

2026 IL App (4th) 250830

NO. 4-25-0830

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 13, 2026

Carla Bender

4th District Appellate

Court, IL

THE CITY OF MONMOUTH,
Plaintiff-Appellant,
v.
JUSTIN THOMAS,
Defendant-Appellee.

) Appeal from the
) Circuit Court of
) Warren County
) No. 23LA8
)
) Honorable
) Kenneth J. Hogan,
) Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court, with opinion.
Justices Cavanagh and Harris concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff, the City of Monmouth (City), appeals from the trial court's order granting defendant Justin Thomas's motion to dismiss count I of the City's amended complaint alleging a private right of action under the Public Employee Disability Act (Act) (5 ILCS 345/1 (West 2022)) to recover benefits paid to Thomas while he was allegedly engaged in secondary employment. We reverse the court's judgment and remand for further proceedings consistent with this opinion.

¶ 2 I. BACKGROUND

¶ 3 In December 2023, the City filed a complaint against Thomas, alleging he received disability benefits under the Act totaling \$55,370.66. The City asserted that because Thomas engaged in secondary employment beginning on February 10, 2023, these benefits were forfeited under the Act, and as such, it was entitled to judgment in the amount of \$55,370.66. In January 2025, the City amended its complaint to allege it had an implied right of action under the Act

(count I) or, in the alternative, that Thomas would be unjustly enriched if he were permitted to keep the benefits he received under the Act (count II).

¶ 4 In February 2025, Thomas filed a motion to dismiss count I of the amended complaint. Thomas alleged the Act did not imply a private right of action because (1) the City was not a member of the class for whom the statute was enacted, (2) the statute was “designed to benefit and protect injured workers, not municipalities,” (3) implying a private right of action would not be consistent with the underlying purpose of the statute because the statute “contains an explicit indication of how to handle situations where an employee engages in secondary employment,” and (4) the City was also pursuing recovery under the unjust enrichment theory, which “would provide adequate remedy if proven, thus negating the need for an implied cause of action.” In response, the City asserted Thomas ignored the express language of the Act that prohibits secondary employment. See 5 ILCS 345/1(d) (West 2022) (“During this period of disability, the injured person shall not be employed in any other manner, with or without monetary compensation. Any person who is employed in violation of this paragraph forfeits the continuing compensation provided by this Act from the time such employment begins.”). Therefore, the City reasoned, it was part of the class that the Act was designed to benefit because it “is clearly not designed to benefit Thomas (or any person entitled to [Act] benefits but for such person having secondary employment), as forfeiture of a benefit by definition does not benefit the person who forfeits the benefit.”

¶ 5 On June 3, 2025, the motion to dismiss proceeded to a hearing. Counsel for Thomas argued that implying a private right of action under the Act was incompatible with the purpose of the statute because “an implied cause of action is only necessary when there is no other adequate remedy for violating *** the statute.” Therefore, counsel reasoned, “[I]f unjust enrichment is a

relevant cause of action that works then the implied cause of action is not necessary and should be dismissed.” In response, counsel for the City argued the legislative intent was “for persons receiving [the Act] benefits to forfeit those benefits for periods of time during which they have secondary employment.” Therefore, “[a]n implied cause of action is necessary for recovery of those forfeited benefits.” When asked by the trial court whether there was not an express right of action in the statute because there was already “a recognized cause of action for unjust enrichment,” counsel for the City responded, “for the statute to make sense, those forfeited benefits would have to inure to someone, and the only someone to which those forfeited benefits could inure is the city that paid those benefits.”

¶ 6 On June 12, 2025, the trial court issued a written order granting Thomas’s motion to dismiss count I of the City’s amended complaint. In its order, the court concluded, “The City’s claimed injury, the payment of benefits under the Act to an employee who is not entitled to such benefits, is not an injury the Act was designed to prevent.” The court further opined, “The lack of any language in the Act even suggesting a public employer’s right to recover benefits from an employee who has forfeited benefits under the Act is a strong indicator that the Act was not designed to prevent, or remedy, the injury the City claims.” Additionally, the court acknowledged, “Implying a right of action under the Act for public employers to recover forfeited benefits might appear—at first glance—consistent with the underlying purpose of the Act.” However, the court indicated that implying a private right of action, “depending on its exact definition—would be, at best, duplicative of a public employer’s right to pursue an action for unjust enrichment and, at worst, a diminution of the rights of public employees at odds with the overall purpose of the Act.”

