

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FIFTH
DISTRICT

Easter v. City of Orlando

249 So. 3d 723 (Fla. 5th DCA 2018) · No. 5D17-276 · Decided June 4, 2018

SUMMARY

The Florida Fifth District Court of Appeal affirmed the denial of class certification in a suit seeking refunds of fines imposed under Orlando's unconstitutional red-light camera ordinance. The court held that the voluntary payment defense could be considered at the class-certification stage and that individual differences among payors defeated commonality, typicality, predominance, and superiority. The court also concluded that class treatment would not be superior because most proposed class members likely could not recover under the voluntary payment doctrine.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fifth District
WRITING FOR THE COURT	Evander, J.; Berger, J.; Edwards, J.
JURISDICTION	Florida
DECIDED	June 4, 2018
DOCKET	5D17-276
DISPOSITION	affirmed
PROCEDURAL POSTURE	Nonfinal appeal from an order denying the class representative's motion for class certification in an action seeking refunds of fines paid under an unconstitutional red-light-camera ordinance.
STANDARD OF REVIEW	Class-certification decisions are reviewed for abuse of discretion; factual findings are reviewed for competent, substantial evidence, and conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published Florida Fifth District Court of Appeal opinion; binding precedent within the district unless superseded or limited by later authority.
PARTIES	Richard Easter, on behalf of himself and all other persons similarly situated v. City of Orlando

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QUESTIONS PRESENTED

1. Whether the voluntary-payment defense could be considered in deciding whether to certify a class seeking refunds of fines imposed under an ordinance later held invalid.
2. Whether the circuit court abused its discretion by finding that Easter failed to establish commonality, typicality, predominance, and superiority under Florida Rule of Civil Procedure 1.220.

HOLDINGS

1. The voluntary-payment defense was controlling and the trial court properly considered it in determining whether to certify the class.
2. The trial court properly found that Easter failed to establish commonality and typicality because his claim involved a materially different course of conduct and defense analysis from that of most proposed class members.
3. The trial court properly found that Easter failed to establish predominance because overcoming the voluntary-payment defense would require highly individualized factual inquiries.
4. The trial court properly found that Easter failed to establish superiority because class notice and proceedings would consume substantial resources while most class members would ultimately be barred from recovery by the voluntary-payment defense.

KEY QUOTATIONS

“The voluntary payment defense provides that “where one makes a payment of any sum under a claim of right with knowledge of the facts such a payment is voluntary and cannot be recovered.”” (at 724)

“Where a court encounters an express holding from this Court on a specific issue and a subsequent contrary dicta statement on the same specific issue, the court is to apply our express holding in the former decision until such time as this Court recedes from the express holding.” (at 728)

“A class action may be certified only after the trial court determines after “rigorous analysis” that the elements of the class action rules have been satisfied.” (at 731)

FACTUAL BACKGROUND

The City issued 49,423 notices of infraction under an ordinance authorizing red-light-camera fines and administrative appeal costs. Most vehicle owners paid without appealing, while only a small number appealed and fewer raised legal challenges. Easter challenged his citation and the validity of the ordinance before ultimately paying the fine under protest. The ordinance was later held invalid as expressly preempted by state law, leaving the proposed class members seeking refunds subject to potentially different applications of the voluntary-payment defense.

PROCEDURAL HISTORY

The City of Orlando enacted an ordinance authorizing red-light-camera citations and fines. Earlier litigation established that the ordinance was invalid because it was expressly preempted by state law, but class certification in that litigation had been denied and the denial was not appealed. Easter, who had challenged his citation before paying the fine under protest, later filed this class action seeking refunds. After discovery, the circuit court denied his motion to certify the class, concluding that commonality, typicality, predominance, and superiority were not established, and Easter appealed.

DISPOSITION

affirmed

CASES CITED

- City of Miami v. Keton, 115 So. 2d 547, 551 (Fla. 1959)
- City of Orlando v. Udowychenko, 98 So. 3d 589 (Fla. 5th DCA 2012)
- City of Aventura v. Masone, 89 So. 3d 233 (Fla. 3d DCA 2011)
- Masone v. City of Aventura, 147 So. 3d 492 (Fla. 2014)
- City of Hollywood v. Miller, 471 So. 2d 655, 656 (Fla. 4th DCA 1985)
- Chateau Cmtys., Inc. v. Ludtke, 783 So. 2d 1227, 1231 (Fla. 5th DCA 2001)
- Hall v. Humana Hosp. Daytona Beach, 686 So. 2d 653, 658 (Fla. 5th DCA 1996)
- Broward Cty., Fla. Bd. of Cty. Comm'rs v. Burnstein, 470 So. 2d 793, 795 (Fla. 4th DCA 1985)
- Puryear v. State, 810 So. 2d 901, 905 (Fla. 2002)
- Sosa v. Safeway Premium Fin. Co., 73 So. 3d 91, 102-03, 107, 109, 114-15 (Fla. 2011)
- Discount Sleep of Ocala, LLC v. City of Ocala, 43 Fla. L. Weekly D123, D124, D126 (Fla. 5th DCA Jan. 5, 2018)
- Terry L. Braun, P.A. v. Campbell, 827 So. 2d 261, 265-66, 269 (Fla. 5th DCA 2002)
- Wyeth, Inc. v. Gottlieb, 930 So. 2d 635, 643 (Fla. 3d DCA 2006)
- Seminole Cty. v. Tivoli Orlando Assocs. Ltd., 920 So. 2d 818, 823 (Fla. 5th DCA 2006)
- Mathieson v. Gen. Motors Corp., 529 So. 2d 761, 762 (Fla. 3d DCA 1988)
- Pacific Mut. Life Ins. Co. of Cal., 170 So. at 583
- Newsweek, Inc. v. Fla. Dep't of Rev., 522 U.S. 442, 444 (1998)

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