

NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 4063

ROBERT WRIGHT, MARK
MICHALEC, and SCOTT SHIPMAN
individually and on behalf of all others
similarly situated,

Plaintiffs

v.

CITY OF CHARLOTTE

Defendant.

**Rule 23 MOTION FOR CERTIFICATION
OF CLASS ACTION AND APPOINTMENT
OF CLASS COUNSEL**

NOW COME Plaintiffs Robert Wright, Mark Michalec, and Scott Shipman (“Plaintiffs”), employees or former employees of the City of Charlotte and members or former members of the Charlotte-Mecklenburg Police Department individually and on behalf of all others similarly situated participants in The Charlotte-Mecklenburg Voluntary Police Pledge Fund (“Pledge Fund”) the Class and move the Court to Certify this matter as a Class Action and appoint Class Counsel. In support of their motion, plaintiffs rely on the Affidavit of Named Plaintiffs Robert Wright, Mark Michalec, and Scott Shipman (**Attachment 1**), the Affidavit of Daniel R. Taylor, Jr. and W. Ellis Boyle (**Attachment 2**), proposed Notice of Pendency of Class Action (**Attachment 3**), Proposed Order Granting Plaintiffs’ Rule 23 Motion for Certification of Class Action and Appointment of Class Counsel (**Attachment 4**), and such other material as may be

provided to the court at the hearing on this matter. In furtherance of their motion, Plaintiffs provide the following:

Plaintiffs along with approximately 1,100 others similarly situated employees and former employees of the City of Charlotte and members and former members of the Charlotte-Mecklenburg Police Department have brought this action for breach of fiduciary duty and negligent misrepresentation and omission to recover moneys deducted from their weekly pay along with appropriate interest. See, **Complaint**.

North Carolina Rules of Civil Procedure, Rule 23 entitled “Class Actions” provides:

(a) If persons constituting a class are so numerous as to make it impractical to bring them all before the court, such of them, one or more, as will fairly insure the adequate representation of all may, on behalf of all, sue or be sued.

North Carolina courts have determined that to certify a class, the class proponents must satisfy six requirements:¹

1. The existence of a class;
2. The class members within the jurisdiction of the court must adequately represent any class member outside the jurisdiction of the Court;
3. The class must be so numerous as to make it impractical to bring each member before the court;
4. The class members share an interest in a common law or fact and the issue predominate over individual differences in the members’ claims;

¹ G.Gray Wilson, North Carolina Civil Procedure, Ch.23 § 23-1 (Matthew Bender); Crow v. Citicorp Accept. Co., 319 N.C. 274, 354 S.E.2d 459 (1987)

5. The party representing the class must fairly insure the representation of all class members; and
6. Adequate notice must be given to the class members.

Each of the above prerequisites are addressed in the following similarly numbered paragraphs

1. **The Class** -- As alleged in the complaint, each prospective class member is or was an employee of the City of Charlotte working within the Charlotte-Mecklenburg Police Department, has had money deducted from his or her pay and has not received funds as represented at the time of enrollment and impliedly confirmed with each weekly compensation deduction taken by the City of Charlotte. **See, Complaint & Complaint, Exhibit E (Graue verified Complaint).**
2. **Named Plaintiffs Are Adequate Representatives.** As employees or former employees of the City of Charlotte and members or former members of the Charlotte-Mecklenburg Police Department (Complaint paragraphs 1, 2, & 3), plaintiffs Robert Wright, Mark Michalec and Scott Shipman are more than qualified to represent all non-named class members within or outside the jurisdiction of this Court. **See, Affidavit of Robert Wright, Mark Michalec and Scott Shipman (Attachment 1 hereto)**
3. **The Numerosity Requirement Is Met.** The putative class consists of approximately 1,100+ employees and former employees of the City of Charlotte and members and former members of the Charlotte-Mecklenburg Police Department. **See, Complaint Exhibit E (Graue Verified Complaint, paragraph 25).** The amount sought per class member is relatively small - \$260 for a single year Pledge Fund participant; \$2,600 for a ten-year Pledge Fund participant; \$5,200 to \$11,000 for a twenty-year Pledge Fund participant; \$7,800 to \$11,000 for a thirty year Fund Participant – such that it is simply impractical to expect that claims of these approximately

