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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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MARY TERRY CARMICHAEL,	)	
	)	Appeal from the Circuit Court
Plaintiff-Appellant,	)	of Cook County.
	)	
v.	)	No. 17 CH 01221
	)	
PROFESSIONAL TRANSPORTATION, INC., a	)	The Honorable
Foreign Corporation, d/b/a PTI,	)	Sanjay T. Tailor,
	)	Judge Presiding.
Defendant-Appellee.	)	
	)	

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PRESIDING JUSTICE GORDON delivered the judgment of the court, with opinion.  
Justices Lampkin and Martin concurred in the judgment and opinion.

**OPINION**

¶ 1 In 2010, plaintiff, Mary Terry Carmichael, who was an employee of Union Pacific Railroad Company (Union Pacific), was being transported between job sites in a van owned by defendant, Professional Transportation, Inc. (PTI), when the van was struck by another vehicle, injuring her. Plaintiff twice filed suit against PTI, alleging that PTI's vehicle insurance policy did not contain the minimum coverage required by section 8-101(c) of the Illinois Vehicle

Code (625 ILCS 5/8-101(c) (West 2010)).<sup>1</sup> In the first suit, which was filed against Union Pacific, PTI, and PTI's insurer, PTI filed affirmative defenses alleging that section 8-101(c) did not contain a private right of action and also filed a counterclaim alleging that section 8-101(c) was unconstitutional. The trial court found a private right of action and also dismissed PTI's counterclaim because it found the statute constitutional. Plaintiff subsequently voluntarily dismissed her complaint, and PTI appealed the dismissal of its counterclaim. On appeal, the appellate court found that no private cause of action existed and that plaintiff's complaint should have been dismissed, rendering the counterclaim moot. *Carmichael v. Union Pacific R.R. Co.*, 2018 IL App (1st) 170075, ¶ 2. However, the Illinois Supreme Court vacated the judgment, finding that the counterclaim was not a proper counterclaim because it merely repeated PTI's affirmative defenses and did not seek any affirmative relief. *Carmichael v. Union Pacific R.R. Co.*, 2019 IL 123853, ¶ 1.

¶ 2 While the first suit was pending on appeal, plaintiff refiled the same cause of action in a second suit, this time naming only PTI as a defendant, which led to the order currently on appeal. After the first judgment was vacated, the parties proceeded to litigate the second suit. PTI filed a motion for summary judgment, again claiming that there was no private right of action contained in section 8-101(c). The trial court agreed and granted PTI's motion. Plaintiff now appeals, and for the reasons that follow, we affirm the trial court's judgment.

¶ 3

### BACKGROUND

¶ 4 The litigation between the parties follows an unusual procedural history, involving multiple lawsuits, an appellate court opinion, and a supreme court opinion vacating the appellate court's

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<sup>1</sup>Plaintiff also filed a negligence suit against Union Pacific, PTI, and the driver of the vehicle that struck the van, but Union Pacific and PTI were dismissed after it was determined that their conduct did not cause the accident and plaintiff settled with the driver.

judgment. We provide here a discussion of the relevant history to provide context for plaintiff's claims on appeal, taking our facts as necessary from the prior appellate and supreme court opinions.

¶ 5 Union Pacific had contracted with PTI to transport Union Pacific's employees between job sites, and on November 13, 2010, plaintiff, who was an employee of Union Pacific at the time and was a passenger on one of PTI's vans, was struck by a vehicle driven by Dwayne Bell, causing her injuries.

¶ 6 On September 15, 2011, plaintiff filed a lawsuit in the law division of the circuit court of Cook County against Union Pacific, PTI, and Bell, seeking money damages for her injuries alleging negligence and violations of the federal Employers' Liability Act (45 U.S.C. §§ 51-60 (2006)) (case No. 11-L-9679). Union Pacific and PTI were subsequently dismissed from the case after it was determined that their conduct did not cause the accident. Plaintiff also settled with Bell for \$20,000, the maximum amount of liability coverage under his vehicle insurance policy, and he was dismissed from the suit.

