

**THIRD DIVISION
DILLARD, P. J.,
GOBEIL and PIPKIN, JJ.**

**NOTICE: Motions for reconsideration must be
received no later than 4:30 pm on the 10th day after
the decision was issued to be deemed timely filed.
<https://www.gaappeals.gov/rules>**

October 21, 2026

In the Court of Appeals of Georgia

A26A0965. BURFORD et al. v. REDSPEED GEORGIA, LLC.

A26A1132. REDSPEED GEORGIA, LLC v. DUNN.

GOBEIL, Judge.

These related appeals involve putative class actions filed by plaintiffs who received traffic citations issued after RedSpeed Georgia, LLC (“RedSpeed”), the provider of the speed detection devices, recorded the speeding violations. In their petitions, the plaintiffs alleged that RedSpeed violated several statutes related to the use of automated traffic enforcement safety devices (“ATESDs”).

As relevant to Case No. A26A0965, in 2021, Joseph Burford and Jeffrey Bales each received citations for speeding in a school zone, issued by RedSpeed. In 2024, Bales received a second citation for speeding from RedSpeed. These traffic violations were captured on ATESDs. Burford and Bales filed a proposed class action suit

against RedSpeed, alleging that at the time each citation was issued, there were no warning signs nor proper permits issued, as required by statute, thus resulting in the breach of a legal duty. RedSpeed filed a motion to dismiss, which the trial court granted. On appeal, Burford and Bales (collectively referred to as the “Appellants”) argue that the trial court erred by (1) concluding that the Appellants lack standing to sue RedSpeed because they lacked a cause of action under OCGA §§ 51-1-6 and 51-1-8; (2) concluding that there was no cognizable violation of OCGA § 40-14-1 et seq., and in failing to construe the allegations in the Appellants’ complaint in their favor; (3) ruling that non-compliance with warning sign requirements was permissible despite statutory language to the contrary; and (4) prematurely dismissing the Appellants’ claims based on factual conclusions which are improper at the motion-to-dismiss stage.

In Case. No. A26A1132, Jonathan Dunn was fined for speeding in a school zone and filed a class action lawsuit against RedSpeed, which included claims for fraud and deceit, unjust enrichment, and money had and received. After RedSpeed moved to dismiss the complaint, the trial court granted the motion as to Dunn’s unjust enrichment claim, but denied the motion on his claims for money had and received,

and for fraud and deceit. On appeal, RedSpeed argues that the trial court erroneously determined that Dunn stated a valid claim for relief for money had and received and fraud.

For the reasons explained more fully below, we affirm the trial court's grant of RedSpeed's motion to dismiss in Case No. A26A0965. Because Dunn's complaint raised different claims than those asserted by the Appellants, we affirm the trial court's denial of RedSpeed's motion to dismiss in Case No. A26A1132.

"We review a trial court's ruling on a motion to dismiss de novo, viewing all allegations in the complaint as true." *Laskar v. Bd. of Regents of Univ. System of Ga.*, 320 Ga. App. 414, 414 (740 SE2d 179) (2013) (punctuation omitted). In conducting our review of the denial of a motion to dismiss, we are cognizant that under OCGA § 9-11-12(b)(6),

[a] motion to dismiss for failure to state a claim upon which relief can be granted should not be sustained unless (1) the allegations of the complaint disclose with certainty that the claimant would not be entitled to relief under any state of provable facts asserted in support thereof; and (2) the movant establishes that the claimant could not possibly introduce evidence within the framework of the complaint sufficient to warrant a grant of the relief sought.

Cardinale v. Keane, 362 Ga. App. 644, 650 (869 SE2d 613) (2022).

Legislative Background

In 2018, the General Assembly passed legislation, codified at OCGA § 40-14-18, authorizing the use of ATESDs in school zones. See Ga. L. 2018, p. 1057, § 9. This legislative scheme permits municipalities to contract with entities such as Redspeed to provide install and operate ATESDs as “agents” for law enforcement agencies or local governing bodies. OCGA § 40-14-18(a)(1) authorizes the enforcement of speed limits in school zones “by using recorded images for violations which occurred only on a school day during the time in which instructional classes are taking place and for one hour before such classes are scheduled to begin and for one hour after such classes have concluded[.]” If any “vehicle is found, as evidenced by photographically recorded images,” to have exceeded the “speed limit within any school zone,” the vehicle’s owner “shall be liable for a civil monetary penalty to the governing body of the law enforcement agency” that is “authorized to enforce the speed limit of [the] school zone.” OCGA § 40-14-18(b)(1)-(2). Under OCGA § 40-14-18(b)(1), “[t]he amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00

for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed \$25.00[.]”

