**Docket No. 128575**

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**IN THE**
**SUPREME COURT OF ILLINOIS**

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| ALEC PINKSTON,<br><br>Plaintiff-Appellee,<br><br>v.<br><br>THE CITY OF CHICAGO,<br><br>Defendant-Appellant. | ) | Appeal from the Appellate Court of Illinois, First Judicial District<br><br>No.: 1-20-0957<br><br>There Heard on Appeal From The Circuit Court of Cook County, Illinois<br>County Department, Chancery Division<br>No. 2019 CH 12364<br><br>The Hon. Caroline K. Moreland, Judge Presiding |

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# BRIEF OF THE ILLINOIS MUNICIPAL LEAGUE AS *AMICUS CURIAE* IN SUPPORT OF THE APPELLANT THE CITY OF CHICAGO

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## INTEREST OF *AMICUS CURIAE*

The Illinois Municipal League ("IML") is a not-for-profit, non-political association that represents the interests of all 1,295 cities, villages and towns in Illinois. The Illinois Municipal Code (65 ILCS 5/1 *et. seq*) designates the IML as an instrumentality of its members with the mission of and goal to articulate, defend, maintain, and promote the interests and concerns of Illinois municipalities.

IML regularly files briefs as *amicus curiae* in cases that present questions of interest and concern to IML members. IML and its members have a specific interest in this matter. Administrative adjudication of parking tickets and other ordinance violations are a mainstay of municipal management. Administrative adjudication of those matters is nearly always governed by the Administrative Review Law. 735 ILCS 5/1 *et. seq*. IML and its members have a significant interest in the proper interpretation and application of the exhaustion of administrative remedies doctrine. A crucial component of administrative adjudications under the Administrative Review Law is the requirement that a plaintiff exhaust his or her administrative remedies before proceeding with judicial review. 735 ILCS 5/3-102.

The exhaustion of administrative remedies requirement serves a number of purposes for all parties. Requiring the exhaustion of remedies allows municipalities and their component administrative agencies to fully develop the facts of the issue before it by utilizing the agency's expertise. The administrative review process also provides great savings and benefits to aggrieved parties by allowing them the opportunity to succeed before the agency, thereby ultimately rendering the time, energy and costs of judicial review unnecessary. Finally, the exhaustion requirement provides the



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municipality and/or agency with the opportunity to correct its own errors, clarify its policies and reconcile conflicts. *Landfill, Inc. v. Pollution Control Bd*., 74 Ill. 2d 541 (1979). In this case, the appellate court majority's opinion allows individuals to bypass the exhaustion of administrative remedies precedent by instituting class action litigation and creating untimely and unnecessary conflict.

Here, the appellate court majority's decision with respect to the application of administrative adjudications will have a profound, broad impact on IML members. This case has the potential to affect the scope and application of the administrative review process for all 1,295 municipalities and the myriad administrative agencies that are required to follow the Administrative Review Law. For that reason, and as a friend of the Court, IML offers its *amicus* brief as an opportunity for the Court to consider the broad impact of this decision.

## BACKGROUND

This case involves a City of Chicago (the "City") parking ticket received by Plaintiff Alec Pinkston ("Plaintiff Pinkston" or "Plaintiff") for a parking violation in the City's central business district. The City assesses higher parking fines in the central business district than in other City districts. Plaintiff contested the ticket before the City's Department of Administrative Hearings ("DOAH") on the basis that the parking system recorded the wrong license plate. DOAH found him liable. Plaintiff paid the fine associated with the ticket and then filed a complaint in circuit court raising an entirely new defense, irrespective of the fact that he failed to challenge the ticket through administrative review. Plaintiff's complaint alleges that he was not parked in the central



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business district and that the City routinely issues central business district tickets to vehicles parked outside of the central business district.

The City's Municipal Code, adopted under its home rule authority, provides for administrative adjudication of disputed parking tickets. Municipal Code of Chicago, Illinois §§ 9-100-070, -080. The Municipal Code of Chicago also provides that judicial review of DOAH's decisions is pursuant to the Administrative Review Law. Municipal Code of Chicago §§ 9-100-070(d), -090(a). In this case, Plaintiff failed to raise before DOAH that he was parked outside the central business district and also failed to avail himself of administrative review. Plaintiff instead paid his ticket and then initiated suit in circuit court.

