RENDERED: NOVEMBER 6, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2025-CA-0363-MR

PARKING AUTHORITY OF RIVER CITY — APPELLANT

v.

APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE JESSICA E. GREEN, JUDGE
ACTION NOS. 07-CI-004289 & 08-CI-001063

L. STANLEY CHAUVIN, III, CLASS REPRESENTATIVE AND ALL MEMBERS OF THE CERTIFIED CLASS — APPELLEES

AND

NO. 2025-CA-0425-MR

L. STANLEY CHAUVIN, III, CLASS REPRESENTATIVE — CROSS-APPELLANT

v.

CROSS-APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE JESSICA E. GREEN, JUDGE
ACTION NOS. 07-CI-004289 & 08-CI-001063

PARKING AUTHORITY OF RIVER CITY — CROSS-APPELLEE

OPINION AND ORDER
REVERSING, REMANDING,
AND DISMISSING IN PART

** ** ** ** **

BEFORE: EASTON, A. JONES, AND MOYNAHAN, JUDGES.

MOYNAHAN, JUDGE: In this appeal and cross-appeal from a civil class action, Appellant/Cross-Appellee, Parking Authority of River City ("PARC") challenges decisions made by the circuit court and the ultimate jury verdict that resulted in a judgment of $1,700,000.00 in favor of Appellees/Cross-Appellant, L. Stanley Chauvin, III ("Chauvin"), class representative and all members of the certified class ("the Class"). The Class specifically challenges the circuit court's decision to decline an award of pre- and post-judgment interest to the jury's verdict.

After thoroughly reviewing the briefs filed, the extensive record on appeal, and the relevant law, we hold that the Jefferson Circuit Court erred when it denied PARC's motion for a judgment notwithstanding the verdict ("JNOV") and remand this case with instructions for the circuit court to enter an order dismissing this matter. Additionally, given our holding, the Class's cross-appeal concerning the award of pre- and post-judgment interest is dismissed as moot.

BACKGROUND

In 1984, the Kentucky General Assembly passed the Local Government Parking Citation Enforcement Act which is codified in Kentucky

Revised Statutes ("KRS") 82.600 – 82.640, and permitted local governments to enact parking ordinances and impose penalties for violations. At the time, KRS 82.615 in relevant part stated:

> (1) Any person who receives notice of a parking violation shall respond to such notice as provided in this section within seven (7) days of the date of the notice, by either paying the fine set forth in the notice or requesting a hearing pursuant to KRS 82.620.
>
> (2) If the owner of a vehicle cited for a parking violation has not responded to the notice within seven (7) days as provided in subsection (1) of this section, the local government shall send a second notice by *certified mail* to the last known address of the registered owner of the vehicle as listed on the certificate of title. Such notice shall state that if the owner of the vehicle does not respond to the notice by either paying the fine or by requesting in writing a hearing pursuant to KRS 82.620, within seven (7) days of the receipt of the notice, the owner shall be deemed to have waived his right to a hearing and the determination that a violation was committed shall be considered final. Any person who fails to request a hearing or pay the fine within the seven (7) days shall be deemed to have refused to pay the fine levied by the citation.

(Emphasis added.) The General Assembly later amended KRS 82.615 in 2011 so that the second notice may be sent via regular first-class mail of the United States Postal Service rather than certified. The crux of this action pertains to how the second notice was sent to various individuals in Louisville for a period of time prior to the 2011 amendment.

During the course of 2004 and 2005, Louisville/Jefferson County Metro Government ("Metro") enacted a set of local ordinances concerning parking violations and delegated the administration and enforcement of any violations to PARC, which is a non-profit corporation created by the City of Louisville in 1966 for that purpose. Specifically, Louisville Metro Ordinance ("LMO") 72.125(B) ("the ordinance") mirrored KRS 82.615 except it stated the second notice shall be sent by U.S. mail. It is undisputed that PARC, contrary to the language of KRS 82.615 prior to 2011, did not send a second notice by certified mail until at least January 2008; instead, it contends that it sent second notices via regular first-class mail pursuant to LMO 72.125(B).

