No. _____

In the Supreme Court of the United States

RYAN O'DONNELL AND MICHAEL GOREE,
INDIVIDUALLY AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Petitioners,

v.

CITY OF CHICAGO AND
URT UNITED ROAD TOWING, INC.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

APPENDIX

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APPENDIX

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Appendix A
[Filed: Dec. 22, 2025]

In the
United States Court of Appeals
For the Seventh Circuit

No. 24-2946
RYAN O'DONNELL and MICHAEL GOREE,
individually and on behalf of all others
similarly situated,

Plaintiffs-Appellants,

v.

CITY OF CHICAGO and URT UNITED
Road Towing, Inc.,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division.
No. 1:23-cv-01192 — **Andrea R. Wood**, *Judge*.

Argued September 3, 2025 — Decided December 22,
2025

Before SCUDDER, KIRSCH, and PRYOR, *Circuit Judges*.

KIRSCH, *Circuit Judge*. The City of Chicago may immobilize, tow, impound, and ultimately dispose of vehicles to enforce compliance with its traffic code. The City disposed of Ryan O'Donnell's and Michael Goree's vehicles pursuant to this graduated forfeiture scheme, without compensating them. O'Donnell and

Goree then filed a putative class action against the City and URT United Road Towing, Inc., a towing company that works for the City. They alleged that the City's forfeiture scheme is facially unconstitutional under the Fifth Amendment's Takings Clause and the Illinois constitution and brought a state-law unjust enrichment claim. The district court granted the defendants' motions to dismiss for failure to state a claim. Because that court correctly determined that vehicle forfeiture pursuant to the City's traffic code is not a taking, we affirm.

I

After receiving a ticket in Chicago, a vehicle owner must pay in full, enter into an installment payment plan, or contest the violation. Municipal Code of Chicago (MCC) § 9-100-050. If the owner fails to pay or successfully contest the violation, the City of Chicago sends a notice of final determination of liability. *Id.* § 9-100-100. If a vehicle owner accumulates three or more final determinations of liability, or two final determinations that are over a year old, all vehicles registered to that owner become eligible for immobilization. *Id.* § 9-100-120(b). The City sends a notice of impending vehicle immobilization and the owner has 21 days from the date of notice to pay the amount due or request a hearing. *Id.* If no action is taken, the City places all vehicles registered to the owner on an immobilization list. *Id.*

After a vehicle is immobilized, the owner has 24 hours to pay the amount due, enter into an installment payment plan, participate in a relief program, or request additional time to comply. *Id.* § 9-100-120(c)–(d). Otherwise, the City may tow and impound the

vehicle. *Id.* URT United Road Towing, Inc. (URT) is a private contractor that tows such vehicles for the City. Once a car is impounded, the City sends an additional notice and the owner has 21 days from that date to pay the fees and claim the vehicle or request an extension. *Id.* § 9-100-120(f). The owner may also request an administrative hearing to determine whether the immobilization or towing was erroneous. *Id.* § 9-100-120(e). If, however, the vehicle remains un-claimed, the City may sell or dispose of it. *Id.* § 9-100-120(f). Some of these unclaimed vehicles are sold to URT at scrap value.

In 2018 and 2021, respectively, the City disposed of vehicles owned by Michael Goree and Ryan O'Donnell according to the graduated forfeiture scheme set forth in § 9-100-120. It sold O'Donnell's vehicle to URT at scrap value and relinquished Goree's to the lienholder. The City did not compensate O'Donnell or Goree after it disposed of their cars, nor did it use any of the proceeds to offset their unpaid ticket debt.

O'Donnell and Goree filed a putative class action against the City and URT, alleging a facial violation of the Fifth Amendment's Takings Clause, a *Monell* claim against URT, and state-law claims. The City and URT moved to dismiss the complaint for failure to state a claim. The district court granted the defendants' motions and dismissed all claims, finding that the City's graduated forfeiture scheme was not a taking.

II

We review de novo a district court's dismissal for failure to state a claim, accepting all well-pleaded factual allegations as true and drawing all reasonable

inferences in the plaintiffs' favor. We first address the plaintiffs' takings claims. Because those fail, their remaining claims do as well.

