

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

**JO-ANN BROWN, ANNA STANFIELD,
RACHEL AMARTI, MARY ELISE
PIZARRO, DUANE HALE, MICHELE
OSBORNE, and JOCELYN CHASE on
Behalf of Themselves and All Others
Similarly Situated,**

Plaintiffs,

vs.

**TRANSURBAN (USA), INC.;
TRANSURBAN (USA) OPERATIONS,
INC.; CAPITAL BELTWAY EXPRESS
LLC; 95 EXPRESS LANES LLC;
FANEUIL, INC.; and LAW
ENFORCEMENT SYSTEMS, LLC,**

Defendants.

**FIRST AMENDED CLASS
ACTION COMPLAINT**

JURY TRIAL DEMANDED

CASE NO. 1:15-cv-00494

FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiffs Jo-Ann Brown, Anna Stanfield, Rachel Amarti, Mary Elise Pizarro, Duane Hale, Michele Osborne, and Jocelyn Chase (“Plaintiffs”), on behalf of themselves and all others similarly situated, allege the following based on personal knowledge as to allegations regarding themselves and based on the investigation of Plaintiffs’ counsel, which included a review of relevant press releases, public statements, news articles, and other publications.

INTRODUCTION

1. Plaintiffs bring this action on behalf of themselves and Classes of all similarly situated individuals and entities against Defendants Transurban (USA), Inc. (“Transurban”); Transurban (USA) Operations., Inc. (“Transurban Operations”); Capital Beltway Express LLC (“CBE”); 95 Express Lanes LLC (“95 Express”) (collectively, the “Transurban Defendants”);

Faneuil, Inc. (“Faneuil”); and Law Enforcement Systems, LLC (“LES”) (collectively, the “Collection Defendants”).

2. Defendants are private companies that have been delegated by the Commonwealth of Virginia to administer, enforce and collect tolls, along with unpaid tolls, for the high-occupancy toll lanes (“HOT Lanes”) on the Capital Beltway as well as feeder roads that connect to the Capital Beltway. Class members travel on these HOT Lanes and have established accounts with E-ZPass to pay their tolls. The Transurban Defendants include affiliates of the Australian conglomerate Transurban which, acting under Virginia law as conservators of the peace and state actors, enforce and collect unpaid tolls in ways determined by the Transurban Defendants. The Transurban Defendants abuse this delegated state power by imposing excessive fines on unsuspecting class members in violation of the Eighth and Fourteenth Amendments to the Constitution. The result for class members is the shocking surprise that private companies acting for the state demand from them thousands of dollars for unpaid tolls. Class members who have arranged for the payment of tolls with E-ZPass accounts are charged these thousands of dollars for minor amounts of unpaid tolls without prior notice of the enormous amounts being claimed by the Transurban Defendants. The Transurban Defendants demand these excessive amounts when tolls are unpaid by class members with established E-ZPass accounts due to the failure of the Transurban Defendants’ own equipment or because of a minor delay in updating an E-ZPass account after a credit card has expired or been cancelled.

3. Once the Transurban Defendants have decided to charge class members thousands of dollars, they then turn over the unpaid amounts to debt collectors, the Collection Defendants. Then these debt collectors harass class members and use collection methods and forms prohibited by state law. The Transurban Defendants send their illegal debts to Defendant LES, a

debt collector. LES then sends notices that violate the Fair Debt Collections Practices Act (“FDCPA”) to these consumers in an effort to recover these improper charges. If LES is unsuccessful in collecting the invoice amount, the Transurban Defendants then engage the services of Defendant Faneuil to represent their interests in Court.

4. Thousands of Virginia, Maryland, and DC residents have been subject to the Transurban Defendants’ excessive fines and fees. For example, one toll road user was assessed a punitive \$17,000 fine for \$36 in unpaid tolls; the tolls were unpaid because the Transurban Defendants’ equipment failed to read the user’s E-ZPass for roughly one month. Other examples abound: the Transurban Defendants sued “Chris” for \$31,000 based on less than \$50 in supposedly missed tolls; “Sherri” purportedly owes the Transurban Defendants \$9,000 for just \$30 of supposedly missed tolls; and the Transurban Defendants charged “Derek” \$3,600 for \$13 of supposedly missed tolls. The tolls charged to the named representatives are also detailed below.

5. In addition to excessive and devastating financial penalties, the Transurban Defendants’ enforcement mechanism has resulted in users losing their driver’s licenses.

6. Regardless of the underlying reason for the purported toll violations, Defendants’ attempts to levy and collect excessive fines and fees are improper for, at least, the following reasons:

(a) The Transurban Defendants assess punitive and excessive “civil penalties” of up to \$1,000 per toll violation against drivers via notices and summonses when those drivers have had no prior notice or adjudications;

(b) The Transurban Defendants seek to enforce “reasonable” administrative fees (capped by statute at \$100 and limited to “actual costs”), but the fees these

Defendants seek are well beyond reason and are not related to their actual costs;

(c) The Transurban Defendants' cumulative penalties have no reasonable relationship or proportionality to the amount of unpaid tolls;

(d) The Transurban Defendants do not reasonably allow a consumer to dispute the existence of a toll violation or the amounts assessed for such a violation;

(e) The Transurban Defendants instruct the Collection Defendants to assess and seek civil penalties and file suit beyond the one year time limitations period for doing so;

(f) The Transurban Defendants and Defendant Faneuil initiate lawsuits against consumers with attestations and summonses that are "robo-signed" and never signed by a human person as is required under Virginia law;

(g) The Transurban Defendants and Defendant Faneuil do not "appear" or hire lawyers to prosecute these actions (given the high costs of doing so), and instead, send non-lawyers such as Faneuil's Alexis Brach to appear and negotiate "settlements" on their behalf. Several actions have already been dismissed due to the Transurban Defendants' failure to appear; and

(h) The Transurban Defendants have obtained judgments using an unregistered, fictitious name.

7. Plaintiffs seek, on behalf of themselves and the members of the Classes, injunctive relief, declaratory relief, actual and statutory and punitive damages, and their attorneys' fees and costs.

JURISDICTION AND VENUE

8. This Court has original jurisdiction of this action under the Class Action Fairness

Act of 2005. Pursuant to 28 U.S.C. §§ 1332(d)(2) and (6), this Court has original jurisdiction because the aggregate claims of the putative class members exceed \$5 million, exclusive of interest and costs, and at least one of the members of the proposed classes is a citizen of a different state than Transurban. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331, due to federal questions raised by the Amended Complaint. Further, this Court has jurisdiction under 15 U.S.C. § 1692k(d). Moreover, this Court also has jurisdiction over the state law claims by supplemental jurisdiction under 28 U.S.C. § 1367.

9. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because Defendant Transurban is subject to personal jurisdiction here and regularly conducts business in the Eastern District of Virginia, and because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this district.

PARTIES

A. Plaintiffs

10. Plaintiff Jo-Ann Brown (“Brown”) is a citizen of the Commonwealth of Virginia. In or around 2002, Brown signed up for an E-ZPass account through E-ZPass New York, and at all relevant times, her E-ZPass was properly mounted in her vehicle and linked to a valid payment method. The Transurban Defendants allegedly found that in October 2013, Brown had missed \$4.95 in tolls (for five purported violations) on the 495 Express Lanes, and by October 2014, the Transurban Defendants were claiming that Brown owed them \$3,413.75 for these alleged violations.

11. Plaintiff Anna Stanfield (“Stanfield”) is a citizen of the state of Maryland. Stanfield signed up for an E-ZPass account through E-ZPass Maryland, and at all relevant times, her E-ZPass was properly mounted in her vehicle and linked to a valid payment method. The

Transurban Defendants found that in 2013 Stanfield had allegedly missed \$32.70 in tolls (for nine purported violations) on the 495 Express Lanes, and by December 2014, the Transurban Defendants were claiming that Stanfield owed them \$8,380.70 for these alleged violations.

12. Plaintiff Rachel Amarti (“Amarti”) is a citizen of the Commonwealth of Virginia. Amarti signed up for an E-ZPass account through E-ZPass Virginia, and at all relevant times, her E-ZPass was properly mounted in her vehicle and linked to a valid payment method. The Transurban Defendants allegedly found that in June 2013, Amarti had missed in excess of \$100 in tolls (for twenty-five purported violations) on the 495 Express Lanes, and by July 2014, the Transurban Defendants were claiming that Amarti owed them in excess of \$25,000 for these alleged violations.

13. Plaintiff Mary Elise Pizarro (“Pizarro”) is a citizen of the Commonwealth of Virginia. In or around 2003, Pizarro signed up for an E-ZPass account through E-ZPass Virginia, and at all relevant times, her E-ZPass was properly mounted in her vehicle and linked to a valid payment method. The Transurban Defendants allegedly found that in May 2013, Pizarro had missed \$20.15 in tolls (for seven purported violations) on the 495 Express Lanes, and by September 2014, the Transurban Defendants were claiming that Pizarro owed them \$9,440.90 for these alleged violations.

14. Plaintiff Duane Hale (“Hale”) is a citizen of the Commonwealth of Virginia. In or around 2006, Hale signed up for an E-ZPass account through E-Pass Virginia, and at all relevant times, his E-ZPass was properly mounted in his vehicle and linked to a valid payment method. However, the Transurban Defendants allegedly found that between July and November 2013, Hale had missed \$30.65 in tolls (for sixteen purported violations) on the 495 Express Lanes, and by October 2014, the Transurban Defendants were claiming that Hale owed them more than

\$15,000 for these alleged violations.

15. Plaintiff Michele Osborne (“Osborne”) is a citizen of the state of Maryland. In or around 2008, Osborne signed up for an E-ZPass account through E-Pass Virginia (using her maiden name, Irving), and at all relevant times, her E-ZPass was properly mounted in her vehicle and linked to a valid payment method. However, the Transurban Defendants allegedly found that in November 2013, Osborne had missed \$16.75 in tolls (for four purported violations) on the 495 Express Lanes, and by December 2014, the Transurban Defendants were claiming that Osborne owed them \$2,293.30 for these alleged violations.

16. Plaintiff Jocelyn Chase (“Chase”) is a citizen of Virginia. In or around 2014, Chase signed up for an E-ZPass account through E-Pass Virginia, and at all relevant times, her E-ZPass was properly mounted in her vehicle. However, the Transurban Defendants allegedly found that between June and September 2014, Chase missed \$30.95 in tolls (for 29 purported violations) on the 495 Express Lanes. By May 2015, the Transurban Defendants were claiming that Chase owed them \$2,512.10 for just four of these alleged violations. These four violations never appeared on a bill from the Transurban Defendants; Chase only became aware of these missed tolls after the Transurban Defendants sent these tolls to the Collection Defendants.

B. Defendants

17. Defendant Transurban is a Delaware corporation with its principal place of business at 589 8th Ave., 21st Floor, New York, New York.

