

**IN THE CIRCUIT COURT OF THE 12<sup>TH</sup> JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS**

ROBERT ABRAHAM,	)	
individually and on behalf of all others similarly	)	
situated,	)	Case no. 22 LA 433
	)	(consolidated with 22 LA 847)
Plaintiff,	)	
	)	
v.	)	Class Action
	)	
VILLAGE OF UNIVERSITY PARK,	)	Jury Demanded
	)	
Defendant.	)	

**SECOND AMENDED CLASS ACTION COMPLAINT**

Plaintiff Robert Abraham (“Plaintiff” or “Abraham”), by his attorneys, states as follows for his Second Amended Class Action Complaint against defendant Village of University Park (“University Park” or “Defendant”).

**NATURE OF THE CASE**

1. University Park conducted an illegal scheme. University Park issued oversized and overweight tickets to commercial truckers driving in University Park. While Illinois law and University Park’s own ordinances require these tickets to be adjudicated in an Illinois court, University Park denied truckers their day in court by requiring the tickets to be adjudicated in University Park’s internal administrative system.
2. University Park put itself in the position of being the “fox guarding the henhouse.” Because the fines due under these tickets were hefty, University Park used this scheme to generate millions of dollars for itself.
3. Because University Park lacked subject matter jurisdiction to issue judgments or liability findings regarding these tickets, the judgments and findings are null and void *ab initio*.
4. University Park contains numerous warehouses. Many commercial truck drivers must

drive through University Park to reach these warehouses.

5. The University Park ordinances at issue involve moving violations and offenses reportable to the Illinois Secretary of State under the Illinois Vehicle Code, 625 ILCS 5/1-100, *et seq.*

6. Reportable offenses raise the stakes immensely for commercial truckers who can potentially lose their licenses based on this reporting. Commercial truckers who lose their licenses to drive professionally lose their livelihood. It is imperative that the tickets University Park issues are appropriately tried in an Illinois court where there are safeguards involving an elected and sworn judge, rules of civil procedure, and rules of evidence.

7. Plaintiff asserts the following claims on behalf of himself and similarly situated persons:

A. Declaratory judgment that all fines, penalties, judgments, and liability findings resulting from University Park's administrative adjudication of tickets for violating University Park's oversized or overweight truck ordinances are null and void *ab initio* because University Park lacked subject matter jurisdiction to adjudicate those tickets administratively; and

B. Unjust enrichment.

### **PARTIES**

8. Plaintiff Robert Abraham is an individual who resides in the State of Mississippi.

9. Plaintiff is a long-distance commercial truck driver and holder of commercial driver's licenses ("CDLs").

10. Defendant University Park is a municipal corporation organized under Illinois law and located in Will County, Illinois. University Park is a home-rule municipality.

### **JURISDICTION & VENUE**

11. Jurisdiction of this Court arises under 735 ILCS 5/2-209(a)(1), (b)(3) and (c) because University Park is a municipal corporation organized under Illinois law that conducts business in Illinois.

12. Venue is proper in this district pursuant to 735 ILCS 5/2-103 because University Park is a municipal corporation with its principal office located in Will County, and Will County is where the transactions giving rise to this lawsuit occurred.

## **BACKGROUND**

### **Illinois Municipal Code**

13. The Illinois Municipal Code (“Municipal Code”) only allows a municipality to adjudicate administratively particular ordinance violations. The relevant section of the Municipal Code provides:

Any municipality may provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution. A ‘system of administrative adjudication’ means the adjudication of any violation of a municipal ordinance, except for (i) proceedings not within the statutory or the home rule authority of municipalities; and (ii) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code.

65 ILCS 5/1-2.1-2 (footnotes omitted).

14. Section 5/1-2.1-2 provides important limits on a municipality’s authority to adjudicate administratively violations of its ordinances. These limits are designed to prevent municipalities from overstepping their bounds by violating the rights of persons who allegedly violated an ordinance.