The same standard applies to the plaintiffs' takings claims under the federal and Illinois constitutions, so we analyze those claims together. See *Hampton v. Metro. Water Reclamation Dist.*, 57 N.E.3d 1229, 1235–36 (Ill. 2016). The Takings Clause of the Fifth Amendment, made applicable to the states through the Fourteenth Amendment, provides that private property shall not be taken "for public use, without just compensation." *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 536 (2005) (citation modified). To establish a violation of the Takings Clause, plaintiffs must show that: (i) the government took their property, either through a physical taking, or through unduly onerous regulations; (ii) the taking was for a public use; and (iii) no matter what type of property (real or personal) was taken, the government has not paid just compensation. *Conyers v. City of Chicago*, 10 F.4th 704, 710–11 (7th Cir. 2021) (citation modified).

Because O'Donnell and Goree challenge § 9-100-120 as facially unconstitutional, they must show that the "mere enactment" of § 9-100-120 constitutes a taking. *Keystone Bituminous Coal Ass'n v. DeBenedictis*, 480 U.S. 470, 494 (1987). They can-not.

In *Hadley v. City of South Bend*, 154 F.4th 549, 554 (7th Cir. 2025), we considered a takings claim that—like this one—arose from a state's exercise of its police power rather than eminent domain. Eminent domain traditionally refers to "a state's power to physically take property by formally condemning it." *Id.* The police power, conversely, refers to "a state's general authority to determine, primarily, what measures are

appropriate or needful for the protection of the public morals, the public health, or the public safety." *Id.* (citation modified). As we acknowledged in *Hadley*, the takings analysis doesn't draw "rigid distinctions between eminent domain and police power actions," and every police power action may not bar a takings claim. *Id.* at 554–56 (citation modified). Nonetheless, we regarded the exercise of law enforcement authority as a "classic example" of police power that does foreclose takings claims. *Id.* at 556.

Applying that principle here, immobilizing, towing, im-pounding, and—if necessary—disposing of vehicles under § 9-100-120 is an exercise of the City's police power to enforce its traffic code, and thus isn't a taking. The purpose of the forfeiture scheme is to target individuals who—by refusing to pay—have hitherto evaded punishment for their traffic and parking infractions. Instead of continuing to issue unanswered tickets, the City institutes a different form of punishment: hindering offenders' ability to drive by immobilizing, impounding, and potentially even disposing of their vehicles. Without this graduated forfeiture scheme, vehicle owners who repeatedly violate the traffic code could evade punishment. The threat of impoundment and disposal forces them to internalize the consequences of their behavior and, accordingly, deters those violations in the first place. See *Tate v. District of Columbia*, 627 F.3d 904, 909 (D.C. Cir. 2010). Because § 9-100-120's function is to enforce the City's traffic code, it's the kind of law enforcement forfeiture scheme "firmly fixed in the punitive and remedial jurisprudence of the country" and does not constitute a taking. See *id.* (quoting *Bennis v. Michigan*, 516

U.S. 442, 453 (1996)) (finding that a scheme similar to the one here didn't constitute a taking).

The plaintiffs' arguments to the contrary aren't persuasive. Their primary contention is that § 9-100-120 is a debt-collection mechanism that punishes the inability to pay and is not a law enforcement measure. The plaintiffs rely, in part, on *In re Fulton*, 926 F.3d 916 (7th Cir. 2019), vacated and remanded on other grounds sub nom., *City of Chicago v. Fulton*, 592 U.S. 154 (2021), where we described § 9-100-120 as "an exercise of revenue collection more so than police power." *Id.* at 929–30. But *Fulton* was a bankruptcy case, not a takings case, and did not conclude that § 9-100-120 is—as the plaintiffs con-tend—exclusively a debt-collection mechanism. Indeed, it's a feature, not a bug, that § 9-100-120 both "raises money and improves compliance with traffic laws." *Idris v. City of Chicago*, 552 F.3d 564, 566 (7th Cir. 2009). And while some forfeitures may result from an inability to pay, that's not necessarily true in every case. One could, for example, imagine an owner who is able to pay but decides not to. Because O'Donnell and Goree must show that the "mere enactment" of § 9-100-120 is a taking, situation-specific arguments don't advance their facial challenge. *Keystone Bituminous Coal Ass'n*, 480 U.S. at 494. Their arguments that the underlying offenses may be minimal, or that the vehicle owner may not be the of-fending driver, fail for the same reason.

