

IN THE SUPERIOR COURT OF GLYNN COUNTY
STATE OF GEORGIA

J. MATTHEW COLEMAN, IV and)
ELIZABETH BLAIR COLEMAN)
)
Plaintiffs,)
)
v.)
)
GLYNN COUNTY, GEORGIA)
)
Defendant.)



Civil Action Number: CE14-00750-063

NAMED PLAINTIFFS' FOURTH AMENDED CLASS ACTION COMPLAINT

Parties, Jurisdiction, and Venue

COME NOW Plaintiffs J. Matthew Coleman, IV and Elizabeth Blair Coleman (hereafter "Named Plaintiffs") and make and file this Complaint on behalf of themselves and all those similarly situated pursuant to O.C.G.A. § 48-5-380 and O.C.G.A. § 13-6-11 to recover ad valorem taxes unlawfully billed and collected and other relief under Uniform Superior Court Rule 3.2 as a companion or related case to the actions styled J. Matthew Coleman, IV and Elizabeth Blair Coleman, Civil Action No. CE12-01785-063, in the Superior Court of Glynn County, and J. Matthew Coleman, IV and Elizabeth Blair Coleman, Civil Action No. CE13-01480-063, both of which are assigned to the Honorable G. Grant Brantley and show the Court as follows:

IDENTIFICATION OF THE PARTIES

1.

Named Plaintiffs are residents of Glynn County, Georgia and the owners of Glynn County Tax **Parcel Number 04-01187**.

2.

Defendant Glynn County, Georgia is a political subdivision of the State of Georgia and the entity to which Named Plaintiffs and all others similarly situated paid illegally and erroneously assessed taxes and from whom refunds of such taxes are sought.

3.

Jurisdiction and venue are proper in this Court.

Factual Background

4.

Named Plaintiffs reallege and incorporate the allegations set forth in paragraphs 1-3 as if set forth herein verbatim.

5.

Named Plaintiffs are residents of and own property located in Glynn County Georgia.

6.

For Tax Years 2013, 2014, 2015, 2016, 2017 and 2018, the ad valorem tax bills issued to and paid by Named Plaintiffs were based on an incorrect application of the Glynn County homestead exemption for county and school taxes found in HB 1690 and HB 1691 enacted May 1, 2000 (“Scarlett Williams Exemption”).

7.

The Scarlett Williams Exemption provides that:

Each resident of Glynn County is granted an exemption on that person’s homestead from all Glynn County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of that homestead

and that

Each resident of the Glynn County School District is granted an exemption on that person's homestead from all Glynn County School District taxes for educational purposes in an amount equal to the amount by which the current year assessed value of that homestead exceeds the base year assessed value of the homestead.

8.

The Scarlett Williams Exemption section 1(a)(2) states that "Base Year" is "the taxable year immediately preceding the taxable year in which the exemption under this Act is first granted to the most recent owner of such homestead."

9.

In short, the Scarlett Williams Exemption provides for exemption from ad valorem taxes for county and school purposes on the increase in value of property over the Base Year value.

10.

Named Plaintiffs purchased the property on or about July 21, 2005 and applied for and were granted the Scarlett Williams Exemption on or about February 28, 2006.

11.

Despite the plain language of the Scarlett Williams Exemption stating that the "Base Year" should be the tax year "immediately preceding" the tax year that the homestead exemption was granted to the most recent owner, the Glynn County Tax Commissioner treated 2006 as the Base Year rather than 2005.

12.

Named Plaintiffs' "Base Year" should be the 2005 tax year assessed value of \$70,006 (equating to a fair market value of \$175,015) rather than the 2006 assessed value of \$133,800 (equating to a fair market value of \$334,500).

13.

Defendant failed to provide Named Plaintiffs any notice concerning the granting or denial of the Scarlett Williams Exemption and specifically failed to provide notice pursuant to O.C.G.A. § 48-5-306 that the Exemption had been denied concerning the use of 2005 as the Base Year and an opportunity to appeal the same pursuant to O.C.G.A. § 48-5-311.