18. Defendant Transurban (USA) Operations, Inc. (“Transurban Operations”) is a Virginia corporation with its principal place of business in the state of Virginia.

19. Defendant Transurban (USA) and Transurban Operations are part of Transurban Holdings, Inc. of Virginia, which in turn is owned and controlled by Transurban Group of

Melbourne Australia, a \$14.5 billion dollar conglomerate and toll road owner and operator based in Australia. Transurban Group of Australia develops and maintains toll roads in Australia and the United States. Transurban Group of Australia operates through its subsidiaries, including Transurban (USA) Holdings Inc., Transurban (USA) Inc. and Transurban (USA) Operations Inc.

20. Defendant CBE is a Delaware limited liability company with its principal place of business at 405 Lexington Avenue, 43rd Floor, New York, New York 10174. Defendant Transurban formed CBE as a joint venture/special purpose vehicle to operate the 495 Express Lanes. Transurban is the majority shareholder of this entity.

21. Defendant 95 Express is a Delaware limited liability company. Defendant Transurban formed 95 Express as a joint venture/special purpose vehicle to operate the 95 Express Lanes. Transurban is the majority shareholder of this entity.

22. Defendant Faneuil is a Virginia corporation with its headquarters located at 2 Eaton Street, Suite 1002, Hampton, Virginia 23669. According to its website, Faneuil is “a nationally recognized leader in technology-enabled in-person and automated service delivery, particularly in regulated, highly complex environments in which precision and mastery of guidelines are of critical importance. The company provides business processing solutions for an extensive client portfolio that includes both commercial and government entities. Utilizing advanced applications and a team of more than 3,300 service professionals, Faneuil delivers broad outsourcing support, ranging from customer care centers, fulfillment operations, and IT services, to manual and electronic toll collection, violation processing, and medical device tracking”

23. Defendant LES is a Delaware limited liability company with its primary place of business at 633 West Wisconsin Avenue, Suite 1600, Milwaukee, Wisconsin 53203. LES’s

principal business is the collection of debts, and in its capacity as a debt collector, LES regularly uses the mail and telephone to collect or attempt to collect, directly or indirectly, debts owed or due or asserted to be owed or due for other parties and is a “debt collector” within the meaning of the FDCPA, as defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

A. Northern Virginia’s HOT Lanes

24. In 1995, the Virginia General Assembly passed the Public-Private Transportation Act (“PPTA”), which authorized VDOT and other public agencies to enter into long term concession agreements with private, for-profit firms to develop and/or operate transportation facilities in the Commonwealth.

25. The Capital Beltway is comprised of federal interstate I-495 – a 64-mile (103 km) interstate highway that surrounds Washington, D.C., and the city's inner suburbs in adjacent Maryland and Virginia. The HOT Lanes on I-495 are called the “495 Express Lanes” and the HOT Lanes on I-95/I-395 are called the “95 Express Lanes.” The PPTA resulted in two separate highway toll projects in Northern Virginia: the 95 Express Lane and the 495 Express Lane projects.

26. Drivers who use the HOT Lanes are charged tolls ranging from \$0.20 to \$1.25 per mile each way. The pricing is dynamic and varies according to real-time traffic conditions: the more drivers using the HOT Lanes, the more expensive the toll, and vice-versa. Buses, motorcycles, and vehicles with three or more people (“High Occupancy Vehicles,” or “HOVs”) are able to use any of the HOT Lanes for free (the “HOV provision”); other vehicles must pay a toll. No cash toll booths are offered. Rather, all tolls are collected through the use of E-ZPasses, and all vehicles using the 95 or 495 Express Lanes, including those traveling free under the HOV

provision, must have an E-ZPass.

27. Consumers must pay the tolls via a windshield-mounted transponder (or one placed somewhere in the car) known as an “E-ZPass.” The E-ZPass is linked to the consumer’s bank account or credit card through the consumer’s E-ZPass account. When the E-ZPass account runs out of money to pay tolls, the consumer’s bank account or credit card is automatically charged to “reload” the E-ZPass account.

28. When a toll payment fails to execute properly, often through no fault of a HOT Lanes user, the Transurban Defendants illegally assess – and the Collection Defendants illegally attempt to collect on the Transurban Defendants’ behalf – hundreds or thousands of dollars in illegal penalties and fees against that driver.

29. Because the 95 Express Lanes only recently opened, the Transurban Defendants have only brought suit against violators of the 495 Express Lanes, which opened in 2012. Nevertheless, the injunctive relief Plaintiffs seek applies to both projects.

1. The 95 Express Lane Project

30. The first proposed project under the PPTA was the 95 Express Lane project. This project involved converting and extending the existing reversible high-occupancy vehicle (“HOV”) lanes on I-95 and I-395 (some of the oldest such lanes in the country) to HOT Lanes from Stafford, Virginia to near Alexandria, Virginia.

31. The 95 Express Lane project first came about in September 2003, when a group led by Clark Construction and Shirley Contracting submitted an unsolicited proposal to VDOT to convert the existing I-95 HOV lanes to high occupancy/toll lanes, while also widening the existing lanes and extending them to the south. Consistent with the PPTA, VDOT then invited requests for competing proposals from developers. Defendant Transurban submitted the only

competing proposal (the “FTU proposal”).

32. Under the FTU proposal, the already existing HOV lanes on I-95/395 would be widened to three lanes and converted to HOT Lanes. The lanes would also be extended by 25 miles southward to Spotsylvania County and include the creation of an integrated Bus Rapid Transit system throughout the length of the 56-mile corridor. Under the financial projections in the proposal, toll revenues were expected to be sufficient to fund a \$250 million upfront payment to VDOT that could be applied toward the costs of operating transit service in the corridor, in addition to covering other capital and operating costs of the project.

33. In November 2005, following an internal review and the submission of proposals by both teams, an advisory panel recommended that VDOT proceed with the FTU proposal. VDOT and Transurban then signed an interim agreement in October 2006, to move forward with preliminary engineering and detailed planning and operations studies for the project, with the costs of those studies to be shared between VDOT and Transurban.

34. VDOT and 95 Express executed a concession agreement in July 2012, to develop the first phase of the project, including improvements to the new lanes and the initial nine-mile extension. The remaining 16 miles of the extension were to be developed under a separate project at a later date.

35. Construction on the 95 Express Lanes project began in August 2012, and the HOT Lanes began operating on December 29, 2014.

36. In total, VDOT contributed \$83 million toward the costs of the project, using a combination of federal and state funds. This represented a significant departure from the FTU proposal, which had anticipated a payment to VDOT as part of the concession.

37. The elimination of the segment inside I-395 from the project (which had been

expected to produce significant revenues) played a key role in this shift in the cost burden for the project. VDOT also incurred an additional \$46 million in costs for preliminary engineering on the project under the 2006 interim agreement.

2. The 495 Express Lane Project

38. The second proposed project (although completed first), the 495 Express Lanes, added HOT Lanes to I-495 in Fairfax County, Virginia.

39. The 495 Express Lane project began when VDOT signed an agreement with Defendant Transurban in April 2005, to create HOT Lanes between Springfield, Virginia and Georgetown Pike. A contract was finalized on December 20, 2007, and construction began in the summer of 2008.

40. The 495 Express Lanes are a 14-mile segment of HOT Lanes on I-495 extending from the Springfield Interchange to a point north of the Dulles Toll Road.

41. The 495 Express Lanes opened on November 17, 2012.

B. Virginia's HOT Lanes Law

42. Virginia law governs the creation of high-occupancy toll roads. *See* Va. Code § 33.2-502. According to the statute:

Any person operating a motor vehicle on designated HOT Lanes shall make arrangements with the HOT Lanes operator for payment of the required toll prior to entering such HOT Lanes. The driver of a vehicle who enters the HOT Lanes in an unauthorized vehicle, in violation of the conditions for use of such HOT Lanes established pursuant to § 33.2-502, without payment of the required toll or without having made arrangements with the HOT Lanes operator for payment of the required toll shall have committed a violation of this section, which may be enforced in the following manner: . . .

2. a. A HOT Lanes operator shall install and operate, or cause to be installed or operated, a photo-enforcement system at locations where tolls are collected for the use of such HOT Lanes.

b. A summons for civil violation of this section may be executed pursuant to this subdivision, when such violation is evidenced by information obtained from a photo-enforcement system as defined in this chapter. ***A certificate, sworn to or affirmed by a technician employed or authorized by the HOT Lanes operator,*** or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-enforcement system, shall be prima facie evidence of the facts contained therein[.]

c. On a form prescribed by the Supreme Court, a summons issued under this subdivision may be executed pursuant to § 19.2-76.2. Such form shall contain the option for the driver or registered owner to prepay the unpaid toll and all penalties, administrative fees, and costs. HOT Lanes operator personnel or their agents mailing such summons shall be considered conservators of the peace for the sole and limited purpose of mailing such summons. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles[.]

d. ***The registered owner of such vehicle shall be given reasonable notice*** by way of a summons as provided in this subdivision that his vehicle had been used in violation of this section, and such owner shall be given notice of the time and place of the hearing and notice of the civil penalty and costs for such offense.

3. a. The HOT Lanes operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which ***administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation.*** The operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in a notice or invoice issued by a HOT Lanes operator. If paid within 30 days of notification, the administrative fee shall not exceed \$25.

b. Upon a finding by a court of competent jurisdiction that the driver of the vehicle observed by a law-enforcement officer under subdivision 1 or the vehicle described in the summons for civil violation issued pursuant to evidence obtained by a photo-enforcement system under subdivision 2 was in violation of this section, the ***court shall impose a civil penalty...payable to the HOT Lanes operator as follows: for a first offense, \$50; for a***

second offense, \$250; for a third offense within a period of two years of the second offense, \$500; and for a fourth and subsequent offense within a period of three years of the second offense, \$1,000, together with, in each case, the unpaid toll, all accrued administrative fees imposed by the HOT Lanes operator as authorized by this section, and applicable court costs

Va. Code § 33.2-503 (emphases added).¹

43. The Virginia HOT Lanes statute thus provides that any person operating a motor vehicle in HOT Lanes “shall make arrangements with the HOT Lanes operator for payment of the required toll prior to entering such HOT Lanes.” Code § 33.2-503. A driver of a vehicle who enters the HOT Lanes in an “unauthorized” vehicle “without payment of the required toll or without having made arrangements with the HOT Lanes operator for payment of the required toll” commits a violation of the statute. *Id.*

44. Defendants are imposing penalties on persons who have made arrangements for payments – individuals with E-ZPass accounts – without heed of the existence of those accounts. For example, class members who are not detected by the HOT Lanes equipment are charged tolls, fees and penalties despite the fact that they have E-ZPass accounts. Defendants make no effort to charge E-ZPass accounts after a “toll violation” is detected.

