

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
CASE NO.: 5:10-CV-62**

**CHARLES PAYNE,** )  
**Plaintiff,** )  
) )  
**vs.** ) )  
) )  
**THE CITY OF RALEIGH, RALEIGH** )  
**POLICE DEPARTMENT, P.T.** )  
**MORRISON, JOHN DOE I, (in their** )  
**individual and official capacities as** )  
**as employees of the City of Raleigh)** )  
**JOHN DOE, II, JOHN DOE, III and** )  
**JUST OURS, LLC d/b/a** )  
**THE POURCH/THE BASSMENT** )  
**Defendants.** )

**COMPLAINT**

NOW COMES Plaintiff, Charles Payne, and alleges as follows:

**PARTIES**

1. Plaintiff is a citizen and resident of Wake County, North Carolina and suffers from cerebral palsy, a disease that affects the neurological system of the human body, which, in part, controls body movement and muscle coordination.
2. Defendant Raleigh Police Department is an agency of the city of Raleigh and employs and supervises P.T. Morrison and John Doe I.
3. Defendants P.T. Morrison and John Doe I are, upon information and belief, residents and citizens of Wake County. At all times pertinent to the allegations set forth in this Complaint, the officers were employed by the Raleigh Police Department. Defendants P.T. Morrison and John Doe I are sued in both their individual and official capacities as employees of the Raleigh Police Department.
4. Defendant Just Ours, LLC d/b/a The Pouch/The Bassment is a limited liability corporation in the State of North Carolina with its principal place of business located in Raleigh, North Carolina.
5. Defendant John Doe, II is, upon information and belief, a resident of Wake County, North Carolina and an employee of The Pouch.
6. Defendant John Doe, III is, upon information and belief, a resident of Wake

County, North Carolina and a part time employee of The Pourch.

7. At the time of the alleged incident complained of herein and at all times pertinent hereto, Defendants P.T. Morrison and John Doe I, acted under color of law, of a statute, ordinance, regulation, custom, or usage.

### JURISDICTION

8. The jurisdiction of this Court is invoked under 28 U.S.C. § 1331 and 1343, 42 U.S.C. § 1983 and the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution and the principles governing pendant jurisdiction.

### FACTS

9. On or about Friday, August 8, 2008 at 11:45 p.m., the Plaintiff entered The Pourch/The Bassment, a nightclub located at 407 Glenwood Avenue in Raleigh, North Carolina to join up with a friend.
10. On or about 11:45p.m., John Doe II, a bouncer ("Bouncer") at The Pourch/The Bassment checked Plaintiff's identification to verify that he was at least twenty-one (21) years of age.
11. After the Bouncer verified Plaintiff's age, Plaintiff proceeded to the downstairs area of The Pourch/The Bassment known as "The Bassment" in an effort to find his friend.
12. After Plaintiff entered "The Bassment" and realized his friend was not there, he walked back up the stairs toward "The Pourch" area of the nightclub.
13. At the top of the stairs of The Pourch/The Bassment, Plaintiff encountered the Bouncer.
14. The Bouncer told the Plaintiff "You had your limit so you need to leave."
15. Plaintiff immediately stated to the Bouncer, "I have not been drinking. I have cerebral palsy."
16. Plaintiff then turned to an off-duty uniformed Raleigh Police Officer, John Doe III, ("Off-Duty Officer") working at The Pourch and asked, "Sir, did you hear what he said?"
17. The Off-Duty Officer responded by saying, "Sir, you need to leave because you are too drunk."

18. The Plaintiff then stated to the Off-Duty Officer, "No I am not drunk. I have cerebral palsy."
19. The Off-Duty Officer told Plaintiff "Look you are too drunk. You need to leave."
20. Again the Plaintiff informed the Off-Duty Officer that he was not drunk but had cerebral palsy.
21. After the second attempt at explaining to the Off-Duty Officer that he was not drunk but had a disability, Plaintiff turned toward the stairs leading to "The Pouch" area of the nightclub.
22. The Off-Duty Officer immediately grabbed Plaintiff from behind and threw him to the ground.
23. While on the ground, the Off-Duty Officer and the Bouncer continued holding him down despite his lack of resistance.
24. The Off-Duty Officer then grabbed Plaintiff's arms attempting to secure handcuffs on him.
25. The Off-Duty Officer handcuffed Plaintiff's right wrist but due to Plaintiff's cerebral palsy, he was unable to handcuff the other wrist because of the limited mobility of that arm.
26. The Off-Duty Officer and the Bouncer then repeatedly kicked Plaintiff in an effort to secure the handcuffs on his wrist.
27. At some point during the altercation, P.T. Morrison and John Doe I, the two on-duty Raleigh police officers ("Officers" or "P.T. Morrison and John Doe I"), arrived at the scene and joined the Off-Duty Officer and/or the Bouncer in kicking and otherwise assaulting the Plaintiff.
28. One of the Officers pressed his knee into Plaintiff's chest with such a great amount of force that Plaintiff began to feel faint and was gasping for air.
29. Finally the Officers secured the handcuffs behind Plaintiff's back despite the fact that it was extremely damaging and painful to Plaintiff because of his cerebral palsy.
30. While Plaintiff was on the ground, a female witness was yelling "Please don't do this to him. Please don't; he's handicapped."

