

Order To Create Taxi Fee System Can't Stand, Pa. Court Says

Law360 (April 13, 2018, 9:54 PM EDT) -- A Pennsylvania appeals court on Friday said a trial judge in Philadelphia did not have the authority to order the creation of an administrative system for processing appeals by taxicab and limousine companies in lieu of a class action seeking refunds for fees and assessments that were found to be unconstitutional.

A three-judge panel said the lower court erred by establishing a procedure for protesting the fees and assessments, finding that this relief was not requested by either the Philadelphia Parking Authority or the taxicab companies — Z&R Cab LLC and Zoro Inc. — and their representatives.

The judges noted that in granting a motion for summary judgment and ordering the implementation of the review process, the trial court did not address a motion for class certification by the taxi companies. The only issue before the court was whether the companies themselves were entitled to refunds for their own payments, the appeals court said.

But because it failed to address this question, the trial court lacked the authority to order the review process, which was a different form of relief than what was requested by either party.

In addition, the appeals court said the trial judge's decision to award summary judgment in the first place was not appropriate.

“The trial court's formulated remedy itself anticipated fact determinations during the administrative review process; this demonstrates that questions of fact remain concerning the amount of any refunds licensees may receive,” the court wrote.

There are also issues as to how far back the taxi companies can seek relief, which should have prevented the summary judgment decision from being handed down in the first place, the judges said.

The lawsuit is part of a multiyear battle between taxi and limousine companies and the authority over its fee and assessment policies. After suing in 2012, several taxi companies claimed victory after a Pennsylvania appeals court found the standards around these policies to be unconstitutional because the state's general assembly delegated its legislative authority to the

authority, and because there was no method of challenging the fees or assessments.

But the court sided with the cab companies again after the assembly revised the policies, finding similar flaws with the new system despite the presence of legislative oversight and an administrative process.

Prior to filing this lawsuit, Z&R and Zoro brought an action in the Eastern District of Pennsylvania, seeking to certify a class of people and businesses from the taxicab industry seeking an administrative remedy for respective grievances. According to court documents, the federal court found that while this right must be granted, it did not have jurisdiction over this component of the dispute, and the case was ultimately sent to Pennsylvania state court.

As a result, Z&R and Zoro brought a new lawsuit in July 2015. While the motion to certify class was pending in the case, the authority filed its bid for summary judgment, which the court later granted, without holding a hearing or first making a decision on the class certification motion, court documents showed. In awarding summary judgment, the trial court instructed the authority to provide a "specified review process" for taxi companies challenging fees and assessments previously deemed unconstitutional.

Following the summary judgment decision, the taxi companies appealed and had the appeal certified as an interlocutory based on uncertainty over whether the decision to implement an administrative review process effectively ended the case.

After the certification, Z&R and Zoro filed a second appeal. The court on Friday noted that the order in the trial court left no relief pending as the class certification motion had become moot. The court quashed the initial appeal and only addressed the second appeal filed by the taxi companies.

Counsel for the parties did not immediately respond Friday to requests for comment.

Judges Robert Simpson, Anne E. Covey and Christine Fizzano Cannon sat on the panel for the Commonwealth Court.

Zoro, Z&R, Blount and Bell are represented by John Weston and Jeremy Abay of [Sacks Weston Diamond LLC](#).

The Philadelphia Parking Authority is represented in-house by Dennis Weldon and Patrick Dorian and Gary Fry of [Archer & Greiner PC](#).

The cases are Z&R Cab et al v. Philadelphia Parking Authority, case numbers 828 CD 2017 and 938 CD 2017 in the Commonwealth Court of Pennsylvania.

--Editing by Alanna Weissman.

https://www.law360.com/articles/1033344/order-to-create-taxi-fee-system-can-t-stand-pa-court-says?ts_pk=3d58b6da-93e2-461e-a50e-cb7862215bd8&utm_source=user-alerts&utm_medium=email&utm_campaign=tracked-search-alert