1,100+ individuals could be practically pursued separately, and clearly the injured Pledge Fund participants are so numerous as to make it impractical to bring each putative class member before the court. See, **Complaint Exhibit E (Graue Verified Complaint, paragraph 25)**

4. **Common Issues Exist and Predominate.** Common issues of law or fact exist as evidenced by the following non-exclusive list:

(a) what is the legal effect the action of the City Council of the City of Charlotte on January 17, 1966 when it approved "...the use of payroll deductions for the Volunteer Police Pledge Fund subject to the details being worked out satisfactorily (sic)" See, **Complaint & Complaint Exhibit E (Graue Verified Complaint);**

(b) what is the legal effect of the City of Charlotte deducting funds from enrollee's weekly compensation and maintaining those funds in an account or accounts controlled by the City of Charlotte or agents or employees of the City of Charlotte notwithstanding that the authorization seems to have only allowed for a payroll deduction at the time of pledge participant's death See, **Complaint Exhibit B;**

(c) what is the legal effect of the City of Charlotte not treating funds deducted from Pledge Fund participates as trust funds and holding those funds in trust;

(d) what is the legal effect of the City of Charlotte treating the Pledge Fund as a benefit of employment and, consistent with that, displaying the Pledge Fund as a benefit of employment on the city's website. See, **Complaint Exhibit C;**

(e) what is the legal effect of the City of Charlotte making pledge fund beneficiary forms available and creating Pledge Fund Benefits staff to answer questions, (“you can reach out to the whole CMPD HR Team” which members are available to assist with Pledge Fund questions) all at the expense of the City of Charlotte. See, **Complaint, Exhibit C**;

(f) what is the legal effect of the use of City of Charlotte resources in the creation of the forms (**See, Complaint Exhibit D**) and use of those forms by City of Charlotte employees as authority to take the deduction of funds from weekly payroll;

(g) what is the legal effect of senior police officer solicitating participation in the Pledge Fund during the on-boarding process which, because their seniority and ultimate military like authority of new employees, would clearly benefit the solicitating police officer City of Charlotte employee without any reasonable expectation of benefiting later Pledge Fund participants;

(h) what is the legal effect the environment created or condoned by the City of Charlotte in which the representations were made to the putative class members during the employment on-boarding process by employees of the City of Charlotte;

(i) what is the legal effect of a large percentage of hired employees of the Charlotte-Mecklenburg Police Department becoming Pledge Fund participants and agreeing to weekly payroll deductions during or immediately following the on-boarding process;

(j) what is the legal effect of the representations made by agents and employees of the City of Charlotte about the purpose of the weekly payroll deductions to be taken by the City of Charlotte and the total absence of any information which would support the representations made or the long-term viability of the Pledge Fund;

(k) what is the legal effect of the information or lack thereof in the possession of the City of Charlotte at the time the on-boarding representations were made;

(l) what is the legal effect of the information or lack of information in the possession of the City of Charlotte at the time each payroll deduction was taken following the participant's enrollment through the time deductions were no longer taken;

(m) what is legal effect of the actions or inactions taken by the City of Charlotte to determine the viability of the Pledge Fund to meet its stated purpose at any time;

(n) what is the legal effect of the total lack of any oversight by the City of Charlotte as to the viability of the city approved program;

(o) what is the legal effect of the City of Charlotte's failure to accept any responsibility for its total lack of oversight of the so-called Pledge Fund;

5. **Adequate Counsel.** Counsel representing the class are experienced, able counsel and will fairly insure the representation of all class members. **Affidavit of Daniel R. Taylor, Jr., and W. Ellis Boyle. Attachment 2 hereto.**

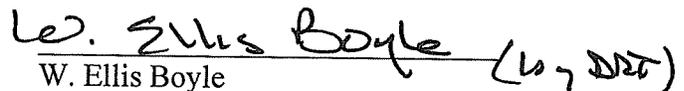
6. **Adequate Notice**. Adequate notice must be given to the putative class members, a copy of which proposed Notice provided for Court approval is provided. **Attachment 3 hereto**.

Based on the foregoing, plaintiffs move that the Court certify a Class as described in the attached notice (**Attachment 3 hereto**) and appoint Daniel R. Taylor Jr, and E. Winslow Taylor of Taylor & Taylor, Attorneys at Law, PLLC and W. Ellis Boyle, Knott & Boyle, PLLC as Class Counsel as provided in the attached Proposed Order Granting Class Certification and Appointment of Class Counsel (**Attachment 4 hereto**).