The plaintiffs also argue that § 9-100-120 is distinguishable from the forfeiture scheme permitted in *Bennis*, because the forfeited vehicle there was used in criminal activity and couldn't be reclaimed. See 516 U.S. at 453. Here, conversely, the City can seize cars not involved in any underlying violation, and owners

need only pay to get their cars back. Though present, these dissimilarities don't render § 9-100-120 any less constitutional. First, allowing owners to recover their cars after paying is consistent with § 9-100-120's punitive purpose. Once owners pay their ticket debt, they've internalized the cost of their infractions and there's no need for the City to continue to hold their vehicles. Second, the sweeping nature of § 9-100-120's reach also serves a punitive purpose: if the City doesn't place every vehicle registered to an owner on the im-mobilization list, those with multiple vehicles can continue to drive, thwarting § 9-100-120's intended effect.

Finally, the plaintiffs err in relying on *Tyler v. Hennepin County*, 598 U.S. 631 (2023), to argue that the City commits a taking by retaining all vehicle sales proceeds without applying any of it to unpaid ticket debt. The principle at work in *Tyler*—that the government "may not take more from a tax-payer than she owes"—doesn't apply here, where the government enforces laws pursuant to its police power. *Id.* at 639; see also *Aldens, Inc. v. LaFollette*, 552 F.2d 745, 749 (7th Cir. 1977) (noting that the police and tax powers are distinct and subject to different limitations). In sum, § 9-100-120 is an exercise of the City's police power to enforce its traffic code, so the Takings Clause doesn't apply and the plaintiffs cannot establish a federal or state takings violation.

Because § 9-100-120's graduated forfeiture scheme doesn't constitute a taking, the plaintiffs' remaining claims also fail. For the purpose of this appeal, we can assume (without deciding) that URT is a state actor, because there is no underlying constitutional violation to support the plaintiffs' *Monell* claim against URT.

See *Sallenger v. City of Springfield*, 630 F.3d 499, 505 (7th Cir. 2010). Nor do they have a viable unjust enrichment claim, which requires a showing that the defendant "has unjustly retained a benefit to the plaintiff's detriment, and that the defendant's retention of the benefit violates the fundamental principles of justice, equity, and good con-science." *K-Stones, Inc. v. Ko*, 267 N.E.3d 363, 374–75 (Ill. App. Ct. 2025) (citation modified). Because the City lawfully impounded and disposed of the plaintiffs' vehicles, there was no unjust benefit to it or to URT.

AFFIRMED

Appendix B
[Filed: Sep. 28. 2024]

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RYAN O'DONNELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 23-cv-01192
v.	)	
	)	Judge Andrea R. Wood
CITY OF CHICAGO, et al.,	)	
	)	
Defendants.	)	

ORDER

For the reasons stated in the accompanying Statement, Defendant City of Chicago's motion to dismiss for lack of standing [51] is denied and its motion to dismiss for failure to state a claim [19] is granted. Defendant URT United Road Towing, Inc.'s motion to dismiss [46] is also granted. Plaintiffs' motion for leave to file a sur-reply [42] is denied as moot. Telephonic status hearing set for 10/15/2024 [56] remains firm.

STATEMENT

Plaintiffs Ryan O'Donnell and Michael Goree failed to pay traffic ticket fines each owed to Defendant City of Chicago ("City") and, as a result, their respective vehicles were towed, impounded, and ultimately sold to Defendant URT United Road Towing, Inc. ("URT")

for well below market value. Moreover, Plaintiffs did not receive payment or credit against their debts as a result of the sales. Plaintiffs contend that the City's practices around disposing of impounded vehicles violate the Fifth Amendment's Takings Clause, as well as Illinois constitutional and state law. For that reason, they have brought this putative class action against the City and URT to obtain injunctive and declaratory relief as well as damages. The City and URT each have filed motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) (Dkt. Nos. 19, 46), and the City has filed an additional motion to dismiss pursuant to Rule 12(b)(1) (Dkt. No. 51). For the reasons that follow, Defendants' Rule 12(b)(6) motions are granted while the City's Rule 12(b)(1) motion is denied.

I.

For the purposes of Defendants' motions to dismiss, the Court accepts all well-pleaded facts in the complaint as true and views those facts in the light most favorable to Plaintiffs. *Killingsworth v. HSBC Bank Nev., N.A.*, 507 F.3d 614, 618 (7th Cir. 2007). The complaint alleges as follows.