¶ 7 While her negligence action was pending, on October 17, 2012, plaintiff filed a declaratory judgment lawsuit in the chancery division against PTI, Union Pacific, and ACE American Insurance Company, PTI's insurer (case No. 12-CH-38582). As relevant to the instant appeal, plaintiff alleged that PTI was legally responsible for her damages because it was in violation of section 8-101(c) of the Vehicle Code, which at the time required "a contract carrier transporting employees in the course of their employment on a highway of this State in a vehicle designed to carry 15 or fewer passengers" to maintain uninsured and underinsured motor vehicle coverage "in a total amount of not less than \$250,000 per passenger." 625 ILCS 5/8-101(c) (West 2010). PTI's insurance policy instead only contained uninsured and

underinsured motor vehicle coverage of \$20,000 per passenger and \$40,000 per occurrence. Consequently, plaintiff sought a judicial declaration that PTI was legally responsible for her damages sustained in the accident in excess of Bell's insurance policy limits, up to a maximum of \$250,000.

¶ 8 PTI filed an answer and affirmative defenses alleging (1) that section 8-101(c) was unconstitutional and (2) that it did not provide any civil remedy for statutory violations. PTI also filed a separate counterclaim seeking a declaratory judgment against plaintiff and against the Illinois Secretary of State, which restated the constitutional claims alleged in PTI's affirmative defenses. The Secretary of State filed a motion to dismiss the counterclaim under sections 2-615 and 2-619 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615, 2-619 (West 2010)), arguing both that the counterclaim should be dismissed because it was procedurally improper and that PTI's constitutional claims were meritless. On January 30, 2015, the trial court granted the Secretary of State's motion to dismiss the counterclaim with prejudice, finding that PTI's constitutional claims lacked merit.

¶ 9 PTI then filed a motion to dismiss plaintiff's complaint, claiming that section 8-101(c) did not provide for a private right of action. On July 24, 2015, the trial court denied PTI's motion, finding that the statute did provide for an implied private right of action. Plaintiff subsequently voluntarily dismissed her complaint, and on December 13, 2016, the trial court ordered the case dismissed without prejudice.<sup>2</sup>

¶ 10 PTI filed a notice of appeal seeking review of the trial court's dismissal of its counterclaim (appeal No. 1-17-0075). While that appeal was pending, on January 26, 2017, plaintiff refiled

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<sup>2</sup>The record on appeal shows that plaintiff voluntarily dismissed her complaint due to difficulties in retaining a medical expert.

her complaint (case No. 17-CH-01221), and it is the refiled complaint that serves as the basis for the instant appeal. On May 26, 2017, the trial court entered an order staying the proceedings in the new case pending the outcome of the appeal of PTI's counterclaim in the original declaratory judgment suit.

¶ 11 On June 26, 2018, the Second Division of the First District Appellate Court issued an opinion concerning the dismissal of PTI's counterclaim. On appeal, PTI contended that the court did not need to reach the constitutional issues if it determined that the trial court erred in finding that a private right of action existed under the statute.<sup>3</sup> *Carmichael*, 2018 IL App (1st) 170075, ¶ 14. Thus, the appellate court considered whether the statute provided for a private right of action, ultimately concluding that it did not. *Carmichael*, 2018 IL App (1st) 170075, ¶ 24. The appellate court therefore found that "we do not need to reach the constitutional issues raised by PTI because section 8-101(c) does not give rise to a private right of action. Therefore, [plaintiff's] complaint against PTI should have been dismissed. Accordingly, PTI's counterclaim is moot." *Carmichael*, 2018 IL App (1st) 170075, ¶ 2.

¶ 12 Plaintiff filed a petition for leave to appeal to the Illinois Supreme Court, which was granted, and on September 19, 2019, the supreme court vacated the lower courts' judgments. The supreme court found that PTI's counterclaim was "not an actual counterclaim" because it did not request any affirmative relief other than a judicial declaration that the claim against PTI was barred. *Carmichael*, 2019 IL 123853, ¶ 32. The supreme court continued: "Moreover, because the purported counterclaim essentially duplicates the claims in PTI's affirmative

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<sup>3</sup>While PTI's counterclaim is not included in the record for the instant appeal, we note that it does not appear that this was an allegation raised in its counterclaim but instead appeared only in its challenge to plaintiff's complaint.

defenses without requesting affirmative relief, it is superfluous and carries no legal weight as an independent action against plaintiff.” *Carmichael*, 2019 IL 123853, ¶ 31.

