

ROBERT F. CHERRY, JR., ET AL.

Plaintiffs

v.

**MAYOR & CITY COUNCIL OF
BALTIMORE CITY**

Defendant.

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IN THE

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CIRCUIT COURT

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FOR

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BALTIMORE CITY

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Civil Case No.: 24-C-16-004670

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CLASS CERTIFICATION ORDER

This matter came before the court on Plaintiffs’ Motion for Class Certification (Docket Entry 35; hereafter, the “Motion”), Defendant’s Response, and Plaintiffs’ Reply. Having considered all submissions of the parties, oral argument of counsel, and applicable law, in accordance with the Memorandum Opinion issued herewith, it is this 13th day of May, 2019, by the Circuit Court for Baltimore City:

FOUND, as set forth in the Memorandum Opinion issued herewith, which is incorporated by reference herein in satisfaction of Maryland Rule 2-231(c), that Maryland Rule 2-231(a) is satisfied as to class certification pre-requisites of numerosity, commonality, typicality, and fairness and adequacy of representation by identified class representatives and class counsel; and Maryland Rule 2-231(b) is satisfied as to suitability for class maintenance; and further it is

ORDERED that the Motion shall be, and is hereby, **GRANTED**; and further it is

ORDERED, in accordance with Maryland Rule 2-231, this action shall be, and is hereby, certified as a class action as follows:

Charles O. Monk, II, Esquire, shall serve as lead Class counsel;

The Plaintiff Class is defined as all members and beneficiaries of the Fire and Police Employees' Retirement System of the City of Baltimore (the "Plan") as of June 30, 2010. The Plaintiff Class shall be, and is hereby, divided into the following Sub-Classes: (1) The Retired Sub-Class, defined as all members and beneficiaries of the Plan who, as of June 30, 2010, were entitled to, and receiving, retirement benefits (including line-of-duty and non-line-of-duty disability retirement benefits) under the Plan; (2) The Retirement-Eligible Sub-Class, defined as all members of the Plan who, as of June 30, 2010, were eligible to retire but not entitled to receive benefits because they were continuing to work; and (3) The Active Sub-Class, defined as all members of the Plan who, as of June 30, 2010, were working and not yet eligible to receive benefits under the Plan.

The Retired Sub-Class shall be, and is hereby, certified under Maryland Rule 2-231(b)(2) for purposes of Count I (Declaratory Judgment), under Maryland Rule 2-231(b)(1)(A) for purposes of liability under Count II (Breach of Contract), and under Maryland Rule 2-231(b)(3) for purposes of relief under Count II (Breach of Contract). The Retirement-Eligible Sub-Class shall be, and is hereby, certified under Maryland Rule 2-231(b)(2) for purposes of Count I (Declaratory Judgment), under Maryland Rule 2-231(b)(1)(A) for purposes of liability under Count III (Breach of Contract), and under Maryland Rule 2-231(b)(3) for purposes of relief under Count III (Breach of Contract). The Active Sub-Class shall be, and is hereby, certified under Maryland Rule 2-231(b)(2) for purposes of Count I (Declaratory Judgment) and under Maryland Rule 2-231(b)(1)(A) for all purposes under Count IV (Breach of Contract).

The named Plaintiffs shall be, and are hereby, appointed to serve as Class representatives and shall also serve as Sub-Class representatives as follows: Plaintiffs Houser and Williams shall serve as Retired Sub-Class Representatives; Plaintiff Sledgeski shall serve as

Retirement-Eligible Sub-Class Representative; and Plaintiffs Cherry and Lake shall serve as Active Sub-Class Representatives; and further it is

ORDERED, in accordance with Maryland Rule 2-231(e), notice shall be given to the Retired and Retirement-Eligible Sub-Classes for purposes of relief under Counts II and III; no other notice is required. In addition to fulfilling the requirements of Maryland Rule 2-231(e), the notice shall inform each notice recipient of the sum of damages, if any, he or she will be entitled to receive if he or she does not elect to be excluded; and that those notice recipients who do not request to be excluded from the appropriate Sub-Class for purposes of relief under Counts II and III may be required to return COLA benefits paid following the effective date of Ordinance 10-306, and/or any damages to be awarded may be subject to a set-off to account for COLA benefits paid following the effective date of Ordinance 10-306; and further it is

ORDERED that the parties shall jointly submit a proposed notice consistent with the above requirements within twenty-five (25) days following entry of this order; and further it is

ORDERED that any and all other relief requested by the Motion for Class Certification shall be, and is hereby, **DENIED**.

[JUDGE'S SIGNATURE ON ORIGINAL]

Judge Julie R. Rubin

Madam Clerk: Please mail copies to all counsel and named parties of record.