15. Section 5/1-2.1-2 sets forth two categories of ordinance violations that University Park cannot administratively adjudicate:

- A. Category 1: Where the ordinances govern “any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles.”
- B. Category 2: Where the ordinances involve a “reportable offense under Section 6-204 of the Illinois Vehicle Code.”

16. University Park could not administratively adjudicate the alleged oversized and overweight

ordinance violations at issue because they fell into both categories.

### **Category 1: Regulation Of The Movement Of Vehicles**

#### Illinois Vehicle Code

17. The Illinois Vehicle Code prohibits the movement of overlength vehicles. 625 ILCS 5/15-107(d) (“The length of a semitrailer or trailer, unladen or with load, *operated* in a truck tractor-semitrailer-trailer or truck tractor semitrailer-semitrailer combination, may not exceed ...” (emphasis supplied)).

18. The Illinois Vehicle Code prohibits the movement of overweight vehicles. 625 ILCS 5/15-111 (“No vehicle or combination of vehicles with pneumatic tires may be *operated*, unladen or with load, when the total weight on the road surface exceeds ...” (emphasis supplied)).

19. Both of the foregoing Illinois Vehicle Code provisions are traffic regulations governing the movement of vehicles.

#### University Park Ordinances

20. In August 1974, University Park enacted the following ordinance governing overweight vehicles operating in University Park:

No person shall operate a vehicle exceeding ten thousand (10,000) pounds gross weight on any of the streets or portions of streets within the corporate limits and under the jurisdiction of the Village, except Western Avenue, Crawford Avenue, Crete—Monee Road, Manhattan—Monee Road, Steger—Monee Road, Highway 50, Highway 54 (Governors Highway) and all streets and roads within the area bounded by Highway 50, Highway 54 (Governors Highway), Interstate 57, Stuenkel Road, and Manhattan—Monee Road, commonly known as Governors Gateway Industrial Park, unless specifically designated in Section 428-06(b).

The Village of University Park Code of Ordinances (“University Park Code”), § 428-06 (passed August 24, 1974, most recently amended as Ordinance 2010-16, passed on April 13, 2010).

21. Plaintiff Abraham received a “Complaint and Notice to Appear” which alleged that he was driving an “oversize/overweight” vehicle. (Exhibit A)

22. The notice in Exhibit A states that Abraham was in violation of ordinance 428.10, which is an ordinance that does not exist in the University Park Code.<sup>1</sup>

23. The notice in Exhibit A states that the “minimum penalty” is \$750.

24. University Park uses Ordinances 428-06 and/or 428.10 (which does not exist) to govern the same conduct by commercial truck drivers – oversized and overweight commercial trucks – that Illinois governs via the Illinois Vehicle Code.

25. As a result, University Park Ordinances 428-06 and/or 428.10 (which does not exist) (the “University Park Ordinances”) govern an “offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles.”

26. However, the University Park Code does not allow for the administrative adjudication of traffic and moving offenses that are offenses under the Illinois Vehicle Code or similar offenses.

27. Section 299.1-02 of the University Park Code states that:

*All Village ordinances may be enforced through the administrative adjudication system provided that the system shall have no authority to impose a penalty of incarceration or to adjudicate an offense under the Illinois Vehicle Code (or a similar offense) which is a traffic regulation governing the movement of vehicles, or to impose a fine in excess of fifty thousand dollars (\$50,000.00). (Emphasis added.)*

28. Therefore, as set forth in its own Code, University Park did not have the authority to adjudicate administratively the very types of traffic regulations that are at issue in this action.

29. Further, as evidenced by the “minimum penalty” in Exhibit A, the University Park Code purports to authorize fines in excess of \$250, which it is prohibited from administratively adjudicating under 625 ILCS 5/11-208.3(b)(10) for alleged violations of regulations which were enacted by ordinance.