Each year, the City tows and impounds tens of thousands of vehicles because of unpaid traffic ticket debt. (Compl. ¶¶ 1–2, Dkt. No. 1.) Pursuant to the Municipal Code of Chicago ("MCC"), when vehicle owners have two tickets that are unpaid for more than a year or three tickets that are unpaid at any time, the owners are subject to a series of escalating enforcement actions. (*Id.* ¶ 2.) The City begins by immobilizing, or "booting," the car. (*Id.* ¶ 3.) Prior to 2019, the vehicle's owner had 24 hours after their vehicle's

immobilization to pay their outstanding ticket debt and associated fees, or else their vehicle would be towed and impounded. (*Id.* ¶ 3 & n.3.) In 2019, the City amended the MCC to permit vehicle owners to obtain release of their immobilized vehicle by making a downpayment on their debt and entering into a payment plan with respect to the remaining sum. (*Id.*) Next, the City tows and impounds the car, adding a $150 tow fee and daily fees of $20 to $35 for storage. (*Id.* ¶ 5.) If the owner does not timely pay the balance (or enter into a payment plan), the City takes possession of the vehicle and can add it to its fleet, auction it off, or sell it for scrap. (*Id.* ¶ 8.) Typically, the City sells the car for scrap for around $200. (*Id.*) The owner receives no compensation or credit against their debt for the disposition of their vehicle. (*Id.* ¶ 9.)

Plaintiffs allege that the purpose of this enforcement scheme is to collect debts owed to the City. (*Id.* ¶¶ 22, 37.) While the underlying municipal ordinance describes its purpose as to "enforce[e] the parking, standing, compliance, [and automated traffic and speed enforcement system] ordinances of the traffic code," the City only tows cars after a finding of liability has been entered and fines and penalties have been assessed. MCC section 9-100-120(a)–(b). Unpaid ticket tows are administered by the City Comptroller's Department of Finance, not by the Department of Streets and Sanitation or the Police Department. (Compl. ¶ 34.) The City received around $4 million for selling scrapped vehicles in 2017 and an additional $10 million in boot and storage fees. (*Id.* ¶ 38.) The threat of the accelerating penalties also helped the City to collect around $345 million in fines and

penalties in 2018—nine percent of its total operating revenue. (*Id.*)

The City contracts with URT to provide towing and automobile pound management services. (*Id.* ¶¶ 16, 54.) As a contractor, URT is responsible for every step of the process between the initial tow and disposal of unclaimed vehicles (*Id.* ¶ 58.) When a vehicle's owner cannot afford to pay for its release, or the vehicle otherwise goes unclaimed, the City often sells it to URT at scrap value. (*Id.* ¶¶ 55–56.)

Plaintiff O'Donnell had his vehicle towed and impounded by URT on behalf of the City on May 19, 2021. (*Id.* ¶ 59.) Shortly thereafter, the City sold O'Donnell's vehicle to URT for $273, providing no compensation to O'Donnell (or offset to his debt) and offering him no opportunity to determine fair compensation for his vehicle. (*Id.*) Similarly, URT towed Plaintiff Goree's vehicle on behalf of the City on January 28, 2018, and then relinquished possession of the vehicle to its lienholder who sold it. (*Id.* ¶ 61.) Notably, Goree claims that his vehicle was towed, impounded, and disposed not as a result of any citation issued against him but instead due to the ticket debt that the co-signor to the vehicle had accumulated on a different vehicle. (*Id.* ¶ 62.)

According to Plaintiffs, the MCC's vehicle forfeiture scheme is facially unconstitutional under the Takings Clause of the Fifth Amendment to the U.S. Constitution as well as the corresponding provision of the Illinois Constitution. In their complaint, Plaintiffs assert four claims on behalf of themselves and a putative class. Count I of the complaint seeks declaratory and injunctive relief for Defendants' alleged taking and disposal of vehicles in violation of the U.S. and Illinois

constitutions, while Count II asserts a Takings Clause claim for damages against Defendants pursuant to 42 U.S.C. § 1983. And Counts III and IV assert Illinois state-law claims for unjust enrichment against the City and URT, respectively.

II.

Before addressing the Rule 12(b)(6) motions brought by both Defendants, the Court begins by addressing the City's separate Rule 12(b)(1) motion arguing that Plaintiffs lack standing to challenge a certain aspect of the City's vehicle forfeiture scheme. In particular, the complaint alleges that the City has a practice of towing, impounding, and disposing not just the vehicle that accrued the unpaid ticket debt but also any other vehicles owned by the owner of the ticketed vehicle. (*E.g.*, Compl. ¶ 33 ("Moreover, unpaid ticket tows do not even target the vehicle that was used in a particular infraction. Instead, any and all vehicles owned by a person with unpaid tickets under MCC § 9-100-120 are eligible to be towed and sold.").) Yet the City notes that the complaint does not allege that O'Donnell's towed and disposed-of vehicle was not the vehicle to which the unpaid tickets were issued. And while Goree does allege that his vehicle was towed due to tickets issued against a different vehicle owned by the co-owner of his vehicle, the City comes forward with evidence contradicting that allegation. According to the City, because neither Plaintiff was injured by the City's purported practice of towing vehicles other than those that accrued the unpaid ticket debt, they lack standing to attack that practice.