14.

By utilizing the incorrect 2006 value as the Base Year value for the Scarlett Williams Exemption, Glynn County has subjected Named Plaintiffs to illegal and erroneous taxes based on the difference between the 2006 assessed value and the 2005 assessed value in calculating tax bills for 2013 through 2018.

15.

The use of the incorrect Base Year has resulted in the overpayment by Named Plaintiffs and collection by Glynn County of illegal, erroneous and excessive taxes for 2013 in the amount of \$1,535.71 and for 2014 in the amount of \$1,531.06, 2015 in the amount of \$1,531.06, 2016 in the amount of \$1,531.06, 2017 in the amount of \$1,665.66, and 2018 in the amount of \$1,665.66.

16.

Named Plaintiffs are entitled to refunds of these improperly and illegally billed and collected taxes plus interest as provided by Georgia law.

17.

Named Plaintiffs have satisfied all conditions precedent to bringing the instant action.

CLASS ACTION ALLEGATIONS

18.

Named Plaintiffs reallege and incorporate all prior allegations by reference.

19.

This action is brought by Named Plaintiffs as a class action, on their own behalf and on behalf of all others similarly situated, under the provisions of O.C.G.A. § 9-11-23 for damages, and relief incident and subordinate thereto, including attorney's fees, and costs.

20.

The class represented by Named Plaintiffs in this action, and of which Named Plaintiffs are members, consists of Glynn County property owners who received the Scarlett Williams Exemption in the calculation of their tax bill in 2013, 2014, 2015, 2016, 2017 or 2018 for whom Glynn County used the year in which the Scarlett Williams Exemption was first granted as the Base Year (the "incorrect Base Year") rather than the immediately preceding year (the "correct Base Year") in calculating the exemption amount under the Scarlett Williams Act for property tax bills in 2013, 2014, 2015, 2016, 2017 or 2018 and for whom the value frozen in the year in which the Scarlett Williams Exemption was first granted is greater than the value in the immediately preceding year.

21.

This class so described is comprised of numerous members who have yet to be refunded monies related to illegally and erroneously assessed taxes for 2013 through 2018; additionally, class members seek Declaratory relief concerning the proper meaning and application of the term Base Year and a writ of mandamus or any other equitable relief which the court deems fit to compel the Defendant to refund all excessive taxes paid for 2013 through 2018 based on the use

of the year in which the Exemption was first granted as the Base Year rather than the immediately preceding year plus attorney's fees and interest.

22.

The class members are so numerous that joinder of individual members herein is impracticable.

23.

There are common questions of law and fact in the action that relate to and affect the rights of class members and the relief sought is common to the members of the class.

24.

The claims of Named Plaintiffs, as set forth herein, who are representatives of class members are typical of the claims of the members of the class, in that the claims of all class members, including Named Plaintiffs, depend on the showing of the acts and/or omissions of Defendant or its agents or instrumentalities giving rise to the right of Named Plaintiffs to the relief sought herein. There is no conflict as between Named Plaintiffs and class members with respect to this action, or with respect to the claims for relief herein set forth.

25.

This action is properly maintained as a class action pursuant to O.C.G.A. § 9-11-23(b)(1)(A) because the prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members which would establish incompatible standards of conduct for any party opposing the class.

26.

This action is properly maintained as a class action pursuant to O.C.G.A. § 9-11-23(b)(1)(B) in that prosecution of separate actions by individual class members would create a

risk of adjudications with respect to individual members of the class that would as a practical matter be dispositive of the interest of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

27.

This action is properly maintained as a class action pursuant to O.C.G.A. § 9-11-23(b)(2) as Defendant acted or refused to act on grounds applicable to class members making declaratory relief appropriate.

28.