This the 24th day of May 2021.



Daniel R. Taylor, Jr.
E. Winslow Taylor
Attorneys for Plaintiffs
Taylor & Taylor Attorneys at Law PLLC
418 N. Marshall St., Suite 204
Winston-Salem, NC 27101
Telephone: 336-418-4745



W. Ellis Boyle
Attorney for Plaintiffs
Knott & Boyle, PLLC
4800 Six Forks Road, Suite 100
Raleigh, NC 27609
Telephone: 919-783-5900
Facsimile: 919-783-9650

ATTACHMENT 1

3. Plaintiff Scott Shipman is a citizen and resident of Union County, North Carolina. Shipman was a sworn law enforcement officer employed by the city of Charlotte. He was hired by the City of Charlotte in June of 1989. Prior to his retirement, Shipman participated in the Pledge Fund and had Five Dollars (\$5.00) deducted from his salary weekly starting June 21, 1989 until he retired on July 1, 2018. Shipman has not received any payment from the Pledge Fund.

4. Plaintiffs Wright, Michalec, and Shipman each made the decision to participate in the Pledge Fund based on the trust and confidence placed in senior members of the Police Department arising from the strong recommendations made to them at the time of their employment by employees of the City of Charlotte, their desire to be part of the Charlotte police force team which supported other team members and would support them when needed, as well as on the fact that the Pledge Fund was sponsored, approved, and administered by the City of Charlotte. Had it ever been explained to us that the Pledge Fund was not viable and that we would never receive an amount more than we contributed, we would have never agreed to participate or would have immediately terminated our participation in the Pledge Fund.

5. We each have agreed to represent not only our personal interests in this matter, but also to represent fairly the interests of the entire Class. We are each committed to fairly represent the interest of all members of the Class to the best of our ability. We have no conflict with any other member of the class. We have a genuine interest in the outcome of this case, and we will represent the interests of the class outside the State of North Carolina. While we have advanced funds to pay expenses in this case and hopefully those expenses will be repaid from the proceeds of this case, we do not expect to receive by settlement or award funds on any basis other than as will be received by other class members.

6. We carefully considered and interviewed several firm and selected our present counsel based on their experience in class actions as well as in financial and investment related litigation.

This the 25 day of May 2021, as to paragraphs 1, 4, 5, & 6 above.



Robert Wright

This the ___ day of May 2021, as to paragraphs 2, 4, 5, & 6 above.

Mark Michalec

This the ___ day of May 2021, as to paragraphs 3, 4, 5, & 6 above.

Scott Shipman

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

Paragraphs 1, 4, 5, & 6 subscribed, sworn to, and acknowledged before me by Robert Wright,
this 25 day of May 2021.

Notary Public Shardal L. Rose

Printed Name Shardal L. Rose

My Commission Expires: 8/9/2022

(SEAL)



6. We carefully considered and interviewed several firm and selected our present counsel based on their experience in class actions as well as in financial and investment related litigation.

This the ___ day of May 2021, as to paragraphs 1, 4, 5, & 6 above.

Robert Wright

This the 3rd day of May 2021, as to paragraphs 2, 4, 5, & 6 above.



Mark Michalec

This the ___ day of May 2021, as to paragraphs 3, 4, 5, & 6 above.

Scott Shipman

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

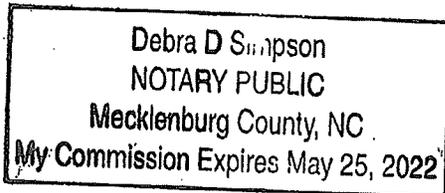
Paragraphs 2, 4, 5, & 6 subscribed, sworn to, and acknowledged before me by Mark Michalec
this 13th day of May 2021.

Notary Public Debra D Simpson

Printed Name Debra D. Simpson

My Commission Expires: May 25, 2022

(SEAL)



6. We carefully considered and interviewed several firm and selected our present counsel based on their experience in class actions as well as in financial and investment related litigation.