45. Defendants are also imposing excessive fines acting on behalf of the Commonwealth of Virginia. The civil penalties set by statute are according Virginia law “payable to the HOT Lanes operator.” Code § 33.2-503(3)(b). Virginia law delegates enforcement of the above civil violations and related fines to the HOT Lanes’ operator, Transurban. The Virginia Code provides that Transurban personnel are “considered conservators

¹ Prior to October 2014, this section was promulgated as Virginia Code § 33.1-56.3. For purposes of this action, there are no material differences between these two statutes. For some users who were sued prior to October 2014, Transurban improperly brought suit pursuant to the prior expired statute that is no longer in force.

of the peace for the sole and limited purpose of mailing” a summons for civil violations of the HOT Lanes statute. Code § 33.2-503(3)(b). A Fairfax Circuit Court for The Nineteenth Judicial Circuit has also confirmed that “Transurban is prosecuting violators of the HOT Lanes in the shoes of the Commonwealth.” *Commonwealth v. Cooley*, MI-2014-2473, 2474, 2475, 2476 (April 7, 2015). During that proceeding, Transurban admitted that “Transurban is acting for the government.”

46. Apart from the excessive fines, contrary to the statute, the administrative fees charged by the Transurban Defendants are not “reasonably related to the actual cost of collecting the unpaid toll.” For example, users are often sued for multiple violations. For every instance, whether one or several, the Transurban Defendants seek the maximum penalty of \$100 per purported toll violation (or, in some instances, an even higher penalty).

47. Contrary to the statute and applicable Virginia law, the Transurban Defendants issue summonses are not affirmed and signed by humans.

C. The E-ZPass Contract

48. Plaintiffs and members of the Classes signed up for E-ZPass accounts through E-ZPass entities in Virginia, Maryland, or New York (the “E-ZPass Entities”).

49. As to each of the named Plaintiffs, the E-ZPass accounts were opened and the tolls were incurred primarily for personal, family, or household purposes, bringing the Collection Defendants’ collection activities within the purview of the FDCPA, 15 U.S.C. § 1692a(5).

50. At the time of account creation, the Virginia resident Plaintiffs were presented with an “E-ZPass Customer Service Agreement” (attached hereto as Exhibit 1) which contained the following terms:

User agrees: . . . d) That failure to maintain a positive *E-ZPass* balance could result in unpaid tolls, denied passage,

violations, administrative fees and/or a court summons depending on the circumstances

PREPAID ACCOUNT

User agrees to maintain a Prepaid Account with the Service Center to cover User's applicable tolls, charges and fees as described in this Agreement. *Failure to maintain a positive balance shall constitute a breach of this Agreement and may subject the User to the loss of discounts, administrative costs, any unpaid toll charges as determined by the Virginia Department of Transportation (VDOT), the Toll Facility or any State where usage occurred, and termination of this agreement...User shall be responsible for any violations, fees, claims, tolls and/or any other charges assessed as a result of failure to maintain a positive balance*

TOLLS, CHARGES AND FEES

An *E-ZPass* User's Prepaid Account will be reduced by charges for:

a) Applicable tolls charged each time the *E-ZPass* is used to obtain passage on, continue upon, or exit from an *E-ZPass* or participating *E-ZPass* collection area.

b) **Statement Fees:** Quarterly summary statements are available to the User at no charge. Monthly detailed statements are available by mail for \$2.00 per each complete or partial group of three *E-ZPass* transponders in the account. Monthly detailed statements are available online for \$1.00 per account.

c) Any other fees or costs chargeable under this Agreement, including but not limited to returned check fees, credit card decline fees, lost, stolen or damaged *E-ZPass* costs, unpaid tolls, *associated administrative costs and legal fees.*

51. The Maryland Plaintiffs entered into a User Agreement with E-ZPass Maryland that had similar provisions (attached as Exhibit 2):

I. GENERAL CONDITIONS

...

g. You acknowledge and understand that you and your vehicle may be recorded on a video monitoring system / or digitally photographed while traveling through a Maryland toll collection facility that have an agreement with *E-ZPass* Maryland and/or accept *E-ZPass*. You expressly understand that *E-ZPass* Maryland and other Facilities monitor the use of the transponder for the purpose of toll collection, traffic monitoring and detecting violations of this Agreement.

h. You authorize *E-ZPass* Maryland to process through your Account, the payment of tolls and fees incurred from the use of Facilities.

i. Failure to comply with this Agreement may result in any or all of the following: **video toll transactions, citations including civil penalties, suspension of your Account, Account closure, refusal or suspension of your motor vehicle registration and referral to the State of Maryland Central Collection Unit (“CCU”). The Maryland Motor Vehicle Administration (MVA) and CCU may assess additional fees. . . .**

XV. SCHEDULE OF FEES

Nonrefundable Transponder fee: Prices vary by model
Monthly Account Maintenance Fee, if applicable (see Section II.e)
Insufficient Funds Fee (Returned check fee): \$25.00

Civil penalty: \$50.00

(emphases added).

52. Plaintiff Brown, who initially signed up for an E-ZPass through E-ZPass New York, had a contract with E-ZPass New York with similar provisions (attached as Exhibit 3):

Violations

If you use the Tag when your Account is in a negative balance, suspended or revoked as a result of E-ZPass speed violations or any other reason, or after the Tag has been reported lost or stolen, you may: incur administrative fees of up to \$50 per occurrence; be charged the full, undiscounted charge; and/or be asked to surrender the Tag to E-ZPass via certified mail or to plaza personnel. . . .

Schedule of Deposits/Administrative Fees . . .

Account revocation fee \$25.00

Tag retention fee \$25.00

Other Tag misuse/violation administrative fees Up to \$50.00

E-ZPass and the entities providing E-ZPass services reserve the right to assess additional fees. . . .

If you use the Tag when your bank account has insufficient funds and payment is not made by means of your back-up credit card, you may incur administrative fees of up to \$50 per occurrence; be charged the full, undiscounted charge; and/or be asked to surrender the Tag to E-ZPass via certified mail or to plaza personnel.

(emphases added).

53. The Transurban Defendants assert that they can collect “reasonable” administrative expenses under an individual consumer’s contract with E-ZPass. But, instead, the Transurban Defendants turn minor toll violations into huge, crippling fines and penalties—and routinely sue drivers (with the assistance of the Collection Defendants) to recover their inflated and illegal “fines” and fees.

D. The Transurban Defendants’ Equipment Routinely Fails To Read E-ZPasses Through No Fault of Users

54. The underlying reason for any particular purported toll violation is irrelevant for the purposes of the claims herein. Regardless of the reason for the violation, the Transurban Defendants’ enforcement procedures for purported toll violations are contrary to law.

55. However, in many cases, the Transurban Defendants’ equipment registers a “violation” even where a valid, fully funded E-ZPass account is in existence. In other words, the Transurban Defendants assess fines and penalties for purported toll violations that were not violations at all simply because their electronic toll reading equipment (called a gantry) fails to pick up a valid E-ZPass.

56. In addition to faulty gantries, the Transurban Defendants are aware that E-ZPass readings can fail for myriad other reasons—including a tinted windshield, the position of the car in the toll lane, or a dead E-ZPass battery. Plaintiffs and members of the Classes do not (and cannot) know when the Transurban Defendants' equipment fails to read their E-ZPass.

57. Despite their knowledge that E-ZPass gantries may fail to pick up a valid transponder, the Transurban Defendants fail to adequately warn consumers of this fact because they reap significant profits from their equipment "malfunctions." Moreover, the Transurban Defendants fail to notify customers of any purported problems with their accounts until several violations have accrued. The Transurban Defendants then illegally seek additional fines and penalties based on their own delay.

58. Because equipment that scans E-ZPasses on the HOT Lanes does not confirm that an E-ZPass is registered (like a toll booth would) a user receives no immediate indication that his E-ZPass has not been read. A user may not find out for months (or even over a year), when the Transurban Defendants finally send him a letter or summons.

E. The Transurban Defendants Assess Excessive Fines When They Register A Real Or Perceived Violation

59. If the Transurban Defendants' E-ZPass scanning equipment does not read an E-ZPass, or if an E-ZPass account is not adequately funded due to an expired or cancelled credit card, the Transurban Defendants immediately begin to assess fines and penalties.

60. If a driver somehow "knows" that she has committed a toll violation, within 5 days of that violation, she can pay the toll and a fee of \$1.50 per trip through the "Missed a Toll" process on Defendant Transurban's website. If a driver does not know she missed a toll, as is most often the case, the driver cannot pay on Defendant Transurban's website. Instead, Defendant Transurban sends a toll invoice, which increases the administrative fee to \$12.50 per

trip. Because users generally do not know when they have committed a toll violation, as outlined above and below, the only way HOT Lanes users can check for violations and avoid incurring the \$12.50 per trip administrative fee is to check Defendant Transurban's website for missed tolls *at least* every five days, even if they have no reason to believe they have committed a toll violation.

61. If the toll is not paid within 30 days, Transurban assesses an administrative fee of \$100 *per trip* (or more) on top of the toll payment.

62. The "administrative fees" are not, as required by Virginia law, reasonably related to the actual cost of collecting the unpaid toll; there is no possible way the Transurban Defendants' costs increase by \$87.50 over the course of 25 days when they take no further steps to collect the unpaid toll. Moreover, in the case of multiple violations against the same driver, the Transurban Defendants attempt to collect the \$100 fee *per violation*.

63. According to the Transurban Defendants, the administrative fees cover the cost associated with locating and contacting the driver. If this were the case, however, this should be a one-time fee rather than a per violation fee. In any event, because the Transurban Defendants locate the driver based on a state records search that takes minutes, at most to complete, the administrative fee amount has no relationship to the Transurban Defendants' actual costs.

64. The Transurban Defendants also assess a "civil penalty" if they believe a toll has not been paid after two invoices have been sent. There is a \$50 penalty for the first purportedly missed toll, \$250 for the second purportedly missed toll, \$500 for the third purportedly missed toll, and \$1,000 for the fourth and all subsequent purportedly missed tolls.

65. In this way, a user whose E-ZPass is not read on just four occasions—even on the same day and even through no fault of her own—can end up with *\$2,200 in fines and fees*.

66. Such civil penalties are unconstitutional, unreasonable, unconscionable, and illegal and in no way related or proportional to the toll incurred by using the roadway.

F. The Transurban Defendants Allow No Reasonable Opportunity To Dispute Or To Cure

67. After a purportedly missed toll, the Transurban Defendants send an invoice via regular mail to the address of the registered owner of the vehicle requesting payment of the toll and the administrative fee.

68. The Transurban Defendants make no effort to determine whether the toll violator has a registered E-ZPass account that is available to pay the account holder's tolls. As a result, Transurban charges class members for unpaid tolls due to the equipment failure that are not the fault of the class members even if they have E-ZPass accounts from which tolls can be paid.