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[https://library.municode.com/il/university\\_park/codes/code\\_of\\_ordinances?nodeId=PTFOURTRCO\\_TITSIXVEOP\\_CH428COHEVE](https://library.municode.com/il/university_park/codes/code_of_ordinances?nodeId=PTFOURTRCO_TITSIXVEOP_CH428COHEVE)

## **Category 2: Reportable Offenses**

30. The Illinois Vehicle Code provides that the Illinois Secretary of State is responsible for maintaining information regarding moving violations and regulating the drivers licenses, including but not limited to suspension, of persons who commit reportable violations. 625 ILCS 5/6-206.

31. Illinois maintains a “point system” for drivers. When drivers accrue a particular number of points, their driving privileges are restricted or revoked.

32. One of the ways in which a driver can accrue points is for a moving violation, which can lead to restrictions or revocations of a driver’s license. See 625 ILCS 5/6-206.

33. The University Park Ordinances regulate offenses that are reportable to the Illinois Secretary of State under § 6-204 of the Vehicle Code.

34. The Illinois Vehicle Code provides the following relevant provisions regarding reportable offenses:

- (a) For the purpose of providing to the Secretary of State the records essential to the performance of the Secretary's duties under this Code to cancel, revoke or suspend the driver's license and privilege to drive motor vehicles of certain minors and of persons found guilty of the criminal offenses or traffic violations which this Code recognizes as evidence relating to unfitness to safely operate motor vehicles, the following duties are imposed upon public officials: ...

*The reporting requirements of this subsection (a) apply to all violations listed in paragraphs (1) and (2) of this subsection (a), excluding parking violations, when the driver holds a CLP or CDL [commercial driver’s license], regardless of the type of vehicle in which the violation occurred, or when any driver committed the violation in a commercial motor vehicle as defined in Section 6-500 of this Code.*

625 ILCS 5/6-204 (emphasis supplied).

35. For CLP and CDL licenses, Illinois reports moving violations to the Federal Motor Carrier Safety Administration (“FMCSA”). The FMCSA compiles driver information from across the country.

36. Improper reporting to the FMCSA can have drastic consequences for the livelihoods of

commercial truck drivers.

37. The administrative adjudication of alleged violations of the University Park Ordinances lacks due process and other safeguards that Illinois deems important for offenses reportable to the Illinois Secretary of State and FMCSA.

### **University Park Administrative Adjudication Scheme**

38. University Park is a municipality through which many commercial truckers drive trucks for a living.

39. University Park uses its police force to issue oversized and overweight tickets to commercial truckers.

40. These tickets required that the truckers pay, or challenge, the tickets in University Park's own administrative adjudication system. University Park fully and unilaterally controls this system. University Park Code, Part Two, Title Ten ("Administrative Adjudication").

41. These tickets instructed recipients who want to challenge the tickets to attend an administrative hearing in University Park. *E.g.*, Abraham Ticket, **Exhibit A** hereto.

42. An administrative law officer presided over these administrative hearings. This administrative law officer was unelected and had their compensation determined and paid by University Park.

43. For these hearings in University Park's administrative system, the Illinois rules of civil procedure and Illinois rules of evidence did not apply.

44. University Park used the ticket itself as prima facia evidence of guilt. University Park Code, Part Two, Title Ten, Sec. 299.2-02(6).

45. There was no corroborating video or other evidence admissible under Illinois rules of evidence, and truckers did not have the opportunity to cross-examine their accusers.

46. In short, University Park took a massive due process shortcut to impose significant fines on truckers.

47. University Park collected fines imposed by the tickets in one of three ways.

48. First, commercial truckers sent in payment to University Park before the administrative hearing date. When this occurred, University Park entered a judgment or an administrative order finding liability for the amount of the fine. University Park Code, § 299.3-01.

49. Second, commercial truckers unsuccessfully challenge a ticket. Where the challenge was unsuccessful, truckers either voluntarily paid or had the amounts involuntarily collected from them.

50. Third, commercial truckers did not pay the ticket before the administrative hearing, and did not contest the ticket at the hearing. In that instance, University Park administratively entered a judgment or finding of liability against the truckers. University Park Code, § 299.3-01(4).

