit the allegations contained therein.

20. Answering Paragraph 20, Defendants admit the allegations contained therein.

21. Answering Paragraph 21, Defendants admit the allegations contained therein.

22. Answering Paragraph 22, Defendants admit the allegations contained therein. Bill Zimmer absolutely considered the failure of the boiler in the Berwyn Center to be an emergency situation.

23. Answering Paragraph 23, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

24. Answering Paragraph 24, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

25. Answering Paragraph 25, Defendants deny each and every allegation contained therein for the reason that same are untrue. Mr. Zimmer did want the boiler repair to be paid out of

HUD funds, but did not make any of the derogatory statements to Plaintiff Jamal that Plaintiff attributes to Mr. Zimmer in this paragraph.

Jamal Reports To The Mayor About The Request To Disregard HUD Regulations

26. Answering Paragraph 26, Defendants admit the allegations contained therein.

27. Answering Paragraph 27, Defendants deny the allegations contained therein in part. Defendants admit that Mayor Paletko advised Plaintiff Jamal that HUD funds were to be applied to the repairs. However, Defendants deny that Mayor Paletko “didn’t care how” Plaintiff Jamal arranged for payment, or that Mayor Paletko made such a statement.

28. Answering Paragraph 28, Defendants deny each and every allegation contained therein for the reason that same are untrue. The boiler in the Berwyn Center is not used during the summer, and the problem with the operation of the boiler in the Berwyn Center had come to the attention of Bill Zimmer at a time when a cold snap was approaching, and the residents of the Berwyn Center would have been affected by the cold chill. Thus, this was considered to be an emergency situation.

29. Answering Paragraph 29, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants admit Mayor Paletko made inquiry with Plante Moran about compliance protocols, in regards to the DBA. It was Mayor Paletko and not Plaintiff Jamal who made inquiry with Plante Moran. Further, Mayor Paletko was never advised that there was “no way for the City to legally avoid complying with the DBA provisions.” Mayor Paletko made clear to Plaintiff Jamal that Dearborn Heights was to always remain in compliance with DBA and HUD.

The Mayor Becomes Angry After Jamal Refuses To Disregard HUD Regulations

30. Answering Paragraph 30, Defendants deny each and every allegation contained therein for the reason that same are untrue. Both Mayor Paletko and Bill Zimmer believed the inoperable boiler in the Berwyn Center to be an emergency situation. Further, Bill Zimmer had not known that the boiler was inoperable for months; because the boiler was not used during the summer months, there was no way possible for Bill Zimmer to have known this information.

31. Answering Paragraph 31, Defendants deny the allegations contained therein in part. Defendants admit that Mayor Paletko did not want the boiler repair to be paid from the City's general fund if it did not have to be, but Mayor Paletko always wanted to remain in compliance with HUD, and made this clear to Plaintiff Jamal. Mayor Paletko told Plaintiff the repair could come from the general fund, and the repair was paid from the general fund.

32. Answering Paragraph 32, Defendants deny each and every allegation contained therein for the reason that same are untrue. Mayor Paletko never told Plaintiff Jamal to "look the other way." Mayor Paletko always wanted to remain in compliance with HUD.

33. Answering Paragraph 33, Defendants deny the allegations contained therein in part. Mayor Paletko wanted clarification as to HUD requirements, and advised Plaintiff Jamal to inquire as to any possible waivers because of the emergency situation with the boiler.

34. Answering Paragraph 34, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

35. Answering Paragraph 35, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

36. Answering Paragraph 36, Defendants deny each and every allegation contained therein for the reason that same are untrue. Mayor Paletko was never advised by Plaintiff Jamal that “you could still just look the other way.” Mayor Paletko never made any comment to this effect, and always wanted to remain in compliance with HUD and DBA requirements.

37. Answering Paragraph 37, Defendants deny each and every allegation contained therein for the reason that same are untrue. Mayor Paletko always treated Plaintiff Jamal with courtesy, respect, and professionalism, and was never hostile or distant towards Plaintiff Jamal.

**Jamal Complains After The Mayor Violates
Regulations In Order To Hire A White Female**

38. Answering Paragraph 38, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

39. Answering Paragraph 39, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

40. Answering Paragraph 40, Defendants admit the allegations contained therein.

41. Answering Paragraph 41, Defendants deny the allegations contained therein in part. Defendants admit that Rachel Thomas was hired in a temporary full-time position, but Plaintiff Jamal was clearly part of the hiring process, and was always at the very least courtesy copied

correspondence during the process and could not have been “shocked” at the fact Rachel Thomas was hired in the temporary full-time clerical position.

42. Answering Paragraph 42, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

43. Answering Paragraph 43, Defendants deny each and every allegation contained therein for the reason that same are untrue. Rachel Thomas’ former employer was a district court judge, but this had absolutely no bearing on her being hired by the City of Dearborn Heights.

The Mayor Retaliates After Jamal Reports The Mayor’s Violation To Human Resources

44. Answering Paragraph 44, Defendants admit the allegations contained therein. Plaintiff Jamal had already been aware from correspondence that he had been copied, as well as his input being sought, that Rachel Thomas had been appointed to a temporary full-time position with the City of Dearborn Heights. Rachel Thomas was only appointed to one of two temporary full-time positions.