69. The Transurban Defendants also charges class members with E-ZPass accounts with expired or cancelled credit cards for unpaid tolls, including fees and penalties, without notifying the class member of the expired or cancelled card. Further, when a class member updates his or her account with new credit card information, even if that happens in a matter of days, unpaid tolls are not charged to the account and instead Transurban pursues unconscionable and unconstitutional amounts of fees and expenses.

70. The Transurban Defendants do not use their access to E-ZPass accounts and information to provide notice to class members through emails or other means.

71. The Transurban Defendants take no efforts to ensure or confirm that the invoices they may mail actually reach their intended recipients. Instead, the Transurban Defendants simply send such letters to the address listed in DMV records and take no further action (*e.g.*, further address research) even when these invoices are returned as undeliverable.

72. Prior to recent policy changes, drivers' fees would accrue even if the Transurban

Defendants sent the invoice to the incorrect address.

73. As discussed below, the Transurban Defendants and the Collection Defendants ignore consumers' attempts to dispute the existence of, or amounts of, purported toll violations and/or the fees and fines associated with them.

G. Defendant LES Regularly Violates The FDCPA

74. Defendant LES regularly demands payment from consumers of unpaid tolls and administrative fees and provides consumers itemizations of amounts that Defendant LES is attempting to collect. Defendant LES did so as to Plaintiffs.

75. Defendant LES regularly tells consumers in correspondence that "this is an attempt to collect a debt and any information obtained will be used for that purpose" and/or that the communication is from a debt collector. The FDCPA, at 15 U.S.C. § 1692e(11), requires that debt collectors provide these disclosures in all written communications (other than a formal pleading) sent "in connection with the collection of any debt" ("the § 1692e(11) disclosure"). They did so as to some communications with Plaintiffs. Defendant LES regularly attempts to provide the disclosures mandated by 15 U.S.C. § 1692g and did so as to Plaintiffs.

76. This is a form notice mailed to all consumers, including Plaintiffs herein, when Defendant LES attempts to make the debt validation disclosure for unpaid tolls.

77. This letter states in relevant part as follows:

If you wish to dispute the validity of this debt or any portion thereof, you must notify this office, in writing, using the affidavit on the reverse side of this notice. Otherwise, we will assume the debt is valid and will pursue all means available for its collection. This collection agency is licensed by the Division of Banking in the Wisconsin Department of Financial Institutions, www.wdfl.org

(emphasis in original).

78. This letter does not comply with the FDCPA in several respects.

79. For example, and without limitation, the validation notice requires any dispute be “in writing” and “using the affidavit on the reverse side of this notice.”

80. This is contrary to the plain language of 15 U.S.C. § 1692g(3) which does not require disputes to be in writing, much less by affidavit.

81. In addition, it fails to identify the creditor (e.g., Transurban) to whom the debt is owed.

82. It also fails to include *any* of the required disclosures pursuant to 15 U.S.C. § 1692g(4) and (5).

83. Defendant LES also falsely represents the character and amount of the debt in violation of 15 U.S.C. § 1692e(2)(A) and demands payments far in excess of what is allowed by Plaintiffs’ contract and law in violations of 15 U.S.C. § 1692f(1).

84. Specifically, Defendant LES demands payments for the alleged unpaid tolls and administrative fees pursuant to the contracts in an amount of \$100.00 *per* alleged unpaid toll.

H. Summonses Are Not Timely Issued And Are Not Signed By Humans

85. Pursuant to the statute, the Transurban Defendants may initiate collection lawsuits by first executing a summonses and mailing the same to the “address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles.”

86. In the last year alone, the Transurban Defendants have issued thousands of summonses through Faneuil.

87. The statute requires such summonses to be executed and include a “*certificate, sworn to or affirmed by a technician employed or authorized by the HOT Lanes operator*, or a facsimile of such a certificate, based on inspection of photographs, microphotographs,

videotapes, or other recorded images produced by a photo-enforcement system, shall be prima facie evidence of the facts contained therein”

88. The Transurban Defendants issue electronically-produced summonses robo-signed by machines. They do not issue summonses sworn to or affirmed by humans, as required by Virginia law.

89. The Transurban Defendants’ summonses include an identical pre-printed signature, placed and proportioned on the forms in the same manner for all summonses.

90. Moreover, under Virginia law, signatures “affixed by rubber stamp, typing, photographic process, or by electronic or mechanical printing” are not permitted in “pleadings filed in Virginia tribunals.” *Shipe v. Hunter*, 280 Va. 480, 484 (2010).

91. The Transurban Defendants’ summonses are therefore invalid on their face.

92. Moreover, the Transurban Defendants often issues summonses more than one year after the purported toll violation.

93. According to Virginia Code § 19.2-8, summonses of this nature must be issued within one year of the purported violation.

94. The Transurban Defendants’ summonses, which are issued more than one year after the alleged violation, are invalid on their face for this additional reason.

95. The Transurban Defendants also fail to appear in Court when they do file suit. In one instance, Fairfax District Court Judge Thomas E. Gallahue dismissed two cases because Defendant Transurban was not present in Court. Instead, Defendant Transurban sent Alexis Brach (a non-lawyer) to appear on its behalf. Because Ms. Brach is an independent contractor for Defendant Faneuil, Judge Gallahue ruled she could not and cannot represent the Transurban Defendants in court.

96. Despite this ruling, Ms. Brach still regularly negotiates with drivers on behalf of the Transurban Defendants. She does so in the Virginia courthouses and regularly appears for Defendant Transurban in such proceedings.

I. The Transurban Defendants Have Recently Changed Some Practices

97. On October 27, 2014, after numerous news reports heavily criticized the Transurban Defendants' practices complained of herein, Defendant Transurban announced the implementation of a "First-Time Forgiveness" program for E-ZPass customers using the HOT Lanes. This program includes the following provisions:

(a) If a consumer contacts Defendant Transurban within 60 days of toll violation, the company will remove automatically-assessed administrative fees, where toll violation arose from insufficient funds in an E-ZPass account, failure to link a license plate to the E-ZPass account or an incorrectly mounted E-ZPass;

(b) In the event that Defendant Transurban sends an E-ZPass customer an invoice and the letter is returned with an unknown address, Defendant Transurban will send the invoice to a debt collection agency but will waive all fees if the customer contacts it and provide evidence the customer has resolved the account issues with E-ZPass and has paid his tolls; and

(c) Defendant Transurban will continue to collect through court action, but "will put a cap on the number of trips sent to court and pursue a maximum of \$2,200 (which includes the administrative fee + civil penalties), plus tolls and court fees, regardless of the number of violations."

98. These new policies fail to resolve the problem of the Transurban Defendants' excessive, illegal, and unreasonable fees and fines; they too violate state and federal law, as

alleged herein.

99. These new policies fail to resolve the issue of untimely notices being issued to drivers. If a driver is unaware of a violation, there is no reason that they would contact the Transurban Defendants within 60 days to report one.

100. Further, these new policies are no help to the thousands of HOT Lanes users who have already paid unjustified fines and administrative fees to Defendants or have had punitive judgments entered against them for supposed HOT Lanes violations. For instance, these polices do nothing to address consumers like “Chris,” who was sued for \$31,000 for less than \$50 in supposedly missed tolls and agreed to a settlement of \$4,600.

101. The Transurban Defendants have pursued their moneymaking scheme in part because the HOT Lanes have not been as lucrative as they had initially projected.

102. For example, the 495 Express Lanes lost \$11.3 million in their first six weeks of operation. The lanes raked in \$800,000 in tolls and \$200,000 in fees and other revenue, but had \$3.2 million in operating costs, as well as depreciation of \$2.1 million and financing costs of \$7 million, according to documents Transurban’s Australian parent showed investors. An average of 23,308 vehicles took the lanes every day in the first six weeks, less than half of the 66,000 cars a traffic consultant for the project predicted in 2007. The number of cars using the lanes has remained below projections and the 495 Express Lanes lost \$51 million in 2013. As such, the Transurban Defendants have sought to make up this “lost” revenue through the scheme outlined herein.

J. The Transurban Defendants Proceeded Under An Unregistered Fictitious Name In Virginia State Court In Violation Of Virginia Law

103. Prior to March 3, 2015, the Transurban Defendants filed suit against drivers who allegedly committed toll violations in Fairfax County Circuit Court using a fictitious name that

was not validly registered.

104. Virginia Code § 59.1-69 states, in pertinent part:

No . . . corporation shall conduct or transact business in this Commonwealth under any assumed or fictitious name unless such . . . corporation shall sign and acknowledge a certificate setting forth the name under which such business is to be conducted or transacted, and the names of each person, partnership, limited liability company or corporation owning the same, with their respective post-office and residence address (and, . . . when the corporation is a foreign corporation, the date of the certificate of authority to transact business in this Commonwealth issued to it by the State Corporation Commission), and filed the same in the office of the clerk of the court in which deeds are recorded in the county or city wherein the business is to be conducted.

105. Virginia Code § 59.1-76 provides, in relevant part:

The failure of any person or corporation to comply with the provisions of this chapter shall not prevent a recovery by or against such person or corporation, if any of the courts in this Commonwealth on any cause of action heretofore or hereafter arising, but no action shall be maintained in any of the courts in this Commonwealth by any such person, corporation or his or its assignee or success in title unless and until the certificate required by this chapter has been filed.

106. As a result of the foregoing, the Transurban Defendants are barred from obtaining judgments using an unregistered, fictitious name. Yet, this is precisely what the Transurban Defendants did prior to March 3, 2015.

107. By operation of Virginia law, any judgments entered against drivers in Fairfax County Circuit Court prior to March 3, 2015 are therefore null and void, and any such drivers who had a judgment entered against them are entitled to repayment of any monies paid to the Transurban Defendants plus interest.

108. As a further result of the foregoing, any threat of suit, by issuance of a summons or otherwise, by the Transurban Defendants prior to March 3, 2015 was abusive, had no basis in

law, and violated numerous federal and state laws.

K. Plaintiffs Were Assessed Massive Fees And Penalties For Minor Toll Violations

1. Plaintiff Brown's Experience

109. Jo-Ann Brown signed up for an E-ZPass account through E-ZPass New York in or around 2002. At all relevant times, her E-ZPass was mounted on her windshield and her E-ZPass account was linked to a valid payment method for automatic replenishment.

110. Ms. Brown had never used the 495 Express Lanes before October 4, 2013.

111. On that day, Ms. Brown entered the 495 Express Lanes at Jones Branch Drive. The toll gantries gave no indication that her E-ZPass was unread or maintained an insufficient balance.

112. Unbeknownst to Ms. Brown, however, the Transurban Defendants determined that Ms. Brown had a toll violation for the 40 cent toll.

113. On four other occasions between October 4 and October 12, 2013, Ms. Brown entered the 495 Express Lanes and—again, unbeknownst to her—was assessed purported toll violations for tolls in the amounts of \$0.40, \$0.60, \$0.60, and \$2.15.