51. University Park retained all of the funds generated through its scheme. If these tickets were adjudicated in an Illinois court, University Park would have had to share the proceeds from the fines with other units of government.

52. To bypass the distribution of fines paid for alleged violations of the Ordinances to other units of government, University Park established for itself an in-house administrative traffic court system that allowed University Park to keep traffic court monies for itself.

53. Plaintiff's alleged violation of the Ordinances was required to be adjudicated in an Illinois court.

54. Because University Park's administrative adjudication exceeded its authority to impose fines and render judgments and liability findings, it had no subject matter jurisdiction over the tickets it issued and had no subject matter jurisdiction over the adjudication of those tickets.

55. University Park’s administrative adjudication did not permit challenges to its jurisdiction and did not provide a method for adjudicating the relevant tickets in an Illinois court.

56. University Park’s lack of subject matter jurisdiction over the tickets rendered University Park’s administrative fines, judgments, and liability findings null and void *ab initio*.

**Abraham’s Ticket**

57. On October 20, 2017, a University Park police officer issued a ticket to Abraham for an allegedly oversized/overweight vehicle driving on a road not designated for that purpose (the “Abraham Ticket”), which ticket stated that Abraham owed a minimum \$750 municipal fine for violating Ordinance 428.10 (which does not exist). Abraham Ticket, **Exhibit A**.

58. On October 26, 2017, according to University Park’s records, Abraham paid \$500 to University Park for his allegedly oversized/overweight vehicle.

59. As a result of the foregoing, University Park administratively adjudicated the Abraham Ticket.

**Damages**

60. Even though University Park illegally used its administrative adjudication system, Plaintiff had no viable choice but to pay the fines imposed by his ticket.

61. Whether the fines were paid in advance of an administrative hearing, at a hearing, or after a hearing, all monies University Park collected pursuant to illegal administrative adjudications of tickets must be fully refunded and findings of liability voided. University Park had no legal right to impose the fines or collect any of those monies.

62. Plaintiff and other members of the class proposed herein (“Class Members”) were injured by University Park’s imposition of fines, entries of administrative judgments, or findings of liability that were null and void from their inception.

63. Plaintiff and Class Members were damaged when they paid their respective fines or received findings of liability plus any penalties, attorney's fees and expenses, interest and other injuries stemming from University Park's enforcement of its administrative judgments or liability findings.

64. University Park's wrongful conduct inflicted damage upon Plaintiff and the Class Members by subjecting them to illegal fines and/or causing them to pay illegal fines.

65. Abraham was damaged when he paid \$500 to University Park for the Abraham Ticket.

66. Class Members were subjected to fines and/or paid significant amounts to University Park pursuant to University Park's illegal administrative adjudication of their tickets.

67. If Plaintiff and Class Members had not paid their respective fines, they faced consequences including but not limited to: fines of higher amounts for payments made after particular deadlines, collection proceedings, garnished wages, payment of University Park's attorney fees and costs incurred in enforcing a judgment. University Park Code, § 299.7-03.

68. The tickets at issue also carried escalating fines if not paid by certain dates.

69. Nonpayment of the tickets could also cause a suspension of truck drivers' CDLs, which would make them unable to continue working as long-distance commercial truck drivers.

70. Nonpayment of the tickets could also negatively impact truck drivers' federal Compliance, Safety, and Accountability ("CSA") score, which is a safety measurement system used by the FMCSA to identify high-risk fleets, carriers, and drivers.

71. Nonpayment is, therefore, not a viable option.

72. Other truckers similarly situated to Plaintiff have been significantly damaged by virtue of University Park's conduct alleged herein.

73. Others similarly situated to Plaintiff were injured when they were subjected to fines and/or

paid their fines to University Park pursuant to administratively adjudicated tickets for oversized or overweight trucks. Others similarly situated incurred additional damages when they paid additional amounts for collection, garnishment, liens, and similar expenses in connection with the illegally obtained judgments or liability findings against them.

