

COURT OF APPEALS OF GEORGIA

City of Roswell v. Bible et al.

City of Roswell v. Bible, A19A1310 · No. A19A1310 · Decided September 23, 2019

SUMMARY

The Georgia Court of Appeals affirmed certification of a class action brought by Roswell firefighters alleging that the City improperly classified them as part-time employees and denied them full-time benefits under the City’s Policy Manual. The court held that the plaintiffs established the requirements for class certification, including predominance, numerosity, and typicality, and that waiver and other merits issues did not defeat certification at that stage.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	McMillian, Presiding Judge; McFadden, Chief Judge; Herbert E. Phipps, Senior Appellate Judge
JURISDICTION	Georgia
DECIDED	September 23, 2019
DOCKET	A19A1310
DISPOSITION	affirmed
PROCEDURAL POSTURE	The City of Roswell appealed an order certifying a class of firefighters asserting claims arising from their classification as part-time employees and denial of full-time benefits.
STANDARD OF REVIEW	Class-certification decisions are reviewed for abuse of discretion; factual findings are affirmed unless clearly erroneous.
PRECEDENTIAL VALUE	Published opinion; precedential under Georgia appellate practice.
PARTIES	City of Roswell v. David Bible, Brian Rogers, putative class members

TOPICS

[class actions](#) [civil procedure](#) [breach of contract](#) [waiver](#) [municipal law](#)

PRACTICE AREAS

[civil procedure](#) [class actions](#) [contracts](#) [municipal law](#) [employment law](#)

QUESTIONS PRESENTED

1. Whether the trial court improperly relied on allegations and other evidence in determining that the statutory class-certification requirements were met.
2. Whether common issues predominated over individual issues, including potential waiver defenses and individualized quantum-meruit issues.
3. Whether the proposed class satisfied the numerosity requirement.
4. Whether Bible and Rogers satisfied the typicality requirement.

HOLDINGS

1. Class proponents must come forward with evidence supporting the statutory class-certification requirements, but the trial court did not improperly rely on unsupported allegations in this case.
2. Common issues predominated where the class members' claims arose from identical terms in a single Policy Manual and involved the City's common contractual liability; potential individualized waiver issues did not defeat predominance at the certification stage.
3. The proposed class satisfied the numerosity requirement because the record supported a reasonable estimate substantially exceeding the generally presumed threshold for impracticability of joinder.
4. The named plaintiffs satisfied typicality because their breach-of-contract claims arose from the same alleged denial of full-time benefits, the same course of conduct, and the same legal theory as the proposed class members' claims.

KEY QUOTATIONS

“In determining the propriety of a class action, the first issue to be resolved is not whether the plaintiffs have stated a cause of action or may ultimately prevail on the merits, but whether the requirements of OCGA § 9-11-23 (a) have been met.” (5)

“However, we need not resolve the issue of waiver at this juncture because “merit-based disputes are not ripe for resolution at the class certification stage, particularly where no dispositive motions have been filed, argued, or ruled on below, and merits discovery has not concluded.”” (9)

“Moreover, “where corporate policies constitute the very heart of the plaintiffs’ claims, as they do here, common issues will predominate because those policies would necessarily have to be re-proven by every plaintiff.”” (10)

FACTUAL BACKGROUND

Roswell classified certain firefighters as part-time employees and denied them benefits available to regular full-time employees under the City's Policy Manual. The proposed class consisted of current and former Roswell firefighters who worked at least forty hours per standard workweek between August 29, 2011, and August 29, 2017, but did not receive full-time benefits. Bible and Rogers alleged that they regularly worked forty hours or more per week while being treated as part-time employees. The trial court estimated approximately 149 class members and found that the claims arose from common provisions of the City's Policy Manual.

PROCEDURAL HISTORY

Bible and Rogers filed suit in August 2017 against the City, asserting breach of contract, breach of the duty of good faith and fair dealing, quantum meruit, declaratory judgment, and attorney-fee claims. After discovery limited to class certification, the trial court certified a class of similarly situated firefighters under OCGA § 9-11-23. The City appealed, challenging the evidentiary basis for certification and the predominance, numerosity, and typicality findings. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Endochoice Holdings, Inc. v. Raczewski, __ Ga. App. __, 830 SE2d 597 (2019)
- SunTrust Bank v. Bickerstaff, 349 Ga. App. 794, 801 (2) (824 SE2d 717) (2019)
- Georgia-Pacific Consumer Prods., LP v. Ratner, 295 Ga. 524, 526 (1) (762 SE2d 419) (2014)
- City of Rome v. Hotels.com, LP, No. 4:05-CV-249-HLM, 2011 U.S. Dist. LEXIS 158580, at *21 (N.D. Ga. Mar. 21, 2011)
- Fischer v. Ciba Specialty Chems. Corp., 238 F.R.D. 273, 279 (II) (A) (1) (S.D. Ala. 2006)
- American Debt Foundation, Inc. v. Hodzic, 312 Ga. App. 806, 808 (720 SE2d 283) (2011)
- Brenntag Mid South, Inc. v. Smart, 308 Ga. App. 899, 906 (2) (b) (i) (710 SE2d 569) (2011)
- Unum Life Ins. Co. of America v. Crutchfield, 256 Ga. App. 582, 583 (568 SE2d 767) (2002)
- Venerus v. Avis Budget Car Rental, LLC, 723 F. App'x 807, 815 (2) (11th Cir. 2018)
- Greenberg Farrow Architecture, Inc. v. JMLS 1422, LLC, 339 Ga. App. 325, 331, 333 (2) (791 SE2d 635) (2016)
- Village Auto Inc. Co. v. Rush, 286 Ga. App. 688, 692 (2) (649 SE2d 862) (2007)
- In re Scientific-Atlanta, Inc. Securities Litigation, 571 F. Supp. 2d 1315, 1342 (II) (A) (2) (N.D. Ga. 2007)
- Graybill v. Attaway Constr. & Assoc., 341 Ga. App. 805, 811-12 (3) (802 SE2d 91) (2017)
- In re Checking Account Overdraft Litigation, 286 F.R.D. 645, 651, 653, 656 (S.D. Fla. 2012)
- Fortis Ins. Co. v. Kahn, 299 Ga. App. 319, 324 (2) (b) (683 SE2d 4) (2009)
- Teachers Retirement System v. Plymel, 296 Ga. App. 839, 845 (2) (676 SE2d 234) (2009)
- The Medical Center, Inc. v. Bowden, 348 Ga. App. 165, 174 (2) (a) (820 SE2d 289) (2018)
- Campos v. ChoicePoint, Inc., 237 F.R.D. 478, 488 (II) (D) (1) (N.D. Ga. 2006)
- Ault v. Walt Disney World Co., 692 F.3d 1212, 1216 (III) (11th Cir. 2012)
- Local 703, I.B. of T. Grocery & Food Employees Welfare Fund v. Regions Financial Corp., 762 F.3d 1248, 1260 (V) (11th Cir. 2014)