As to notice of speeding violations, OCGA § 40-14-18(b)(2) provides that such citation be sent by “[a] law enforcement agency ... or an agent working on behalf of a law enforcement agency or governing body” to the vehicle’s owner within 60 days of the alleged violation. Among other things, the notice must include the citation — “which shall include the date and time of the violation, the location of the infraction, ... the civil warning or the amount of the civil monetary penalty imposed, and the date by which [the] civil monetary penalty shall be paid[.]” OCGA § 40-14-18(b)(2)(A). The notice must also inform the vehicle’s owner how to contest liability and provide the owner with: the recorded images showing the motor vehicle involved in the infraction; a website where recorded images showing the motor vehicle may be viewed; and “[a] copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement officer employed by a law enforcement agency authorized to enforce the speed limit of the school zone and stating that, based upon inspection of recorded images, the owner’s motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard

or disobedience was not otherwise authorized by law[.]” OCGA § 40-14-18(b)(2)(B)-(F).

Where a law enforcement agency or local government uses ATESDs, OCGA § 40-14-6 requires the agency to “erect signs warning of the use of a stationary speed detection device within the approaching school zone,” and mandates that such signs be “at least 24 by 30 inches in area, ... visible plainly from every lane of traffic, ... viewable in all traffic conditions,” and prohibits the signs from being “placed in such a manner that the view of such sign is subject to being obstructed by any other vehicle on such highway.” OCGA § 40-14-6(c). With this statutory framework in mind, we turn to the cases now on appeal.

A26A0965

In 2019, the City of Thomasville passed an ordinance authorizing the use of ATESDs in school zones. The City then entered into a contract with RedSpeed to provide Thomasville with a speed photo enforcement system in certain school zones. The contract provides that RedSpeed, “shall, at its own expense, obtain all necessary permits and pay all licenses and fees required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under

this Agreement.” The City of Thomasville applied for and received permits from the Georgia Department of Transportation (“GDOT”) to operate ATESDs at Thomasville High School and Harper Elementary School.

In 2021, RedSpeed issued citations for speeding in a school zone to Burford and Bales, and in 2024, Bales received a second citation for speeding in a school zone from RedSpeed. These traffic violations were captured on ATESDs. After each citation, the Appellants paid the \$75 civil penalty described in the citations.

In January 2025, the Appellants filed a proposed class action suit against RedSpeed, alleging that at the time each citation was issued, there were no warning signs as required by OCGA § 40-14-6. They also contended that RedSpeed had not obtained the proper permits from GDOT in the manner required by OCGA § 40-14-18. The Appellants asserted that these statutory violations amounted to the breach of legal duties pursuant to OCGA §§ 51-1-6 and 51-1-8, and they sought class certification for themselves and “all similarly situated persons who have been mailed and during the proposed class certification period have paid citations issued by [RedSpeed] purported enforcement of [OCGA] § 40-14-18.”

RedSpeed filed a motion to dismiss, which the trial court granted. First, the trial court ruled that RedSpeed owed no statutory duty to the Appellants under OCGA § 40-14-6 or OCGA § 40-14-18 because those statutes impose the duty on either the municipality, law enforcement agency, or schools, not third parties. In this regard, the trial court found that RedSpeed owed those duties to Thomasville via its contract with the city, not to the Appellants. The trial court declined to infer a cause of action for any alleged violation of OCGA § 40-14-1 et seq. under OCGA §§ 51-1-6 and 51-1-8. Additionally, the court found that the Appellants lacked standing to sue for breach of contract because they were not parties to the contract nor were they third-party beneficiaries. The court also noted that even if it were to find a violation of statutory duties here, precedent set in *Royston v. State*, 166 Ga. App. 386 (304 SE2d 732) (1983) (establishing that technical statutory violations do not invalidate speeding citations), would not allow the Appellants to recover. Lastly, the trial court determined that the claims failed to meet the commonality requirement for class certification because individual inquiries of every proposed class member who had received a speeding citation from RedSpeed since January 1, 2014 would predominate over any common

questions of law or fact. After we granted the Appellants' application for interlocutory review, the instant appeal followed.

1. In related claims of error, the Appellants argue that the trial court erred by concluding that they lack standing to sue RedSpeed and in ruling that RedSpeed did not owe a duty to motorists by virtue of OCGA §§ 40-14-6 and 40-14-18. More specifically, the Appellants contend that OCGA §§ 51-1-6 and 51-1-8 provide them with a cause of action.