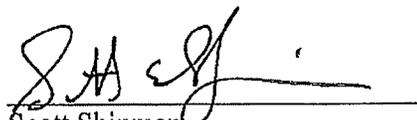
This the ___ day of May 2021, as to paragraphs 1, 4, 5, & 6 above.

Robert Wright

This the ___ day of May 2021, as to paragraphs 2, 4, 5, & 6 above.

Mark Michalec

This the 16th day of May 2021, as to paragraphs 3, 4, 5, & 6 above.



Scott Shipman

STATE OF NORTH CAROLINA

COUNTY OF Union

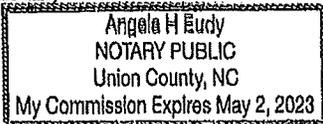
Paragraphs 3, 4, 5, & 6 subscribed, sworn to, and acknowledged before me by Scott Shipman
this 16th day of May 2021.

Notary Public Angela H. Eudy

Printed Name Angela H. Eudy

My Commission Expires: May 2, 2023

(SEAL)



ATTACHMENT 2

NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 4063

ROBERT WRIGHT, MARK
MICHALEC, and SCOTT SHIPMAN
individually and on behalf of all others
similarly situated,

Plaintiffs

v.

CITY OF CHARLOTTE

Defendant.

AFFIDAVIT OF DANIEL R. TAYLOR, JR.,
AND W. ELLIS BOYLE
IN SUPPORT OF PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION AND APPOINTMENT
OF CLASS COUNSEL

Daniel R. Taylor, Jr., of the firm of Taylor & Taylor, Attorneys at Law, PLLC and W. Ellis Boyle of the firm Knott & Boyle, PLLC provide this joint affidavit in support of Plaintiffs' Motion for Certification of Class Action and Appointment of Class Counsel.

1. Daniel R. Taylor, Jr. is a 1968 graduate of the United States Military Academy at West Point, New York, a Vietnam veteran, and former Captain in the United States Army. He graduated *cum laude* from Wake Forest School of Law and is a former law clerk for United States District Court Judge Hiram Ward. Following his clerkship, he joined what is today Kilpatrick Townsend & Stockton where he practiced for approximately forty years, before forming a firm with his son. He has enjoyed a broad civil litigation practice having handled matters throughout North Carolina and the United States. He was named Best Lawyer, Lawyer of the Year for Litigation, Banking and Finance in 2021, 2018 & 2016 (Triad Region North

Carolina); Best Lawyer, Lawyer of the Year for Mass Tort Litigation / Class action Defendants 2019 (Triad Region North Carolina); Best Lawyer, Lawyer of the Litigation – Securities 2012 (Triad Region North Carolina). He has twice recovered over Ten Million Dollars in contested matters as Plaintiffs’ counsel and prevailed as lead defense counsel representing R.J. Reynolds Tobacco Company in an ERISA class action that lasted fourteen years including three appeals to the United States Court of Appeals for the Fourth Circuit. He is a Fellow in the Litigation Counsel of America, an invitation only honorary society of less than half percent of the lawyers in America evaluated for effectiveness and accomplishment in litigation and trial work, along with ethical reputation. He also carries an AV Preeminent rating from Martindale-Hubbell, given to attorneys who are ranked at the highest level of professional excellence for their legal expertise, communication skills, and ethical standards by their peers.

2. E. Winslow Taylor is a 2006 graduate of the University of North Carolina at Chapel Hill, and a 2012 graduate of Wake Forest School of Law. Before joining his father in Taylor & Taylor, he worked with a respected North Carolina firm and has handled cases throughout North Carolina and in each of North Carolina’s United States District Courts. Winslow Taylor holds an AV Preeminent rating from Martindale-Hubbell.

3. The Taylor & Taylor, Attorney at Law, PLLC has been rated by Best Lawyers of American, Best Law Firms, Tier 1 Litigation Securities (Triad Region of North Carolina) for 2020 and 2021.

4. Daniel R. Taylor, Jr. and E. Winslow Taylor understand that in being appointed class counsel they each have an obligation to and will fairly insure the representation of all class members.