### **Class Allegations**

74. Plaintiff brings this lawsuit pursuant to the class action provision in the Illinois Code of Civil Procedure, 735 ILCS 5/2-801.

75. Plaintiff brings this lawsuit on behalf of themselves and a proposed class and subclass of persons, defined as follows:

All persons who after July 8, 2017, pursuant to a Village of University Park administrative proceeding, were assessed or paid a fine, penalty, had a judgment entered against them, or had a finding of liability against them for an oversized or overweight vehicle in violation of a University Park ordinance; excluded from the proposed class are the Village of University Park's respective officials and employees, Plaintiff's counsel and members of their immediate families, and the trial judge presiding over this case (hereinafter, the "Class"). The Subclass consists of class members who received or paid tickets alleging violation of an ordinance, specifically ordinance 428.10, which does not exist (hereinafter, the "Subclass").

76. The Court should certify the Class and the Subclass.

77. The Class Members are so numerous that joinder of all members is impracticable. The Class has more than 600 members, and, on information and belief, the Subclass has more than 40 members.

78. Plaintiff's claims are typical of the claims of the Class and Subclass Members because the claims are based on a common course of conduct by Defendant towards persons who had tickets for oversized or overweight vehicles administratively adjudicated by University Park. Their claims arise from the same set of operative facts described herein.

79. University Park engaged in a course of conduct that is generally applicable to Plaintiff and

the Class and Subclass.

80. Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class and Subclass. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions.

81. Plaintiff and his counsel are committed to prosecuting this action vigorously on behalf of the other members of the Class and Subclass. Neither Plaintiff nor his counsel have any interests that might cause them not to pursue this case vigorously.

82. Without a class action, Class and Subclass Members would find that litigating their individual claims would be cost-prohibitive, and as a result, they ultimately would not receive a remedy.

83. A class action is an appropriate method for the fair and efficient adjudication of this controversy. The claims of Plaintiff and the Class and Subclass are identical, as they are all based on Defendant's common course of conduct towards persons who had tickets for overlength and/or overweight trucks administratively adjudicated by University Park.

84. The prosecution of separate actions by individual Class and Subclass Members could create a risk of inconsistent or varying adjudications with respect to individual Class and Subclass Members that would establish incompatible standards of conduct.

85. Management of the Class and Subclass claims is likely to present significantly fewer difficulties than those presented in many individual claims. The identities of members of the Class and Subclass may be obtained from the records of University Park, which renders identification of Class and Subclass Members something capable of ministerial review.

86. The class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation because it conserves the resources of the courts and the litigants.

87. There are common questions of law and fact affecting Class and Subclass Members, which are questions that predominate over any affecting only individual members. These common questions include, but are not limited to:

- A. Whether University Park exceeded its authority under Illinois law when it administratively adjudicated tickets for violations of the University Park Ordinances;
- B. Whether University Park lacked subject matter jurisdiction to adjudicate tickets administratively for violations of the University Park Ordinances;
- C. Whether the judgments entered pursuant to University Park's administrative adjudications of violations of the University Park Ordinances are null and void *ab initio* because they involve moving violations that must be adjudicated in an Illinois court;
- D. Whether the judgments entered pursuant to University Park's administrative adjudications of violations of the University Park Ordinances are null and void *ab initio* because they involve violations reportable to the Illinois Secretary of State;
- E. Whether the judgments entered pursuant to University Park's administrative adjudications of violations of the University Park Ordinances are null and void *ab initio* because they involve traffic violations that are precluded from being administratively adjudicated under the University Park Code;
- F. Whether the judgments entered pursuant to University Park's administrative adjudications are null and void *ab initio* when the judgments result from alleged violations of ordinances that do not exist;
- G. Whether it was unjust for University Park to retain the fines paid in connection with administratively adjudicated judgments for violations of the University Park Ordinances for oversized or overweight trucks because the judgments were null and void *ab initio*.
- H. Whether University Park's retention of the fines paid pursuant to administratively adjudicated judgments under the University Park Ordinances violates the fundamental principles of justice, equity and good conscience.