Under OCGA § 51-1-6:

When the law requires a person to perform an act for the benefit of another or to refrain from doing an act which may injure another, although no cause of action is given in express terms, the injured party may recover for the breach of such legal duty if he suffers damage thereby.

OCGA § 51-1-8 provides that “[p]rivate duties may arise from statute or from relations created by contract, express or implied. The violation of a private duty, accompanied by damage, shall give a right of action.” OCGA §§ 51-1-6 and 51-1-8 “do not create causes of action, but simply set forth general principles of tort law, authorizing the recovery of damages for the breach of a legal duty otherwise arising,

though not expressly stated, under a statute or common law.” *Gobran Auto Sales v. Bales*, 335 Ga. App. 873, 877(2) (783 SE2d 389) (2016) (punctuation omitted).

The Appellants contend that, although OCGA § 40-14-1 et seq. do not expressly provide for a private cause of action, those statutes nevertheless impose a legal duty on RedSpeed, and its violation of those statutes is therefore actionable. “In determining whether the violation of a statute creates a cause of action in a particular person, it is necessary to examine the codified purposes of the legislation and decide whether the injured person falls within the class of persons the statute was intended to protect and whether the harm complained of was the harm it was intended to prevent.” *Odem v. Pace Acad.*, 235 Ga. App. 648, 657(3) (510 SE2d 326) (1998).

“The indication that the legislature meant to impose a private cause of action must be found in the provisions of the statute at issue, not extrapolated from the public policy the statute generally appears to advance.” *State Farm Mut. Auto. Ins. Co. v. Hernandez Auto Painting and Body Works*, 312 Ga. App. 756, 761(2) (719 SE2d 597) (2011) (citation modified) (physical precedent only). This Court is not authorized to

interpolate remedies into a statute. ... [T]he judicial task is, of course, to interpret the statute the General Assembly has passed to determine whether it displays an intent to create not just a private right of action but

also a private remedy. And statutory intent, as reflected by the plain meaning of the relevant text, on this latter point is determinative. In the absence of such textual support, a cause of action does not exist and courts may not create one, no matter how desirable that might be as a policy matter, or how compatible with the statute.

Bellsouth Telecommunications v. Cobb County, 352 Ga. App. 110, 112(2) (834 SE2d 124) (2019) (citation modified).

Examining the statutes at issue here, it is clear that they allow municipalities and local law enforcement agencies to utilize advanced technology to detect speeding and issue citations without developing that technology or owning the equipment. Instead, they may enter into contracts with entities for the provision of those services, subject to certain directives. See OCGA §§ 40-14-1.1(1), 40-14-6(c). And, the statutes provide vehicle owners with specific methods by which to challenge citations issued by a company such as RedSpeed. OCGA § 40-14-18(b)(4). The fact that the General Assembly also imposed notice requirements (e.g., signage size and placement requirements, contents of notices of violations, etc.) for entities contracting with companies such as RedSpeed does not demonstrate that the General Assembly intended to create a cause of action for RedSpeed's alleged failure to comply with

those requirements. See *State Farm Mut. Auto. Ins. Co.*, 312 Ga. App. at 760-61(2) (provisions of Motor Vehicle Accident Reparations Act (“Act”) prohibiting automobile insurer from requiring use of a particular repair facility did not provide auto repair shop with cause of action for alleged violations of those provisions where Act did not expressly provide cause of action and violations of Act were subject to sanctions by Insurance Commissioner).

In addition, GDOT regulations describe that the “goal of placement and use of [ATESDs] is to increase safety throughout Georgia’s School Zones.” Ga. Comp. R. & Regs., r. 672-20-.01(1)(2). And, as noted above, the statutory scheme at issue provides for methods by which motorists or vehicle owners may challenge a speeding citation. OCGA § 40-14-18(b)(4). The Appellants have therefore failed to demonstrate that they were among the class of persons that the relevant statutes were enacted to benefit. See *U. S. Bank, N. A. v. Phillips*, 318 Ga. App. 819, 826(3) (734 SE2d 799) (2012) (holding that OCGA § 51-1-6 did not apply to plaintiff homeowner because, “[w]hile homeowners incidentally benefit from [the Home Affordable Modification Program (“HAMP”)]’s incentives, homeowners are not intended third-party beneficiaries to whom servicers owe a legal duty under HAMP”); *Jenkins v.*