45. Answering Paragraph 45, Defendants admit the allegations contained therein. After Plaintiff Jamal knew that a temporary appointment was legal and compliant with all federal and state regulations and requirements, Plaintiff Jamal advised Defendants that he knew Defendants were in compliance with all federal and state requirements, for he, Plaintiff Jamal, had researched that himself, and was satisfied.

46. Answering Paragraph 46, Defendants deny the allegations contained therein in part. Defendants admit that Elizabeth Sobota-Perry, the Human Resources Director, told Plaintiff Jamal

and Zaneib Hussein that Ms. Hussein would have the opportunity to apply for the full-time position that was later filled by Rachel Thomas. Defendants deny that the position was “summarily” awarded to Rachel Thomas. Ms. Sobota-Perry wanted to offer the position to Zaneib Hussein, but Ms. Hussein advised Ms. Sobota-Perry that she had already taken another job with the State.

47. Answering Paragraph 47, Defendants deny each and every allegation contained therein for the reason that same are untrue. Ms. Sobota-Perry wanted to offer an NSP position to Ms. Hussein, but Ms. Hussein advised Ms. Sobota-Perry that she had taken a job with the State of Michigan in a social work capacity.

48. Answering Paragraph 48, Defendants deny each and every allegation contained therein for the reason that same are untrue. Mayor Paletko questioned Plaintiff Jamal as to why Plaintiff Jamal was now feigning bewilderment about this hiring process when he had been part of the discussions all the while, and was aware that Zaneib Hussein had taken a position with the State of Michigan. Mayor Paletko was neither yelling nor hostile towards Plaintiff Jamal.

49. Answering Paragraph 49, Defendants admit the allegations contained therein.

50. Answering Paragraph 50, Defendants deny each and every allegation contained therein for the reason that same are untrue. A conversation(s) ensued pursuant to Plaintiff Jamal feigning bewilderment at the hiring of Rachel Thomas when he had been in on correspondence all along, and had similarly been aware that Zaneib Hussein had taken a position with the State. Mayor Paletko never yelled at Plaintiff Jamal, nor did Mayor Paletko state that Rachel Thomas’ hiring was “important.” Mayor Paletko never made any threats towards Plaintiff Jamal.

51. Answering Paragraph 51, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

52. Answering Paragraph 52, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

53. Answering Paragraph 53, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

54. Answering Paragraph 54, Defendants deny each and every allegation contained therein for the reason that same are untrue. Plaintiff Jamal had been verbally cautioned for more than a year about his performance issues. The one performance appraisal Plaintiff Jamal received was satisfactory, but this was the year prior to the year of his downward trend in his performance. Plaintiff Jamal literally went “AWOL” for several days and did not call into the office advising his colleagues as to his whereabouts, causing serious concern with the Mayor’s office. Further, Mayor Paletko asked to meet with Plaintiff Jamal regarding his performance. Plaintiff was a “no show” for the meeting. Plaintiff was told on June 8, 2009, that he was being terminated.

55. Answering Paragraph 55, Defendants deny each and every allegation contained therein for the reason that same are untrue.

56. Answering Paragraph 56, Defendants admit the allegations contained therein. On or about July 6, 2009, Defendants terminated Plaintiff Jamal. Defendants neither admit nor deny that Plaintiff Jamal was devastated by his termination and has remained unemployed since then.

WHEREFORE, Defendants pray for a Judgment of no cause of action, together with costs, interest and attorney fees so wrongfully sustained.

COUNT I
Age, Race, Religion and National Origin Discrimination in
Violation of the ADEA, Title VII and the Civil Rights Act of 1991

57. Defendants incorporate herein by reference each and every Answer contained in Paragraphs 1 through 56 above as if more fully restated herein.

58. Answering Paragraph 58, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

59. Answering Paragraph 59, Defendants admit the allegations contained therein. Kramarz is 30 years old, and is a Christian.

60. Answering Paragraph 60, Defendants admit the allegations contained therein. The Defendants were aware that Plaintiff Jamal is a practicing Muslim.

61. Answering Paragraph 61, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants never engaged in any sort of discriminatory practices against Plaintiff Jamal. The decision to terminate Plaintiff Jamal had absolutely nothing to do with his age, race, national origin, or religion. Plaintiff Jamal was terminated for poor performance.

62. Answering Paragraph 62, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants never acted with malice towards Plaintiff Jamal, and never consciously disregarded any of his rights.

63. Answering Paragraph 63, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants never acted in a discriminatory or malicious way towards Plaintiff Jamal. Plaintiff Jamal was terminated for poor performance.

WHEREFORE, Defendants pray for a Judgment of no cause of action, together with costs, interest and attorney fees so wrongfully sustained.

COUNT II
Retaliation in Violation of Title VI and Title VII

64. Defendants incorporate herein by reference each and every Answer contained in Paragraphs 1 through 63 above as if more fully restated herein.

