

self-serving language in an attempt to frustrate the clear purpose of Rule 36 and usefulness of the Request.

To object based on N.C.G.S. sec. 160A-186, which is inapplicable, in response to every request is simply inappropriate. It relates solely to information maintained by a city and limits information subject to inspection by third parties. Admitting a Request For Admission does not entail an "inspection" of any city personnel record and none of the Requests for which Admissions are sought require an inspection by a third party. Moreover, the exceptions to the statutory prohibition are quite broad as specifically enumerated in 160A-186 (b) and, to the extent it is argued that admitting a request might disclose information already in the public domain, it is nonsensical. Moreover, 160A-186 (c)(4) allows the Court to order an appropriate response which court order would provide the requisite authority for a response, and Defendant has made no effort to seek such protection.

Because the Defendant repeated the same inappropriate responses in many instances, each Response will be addressed.

1. Defendant's contention that the Requests seek irrelevant material is false. Exhibit C to Williamson's Report establishes both the identification of the class members and establishes the aggregate amount of money deducted from his or her pay which constitutes an element of the damages sought by plaintiffs.
2. Defendant's responses repeatedly violate the requirement of Rule 36 that the party receiving the Request must Answer (Admit or Deny) **or** Object. There is neither language in the Rule nor case law authority for the proposition that a party can assert an objection and then, based on the presumed validity of the objection, Deny the Request. Defendant must Admit or Deny each request **or** Defendant must object to the latter then allowing the propounder of the Request to test the validity of the objection(s).
3. Defendant's contention that the request is objectionable because the request seeks a response to information prepared in another case is incorrect. There exists no prohibition precluding a party seeking information from another case if the information meets the requirements of Rule 26 which the information sought does.
4. Defendant's contention that it cannot admit the requests because it would cause Defendant to violate N.C.G. S. section 160A-168 is simply wrong. The statute does not so read and there is no case law supporting Defendant's position.
5. Defendant's contention that it cannot Admit any aspect of Exhibit C of Williamson's Report because it is not part of the Official Record in the Graue action is incorrect. Exhibit C of Williamson's report was referenced in Williamson's Report and while Defendant went to the effort to have the public record file of the Graue matter copied, it made no effort to contact the plaintiffs' counsel in the Graue action nor Judge Williamson himself, both of whom it is believed would acknowledge the correctness of the Request.
6. Defendant's contention that it cannot Admit any aspect of Exhibit C of Williamson's Report because it is incomplete is contrary to Rule 36 which requires a good faith Admission to those aspects of Exhibit C which it can Admit.

7. Defendant's contention that Plaintiffs' Request improperly attempts to switch the burden of proof on the subject matter of the requests is wrong and shows a lack of understanding of the purpose of Rule 36. Rule 36 is intended to allow a party through its request to eliminate an item from dispute in the case by requesting an admission. If the admission is denied and proved to be true, the denying party is required to pay the reasonable attorneys' fees of the propounder. Rule 36 is an important tool for the efficient administration of justice and its purpose should not be frustrated by gamesmanship.
8. Defendant's attempt to revise a Request in a favorable manner so as to make the Admission helpful to its position or case posturing is wrong. The rule is clear. The Request – as written – must be Answered (Admitted or Denied) or Objected to. There is no authority in the language of the statute or in the case law for the legerdemain which Defendant has attempted.

At the hearing on this matter, Plaintiffs' counsel will address Defendant's Responses to Plaintiffs' Requests for Production more fully.

WHEREFORE, Plaintiffs pray that the Court, following review of each of Defendant's Answers and Objections enter an Order that each request contained in Plaintiff's First Request for Admissions is Admitted or that Defendant provide an Answer within ten days to each of Plaintiff's First Request for Admissions consistent with the requirements of Rule 36. The Plaintiffs further pray that to the extent Defendant feels the need to append any document to its response that it append only the exact document which Plaintiffs appended to its Request without modification and that it do so without marking such document(s) as indicating that it originated from the files of the Volunteer Police Pledge Fund ("VPPF") which it did not.

This the 31st day of July 2021.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on 31st day of July 2021, he served the following:

**PLAINTIFFS' MOTION TO DETERMINE SUFFICIENCY
OF DEFENDANT'S RESPONSE TO PLAINTIFFS'
RULE 36 REQUESTS FOR ADMISSIONS**

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

Daniel E. Peterson
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Charlotte, NC 28202
Attorney for Defendant City of Charlotte

This the 31st day of July 2021.



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