

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JONATHAN GERKE, et al.,

Appellants,

v.

CITY OF KANSAS CITY, MISSOURI, et al.,

Respondents.

DOCKET NUMBER WD78991

Date: June 14, 2016

Appeal from:
Jackson County Circuit Court
The Honorable Roger M. Prokes, Judge

Appellate Judges:
Division One: Lisa White Hardwick, Presiding Judge, Cynthia L. Martin and Gary D. Witt, Judges

Attorneys:
Martin Meyers, John Klamann, Andrew Schermerhorn, Paul Anderson and William Carr, Kansas City for appellant.
Galen Beaufort, Sarah Baxter, Joseph Gall, Mark Katz, Lawrence Nordling, Joe Willerth, Steven Mauer, Jessica James, James Cook, Matthew Geary, Nancy Yenders, Paul Campo, Russell Nasteff, and Christine Bushyhead for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

JONATHAN GERKE, et al.

Appellants,

v.

CITY OF KANSAS CITY, MISSOURI, et al.,

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WD78991

Jackson County

Before Division One: Lisa White Hardwick, Presiding Judge, Cynthia L. Martin and Gary D. Witt, Judges

Jonathan Gerke, Jarid Ward, Julie Kenny, and Kimberly Guardado ("Appellants") appeal the judgment dismissing their class action petition against the City of Kansas City, the City of Grandview, the City of Lee's Summit, the City of Raytown, the City of Independence, the City of Grain Valley, the City of Buckner, the City of Blue Springs, the City of Greenwood, the City of Lone Jack, the City of Lake Lotawana, the City of Oak Grove, and the City of Lake Tapawingo ("the Cities"). Appellants contend their petition stated claims for declaratory judgment, unjust enrichment, and money had and received based upon their having paid an illegal warrant fee and/or a failure to appear fee to the Cities and, furthermore, that the claims were not barred by the affirmative defenses of estoppel and waiver.

AFFIRMED.

Division One holds:

(1) The circuit court did not err in dismissing Appellants' declaratory judgment claim. Appellants did not allege any facts indicating the lack of an adequate legal remedy, which is an essential element of a declaratory judgment claim.

(2) The circuit court did not err in dismissing Appellants' claims for unjust enrichment and money had and received. Appellants did not allege to which one of the thirteen Cities each of the four of them paid a purportedly unauthorized fee and which of the thirteen Cities was enriched by or appreciated the benefit of the payment of the four purportedly unauthorized fees. The identity of the Cities that received and appreciated a benefit at Appellants' expense and the identity of the Cities that unjustly retained such benefits were ultimate facts necessary to support essential elements of both the unjust enrichment claim and the claim for money had and received.

Opinion by: Lisa White Hardwick, Judge

June 14, 2016

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