65. Answering Paragraph 65, Defendants admit the allegations contained therein.

66. Answering Paragraph 66, Defendants admit the allegations contained therein.

67. Answering Paragraph 67, Defendants admit the allegations contained therein.

68. Answering Paragraph 68, Defendants admit the allegations contained therein.

69. Answering Paragraph 69, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants wanted to hire Zaneib Hussein for the NSP position, but Ms. Hussein had advised Dearborn Heights' Human Resources Director Elizabeth Sobota-Perry that she had already taken another position with the State of Michigan in a social work capacity. Once this fact was made known, Rachel Thomas was then hired for one of the two open positions.

70. Answering Paragraph 70, Defendants neither admit nor deny the allegations contained therein for want of sufficient information upon which to form a belief as to the truth of the averments and therefore leave the Plaintiff to his proofs.

71. Answering Paragraph 71, Defendants admit the allegations contained therein.

72. Answering Paragraph 72, Defendants deny each and every allegation contained therein for the reason that same are untrue. Plaintiff Jamal did not “complain” about the hiring of Rachel Thomas, for he was aware that it was a temporary assignment, and he was also aware that Zaneib Hussein would have been offered the position but she had already taken a position with the State of Michigan.

73. Answering Paragraph 73, Defendants deny each and every allegation contained therein for the reason that same are untrue. The Defendants neither retaliated nor harassed Plaintiff Jamal at any time.

74. Answering Paragraph 74, Defendants deny each and every allegation contained therein for the reason that same are untrue.

75. Answering Paragraph 75, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants never acted with malice towards Plaintiff Jamal, and never consciously disregarded any of Plaintiff Jamal’s rights.

76. Answering Paragraph 76, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants never retaliated against Plaintiff Jamal.

WHEREFORE, Defendants pray for a Judgment of no cause of action, together with costs, interest and attorney fees so wrongfully sustained.

COUNT III
Violation of the Michigan Whistleblower Protection Act

77. Defendants incorporate herein by reference each and every Answer contained in Paragraphs 1 through 76 above as if more fully restated herein.

78. Answering Paragraph 78, Defendants admit the allegations contained therein.

79. Answering Paragraph 79, Defendants deny the allegations contained therein in part. HUD is not a public body as defined under the WPA. MCL 15.361(d).

80. Answering Paragraph 80, Defendants deny each and every allegation contained therein for the reason that same are untrue. Plaintiff Jamal never reported any possible violation of law, rule or regulation to the Mayor.

81. Answering Paragraph 81, Defendants deny each and every allegation contained therein for the reason that same are untrue. Plaintiff Jamal never reported any potential violation of law, rule or regulation to the Mayor or to the Human Resources Director Elizabeth Sobota-Perry regarding the hiring of Rachel Thomas. To the contrary, Plaintiff Jamal was very aware of all the facts surrounding the hiring of Rachel Thomas, and Plaintiff Jamal himself stated that he was satisfied with the hiring process.

82. Answering Paragraph 83, Defendants deny each and every allegation contained therein for the reason that same are untrue. There were no “reports” by Plaintiff Jamal, and especially none that constituted a report of a violation or suspected violation.

83. Answering Paragraph 83, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants have never been aware that Plaintiff Jamal made any “reports” of any violation or potential violation.

84. Answering Paragraph 84, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants have never retaliated against Plaintiff Jamal for any purpose.

85. Answering Paragraph 85, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants have never violated the Whistleblowers Protection Act, and have never retaliated in any fashion towards Plaintiff Jamal.

86. Answering Paragraph 86, Defendants deny each and every allegation contained therein for the reason that same are untrue. Defendants have never violated the Whistleblowers Protection Act, and have never retaliated against Plaintiff Jamal for any purpose.

WHEREFORE, Defendants pray for a Judgment of no cause of action, together with costs, interest and attorney fees so wrongfully sustained.

Respectfully submitted,

/s/ JAMES R. ACHO
Cummings, McClorey, Davis & Acho, P.L.C.
33900 Schoolcraft Road
Livonia, MI 48150
(734) 261-2400
Attorneys for Defendants
Email: jacho@cnda-law.com
(P62175)

Dated: October 23, 2009
P:\jc\dearborn(jamal).atc.wpd

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HASSANE JAMAL,

Plaintiff,

v

Case No. 2:09-cv-13903-BAF-MJH
HON. BERNARD A. FRIEDMAN
Magistrate Judge Michael Hluchaniuk

DANIEL PALETKO, individually and in his capacity
as Mayor of the City of Dearborn Heights, and
THE CITY OF DEARBORN HEIGHTS, a
Michigan Municipal Corporation,
jointly and severally,

Defendants.