In February 2007, Metro and PARC commenced and publicly advertised an "amnesty period" in which they indicated that any late fees – typically $10.00 per ticket – would be waived on the payment of any outstanding tickets – the typical fine being $15.00 – if an individual would pay the fine before March 31, 2007. Further, Metro and PARC indicated that beginning in April 2007, a vehicle immobilization device (a "boot") would be placed on any vehicles found to have three or more unpaid parking tickets associated with it.

In April 2007, eleven individuals, each of whom were cited with violations of Metro's parking ordinances, filed a federal suit in the United States District Court, Western District of Kentucky, claiming that Metro's enforcement

policies, "violated the Due Process Clause of the Fourteenth Amendment, . . . the Takings Clause of the Fifth Amendment, and the unreasonable seizures provisions of the Fourth Amendment of the United States Constitution as well as numerous state laws." *Oberhausen v. Louisville-Jefferson Cnty. Metro Gov't*, 527 F. Supp. 2d 713, 715 (W.D. Ky. 2007). Shortly thereafter, Metro initiated a declaratory action in Jefferson Circuit Court pursuant to KRS 418.045 against seven of the same individuals from the federal suit in which it sought a judgment finding KRS 82.615 void for constitutional indefiniteness and that enforcement of LMO 72.125 was valid (Action No. 07-CI-004289). That action was removed to the federal court and consolidated with the federal action. Ultimately, the federal district court dismissed the plaintiffs' claims brought under the United States Constitution, and after declining to exercise its supplemental jurisdiction over plaintiffs' state-law claims and Metro's declaratory action, remanded the matter back to Jefferson Circuit Court. *Id.* at 728.

At some point in January 2008, PARC began sending second notices via certified mail pursuant to KRS 82.615, which included a mass mailing to a bulk of previously issued citations. Also in early 2008, the same eleven individuals in the federal suit, asserting status as members of a putative class,[1] initiated a civil

[1] The plaintiffs argued that the class which they represented essentially consisted of any individual who had received a parking ticket in Louisville and paid a fine since 2004.

action against several city officials, Metro, and PARC, alleging claims similar to the ones raised in the federal suit (Action No. 08-CI-001063). The first claim alleged various violations under Kentucky's constitution.[2] The second claim was for damages under Kentucky's negligence per se statute, KRS 446.070.[3] The third claim for relief was for injunctive relief to compel defendants to comply with KRS 82.615, and a declaratory judgment for Kentucky's impoundment statute, KRS 82.625, and Metro's impoundment ordinance, LMO 72.131, to be declared unconstitutional.

The two civil actions were consolidated, and the individual plaintiffs moved for class certification in late 2009. In 2010, Metro filed a motion for summary judgment, in which it requested its complaint for a declaratory judgment in Action No. 07-CI-004289 be dismissed for mootness,[4] and requested the plaintiffs' complaint in Action No. 08-CI-001063 be dismissed on the basis of the plaintiffs' failure to state a claim, preclusion as a result from the federal district

[2] These included a violation of due process under Section 1; the exercise of arbitrary power under Section 2; unreasonable seizure under Section 10; and unlawful taking under Section 13.

[3] "A person injured by the violation of any statute may recover from the offender such damages as he sustained by reason of the violation, although a penalty or forfeiture is imposed for such violation."

[4] It does not appear from the record on appeal that an order was ever entered specifically dismissing Metro's complaint filed in Action No. 08-CI-001063. However, Metro never again requested a declaratory judgment, presumably because of the fact that the amendment to KRS 82.615 was enacted shortly after in 2011.

court's ruling, and because of Metro's claimed governmental immunity. Neither the plaintiffs' motion for class certification nor Metro's motion for summary judgment were ruled upon. Besides entering an order dismissing the personally named defendants as parties by agreement, no significant actions occurred in the underlying case over the next seven years.[5]

In January 2016, the circuit court entered an order certifying the underlying action as a class action. Markedly however, that order contained no definition for the potential class and no specific findings or conclusions of law other than "all requirements of [Kentucky Civil Rules of Procedure ("CR")] 23.01 and CR 23.02(a) and (c) have been satisfied herein." (Record ("R.") at 634.) That order was not appealed.

In May 2017, the plaintiffs filed a motion for summary judgment, to which Metro and PARC responded with a combined motion for summary judgment for the case to be dismissed claiming immunity from suit. No order was entered at that time. Over the following two years, the matter was set for trial and then rescheduled several times for various reasons.