Even accepting as true that Plaintiffs' towed vehicles were the ticketed vehicles, that has no impact on

Plaintiffs' standing. The City's standing argument fails to account for the fact that Plaintiffs raise a facial challenge to the constitutionality of the MCC's vehicle forfeiture scheme. (*Id.* ¶ 75 (MCC § 9-100-120, ***on its face***, violates the Takings Clause of the United States and Illinois Constitutions." (emphasis added)).) "In a facial constitutional challenge, individual application facts do not matter. Once standing is established, the plaintiff's personal situation becomes irrelevant." *Ezell v. City of Chicago*, 651 F.3d 684, 698 (7th Cir. 2011); *see also City of Chicago v. Morales*, 527 U.S. 41, 55 n.22 (1999) ("When asserting a facial challenge, a party seeks to vindicate not only his own rights, but those of others who may be adversely impacted by the statute in question."). Because Plaintiffs unquestionably had their vehicles towed pursuant to the scheme set out at MCC section 9-100-120, they have standing to challenge its constitutionality in all applications. The City's Rule 12(b)(1) motion is therefore denied.

III.

Having rejected the standing challenge, the Court considers the viability of Plaintiffs' claims. To survive a Rule 12(b)(6) motion, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). This pleading standard does not necessarily require a complaint to contain detailed factual allegations. *Twombly*, 550 U.S. at 555. Rather, "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Adams v.*

City of Indianapolis, 742 F.3d 720, 728 (7th Cir. 2014) (quoting *Iqbal*, 556 U.S. at 678).

Counts I and II of Plaintiffs' complaint allege that MCC section 9-100-120's vehicle forfeiture scheme effects a taking without just compensation and is therefore facially unconstitutional under the Fifth Amendment to the U.S. Constitution as well under Illinois's constitution.[1] The Fifth Amendment's Takings Clause provides that private property shall not "be taken for public use, without just compensation." U.S. Const. amend. V. Accordingly, "[w]hen the government physically takes possession of an interest in property for some public purpose, it has a categorical duty to compensate the former owner." *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency*, 535 U.S. 302, 322 (2002). To state a claim for a violation of the Takings Clause, a plaintiff must allege "(1) that the governmental entity 'took' his property, either through a physical taking or through unduly onerous regulations; (2) that the taking was for a public use; and (3) that, no matter what type of property (real or personal) was taken, the government has not paid just compensation." *Conyers v. City of Chicago*, 10 F.4th 704, 710–11 (7th Cir. 2021).[2]

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[1] Plaintiffs' claims under Article 1, Section 15 of the Illinois Constitution (prohibiting takings without just compensation) are evaluated in lockstep with the federal Takings Clause. *See Hampton v. Metro. Water Reclamation Dist. of Greater Chi.*, 57 N.E.3d 1229, 1234 (Ill. 2016) (Illinois Takings Clause analyzed under same standard as federal Takings Clause, except that Illinois clause also protects against damage to property).

[2] The Takings Clause was incorporated against the States by the Fourteenth Amendment. *Kelo v. City of New London*, 545 U.S. 469, 472 n.1 (2005).

This Court has already rejected an identical constitutional challenge to MCC section 9-100-120 in *Walker v. City of Chicago*, No. 20-cv-01379, 2022 WL 17487813 (N.D. Ill. Dec. 6, 2022). There, consistent with the Supreme Court's ruling in *United States v. Bennis*, 516 U.S. 442 (1996), this Court found that the City's legislative scheme for disposing of impounded vehicles was not facially unconstitutional. *Walker*, 2022 WL 17487813, at *4. *Bennis* recognized that "[t]he government may not be required to compensate an owner for property which it has already lawfully acquired under the exercise of governmental authority other than the power of eminent domain." *Bennis*, 516 U.S. at 452. And, in *Walker*, this Court found that the City's vehicle forfeiture scheme was not facially unconstitutional under the Takings Clause because it constituted the type of forfeiture process that *Bennis* determined was "firmly fixed in the punitive and remedial jurisprudence of the country." *Id.* at *4 (citing *Bennis*, 516 U.S. at 453).