MICHAEL L. STEFANI (P-20938)
FRANK J. RIVERS (P-62973)
Stefani & Stefani, P.C.
512 E. Eleven Mile Road
Royal Oak, MI 48067
(248) 544-3400
Attorneys for Plaintiff

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.
By: **RONALD G. ACHO** (P-23913)
JAMES R. ACHO (P-62175)
33900 Schoolcraft
Livonia, MI 48150-1392
(734) 261-2400
Attorneys for **Defendants**

AFFIRMATIVE DEFENSES

NOW COME the Defendants, DANIEL PALETKO and THE CITY OF DEARBORN
HEIGHTS, by and through their attorneys, **CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.**

by **RONALD G. ACHO** and **JAMES R. ACHO**, and for their Affirmative Defenses, state as follows:

1. That Defendants are entitled to invoke the doctrine of governmental immunity.
2. That some or all of the Constitutional Amendments do not support a cause of action against these Defendants.
3. That the claims against Mayor Daniel Paletko must be dismissed inasmuch as Plaintiff has not plead nor can Plaintiff prove any personal involvement.
4. That inasmuch as the claims against the City of Dearborn Heights are the same as the claims against Mayor Daniel Paletko, the claims against Mayor Paletko must be dismissed.
5. That the individual Defendant is entitled to invoke the doctrine of qualified immunity which bars the claims made herein.
6. That this matter may be barred by the applicable statute of limitations.
7. That Plaintiff's claims may be barred by laches, waiver, and estoppel.
8. The Plaintiff, Hassane Jamal, comes into Court with unclean hands.
9. The Plaintiff, Hassane Jamal, has engaged in improper, inappropriate or illegal conduct.
10. That Plaintiff has failed to state a cause of action against Defendants.
11. The Plaintiff has failed to mitigate damages.
12. Any injuries or damages suffered by the Plaintiff were, in whole or in part, the proximate result of the Plaintiff's own acts, failures to act, or statements.

13. The acts and statements of the Defendants about which the Plaintiff complains were within the scope of the Plaintiff's express consent, implied in fact, consent and implied in law consent.

14. The Defendants' acts or failures to act about which the Plaintiff complains were necessary, reasonable and pursuant to rules, regulations, or procedures which were necessary and reasonable to assure the security, health, safety and welfare of the general public.

15. None of the Defendants' acts or failures to act about which the Plaintiff complains were malicious, willful, wanton or in reckless disregard of the Plaintiff's rights.

16. That Plaintiff failed to exhaust all administrative remedies available prior to filing suit.

17. That the Whistleblower's Protection Act statute of limitations had run prior to Plaintiff filing suit, and as such, the suit is barred under the WPA.

18. The Defendants reserve the right to add any and all additional Affirmative Defenses which may become known through the course of discovery.

19. That Defendants demand a reply to each and every Affirmative Defense contained herein.

Respectfully submitted,

/s/ JAMES R. ACHO
Cummings, McClorey, Davis & Acho, P.L.C.
33900 Schoolcraft Road
Livonia, MI 48150
(734) 261-2400
Attorneys for Defendants
Email: jacho@cmda-law.com
(P62175)

Dated: October 23, 2009
P:\jc\dearborn(jamal).atc.wpd

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HASSANE JAMAL,

Plaintiff,

v

Case No. 2:09-cv-13903-BAF-MJH
HON. BERNARD A. FRIEDMAN
Magistrate Judge Michael Hluchaniuk

DANIEL PALETKO, individually and in his capacity
as Mayor of the City of Dearborn Heights, and
THE CITY OF DEARBORN HEIGHTS, a
Michigan Municipal Corporation,
jointly and severally,

Defendants.

MICHAEL L. STEFANI (P-20938)
FRANK J. RIVERS (P-62973)
Stefani & Stefani, P.C.
512 E. Eleven Mile Road
Royal Oak, MI 48067
(248) 544-3400
Attorneys for Plaintiff

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.
By: **RONALD G. ACHO** (P-23913)
JAMES R. ACHO (P-62175)
33900 Schoolcraft
Livonia, MI 48150-1392
(734) 261-2400
Attorneys for **Defendants**

RELIANCE UPON JURY DEMAND

NOW COME the Defendants, DANIEL PALETKO and THE CITY OF DEARBORN
HEIGHTS, by and through their attorneys, **CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.**

by **RONALD G. ACHO** and **JAMES R. ACHO**, and hereby rely upon the Jury Demand previously submitted by Plaintiff in the within cause of action.

Respectfully submitted,

/s/ JAMES R. ACHO
Cummings, McClorey, Davis & Acho, P.L.C.
33900 Schoolcraft Road
Livonia, MI 48150
(734) 261-2400
Attorneys for Defendants
Email: jacho@cnda-law.com
(P62175)

Dated: October 23, 2009
P:\jc\dearborn(jamal).atc.wpd

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: MICHAEL L. STEFANI, ESQ. and FRANK J. RIVERS, ESQ.

and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: NONE

/s/James R. Acho
Cummings, McClorey, Davis & Acho, P.L.C.
33900 Schoolcraft
Livonia, MI 48150
Phone: (734) 261-2400
Primary E-mail: jacho@cnda-law.com
P-62175

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HASSANE JAMAL,

Plaintiff,

vs.