¶ 7 The trial court further indicated that implying a private right of action was not necessary to provide an adequate remedy for violations of the statute because “an action for unjust

113907, ¶ 47. “Additionally, in determining the legislative intent of a statute, a court may consider not only the language used, but also the reason and necessity for the law, the evils sought to be remedied, and the purposes to be achieved.” *Prazen v. Shoop*, 2013 IL 115035, ¶ 21. Courts should construe words and phrases in light of other relevant provisions. *In re C.P.*, 2018 IL App (4th) 180310, ¶ 18. In interpreting legislative enactments, courts must read the statute as a whole, not as isolated provisions. See *Kraft, Inc. v. Edgar*, 138 Ill. 2d 178, 189 (1990). Statutory interpretation is a question of law reviewed *de novo*. *City of Champaign v. Madigan*, 2013 IL App (4th) 120662, ¶ 28. Additionally, “[a] dismissal under either section 2-615 or section 2-619 [of the Code of Civil Procedure (735 ILCS 5/2-615, 2-619 (West 2004))] is reviewed *de novo*.” *Zahl v. Krupa*, 365 Ill. App. 3d 653, 658 (2006).

¶ 12 The parties acknowledge where no express language exists in the statute authorizing a private right of action, the supreme court has outlined four factors to consider when deciding whether such a right may exist by implication. *Fisher v. Lexington Health Care, Inc.*, 188 Ill. 2d 455, 460 (1999). Those factors are whether

“(1) the plaintiff is a member of the class for whose benefit the statute was enacted; (2) the plaintiff’s injury is one the statute was designed to prevent; (3) a private right of action is consistent with the underlying purpose of the statute; and (4) implying a private right of action is necessary to provide an adequate remedy for violations of the statute.” *Fisher*, 188 Ill. 2d at 460.

¶ 13 As to the first factor, we must determine whether the City is a member of the class for whose benefit the statute was enacted. Enacted in 1973, the Act was intended, in part, “to provide for a continuation of full pay for law enforcement officers, corrections officers, firefighters, and state employees who suffer disabling injuries in the line of duty.” *Gibbs v.*

Madison County Sheriff's Department, 326 Ill. App. 3d 473, 477 (2001). However, the Act was further intended to protect public employers from double payment to a disabled employee. In *City of Jacksonville v. Coop*, 176 Ill. App. 3d 527, 528 (1988), an injured firefighter continued being paid during two months he was also receiving workers' compensation payments. Jacksonville sued to recover the workers' compensation payment under a predecessor to this Act (Ill. Rev. Stat. 1987, ch. 70, ¶ 91). *Coop*, 176 Ill. App. 3d at 527-28. This court recognized the predecessor Act's legislative intent was "to provide *** compensation for law enforcement officers, correctional officers, and firemen" injured in the line of duty. (Internal quotation marks omitted.) *Coop*, 176 Ill. App. 3d at 527. We further found an equally clear legislative intent that an injured employee should not receive double compensation. "[A] provision denying entitlement of the employee to other salary compensation benefits clearly indicates a legislative intent that an injured employee not receive double compensation." *Coop*, 176 Ill. App. 3d at 529.

¶ 14 Support for this conclusion was found in language from the floor of the House of Representatives explaining an amendment preventing "an injured employee from receiving full salary under the [predecessor] Act and also benefits from the Illinois Pension Code (Ill. Rev. Stat. 1973, ch. 108½, par. 1-101 *et seq.*)." *Coop*, 176 Ill. App. 3d at 529. " '[A]ll it does is clarify the language and make it very clear that a person who has a disability does not collect from two funds.' " *Coop*, 176 Ill. App. 3d at 529 (quoting 78th Ill. Gen. Assem., House Proceedings, June 28, 1973, at 47 (statements of Representative Philip)). As a result, in *Coop*, we concluded "[t]o allow defendant to keep one or both of the workers' compensation payments made to compensate for lost salary and also to keep the salary would permit the double recovery *which the Act seeks to prevent.*" (Emphasis added.) *Coop*, 176 Ill. App. 3d at 529.