Where administrative reviews are available to a plaintiff, the plaintiff must exhaust them before seeking judicial review. 735 ILCS 5/3-103. An aggrieved party may seek judicial review of an administrative decision without exhausting administrative remedies under several exceptions including, but not limited to, when the agency cannot provide an adequate remedy or it is patently futile to seek relief before the agency. *Rockford Memorial Hospital v. Department of Human Rights*, 272 Ill. App. 3d 751, 758 (2d Dist.1995). The appellate court's majority held that Plaintiff meets this exception to the exhaustion of remedies because it found that DOAH could not provide him with the ultimate relief he sought.

The basis articulated by the appellate court's majority for allowing Plaintiff Pinkston to bypass the administrative review process rests on the appellate court majority's conclusion that DOAH could not have provided Plaintiff with the "ultimate relief" sought because Plaintiff "is not seeking an individualized determination" but



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rather alleging that the City is engaged in the "routine or systemic practice" of issuing improper tickets. That holding is misplaced because it is premised on a factual finding that the City's issuance of the ticket was improper. The Administrative Review Law requires that a factual determination of that issue must be made by DOAH prior to judicial review.

## ARGUMENT

### I. THE APPELLATE COURT MAJORITY IMPROPERLY EXCUSED THE EXHAUSTION REQUIREMENT IMPLICATING PROFOUND CONSEQUENCES TO MUNICIPAL MANAGEMENT THROUGH ADMINISTRATIVE ADJUDICATION.

The Illinois Constitution provides that the trial court may review an administrative action "as provided by law." Ill. Const. 1970, art. VI, §9; *Collinsville Community Unit School District No. 10 v. Regional Board of School Trustees*, 218 Ill. 2d 175, 181 (2006). The courts exercise "special statutory jurisdiction" when they review an administrative decision, which is "limited to the language of the act conferring it and the court has no powers from any other source." *Collinsville Community Unit School District No. 10*, 218 Ill. 2d at 181-82 (quoting *Fredman Brothers Furniture Co. v. Department of Revenue*, 109 Ill. 2d 202, 210 (1985)). "A party seeking to invoke a court's special statutory jurisdiction must strictly comply with the procedures prescribed by statute." *Collinsville Community Unit School District No. 10*, 218 Ill. 2d at 182. The trial court has no jurisdiction to review an administrative decision if the mode of procedure for administrative review, as provided by law, is not strictly followed. *Nudell v. Forest Preserve District*, 207 Ill. 2d 409, 422-23 (2003).

In *Castaneda v. Illinois Human Rights Comm'n*, 132 Ill. 2d 304, 308 (1989), the Illinois Supreme Court found that parties aggrieved by the action of an administrative



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agency ordinarily file an action in the trial court without first pursuing all administrative remedies available to them. "Requiring the exhaustion of remedies allows the administrative agency to fully develop and consider the facts of the cause before it; it allows the agency to utilize its expertise; and it allows the aggrieved party to ultimately succeed before the agency, making judicial review unnecessary." *Castaneda*, 132 Ill. 2d at 308.

Significantly, the *Castaneda* court noted that the exhaustion doctrine also protects agency processes from impairment by the judiciary while allowing an opportunity for the agency to correct its own errors. *Id*. Similarly, in *Illinois Health Maint. Org. Guar. Ass'n v. Shapo*, 357 Ill. App. 3d 122, 135-136 (1st Dist.2005), the court found that an administrative agency's rule requiring the pursuit of a rehearing to fulfill the exhaustion doctrine, regardless of the argument that such rehearing would be fruitless based on who would have conducted it, is consistent with the purposes underlying the exhaustion doctrine to provide the subject agency a "second opportunity" to apply its expertise to efficiently dispose of administrative complaints and to correct its own errors. ("We believe that full boards and the highest decision-making authorities within agencies are capable of correcting their own errors, and accordingly we decline to follow the decision in *Grigoleit* to the extent it stands for the proposition that the exhaustion doctrine does not apply when the initial administrative decision is rendered by a full board or at the highest level of the agency.")