¶ 13 The supreme court found that, despite the deficiencies in the counterclaim, the parties and the lower courts treated it as though it was a valid counterclaim, which “was error that led to several procedural irregularities.” *Carmichael*, 2019 IL 123853, ¶ 34. As an example, the supreme court noted that the appellate court’s decision “was based solely on the legal grounds alleged in PTI’s motion to dismiss plaintiff’s complaint.” *Carmichael*, 2019 IL 123853, ¶ 34. As a result, “PTI effectively attained appellate review of its motion to dismiss, even though the trial court’s July 24, 2015, order denying that motion was neither final nor appealable.” *Carmichael*, 2019 IL 123853, ¶ 34. The supreme court also found that, by finding that plaintiff’s complaint should have been dismissed, the appellate court improperly ruled on the merits of the complaint despite the fact that it had been voluntarily dismissed and the refiled complaint was pending in the trial court below. *Carmichael*, 2019 IL 123853, ¶ 35.

¶ 14 Consequently, the supreme court struck PTI’s counterclaim as duplicative of PTI’s affirmative defenses and vacated both the trial court’s order dismissing the counterclaim on the merits and the appellate court’s judgment on appeal from that order. *Carmichael*, 2019 IL 123853, ¶ 36. Finally, the court remanded the case to the trial court, “where PTI is free to proceed on its affirmative defenses as if the counterclaim had never been filed.” *Carmichael*, 2019 IL 123853, ¶ 36. The supreme court also expressly noted:

“We express no opinion on the constitutional or private right of action issues raised and argued by the parties. Although this court has supervisory authority to evaluate judgments of the lower courts [citation], that authority should be reserved for exceptional circumstances. [Citation.] In the case at bar, it would be inappropriate for

us to exercise our supervisory authority at this stage in the proceedings. Had PTI not filed its improper counterclaim, it would not have had a right to appeal the order denying its motion to dismiss the complaint. As we stated earlier, an order denying a motion to dismiss is neither final nor appealable. Accordingly, if we were to decide the issues raised in PTI’s affirmative defenses, we would be rewarding PTI for circumventing the normal appellate process.” *Carmichael*, 2019 IL 123853, ¶ 37.

¶ 15 After the issuance of the supreme court’s decision, the parties began litigating the refiled declaratory judgment complaint, and on July 31, 2020, PTI filed a motion for summary judgment. In its motion, PTI again claimed that the Vehicle Code did not grant a private right of action for an alleged violation of section 8-101(c) and that no such right should be implied.

¶ 16 On November 24, 2020, the parties appeared before the trial court for a hearing on PTI’s motion for summary judgment,<sup>4</sup> and on December 2, 2020, the trial court granted PTI’s motion and entered judgment in favor of PTI and against plaintiff. The trial court found that the reasoning in the prior appellate court opinion was “consistent with the body of law on when a private right of action may be implied” and agreed with PTI that there was no private right of action under section 8-101(c) because the statutory framework provided sufficient remedies for violation of the statute.

¶ 17 Plaintiff filed a timely notice of appeal, and this appeal follows.

¶ 18 ANALYSIS

¶ 19 On appeal, plaintiff contends that the trial court erred in granting summary judgment in favor of PTI because section 8-101(c) provides a private right of action. A trial court is

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<sup>4</sup>The hearing was conducted remotely pursuant to the circuit court of Cook County’s “Zoom Video compliance protocols.”

permitted to grant summary judgment only “if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005(c) (West 2018). The trial court must view these documents and exhibits in the light most favorable to the nonmoving party. *Home Insurance Co. v. Cincinnati Insurance Co.*, 213 Ill. 2d 307, 315 (2004). We review a trial court’s decision to grant a motion for summary judgment *de novo*. *Outboard Marine Corp. v. Liberty Mutual Insurance Co.*, 154 Ill. 2d 90, 102 (1992). *De novo* consideration means we perform the same analysis that a trial judge would perform. *XL Specialty Insurance Co. v. Performance Aircraft Leasing, Inc.*, 2019 IL App (1st) 181031, ¶ 62.