31. The Officers threw the Plaintiff into a police car and then tied the Plaintiff's legs together with rope.
32. On the way to the police station, the Officers scrolled through the Plaintiff's cellular phone and taunted the Plaintiff.
33. Upon arriving at the police station parking garage, the Officers again threw the Plaintiff to the ground and demanded that he "walk." Plaintiff responded that he could not stand up nor could he walk because his legs were tied together by the rope. One of the Officers said "if we had pepper spray he would get his ass up." The Plaintiff also heard one of the Officers say "we have to get our stories straight because he is a drunk autistic kid."
34. The Officers put the Plaintiff in a wheelchair and pushed him into the police station.
35. The Officers refused to allow the Plaintiff to make a telephone call and took him to a room at the police station where another individual read the Plaintiff his Miranda Rights and gave the Plaintiff a court date.
36. The Plaintiff was then taken to a rubberized room and placed on the floor where he remained handcuffed for approximately twenty (20) minutes.
37. The Plaintiff's father picked up the Plaintiff at the police station and then immediately took the Plaintiff to Duke Raleigh Hospital located in Raleigh on Wake Forest Road.
38. At the Hospital several pictures were taken of the Plaintiff's injuries and a Blood Test was administered to the Plaintiff. The result of the blood test registered the lowest possible reading indicating that there was no alcohol in the Plaintiff's system.

**COUNT I: DEPRIVATION OF CONSTITUTIONAL RIGHTS BY OFFICERS OF  
RALEIGH POLICE DEPARTMENT  
42 U.S.C. § 1983**

39. Plaintiff reasserts and incorporates by reference herein the allegations set forth in paragraphs 1 through 38.
40. At all time relevant to the acts complained of herein, P.T. Morrison and John Doe I, as law enforcement officers of the Raleigh Police Department, were acting within the scope and authority of their professional responsibilities and employment and therefore under the color of State law.

41. The above-described intentional beating of Plaintiff by P.T. Morrison and John Doe I, Officers of the Raleigh Police Department, violated the rights of Plaintiff as guaranteed by the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution. The beating of the Plaintiff by P.T. Morrison and John Doe I caused the Plaintiff grievous bodily injury and emotional distress for which he is entitled to redress under 42 U.S.C. § 1983. The actions of P.T. Morrison and John Doe I were neither objectively reasonable or de minimus.

### **COUNT II: ASSAULT AND BATTERY**

42. Plaintiff reasserts and incorporates herein by reference the allegations set forth in paragraphs 1 through 41.
43. The conduct of John Doe II and John Doe III, in grabbing the Plaintiff, throwing him on the ground, and kicking and otherwise beating the Plaintiff constituted assault and battery for which John Doe II and John Doe III are individually liable.
44. The conduct of P.T. Morrison and John Doe I, in their arrest of the Plaintiff, the gratuitous use of force and violence when the Plaintiff was handicapped, unarmed and did not pose any type of threat to Defendants or others, was totally unjustified, and constitutes assault and battery for which the Defendants P.T. Morrison and John Doe I are individually liable.
45. As a proximate result of the assault and battery committed by the Officers and John Doe II and John Doe III, the Plaintiff has sustained potentially permanent injuries and has incurred medical bills and other expenses. These injuries have caused and will continue to cause the Plaintiff great pain and suffering, both mental and physical.
46. The intentional beatings and verbal abuse of Plaintiff by the Officers and John Doe II and John Doe III when the Plaintiff was handicapped, unarmed and did not pose any threat or grievous bodily injury to the Officers and John Doe II and John Doe III or others and when the Officers and John Doe II and John Doe III did not have lawful authority to use deadly or non-deadly force against him was done with actual malice toward the Plaintiff and with willful and wanton indifference to and deliberate disregard for human life and the rights of the Plaintiff. The Plaintiff is thus entitled to punitive damages.