As of August 2019, only one of the class representatives remained – Cynthia Calahan. It was at this time that a third amended complaint was filed in

[5] On multiple occasions a notice for a lack of prosecution was issued, but orders were entered to retain the underlying case on the active docket.

which the only named plaintiffs were indicated to be Calahan, Todd Bolus, Jason Page, and Chauvin. Metro and PARC also filed a motion to decertify the class, arguing the four newly named plaintiffs did not meet the typicality requirement to be adequate representatives of the class;[6] there had been a failure to give proper notice to all potential class members; and the original 2016, order certifying the class was deficient considering it made no findings and had not defined the class. In late 2019, the Class moved to file a fourth amended complaint which added an additional claim of pre-judgment interest.

Eventually on February 3, 2021, the circuit court issued an order denying Metro and PARC's motion to decertify the class; however, it amended the January 2016 order. Specifically, the circuit court made detailed findings that allowing the case to proceed as a class action was appropriate under CR 23.01 and 23.02; ordered for notice to be sent to class members pursuant to CR 23.03(4)(b); and defined the class as:

> Anyone from January 1, 2002 through December 31, 2008 who received a parking citation from the City of Louisville, or Jefferson County, or [Metro] or [PARC] and who paid the citation more than seven days after the issuance of the citation.

[6] Metro and PARC argued Bolus and Chauvin voluntarily paid their parking tickets, and they did not have their vehicles booted or impounded; Jason Page had received a second notice of his parking ticket via certified mail; and, Calahan had apparently never received a parking ticket during the period in question. Page and Calahan were later removed as class representative by agreement, leaving Chauvin and Bolus as the only two class representatives.

(R. at 2365.)

On April 13, 2021, the circuit court granted summary judgment in favor of Metro and dismissed it from the case, determining that it was entitled to immunity; however, it declined to extend any immunity to PARC at that time. PARC appealed both the order denying its motion for class decertification and the order denying its motion for summary judgment regarding its claim to immunity; however, this Court ultimately dismissed both of those appeals as interlocutory. Nos. 2021-CA-0475-MR and 2021-CA-0158-MR. Subsequently, the Kentucky Supreme Court denied discretionary review. Nos. 2021-SC-0274-DE and 2022-SC-0352-D. Because of the appeals, the underlying action was held in abeyance until early 2023. In June 2023, the circuit court entered an order establishing that notice to class members would be effectuated primarily by publication, which included printed notices by newspaper, local televised and radio notice, and a website with more specific information that could be accessed by potential members.

On October 25, 2023, PARC filed another motion for summary judgment arguing that the Class's claims under the Kentucky Constitution should be dismissed because Kentucky does not recognize a private cause of action for alleged violations of its constitutional rights; that the Class's claim for damages under KRS 446.070 should be dismissed because the facts do not demonstrate that

any violation was a proximate cause of the alleged injuries; that the Class's claim for a declaratory judgment and injunctive relief is moot considering the amendment to KRS 82.615 in 2011; and that the Class's claim for pre-judgment interest is moot considering its other claims are appropriate to be dismissed. PARC also renewed its argument that it was entitled to governmental immunity. In the alternative, PARC argued that if the circuit court determined that summary judgment was not appropriate for its reasons stated above, it was still entitled to summary judgment regarding potential class members who paid any citations prior to January 31, 2004,[7] during the amnesty period,[8] and after January 31, 2008.[9]

On January 31, 2024, the circuit court entered an order partially granting PARC's October 25, 2023, motion for summary judgment. Namely, the circuit court dismissed the Class's claims for a declaratory judgment and injunctive relief and any private causes of action brought under the Kentucky Constitution,[10]

[7] Before 2004, the entity which was enforcing parking ordinances was Metro and not PARC.

[8] No late fees were assessed on citations paid during the amnesty period.

[9] PARC acknowledged that it began sending second notices via certified mail sometime in January 2008.

