No. 96983-3

Court of Appeals No. 50228-3-II

IN THE SUPREME COURT FOR
THE STATE OF WASHINGTON

GEORGE KARL, REBECCA ANN,
and a class of similarly situated individuals,

Petitioners,

v.

CITY OF BREMERTON,

Respondent.

ANSWER TO PETITION FOR REVIEW

MASTERS LAW GROUP, P.L.L.C.
Kenneth Masters, WSBA 22278
241 Madison Ave. North
Bainbridge Island, WA 98110
(206) 780-5033
ken@appeal-law.com

TEMPLETON HORTON WEIBEL &
BROUGHTON, P.L.L.C.
David Horton, WSBA 27123
Kylie Purves, WSBA 34997
3212 NW Byron St., Ste. 101
Silverdale, WA 98383
(206) 692-9444
dhorton@kitsaplawgroup.com
kylie@kitsaplawgroup.com

Attorneys for Respondent

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I. IDENTITY OF RESPONDENT, RELIEF REQUESTED & INTRODUCTION

Respondent City of Bremerton ("City") asks this Court to deny George Karl and Rebecca Ann's Petition for Review (PFR). The Slip Opinion is attached.

The City put up "Bremerton blue" parking signs (which by now are long gone). Karl and Ann parked illegally. They were ticketed. They challenged their tickets. They lost. They considered an appeal, but instead decided to bring a class action.

They seek as damages municipal court fines from which they chose not to appeal, and seek to have declared illegal the following: (a) the Bremerton blue signs (which the City long-ago removed and replaced); and (b) the privately-contracted and duly-commissioned parking-enforcement officers who issued their tickets. Neither is illegal. Three courts have rejected their claims.

This appeal presents no conflict with other decisions, no significant question of law under the Washington State Constitution, and no issue of substantial public interest. On the contrary, prior decisions are entirely consistent with this appellate decision. This Court should deny review.

II. FACTS RELEVANT TO ANSWER

In August 2014, George Karl and Rebecca Ann both received parking tickets in downtown Bremerton. CP 2. They contested the tickets in Bremerton Municipal Court, claiming the City's "Bremerton blue" parking signs with white lettering did not comply with state law, so their tickets should be dismissed. *Id*. They lost. *Id*.

Following his hearing, and still within the 30-day time for appeal, George Karl told the local newspaper that he "plans to appeal. He has taken the issue to a Seattle law firm and said he hopes to spur a class-action lawsuit." CP 237-38. But neither he nor Ann appealed their judgments to Kitsap Superior Court. CP 25.

Instead, they filed a class action in 2015, seeking a refund of their fines, and declaratory and injunctive relief. CP 1-5. The City moved to dismiss under CR 12(b)(6), asserting *res judicata*. CP 6-10. The trial court dismissed the fine-refund claims, but did not dismiss the declaratory- and injunctive-relief claims. CP 660-61.

The court certified a class under CR 23(a) & (b)(2). CP 640. The parties brought cross-motions for summary judgment. CP 125-32, 241-51. Karl and Ann argue here that they prevailed on summary judgment (PFR 20), but the trial court's own summary of its rulings indicates that they did not prevail (CP 605):

> The Court held that the blue and white parking signs used by Defendant were not substantially compliant under RCW 47.36.030. The Court reserved ruling as to whether a cause of action existed and whether Plaintiffs were entitled to declaratory or injunctive relief. The Court also held that the Defendant's use of private contractors for the limited purpose of parking enforcement was not unlawful. [Footnote omitted.]

The trial court narrowed the issue on which it wanted further briefing to whether the plaintiffs had standing to sue for injunctive or declaratory relief for signs that did not comply with RCW 47.36.030. CP 634-35. The court did not order replacement of the blue signs, which the City was already doing – voluntarily. *Id*.

The parties again filed cross-motions. CP 496-522, 543-50. The trial court granted the City's motion (CP 606, 609):

> (a) The applicable statutes do not expressly provide an avenue by which individuals can bring a cause of action against a municipality or other governmental entity stemming from the use of a sign that does not substantially comply with the Manual;
>
> (b) *res judicata* prevents class members from pursuing refunds of fines in avenues outside of direct appeal; and
>
> (c) a motion to vacate is a proper procedural remedy for those who have either unsuccessfully challenged or already paid fines associated with violations related to the City's use of non-compliant signage.

Karl and Ann appealed. CP 612-35, 649-52. The City cross-appealed the order certifying a class. CP 636-41.

The Court of Appeals held that seeking monetary relief in the form of a refund that flows from a previously committed infraction was a collateral attack on a municipal court judgment that could not be maintained as an independent action in superior court, and that Karl and Ann had not alleged any constitutional claims or other causes of action enabling them to seek restitution for allegedly invalid parking tickets directly in superior court. Slip Op. 7-8. It concluded: "the superior court properly dismissed Karl's claims for all forms of monetary relief because Karl's exclusive remedies were to appeal through the IRLJs or to file a motion to vacate in municipal court." *Id*.

Because the claim for monetary relief was properly dismissed, the court also held that Karl and Ann lacked standing to seek an injunction preventing the City from using private contractors:

> Karl does not have any interest greater than that of the general citizenry in preventing the City from using private contractors to enforce its parking regulations. Karl will receive no tangible redress in the event his requested injunctive relief is granted.

