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Georgia appellate court affirms class certification in vehicle booting case

by Stephanie N. Bedard

A Georgia appellate court recently affirmed the grant of class certification in favor of a class of Georgia individuals whose vehicles were booted in locations where no ordinance had been enacted authorizing the booting of vehicles. *Atlanta Impound, Inc. v. Attia*, --- S.E.2d ----, 2025 WL 760904 (Ga. Ct. App. Mar. 11, 2025),

In *Atlanta Impound*, the named plaintiff, Yaron Attia, parked his tractor-trailer across several parking spots in the private parking lot of a strip mall in Georgia. 2025 WL 760904, at *1. The property owner hired the defendant, Atlanta Impound, to boot the tractor-trailer. *Id.* Atlanta Impound required Attia to pay $500 to remove the boot, which he paid. *Id.* At the time, the Georgia county did not have an ordinance in place authorizing the booting of vehicles. *Id.*

Attia filed a class action on behalf of himself and a putative class, alleging claims of negligence, negligence per se, premises liability, false imprisonment, conversion, and money had and received. *Id.* In discovery, Attia produced over 1,000 invoices from related litigation that showed some combination of the make, model, tag, and vehicle identification number of the booted vehicles, as well as an affidavit from prior litigation attesting that the identity of the drivers could be extrapolated from the company's invoices. *Id.* at *4.

Attia moved to certify a class of all persons who had been booted by Atlanta Impound in Georgia in locations where there were no booting ordinances in place, as well as a subclass of individuals who had been booted in the same parking lot as him. *Id.* at *2.

Atlanta Impound opposed the class, asserting that Attia could not meet the Rule 23(a) requirements of ascertainability, numerosity, commonality, and typicality because the invoices did not identify the drivers by name or address. *Id.* at *2. The trial court granted class certification, certifying both the class and subclass. *Id.*

On appeal, the Georgia Court of Appeals affirmed the certification of the class on all grounds. First, as to ascertainability, the Court of Appeals agreed with the trial court that the invoices and affidavit produced during discovery made the drivers' identities sufficiently ascertainable. *Id.* at *3.

Second, the Court of Appeals ruled that the 1,000 invoices met the numerosity threshold, even though the class members tied to those invoices had not been affirmatively identified, because it would be impractical to litigate the claims individually. *Id.* at *4.

Third, as to commonality, the Court of Appeals ruled that the common question for the class was whether Atlanta Impound had a legal right to boot vehicles, which did not turn on the identities of the individual drivers. *Id*.

Fourth, as to typicality, the Court of Appeals ruled that Attia's claims were typical because they arose from the same pattern or practice of Atlanta Impound allegedly unlawfully booting vehicles and refusing to remove the boot until a fee was paid. *Id.* at *5.

Takeaway: The Georgia Court of Appeals' opinion in *Atlanta Impound v. Attia* emphasizes that a class may be certified in certain circumstances even when absent class members have not been identified.