[10] PARC specifically argued that Kentucky jurisprudence does not support private causes of action brought under the Kentucky Constitution. *St. Luke Hosp., Inc. v. Straub*, 354 S.W.3d 529, 534 (Ky. 2011) (holding that KRS 446.070 does not provide money damages for alleged violations of the Kentucky Constitution); *see also, e.g.*, *Tallman v. Elizabethtown Police Dep't*, 344 F. Supp. 2d 992, 997 (W.D. Ky. 2004), *affirmed sub nom*. *Tallman v. Elizabethtown Police Dep't*, 167 F. App'x 459 (6th Cir. 2006).

noting that the Class did not challenge dismissal of these claims.[11] The order further denied PARC's motion for summary judgment concerning the Class's claim for damages under KRS 446.070 and reserved the claim for pre-judgment interest; rejected PARC's claim to governmental immunity; and granted PARC's summary judgment claim against any potential class members who paid parking citations before January 31, 2004, during the 2007 amnesty period, and after January 31, 2008. The circuit court noted that the class definition may need to be amended to reflect the class members against which it granted summary judgment. PARC subsequently moved to revise the class definition and to dismiss Bolus as a class representative since he fell within the category of individuals who paid citations during the 2007 amnesty period.

The Class moved for reconsideration of the January 31, 2024, order, arguing that the potential class members who paid during the 2007 amnesty period should not be excluded because there was still a question as to whether their payments were *voluntary*, and the potential class members who paid fines after January 31, 2008, but had received citations prior to the time the second notices were sent via certified mail, should not be completely excluded. On April 24,

[11] Class Counsel agreed that any request for a declaratory judgment or injunctive relief was moot, and that any claim for a private cause of action brought under the Kentucky Constitution could be dismissed. (R. at 3645.)

2024, the circuit court denied the motion for reconsideration, dismissed Bolus, and revised the class definition to be:

> Anyone who received a parking citation from PARC and who paid the citation more than seven days after issuance thereof from February 1, 2004, through February 11, 2004, and from April 1, 2007, through January 31, 2008.

(R. at 4776.)

Ultimately, the underlying matter came before the circuit court for a jury trial in early June 2024. Cathy Duncan, the former director of PARC, testified that PARC was advised by the Jefferson County Attorney that it was not necessary for the second notice to be sent via certified mail considering PARC was sending multiple notices via regular U.S. mail. She also indicated that PARC allowed anyone who received a citation an essentially indefinite period of time to appeal it, which was more than the time afforded by the statutes. LeDonna Bemus, a general manager for a subcontractor of PARC that managed collections, also testified that multiple notices were sent via regular U.S. mail during the class period. While the electronic database used to track citations contained information about the types of mail notices that were sent to individuals, Ms. Bemus explained that a significant portion of the physical copies of records were destroyed by a flood prior to 2008. She further testified that, generally, records for parking citations were purged after five years, so citations issued that were older than five years were not enforced.

Chauvin, a practicing attorney, testified as the sole class representative. He explained that beginning in 2004 when PARC became involved with issuing parking citations, enforcement became more aggressive and that he had always been irritated by the policies of parking enforcement. He admitted that he would often park at a meter, but let the time elapse, which resulted in a ticket being issued and placed under his windshield. In total, Chauvin testified that he received a total of twenty-seven (27) parking tickets between 2004 and January 2007, for a total amount of $675.00. Though he could not recall any specific reason why he would have paid those citations, he verified that he did so on January 26, 2007, just before the amnesty period. While Chauvin recalled having a boot placed on his vehicle on at least one occasion and having a vehicle impounded on at least one other, neither occurred prior to 2008.

When Chauvin received the first notice of citations under his windshield, he would often leave them in his car or his briefcase instead of paying them within seven (7) days. Chauvin acknowledged that he read the initial citations when he received them, which advised him of his right to appeal.[12] He

[12] In part, the initial parking citation stated: "[t]his notice represents a determination that a parking violation has been committed by the owner of this vehicle and the determination is final unless contested within seven (7) calendar days of issuance. . . . If paid within seven (7) calendar days of issuance, you may pay the discounted fine. Failure to pay may result in impoundment and/or immobilization of this vehicle, resulting in additional fees, including towing, handling and storage . . . Citations may be contested by appeal within seven (7) calendar days of issuance. To appeal this citation, get an appeal form online, at the address indicated above or call . . . to have a form sent to you."

additionally acknowledged being aware of his right to appeal, but that he did not attempt to exercise that option because he did not want to waste the time being in a "convoluted voicemail with PARC." At the time, he stated that he did not believe he had any basis on which to appeal any of his citations. However, he was aware of lawsuits being filed against PARC, including the underlying action, and testified that he hoped something would happen so that PARC simply would not enforce those citations. According to Chauvin, he did not recall receiving any additional notices in the mail, certified or by regular mail. He claimed he learned more about the underlying action in 2018 and the fact that PARC had not been sending notices via certified mail pursuant to KRS 82.615. Despite not appealing any of the previous citations, Chauvin claimed that he would have appealed them had he known about the citations not being sent via certified mail, because he believed his citations were legally void as a result of PARC's sending second notices via regular U.S. mail.