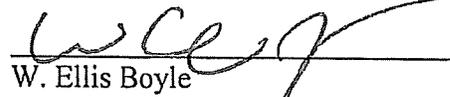
5. W. Ellis Boyle is a partner in Knott & Boyle, PLLC. He is a graduate of Davidson College, a former Captain in the United States Army, a graduate of Wake Forest University School of Law, a law clerk to the Honorable Claude Hilton, United States District Judge for the Eastern District of Virginia, a litigation associate of Womble, Carlyle Sandridge and Rice, a former Assistant United States Attorney for the Eastern District of North Carolina, and General Counsel and Deputy Secretary at the North Carolina Department of Public Safety, before forming the Raleigh NC firm of Knott & Boyle, PLLC. He tried approximately twenty cases as an Assistant United States Attorney and has enjoyed an active trial practice since the formation of Knott and Boyle.

6. W. Ellis Boyle understands that in being appointed class counsel he has an obligation to and will fairly insure the representation of all class members.

This the 10th day of May 2021.



Daniel R. Taylor, Jr.
E. Winslow Taylor
Attorneys for Plaintiffs
Taylor & Taylor Attorneys at Law PLLC
418 N. Marshall St., Suite 204
Winston-Salem, NC 27101
Telephone: 336-418-4745



W. Ellis Boyle
Attorney for Plaintiffs
Knott & Boyle, PLLC
4800 Six Forks Road, Suite 100
Raleigh, NC 27609
Telephone: 919-783-5900
Facsimile: 919-783-9650

STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

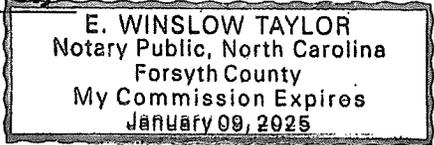
Paragraphs 1, 2, 3 & 4 subscribed, sworn to, and acknowledged before me by Daniel R. Taylor, Jr., this 10th day of May 2021.

Notary Public *E. Winslow Taylor*

Printed Name *E. Winslow Taylor*

My Commission Expires: 1/9/2025

(SEAL)



STATE OF NORTH CAROLINA

WAKE COUNTY

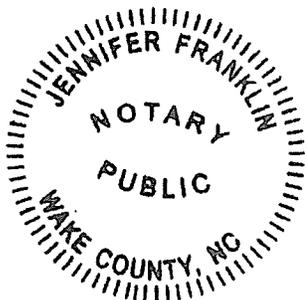
Paragraphs 5 & 6, subscribed, sworn to, and acknowledged before me by W. Ellis Boyle, this 10th day of May 2021.

Notary Public *Jennifer Franklin*

Printed Name *Jennifer Franklin*

My Commission Expires: 4 July 2024

(SEAL)



ATTACHMENT 3

Description Of The Action.

On March 16, 2021, an action was filed against Defendant City of Charlotte by named plaintiffs Robert Wright, Mark Michalec and Scott Shipman employees or former employees of the City of Charlotte and members or former members of the Charlotte-Mecklenburg Police Department. The action was brought by officers Wright, Michalec and Shipman individually and on behalf of all others similarly situated who had funds deducted from their weekly pay to fund The Charlotte-Mecklenburg Voluntary Pledge Fund (Pledge Fund) and who have not received from the City of Charlotte an amount equal to or greater than the amount deducted.

The action alleges that Defendant City of Charlotte breached its fiduciary duty or otherwise was made negligent misrepresentations and / or omissions in connection with its approval, sponsorship, and solicitation of participation in the Pledge Fund, and the deduction of funds from weekly pay without any oversight or concern as to the viability of the Pledge Fund.

The Court has approved a class consisting of all persons who have had funds deducted from their weekly pay and who have not received from the City of Charlotte's Pledge Fund an amount equal to or greater than the amount deducted.

Defendant City of Charlotte denies Plaintiffs' allegation and maintains that no damages should be awarded nor funds returned.

Persons Eligible To Receive This Notice.

The Mecklenburg County Superior Court has ordered that this notice be distributed to all persons who have had funds deducted from their weekly pay for purposes of participating in the

Pledge Fund and who have not received from the City of Charlotte Pledge Fund an amount equal to or greater than the amount deducted.

Effect Of Joining This Action And Opt-Out Procedure.

If you join this action, you and defendants will be bound by any ruling, judgment, or settlement whether favorable or unfavorable. If you wish to join this action, no action on your part is needed at this time. Notice will be provided to you of any rulings, judgment, or settlement in this case.

If you choose not to join this lawsuit, you may opt-out. If you opt-out, (a) you will have no right to receive any money under any settlement or judgment entered in this action, (b) you will not be bound by any settlement or judgment, and (c) you may bring action on your own. If you opt-out of this lawsuit and bring or participate in a separate lawsuit, you may lose your case and receive nothing or you may obtain less money than you could have gotten in this suit even if you prevail and it may take several years to obtain such money. To opt-out of this lawsuit, you must submit a written notice stating that you want to opt-out to the following address:

Attn: Pledge Fund Class Member Opt-Out,
Knott & Boyle, PLLC,
4800 Six Forks Road, Suite 100,
Raleigh, NC 27609

The written notice must state:

I wish to opt-out of the Pledge Fund Class in the case of Wright et. al. v. City of Charlotte, No. 21 CVS 4063, Mecklenburg County Superior Court. I understand that by requesting to be excluded from the class approved in this action, that I will receive no money under any settlement or judgment entered in this case. I understand that if I am excluded from this action, I may bring a separate action. I understand that in any separate lawsuit, I may receive nothing or less than I would have received if I had remained a participant in this action.

Your Legal Representation If You Do Not Opt-Out.

Your interests will be represented by Plaintiffs' counsel:

Daniel R. Taylor, Jr.
E. Winslow Taylor
Taylor & Taylor,
Attorneys at Law, PLLC
401 N. Marshall Street, Suite 204
Winston-Salem, NC 27101
T: 336.418.4745
F: 336.418.4745
e-mail: dantaylor@t2legal.com
winslow@t2legal.com

W. Ellis Boyle
Knott & Boyles, PLLC
4800 Six Forks Road, Suite 100
Raleigh, NC 27609
T: 919.783.5900
F: 919.783.9650
ellis@knottboyle.com

The attorneys are being paid on a contingency fee basis which means that if there is no recovery, there will be no attorneys' fees. You will not have to pay the attorneys out of your own pocket.

If there is a recovery, the attorneys will receive part of any settlement obtained or money judgment entered in favor of all members of the class.

Further Information.

If you would like further information, please do not call the court. Instead, please contact class counsel using the contact information provided above.

ATTACHMENT 4

NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 4063

ROBERT WRIGHT, MARK
MICHALEC, and SCOTT SHIPMAN
individually and on behalf of all others
similarly situated,

Plaintiffs

v.

CITY OF CHARLOTTE

Defendant.

PROPOSED
(SUBJECT TO COMPLETION)

ORDER GRANTING PLAINTIFFS’
RULE 23 MOTION FOR CERTIFICATION
OF CLASS ACTION AND APPOINTMENT
OF CLASS COUNSEL

THIS MATTER came before the Honorable _____ for consideration of Plaintiffs’ Motion to Certify a Class and Appointment of Class Counsel (the “Motion”) pursuant to Rule 23 of the North Carolina Rules of Civil Procedure. The Court, after considering the Motion, the Complaint, the affidavits and authorities submitted, and the arguments of counsel, determines that Plaintiffs’ Motion to Certify a Class and Appointment of Class Counsel should be granted, and makes the following findings of fact and conclusions of law:

1. A proposed class action is pending in this Court against Defendant City of Charlotte.
2. The action alleges breaches of fiduciary duty and negligent misrepresentations and omissions by Defendant City of Charlotte in connection with the solicitation, collections,

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. Plaintiffs' Motion to Certify this action as a Class Action is **GRANTED**. The Court, therefore, and pursuant to North Carolina Rule of Civil Procedure 23, certifies the class as follows:

All current and former employees of the City of Charlotte and current or former members of the Charlotte-Mecklenburg Police Department from whom Pledge Fund payroll deductions were taken by the City of Charlotte and who have not received from the City of Charlotte or the Pledge Fund an amount equal to or greater than the funds deducted.