While Plaintiffs acknowledge that this Court's holding in *Walker* applies to and is dispositive of their constitutional claims, they insist that *Walker* was wrongly decided. Plaintiffs largely rehash the arguments that the Court considered and rejected in *Walker* and fail to convince the Court that it should reconsider that decision. One new argument they raise relies on a Supreme Court case, *Tyler v. Hennepin County*, 598 U.S. 631 (2023), that was decided after this Court's *Walker* decision. There, the Supreme Court held that the defendant county could sell the plaintiff's home "to recover unpaid property taxes" but "could not use the toehold of the tax debt to confiscate more property than was due;" *i.e.*, the county could not

keep for itself the amount in excess of the plaintiff's tax debt after selling her home. *Id.* at 639. Plaintiffs liken the facts in *Tyler* to those here, arguing that the City confiscates and sells property worth far more than the unpaid debt accrued. But *Tyler* is inapposite because its holding was rooted in "[t]he principle that a government may not take more from a taxpayer than she owes," which dates back to the Magna Carta. *Id.* By contrast, this Court's decision in *Walker* had entirely different foundation in the country's punitive and remedial jurisprudence. *See Bennis*, 516 U.S. at 452 ("Forfeiture of property prevents illegal uses both by preventing further illicit use of the property and by imposing an economic penalty, thereby rendering illegal behavior unprofitable." (internal quotation marks omitted)).

Because this Court continues to adhere to its analysis in *Walker*, the Takings Clause claims at Counts I and II are dismissed.[3] Further, the Illinois law unjust

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[3] The City's Rule 12(b)(6) motion includes an argument that certain of Plaintiffs' claims must be dismissed as time-barred. That statute of limitations argument led Plaintiffs to file a motion for leave to file a sur-reply to the City's Rule 12(b)(6) motion. (Dkt. No. 42.) The City's statute of limitations argument turns on a question concerning the applicability of the tolling rule of *American Pipe & Construction Co. v. Utah*, 414 U.S. 538 (1974) to the circumstances here. The Seventh Circuit has not yet answered that particular question and it has divided other Circuits. *See In re Turkey Antitrust Litig.*, No. 19 C 8318, 2024 WL 3848560, at *2 (N.D. Ill. Aug. 16, 2024) (discussing the competing Circuit court decisions). Having found that Plaintiffs' allegations fail to plead a viable claim, however, the Court need not resolve the statute of limitations issue. Accordingly, Plaintiffs' motion for leave to file a sur-reply is denied as moot.

enrichment claims at Counts III and IV are also dismissed. "Under Illinois law, there is no stand-alone claim for unjust enrichment." *Benson v. Fannie May Confections Brands, Inc.*, 944 F.3d 639, 648 (7th Cir. 2019). Consequently, "an unjust enrichment claim will stand or fall with related claims founded on the same improper conduct." *Anderson v. Rush Street Gaming, LLC*, No. 1:20-cv-04794, 2021 WL 4439411, at *7 (N.D. Ill. Sept. 28, 2021). Plaintiffs' unjust enrichment claims are predicated on the same conduct as the takings claims and they necessarily fail.

IV.

For the foregoing reasons, the City and URT's Rule 12(b)(6) motions are granted, and the City's Rule 12(b)(1) motion (Dkt. No. 51) is denied. Plaintiffs' complaint is dismissed without prejudice.

Dated: September 28, 2024

/s/ Andrea R. Wood
Andrea R. Wood
United States District Judge

Appendix C

Municipal Code of Chicago §9-100-120

9-100-120 Immobilization program.

(a) The traffic compliance administrator is hereby authorized to direct and supervise a program of vehicle immobilization for the purpose of enforcing the parking, standing, compliance, automated traffic law enforcement system, or automated speed enforcement system ordinances of the traffic code. The program of vehicle immobilization shall provide for immobilizing any eligible vehicle located on the public way or any city-owned property by placement of a restraint in such a manner as to prevent its operation or if the eligible vehicle is parked or left in violation of any provision of the traffic code for which such vehicle is subject to an immediate tow pursuant to Section 9-92-030, or in any place where it constitutes an obstruction or hazard, or where it impedes city workers during such operations as snow removal, the traffic compliance administrator may cause the eligible vehicle to be towed to a city vehicle pound or relocated to a legal parking place and there restrained. As part of the immobilization program, the traffic compliance administrator may also establish a procedure for a self-release immobilization device which may be removed by the registered owner, or his designee, in compliance with any applicable rule promulgated by the traffic compliance administrator.