¶ 15 As to the second factor, when viewed in its entirety, it is clear the Act was designed

to also prevent the City's injury. Section 1(d) of the Act provides:

“(d) During this period of disability, the injured person shall not be employed in any other manner, with or without monetary compensation. Any person who is employed in violation of this paragraph forfeits the continuing compensation provided by this Act from the time such employment begins. Any salary compensation due the injured person from workers’ compensation or any salary due him from any type of insurance which may be carried by the employing public entity shall revert to that entity during the time for which continuing compensation is paid to him under this Act. Any person with a disability receiving compensation under the provisions of this Act shall not be entitled to any benefits for which he would qualify because of his disability under the provisions of the Illinois Pension Code.” 5 ILCS 345/1(d) (West 2022).

Indeed, the statute provides that an individual who is engaged in secondary employment “*forfeits* the continuing compensation.” (Emphasis added.) 5 ILCS 345/1(d) (West 2022). The Act further states salary compensation from either workers’ compensation or insurance that was paid to an employee while engaged in secondary employment “shall revert to that entity during the time for which continuing compensation is paid to him during this Act.” 5 ILCS 345/1(d) (West 2022). Accordingly, we conclude the Act was designed not only to compensate first responders for duty-related injury, but to prevent the injury the City seeks to remedy, as it provides for the return of improper payments made from workers’ compensation and/or insurance.

¶ 16 Regarding the third factor, implying a private right of action would be consistent with the underlying purpose of the Act. As discussed previously, one purpose of the Act was to provide protection for public employers by virtue of the Act’s prohibition on secondary

employment. By giving the City a private right of action to pursue wrongfully retained disability benefits, it would discourage employees from seeking secondary employment while they are receiving disability benefits. We are unpersuaded by the trial court's conclusion granting a private right of action would be "a diminution of the rights of public employees at odds with the overall purpose of the Act" when the very language of the statute prohibits secondary employment while receiving disability benefits under the Act and requires forfeiture of any "continuing compensation provided by this Act from the time such employment begins." See 5 ILCS 345/1(d) (West 2022). Additionally, such private right of action would provide a mechanism for recovery of said funds that an employee would not be entitled to due to such secondary employment. A private right of action would be directed at the forfeited funds, as opposed to any compensation due from secondary sources that should have reverted to the City under the language of section 1(d) and takes into consideration benefits paid before the secondary employment was discovered.

¶ 17 As to the final factor, implying a private right of action is necessary to provide the City with an adequate remedy for violations under the Act. Contrary to Thomas's assertion, an unjust enrichment action would not be adequate to provide a remedy to the City. "To state a cause of action for unjust enrichment, a plaintiff must allege the defendant unjustly retained a benefit to the plaintiff's detriment and the defendant's retention violated the fundamental principles of justice, equity, and good conscience." *Barry v. St. Mary's Hospital Decatur*, 2016 IL App (4th) 150961, ¶ 87. Conversely, a right of action under the Act would simply require an outright forfeiture and disgorgement of the improperly paid compensation, not a calculation of unjust enrichment. See 5 ILCS 345/1(d) (West 2022) ("Any person who is employed in violation of this paragraph *forfeits the continuing compensation* provided by this Act *from the time such employment begins*." (Emphases added.)). Indeed, in a cause of action for recoupment of funds

City of Monmouth v. Thomas, 2026 IL App (4th) 250830

Decision Under Review: Appeal from the Circuit Court of Warren County, No. 23-LA-8; the Hon. Kenneth J. Hogan, Judge, presiding.

**Attorneys
for
Appellant:** Arthur W. Eggers and James S. Zmuda, of Califf & Harper, P.C., of Moline, for appellant.

**Attorneys
for
Appellee:** Matthew D. McCue and Michael T. Marincic, of Goldfine & Bowles, P.C., of Peoria, for appellee.