### **COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

47. Plaintiff reasserts and incorporates herein by reference the allegations set forth in paragraphs 1 through 46.

48. The Officers and John Doe II and John Doe III conduct in kicking, beating and tying the legs of the Plaintiff outside of The Pourch/The Bassment, in the presence of others, after he had repeatedly attempted to explain that he was not intoxicated but instead suffered from cerebral palsy, forcing him to attempt to walk with his legs tied at the police station, and placing him on the floor in a rubberized room where his feet remained tied and his arms were handcuffed was extreme, outrageous and unjustified, and caused the Plaintiff to suffer physical and emotional distress for which the Officers and John Doe II and John Doe III are individually liable.
49. As a result of the conduct of the Officers and John Doe II and John Doe III, the Plaintiff suffered emotional distress as well as permanent physical and emotional injuries that have caused and will continue to cause Plaintiff great pain and suffering, both mental and physical.
50. The intentional beatings and verbal abuse of the Plaintiff by the Officers and John Doe II and John Doe III was unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of the Plaintiff. The Plaintiff is thus entitled to punitive damages.

#### **COUNT IV: RESPONDEAT SUPERIOR LIABILITY**

51. Plaintiff reasserts and incorporates herein by reference the allegations set forth in paragraphs 1 through 50.
52. At all times pertinent hereto, P.T. Morrison and John Doe I were acting within the scope of their employment as Police Officers of the Raleigh Police Department.
53. The City of Raleigh is liable for compensatory damages under the doctrine of respondeat superior for the intentional torts of the P.T. Morrison and John Doe I committed within the scope of their employment.

#### **COUNT V: NEGLIGENCE**

54. Plaintiff reasserts and incorporates herein by reference the allegations set forth in paragraphs 1 through 53.
55. The Officers, while acting as agents and employees of the Raleigh Police Department in their capacity as Police Officers employed by the Raleigh Police Department, owed a duty to Plaintiff to perform their law enforcement duties without the use of unjustified or excessive force. The Officers' use of force upon Plaintiff, when Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to the Officers or others constitutes negligence for which

the Officers are individually liable.

56. The use of force upon Plaintiff when the Officers had no lawful authority to use force against him constitutes negligence for which the Defendants are individually liable.
57. As a proximate result of the Officers' negligent use of excessive force, Plaintiff has sustained permanent injuries and has incurred medical bills and other expenses. These injuries have caused and will continue to cause Plaintiff pain and suffering, both mental and physical.
58. The negligent beatings of Plaintiff by the Officers when Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to the Officers or others, and when the Officers had no lawful authority to use deadly or non-deadly force against him, was done with willful and wanton indifference to and deliberate disregard for human life and the rights of Plaintiff. Plaintiff is thus entitled to punitive damages.
59. At all times of the alleged incident, the Officers were acting within the scope of their employment as Police Officers employed by the Raleigh Police Department.
60. The Raleigh Police Department is liable for compensatory damages under the doctrine of respondeat superior for the negligence of the Defendants committed within the scope of their employment.
61. The Raleigh Police Department owed a duty to Plaintiff to train and supervise and otherwise control its Officers in the use of deadly and non-deadly force and other matters incidental to the exercise of law enforcement functions. The Raleigh Police Department failed to provide adequate training, supervision, and control of the Officers, which failure constitutes negligence.
62. As a proximate result of the negligent failure of the Raleigh Police Department to provide adequate training, supervision, and control of the Officers, Plaintiff has sustained permanent injuries and has incurred and will continue to incur medical bills and other expenses. These injuries have caused and will continue to cause Plaintiff pain and suffering, both mental and physical.
63. The failure of the Raleigh Police Department to provide adequate training and supervision of its Officers constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff. Plaintiff is thus entitled to punitive damages.
64. Further, the assault and battery by the Officers placed the Plaintiff in peril and

created a duty on the Officers to get the Plaintiff medical treatment upon his arrest and detention. The Officers and John Doe II and John Doe III deliberately and intentionally failed to promptly provide Plaintiff with such medical treatment. As a proximate result of this denial of medical treatment, Plaintiff suffered damages as aforesaid.

**PRAYER FOR RELIEF**

WHEREFORE, having fully stated its Complaint against the Defendants, Plaintiff prays that::

- a. he be awarded a judgment against the Defendants in an amount in excess of \$75,000.00 for compensatory damages; and
- b. he be awarded punitive damages in an amount to be determined at trial; and
- c. he be awarded costs and reasonable attorney's fees pursuant to 42 U.S.C. § 1988; and
- d. He have such other just and equitable relief as this Honorable Court deems appropriate.

This the 23<sup>rd</sup> day of February, 2010.