Case No. 09-cv-13093

HON. BERNARD A. FRIEDMAN

DANIEL PALETKO, individually and in his
capacity as Mayor of the CITY OF DEARBORN
HEIGHTS and the CITY OF DEARBORN HEIGHTS,
a Michigan municipal corporation,
jointly and severally,

Defendants.

STEFANI & STEFANI, PC
BY: MICHAEL L. STEFANI (P20938)
BY: FRANK J. RIVERS (P62973)
512 E. Eleven Mile Road
Royal Oak, MI 48067
(248) 544-3400
Attorneys for Plaintiff

CUMMINGS, McCLOREY, DAVIS & ACHO, PLC
BY: RONALD G. ACHO (P 23913)
ROBERT J. HAHN (P 39567)
33900 Schoolcraft
Livonia, MI 48150
(734) 261-2400
Attorneys for Defendants

**DEFENDANT MAYOR DANIEL PALETKO'S EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

NOW COMES the Defendant MAYOR DANIEL PALETKO, by and through his attorneys,
CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C., by RONALD G. ACHO and ROBERT

J. HAHN, in accordance with the Defendant's pleadings, the Affidavit of Mayor Paletko and Defendant's Memorandum of Law, submitted herewith, pray the Court grant the plaintiff the following relief:

1. Entry of a Temporary Restraining Order pursuant to Rule 65(b) Fed.R.Civ.P, restraining the Plaintiff, his agents and employees, from publishing untrue and malicious statements regarding Defendant, all until such time as the plaintiff can be heard by the Court on its request for preliminary injunctive relief; and.

2. After due hearing of the evidence, pursuant Rule 65 Fed.R.Civ.P., issue a preliminary injunction enjoining the Plaintiff, his agents or employees, and anyone acting on their behalf, or any party aware of the Order of this Court, from shing untrue and malicious statements regarding Defendant, or threatening Defendant in an attempt to extort a settlement in this lawsuit.

3. Grant such further equitable relief as the Court deems appropriate.

Respectfully submitted,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

/s/ RONALD G. ACHO
33900 Schoolcraft
Livonia, MI 48150
(734) 261-2400
Attorneys for Defendants
racho@cnda-law.com
(P23913)

Dated: October 27, 2009

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HASSANE JAMAL,

Plaintiff,

Case No. 09-cv-13093

HON. BERNARD A. FRIEDMAN

vs.

DANIEL PALETKO, individually and in his
capacity as Mayor of the CITY OF DEARBORN
HEIGHTS and the CITY OF DEARBORN HEIGHTS,
a Michigan municipal corporation,
jointly and severally,

Defendants.

STEFANI & STEFANI, PC
BY: MICHAEL L. STEFANI (P20938)
BY: FRANK J. RIVERS (P62973)
512 E. Eleven Mile Road
Royal Oak, MI 48067
(248) 544-3400
Attorneys for Plaintiff

CUMMINGS, McCLOREY, DAVIS & ACHO, PLC
BY: RONALD G. ACHO (P 23913)
ROBERT J. HAHN (P 39567)
33900 Schoolcraft
Livonia, MI 48150
(734) 261-2400
Attorneys for Defendants

**BRIEF IN SUPPORT OF DEFENDANT MAYOR DANIEL PALETKO'S
EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

TABLE OF CONTENTS

INDEX OF AUTHORITIES ii

STATEMENT OF QUESTION PRESENTED iii

STATEMENT OF FACTS 1

INDEX OF EXHIBITS iv

LEGAL DISCUSSION 4

INDEX OF AUTHORITIES

Performance Unlimited, Inc. v. Questar Publishers, Inc.,
52 F. 3d 1373 at 1378 (6th Cir., 1995) 4

Blount v. Societe Anonyme du Filtre Chamberland Systeme Pasteur,
53 F. 98, 101 (6th Cir., 1892 5

International Longshoremen’s Association, AFL-CIO Local Union No. 1937 v. Norfolk S. Corp.,
927 F. Supp. 900, 903 (6th Cir., 1991) cert. denied, 502 U.S. 813 (1991) 5

Interox Am. V. PPG, Industries, Inc., 736 F. 2d 194, 202 (5th Cir., 1984) 7

Ryko Manufacturing Corp. v. Delta Services, Inc.,
625 F. Supp. 1247, 1248 (S.D. Iowa, 1985 7

Stenberg v. Cheker Oil Co.,
573 F. 2d 921, 925 (6th Cir., 1978 7

New York Times v Sullivan,
376 US 354, 84 S.Ct. 710; 11 L.E.D. 2d, 262 (1986) 7

Stenberg v. Cheker Oil Co., 573 F. 2d 921, 925 (6th Cir., 1978 7

STATEMENT OF QUESTION PRESENTED

WHETHER THIS COURT SHOULD ENJOIN PLAINTIFF AND HIS AGENTS FROM MAKING MALICIOUS UNTRUE AND DEFAMATORY STATEMENTS ABOUT THE DEFENDANTS.

DEFENDANT SAYS YES.

PLAINTIFF SAYS NO.

INDEX OF EXHIBITS

1. Answer to Motion to Modify Temporary Order for Custody, with Exhibits
2. Copy of envelope in which documents relating to divorce were sent
3. Affidavit of Daniel Paletko

**BRIEF IN SUPPORT OF DEFENDANT MAYOR DANIEL PALETKO'S
EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

NOW COMES the Defendant, MAYOR DANIEL PALETKO, by and through his attorneys, CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C., by RONALD G. ACHO and ROBERT J. HAHN, and for his Brief in Support of Ex Parte Motion for Temporary Restraining Order and for Injunctive Relief, preventing the Plaintiff or his agents from publishing and disseminating false, malicious and highly inflammatory material relating to Defendant Mayor Paletko, in particular regarding his divorce in 2006, states unto this Court as follows:

Plaintiff, Hassane Jamal, has embarked on a campaign of destruction in an attempt to embarrass Mayor Daniel Paletko into an improper and unwarranted settlement in this pending litigation. The Plaintiff's actions are taken in actual malice, and statements made by the Plaintiff, through his agents, are made in complete disregard of the truth of such statements. Plaintiff's actions constitute an effort to extort a settlement in this lawsuit.

I. FACTS

The Plaintiff has sued Daniel Paletko individually and in his capacity as the Mayor of Dearborn Heights, as well as the City of Dearborn Heights, on theories of violation of Mr. Jamal's civil rights under Federal and State law. The Defendants vigorously contest these allegations and deny any liability whatsoever to the Plaintiff for the reason that the termination of the Plaintiff's employment was due to performance related issues rather than any discrimination on the part of the

Defendants.

Plaintiff, through his agents, has attempted to extort settlement of this matter, either through a monetary award or through a return to his prior employment with the City. Defendants have refused Plaintiff's demands due to the strong belief of the correctness of their position, both factually and legally before this Court.

Recently, Defendants became aware that highly inflammatory documents from the Mayor's divorce in 2006 were being circulated throughout the community, and in particular, to absentee voters. The Defendants have come into possession of some of these documents through voters who are friendly to the Defendant Mayor Paletko and sympathetic to his position. The particular documents include the allegation that the Mayor's former wife had to apply for and obtain food stamps for the couple's children during the course of the divorce. These allegations are highly inflammatory and completely untrue. **(Ex. 1, Answer to Motion to Modify Temporary Order for Custody, with Exhibits)**. Previously, the same absentee voters were sent copies of the Complaint and Jury Demand in this case. In each case, documents were sent to the absentee voters in envelopes using identical type and 1st class mail stamps which could not be traced through the postal servers. **(Ex. 2, Copy of envelope in which documents relating to divorce were sent)**.

It is important to note that Mayor Paletko stands for re-election on Tuesday, November 3, 2009. It is further important to note that during the course of the divorce litigation, Mayor Paletko vigorously defended against claims that he permitted his former wife to become destitute to the point where she would need to obtain food stamps as alleged through her pleadings in that case.

On August 6, 2009, at 6:00 p.m., Defendant Mayor Paletko attended a meeting at the Panera

Bread at a shopping center on Ford Road. Also at that meeting was Zouher Abdel-Hak, Dearborn Heights City Attorney Gary Miotke and Nabil Fakih. **(Ex. 3, Affidavit of Daniel Paletko)**. Through the course of this meeting, Zouher Abdel-Hak told the Defendant Mayor Paletko “bad things will happen to you if you do not bring Hassane Jamal back as a City employee.” The meeting lasted approximately one hour and Mr. Abdel-Hak further told Mayor Paletko that he had approached City council members and that he had been able to buy them off to support his position with respect to the re-employment of Plaintiff in this case. Mr. Abdel-Hak further bragged that he had “full control over the City council.”

Following the meeting at Panera Bread, Mayor Paletko and attorney Gary Miotke discussed Mr. Abdel-Hak’s demands and threats that “bad things will happen” if Hassane Jamal did not become re-employed with the City. Both the Mayor and the City Attorney agreed that Plaintiff Hassane Jamal should not be re-employed by the City, and that they would not go along with the Plaintiff’s extortion plot.

By sending a copy of the instant lawsuit to Dearborn Heights voters, the Plaintiff, through his agents, sought to make good on his threat that “bad things will happen.” This did not succeed, so Plaintiff went further and obtained copies of documents relating to a very nasty and unpleasant divorce proceeding. In the second week of September, the Mayor was advised by one of his constituents that Zouher Abdel-Hak had told him that he had obtained copies of the pleadings from the Mayor’s divorce. This Dearborn Heights voter was told, “I got the Mayor now” by Mr. Abdel-Hak. Following those statements, copies of the attached documents were disseminated to Dearborn Heights absentee voters with the clear intent of making “bad things happen.”

The contents of the pleadings in the Mayor's divorce contain many statements which are plainly untrue. The Plaintiff, through his agents, has disseminated these documents with the intention of seeing to it that "bad things happen." It is important to note that no effort has been made to determine the truth of the contents of those documents, nor have the responsive pleadings from those unpleasant divorce proceedings been sent with the pleadings provided to the voters by the Plaintiff through his agents. This is actual malice.