Slip Op. 11. The Court held moot the injunctive-relief claims seeking both removal of the blue signs, and also an injunction against collecting concomitant fines and fees. Slip Op. 9-10.

III. REASONS THIS COURT SHOULD DENY REVIEW

Under RAP 13.4(b), a petition for review will be granted by the Supreme Court only:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
>
> (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
>
> (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
>
> (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

None applies here.

A. This appellate decision does not conflict with *New Cingular, ZDI Gaming*, or *Posey*.

Karl and Ann argue that this appellate decision conflicts with this Court's ***New Cingular Wireless v. City of Clyde Hill***, 185 Wn.2d 594, 374 P.3d 151 (2016), ***ZDI Gaming, Inc. v. Wash. State Gambling Comm'n***, 173 Wn.2d 608, 268 P.3d 929, *as corrected* (Mar. 20, 2012), and ***State v. Posey***, 174 Wn.2d 131, 272 P.3d 840 (2012). PFR 13-14. These cases are easily distinguished.

New Cingular held that because no specific statutory process existed to challenge a fine, the superior court had jurisdiction. Here, the opposite is true. Specifically, ***New Cingular*** involved a $293,131 municipal-tax fine imposed by the executive branch, and only

appealable to the Mayor. 185 Wn.2d at 598. No judgment from any court was involved. *Id*. After New Cingular's appeal to the Mayor failed, it filed a declaratory judgment action in superior court based on WASH. CONST. art. IV, § 6 ("The superior court shall have original jurisdiction in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine"). *Id*. at 597-98.

The city argued that because RCW Ch. 7.16 mandated exclusive procedural requirements similar to those in the Land Use Petition Act (LUPA), the Administrative Procedure Act (APA), and the Growth Management Act (GMA), New Cingular should have brought a timely petition for writ of review. *Id*. at 601. This Court compared the writ of review statute to LUPA, the APA, and the GMA, but noted that the writ statute "contains no specified purpose" similar to those Acts, and "fails to specify a time limit for appeal like" those Acts. *Id*. at 601-04. Unlike here, article IV grants

> superior courts original jurisdiction authority over "all cases at law which involve the title or possession of real property . . . and in all other cases in which the demand or the value of the property in controversy amounts to three thousand dollars or as otherwise determined by law."

Id. at 602 (citing WASH. CONST. art. IV, § 6). Concluding that the Legislature had not created conditional statutory procedures in the

writ of review statute (RCW 7.16.040) this Court held that a "[d]eclaratory action is an appropriate method to resolve this dispute between New Cingular and the city of Clyde Hill". *Id*. at 605-06.

By contrast, here state law and court rules create detailed procedures for challenging traffic citations in our municipal courts. "The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances." RCW 3.50.020; *accord* RCW Ch. 46.63 (Disposition of Traffic Infractions) ("DTI"). The DTI includes numerous sections defining the procedures for challenging traffic citations in municipal court.[1] The IRLJ and RALJ also provide detailed rules for municipal court infraction dispositions.

Like LUPA, the APA, and the GMA, these statutes and court rules are for a specified purpose (adjudicating infractions) and specify a time limit for appeal (30 days). Under the reasoning in ***New Cingular***, a "specified statutory process" for traffic infractions precludes Karl and Ann from "seeking declaratory judgment in superior court." ***New Cingular***, 185 Wn.2d at 600. No conflict exists.

The appellate decision also does not conflict with ***ZDI Gaming***. That case involved allocating subject matter jurisdiction

[1] For instance, under RCW 46.63.040, "Any municipal court has the authority to hear and determine traffic infractions pursuant to this chapter."

among our superior courts, not allocations between inferior and superior courts. This Court held that the state constitution provision vesting superior courts with original jurisdiction in all cases in which jurisdiction was not vested exclusively in some other court precluded any subject matter restrictions among the various superior courts. 173 Wn.2d at 616. But here, municipal courts are vested with exclusive original jurisdiction. No conflict exists.

Nor is this case analogous to ***State v. Posey***, 174 Wn.2d 131, 133, 272 P.3d 840 (2012). There, 16-year-old Posey was charged with three counts of second-degree rape, and one count of first-degree assault while armed with a firearm. Because the first-degree assault charge was classified as a "'[s]erious violent offense,'" the juvenile court automatically declined jurisdiction over Posey, transferring the case to the superior court. 174 Wn.2d at 133-34. The jury found Posey guilty of two counts of second-degree rape, but acquitted him of first-degree assault and of one count of second-degree rape. *Id*. at 134.

Posey appealed, claiming that the superior court did not have jurisdiction to sentence him as an adult after his acquittal on first-degree assault, the charge that led the juvenile court to automatically decline jurisdiction. *Id*. This Court affirmed the convictions, but

remanded the matter to juvenile court for further proceedings. *Id*. A few months later, and after Posey had turned 21, the superior court imposed a juvenile standard-range disposition of 60-to-80 weeks. *Id*. at 134-35.

Posey again appealed, arguing that *no* court had jurisdiction to sentence him. *Id*. at 135, 140. This Court held that where a statute prohibits the juvenile session from adjudicating the case, the superior court retains its constitutional jurisdiction over felony offenses *Id*. at 140. Because the superior court's jurisdiction derives from the constitution, and because the juvenile session lacked statutory authority to act in Posey's case, the superior court retained jurisdiction to sentence him for his crimes. *Id*. at 141.

The issue in ***Posey*** was not whether exclusive jurisdiction was vested in another court – juvenile session is a department of the superior court. Rather, the issue was whether the superior court retained jurisdiction, where the juvenile session otherwise lacked authority to act. But here, the municipal courts are vested with exclusive original jurisdiction over traffic infractions. This appellate decision does not conflict with ***Posey***.

In sum, this appellate decision does not conflict with any decision of this Court. The Court should deny review.

B. This appellate decision is consistent with many other similar decisions.

The claims in this case are like other cases where our courts have denied relief. These cases follow a pattern. There is an allegation that a court or municipality failed to follow a state statute imposing a fine or fee. Rather than filing an appeal, or a motion to vacate, litigants instead file a separate class action suit, seeking to enjoin the court or the municipality from continuing the alleged statutory violation and to recoup the fines or fees as damages.

Boone v. City of Seattle is a recent case with very similar facts, involving a driver arguing that a traffic sign did not comply with state standards, and alleging that the City had improperly collected over $10 million dollars through fines. 2018 Wash. App. LEXIS 1575 (July 9, 2018) (non-binding, unpublished opinion: GR 14.1(a)). Boone sought declaratory relief and restitution of fines paid on behalf of a class of plaintiffs who had received tickets based on the traffic signs. The court held that Boone sought disgorgement of the penalty paid as part of his municipal court judgment, that such a claim may only be brought in municipal court, and that he failed to show any separate ground for relief in equity. *Id*. at *14. The same is true here.

A second example is ***Doe v. Fife Mun. Court***, 74 Wn. App. 444, 874 P.2d 182 (1994), *rev. denied*, 125 Wn.2d 1025 (1995). There, people charged with alcohol-related criminal offenses brought an action against limited-jurisdiction courts for injunctive relief and refund of court costs paid as conditions of deferred prosecution, in violation of state law. The superior court concluded that the Does were barred from recovering the court costs in an independent suit against the limited courts. ***Doe***, 74 Wn. App. at 448. On appeal, the Does contended that a motion to vacate provided "inadequate and ineffective relief for large numbers of people" and that "the district and municipal courts do not have jurisdiction to hear class action suits, award 'money-had-and received' damages or provide injunctive relief." *Id*. at 454.

These arguments are also made here, but ***Doe*** rejects them:

> We see no barrier to a party obtaining effective relief, even in the absence of a class action suit. The mere fact that the Does might be unable to maintain a class action suit does not preclude their ability to recover the overpaid costs. Indeed, the procedure each of the Does would have to follow to obtain relief is quite simple. We are also not persuaded by the Does' argument that the district and municipal courts will be overwhelmed with litigants.

Id. at 454-55. This Court denied review. 125 Wn.2d 1025.

Similarly, in ***Jordan v. City of Lynnwood***, the court also dismissed all claims. No. C17-0309 RAJ, 2018 U.S. Dist. LEXIS 9877 (W.D. Wash. Jan. 22, 2018). There, a driver filed a class action seeking restitution of fines for red light infractions, an order enjoining Lynnwood from operating a traffic-camera program, and a declaratory judgment that its traffic-camera system was contrary to state statutes. *Id*. at *7-8. Citing ***Doe***, ***Jordan*** noted that municipal courts adjudicate challenges to traffic infractions, after which plaintiffs can "either appeal the adjudication to the Superior Court . . . or file a motion to vacate their judgments in the Municipal Court pursuant to IRLJ 6.7(a)." *Id*. at *4. A collateral action seeking traffic-fine refunds amounts to a "de facto appeal of the adjudication of [] traffic camera tickets," implicating the judgment of another court; that a declaratory judgment about the legality of the City's traffic safety cameras cannot invalidate a municipal court judgment; and, therefore, that a decision would not redress the alleged injury caused by receiving a traffic infraction. *Id*. at *8,*10.

Again, ***Mainer v. City of Spokane*** involved people seeking refunds for fines they paid for red-light infractions. 2015 Wash. App. LEXIS 2931 (Dec. 1, 2015) (non-binding, unpublished opinion: GR 14.1(a)). The trial court granted the city's motion to dismiss, and the

Court of Appeals dismissed the appeal for lack of jurisdiction. *Id*. at *2. This Court denied review. 185 Wn.2d 1030 (2016).

It should also deny review here. This appellate decision is consistent with other decisions. Further review is unwarranted.

C. There is no significant question under the Washington State Constitution because municipal courts have exclusive original jurisdiction over the imposition of fines for municipal traffic infractions.

Karl and Ann argue that WASH. CONST. art IV, § 6 grants superior courts original jurisdiction to hear municipal-fine challenges. PFR 11. The appellate court agreed with this, but noted (Slip Op. 8):

> this grant of jurisdiction does not provide an independent cause of action to challenge such legality. It simply provides superior courts original jurisdiction "over all claims which are not within the exclusive jurisdiction of another court." ***Orwick v. City of Seattle***, 103 Wn.2d 249, 251, 692 P.2d 793 (1984).

WASH. CONST. art. IV, §§ 1 & 12 delegate limited authority to the Legislature to transfer judicial power from one constitutional court (superior or district courts) to another constitutional court (inferior courts) by defining the jurisdiction and powers of inferior courts to which the Legislature deems it wise to transfer judicial power. ***In re Cloherty***, 2 Wash. 137, 139, 27 P. 1064 (1891). The Court Improvement Act of 1984 effectuated this constitutional delegation and standardized municipal courts. The Act stated that municipal

courts were WASH. CONST. art. IV, § 12 inferior courts and established the jurisdiction of municipal courts.

RCW 3.50.020 grants municipal courts exclusive original jurisdiction over traffic infractions arising under city ordinances, and empowers them to hear and determine all civil causes of action arising under such ordinances (emphases added):

> The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. A hosting jurisdiction shall have exclusive original criminal and other jurisdiction as described in this section for all matters filed by a contracting city. The municipal court shall also have the jurisdiction as conferred by statute. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith.

The fines challenged in this case were imposed in municipal court judgments. WASH. CONST. art. IV, § 6 states that superior courts have "appellate jurisdiction in cases arising in . . . inferior courts in their respective counties as may be prescribed by law." This appellate decision does not conflict with the Washington State Constitution. Again, review is unwarranted.

D. There is no issue of substantial public interest in superior courts hearing legal challenges to traffic infractions because municipal courts provide a forum for all challenges to municipal traffic citations and municipal courts are not limited to deciding only factual issues.

Karl and Ann argue that, "[u]nder Court of Appeals' decision, any city can issue unlawful tickets but no one can ever bring an action in superior court to have the fines declared unlawful, enjoin the fines, or obtain relief for those who are unlawfully fined." PFR 14. There is no need or basis for superior courts to "enjoin", or "declare[ ] unlawful," fines imposed by municipal courts. Whatever illegality is alleged as the basis for declaratory or junctive relief in superior court, whether it is nonconforming signs, authority of the person issuing the citation, or any other legal issue, it can be addressed to the municipal court, where illegal fines may be avoided.

Karl and Ann argue that municipal court jurisdiction is limited to factual issues (to "determine whether [a] civil infraction was committed") and that "no mechanism [exists] in municipal court to challenge the validity of a municipal fine under state statutes." PFR 12. Not so.

Municipal courts have "exclusive original jurisdiction over traffic infractions" under RCW 3.50.020, and may hear legal challenges to state laws enforced under municipal ordinances. For

instance, several RCW Title 46 traffic citations were challenged in Bremerton Municipal Court and Kitsap District Court on grounds that the state statute under which the driver was cited was unconstitutionally vague. ***Spears v. City of Bremerton***,134 Wn.2d 141, 949 P.2d 347 (1998). The cases proceeded to Kitsap County Superior Court, and then to this Court, which ruled the statute was not unconstitutionally vague. *Id*. at 162.

Karl and Ann argue that "[j]udicial review of municipal fines is of great importance because there are nearly 800,000 traffic infraction cases each year," and "[j]udicial review of municipal fines is of further importance because monetary sanctions disparately affect poor populations." PFR 14-15. Under the IRLJ, municipal courts provide judicial review prior to imposing municipal fines. Under the RALJ, judgments for fines can be appealed to superior court. There is no issue of substantial public interest in superior courts hearing legal challenges to municipal traffic infractions because such legal challenges can be made in the municipal courts themselves.

E. No substantial public interest exists in who enforces Bremerton's parking ordinances.

Parking enforcement is a uniquely local matter. An ordinance must yield to state law only "if a conflict exists such that the two cannot be harmonized." ***Brown v. City of Yakima***, 116 Wn.2d 556, 561, 807 P.2d 353 (1991); *accord* ***City of Bellingham v. Schampera***, 57 Wn.2d 106, 110-11, 356 P.2d 292 (1960). But here, there is no conflict and no substantial public interest.

Our Constitution gives municipalities authority to enforce their ordinances. Article XI, § 11 provides that "[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws." Indeed,

> Municipal police power is as extensive as that of the legislature, so long as the subject matter is local and the regulation does not conflict with general laws . . . . The scope of police power is broad, encompassing all those measures which bear a reasonable and substantial relation to promotion of the general welfare of the people.

Covell v. City of Seattle, 127 Wn.2d 874, 878, 905 P.2d 324 (1995).

Here, RCW Title 46 is the relevant statute. It does not say that a city cannot contract for parking enforcement. The subsection applicable to parking, RCW 46.63.030(3), does not even use the phrase "law enforcement officer." Rather, it states:

> If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

Moreover, Bremerton Municipal Code ("BMC") 10.10.080(a) allows the City's parking regulations to be enforced by (1) the City's police officers and other law enforcement officers; and/or (2) the City's parking enforcement officers. Under BMC 10.10.080(d), the "City's Police Department is authorized to appoint parking enforcement officers with a limited commission to issue notices of infractions for violations of the City's parking regulations."