Wachovia Bank, Nat'l Ass'n, 309 Ga. App. 562, 566(2) (711 SE2d 80) (2011) (holding that plaintiff could not sue to enforce a check, which was allegedly paid by bank "over a forged endorsement," when bank's alleged wrongful actions were not violations of a legal right of or duty owed to plaintiff, as she had no ownership interest in the check); *DaimlerChrysler Motors Co., LLC v. Clemente*, 294 Ga. App. 38, 47(2)(a) (668 SE2d 737) (2008) (holding that plaintiff could not assert a claim under OCGA §§ 51-1-6 and 51-1-8 against car dealership's franchisor for a violation of the Georgia Motor Vehicle Franchise Practices Act because that Act regulated relationship between automobile franchisors and their franchisee dealers and did not impose any legal duty upon automobile franchisors owed to franchisee's consumers). Accordingly, the Appellants' claims under OCGA §§ 51-1-6 and 51-1-8 necessarily fail as a matter of law, and the trial court did not err by granting RedSpeed's motion to dismiss.

2. In light of the foregoing, we need not address the Appellants' remaining claims of error.

A26A1132

In Case No. A26A1132, Dunn received a citation from the City of Wrens for speeding in a school zone in November 2023. Specifically, Dunn received a "Notice

of School Speed Violation,” which set forth an \$84 civil penalty, and, according to Dunn, was not a valid citation. Nonetheless, Dunn paid the amount to RedSpeed.

Dunn filed a class action complaint against RedSpeed in December 2023, and he amended his complaint in May 2025. The amended complaint asserted that RedSpeed has contracted with various towns and counties throughout Georgia to perform automated enforcement of school zone speeding violations. According to the complaint, RedSpeed has wrongfully collected funds from the public that are not authorized and the devices which RedSpeed uses are not approved by the Georgia Department of Public Safety, as required under OCGA § 40-14-18. Moreover, the complaint charges that RedSpeed illegally charged Dunn a processing fee; deceptively posed as law enforcement; and operates “incentivized speed traps in Georgia through the use of unapproved speed detection devices.” The complaint posits that OCGA § 40-14-18 is unconstitutional and sets forth a count for money had and received and for unjust enrichment, claiming that by using unapproved, unreliable speed detection devices, RedSpeed collected money wrongfully. The complaint also contains a count

for fraud and deceit based on RedSpeed's issuance of violations based on "unapproved and non-compliant speed detection devices."¹

In May 2025, RedSpeed moved to dismiss the amended complaint, arguing that it actually was based on OCGA § 40-14-17, which applies only to laser-based systems, while its detection systems are radar-based. According to RedSpeed, the entire premise of Dunn's lawsuit was flawed because it and the City of Wrens complied with the requisite statutory measures for the devices, which are proper and legal. RedSpeed further argued that Dunn's claims for unjust enrichment, money had and received, and fraud, along with his claims that the statute was unconstitutional, were not viable legal theories.

After a hearing, the trial court issued an order, first noting that RedSpeed's citation imposed a civil penalty, stated that it was issued under OCGA § 40-14-18, and informed Dunn that failure to pay the penalty might impact his driver's license. The trial court then found that one element of the unjust enrichment count was missing, and granted RedSpeed's dismissal motion on that claim. The court then denied RedSpeed's motion to dismiss Dunn's claims for money had and received and for

¹ The complaint also set forth a RICO count, but the trial court's order did not address the RICO claim or the constitutionality of OCGA § 40-14-18.

fraud, finding that there was a provable set of facts as to those allegations. The trial court certified its ruling for immediate review, and RedSpeed filed an application for interlocutory appeal, which we granted. Case No. A26I0080 (Dec. 11, 2025). This appeal followed.

3. RedSpeed argues that the trial court erred by denying its motion to dismiss and in concluding that Dunn stated a valid claim for relief. RedSpeed contends that its devices are proper and legal, and that the factual predicate for Dunn’s lawsuit is flawed. In support of this argument, RedSpeed cites *Mabra v. SF, Inc.*, 316 Ga. App. 62 (728 SE2d 737) (2012), which involved a claim of tortious interference with business relations, claiming that the “sole wrongdoing” Dunn’s complaint alleges is that the RedSpeed devices were not approved for use in Georgia. Because this contention is wrong, RedSpeed argues, the complaint must fail.

A complaint can be dismissed for failure to state a claim only if its allegations disclose with certainty that the claimant would not be entitled to relief under any state of provable facts asserted in support thereof. In other words, if, within the framework of the complaint, evidence may be introduced which will sustain the grant of relief to the plaintiff, the complaint is sufficient.