This action is properly maintained as a class action pursuant to O.C.G.A. § 9-11-23(b)(3) inasmuch as the questions of law and fact common to the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

29.

Named Plaintiffs are the representative parties for the class, and are able to, and will, fairly and adequately protect the interests of class members. The attorneys for Named Plaintiffs are experienced in class action litigation and have successfully represented claimants in other class litigation. Of the attorneys designated as counsel for Named Plaintiffs, those undersigned attorneys will actively conduct and be responsible for Named Plaintiffs' case herein as well as the case of all other class members.

30.

This class so represented by Named Plaintiffs in this action, and of which Named Plaintiffs are members, seek relief related to the improper interpretation and application of the term "Base Year" under the Scarlett Williams Act and seek refunds of the taxes improperly

billed and paid as a result of the incorrect interpretation and application of the term “Base Year” resulting in the payment of excessive taxes.

COUNT I- REFUND UNDER O.C.G.A. § 48-5-380

31.

Named Plaintiffs reallege and incorporate all prior allegations by reference.

32.

The use of the incorrect Base Year in calculating the ad valorem tax bills for Named Plaintiffs and all others similarly situated has resulted in the payment of illegally and erroneously assessed taxes.

33.

Named Plaintiffs and purported class members have satisfied all conditions precedent to bringing the instant action.

34.

Under O.C.G.A. § 48-5-380, Named Plaintiffs and all others similarly situated are entitled to a refund of all illegally and erroneously assessed taxes or voluntarily or involuntarily overpaid taxes based on the use of the incorrect Base Year in calculating the Scarlett Williams Exemption for 2013 through 2018.

COUNT II- ATTORNEY’S FEES FOR BAD FAITH AND STUBBORN LITIGIOUSNESS

35.

Named Plaintiffs reallege and incorporate all prior allegations by reference.

36.

Defendant has acted in bad faith, been stubbornly litigious and has caused Plaintiffs and class members unnecessary trouble and expenses, entitling Named Plaintiffs to recover their

costs of this litigation, including reasonable attorney's fees and expenses pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, having filed this Class Action Complaint Named Plaintiffs pray that:

- a) The class as described herein be certified;
- b) That Defendant be ordered to refund Named Plaintiffs and all other members the erroneously and illegally assessed 2013 through 2018 ad valorem taxes pursuant to O.C.G.A. § 48-5-380 based on the use of the incorrect Base Year in calculating the Scarlett Williams Exemption;
- c) That this Court enter an order requiring Defendant to pay to Named Plaintiffs and all other members of the class all attorney's fees and costs of litigation associated with this action; and
- d) That process be issued and be served on Defendant in accordance with Georgia law;
- e) That Named Plaintiffs and all other class members recover prejudgment interest on the refunds owed as provided by law; and
- f) That Named Plaintiffs and all other class members have all other and further relief deemed just and appropriate by this Court.

RESPECTFULLY SUBMITTED, this 5th day of October, 2018.

ROBERTS TATE, LLC

BY: /s/ James L. Roberts, IV
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CERTIFICATE OF SERVICE

I, James L. Roberts, IV, of Roberts Tate, LLC attorneys for Plaintiffs, J. Matthew Coleman, IV and Elizabeth Blair Coleman, do hereby certify that, on this date, I served a copy of the foregoing **NAMED PLAINTIFFS' FOURTH AMENDED CLASS ACTION COMPLAINT** upon the following counsel of record for all parties by serving a copy of the same with the Summons and Complaint in this action upon the following:

G. Todd Carter, Esq.
Brown, Readdick, Bumgartner,
Carter, Strickland & Watkins, LLP
5 Glynn Avenue
Brunswick, Georgia 31520

Aaron Mumford, Esq.
Glynn County Attorney
701 G Street, 2nd Floor
Brunswick, Georgia 31520

This 5th day of October, 2018.

/s/ James L. Roberts, IV
James L. Roberts, IV