**Count I - Class**  
**Declaratory Judgment and Injunctive Relief**

88. Plaintiff incorporates herein by reference paragraphs 1 – 87.

89. Under Illinois law:

The court may, in cases of actual controversy, make binding declarations of rights,

having the force of final judgments, whether or not any consequential relief is or could be claimed, including the determination, at the instance of anyone interested in the controversy, of the construction of any statute, municipal ordinance, or other governmental regulation, or of any deed, will, contract or other written instrument, and a declaration of the rights of the parties interested. . . . Declarations of rights, as herein provided for, may be obtained by means of a pleading seeking that relief alone, or as incident to or part of a complaint, counterclaim or other pleading seeking other relief as well, and if a declaration of rights is the only relief asked, the case may be set for early hearing as in the case of a motion.

735 ILCS 5/2-701(a)-(b).

90. Plaintiff is entitled to a declaratory judgment that all judgments and findings of liability resulting from University Park's administrative adjudication of tickets for oversized or overweight trucks are null and void *ab initio* because University Park lacked subject matter jurisdiction to adjudicate those tickets administratively.

91. As a direct and proximate result of University Park's conduct described herein, Plaintiff and Class Members have been harmed and are entitled to cancelation of all fines and findings of liability and to refunds of all amounts University Park collected pursuant to its illegal conduct set forth herein.

**WHEREFORE**, Plaintiff and the Class and request that this Court enter judgment in their favor and against Village of University Park as follows:

- A. Enter a judgment declaring that all impositions of fines, penalties, judgments, and findings of liability resulting from University Park's administrative adjudication of tickets for oversized or overweight trucks are null and void *ab initio* because University Park lacked subject matter jurisdiction to adjudicate those tickets administratively;
- B. Disgorge from University Park and award Plaintiff and Class Members the full amount of the respective fines and other monies that each paid to University Park;
- C. Require an accounting of the fines improperly collected by University Park to determine the amount of disgorgement;
- D. Award Plaintiff and Class Members prejudgment interest;
- E. Award to the Plaintiff and Class Members their reasonable costs and attorney's fees in

connection with this suit;

- F. Enter preliminary and permanent injunctive orders prohibiting University Park from continuing its administrative adjudications set forth herein;
- G. Cancel all outstanding tickets and fines issued pursuant to the University Park Ordinances that provide for administrative adjudication; and
- H. Award such other relief that the Court deems appropriate.

**Count II - Class**  
**Unjust Enrichment**

92. Plaintiff incorporates herein by reference paragraphs 1 - 87.

93. As a result of University Park's intentional and willful conduct described herein, University Park has unjustly retained a benefit to the detriment of Plaintiff and Class Members.

94. As a result of University Park's conduct described herein, it financially benefited through the wrongful collection of fines from truckers who had tickets for violations of the University Park Ordinances improperly administratively adjudicated.

95. University Park's conduct alleged herein was without a legal basis because University Park lacked subject matter jurisdiction to adjudicate administratively the tickets it issued to Plaintiff and Class Members for violations of its Ordinances.

96. University Park's conduct alleged herein created duress and coercion by forcing Plaintiff and Class Members to pay fines to University Park out of fear of the consequences of failing to pay those fines.

97. University Park's collection of fines that it wrongfully administratively adjudicated provided University Park with funds to which it was not entitled.

98. By virtue of the foregoing conduct, University Park's retention of the money paid for these fines violates fundamental principles of justice, equity, and good conscience.

99. As a direct and proximate result of University Park's conduct described herein, Plaintiff

and Class Members have been significantly harmed.

100. In the alternative, there is no adequate remedy at law for Plaintiff and Class Members.

101. A constructive trust should be imposed over all monies that University Park has collected pursuant to its wrongful conduct alleged herein.