Bremerton's municipal code is in accord with RCW Title 46, RCW Ch. 7.80, and the IRLJ. "Enforcement officer" is defined in RCW 7.80.040 as "a person authorized to enforce the provisions of the . . . ordinance in which the civil infraction is established." Under IRLJ 2.2(b)(1), a "citing officer" may initiate an infraction. A "citing officer" is "a law enforcement officer or other official authorized by law to issue a notice of infraction." IRLJ 1.2(j). Contracting for parking enforcement is a local matter that does not conflict with state law. It is not a matter of substantial public interest warranting review.

IV. CONCLUSION

Karl and Ann raise no conflicts, but rather raise similar issues to those previously addressed in appellate decisions and rejected. Review should be denied.

RESPECTFULLY SUBMITTED this 22nd day of April 2019.

MASTERS LAW GROUP, P.L.L.C.

Kenneth W. Masters, WSBA 22278
241 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-5033
ken@appeal-law.com
Attorney for Respondent

CERTIFICATE OF SERVICE

I certify that I caused to be filed and served a copy of the foregoing **ANSWER TO PETITION FOR REVIEW** on the 22nd day of April 2019 as follows:

Co-counsel for Respondent

Templeton Horton Weibel & Broughton, PLLC	___	U.S. Mail
David P. Horton	_x_	E-Service
Kylie Purves	___	Facsimile
3212 NW Byron Street, Suite 101		
Silverdale, WA 98383		
dhorton@kitsaplawgroup.com		
kylie@kitsaplawgroup.com		
tracey@thwpllc.com		

Counsel for Petitioners

Bendich Stobaugh & Strong, PC	___	U.S. Mail
David F. Stobaugh	_x_	E-Service
Alexander F. Strong	___	Facsimile
Stephen K. Strong		
126 NW Canal Street, Suite 100		
Seattle, WA 98107		
davidfstoubaugh@bs-s.com		
aforsgaaard@bs-s.com		
skstrong@bs-s.com		

Stephen K. Festor	___	U.S. Mail
66 South Hanford Street, Suite 300	_x_	E-Service
Seattle, WA 98134	___	Facsimile
steve@ecitymediation.com		

Kenneth W. Masters, WSBA 22278
Attorney for Respondent

Filed
Washington State
Court of Appeals
Division Two

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

GEORGE KARL, REBECCA ANN, and a class of similarly situated individuals, Appellants/Cross-Respondents, v. CITY OF BREMERTON, Respondent/Cross-Appellant.	No. 50228-3-II UNPUBLISHED OPINION

MELNICK, J. — George Karl and Rebecca Ann (collectively Karl) sued the City of Bremerton both personally and on behalf of a class alleging that they received invalid parking citations. Karl argues the City's parking signs, which had a blue background with white lettering, violated state law. He also argues that the City's use of private contractors to enforce parking regulations violated numerous state statutory provisions. We affirm the trial court's dismissal of Karl's claims.

FACTS

I. THE CITY'S PARKING ENFORCEMENT

In 1998, the City began contracting with private companies for parking enforcement, including Imperial Parking (Impark). As authorized under the Bremerton Municipal Code, the Bremerton Chief of Police issued a limited commission to Impark employees to enforce parking regulations.

In the early 2000s, the City changed the background of some of the parking signs in its downtown core to "Bremerton blue." Clerk's Papers (CP) at 237. The signs had blue backgrounds with white lettering.

II. PROCEDURAL HISTORY

In August 2014, Karl received a parking ticket issued by an Impark employee. A Bremerton blue parking sign gave notice. Karl contested his ticket in Bremerton Municipal Court.

At the hearing, Karl argued that the City could not lawfully fine him because the blue signs did not comply with the *Manual on Uniform Traffic Control Devices for Streets and Highways* (Manual),[1] which he argued had been adopted as state law. At the hearing, Karl did not argue that the ticket was unenforceable because it was issued by an Impark employee. The municipal court found the infraction committed and upheld the fine. Karl did not appeal to superior court.

In March 2015, Karl filed a class action against the City in Kitsap County Superior Court, proposing to represent a class of individuals who received tickets pursuant to the City's blue parking signs and/or individuals who received parking tickets issued by third-party private contractors. Karl sought declaratory relief that the City's use of the blue parking signs and private contractors were both unlawful. He sought injunctive relief requiring the City to remove the blue signs and replace them with Manual-compliant signs, and stopping the City from using private contractors. He prayed for monetary relief that required the City to refund amounts paid pursuant to tickets received under blue signs and/or tickets enforced by the private contractors.

The City moved to dismiss the complaint on all claims pursuant to CR 12(b)(6). The trial court granted the motion as to Karl's monetary relief in the form of a refund because "[a]ny request

[1] FED. HIGHWAY ADMIN., U.S. DEP'T OF TRANSP., MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS (2009 ed., rev. 2012), https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf.

to recover the fines assessed [was] already . . . litigated under the same defense and should have been appealed to the Superior Court." CP at 661. The court denied the City's motion to dismiss the declaratory and injunctive relief claims because "[t]he Municipal Court could not, as a matter of law, decide the issues of injunctive and declaratory relief." CP at 660.