In this case, Plaintiff Pinkston failed to challenge his ticket on the basis that he was parked outside the central business district, and thus he failed to alert the City to the problem. Instead, it is undisputed that Plaintiff paid the ticket and then filed a class



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action complaint. It is entirely reasonable that had Plaintiff Pinkston raised his defense at DOAH, the DOAH hearing officer may have agreed with his allegations with respect to his ticket's propriety, and he may have prevailed. The appellate court's majority fails to acknowledge that Plaintiff Pinkston's requested relief may, in fact, have been addressed by DOAH in its capacity to "correct its own errors" but by bypassing the administrative review process, the administrative agency and the City were never afforded such an opportunity.

The appellate court's majority relied on *Board of Education of the City of Chicago v. Board of Trustees of the Public Schools Teachers' Pension & Retirement Fund*, 395 Ill.App.3d 735 (1st Dist. 2009), for its holding that Plaintiff Pinkston's allegations that the City had engaged in a "widespread practice" entitled him to relief outside of the Administrative Review Law. Issues involving the integrity of municipal pension funds are integral to the management of a municipality and impact all IML member municipalities. Challenges to actions taken by the boards of those pension funds are authorized both inside and outside the context of administrative review pursuant to the specific rules of the Illinois Pension Code (40 ILCS 5/1 *et seq*.) Illinois courts are clear that challenges to errors in calculating pensions are subject to the requirements of the Administrative Review Law. *Sola v. Rosselle Police Pension Board*, 342 Ill.App.3d 227, 230-31, 794 N.E2d 1055, 1057-58 (2d Dist. 2003); *Rossler v. Morton Grove Police Pension Board*, 178, Ill. App. 3d 769, 773-74 (1st Dist. 1989). The *Board of Education* case is unique from those pension cases involving the administrative hearing process and distinguishable from Plaintiff Pinkston's situation as the case involved a third party and not the individual directly impacted by the pension fund decision. Because the Board of



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Education was not directly impacted by the decision, it was not served with a copy of the decision and had no viable means to avail itself of the administrative decision within the time period prescribed by the Administrative Review Law. The administrative process for pension fund hearings provides a consistent method of challenging pension fund decisions before a board of trustees with expertise and experience in the those matters.

Returning to *Castaneda,* importantly, the court found that "the legislature intended to adopt the essence of the common law exhaustion of remedies doctrine in the Administrative Review Law." *Castaneda*, 132 Ill. 2d at 321. The Administrative Review Law provides: "Unless review is sought of an administrative decision within the time and in the manner herein provided, the parties to the proceeding before the administrative agency shall be barred from obtaining judicial review of such administrative decision . . . If under the terms of the Act governing the procedure before an administrative agency an administrative decision has become final because of the failure to file any document in the nature of objections, protests, petition for hearing or application for administrative review within the time allowed by such Act, such decision shall not be subject to judicial review hereunder excepting only for the purpose of questioning the jurisdiction of the administrative agency over the person or subject matter." 735 ILCS 5/3-102. This clearly indicates the legislative intent that parties aggrieved by administrative actions of an agency or municipality subject to the Illinois Administrative Review Act must exhaust all remedies before seeking an appeal to the courts. Aggrieved parties who fail, however, to exercise all procedural remedies available to them relinquish the opportunity for judicial review.



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In this case, the appellate court majority's holding would result in significant consequences to administrative adjudications in municipalities throughout Illinois. Pursuant to statute and home rule authority, municipalities throughout Illinois employ administrative adjudications for everything from municipal code violations, as present in the current case, to more specific issues such as hearings on pension disability applicants or professional licensing matters. As noted earlier, the administrative process permits administrative bodies to apply the special expertise they possess while also providing an opportunity to correct any errors. These administrative adjudications are crucial to the inner workings of municipal management and promote an efficient process for citizens to resolve issues with municipal agencies.