**WHEREFORE**, Plaintiff and the Class request that this Court enter judgment in their favor and against Village of University Park as follows:

- A. Disgorge from University Park and award Plaintiff and Class Members the full amount of the respective fines, penalties, and other monies that each paid to University Park;
- B. Award Plaintiff and Class and Members prejudgment interest;
- C. Award Plaintiff and the Class their reasonable costs and attorney's fees incurred in connection with this suit; and
- D. Award such other relief that the Court deems appropriate.

**Count III - Subclass**  
**Declaratory Judgment and Injunctive Relief**

102. Plaintiff incorporates herein by reference paragraphs 1 - 87.

103. Under Illinois law:

The court may, in cases of actual controversy, make binding declarations of rights, having the force of final judgments, whether or not any consequential relief is or could be claimed, including the determination, at the instance of anyone interested in the controversy, of the construction of any statute, municipal ordinance, or other governmental regulation, or of any deed, will, contract or other written instrument, and a declaration of the rights of the parties interested. ... Declarations of rights, as herein provided for, may be obtained by means of a pleading seeking that relief alone, or as incident to or part of a complaint, counterclaim or other pleading seeking other relief as well, and if a declaration of rights is the only relief asked, the case may be set for early hearing as in the case of a motion.

735 ILCS 5/2-701(a)-(b).

104. University Park is not authorized under any law to impose fines for alleged violations of ordinances that do not exist.

105. As a direct and proximate result of University Park's conduct described herein, Plaintiff and Subclass Members have been harmed and are entitled to cancelation of all fines and findings of liability, and refunds of all amounts paid which University Park collected pursuant to its illegal conduct set forth herein.

**WHEREFORE**, Plaintiff and the Subclass request that this Court enter judgment in their favor and against Village of University Park as follows:

- A. Enter a judgment declaring that all impositions of fines, penalties, judgments, and findings of liability resulting from University Park's administrative adjudication of tickets issued pursuant to a non-existent ordinance, specifically ordinance 428.10, are null and void *ab initio* because University Park lacked the legal authority to impose them;
- B. Disgorge from University Park and award Plaintiff and Subclass Members the amount of the respective fines, penalties, and other monies that each paid to University Park pursuant to such tickets;
- C. Require an accounting of the fines improperly collected by University Park to determine the amount of disgorgement;
- D. Award Plaintiff and Subclass Members prejudgment interest;
- E. Award to the Plaintiff and Subclass Members their reasonable costs and attorney's fees in connection with this suit;
- F. Enter preliminary and permanent injunctive orders prohibiting University Park from continuing its issuance of tickets based on non-existent ordinances; and
- G. Award such other relief that the Court deems appropriate.

**Count IV - Subclass**  
**Unjust Enrichment**

106. Plaintiff incorporates herein by reference paragraphs 1 - 87.

107. As a result of University Park's intentional and willful conduct described herein, University Park has unjustly retained a benefit to the detriment of Plaintiff and Subclass Members.

108. As a result of University Park's conduct described herein, it financially benefited

through the wrongful collection of fines from truckers who received tickets for alleged violations of University Park Ordinances which do not exist.

109. University Park's conduct alleged herein was without a legal basis because University Park lacks any legal authority to impose fines on Plaintiff and Subclass Members for violations of ordinances which do not exist.

110. University Park's conduct alleged herein created duress and coercion by forcing Plaintiff and Subclass Members to pay fines to University Park out of fear of the consequences of failing to pay those fines.

111. University Park's collection of fines pursuant to tickets which were wrongfully issued provided University Park with funds to which it was not entitled.

112. By virtue of the foregoing allegations, University Park's retention of the money paid for these fines violates fundamental principles of justice, equity and good conscience.

113. As a direct and proximate result of University Park's conduct described herein, Plaintiff and Subclass Members have been significantly harmed.

114. In the alternative, there is no adequate remedy at law for Plaintiff and Subclass Members in connection with the unjust enrichment issue.

115. A constructive trust should be imposed over all monies that University Park has collected pursuant to its wrongful conduct alleged herein.