Edible IP v. Google, 358 Ga. App. 218, 220 (854 SE2d 565) (2021) (citation modified).

With this standard in mind, we turn to the remaining counts of Dunn’s complaint.

“A claim for money had and received contains the following elements: a person has received money of the other that in equity and good conscience he should not be permitted to keep; demand for repayment has been made; and the demand was refused.” *Seals v. Major*, 364 Ga. App. 239, 246(2) n.17 (874 SE2d 423) (2022) (quotation marks omitted). To maintain a claim for fraud, “a plaintiff must show (i) a false representation or omission of a material fact; (ii) scienter; (iii) intention to induce the party claiming fraud to act or refrain from acting; (iv) justifiable reliance; and (v) damages.” *TechBios, Inc. v. Champagne*, 301 Ga. App. 592, 594(1)(a) (688 SE2d 378) (2009).

With this analytical framework in mind, RedSpeed’s argument — that the trial court should have dismissed the case because RedSpeed’s speed detection devices were approved by the requisite authorities — misses the mark. For the claim of money had and received, Dunn must show that RedSpeed has money that in “good conscience [it] should not be permitted to keep.” *Seal*, 364 Ga. App. at 246, n. 17. Likewise, for the fraud claim, Dunn must show that RedSpeed made “a false

representation or omission of a material fact.” *TechBios*, 301 Ga. App. at 594(1)(a). Accepting as true the specific allegations in Dunn’s complaint, which we must at the motion to dismiss stage, we find that his claims of money had and received and fraud and deceit are sufficient to withstand RedSpeed’s motion. See *Sentinel Offender Servs. v. Glover*, 296 Ga. 315, 331(4)(a) (766 SE2d 456) (2014) (noting that probationers could pursue claim for money had and received against private probation company based on allegation that company unlawfully collected probation supervision fees from misdemeanor probationers in contravention of the dictates of the private probation statutory framework approved by the General Assembly); *Williams v. Bell*, 126 Ga. App. 432, 435(1)-(2) (190 SE2d 818) (1972) (reversing trial court’s dismissal of complaint for failure to state a claim for relief and noting that “[m]oney paid under an invalid contract may be recovered in an action for money had and received”). See also *TechBios*, 301 Ga. App. at 594(1)(a) (reversing trial court’s dismissal of plaintiff consultant’s claim for fraud where complaint alleged that defendant client made false representations to consultant that client knew were false at the time of their making and concluding that consultant could have introduced evidence that false representations were made with a present intent not to perform, were designed to

induce consultant to act or refrain from acting, and resulted in damage to consultant as a result of its justifiable reliance).

Moreover, RedSpeed's contention that its devices were proper under the applicable regulations required the trial court to make a factual determination which is beyond the scope of a dismissal motion. In support of its argument, RedSpeed claims that its devices are radar-based, not laser-based, and that Dunn has applied the wrong standards. Furthermore, RedSpeed has pointed to a letter from a Georgia DOT traffic engineer, explaining the agency's role in permitting automated traffic enforcement devices for school zone speed enforcement. But by relying on materials beyond the allegations contained in the complaint, RedSpeed shows that its argument is an evidentiary one not suited for the motion at hand. The trial court's task in ruling on a motion to dismiss is to examine the complaint, not make additional factual findings as to whether RedSpeed's devices were authorized.

The well-established test that must be satisfied before a motion to dismiss can be granted is a demanding one. At this stage of the proceedings, it is possible that Dunn could introduce evidence to support the counts of his complaint, and we

therefore affirm the trial court’s denial of RedSpeed’s motion to dismiss.² See generally *Norman v. Xytex Corp.*, 310 Ga. 127, 136(2)(d) n.10 (848 SE2d 835) (2020) (noting that any “difficulty [the plaintiffs may have] in ultimately proving their case is not a basis to dismiss their claims at the pleading stage; at this stage, at least, there exists some possibility that the [plaintiffs] could introduce some evidence to warrant some of the relief they seek”).

Judgment affirmed in Case No. A26A0965. Judgment affirmed in Case No. A26A1132. Dillard, P. J., and Pipkin, J., concur.

² We appreciate the thoughtful amicus brief filed by Dutton & Dutton. The brief argues that the ATESD system “raises serious constitutional issues.” However, as noted above, the trial court did not rule on Dunn’s challenge to the constitutionality of OCGA § 40-14-18, and “appellate courts will not rule on a constitutional question unless it clearly appears in the record that the trial court distinctly ruled on the point.” *Price v. Grehofskey*, 349 Ga. App. 222(2) (825 SE2d 594) (2019).