114. Over the 8 day period, Ms. Brown's tolls amounted to \$4.15.

115. Ms. Brown received no notice of the purported toll violations until approximately 60 days later, when she received a letter stating from 495 Express Lanes stating that she owed \$4.15 in tolls and \$100 in administrative fees.

116. Ms. Brown protested but agreed to pay the amount due, in the interest of putting the matter behind her.

117. 495 Express Lanes declined to take Ms. Brown's payment.

118. Several months later, in October 2014, Ms. Brown was served with summonses

by the Transurban Defendants, which indicated that they were seeking \$3,413.75 in total as a result of Ms. Brown's \$4.15 in purportedly missed tolls.

(a) For the first purported toll violation, which purportedly occurred on October 4, 2013 in an amount of \$0.40, the Transurban Defendants assessed \$100 in "administrative fees," \$72 in "costs," and a \$50 civil penalty, for a total of \$222.40.

(b) For the second purported toll violation, which purportedly occurred on October 4, 2013 in an amount of \$0.40, the Transurban Defendants assessed \$100 in "administrative fees," \$72 in "costs," and a \$250 civil penalty, for a total of \$422.40.

(c) For the third purported toll violation, which purportedly occurred on October 6, 2013 in an amount of \$0.60, the Transurban Defendants assessed \$100 in "administrative fees," \$72 in "costs," and a \$500 civil penalty, for a total of \$672.60.

(d) For the fourth purported toll violation, which purportedly occurred on October 8, 2013 in an amount of \$0.60, the Transurban Defendants assessed \$100 in "administrative fees," \$72 in "costs," and a \$1,000 civil penalty, for a total of \$1,172.60.

(e) For the fifth purported toll violation, which purportedly occurred on October 12, 2013 in an amount of \$2.15, the Transurban Defendants assessed \$100 in "administrative fees," \$72 in "costs," and a \$1,000 civil penalty, for a total of \$1,174.15.

119. The summonses were all "signed" by an automated computer program, not a human as required by Virginia law.

120. The administrative fees assessed to Ms. Brown are unreasonable and are not related to the true costs the Transurban Defendants incurred to "administer" Ms. Brown's file.

121. The Transurban Defendants have improperly assessed ascending "civil penalties" up to \$1,000 per violation, even though Ms. Brown has never been found guilty of even one toll

violation.

122. Prior to the issuance of the summons, Ms. Brown was provided with no meaningful or adequate means to contest the fines and fees.

123. No judgment of any sort has been entered against her to date.

2. Plaintiff Stanfield's Experience

124. Anna M. Stanfield signed up for an E-ZPass through E-ZPass Maryland. At all relevant times, her E-ZPass was mounted in her automobile and her E-ZPass account was linked to a valid credit card number for automatic replenishment.

125. Mrs. Stanfield used the 495 Express Lanes regularly and without incident.

126. However, on June 18, 2013 Mrs. Stanfield entered the 495 Express Lanes. Unbeknownst to Mrs. Stanfield, however, the Transurban Defendants determined that Mrs. Stanfield had a toll violation for the \$3.95 toll. The toll gantries gave no indication that her transponder was unread or maintained an insufficient balance.

127. On nine other occasions between June 18 and July 3, 2013, Mrs. Stanfield entered the 495 Express Lanes and—again, unbeknownst to her—was assessed purported toll violations for tolls in the amounts of \$3.95, \$5.00, \$1.70, \$3.55, \$2.70, \$1.85, \$4.55, \$5.50, and \$3.90.

128. Over the two week period, Mrs. Stanfield's tolls amounted to \$32.70.

129. Over a year later, in October 2014, Mrs. Stanfield was served with summonses by the Transurban Defendants, which indicated that they were seeking \$8,380.70 in total as a result of Mrs. Stanfield's \$32.70 in purportedly missed tolls.

(a) For the first purported toll violation, which purportedly occurred on June 18, 2013 in an amount of \$3.95, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$50 civil penalty, for a total of \$225.95.

(b) For the second purported toll violation, which purportedly occurred on June 19, 2013 in an amount of \$5.00, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$250 civil penalty, for a total of \$427.00.

(c) For the third purported toll violation, which purportedly occurred on June 19, 2013 in an amount of \$1.70, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$500 civil penalty, for a total of \$673.70.

(d) For the fourth purported toll violation, which purportedly occurred on June 20, 2013 in an amount of \$3.55, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,175.55.

(e) For the fifth purported toll violation, which purportedly occurred on June 20, 2013 in an amount of \$2.70, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.70.

(f) For the sixth purported toll violation, which purportedly occurred on June 21, 2013 in an amount of \$1.85, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.85.

(g) For the seventh purported toll violation, which purportedly occurred on July 2, 2013 in an amount of \$4.55, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,176.55.

(h) For the eighth purported toll violation, which purportedly occurred on July 2, 2013 in an amount of \$5.50, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,177.50.

(i) For the ninth purported toll violation, which purportedly occurred on July 3, 2013 in an amount of \$3.90, the Transurban Defendants assessed \$100 in

“administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,175.90.

130. In sum, the Transurban Defendants claimed Mrs. Stanfield owed \$8,380.70 as a result of approximately \$30 in purportedly missed tolls.

131. The administrative fees assessed to Mrs. Stanfield were unreasonable and are not related to the true costs the Transurban Defendants incurred to “administer” Mrs. Stanfield’s file.

132. The Transurban Defendants have improperly assessed ascending “civil penalties” up to \$1,000 per violation, even before Mrs. Stanfield had been found guilty of even one toll violation.

133. The summonses were all “signed” by an automated computer program, not a person.

134. The summonses were all issued more than one year after the date of the purported toll violation.

135. Prior to the issuance of the summonses, Mrs. Stanfield was provided with no meaningful or adequate means to contest the fines and fees.

136. Upon receiving the summonses, Mrs. Stanfield contacted the Transurban Defendants.

137. Feeling enormous pressure to resolve the matter, and facing a massive potential liability while at the same time maintaining the gross excessiveness of the fines and fees, Mrs. Stanfield was pressured into paying the Transurban Defendants in the amount of \$2,200.

3. Plaintiff Amarti’s Experience

138. Rachel Amarti signed up for an E-ZPass through E-ZPass Virginia. At all relevant times, her E-ZPass was mounted in her automobile and her E-ZPass account was linked to a valid credit card number for automatic replenishment.

139. Ms. Amarti used the 495 Express Lanes regularly and without incident.

140. However, on June 3, 2013 Ms. Amarti entered the 495 Express Lanes.

Unbeknownst to Ms. Amarti, however, the Transurban Defendants determined that Ms. Amarti had a toll violation for the \$4.80 toll. The toll gantries gave no indication that her transponder was unread or maintained an insufficient balance.

141. On twenty-five other occasions between June 3 and July 22, 2013, Ms. Amarti entered the 495 Express Lanes and—again, unbeknownst to her—was assessed purported toll violations for tolls in the amounts of \$4.80, \$3.95, \$5.25, \$4.00, \$4.50, and twenty other similarly minor amounts.

142. Over the seven week period, Ms. Amarti's tolls amounted to an excess of \$100.

143. Over a year later, in 2014, Ms. Amarti was served with summonses by the Transurban Defendants, which indicated that they were seeking in excess of \$25,000 in total as a result of Ms. Amarti's approximately \$100 in purportedly missed tolls.

(a) For the first purported toll violation, which purportedly occurred on June 3, 2013 in an amount of \$4.80, the Transurban Defendants assessed \$100 in "administrative fees," \$82 in "costs," and a \$50 civil penalty, for a total of \$236.80.

(b) For the second purported toll violation, which purportedly occurred on June 5, 2013 in an amount of \$3.95, the Transurban Defendants assessed \$100 in "administrative fees," \$72 in "costs," and a \$250 civil penalty, for a total of \$425.95.

(c) For the third purported toll violation, which purportedly occurred on June 6, 2013 in an amount of \$5.25, the Transurban Defendants assessed \$100 in "administrative fees," \$72 in "costs," and a \$500 civil penalty, for a total of \$677.25.

(d) For the fourth purported toll violation, which purportedly occurred on

June 6, 2013 in an amount of \$4.00, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,176.00.

(e) For the fifth purported toll violation, which purportedly occurred on June 7, 2013 in an amount of \$4.50, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,176.50.

(f) For the sixth purported toll violation, which purportedly occurred on June 7, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(g) For the seventh purported toll violation, which purportedly occurred on June 10, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(h) For the eighth purported toll violation, which purportedly occurred on June 10, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(i) For the ninth purported toll violation, which purportedly occurred on June 11, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(j) For the tenth purported toll violation, which purportedly occurred on June 11, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(k) For the eleventh purported toll violation, which purportedly occurred on June 12, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(l) For the twelfth purported toll violation, which purportedly occurred on June 12, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(m) For the thirteenth purported toll violation, which purportedly occurred on June 13, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(n) For the fourteenth purported toll violation, which purportedly occurred on June 13, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(o) For the fifteenth purported toll violation, which purportedly occurred on June 14, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(p) For the sixteenth purported toll violation, which purportedly occurred on June 17, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(q) For the seventeenth purported toll violation, which purportedly occurred on June 17, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(r) For the eighteenth purported toll violation, which purportedly occurred on June 18, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(s) For the nineteenth purported toll violation, which purportedly occurred on June 18, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in

“costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(t) For the twentieth purported toll violation, which purportedly occurred on June 19, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(u) For the twenty-first purported toll violation, which purportedly occurred on June 19, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(v) For the twenty-second purported toll violation, which purportedly occurred on June 21, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(w) For the twenty-third purported toll violation, which purportedly occurred on June 21, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(x) For the twenty-fourth purported toll violation, which purportedly occurred on July 8, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

(y) For the twenty-fifth purported toll violation, which purportedly occurred on July 22, 2013, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total in excess of \$1,172.00.

144. In sum, the Transurban Defendants claimed Ms. Amarti owed in excess of \$25,000 as a result of approximately \$100 in purportedly missed tolls.

145. The administrative fees assessed to Ms. Amarti were unreasonable and are not related to the true costs the Transurban Defendants incurred to “administer” Ms. Amarti’s file.

146. The Transurban Defendants have improperly assessed ascending “civil penalties” up to \$1,000 per violation, even before Ms. Amarti had been found guilty of even one toll violation.

147. The summonses were all “signed” by an automated computer program, not a person.

148. The summonses were all issued more than one year after the date of the purported toll violation.

149. Prior to the issuance of the summonses, Ms. Amarti was provided with no meaningful or adequate means to contest the fines and fees.

150. Upon receiving the summonses, Ms. Amarti contacted the Transurban Defendants.

151. Feeling enormous pressure to resolve the matter, and facing a massive potential liability while at the same time maintaining the gross excessiveness of the fines and fees, Ms. Amarti was pressured into paying the Transurban Defendants in the amount of \$3,600.