(b) When the registered owner of a vehicle has accumulated (i) three or more final determinations of liability or (ii) two final determinations which are more than one year past the date of issuance, for parking, standing, compliance, automated traffic law

enforcement system, or automated speed enforcement system violation, or a violation of Section 9-105-020, in any combination, for which the fines, penalties, administrative fees provided pursuant to Section 9-100-160, if any, or related collection costs and attorney's fees pursuant to Section 1-19-020 or Section 1-19-030, if applicable, have not been paid in full, the traffic compliance administrator shall cause a notice of impending vehicle immobilization to be sent, in accordance with Section 9-100-050(f). The notice of impending vehicle immobilization shall state the name and address of the registered owner, the state registration number of the vehicle or vehicles registered to such owner, and the serial numbers of parking, standing, compliance, automated traffic law enforcement system or automated speed enforcement system violation notices which have resulted in final determination of liability or which are more than one year past the date of issuance for which the fines or penalties remain unpaid. Failure to pay the fines and penalties owed within 21 days from the date of the notice will result in the inclusion of the state registration number of the vehicle or vehicles of such owner on an immobilization list. A person may challenge the validity of the notice of impending vehicle immobilization by requesting a hearing and appearing in-person to submit evidence which would conclusively disprove liability within 21 days of the date of the notice. Documentary evidence which would conclusively disprove liability shall be based on the following grounds:

(1) That all fines and penalties for the violations cited in the notice have been paid in full;

(2) That the registered owner has not accumulated three or more final determinations, or two

notices which are more than one year past the date of issuance, of parking, standing, compliance, automated speed enforcement system violation, or automated traffic law enforcement system violation liability which were unpaid at the time the notice of impending vehicle immobilization was issued; or

(3) In the case of a violation of Section 9-102-020, Section 9-101-020, or Section 9-105-020, that the registered owner has not been issued a final determination of liability under Section 9-100-100 or Section 9-105-060.

(c) Upon immobilization of an eligible vehicle, a notice shall be affixed to the vehicle in a conspicuous space. Such notice shall (i) warn that the vehicle is immobilized and that any attempt to remove the vehicle may result in its damage; (ii) state that the unauthorized removal of or damage to the immobilizing device is a violation of Sections 16-1 and 21-1 of the Illinois Criminal Code; (iii) provide information specifying how release of the immobilizing device may be had; (iv) state how the registered owner may obtain an immobilization hearing; (v) state that if the immobilizing device has not been released within 24 hours of its placement, the device shall be released and the vehicle towed and impounded; (vi) provide information specifying how the registered owner may request an additional compliance time, as provided in rules, in addition to the 24 hours specified in (c)(v) of this section, before the immobilizing device is removed and the vehicle is towed and impounded; and (vii) provide information specifying how the registered owner may request an additional 15 days to retrieve his vehicle if impounded.

(d) (1) The owner of an immobilized vehicle, or other person authorized by agreement with the owner or by operation of law to retrieve the vehicle, may secure the release of the vehicle by: (i) entering into an installment payment plan pursuant to Section 9-100-160 and the rules promulgated thereunder; or (ii) by participating in the Clear Path Relief Program pursuant to Section 9-100-170 and rules promulgated thereunder.

(2) Except as otherwise provided in subsection (d)(1), the owner of an immobilized vehicle or other authorized person may secure the release of the vehicle by paying the applicable immobilization, towing and storage fees, and all amounts, including any fines, penalties, administrative fees provided pursuant to Section 9-100-160, if any, and related collection costs and attorney's fees pursuant to Section 1-19-020 or Section 1-19-030, remaining due on each final determination for liability issued to the owner.

(e) The owner of an immobilized vehicle shall have the right to a hearing to determine whether the immobilization or any subsequent towing was erroneous, if the owner files a written request for a hearing with the traffic compliance administrator within 21 days after immobilization or within 21 days of the date of the notice sent pursuant to subsection (f) herein, whichever is later. Hearings requested pursuant to this subsection shall be conducted by an administrative law officer upon receipt of a written request for a hearing. The determination of the administrative law officer regarding the validity of the immobilization shall become final for the purpose of judicial review under the Administrative Review Law of Illinois upon issuance.