A forensic computer expert, Andy Cobb, testified about the number of citations and the amount of money collected during the class period after analyzing data he obtained from the electronic database utilized by PARC and its affiliates. He ultimately calculated the total amount for parking citations paid between January 1, 2004, and January 31, 2008, excluding the amounts paid during the 2007 amnesty period, to be $2,664,367.00.

Both PARC and the Class made motions for directed verdict; however, the circuit court denied all motions and proceeded with jury instructions. The jury found PARC breached its duty when it did not send a second notice by certified mail, and that PARC's conduct was a substantial factor in causing the Class's injury. The jury was restricted to awarding damages not to exceed $2,675,368.00, and ultimately awarded $1.7 million in damages. The judgment memorializing the verdict was entered on June 20, 2024, and stated that the $1.7 million amount would bear post-judgment interest at 6% per annum until paid. The circuit court reserved on the issues of the Class's costs and prejudgment interest.

PARC filed a motion for a judgment notwithstanding the verdict ("JNOV") or for a new trial in late June 2024, and renewed that motion in February 2025. The Class filed a motion requesting pre-judgment interest. On February 26, 2025, the circuit court denied PARC's motion for a JNOV or a new trial and the Class's motion for pre-judgment interest, finding that while PARC was not immune from suit, pre-judgment interest was not appropriate given its status as an agency of Metro. Both parties filed motions pursuant to CR 59.05 to alter, amend, or vacate those orders. Ultimately, the circuit court granted PARC's request to the extent that it also denied any post-judgment interest on the amount of the jury's verdict, but it denied the Class's motion. On appeal, PARC argues the

circuit court erred in denying its motion for JNOV or a motion for a new trial and denying its motions to decertify the class, for a litany of different reasons.[13] As discussed below, we agree that the circuit court erred in denying PARC's motions for a directed verdict and JNOV because there was not adequate evidence presented regarding causation to allow the issue to be submitted to the jury. Finding that issue to be dispositive, we limit our inquiry to that sole issue.

STANDARD OF REVIEW

When reviewing the denial of a motion for a directed verdict on appeal, "[all] evidence which favors the prevailing party must be taken as true and the reviewing court is not at liberty to determine credibility or the weight which should be given to the evidence, these being functions reserved to the trier of fact." *Lewis v. Bledsoe Surface Min. Co.*, 798 S.W.2d 459, 461 (Ky. 1990) (citations omitted). This Court must then determine whether the verdict is "'palpably or flagrantly' against the evidence so as 'to indicate that it was reached as a result of passion or prejudice.'" *Id.* (citing *NCAA v. Hornung*, 754 S.W.2d 855, 860 (Ky.

[13] These arguments include PARC's contentions that there was no substantial evidence presented that its failure to send second notices via certified mail proximately caused the Class's claimed damages; that Kentucky jurisprudence supports notices being sent via regular first-class mail constitutes sufficient notice despite a statute's language requiring certified mail; that relief for the damages claimed were barred because payments were made voluntarily; that the damages awarded by the jury were not supported by substantial evidence; that Chauvin did not have standing to proceed as a class representative; and that there was not substantial evidence presented that Chauvin's claims were typical of the class he was representing or that the questions of law and fact at issue were common amongst class members.

1988)). This same standard of review is applied to review of an order denying a motion for a judgment notwithstanding the verdict. *Mountain Water Dist. v. Smith*, 314 S.W.3d 312, 316 (Ky. App. 2010).

ANALYSIS

To succeed on any claim of negligence, the plaintiff must prove "that the defendant owed the plaintiff a duty, that the defendant breached that duty, and that the plaintiff suffered a harm that was proximately caused by the breach." *Walmart, Inc. v. Reeves*, 671 S.W.3d 24, 26 (Ky. 2023) (citation omitted).