Karl then moved to certify the class. The trial court granted the request and certified a class under CR 23(b)(2). The court defined the class as:

> Those individuals who were ticketed or will be ticketed as a consequence of the City's issuance of citations in areas containing blue parking signs and the City's use of a private contractor to issue parking citations. The class period begins March 12, 2012 and continues to the completion of this action.

CP at 640.

Karl and the City then brought cross-motions for summary judgment. Karl argued that the blue signs violated state law. The City argued that the blue signs substantially complied with the Manual, but even if the blue signs were unlawful Karl did not have a cause of action. The City also argued that it lawfully used Impark employees to issue parking tickets.

The court ruled that Washington had adopted the Manual and that the blue signs did not substantially comply with the Manual. But the court did not decide whether the City's noncompliance established a cause of action. The court asked for supplemental briefing on whether Karl had a cause of action for either injunctive or declaratory relief regarding the City's blue signs.

The court also ruled that the City's use of private employees to enforce parking violations did not conflict with any state statutes. It granted the City's motion on that issue.

Karl and the City again brought cross-motions for summary judgment. Karl argued that monetary relief flowed from the court's previous order that the blue signs did not substantially comply with state law, that a cause of action existed, and that the City owed restitution damages

to the class. Karl also sought an injunction preventing the City from collecting unpaid fines and penalties from class members. Karl never amended his complaint to reflect this new injunctive relief.

The City argued that no cause of action existed and that Karl was attempting to circumvent the court's previous ruling dismissing his monetary relief claim as res judicata by relabeling his damages sought. The City also argued that Karl's claim for injunctive relief was moot because it was removing the signs.

The City then replaced all of its blue signs with standardized parking signs, which had white backgrounds with either red or green text.[2]

In its final order, the trial court first clarified its rulings up to that point. It had dismissed Karl's claim for monetary relief based on res judicata, but it had not dismissed Karl's claims for declaratory and injunctive relief. It then found that because the City had removed all of its blue signs, the parties had agreed at oral argument that the plaintiff's claim for injunctive relief was now moot and dismissed that claim.[3] Finally, the court ruled that Karl had "not established that a cause of action exist[ed] for declaratory relief by which [he could] challenge the [City's] use of non-compliant parking signage," and it dismissed that claim. CP at 619. Karl appeals.

[2] Karl does not challenge the trial court's finding that the City replaced all of the blue signs.

[3] At oral argument on the motion for summary judgment, Karl stated that he hadn't "fully received" the injunctive relief he was seeking. Report of Proceedings (Feb. 6, 2017) at 6.

ANALYSIS

Karl argues that the City's blue parking signs violated state law and that parking citations issued pursuant to the blue signs were invalid. He also argues that the City's use of private contractors violated state law and that parking citations issued by private contractors were invalid. Accordingly, he argues that he is entitled to a refund for all unlawful parking citations. He also argues that he is entitled to injunctive and declaratory relief. We disagree.

I. LEGAL PRINCIPLES

We review a trial court's CR 12(b)(6) dismissal de novo. *Trujillo v. Nw. Tr. Servs., Inc.*, 183 Wn.2d 820, 830, 355 P.3d 1100 (2015). A dismissal for failure to state a claim under CR 12(b)(6) is appropriate only if "'it appears beyond doubt that the plaintiff can prove no set of facts, consistent with the complaint, which would entitle the plaintiff to relief.'" *Bravo v. Dolsen Cos.*, 125 Wn.2d 745, 750, 888 P.2d 147 (1995) (internal quotations omitted) (quoting *Haberman v. WPPSS*, 109 Wn.2d 107, 120, 744 P.2d 1032 (1987)).

We review an order granting summary judgment de novo, performing the same inquiry as the trial court. *Aba Sheikh v. Choe*, 156 Wn.2d 441, 447, 128 P.3d 574 (2006). "Summary judgment is appropriate only if the pleadings, affidavits, depositions, and admissions on file demonstrate the absence of any genuine issues of material fact and that the moving party is entitled to judgment as a matter of law." *Sheehan v. Cent. Puget Sound Reg'l Transit Auth.*, 155 Wn.2d 790, 797, 123 P.3d 88 (2005).

We review questions of statutory interpretation de novo. *Flight Options, LLC v. Dep't of Revenue*, 172 Wn.2d 487, 495, 259 P.3d 234 (2011). In interpreting statutes, "[t]he goal . . . is to ascertain and carry out the legislature's intent." *Jametsky v. Olsen*, 179 Wn.2d 756, 762, 317 P.3d 1003 (2014). We give effect to the plain meaning of the statute as "derived from the context of

the entire act as well as any 'related statutes which disclose legislative intent about the provision in question.'" *Jametsky*, 179 Wn.2d at 762 (quoting *Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 11, 43 P.3d 4 (2002)).