(f) Within ten days after a vehicle has been impounded, a notice of impoundment shall be sent by certified mail to the address of the registered owner as listed with the Secretary of State, and to any lienholder of record. The notice shall state that: (i) the owner has the right to request a post-immobilization and post-towing hearing as provided in subsection (e) herein; and (ii) if the vehicle is not claimed within 21 days from the date of notice, the vehicle may be sold or otherwise disposed of in the manner prescribed by Section 4-208 of the Illinois Vehicle Code; provided, however, that the registered owner may request from the department of streets and sanitation one extension of 15 days before a vehicle is sold or otherwise disposed of. The department of streets and sanitation shall honor such a request and shall not sell or otherwise dispose of a vehicle during the 15-day extension period.

(g) The fee for immobilization shall be $400.00 for a truck tractor, semi-trailer or trailer, and $100.00 for any other type of vehicle, and the fee for towing subsequent to immobilization shall be as set forth in Section 9-92-080(b), provided that no fees shall be assessed for any immobilization or tow which has been determined to be erroneous.

(h) (1) It is unlawful to remove, disable or damage any vehicle immobilization device, or to relocate or tow any vehicle restrained by an immobilization device without the approval of the traffic compliance administrator. The registered owner of the immobilized vehicle and any person who relocates an immobilized vehicle or removes, disables or damages an immobilization device in violation of this subsection shall each be subject to a penalty of $1,000.00 for such violation

for a truck tractor, semitrailer or trailer, and $750.00 for such violation for any other type of vehicle.

(2) The owner of the immobilized vehicle and any person authorized by the traffic compliance administrator to remove any self-release immobilization device who fails to return such device to a location designated by the traffic compliance administrator within seven days shall be fined $50.00 for each day the person fails to return such device; provided that the total fine under this subsection shall not exceed $1,000 if the vehicle immobilized was a truck tractor, semitrailer or trailer, and $750.00 for any other type of vehicle.

(3) No person shall be found liable for violating both subsections (h)(1) and (h)(2) for the same incident.

(4) The offenses described in this subsection (h) shall be strict liability offenses as to the owner.

(i) Notwithstanding any other provision of this section, no impounded vehicle shall be released and operated on the public ways of the city without a current state registration plate registered to the impounded vehicle and unless the vehicle is covered by a liability insurance policy. In addition, if an impounded vehicle is required to be licensed under Chapter 3-56 of this Code, no such vehicle shall be released without a valid City of Chicago wheel tax license emblem. The owner of an impounded rental or commercial motor vehicle may meet the wheel tax license emblem requirement of this subsection by presenting proof of ownership of the impounded rental or commercial motor vehicle and a receipt issued by the office of the city clerk showing that the owner has purchased wheel tax license

emblems for the owner's rental or commercial motor vehicles in accordance with Chapter 3-56 of this Code.

(j) Any vehicle immobilized by the City or its designee shall be subject to a possessory lien in favor of the City in the amount required to obtain release of the vehicle.

(Prior code § 27.1-12; Added Coun. J. 3-21-90, p. 13561; Amend Coun. J. 7-12-90, p. 18634; Corrected. 12-15-93, p. 44286; Amend Coun. J. 11-10-94, p. 59125; Amend Coun. J. 3-26-96, p. 19161, effective 1-1-97; Amend Coun. J. 4-29-98, p. 66564, § 2; Amend Coun. J. 12-12-01, p. 75777, § 5.12; Amend Coun. J. 7-31-02, p. 90675, § 3; Amend Coun. J. 7-9-03, p. 4349, § 4; Amend Coun. J. 7-29-03, p. 6166, § 6; Amend Coun. J. 12-15-04, p. 40508, § 2; Amend Coun. J. 7-30-08, p. 34899, § 1; Amend Coun. J. 11-19-08, p. 48243, Art. II, § 3; Amend Coun. J. 11-17-10, p. 106597, Art. III, § 1; Amend Coun. J. 7-28-11, p. 5048, § 2; Amend Coun. J. 4-18-12, p. 23762, § 4; Amend Coun. J. 10-28-15, p. 11951, Art. III, § 12; Amend Coun. J. 6-28-17, p. 51163, § 1; Amend Coun. J. 9-18-19, p. 4521, § 3; Amend Coun. J. 10-27-21, p. 40504, Art. I, § 6; Amend Coun. J. 11-15-23, p. 6700, Art. I, § 5)