II. LEGAL DISCUSSION

(A) STANDARDS FOR INJUNCTIVE RELIEF

Fed. Rule Civ. Proc. 65 governs the issuance of temporary restraining orders and preliminary injunctions. Pursuant to Rule 65(b), a temporary restraining order may be granted without written or oral notice to the adverse party when:

- (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate or irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and
- (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required. Fed. Rule Civ. Proc. 65 (b).

"The object and purpose of a preliminary injunction is to preserve the existing state of things until the rights of the parties can be fairly and fully investigated and determined." *Performance Unlimited, Inc. v. Questar Publishers, Inc.*, 52 F. 3d 1373 at 1378 (6th Cir., 1995); (quoting *Blount v. Societe Anonyme du Filtre Chamberland Systeme Pasteur*, 53 F. 98, 101 (6th Cir. 1892)) *American Federation of Musicians v. Stein*, 213 F. 2d 679, 682 (6th Cir., 1954), cert. denied 348 U.S.

873 (1954); *Blount v. Societe Anonyme du Filtre Chamberland Systeme Pasteur*, 53 F. 98, 101 (6th Cir., 1892). The legal discretion of the Court in acting upon applications for preliminary injunctions is largely controlled by the consideration that the injury to the moving party, arising from a refusal of the writ, is certain and great, while the damage to the party complained of, by the issuance of the injunction, is slight or inconsiderable. *Id.*

The four factors for a court to consider in deciding to grant of a preliminary injunction are:

- (1) the likelihood of plaintiff's success on the merits;
- (2) whether the injunction will save the plaintiff from irreparable injury;
- (3) whether the injunction would harm others; and
- (4) whether the public interest would be served.

Performance Unlimited, Inc. v. Questar Publishers, Inc., 52 F. 3d 1373 at 1381, citing *International Longshoremen's Association, AFL-CIO Local Union No. 1937 v. Norfolk S. Corp.*, 927 F. Supp. 900, 903 (6th Cir., 1991) cert. denied, 502 U.S. 813 (1991), citing *In re DeLorean Motor Co.*, 755 F. 2d 1223, 1228 (6th Cir., 1985).

While Courts traditionally utilize these four factors, there is no set formula governing their application. The Sixth Circuit has noted:

A district court is required to make specific findings concerning each of the four factors, unless fewer are dispositive of the issue. Moreover, the four factors are not prerequisites to be met, but rather must be balanced as part of a decision to grant or deny injunctive relief.

Performance Unlimited, Inc. v. Questar Publishers, Inc., 52 F. 3d at 1381, quoting *In re DeLorean*, 755 F. 2d at 1229.

(B) APPLICATION OF LEGAL STANDARDS

(i) Plaintiff Is Likely to Succeed on the Merits.

In balancing the four factors for injunctive relief, the moving party must show a strong likelihood of success on the merits if all the other factors mitigate against granting a preliminary injunction. *Performance Unlimited, Inc. v. Questar Publishers, Inc.*, 52 F. 3d at 1385. However, when all the other factors indicate that a Court should issue a preliminary injunction, the burden on the moving party to show a strong likelihood of success is lessened. *Id.*

Plaintiff is likely to succeed on the merits as it is clear from the action of individuals acting on Plaintiff's behalf that those individuals are acting with actual malice in attempting to extort a settlement from the Defendants through the knowing publication of false and inflammatory material.

MCL 600.2911, Action for Libel or Slander, provides in part:

(6) An action for libel or slander shall not be brought based upon a communication involving public officials or public figures unless the claim is sustained by clear and convincing proof that the defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether or not it was false.

In this case, the Affidavit of Mayor Paletko detailing the discussions at Panera Bread, where the Mayor was threatened that "bad things will happen" if he did not rehire the Plaintiff and the issuance of highly inflammatory and untrue documents from the Mayor's divorce proceeding clearly satisfy the legal standard of MCL 600.2911(6). The malicious nature of Plaintiff's actions are evidenced by the fact that Plaintiff's agent made threats against the Mayor, if no settlement could be reached in this lawsuit.

The bad faith and unreasonableness of Plaintiff's actions in the timing, manner and motives

of his actions are apparent.

(ii) The Injunction Will Save the Plaintiff from Irreparable Injury.

The possible loss of the mayoral election of November 3, 2009 and consequent political ruin of Mayor Paletko constitute irreparable injury. An injury is irreparable if it cannot be undone through monetary remedies. *Performance Unlimited, Inc. v. Questar Publishers, Inc.* 52 F.3d 173 at 1382, citing *Interox Am. V. PPG, Industries, Inc.*, 736 F.2d 194, 202 (5th Cir., 1984). Generally, while an applicant for a preliminary injunction has not demonstrated irreparable harm where monetary damages would adequately compensate for the asserted harm, the loss of the moving party's enterprise is irreparable harm. *Performance Unlimited, Inc.* at 1382, citing *Ryko Manufacturing Corp. v. Delta Services, Inc.*, 625 F. Supp. 1247, 1248 (S.D. Iowa, 1985). The purpose of a preliminary injunction is always to prevent irreparable injury so as to preserve the court's ability to render a meaningful decision on the merits. See *Stenberg v. Cheker Oil Co.*, 573 F.2d 921, 925 (6th Cir., 1978).