2. Plaintiffs Robert Wright, Mark Michalec and Scott Shipman are hereby appointed as Class representatives;
3. Attorneys Daniel R. Taylor, Jr., and E. Winslow Taylor of the law firm of Taylor & Taylor, Attorneys at Law, PLLC and W. Ellis Boyle of the law firm of Knott & Boyle are hereby appointed to serve as Class Counsel.
4. Within ___ business days of the date of this Order, Defendant City of Charlotte shall produce the name, address and other available contact information of each Class member – each employee and former employee of the City of Charlotte who served in the Charlotte-Mecklenburg Police Department at any time since March 16, 2011 who has had funds deducted from his or her pay for the Pledge Fund and who has not received from the City of Charlotte an amount equal to or greater than the total deducted.
5. No later than _____, 2021, the Plaintiffs shall, at Plaintiffs' cost and expense
 - (a) Cause a Notice substantially in form of the Notice attached hereto as Exhibit A to be mailed to persons identified by the City of Charlotte at addresses provided.

and management of payroll deductions taken from participants in the Charlotte-Mecklenburg Voluntary Police Pledge Fund (“Pledge Fund”).

3. Plaintiffs have met their burden of showing that a class exists of current and former employees of the City of Charlotte and members of the Charlotte-Mecklenburg Police Department who have had payroll deductions taken for the Pledge Fund and have not received from the Pledge Fund an amount equal to or in excess of the funds deducted.
4. The named Plaintiffs Robert Wright, Mark Michalec, and Scott Shipman (“Plaintiffs”), employees or former employees of the City of Charlotte and members or former members of the Charlotte-Mecklenburg Police Department will fairly and adequately represent the interests of all members of the class; the named Plaintiffs have no conflict of interest with the other members of the class; the named Plaintiffs have a genuine interest in the outcome of this case, and the named Plaintiffs will adequately represent the interest of the class outside the State of North Carolina.
5. The class members are so numerous – numbering approximately 1,100 – that it is impractical to bring them all before this Court;
6. A class action is clearly superior to other available methods of adjudication of this controversy for numerous reasons including that (a) it will serve the useful purpose of preventing a multiplicity of suits and individual rulings, (b) the amounts recoverable for the individual class members separately would not justify the pursuit of individual claims, and (c) the claims could only be practically and economically pursued as a Class Action.
7. The Notice of Class Action attached as Exhibit A to this Order (the “Class Notice”) is in proper form for notice to the class of their rights in this action.

- (b) Cause the Class Notice to be posted to _____
- (c) Cause the Class Notice to be published in at least one newspaper of general circulation in the Charlotte, NC metropolitan area.
6. Any individual who (a) qualified as a member of the class and (b) desires to be excluded from the class may opt-out by completing and mailing an opt-out notice (described in the Notice of Class Action) Attn: Pledge Fund Member Opt-Out, Knott & Boyle PLLC, 4800 Six Forks Road, Suite 100, Raleigh, NC 27609, postmarked no later than _____, 2021.
7. Should any member of the class ask any questions of the Defendant as to the nature, claims or status of the Class Action, the Defendant and its agents shall respond to such inquiry or inquiries by producing a copy of the Class Notice and by advising the person to contact Class Counsel at the locations provided in said Notice.
8. For purposes of paragraph 7 only, the word "Defendant" shall include the managers, directors, officer, employees, agents and assigns of the Defendants.

IT IS SO ORDERED,

This the ___ day of ____, 2021

The Honorable _____
Superior Court Judge Presiding

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 25, 2021, he served the following:

Rule 23 Motion for Certification of Class Action and Appointment of Class Counsel with

Affidavit of Robert Wright, Mark Michalec and Scott Shipman in Support of Plaintiffs' Rule 23 Motion for Certification of Class Action and Appointment of Class Counsel (Attachment 1);

Affidavit of Daniel R. Taylor and W. Ellis Boyle in Support of Plaintiffs' Rule 23 Motion for Certification of Class Action and Appointment of Class Counsel (Attachment 2);

Proposed Notice of Pendency of Class Action (Attachment 3); and

Proposed (Subject to Completion) Order Granting Plaintiffs' Rule 23 Motion for Certification of Class Action and Appointment of Class Counsel (Attachment 4).

upon counsel for Defendant by United States Postal Service addressed to:

Daniel E. Peterson
Parker Poe
620 South Tryon Street, Suite 800
Charlotte, NC 28202
Attorney for Defendant City of Charlotte

And by email at danielpeterson@parkerpoe.com

This the 25th day of May 2021.



Daniel R. Taylor, Jr.
Attorneys for Plaintiffs
Taylor & Taylor Attorneys at Law PLLC
418 N. Marshall St., Suite 204
Winston-Salem, NC 27101
Telephone: 336-418-4745