Causation consists of two distinct components – "but-for" causation and proximate cause. *Patton v. Bickford*, 529 S.W.3d 717, 730 (Ky. 2016). "But-for causation requires the existence of a direct, distinct, and identifiable nexus between the defendant's breach of duty (negligence) and the plaintiff's damages such that the event would not have occurred 'but for' the defendant's negligent or wrongful conduct in breach of a duty." *Id.* On the other hand, "[p]roximate causation captures the notion that, although conduct in breach of an established duty may be an actual but-for cause of the [plaintiff's] damages, it is nevertheless too attenuated from the damages in time, place, or foreseeability to reasonably impose liability upon the defendant." *Id.* at 731. Generally, but-for causation is a question of fact, but proximate cause is one of law, as it "must be decided empirically, on a case-by-case basis, and cannot be practically fitted into

instructions to juries." *Id.* (quoting *House v. Kellerman*, 519 S.W.2d 380, 382 (Ky. 1974)). "[W]here only one reasonable conclusion can be reached, a court may decide the issue of causation as a matter of law." *Lewis v. B & R Corp.*, 56 S.W.3d 432, 438 (Ky. App. 2001).

An alleged negligent act cannot be a proximate cause if it is "'remote and only furnishe[s] the occasion of [an] injury' and, consequently, reasonable minds could not differ as to whether [defendant's breach] was a substantial factor in causing [the] injur[y.]'" *Lhotsky as Next Friend for Lhotsky v. Sutcliffe*, 723 S.W.3d 842, 854 (Ky. App. 2025). Or in other words "the act created only a situation which was harmless unless acted upon by other forces out of the control of the defendant." *Id.* (citing RESTATEMENT (SECOND) OF TORTS § 433).

As mentioned above, KRS 446.070 provides a basis for a private civil action for the violation of a statute; it "codifies the common law concept of negligence *per se*" and "applies only if the alleged offender has violated a statute and the plaintiff was in the class of persons which that statute was intended to protect." *Davidson v. American Freightways, Inc.,* 25 S.W.3d 94, 99-100 (Ky. 2000) (citations omitted). The only difference between a negligence per se claim and a common law claim of negligence is the standard of care; with negligence per se, the standard of care is legislatively declared by statute whereas the common law standard of care is that exercised by a reasonably prudent person. *Stivers v.*

Ellington, 140 S.W.3d 599, 601 (Ky. App. 2004). Despite this difference, as with all claims of negligence, causation and injury must still be proved in negligence per se claims. It is well established that a violation of a statute does not necessarily constitute liability, though it may establish a cause of action to claim liability and serve as proof for a breach of duty. *See id.*; *see also Alderman v. Bradley*, 957 S.W.2d 264, 267 (Ky. App. 1997). Instead, it is important for courts to examine whether the statute in question specifically intended to prevent the type of occurrence that took place and whether the violation was a substantial factor in causing the result. *Hargis v. Baize,* 168 S.W.3d 36, 46 (Ky. 2005); *Isaacs v. Smith*, 5 S.W.3d 500, 502 (Ky. 1999); *Lewis*, 56 S.W.3d at 438.

To begin, we first examine the Class's theory for negligence per se in this case. It purports that PARC had a statutory duty to send second notices via certified mail pursuant to KRS 82.615(2) within a reasonable amount of time. PARC's failure to send a second notice via certified mail, until January 2008, constituted a breach of statutory duty. The breach itself then substantially and proximately caused the alleged damages, which are the fines and fees collected by PARC in relation to the citations which were paid more than seven (7) days after an initial citation was issued. Essentially, the Class argues that any fines or fees were unlawfully exacted by PARC because it violated KRS 82.615(2) by failing to

send the second notice via certified mail within a reasonable amount of time, regardless of whether such payments were voluntary in nature.[14]

Regardless of whether PARC actually breached any duty it may have had pursuant to statute, or whether there was any injury in fact, the Class's argument on causation is fundamentally flawed because it has conflated the alleged breach of KRS 82.615(2) to be both the but-for cause and proximate cause for the claimed damages.[15]

As mentioned above, causation is a separate element of negligence and contains two distinct components: but-for causation and proximate causation. While duty is a question of law, and breach and injury are questions of fact for juries to decide, causation may consist of both questions of law and fact, because the but-for cause and proximate cause for any event are often intertwined.

---

[14] A hotly contested issue between the parties is whether payments made by potential class members after seven days from when the initial citation was issued fall under the voluntary payment doctrine. In Kentucky, a payment to a governmental entity is involuntary if it is made under an immediate and urgent necessity to release a person or property from detention, or to prevent an immediate seizure of a person or property, and the payor forgoes a day in court to litigate the demand imposed. *City of Morganfield v. Wathen*, 202 Ky. 641, 261 S.W. 12, 15 (1924). Because the Class raised the question of whether PARC's actions actually deprived Chauvin, on behalf of class members, from appropriately exercising an opportunity to appeal the citations, the Court does not reach the question of whether the voluntary payment doctrine applies in the case at hand. However, the Class acknowledges in its brief that Chauvin chose to pay voluntarily, at least under the plain meaning of the term. Appellee Brief at 16. To the extent that the nature of Chauvin's payment should be regarded, we believe it is a necessary factor to consider in determining proximate cause, as we shall explain in more detail below.

[15] "The proximate cause is that but for PARC's failure to send the required certified mail notice, the collection procedures were not properly invoked, and the fines were not lawfully collectible and collected." Appellee Brief at 15.

"[L]iterally speaking there can never be only one 'cause' of any result. Every cause is a collection of many factors, some identifiable and others not, all determined by prior events. The law seeks out only the collective cause or causes for which it lays responsibility on some person or persons." *House*, 519 S.W.2d at 382.

In the case at hand, there is no evidence presented which suggests that PARC's alleged violation of KRS 82.615(2) could be construed as proximate cause to Chauvin's claimed damages. This is apparent when looking at the undisputed facts of the case in the light of the purpose and plain text of KRS 82.610 and KRS 82.615, and the types of occurrences that were intended to be prevented.

KRS 82.610, entitled "Citation for parking violation; notice" explicitly delineates the contents of a notice for a parking citation, which includes the individual's option to respond to and contest the citation. Its purpose is to ensure that an individual receives adequate notice of the citation and their right to contest it.

On the other hand, KRS 82.615 is entitled as "Response to notice[.]" From its plain reading, the purpose is to set the amount of time for an individual to respond to a parking citation notice, either by paying the fine or requesting a hearing to appeal the citation, to be seven (7) days. KRS 82.615(2) additionally states that a second notice shall be sent to the last known address of the registered

owner of the vehicle – if no response has been received within seven (7) days – and that the "owner shall be deemed to have waived his right to a hearing and the determination that a violation was committed shall be considered final." Because the second notice is to be sent after seven days, the obvious purpose of KRS 82.615(2) is not to ensure that an individual is aware of their option to contest a citation – the time in which they could have done so has already passed and the initial notice of citation already apprised the individual of that right. Instead, it is to ensure that an individual cited with a parking citation is aware that they have already been deemed to have refused to pay the fine levied against them and waived the right to a hearing. The kind of occurrence KRS 82.615(2) seeks to prevent is the nonpayment of a parking citation or the contestation of a parking citation after seven (7) days of its issuance. Whether the second notice is to be sent by certified mail or regular U.S. mail is immaterial to the purpose of KRS 82.615, which presumably accounts for the General Assembly's amendment enacted in 2011.

Indeed, Kentucky courts have found no prejudice existed to the party claiming an adverse effect, and a statute's purpose was achieved even though regular U.S. mail was sent rather than certified mail pursuant to a statute. *Reed v. Commonwealth*, 641 S.W.2d 748 (Ky. 1982). In *Reed*, the Kentucky Supreme Court declined to reverse a criminal conviction where the defendant alleged that

service of juror summons was statutorily deficient since they were sent via regular U.S. mail rather than certified or registered mail pursuant to the language of KRS 29A.060 at the time.[16] *Id.* at 749-50. In that case, the Supreme Court found that the purpose of KRS 29A.060 had been achieved because the jurors received notice of the summons and appeared for duty, and the defendant made no showing of prejudice or contest that the jurors did not receive notice. "Nothing in the instant case could have been accomplished by certified or registered mail that was not accomplished by first class mail." *Id.* at 749; *see also Uninsured Emps. Fund v. Acahua*, 537 S.W.3d 316, 318 (Ky. 2017). Though factually distinct, the reasoning in *Reed* is applicable to the instant case, because it demonstrates that while there is a question as to whether PARC may have been in strict violation of KRS 82.615 by sending second notices via U.S. regular mail, the purpose of KRS 82.615 was still fulfilled despite PARC's actions.

Here, PARC's alleged failure to send a second notice via certified mail was harmless towards any individual who paid their citations within seven (7) days of the citation – KRS 82.615(2) had no cognizable effect on those individuals, and the circuit court was correct in excluding those individuals from the class.

[16] KRS 29A.060 was amended in 2002 which changed the language so that summons shall be issued by first-class mail.

Similarly, KRS 82.615(2) had no cognizable effect on Chauvin either, other than serving as the legal basis for his claim of negligence per se.

Sub judice, Chauvin admitted that he received the initial notice of the twenty-seven (27) parking citations at issue on his windshield and that he did not attempt to appeal those citations within seven (7) days, or anytime afterward.[17] He does not contest that he was unaware of any of his options to contest the citations, does not contest that he was denied any opportunity to appeal the citations, and does not contest that he was adversely affected in any way other than paying fees and fines he believes are legally void. Chauvin's reasoning for not appealing was because he did not want to waste the time to do so in what he assumed to be a meritless process. Markedly, he did not contest that he had parked illegally in any of the twenty-seven (27) instances or that the initial notice of the citation was deficient in any way. Chauvin further admitted that his vehicle had not been booted or impounded on January 26, 2007, when he paid the $625.00 levied in fines and fees relating to the citations. He suggested that he may have only paid the citations for fear of his vehicle being impounded or booted; however, no evidence was presented that this was the case. The only fact that his testimony

[17] As put forward by PARC's witnesses and undisputed by the Class, PARC was allowing appeals for essentially an indefinite period of time despite KRS 82.615 limiting it to seven (7) days.

proves is that he received some kind of notice of the citations, otherwise he would not have made a payment.

The reality demonstrated by the facts presented shows that Chauvin had uncontested violations of parking ordinances; that PARC made adequate notice of the citations and the right to contest the citations pursuant to KRS 82.610; and that there is no causal link between the alleged failure for PARC to send a second notice via certified mail and Chauvin's decision to pay the damages he now claims. As Chauvin testified at trial, he was unable to recollect why he paid the fees and the fines. Chauvin knew he was violating parking ordinances and did not pay the citations despite receiving notice of them because of the hopeful wish that something would happen so that he would get out of paying them. Had PARC sent him a second notice via certified mail, nothing would have changed because he likely would not have appealed the citation, pursuant to his own testimony, and the monies he ultimately paid would have been exactly the same amount. The logical conclusion of the Class's argument is that all of Chauvin's parking citations were legally void after some undeterminable amount of time after seven (7) days because of PARC's alleged failure to strictly comply with KRS 82.615(2); however, this defies common sense and the Class has cited no authority that suggests "two wrongs make a right" in this instance. While PARC's alleged violation may serve as proof of a breach of duty, which a jury could consider, there

has been no evidence whatsoever presented as to *how* the alleged violation actually *caused* the claimed injury. Under the circumstances of this case, the issue of causation was clearly a question of law, as the only reasonable conclusion that can be reached is that PARC's alleged violation in no way proximately caused the claimed damages. *Lewis*, 56 S.W.3d at 438. Therefore, the circuit court erred when it denied PARC's motion for directed verdict, allowed the issue of causation to go to the jury, and thereafter denied PARC's motion JNOV.

CONCLUSION

For the foregoing reasons, we must reverse the June 20, 2024, Judgment of the Jefferson Circuit Court and remand with instructions for the circuit court to enter an order dismissing. Accordingly, given the above holding, the Class's cross-appeal pertaining to pre- and post-judgment interest shall be, and hereby is, dismissed as moot.

ALL CONCUR.

ENTERED: 11/06/2026

Will Moynahan

HON. WILL MOYNAHAN
JUDGE, COURT OF APPEALS

BRIEFS AND ORAL ARGUMENT FOR APPELLANT/CROSS-APPELLEE:

Jan M. West
Prospect, Kentucky

BRIEFS FOR APPELLEE/CROSS-APPELLANT:

David B. Mour
Louisville, Kentucky

ORAL ARGUMENT FOR APPELLEE/CROSS-APPELLANT:

Joseph C. Souza
Louisville, Kentucky