**THE EDMISTEN & WEBB LAW FIRM**

**GUIRGUIS LAW**

/s/ William Woodward Webb  
William Woodward Webb  
N.C. State Bar No. 4624

/s/ Nardine Guirguis  
Nardine Guirguis  
N.C. State Bar No. 35319

/s/ William Woodward Webb, Jr.  
William Woodward Webb, Jr.  
N.C. State Bar No. 26814

434 Fayetteville Street  
Suite 2350  
Raleigh, North Carolina 27601  
Telephone: (919) 647-9727  
Facsimile: (919) 861-0170

127 West Hargett Street  
Suite 104 (27601)  
Post Office Box 1509  
Raleigh, North Carolina 27602  
Telephone: (919) 831-8700  
Facsimile: (919) 831-8749



VERIFICATION

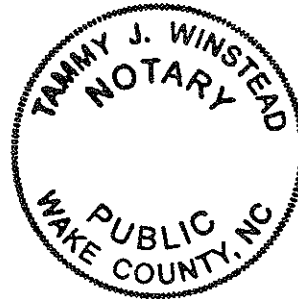
STATE OF NORTH CAROLINA


COUNTY OF WAKE

The undersigned, **CHARLES PAYNE**, being first duly sworn, deposes and says that he has read the foregoing *Complaint*, knows the contents thereof; that the same is true of his knowledge, except as to those matters stated on information and belief, and as to those matters, he believes them to be true.

  
\_\_\_\_\_  
CHARLES PAYNE

Sworn to and subscribed before me  
this 22<sup>nd</sup> day of February, 2010.



  
\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_ My Commission Expires 2-5-2011.

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Charles Payne

(b) County of Residence of First Listed Plaintiff Wake  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
The Edmisten & Webb Law Firm, PO Box 1509, Raleigh, NC

## DEFENDANTS

The City of Raleigh, et al

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)  
Thomas A. McCormick, Raleigh City Attorney

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
		<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC 1983

Brief description of cause:  
Deprivation of Constitutional Rights by Officers of Raleigh Police Department

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 02/23/2010 SIGNATURE OF ATTORNEY OF RECORD: /s/ William Woodward Webb, /s/ William Woodward Webb, Jr., /s/ Nardine Guirguis

### FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

CHARLES PAYNE

Plaintiff

v.

THE CITY OF RALEIGH, et al

Defendant

Civil Action No. 5:10-CV-62

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) The City of Raleigh
c/o Thomas A. McCormick
Raleigh City Attorney
One Exchange Plaza
Suite 1020
Raleigh, North Carolina 27602

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

The Edmisten & Webb Law Firm
William Woodward Webb
William Woodward Webb, Jr.
127 West Hargett Street, Suite 104
Post Office Box 1509
Raleigh, North Carolina 27302
Guirguis Law
Nardine Guirguis
434 Fayetteville Street
Suite 2350
Raleigh, North Carolina 27601

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 5:10-CV-62

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

CHARLES PAYNE

Plaintiff

v.

THE CITY OF RALEIGH, et al

Defendant

Civil Action No. 5:10-CV-62

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Raleigh Police Department
110 S. McDowell Street
Raleigh, North Carolina 27601

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

The Edmisten & Webb Law Firm
William Woodward Webb
William Woodward Webb, Jr.
127 West Hargett Street, Suite 104
Post Office Box 1509
Raleigh, North Carolina 27302
Guirguis Law
Nardine Guirguis
434 Fayetteville Street
Suite 2350
Raleigh, North Carolina 27601

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 5:10-CV-62

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was received by me on *(date)* \_\_\_\_\_.

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\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

CHARLES PAYNE

Plaintiff

v.

THE CITY OF RALEIGH, et al

Defendant

Civil Action No. 5:10-CV-62

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) P.T. Morrison
Raleigh Police Department
110 S. McDowell Street
Raleigh, North Carolina 27601

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The Edmisten & Webb Law Firm
William Woodward Webb
William Woodward Webb, Jr.
127 West Hargett Street, Suite 104
Post Office Box 1509
Raleigh, North Carolina 27302
Guirguis Law
Nardine Guirguis
434 Fayetteville Street
Suite 2350
Raleigh, North Carolina 27601

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 5:10-CV-62

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

CHARLES PAYNE

Plaintiff

v.

THE CITY OF RALEIGH, et al

Defendant

Civil Action No. 5:10-CV-62

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Just Ours, LLC
The Pourch/The Bassment
c/o Jillian Lea McKay
407 Glenwood Avenue
Raleigh, North Carolina 27603

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

The Edmisten & Webb Law Firm
William Woodward Webb
William Woodward Webb, Jr.
127 West Hargett Street, Suite 104
Post Office Box 1509
Raleigh, North Carolina 27302

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I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: