

Administrative Exhaustion Doctrine in Class Action: Analysis of the First District’s Decision in *Tock v. Village of Stone Park*

By Adriana Noworolnik¹

In its December 26, 2023 decision, the Illinois First District Appellate Court thwarted the plaintiffs’ attempt to circumvent the exhaustive remedy doctrine by pulling their claims together in a class action against the suburban Village of Stone Park, stemming from the Village’s issuance of red-light camera violation notices.

In the recent case of *Pinkston v. City of Chicago*,² the Illinois Supreme Court unanimously dismissed the class action case challenging the City of Chicago’s parking ticket citation practice for failure to exhaust administrative remedies.³ The court reasoned the citations were not contested through an administrative appeal process before the class action lawsuit was filed, and the First District had affirmed the judgment of the Circuit Court of Cook County dismissing the plaintiffs’ complaint for the same reasons, further solidifying the doctrine of exhaustive remedy and emphasizing its principles.⁴

Factual Background and Plaintiffs’ First Amended Complaint

In *Tock*, the class action arose out of the Village of Stone Park’s use of an automatic traffic law enforcement system, *i.e.*, red-light camera—as allowed by Section 11-208.6 of the Illinois

Vehicle Code—at the intersection of Mannheim Road and Lake Street.⁵ Two of the plaintiffs and another plaintiff’s wife received notices of red-light violation for a right turn at the intersection.⁶ *Tock* successfully challenged the notice and was ultimately found not guilty.⁷ The remaining plaintiffs, however, paid the \$100 fine without further pursuing an administrative review action.⁸ The class, nevertheless, took an issue with the position of the red-light camera, alleging that the images obtained failed to depict the intersection in its entirety and made it impossible to determine whether the vehicles came to a complete stop before entering the intersection.⁹

The class further argued that such determination is essential, as both the Illinois Vehicle Code and the Village’s Code of Ordinances explicitly prohibit the Village from issuing red-light camera violation notices when a motor vehicle comes to a complete stop at a point past a stop line and without entering an intersection, unless pedestrians or bicyclists are present.¹⁰ The Illinois Vehicle Code further prohibits municipalities from issuing violation notices in a situation where a motorcyclist enters an intersection against a red signal when the red signal fails to change to a green signal within a

1. Noworolnik, along with attorneys Dominick Lanzito and Jennifer Turiello, defended the *Tock* matter before the trial and First District Appellate Court.

2. *Pinkston v. City of Chicago*, 2023 IL 128575.

3. *See Id.* ¶ 53 (“Because plaintiff failed to exhaust his administrative remedies and no exceptions to the exhaustion doctrine apply here, we find the appellate court erred in reversing the circuit court’s dismissal of plaintiff’s complaint with prejudice. Based on this finding, we need not address the city’s argument that the complaint should have been dismissed based on the voluntary payment doctrine.”).

4. *Id.* ¶ 55.

5. *Tock v. Vill. of Stone Park*, 2023 IL App (1st) 220996-U.

6. *Id.* ¶ 10.

7. *Id.* ¶ 9.

8. *Id.* ¶¶ 10-11.

9. *Id.* ¶ 12.

10. *Id.* ¶ 3.

reasonable period of time, not less than 120 seconds due to a signal malfunction or its failure to detect the arrival of the motorcycle.¹¹

Based on this, and despite the availability of administrative review, the plaintiffs decided to pursue a class action in the Cook County Circuit Court, involving claims for procedural due process violations, declaratory judgment, unjust enrichment, and injunctive relief against the Village.¹² In June 2022, however, the trial court granted the Village's motion to dismiss the plaintiffs' amended complaint pursuant to Section 2-619 of the Illinois Code of Civil Procedure—finding that Tock lacked standing to sue due to the absence of an injury, that the remaining plaintiffs failed to exhaust administrative remedies, and that none of the exceptions that allow a party to seek judicial review without first exhausting administrative remedies applied.¹³ The plaintiffs appealed to the First District.

Issues Raised by Plaintiffs on Appeal

In their appeal before the First District, the plaintiffs argued that Tock had properly alleged actionable injury, directly attributable to the Village's issuing tickets, in that he suffered

economic harm as he had to attend the hearing and did not receive compensation for his time and expense incurred in challenging the ticket, even though he was ultimately relieved of a \$100 fine.¹⁴ While comparing his costs and expenses to those of witnesses receiving a stipend, Tock contended that his claim was analogous and constituted a legally cognizable interest.¹⁵

The plaintiffs further argued that the circuit court erred in granting the Village's motion to dismiss with regard to Hoyos and Wetterquist's failure to exhaust administrative remedies. In support thereof, the plaintiffs argued that there is no requirement to exhaust administrative remedies because their complaint attacked the Village's jurisdiction to issue any ticket from the subject red-light camera.¹⁶ They further asserted that they were exempt from the requirement to exhaust administrative remedies, as the Village's systemic failure in its red-light camera ticket issuance rendered the Village unable to provide adequate relief.¹⁷ Finally, the plaintiffs urged the court that they were not required to exhaust administrative remedies because the pursuit of any relief was patently futile and because there were no issues of fact present and agency expertise was irrelevant and unnecessary.¹⁸

11. 625 ILCS 5/11-208.6.

12. *Tock*, 2023 IL App (1st) 220996-U, ¶13.

13. *Id.* ¶ 20.

14. *Tock v. Village of Stone Park Plaintiffs-Appellants' Br.* at 35, C156.

15. *Id.*

16. *Id.* at 14.

17. *Id.* at 23, 27.

18. *Id.* at 28-30.

About the Author



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Notably, in support of their position, the plaintiffs cited the First District's decision issued in *Pinkston v. City of Chicago*—a class action challenging the City of Chicago's issuance of parking tickets to people who, allegedly, were not parked within Chicago's central business district at issue.¹⁹ Therein, the First District, applying the third exception to the exhaustive remedy doctrine, found that the plaintiff did not need to go through the administrative hearing process to exhaust available administrative remedies before pursuing his class action, as the City could not provide an adequate remedy.²⁰ Similarly, the plaintiffs in *Tock* argued that a systemic failure alleged in their complaint was entirely similar to the City's "routine practice," as alleged in *Pinkston*; therefore, they were not required to pursue further administrative review.²¹ In its response, the Village urged the court that, unlike in *Pinkston*, the plaintiffs' complaint lacked factual allegations regarding supposed systemic failure on the Village's part in its issuance of red-light camera tickets.²²

On November 30, 2023, during the pendency of the instant appeal, the Illinois Supreme Court issued an opinion reversing the portion of the First District's decision in *Pinkston* that plaintiffs relied on in their appeal, finding that the procedure in place provided plaintiff in *Pinkston* sufficient opportunity to contest the issuance of parking tickets; therefore, the alleged systemic failures were insufficient to excuse the exhaustive remedy doctrine for failure to provide an adequate remedy.²³

First District Court's Decision and Order

In the decision issued by the First District on December 26, 2023 under Illinois Supreme Court Rule 23, the First District's panel affirmed the circuit court's dismissal of the plaintiffs' complaint.²⁴

With respect to Tock's claims, the First District noted that Tock ultimately had not been found liable, his ticket had been

dismissed, and he had not paid a fine; thus, the First District held it was not "substantially likely" that granting the requested relief would prevent the economic harm incurred from attending the hearing.²⁵ The First District further found that a mere "speculation that Tock might be found liable for future violations does not constitute a 'distinct and palpable' injury."²⁶

As for Hoys and Wetterquist's claims, the First District reiterated the well-established general rule that "a party may not seek judicial relief from an administrative action unless the party has exhausted all available administrative remedies."²⁷ While the First District noted, that strict compliance with the exhaustion doctrine is required, there are several exceptions to the same; however, none of them applied to the set of facts at issue.²⁸

Specifically, the exception where the agency's jurisdiction is attacked as unauthorized by statute was inapplicable, as the plaintiffs did not challenge the Village's authority to adjudicate red-light camera tickets.²⁹ As to the second exception, *i.e.*, no issues presented or no agency expertise involved, the First District found that the Village adjudicates red-light camera tickets and possesses the necessary expertise to determine whether such violation was committed.³⁰ As for the exception of futility, the First District noted that the Village's Code of Ordinances provided a complete list of defenses and potential grounds for contesting a ticket and allowed a registered owner of the vehicle to contest the merits of the same at an administrative hearing.³¹ The First District further noted that Tock's successful challenge of his ticket essentially proves that administrative challenges to red-light tickets are not futile.³²

Conclusion

The First District's decision in *Tock* revisits the consequences of imposing administrative exhaustion doctrine on class actions while highlighting the underlying goals of the same.

19. *Pinkston v. City of Chicago*, 2022 IL App (1st) 200957.

20. *Id.* ¶ 53.

21. *Tock v. Village of Stone Park*, 2023 IL App (1st) 220996-U, ¶ 44.

22. *Tock v. Village of Stone Park*, Defendant-Appellee Suppl. Br. At 3.

23. *Pinkston v. City of Chicago*, 2023 IL 128575, ¶ 31.

24. *Tock v. Village of Stone Park*, 2023 IL App (1st) 220996-U, ¶ 56.

25. *Id.* ¶ 25.

26. *Id.* ¶ 27.

27. *Id.* ¶ 29 (quoting *Arvia v. Madigan*, 209 Ill. 2d 520, 531 (2004)).

28. *Id.* ¶ 54.

29. *Id.* ¶ 34.

30. *Id.* ¶ 37.

31. *Id.* ¶ 40.

32. *Id.* ¶ 41.

“ Plaintiffs urged the court that they were not required to exhaust administrative remedies because pursuit of any relief was patently futile and because there were no issues of fact present and agency expertise was irrelevant and unnecessary.

The most significant principle that permeates from the First District’s decision is that plaintiffs cannot simply circumvent and evade the administrative review process by combining their claims in a class action.

The need for reinforcement of said principle appears evident for the Illinois Courts in light of a growing trend of initiating actions aimed at bypassing the statutory regime of the Administrative Review Law, set forth in 735 ILCS 5/3-102. Indeed, within the last couple of months alone, the attempts to usurp the administrative review established by the

legislature were addressed not only in the above-discussed *Tock* and *Pinkston* cases but also in *Mary Jane Sweet Spot LLC v. City of Blue Island*, 2023 IL App (1st) 221637-U, where the First District dismissed the plaintiff’s appeal of an administrative hearing officer’s decision denying its application for a business license due to failure to exhaust administrative remedies, referencing the *Pinkston* Court’s decision.³³

It is not coincidental that the Illinois courts have recently revisited the exhaustive remedy doctrine, as plaintiffs find creative modes to challenge the violations in front of the courts instead of following the explicitly prescribed administrative review process and taking advantage of the available administrative remedies. Plaintiffs’ complaints are regularly dismissed for lack of subject matter jurisdiction due to failure to exhaust administrative procedures.³⁴ Consequently, plaintiffs attempted to circumvent the administrative review procedures by pooling their challenges of violations into a single action.³⁵ Other creative venues for evading the administrative review included integrating multiple challenges of violations in a single action before pursuing class certification of the same.³⁶ When the same proved futile, plaintiffs in *Tock* endeavored to pool their claims and pursue judicial review of their violations in a class action instead of first exhausting the available administrative review. The First District’s reasoning in *Tock* essentially echoed the principle of the long-standing exhaustion of remedies doctrine and reinforced its applicability to class actions, while delivering a much-needed reminder that administrative procedures in place exist to provide plaintiffs with ample opportunities to contest violation notices and plaintiffs’ subjective disbelief in their efficiency do not constitute sufficient basis to allow for judicial review of the same, with evasion of the Administrative Review Law requirements.³⁷ □

33. *Mary Jane Sweet Spot LLC v. City of Blue Island*, 2023 IL App (1st) 221637-U, ¶¶ 10, 19.

34. See e.g., *Cattedge v. Dowling*, 2017 IL App (1st) 162033, ¶¶ 19, 23 (affirming the dismissal of plaintiff’s complaint for lack of jurisdiction where plaintiff did not exhaust the available administrative remedies due to his failure to file a motion for rehearing of an agency’s order before pursuing judicial review of the same).

35. *Finko v. City of Chicago Department of Administrative Hearings*, 2016 IL App (1st) 152888, ¶¶ 18, 26 (finding that the circuit court lacked jurisdiction to review adjudication of traffic violations due to plaintiff’s failure to file separate complaints for two separate violations of the same ordinance, which were adjudicated by the same administrative law judge on the same date).

36. See *Midland Hotel Corporation v. Director of Employment Security*, 282 Ill. App. 3d 312, 321 (1st Dist. 1996) (finding that plaintiff cannot avoid an administrative review judgment by simply bringing a subsequent class action without first challenging an agency order by using the prescribed administrative review procedure).

37. *Tock v. Village of Stone Park*, 2023 IL App (1st) 220996-U, ¶¶ 41, 48.