¶ 20 “Summary judgment is a drastic measure and should only be granted if the movant’s right to judgment is clear and free from doubt.” *Outboard Marine Corp.*, 154 Ill. 2d at 102. However, “[m]ere speculation, conjecture, or guess is insufficient to withstand summary judgment.” *Sorce v. Naperville Jeep Eagle, Inc.*, 309 Ill. App. 3d 313, 328 (1999). The party moving for summary judgment bears the initial burden of proof. *Nedzvekas v. Fung*, 374 Ill. App. 3d 618, 624 (2007). The movant may meet his burden of proof either by affirmatively showing that some element of the case must be resolved in his favor or by establishing “ ‘that there is an absence of evidence to support the nonmoving party’s case.’ ” *Nedzvekas*, 374 Ill. App. 3d at 624 (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986)). “ ‘The purpose of summary judgment is not to try an issue of fact but \*\*\* to determine whether a triable issue of fact exists.’ ” *Schrager v. North Community Bank*, 328 Ill. App. 3d 696, 708 (2002) (quoting *Luu v. Kim*, 323 Ill. App. 3d 946, 952 (2001)). We may affirm on any basis appearing in the record,



whether or not the trial court relied on that basis or its reasoning was correct. *Ray Dancer, Inc. v. DMC Corp.*, 230 Ill. App. 3d 40, 50 (1992).

¶ 21 In the case at bar, plaintiff claims that the trial court erred in finding that section 8-101(c) does not provide for a private right of action. Instead, plaintiff contends that the statute provides for an implied private right of action because such a right of action is necessary to provide an adequate remedy for violations of the statute.

¶ 22 As an initial matter, we note that the Second Division considered this question in its earlier opinion. While that judgment was subsequently vacated, we briefly discuss the impact of the prior opinion on our analysis, especially since PTI refers to the case as “established precedent” at times in its brief on appeal. An appellate decision that has been vacated by the supreme court carries no precedential weight. See *Mohanty v. St. John Heart Clinic, S.C.*, 225 Ill. 2d 52, 66 (2006); *Quigg v. Walgreen Co.*, 388 Ill. App. 3d 696, 701 (2009). However, some courts have continued to rely on the reasoning in such cases as persuasive authority. See, e.g., *Boxdorfer v. DaimlerChrysler Corp.*, 339 Ill. App. 3d 335, 339 n.2 (2003); *Jordan v. Glaub*, 196 Ill. App. 3d 736, 738 (1990). Thus, to the extent that the earlier appellate opinion has any bearing on the instant appeal, it is only to provide us with reasoning that may be instructive to our own consideration of the issues before us.

¶ 23 Turning to the merits of plaintiff’s contention on appeal, we begin by discussing the statutory language we are asked to interpret. Chapter 8 of the Vehicle Code requires persons who operate motor vehicles for transportation of passengers for hire to file “proof of financial responsibility” with the Secretary of State, which may include an insurance policy or other proof of insurance. 625 ILCS 5/8-101(a), 8-102(2) (West 2010). Such a policy is required to contain a bodily injury liability limit of at least \$250,000 and a property damage limit of at

least \$50,000. 625 ILCS 5/8-109(1) (West 2010). Prior to 2006, there was no specific requirement concerning uninsured or underinsured motorist coverage. Instead, the applicable limits would be governed by the general provisions of the Illinois Insurance Code. See 215 ILCS 5/143a (West 2004) (uninsured motorist); 215 ILCS 5/143a-2(4) (West 2004) (underinsured motorist). At the time of plaintiff's accident, those limits were \$20,000 per person and \$40,000 per occurrence. See 625 ILCS 5/7-203 (West 2010) (setting forth minimum policy limits).

¶ 24 However, in 2006, section 8-101 of the Vehicle Code was amended. See Pub. Act 94-319, § 5 (eff. Jan. 1, 2006). As relevant to the instant appeal, section 8-101(c) now provides:

“(c) This Section also applies to a contract carrier transporting employees in the course of their employment on a highway of this State in a vehicle designed to carry 15 or fewer passengers. *As part of proof of financial responsibility, a contract carrier transporting employees in the course of their employment is required to verify hit and run and uninsured motor vehicle coverage, as provided in Section 143a of the Illinois Insurance Code, and underinsured motor vehicle coverage, as provided in Section 143a-2 of the Illinois Insurance Code, in a total amount of not less than \$250,000 per passenger.*” (Emphasis added.) 625 ILCS 5/8-101(c) (West 2010).