If a statute's meaning is plain on its face, we must give effect to that meaning as an expression of legislative intent. *Blomstrom v. Tripp*, 189 Wn.2d 379, 390, 402 P.3d 831 (2017). However, if "after this inquiry, the statute remains ambiguous or unclear, it is appropriate to resort to canons of construction and legislative history." *Blomstrom*, 189 Wn.2d at 390. If the statute "uses plain language and defines essential terms, the statute is not ambiguous." *Regence Blueshield v. Office of the Ins. Comm'r*, 131 Wn. App. 639, 646, 128 P.3d 640 (2006). "A statute is ambiguous if 'susceptible to two or more reasonable interpretations,' but 'a statute is not ambiguous merely because different interpretations are conceivable.'" *HomeStreet, Inc. v. Dep't of Revenue*, 166 Wn.2d 444, 452, 210 P.3d 297 (2009) (quoting *State v. Hahn*, 83 Wn. App. 825, 831, 924 P.2d 392 (1996)).

II. MONETARY RELIEF

Karl argues that the City's blue parking signs and use of private contractors violated state law and he is entitled to a refund for the unlawful parking citations. We disagree.

Parking infractions are traffic infractions. RCW 46.63.020. Traffic infractions arising under city ordinances are within the exclusive jurisdiction of the municipal court. RCW 3.50.020. Infraction proceedings are governed by the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). IRLJ 1.1(a).

The issuance of a notice of infraction initiates an infraction case. IRLJ 2.2(a). A person who receives a notice of infraction may pay the penalty without contest, request a hearing to contest that the infraction occurred, or request a hearing to explain mitigating circumstances. IRLJ

2.4(b). At a contested hearing, "[i]f the court finds the infraction was committed, it shall enter an appropriate order on its records." IRLJ 3.3(d). A person may appeal a judgment entered at a contested hearing to superior court. IRLJ 5.1; Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ) 1.1(a). The time limit to file such an appeal is 30 days. RALJ 2.5. If the person does not appeal within 30 days, then to obtain relief from that judgment, a party must bring a motion under the Civil Rules for Courts of Limited Jurisdiction (CRLJ) 60(b). IRLJ 6.7(a). Under CRLJ 60(b), the court may grant relief from a judgment in a number of circumstances, including where the judgment is void.

In *Jane Doe v. Fife Municipal Court*, 74 Wn. App. 444, 446-47, 874 P.2d 182 (1994), the plaintiffs did not appeal from orders imposing court costs. Instead, the plaintiffs filed a separate lawsuit in superior court seeking both a refund of court costs and injunctive relief. *Jane Doe*, 74 Wn. App. at 447. The trial court denied the plaintiffs' refund claim because they failed to appeal the orders in the limited jurisdiction courts or move for relief from judgment under the appropriate rule. *Jane Doe*, 74 Wn. App. at 448. The Court of Appeals agreed, recognizing a motion under the applicable rule in the court of limited jurisdiction provided "the sole mechanism for a party . . . to vacate a void judgment or order issued by a court of limited jurisdiction." *Jane Doe*, 74 Wn. App. at 453.

Here, Karl seeks monetary relief in the form of a refund that flows from a previously committed infraction. Karl may not collaterally attack the imposition of fines imposed on him and others by the municipal court for committed traffic infractions in an independent action in superior court. After the 30-day deadline to file an appeal under RALJ 2.5 has passed, the exclusive means for him to vacate the parking tickets allegedly issued contrary to state law is through a CRLJ 60(b)

motion. Therefore, Karl does not have a cause of action because his refund claim could only be brought through a motion to vacate in the limited jurisdiction court.

We want to be clear that we agree with Karl that article IV, section 6 of the Washington State Constitution provides superior courts with jurisdiction for challenges to the legality of municipal court fines. However, this grant of jurisdiction does not provide an independent cause of action to challenge such legality. It simply provides superior courts original jurisdiction "over all claims which are not within the exclusive jurisdiction of another court." *Orwick v. City of Seattle*, 103 Wn.2d 249, 251, 692 P.2d 793 (1984).

In *Orwick*, the Supreme Court recognized that the superior court has "original jurisdiction over claims for equitable relief from alleged system-wide violations of mandatory statutory requirements by a municipal court and from alleged repetitious violations of constitutional rights by a municipality in the enforcement of municipal ordinances." 103 Wn.2d at 251.

In *New Cingular Wireless PCS, LLC v. City of Clyde Hill*, 185 Wn.2d 594, 596-97, 600, 374 P.3d 151 (2016), the court recognized that when certain statutory schemes exist, these procedures require litigants to seek relief through these schemes before they may seek judicial review in superior court.

> The issue . . . focuses on whether specific statutory schemes exist that require alternative procedures, and whether a resolution must first proceed through the specified statutory process before judicial review [in superior court] is sought.
>
> Stated differently, the focus is whether the legislature has enacted a statutory scheme that diverts the superior courts' jurisdiction into an alternate procedure that a party must use to challenge a municipal fine.

New Cingular Wireless, 185 Wn.2d at 600.

Here, Karl does not allege the type of constitutional claims that were at issue in *Orwick*. Nor has Karl shown any other cause of action that enables him to seek restitution for his allegedly invalid parking ticket directly in superior court. Furthermore, specific procedures govern the

contesting of traffic infraction fines, and Karl failed to follow those procedures. His exclusive remedy was to file a CRLJ 60(b) motion. We conclude that the superior court properly dismissed Karl's claims for all forms of monetary relief because Karl's exclusive remedies were to appeal through the IRLJs or to file a motion to vacate in municipal court.[4]

III. INJUNCTIVE RELIEF

Karl argues that the trial court erred in finding that his request for injunctive relief was moot. He argues that he never agreed his injunctive relief claim was moot and that his claim is not moot because he is seeking to prevent the City from collecting on all outstanding fines and fees. He also claims that the City should be enjoined from using private contractors to issue parking citations. We disagree.