In leading case of *New York Times v Sullivan*, 376 US 354, 84 S.Ct. 710; 11 L.E.D. 2d, 262 (1986), the Court articulated the oft-cited formulation of the new standard for defamation. 376 U.S. at 280-281. This rule "prohibits a public official from recovering damages for a defamatory falsehood relating to his official [***22] conduct unless he proves that the statement was made with 'actual malice' – that is, with the knowledge that it was false or with reckless disregard of whether it was false or not." 376 U.S. at 279-280.

If this Court does not issue a temporary restraining order, Defendant will certainly be harmed at election day by the Plaintiff's actions. If Dearborn Heights voters are told that Mayor Paletko is

dishonest, or lies are spread regarding the Mayor's highly contested divorce proceeding, this will wrongfully endanger the Mayor's chance of re-election, which cannot be compensated by money damages.

(iii) The Injunction Would Not Cause Significant Harm To The Plaintiff.

The issuance of the injunction sought will not harm Plaintiff in any meaningful way. Plaintiff will still be able to litigate the merits of the pending lawsuit before this Court.

In the instant matter, Mayor Paletko stands for re-election on November 3, 2009. To enjoin the Plaintiff from making malicious false and defamatory statements would cause Plaintiff no harm.

(iv) The Public Interest Will Be Served By The Enjoining The Plaintiff

The public interest will directly be served by preventing the foreseeable harm to the Dearborn Heights election by preventing Plaintiff's attempts to extort settlement in this lawsuit through malicious threats, lies, distortions and highly inflammatory misinformation of Mayor Paletko.

The public interest is further invested in this controversy, because of the public interest in seeing its laws respected and upheld and seeing that bad faith and unfair dealing are not countenanced.

III. MINIMAL SECURITY IN THE FORM OF A BOND SHOULD BE REQUIRED UNDER RULE 65(c)

The Defendant has been Mayor of Dearborn Heights for many years. The prospective costs and damage to Plaintiff will be minimal financially, as his lawsuit will continue uninterrupted. Under the circumstances, Defendant Mayor Paletko asks the Court to grant Defendant's request for

injunctive relief, to require Defendant to post only a nominal security in the form of a bond to satisfy the requirement of Rule 65(c).

WHEREFORE, Defendant Mayor Daniel Paletko respectfully requests that this Honorable Court grant the relief requested in plaintiff's Application For Temporary Restraining Order And Preliminary Injunction preventing Plaintiff and his agents from publishing malicious false statements regarding the Mayor and Mayor's divorce in 2006, and such other relief as the court deems appropriate.

Respectfully submitted,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

/s/ RONALD G. ACHO

33900 Schoolcraft
Livonia, MI 48150
(734) 261-2400
Attorneys for Plaintiff
racho@cnda-law.com
(P23913)

Dated: October 27, 2009

I hereby certify that on October 27, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: **MICHAEL L. STEFANI**

s/Ronald G. Acho
33900 Schoolcraft
Livonia, MI 48150
Phone: (734) 261-2400
Primary E-mail: racho@cnda-law.com
P 23913

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HASSANE JAMAL,

Plaintiff,

vs.

Case No. 09-cv-13093

HON. BERNARD A. FRIEDMAN

DANIEL PALETKO, individually and in his
capacity as Mayor of the CITY OF DEARBORN
HEIGHTS and the CITY OF DEARBORN HEIGHTS,
a Michigan municipal corporation,
jointly and severally,

Defendants.

STEFANI & STEFANI, PC
BY: MICHAEL L. STEFANI (P20938)
BY: FRANK J. RIVERS (P62973)
512 E. Eleven Mile Road
Royal Oak, MI 48067
(248) 544-3400
Attorneys for Plaintiff

CUMMINGS, McCLOREY, DAVIS & ACHO, PLC
BY: RONALD G. ACHO (P 23913)
ROBERT J. HAHN (P 39567)
33900 Schoolcraft
Livonia, MI 48150
(734) 261-2400
Attorneys for Defendants

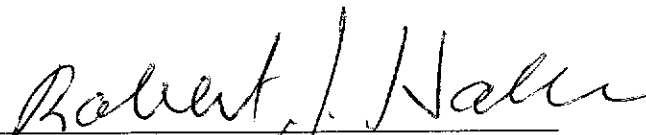
CERTIFICATION OF COUNSEL

NOW COMES ROBERT J. HAHN, Attorney for the Defendant and certifies to this Court
that no notice has been given to the Plaintiff of this request for ex-parte relief for the reason that it
is likely to cause further damage to the Defendant's goodwill and will precipitate the harm Plaintiff

seeks to prevent through this requested injunctive relief.

Respectfully submitted,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

BY: 

ROBERT J. HAHN (P39567)
33900 Schoolcraft Road
Livonia, MI 48150
734-261-2400
Attorneys for Defendants

Dated: October 27, 2009