Thus, instead of being governed by the limits generally applicable to other vehicles, contract carriers falling within the provisions of section 8-101(c) are required to maintain an insurance

policy with substantially higher uninsured and underinsured motorist coverage.<sup>5</sup> There is no dispute that PTI's insurance policy did not contain this higher coverage.<sup>6</sup>

¶ 25 If a bond or insurance policy is cancelled or withdrawn for a vehicle subject to section 8-101, "the Secretary of State immediately shall suspend the registration certificates, registration plates and registration sticker or stickers of the owner, with respect to such motor vehicle or vehicles," and the suspension shall remain in effect until the owner files proof of financial responsibility as required by section 8-101. 625 ILCS 5/8-113 (West 2010). Additionally, section 8-116 of the Vehicle Code provides that a vehicle operator who fails to comply with any provisions of chapter 8 "is guilty of a Class A misdemeanor." 625 ILCS 5/8-116 (West 2010). A Class A misdemeanor may result in imprisonment for up to one year and a fine up to \$2500 for each offense. 730 ILCS 5/5-4.5-55 (West 2010).

¶ 26 There is no dispute that the Vehicle Code does not expressly provide for a private right of action for violations of section 8-101(c). However, a court may determine that a private right of action is implied in a statute that lacks explicit language regarding whether a private right of action shall be allowed. *Fisher v. Lexington Health Care, Inc.*, 188 Ill. 2d 455, 460 (1999). In order to find an implied private right of action, a court must find that (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

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<sup>5</sup>The limit has been further increased since the time of plaintiff's accident, and section 8-101(c) currently requires coverage in an amount not less than \$500,000 per passenger. 625 ILCS 5/8-101(c) (West 2018).

<sup>6</sup>We note that PTI has denied that it is subject to section 8-101(c)'s requirements, as its vehicles are not designed to carry more than six passengers. However, its motion for summary judgment was based on the claim that section 8-101(c) does not provide for a private right of action as a matter of law as opposed to section 8-101(c)'s applicability under the facts of this case.

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.

¶ 27 In the case at bar, the primary arguments revolve around the fourth element: whether a private right of action is necessary to provide an adequate remedy for violations of the statute. Our supreme court has implied a right of action under a statute “only in cases where the statute would be ineffective, as a practical matter, unless a private right of action were implied.” *Abbasi v. Paraskevoulakos*, 187 Ill. 2d 386, 395 (1999). Plaintiff claims that, here, a private right of action is necessary because the statutory penalties are insufficient to make compliance with the statute likely. We do not find this argument persuasive.

¶ 28 In determining whether a private right of action is necessary to provide an adequate remedy, our supreme court has looked to the enforcement mechanisms and remedies provided by the statute itself. Thus, for instance, in *Fisher*, the supreme court found that there was no private right of action under section 3-608 of the Nursing Home Care Act (210 ILCS 45/3-608 (West 1996)) in part due to its finding that such a private right was not necessary to achieve the statute’s purpose. *Fisher*, 188 Ill. 2d at 464. The court pointed to “[a] multitude of sanctions and remedies” that existed to accomplish the statute’s goal of protecting nursing home residents, as well as “numerous mechanisms” to encourage the reporting of violations and punish retaliation. *Fisher*, 188 Ill. 2d at 464. These sanctions and remedies included heavy fines and license suspension or revocation. *Fisher*, 188 Ill. 2d at 466.

¶ 29 Similarly, in *Metzger v. DaRosa*, 209 Ill. 2d 30, 40 (2004), the supreme court found that no private right of action was necessary under section 19c.1 of the Personnel Code (20 ILCS 415/19c.1 (West 2002)). The supreme court found that the Personnel Code expressly provided sanctions and remedies for violations of its provisions, including administrative procedures

and criminal penalties. *Metzger*, 209 Ill. 2d at 40. The court found that these mechanisms were sufficient to encourage the reporting of violations of the statute and to prevent and punish retaliation. *Metzger*, 209 Ill. 2d at 40-41.

¶ 30 By contrast, in *Rodgers v. St. Mary's Hospital of Decatur*, 149 Ill. 2d 302, 308 (1992), the supreme court found that a private right of action was necessary to provide an adequate remedy for violations of the X-ray retention statute (Ill. Rev. Stat. 1987, ch. 111½, ¶ 157-11). There, however, the statute enumerated no specific administrative remedies, and the supreme court found that administrative remedies would not provide an adequate remedy to those injured by violations of the statute. *Rodgers*, 149 Ill. 2d at 309. Instead, the supreme court found that the threat of liability was a “much more efficient method of enforcing the regulation” than requiring the public health department to hire inspectors to monitor compliance with the statute. *Rodgers*, 149 Ill. 2d at 309.