**WHEREFORE**, Plaintiff and the Subclass request that this Court enter judgment in their favor and against Village of University Park as follows:

- A. Disgorge from University Park and award Plaintiff and Subclass Members the amount of the respective fines, penalties, and other monies that each paid to University Park resulting from the issuance of tickets alleging violations of an ordinance which does not exist;
- B. Award Plaintiff and Subclass Members prejudgment interest;

C. Award Plaintiff and the Subclass their reasonable costs and attorney's fees incurred in connection with this suit; and

D. Award such other relief that the Court deems appropriate.

**DEMAND FOR TRIAL BY JURY**

Plaintiff request trial by jury of all claims that can be so tried.

Robert Abraham,  
individually and behalf of the Class  
and Subclass, Plaintiff,

By: s/ Daniel A. Edelman  
One of Plaintiff's Attorneys

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**CERTIFICATE OF SERVICE**

Daniel A. Edelman certifies that on June 11, 2025, the foregoing document was sent via email to:

Michael J. McGrath  
Patrick N. Roberts  
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/s/Daniel A. Edelman  
Daniel A. Edelman

# EXHIBIT A

COMPLAINT

A 11745

COMPLAINT AND NOTICE TO APPEAR

STATE OF ILLINOIS  
COUNTY OF WILL

IN THE ADMINISTRATIVE COURT  
OF THE VILLAGE OF UNIVERSITY  
PARK WILL COUNTY, ILLINOIS

VILLAGE OF UNIVERSITY PARK

HOUSING

ORDINANCE

A MUNICIPALITY PLAINTIFF VS.

**D E F E N D A N T**

NAME ABRAHAM Robert Darnell Middle

ADDRESS \_\_\_\_\_ STREET \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Dr. Lic. \_\_\_\_\_ CDL \_\_\_\_\_ Date Birth \_\_\_\_\_

Eyes \_\_\_\_\_ Ht. \_\_\_\_\_ Wt. \_\_\_\_\_ Sex \_\_\_\_\_ Race \_\_\_\_\_

SS# \_\_\_\_\_ Phone No. \_\_\_\_\_

**V E H I C L E**

Registration No. \_\_\_\_\_ State TN Year 2018

Make Freightliner Year 1998 Color yellow

0.  Pedestrian 1.  Passenger Car 2.  Recreational Van or Truck 3.  Bus 4.  Truck Tractor 5.  Trailer Or Semi-Trailer 6.  Motorcycle or Bicycle 7.  Other 8.  Commercial Mot. Veh 9.  Placarded Haz Mat.

THE UNDERSIGNED STATES THAT ON

10, 20, 17 AT 10:40 M.

2017-08/14

Co. Landstar

**C O M P L A I N T**

(Describe) Driving oversize/overweight w/o permit

In That Driver was observed driving oversized vehicle #13 on Dralle Rd @ Will Center Rd which has posted (5) ton weight limits. Driver does not have approved permit to use prescribed roadway.

IN VIOLATION OF ORDINANCE NO. 428.10

AT Dralle Rd w/B from Will Center Rd Will Co. IL

**B O N D**

MINIMUM PENALTY FOR THIS VIOLATION IS 750.00

DUE DATE		
MONTH	DATE	YEAR
<u>11</u>	<u>08</u>	<u>17</u>

PARENTAL RESPONSIBILITY / NTA GIVEN

YOU MUST APPEAR IN COURT. You will be notified of your court location, date and time by the court administrator. This notice will be sent by regular mail. 9 6pm

90 Town Center University Park, IL

Under penalties as provided by law for further certification pursuant to Section 735 ILCS 5/1-109 of the Illinois Code Of Civil procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

DATE 10, 20, 17 A. Hochell # 489  
Mo. Day Yr. (Signature and Identification of Officer or the Complainant) I.D. No.

WHITE - COMPLAINT, GOLD - OFFICER'S, PINK - GUARDIAN, HARD COPY - CITATION

698 Burnham Dr University Park IL