4. Plaintiff Pizarro’s Experience

152. Mary Elise Pizarro signed up for an E-ZPass through E-ZPass Virginia in or around 2003. At all relevant times, her E-ZPass was mounted in her automobile and her E-ZPass account was linked to a valid credit card number for automatic replenishment.

153. Ms. Pizarro used the 495 Express Lanes regularly and without incident.

154. However, on May 8, 2013 Ms. Pizarro entered the 495 Express Lanes. Unbeknownst to Ms. Pizarro, however, the Transurban Defendants determined that Ms. Pizarro had a toll violation for the \$3.65 toll. The toll gantries gave no indication that her transponder was unread or maintained an insufficient balance.

155. On six other occasions between May 10 and May 28, 2013, Ms. Pizarro entered the 495 Express Lanes and—again, unbeknownst to her—was assessed purported toll violations for tolls in the amounts of \$1.35, \$3.55, \$3.15, \$2.40, \$3.85, and \$2.55.

156. Over the two week period, Ms. Pizarro's tolls amounted to \$20.50. Mr. Pizarro received additional notices of violations in July.

157. For Ms. Pizarro, the very first indication of any problem occurred approximately one month later, when she received four "Final Notice" invoices in the mail stating that she had owed tolls and associated administrative fees. Ms. Pizarro had not received any notices prior to the purportedly "Final Notices."

158. Ms. Pizarro regularly used the 495 Express Lanes to travel both to and from work. However, the invoices indicated that the Transurban Defendants' toll gantries recorded purported violations for only part of the round trip—a clear indication that some form of equipment failure was to blame for the purported toll violations.

159. Ms. Pizarro immediately called Defendant Transurban to question the charges. The representative opined that the toll violations may have resulted from how Ms. Pizarro's transponder was mounted. Ms. Pizarro asked the representative to debit the toll amounts from her active and fully-funded E-ZPass account. Ms. Pizarro understood that Defendant Transurban would assess the tolls and fees in this manner.

160. After this call, two additional "Final Notices" arrived for other purported toll violations.

161. Ms. Pizarro immediately disputed these and all other charges on the Transurban Defendants' website.

162. In July 18, 2013, Ms. Pizarro finally heard back from the Transurban Defendants

when she received an email stating that due to insufficient funds, her request was denied.

However, at all times during the relevant period, Ms. Pizarro maintained a sufficient balance on her E-ZPass account.

163. Ms. Pizarro ceased using the 495 Express Lanes in January 2014. She closed her account at that time.

164. Shortly after Ms. Pizarro closed her account, E-ZPass refunded her approximately \$83, which had existed as a positive balance on her account—which had existed the entire time, even while Transurban was claiming Ms. Pizarro had toll “violations.”

165. Ms. Pizarro had no further communication from the Transurban Defendants until she was served with 10 summonses in September 2014 seeking a total of \$9,440.90.

(a) For the first purported toll violation, which purportedly occurred on May 8, 2013 in an amount of \$3.65, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$50 civil penalty, for a total of \$225.65.

(b) For the second purported toll violation, which purportedly occurred on May 10, 2013 in an amount of \$1.35, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$250 civil penalty, for a total of \$323.35.

(c) For the third purported toll violation, which purportedly occurred on May 14, 2013 in an amount of \$3.55, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$500 civil penalty, for a total of \$675.55.

(d) For the fourth purported toll violation, which purportedly occurred on May 15, 2013 in an amount of \$3.15, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,175.15.

(e) For the fifth purported toll violation, which purportedly occurred on May

15, 2013 in an amount of \$2.40, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.40.

(f) For the sixth purported toll violation, which purportedly occurred on May 16, 2013 in an amount of \$3.85, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,175.85.

(g) For the seventh purported toll violation, which purportedly occurred on May 15, 2013 in an amount of \$2.55, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.55.

(h) For the eighth purported toll violation, which purportedly occurred on July 3, 2013 in an amount of \$3.75, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,175.75.

(i) For the ninth purported toll violation, which purportedly occurred on July 3, 2013 in an amount of \$3.75, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,175.75.

(j) For the tenth purported toll violation, which purportedly occurred on May 15, 2013 in an amount of \$2.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.90.

166. In sum, the Transurban Defendants claimed Ms. Pizarro owed \$9,440 as a result of approximately \$20 in purportedly missed tolls.

167. The administrative fees assessed to Ms. Pizarro were unreasonable and are not related to the true costs the Transurban Defendants incurred to “administer” Ms. Pizarro’s file.

168. The Transurban Defendants have improperly assessed ascending “civil penalties” up to \$1,000 per violation, even before Ms. Pizarro had been found guilty of even one toll

violation.

169. The summonses were all “signed” by an automated computer program, not a person.

170. The summonses were all issued more than one year after the date of the purported toll violation.

171. Prior to the issuance of the summonses, Ms. Pizarro was provided with no meaningful or adequate means to contest the fines and fees.

172. Upon receiving the summonses, Ms. Pizarro immediately contacted the Transurban Defendants.

173. During this conversation, Ms. Pizarro was informed by a Transurban employee that she allegedly committed four additional toll violations in July 2013 that she was not yet aware of. The Transurban employee never provided documentation of these alleged violations to Ms. Pizarro, and instead, offered to “settle” these additional charges for \$413.90 “to avoid having them go to court.”

174. Feeling enormous pressure to resolve the matter, and facing a massive potential liability while at the same time maintaining the gross excessiveness of the fines and fees, Ms. Pizarro was pressured into entering into an agreement with the Transurban Defendants in the amount of \$1,100 for the above-noted alleged violations and \$413.90 for the four additional alleged violations.

5. Plaintiff Hale’s Experience

175. Duane Hale signed up for an E-ZPass through E-ZPass Virginia in 2006. At all relevant times, his E-ZPass was mounted in his automobile and her E-ZPass account was linked to a valid credit card number for automatic replenishment.

176. Mr. Hale used the 495 Express Lanes regularly and without incident.

177. However, on July 6, 2013 Mr. Hale entered the 495 Express Lanes. Unbeknownst to Mr. Hale, the Transurban Defendants determined that Mr. Hale had a toll violation for the \$1.90 toll. The toll gantries gave no indication that his transponder was unread or maintained an insufficient balance.

178. On fifteen other occasions between July 6 and November 11, 2013, Mr. Hale entered the 495 Express Lanes and—again, unbeknownst to him—was assessed purported toll violations for tolls in the amounts of \$1.90, \$2.05, \$1.80, \$1.90, \$1.55, \$2.05, \$1.35, \$1.90, \$1.90, \$1.90, \$2.35, \$2.35, \$1.95, \$1.90, and \$1.90.

179. Over the period, Mr. Hales's tolls amounted to \$30.65.

180. At all times, Mr. Hale maintained a positive balance on his account—even while Transurban was claiming Mr. Hale had toll “violations.”

181. For Mr. Hale, the very first indication of any problem occurred when he received notices demanding payment for unpaid tolls, despite having a positive balance in his EZ-Pass account. He promptly disputed these initial notices but Transurban Defendants persisted.

182. Mr. Hale was served with 16 summonses in October 2014 seeking a total of over \$15,000.

(a) For the first purported toll violation, which purportedly occurred on July 6, 2013 in an amount of \$1.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$50 civil penalty, for a total of \$223.90.

(b) For the second purported toll violation, which purportedly occurred on July 6, 2013 in an amount of \$1.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$50 civil penalty, for a total of \$223.90.

(c) For the third purported toll violation, which purportedly occurred on July 11, 2013 in an amount of \$1.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$250 civil penalty, for a total of \$423.90.

(d) For the fourth purported toll violation, which purportedly occurred on July 11, 2013 in an amount of \$1.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$500 civil penalty, for a total of \$673.90.

(e) For the fifth purported toll violation, which purportedly occurred on July 22, 2013 in an amount of \$2.05, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.05.

(f) For the sixth purported toll violation, which purportedly occurred on July 26, 2013 in an amount of \$1.80, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.80.

(g) For the seventh purported toll violation, which purportedly occurred on August 3, 2013 in an amount of \$1.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.90.

(h) For the eighth purported toll violation, which purportedly occurred on August 4, 2013 in an amount of \$1.55, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.55.

(i) For the ninth purported toll violation, which purportedly occurred on August 4, 2013 in an amount of \$2.05, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.05.

(j) For the tenth purported toll violation, which purportedly occurred on September 1, 2013 in an amount of \$1.35, the Transurban Defendants assessed \$100 in

“administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.35.

(k) For the eleventh purported toll violation, which purportedly occurred on September 14, 2013 in an amount of \$1.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.90.

(l) For the twelfth purported toll violation, which purportedly occurred on September 14, 2013 in an amount of \$1.90, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.90.

(m) For the thirteenth purported toll violation, which purportedly occurred on September 22, 2013 in an amount of \$2.35, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.35.

(n) For the fourteenth purported toll violation, which purportedly occurred on October 8, 2013 in an amount of \$2.35, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.35.

(o) For the fifteenth purported toll violation, which purportedly occurred on October 20, 2013 in an amount of \$2.35, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,174.35.

(p) For the sixteenth purported toll violation, which purportedly occurred on November 11, 2013 in an amount of \$1.95, the Transurban Defendants assessed \$100 in “administrative fees,” \$72 in “costs,” and a \$1000 civil penalty, for a total of \$1,173.95.

183. In sum, the Transurban Defendants claimed Mr. Hale owed \$15,633.10 as a result of approximately \$30 in purportedly missed tolls.

184. The administrative fees assessed to Mr. Hale were unreasonable and are not related to the true costs the Transurban Defendants incurred to “administer” Mr. Hale’s file.

185. The Transurban Defendants have improperly assessed ascending “civil penalties” up to \$1,000 per violation, even before Mr. Hale had been found guilty of even one toll violation.

186. The summonses were all “signed” by an automated computer program, not a person.

187. The summonses were all issued more than one year after the date of the purported toll violation.

188. Prior to the issuance of the summonses, Mr. Hale was provided with no meaningful or adequate means to contest the fines and fees.

189. Mr. Hale has a court date in Fairfax County General District Court on March 16, 2014, but all summonses were null processed.

190. No judgment of any sort has been entered against him to date.

6. Plaintiff Osborne’s Experience

191. Michele Osborne signed up for an E-ZPass Virginia account in or around 2008. At all relevant times, her E-ZPass was mounted on the windshield of her automobile and her E-ZPass account was linked to a valid payment method for automatic replenishment.

192. Ms. Osborne had repeatedly used the 495 Express Lanes—without incident—before November 13, 2013.

193. On that day, Ms. Osborne entered the 495 Express Lanes. The toll gantries gave no indication that her E-ZPass was unread or maintained an insufficient balance.

194. Unbeknownst to Ms. Osborne, however, the Transurban Defendants determined that Ms. Osborne had a toll violation for the \$4.45 toll.

