

SUPREME COURT OF ILLINOIS

Barber v. American Airlines, Inc., 241 Ill. 2d 450

948 N.E.2d 1042 (2011) · No. No. 110092 · Decided March 24, 2011

SUMMARY

The Supreme Court of Illinois held that a putative class action became moot when American Airlines refunded the named plaintiff’s checked-baggage fee before she filed a motion for class certification. The court relied on Wheatley and rejected the appellate court’s broader “pick off” exception, while recognizing that mootness may be deferred when a class-certification motion is pending at the time of tender. The court reversed the appellate court and affirmed dismissal by the circuit court.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Freeman; Justice Thomas; Justice Garman; Justice Karmeier; Justice Burke; Justice Theis; Chief Justice Kilbride
JURISDICTION	Illinois
DECIDED	March 24, 2011
DOCKET	No. 110092
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff brought a putative class action for breach of contract after American Airlines refunded her airfare but initially refused to refund a \$40 checked-baggage fee. After the airline refunded the baggage fee, the circuit court dismissed the complaint as moot under section 2-619(a)(9) of the Illinois Code of Civil Procedure. The appellate court reversed, and the Illinois Supreme Court reversed the appellate court and affirmed the circuit court.
STANDARD OF REVIEW	De novo review of a section 2-619 dismissal.
PRECEDENTIAL VALUE	Published, precedential Illinois Supreme Court opinion
PARTIES	American Airlines, Inc. v. Andrea Barber

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QUESTIONS PRESENTED

1. Whether a putative class action becomes moot when the defendant tenders and provides the named plaintiff all requested individual relief before the plaintiff files a motion for class certification.
2. Whether Illinois should recognize a pick-off exception allowing a putative class action to proceed when the defendant tenders relief before a motion for class certification is filed.
3. Whether the circuit court properly dismissed the complaint under section 2-619(a)(9) as moot.

HOLDINGS

1. Under *Wheatley*, when a defendant tenders and provides the named plaintiff the requested relief before the plaintiff files a motion for class certification, the named plaintiff's claim becomes moot and the putative class action may properly be dismissed.
2. When a motion for class certification has been filed and is pending when the defendant tenders full relief to the named plaintiff, the case is not moot before the circuit court decides the certification motion; the court should decide certification before addressing mootness.
3. Illinois rejects the pick-off exception insofar as it permits a putative class action to continue when the defendant tenders relief before the plaintiff files a motion for class certification.
4. *Gelb* is overruled because it directly contradicts *Wheatley* by holding that a claim is not moot when tender occurs before the filing of a motion for class certification.

KEY QUOTATIONS

"Wheatley teaches that the important consideration in determining whether a named representative's claim is moot is whether that representative filed a motion for class certification prior to the time when the defendant made its tender." (241 Ill. 2d at 456)

"In sum, the 'pick off' exception applied by the appellate court below directly contradicts Wheatley, which upheld a dismissal for mootness where the named plaintiffs were granted the relief requested but never moved for class certification." (241 Ill. 2d at 459)

"Gelb directly contradicts Wheatley, and Gelb is hereby overruled." (241 Ill. 2d at 460)

FACTUAL BACKGROUND

Andrea Barber purchased an airline ticket and paid a \$40 fee to check two suitcases. American Airlines canceled the flight, refunded the ticket price, and initially refused to refund the baggage fee. Barber filed a putative class action without first filing a motion for class certification; after being served, American offered and then refunded the \$40 fee. The circuit court dismissed the action as moot, and Barber never moved for class certification.

PROCEDURAL HISTORY

The Cook County circuit court dismissed the complaint on mootness grounds after the defendant refunded the named plaintiff's \$40 baggage fee. A divided appellate court reversed and remanded, holding that the claim was not moot under a so-called pick-off exception. The Illinois Supreme Court granted leave to appeal, rejected that exception as applied where no motion for class certification had been filed before tender, and reinstated the circuit court's dismissal.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The appellate court judgment was reversed, and the circuit court judgment dismissing the complaint was affirmed.

CASES CITED

- Wheatley v. Board of Education of Township High School District 205, 99 Ill. 2d 481, 459 N.E.2d 1364 (1984)
- DeLuna v. Burciaga, 223 Ill. 2d 49, 857 N.E.2d 229 (2006)
- Parks v. Kownacki, 193 Ill. 2d 164, 737 N.E.2d 287 (2000)
- Cohen v. Compact Power Systems, LLC, 382 Ill. App. 3d 104, 887 N.E.2d 668 (2008)
- Hillenbrand v. Meyer Medical Group, S.C., 308 Ill. App. 3d 381, 720 N.E.2d 287 (1999)
- Susman v. Lincoln American Corp., 587 F.2d 866 (7th Cir. 1978)
- Greisz v. Household Bank (Illinois), N.A., 176 F.3d 1012 (7th Cir. 1999)
- Yu v. International Business Machines Corp., 314 Ill. App. 3d 892, 732 N.E.2d 1173 (2000)
- Arriola v. Time Insurance Co., 323 Ill. App. 3d 138, 751 N.E.2d 221 (2001)
- Gelb v. Air Con Refrigeration & Heating, Inc., 326 Ill. App. 3d 809, 761 N.E.2d 265 (2001)
- Bruemmer v. Compaq Computer Corp., 329 Ill. App. 3d 755, 768 N.E.2d 276 (2002)
- Akinyemi v. JP Morgan Chase Bank, N.A., 391 Ill. App. 3d 334, 908 N.E.2d 163 (2009)
- Jankousky v. Jewel Cos., 182 Ill. App. 3d 763, 538 N.E.2d 689 (1989)
- Deposit Guaranty National Bank of Jackson, Mississippi v. Roper, 445 U.S. 326, 100 S. Ct. 1166, 63 L. Ed. 2d 427 (1980)