¶ 31 Similarly, while not a supreme court case, in *Pilotto v. Urban Outfitters West, L.L.C.*, 2017 IL App (1st) 160844, ¶ 45, this court found that a private right of action was necessary to provide an adequate remedy for violations of the Restroom Access Act (410 ILCS 39/1 *et seq.* (West 2014)). There, the sole remedy provided by the statute was that a violation was a petty crime, punishable by a fine not to exceed \$100. *Pilotto*, 2017 IL App (1st) 160844, ¶ 35. We found that this was not sufficient to ensure compliance, especially among retailers for whom a \$100 fine would not even be noticeable. *Pilotto*, 2017 IL App (1st) 160844, ¶ 40.

¶ 32 In the case at bar, as explained above, the Vehicle Code provides for a framework for enforcement, including both sufficient criminal and regulatory penalties. A vehicle operator who does not maintain the appropriate insurance faces the immediate suspension of its registration certificates, plates, and stickers for that vehicle until such insurance is obtained.

625 ILCS 5/8-113 (West 2010). Additionally, such a vehicle operator may face up to a year's imprisonment, as well as a fine of up to \$2500 for each offense. 730 ILCS 5/5-4.5-55 (West 2010). We agree with the prior appellate decision that "[w]e cannot say that these statutory penalties are so deficient that it is necessary to imply a private right of action to effectuate the statute's purpose." *Carmichael*, 2018 IL App (1st) 170075, ¶ 21.

¶ 33 We do not find persuasive plaintiff's contention that the statutory remedies are inadequate because they have not been enforced. Plaintiff claims that the Secretary of State has not suspended PTI's registration, nor has PTI been charged with a misdemeanor for its noncompliance with the statute. First, plaintiff's argument relies on a finding that PTI is, in fact, subject to the statute and has violated it, an issue which has certainly not been resolved and which is not before us in this motion for summary judgment.<sup>7</sup> See, e.g., *Fisher*, 188 Ill. 2d at 468 (deciding the existence of a private right of action on a motion to dismiss for failure to state a cause of action without determining the merits of the underlying allegations); *Abbasi*, 187 Ill. 2d at 396 (same); *Metzger*, 209 Ill. 2d at 34 (deciding the existence of a private right of action on a certified question). Moreover, the applicable question in determining whether to imply a private right of action is whether the statute provides for a sufficient remedy, not whether a particular person or entity has, in fact, been sanctioned under the statute. See *Carmichael*, 2018 IL App (1st) 170075, ¶ 23 (observing that "[e]very implied-right-of-action suit involves a defendant's alleged failure to comply with the statute at issue. If that were by itself sufficient to make a private right of action necessary, the element of necessity would be meaningless"). Under plaintiff's argument, if PTI *had* been sanctioned, either through the

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<sup>7</sup>We note that there are often legal remedies for citizens when government does not enforce its laws as made and provided. See, e.g., 740 ILCS 174/30 (West 2018) (providing for a right of action where employers, including governmental employers, retaliate against whistleblowing employees); 725 ILCS 120/4.5 (West 2018) (providing procedures for enforcement of crime victims' rights).

Secretary of State’s suspension of its registration or through the imposition of criminal penalties, plaintiff would have no quarrel with the statute. That cannot be the case. Either the statute provides for a private right of action or it does not—it is not a fact-specific inquiry dependent on the particular circumstances of any given case. See, *e.g.*, *Tunca v. Painter*, 2012 IL App (1st) 110930, ¶ 19 (finding that, even if the statute in question applied to the statements at issue, the statute provided for no private right of action). Here, examining the enforcement mechanisms set forth in the statute, we cannot find that a private right of action was necessary to provide an adequate remedy for violations of section 8-101(c). Accordingly, because the fourth factor is not present, there is no private right of action under section 8-101(c), and the trial court properly granted summary judgment in PTI’s favor. See *Abassi*, 187 Ill. 2d at 396 (since fourth factor was not present, there is no private right of action).

¶ 34

#### CONCLUSION

¶ 35

For the reasons set forth above, the trial court properly granted PTI’s motion for summary judgment because there is no private right of action for violations of section 8-101(c) of the Vehicle Code.

¶ 36

Affirmed.

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**No. 1-20-1386**

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**Cite as:** *Carmichael v. Professional Transportation, Inc.*, 2021 IL App (1st) 201386

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**Decision Under Review:** Appeal from the Circuit Court of Cook County, No. 17-CH-01221; the Hon. Sanjay T. Tailor, Judge, presiding.

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