A. Blue Signs

An issue is moot when we cannot provide the relief that the appealing party seeks. *Dioxin/Organochlorine Ctr. v. Pollution Control Hr'gs Bd.*, 131 Wn.2d 345, 350, 932 P.2d 158 (1997).

The parties agree that the City has removed the blue parking signs. Accordingly, Karl's injunctive relief claim seeking such removal is moot.

B. Outstanding Tickets

Karl argues that his request for injunctive relief regarding the blue signs is not moot because he seeks to enjoin the City from collecting on all outstanding fines and fees issued pursuant to the blue signs. We disagree.

[4] Because we conclude that a CRLJ 60(b) motion was Karl's exclusive means for relief, we need not reach the parties' alternative arguments regarding res judicata.

On summary judgment, the moving party has the initial burden to show there is no genuine issue of material fact. *Lee v. Metro Parks Tacoma*, 183 Wn. App. 961, 964, 335 P.3d 1014 (2014). A moving defendant meets this burden by showing that there is an absence of evidence to support the plaintiff's case. *Lee*, 183 Wn. App. at 964. "Once the moving party has made such a showing, the burden shifts to the nonmoving party to set forth specific facts that rebut the moving party's contentions and show a genuine issue of material fact." *Zonnebloem, LLC v. Blue Bay Holdings, LLC*, 200 Wn. App. 178, 183, 401 P.3d 468 (2017).

The City argues the record does not show that any outstanding fines and fees exist, and therefore no genuine dispute of material fact exists. Accordingly, the City met its initial burden. The burden therefore shifted to Karl to show that a genuine issue of material fact exists on this issue. Karl's bare assertions that outstanding fines and fees issued pursuant to the blue signs exist are insufficient at summary judgment. *See Seybold v. Neu*, 105 Wn. App. 666, 676, 19 P.3d 1068 (2001). There is no evidence in the record that such outstanding fines and fees do exist. Accordingly, Karl's injunctive relief claim is moot.[5]

C. Private Contractors

Karl seeks an injunction preventing the City from contracting with Impark to enforce its parking regulations. Karl's argues the trial court erred in finding that the City's use of private contractors does not conflict with state law. Because Karl does not have standing to assert this claim, we need not address the merits of Karl's argument.

"[A] person whose only interest in a legal controversy is one shared with citizens in general has no standing to invoke the power of the courts to resolve the dispute." *Casebere v.*

[5] Karl argues that, in the event we conclude his claim is moot, we should still review the issue "because it raises important issues of public law." Reply Br. of Appellant at 28. However, Karl only raised this argument in his reply brief, and therefore, we refuse to consider it. RAP 10.3(c).

Clark County Civil Serv. Comm'n, 21 Wn. App. 73, 76, 584 P.2d 416 (1978); *see also Kirk v. Pierce County Fire Prot. Dist. No. 21*, 95 Wn.2d 769, 772, 630 P.2d 930 (1981).

Here, Karl does not have standing to seek an injunction preventing the City from using private contractors to enforce its parking regulations. Because we conclude that the trial court did not err in dismissing Karl's claim for monetary relief, we also conclude that Karl does not have any interest greater than that of the general citizenry in preventing the City from using private contractors to enforce its parking regulations. Karl will receive no tangible redress in the event his requested injunctive relief is granted. Accordingly, we affirm the dismissal of Karl's claims for injunctive relief.

IV. DECLARATORY RELIEF: OUTSTANDING CLAIMS

We are unclear whether Karl seeks additional redress in the form of declaratory relief. To the extent Karl argues that he still maintains a declaratory relief claim, he does not have standing to bring such a claim.

A claimant must present a justiciable controversy to obtain a declaratory judgment under the Uniform Declaratory Judgment Act, chapter 7.24 RCW. *Branson v. Port of Seattle*, 152 Wn.2d 862, 877, 101 P.3d 67 (2004). The claimant must show:

> "(1) . . . an actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement, (2) between parties having genuine and opposing interests, (3) which involves interests that must be direct and substantial, rather than potential, theoretical, abstract or academic, and (4) a judicial determination of which will be final and conclusive."

League of Educ. Voters v. State, 176 Wn.2d 808, 816, 295 P.3d 743 (2013) (alteration in original) (internal quotations omitted) (quoting *To-Ro Trade Shows v. Collins*, 144 Wn.2d 403, 411, 27 P.3d 1149 (2001)).

Because no monetary or injunctive relief is available to Karl, he lacks standing to assert any remaining claims for declaratory relief. Any further allegations concerning the City's blue signs or private contractors are not part of an actual controversy between parties with a genuine claim for relief.[6]

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Melnick, J.

We concur:

Maxa, C.J.

Sutton, J.

[6] Because of our resolution of the issues in this case, we need not address the City's cross-appeal on whether the trial court properly certified the class. Because there are no remaining causes of action, the trial court's ruling is moot.

MASTERS LAW GROUP

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