195. On three other occasions between November 19, 2013 and November 21, 2013, Ms. Osborne entered the 495 Express Lanes and—again, unbeknownst to her—was assessed

purported toll violations for tolls in the amounts of \$3.65, \$3.95, and \$4.70.

196. Over the 7 day period, Ms. Osborne's tolls amounted to \$16.75.

197. Ms. Osborne received no notice of the purported toll violations until approximately four months later, when she received a "Demand for Payment and Credit Bureau Warning" letter from Defendant LES stating that she owed \$312.20 for the purported November 19, 20 and 21 toll violations (though not for the November 13 toll violation, which was not listed).

198. Several months later, in December 2014, Ms. Osborne was served with summonses by the Transurban Defendants, which indicated that they were seeking \$2,293.30 in total as a result of Ms. Osborne's \$16.75 in purportedly missed tolls.

(a) For the first purported toll violation, which purportedly occurred on November 13, 2013 in an amount of \$4.45, the Transurban Defendants assessed \$100 in "administrative fees," \$77 in "costs," and a \$50 civil penalty, for a total of \$231.45.

(b) For the second purported toll violation, which purportedly occurred on November 19, 2013 in an amount of \$3.65, the Transurban Defendants assessed \$100 in "administrative fees," \$77 in "costs," and a \$250 civil penalty, for a total of \$430.65.

(c) For the third purported toll violation, which purportedly occurred on November 20, 2013 in an amount of \$3.95, the Transurban Defendants assessed \$100 in "administrative fees," \$77 in "costs," and a \$500 civil penalty, for a total of \$680.95.

(d) For the fourth purported toll violation, which purportedly occurred on November 21, 2013 in an amount of \$4.70, the Transurban Defendants assessed \$100 in "administrative fees," \$77 in "costs," and a \$1000 civil penalty, for a total of \$1,181.70.

199. The summonses were all "signed" by an automated computer program, not a

human as required by Virginia law.

200. The administrative fees assessed to Ms. Osborne are unreasonable and are not related to the true costs the Transurban Defendants incurred to “administer” Ms. Osborne’s file.

201. The Transurban Defendants have improperly assessed ascending “civil penalties” up to \$1,000 per violation, even though Ms. Osborne has never been found guilty of even one toll violation.

202. Prior to the issuance of the summonses, Ms. Osborne was provided with no meaningful or adequate means to contest the fines and fees.

203. No judgment of any sort has been entered against her to date.

7. Plaintiff Chase’s Experience

204. Jocelyn Chase signed up for an E-ZPass through E-ZPass Virginia in 2014. At all relevant times, her E-ZPass was mounted in her automobile.

205. Ms. Chase had repeatedly used the 495 Express Lanes—without incident—before June 23, 2014.

206. On that day, Ms. Chase entered the 495 Express Lanes. The toll gantries gave no indication that her E-ZPass was unread or maintained an insufficient balance.

207. Unbeknownst to Ms. Chase, however, the Transurban Defendants determined that Ms. Chase had a toll violation for the \$1.10 toll.

208. On twenty-eight other occasions between June 25, 2014 and September 4, 2014, Ms. Chase entered the 495 Express Lanes and—again, unbeknownst to her—was assessed purported toll violations for tolls in the amounts of \$1.10, \$1.00, \$1.25, \$1.15, \$1.85, \$1.10, \$0.85, \$0.70, \$1.85, \$0.85, \$1.05, \$0.90, \$2.15, \$1.00, \$0.50, \$0.90, \$1.25, \$0.75, \$0.95, \$0.75, \$0.75, \$0.95, \$1.50, \$0.85, \$1.05, \$0.70, \$1.15, and \$1.10.

209. Over the 73 day period, Ms. Chase's tolls amounted to \$30.95.

210. Ms. Chase did not receive a notice of even a single missed toll until more than two months after the first purported violation, when she received an "Unpaid Toll Invoice" letter from Capital Beltways Express LLC. Between September and November 2014, Ms. Chase received a total of six of these "Unpaid Toll Invoice" letters seeking payment for 23 of the 29 allegedly missed tolls; Ms. Chase never received this initial notice from the Transurban Defendants for 6 of the tolls.

211. The first time Ms. Chase received notice of these 6 additional tolls was from Defendant LES. The first correspondence from Defendant LES for two of these tolls came on March 3, 2015 in the form of a credit bureau warning date and for the remaining four on December 11, 2014, in the form of a notice of assignment from Defendant LES.

212. By March 3, 2015, Defendant LES was seeking a total of \$1,817.85 for 18 allegedly missed tolls. When Defendant LES reported these supposedly missed tolls to the credit bureaus, the amount allegedly owed grew to \$1,919.10, as Defendant LES added an additional missed toll that it had not previously accounted for in a credit bureau warning letter.

213. On May 25, 2015 – Memorial Day – Ms. Chase was served with summonses by the Transurban Defendants, which indicated that they were seeking \$2,512.10 in total as a result of Ms. Chase missing just 4 tolls totaling \$4.10.²

a. For the first purported toll violation, which purportedly occurred on August 19, 2014 in the amount of \$1.50, the Transurban Defendants assessed \$100 in "administrative fees," \$77 in "costs," and a \$50 civil penalty, for a total of \$228.50.

b. For the second purported toll violation, which purportedly occurred on

² Ms. Chase was not notified of these allegedly missed tolls until more than 7 months after the alleged violations occurred, when they were listed on a letter from Defendant LES.

August 20, 2014 in the amount of \$0.85, the Transurban Defendants assessed \$100 in “administrative fees,” \$77 in “costs,” and a \$100 civil penalty, for a total of \$427.85.

c. For the third purported toll violation, which purportedly occurred on August 21, 2014 in the amount of \$1.05, the Transurban Defendants assessed \$100 in “administrative fees,” \$77 in “costs,” and a \$250 civil penalty, for a total of \$678.05.

d. For the fourth purported toll violation, which purportedly occurred on August 22, 2014 in the amount of \$0.70, the Transurban Defendants assessed \$100 in “administrative fees,” \$77 in “costs,” and a \$500 civil penalty, for a total of \$1,177.70.

214. The summonses were all “signed” by an automated computer program, not a human as required by Virginia law.

215. The administrative fees assessed to Ms. Chase are unreasonable and are not related to the true costs the Transurban Defendants incurred to “administer” Ms. Chase’s file.

216. The Transurban Defendants have improperly assessed ascending “civil penalties” up to \$5,000 per violation, even though Ms. Chase has never been found guilty of even one toll violation.

217. Prior to the issuance of the summonses, Ms. Chase was provided with no meaningful or adequate means to contest the fines and fees.

218. Ms. Chase has a court date in Fairfax County General District Court on June 24, 2015.

219. No judgment of any sort has been entered against her to date.

CLASS ALLEGATIONS

220. Plaintiffs bring this action on behalf of themselves and all others similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure. As detailed further below, this

action satisfies the numerosity, commonality, typicality, adequacy, predominance and superiority requirements of Rule 23.

221. The proposed classes are defined as:

Class 1 (the “Outstanding Fee or Civil Penalties Class”)

All users of HOT Lanes in Virginia who hold or held an E-ZPass at the time of the purported violation and who have been assessed an administrative fee and/or civil penalties by the Transurban Defendants, but who have not executed a release of Defendants or had judgments entered against them.

Class Representatives: Plaintiffs Brown, Stanfield, Osborne, Hale, Chase.

Class 2 (the “Settlement/Judgment Class”)

All users of HOT Lanes in Virginia who hold or held an E-ZPass at the time of the purported violation and who have been assessed an administrative fee and/or civil penalties by the Transurban Defendants, have been issued a summons by the Transurban Defendants, and have resolved the summons by settlement or judgment.

Class Representative: Plaintiff Pizarro, Stanfield, Amarti.

Class 3 (the “LES Fair Debt Collection Practices Class”)

All natural persons who received correspondence from the Defendant LES (i) in an attempt to collect a debt on behalf of Defendant Transurban, (ii) that was incurred primarily for personal, household or family purposes (iii) during the one year period prior to the filing of the Complaint in this matter; and all natural persons who received correspondence from the Defendant LES stating “If you wish to dispute the validity of this debt or any portion thereof, you must notify this office, in writing, using the affidavit on the reverse side of this notice. Otherwise, we will assume the debt is valid and will pursue all means available for its collection.”

Class Representatives: Plaintiffs Pizarro, Osborne, Chase.

222. Classes 1 through 3 are collectively referred to herein as the “Classes.”

223. Plaintiffs reserve the right to modify or amend the definitions of the proposed

Classes before the Court determines whether certification is appropriate.

224. Excluded from the Classes are Defendants, their parents, subsidiaries, affiliates, officers and directors, any entity in which Defendants have a controlling interest, all customers who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

225. **Numerosity.** The members of the Classes are so numerous that joinder is impractical. The Classes consist of thousands of members, the identity of whom is within the knowledge of and can be readily ascertained through Defendants' records. According to various sources, Transurban filed suit against 26,000 HOT lane users in 2014 alone.

226. **Commonality.** The claims of the representative Plaintiffs are typical of the claims of the Classes that they seek to represent in that the representative Plaintiffs, like all Class members, were assessed illegitimate fees and fines by Transurban through notices, summonses, resolution, and/or judgment. The representative Plaintiffs, like all Class members, have been damaged by Defendants' misconduct in that Defendants have assessed unfair and unconscionable charges against them. Furthermore, the factual basis of Defendants' misconduct is common to all Class members, and represents a common thread of unfair and unconscionable conduct resulting in injury to all members of the Classes.

227. **Predominance.** There are numerous questions of law and fact common to the Classes and those common questions predominate over any questions affecting only individual Class members.

228. Among the questions of law and fact common to the Classes are whether:

(a) The Transurban Defendants tortiously interfered with the contract Plaintiffs and the classes had with the E-ZPass Entities;

(b) The Transurban Defendants were unjustly enriched through their fee and

fine policies and practices;

(c) Defendant LES is a debt collector under the FDCPA;

(d) The Collection Defendants Violated the FDCPA;

(e) Transurban Defendants have obtained judgments using an unregistered, fictitious name.

(f) The Transurban Defendants and the Collection Defendants violated the Maryland Consumer Protection Act and the Virginia Consumer Protection Act;

(g) The Transurban Defendants violated the Eighth and Fourteen Amendments of the U.S. Constitution.

229. Other questions of law and fact common to the Classes include:

(a) The proper method or methods by which to measure damages; and

(b) The declaratory relief to which the Classes are entitled.

230. **Typicality.** Plaintiffs' claims are typical of the claims of other members of the Classes in that they arise out of the same wrongful policies and practices of the E-ZPass User Agreement and other related documents. Plaintiffs have suffered the harm alleged and have no interests antagonistic to the interests of any other members of the Classes.

231. **Adequacy.** Plaintiffs are committed to the vigorous prosecution of this action and have retained competent counsel experienced in the prosecution of class actions. Accordingly, each Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class(es) in which he or she is a proposed Class Representative.