## II. THE APPELLATE COURT'S MAJORITY ALSO MISAPPLIED THE VOLUNTARY PAYMENT DOCTRINE.

It is undisputed that Plaintiff Pinkston paid for his ticket. Because Plaintiff paid for his ticket, the voluntary payment doctrine also applies in this case and bars his claim. The common law voluntary payment doctrine embodies the ancient and "universally recognized rule that money voluntarily paid under a claim of right to the payment and with knowledge of the facts by the person making the payment cannot be recovered back on the ground that the claim was illegal." *Illinois Glass Co. v. Chicago Telephone Co*., 234 Ill. 535, 541 (1908); see also *Vine Street Clinic v. HealthLink, Inc*., 222 Ill. 2d 276, 298, (2006); *King v. First Capital Financial Services Corp*., 215 Ill. 2d 1, 27-28, (2005). Again, Plaintiff had the opportunity to seek administrative review of his ticket but instead paid the ticket, and his claim should be barred under the voluntary payment doctrine. The circuit court and the appellate court's majority both rejected the use of the voluntary



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payment doctrine based on Plaintiff's claim that he paid the ticket "under duress" which involves a factual question precluding dismissal.

In the absence of fraud, coercion, or a mistake of fact, monies paid under a claim of right to payment but under a mistake of law are not recoverable. *Smith v. Prime Cable of Chicago*, 276 Ill. App. 3d 843, 847-48, (5th Dist. 1995). While the issue of duress and compulsory payment is ordinarily one of fact, where the facts are not in dispute and only one inference can be drawn from the facts, the issue may be decided as a matter of law. *Id*. at 850. Under the voluntary payment doctrine, a payment is made under duress when the payee "exert[s] some actual or threatened power over the payor from which the payor has no immediate relief except by paying." (Internal quotation marks omitted.) *Norton v. City of Chicago*, 293 Ill. App. 3d 620, 627 (1st Dist. 1997). In this case, in challenging the amount of the fine associated with the ticket imposed against him, Plaintiff is making a truly voluntary payment as he is able to clearly contest the amount he was assessed through the administrative review process and there is no "final" determination as to his liability on that ticket until he has exhausted that process. Municipal Code of Chicago, Ill. §9-100-100(a).

## CONCLUSION

The value of a consistent system of administrative adjudication is vital for municipalities such as IML's members to quickly and efficiently address issues that intercept the daily lives of its citizens. The bedrock of administrative adjudication requires an aggrieved individual to exhaust his or her administrative remedies before seeking judicial relief. This process encourages the use of more economical and less formal means of resolving disputes while promoting accuracy, efficiency, agency and



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municipal autonomy, and judicial economy. The relief sought by Plaintiff in this case requires a review and finding by DOAH with respect to whether the ticket assessed against Plaintiff was proper. Without that administrative finding, the courts will have created a new and cumbersome system of processes for any number of the 1,295 cities, villages and towns of Illinois that properly adhere to administrative adjudication as governed by the Administrative Review Law.

Respectfully submitted,

**ILLINOIS MUNICIPAL LEAGUE**

By: /s/Sarah A. Boeckman
One of its Attorneys

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## CERTIFICATE OF COMPLIANCE

I certify that this Brief of the Illinois Municipal League as *AMICUS CURIAE* in Support of the Appellant The City of Chicago conforms to the requirements of Supreme Court Rules 341(a) and (b). The length of this Brief of Appellant, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents, statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters appended to the brief under Rule 342(a) is 10 pages.

By:/s/Sarah A. Boeckman

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**CERTIFICATE OF FILING AND SERVICE**

On January 31, 2023, I electronically filed the foregoing Motion of the Illinois Municipal League to File Brief, *Instanter*, as *Amicus Curiae* in Support of the Defendant Appellant and the BRIEF OF THE ILLINOIS MUNICIPAL LEAGUE AS *AMICUS CURIAE* IN SUPPORT OF THE APPELLANT THE CITY OF CHICAGO (the "*Amicus* Brief") with the Clerk of the Supreme Court of Illinois, by using the Odyssey eFileIL System.

I served each party by emailing from the Firm the Motion of the Illinois Municipal League to File Brief *Instanter*, as *Amicus Curiae* in Support of the Defendant-Appellant and *Amicus* Brief directly to its attorneys (as indicated below) on January 31, 2023:

Thomas A. Zimmerman, Jr.
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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

By:/s/Sarah A. Boeckman

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**ORDER**

This cause coming to be heard on Motion of the Illinois Municipal League to File Brief, *Instanter*, as *Amicus Curiae* in support of the Defendant-Appellant, and the Court being advised in the premises:

IT IS HEREBY ORDERED that the motion for leave to file the aforementioned brief *instanter* as *amicus curiae* is hereby ALLOWED / DENIED.

DATE: _____

_____
Justice

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