232. **Superiority.** A class action is superior to other available methods for the

fair and efficient adjudication of this controversy. Since the amount of each individual Class member's claim is small relative to the complexity of the litigation, and due to the financial resources of Defendants, no Class member could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, the Class members will continue to suffer losses and Defendants' misconduct will proceed without remedy.

233. Even if members of the Classes themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard which might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

234. In the alternative, a class action as particular issues is appropriate here.

FIRST CLAIM FOR RELIEF
42 U.S.C. Section 1983

**Violation of the Eighth Amendment of the United States Constitution
And Article I, Section 11 of the Virginia Constitution
(On Behalf of Class 1 and 2)
(Transurban Defendants)**

235. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

236. Pursuant to statute, the Transurban Defendants are operating under the authority of the Commonwealth of Virginia when they collect administrative fees and civil penalties for themselves. The Transurban Defendants keep such monies for their own use.

237. The enforcement of the civil penalty assessments discussed above constitutes a violation of the United States' Constitution's Eighth Amendment's and Virginia Constitution's protection against excessive fines. Plaintiffs and members of the Classes were assessed enormous fines and penalties that bear no relationship to the harm caused and are therefore unconstitutional.

238. The Transurban Defendants impose these penalties in order to maximize their profits.

239. As a direct and legal result of the acts and omissions of Defendants, acting under the authority of the Commonwealth of Virginia, Plaintiffs and members of the Classes have suffered damages, and/or are entitled to restitution, in an amount to be proven at trial.

240. Certain Defendants may be protected by settlement or judgments with class members, but all Defendants are not party to such settlements or judgments.

241. Pursuant to 42 U.S.C. § 1988, Plaintiffs further seeks their costs and attorneys' fees incurred as a result of this lawsuit.

SECOND CLAIM FOR RELIEF

42 U.S.C. Section 1983

**Violation of the Procedural Due Process of the United States Constitution and Article I,
Section 11 of the Virginia Constitution**

242. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

243. Pursuant to statute, the Transurban Defendants are operating under the authority of the Commonwealth of Virginia when they collect administrative fees and civil penalties for themselves. The Transurban Defendants keep such monies for their own use.

244. The scheme described above violates the Due Process Clause of the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 11 of the

Virginia Constitution for the following reasons, among others:

(a) Defendants impose fees and penalties for multiple violations on class members who do not know and could not reasonably know that they have incurred multiple HOT Lane violations;

(b) Before notice is given, HOT Lanes users may have passed through the toll road dozens of times, unknowingly racking up thousands of dollars in penalties;

(c) Defendants do not provide adequate notice of violations before charging fees and penalties for further violations;

(d) There is no adequate opportunity to be heard on the amount of the civil penalty or the administrative fees;

(e) The penalties and fees are so excessive that class members do not have fair notice that they will be imposed;

245. Certain Defendants may be protected by settlement or judgments with class members, but all Defendants are not party to such settlements or judgments.

246. The deprivations of the rights of Plaintiffs and members of the Classes as described above were a proximate result of the policies, procedures, practices, and/or customs maintained by the Transurban Defendants. As a direct and legal result of the acts and omissions of the Transurban Defendants, and each of them, Plaintiffs and members of the Classes have suffered damages, and/or are entitled to restitution, in an amount to be proven at trial.

247. Plaintiffs and members of the Classes seek injunctive relief to stop the Transurban Defendants' unlawful policies, procedures, practices and/or customs described above.

248. Pursuant to 42 U.S.C. § 1988, Plaintiffs further seek their costs and attorneys' fees incurred as a result of this lawsuit.

THIRD CLAIM FOR RELIEF

42 U.S.C. Section 1983

Violation of Substantive Due Process (On Behalf of Class 1 and 2)

249. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

250. Under state law, Plaintiffs and the class members are entitled to, *inter alia*, use toll roads and may be assessed tolls and reasonable administrative fees and civil penalties where appropriate.

251. Virginia law specifically governs the fees and penalties the Transurban Defendants may charge, as well as the time period for bringing suit for such fees and penalties.

252. The E-ZPass contracts nowhere authorize E-ZPass or the Transurban Defendants to charge excessive and unreasonable administrative fees and civil penalties.

253. The Transurban Defendants charged fees and penalties outside of and contrary to the Virginia law and contrary to Plaintiffs' contracts with the E-ZPass Entities. The Collection Defendants sought to collect those fees on the Transurban Defendants' behalf.

254. Transurban Defendants acting under color of state law and with authority delegated by the state have acted unreasonably, arbitrarily and irrationally in seeking administrative expenses unrelated to their actual expenses.

255. The Transurban Defendants acting under color of state law and with authority delegated by the state have acted unreasonably, arbitrarily and irrationally in seeking excessive penalties.

256. Certain Defendants may be protected by settlement or judgments with class members, but all Defendants are not party to such settlements or judgments.

257. Plaintiffs and members of the Classes have sustained damages as a result of the

Transurban Defendants' constitutional violations.

FOURTH CLAIM FOR RELIEF
Unjust Enrichment
(On Behalf of Class 1 and 2)

258. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

259. Plaintiffs, on behalf of themselves and the Classes, assert a common law claim for unjust enrichment, in the alternative.

260. By means of Defendants' wrongful conduct alleged herein, Defendants knowingly assessed charges on Plaintiffs and members of the Classes that were unfair, unconscionable, and/or oppressive.

261. Defendants knowingly received and retained wrongful benefits and funds from Plaintiffs and members of the Classes. In so doing, Defendants acted with conscious disregard for the rights of Plaintiffs and members of the Classes.

262. As a result of Defendants' wrongful conduct as alleged herein, Defendants have been unjustly enriched at the expense of, and to the detriment of, Plaintiffs and members of the Classes.

263. Defendants' unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein.

264. It is inequitable for Defendants to be permitted to retain the benefits they received, and are still receiving, without justification, from the imposition of fees and fines on Plaintiffs and members of the Classes in an unfair, unconscionable, and oppressive manner. Defendants' retention of such funds under circumstances making it inequitable to do so constitutes unjust enrichment.

265. The financial benefits derived by Defendants rightfully belong to Plaintiffs and members of the Classes. Defendants should be compelled to disgorge in a common fund for the benefit of Plaintiffs and members of the Classes all wrongful or inequitable proceeds received by them. A constructive trust should be imposed upon all wrongful or inequitable sums received by Defendants traceable to Plaintiffs and the members of the Classes.

266. Certain Defendants may be protected by settlement or judgments with class members, but all Defendants are not party to such settlements or judgments.

267. Plaintiffs and members of the Classes have no adequate remedy at law.

FIFTH CLAIM FOR RELIEF
15 U.S.C. § 1692e(2), 1692f(1), and/or 1692g
(On Behalf of the LES Fair Debt Collection Practices Class)

268. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

269. As set forth above, the Collection Defendants violated the FDCPA by making false and misleading representations, and engaging in unfair and abusive practices in violation of § 1692g.

270. The Collection Defendants also attempted to collect knowingly excessive and inflated fines and fees in violation of § 1692e(2), and/or 1692f(1).

271. The Collection Defendants' violations of the FDCPA entitle Plaintiffs and members of the Classes to their actual damages (for only the e and f claims) in an amount to be proved at trial, to statutory damages (for the g claim), costs and attorneys' fees, and to any additional relief this Court deems just and proper.

SIXTH CLAIM FOR RELIEF
Violation of the Maryland Consumer Protection Act
Md. Code, Com. Law §§ 13-101, *et seq.*
(On Behalf of Maryland Residents of Class 1 and 2)

272. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

273. This cause of action is brought pursuant to Maryland's Consumer Protection Act, Md. Code, Com. Law § 13-101, *et seq.* ("MCPA").

274. The MCPA declares unlawful deceptive and unfair trade practices such as, making false or misleading statements and other representations that have the capacity, tendency, or effect of deceiving or misleading consumers, failing to state material facts where the failure deceives or tends to deceive consumers, and engaging in deception, misrepresentation, or knowing concealment, suppression, or omission of material facts with the intent that consumers rely on the same in connection with the promotion and sale of consumer goods or services.

275. Under the MCPA, Defendants' assessment of, and misleading representations regarding, excessive and unjustified administrative fees and civil penalties are unfair, deceptive and unconscionable.

276. Specifically, the summonses and debt collection letters discussed herein contain misrepresentations regarding the amount of purported debts and the reasons for the purported debts.

277. In addition, the \$100 administrative fee assessed on each and every purported toll violation is itself a misrepresentation—the \$100 amount is far in excess of any reasonable amount the Transurban Defendants pay to "administer" HOT Lanes users' files.

278. Defendants violated the MCPA by engaging in a fraudulent and deceptive scheme to extort huge fines and penalties from Maryland consumers by threatening dire consequences. Many Maryland consumers are forced to succumb to the aggressive and misleading tactics of the Transurban Defendants and the Collection Defendants.

279. Defendants violated the MCPA by failing to disclose that the Transurban Defendants had no basis to assess ascending civil penalties in the absence of a lawful finding of guilt on prior toll violations.

280. Defendants violated the MCPA by assessing civil penalties in excess of those authorized by the Maryland E-ZPass User Agreement.

281. As a direct and proximate result of Defendants' deceptive, fraudulent, and unfair practices, Maryland residents have suffered injury in fact and/or actual damages in an amount to be determined at trial.

282. Plaintiff Osborne, on behalf of herself and all others similarly situated, demands judgment against Defendants for damages and declaratory relief.

SEVENTH CLAIM FOR RELIEF
Violation of the Virginia Consumer Protection Act
Va. Code §§ 59.1-196, *et seq.*
(On Behalf of Virginia Residents of Class 1 and 2)

283. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

284. This cause of action is brought pursuant to Virginia's Consumer Protection Act, Va. Code §§ 59.1-196, *et seq.* ("VCPA").

285. Under the VCPA, "supplier" means "a seller, lessor or licensor who advertises, solicits or engages in consumer transactions, or a manufacturer, distributor or licensor who advertises and sells, leases or licenses goods or services to be resold, leased or sublicensed by other persons in consumer transactions."

286. Under the VCPA, "consumer transaction" means "the advertisement, sale, lease, license or offering for sale, lease or license, of goods or services to be used primarily for personal, family or household purposes."

287. The VCPA declares as “unlawful” practices such “attempting to collect any ... penalties ... that are void or unenforceable under any otherwise applicable laws of the Commonwealth”

288. In addition, the VCPA declares as “unlawful” practices such as “[u]sing any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction.”

289. The Transurban Defendants were suppliers under the VCPA by advertising and providing a “service” to consumers in the form of the use of HOT Lanes. The Collection Defendants were acting as agents of and on behalf of the Transurban Defendants in attempting to collect the void and unenforceable penalties described herein.

290. Under the VCPA, Defendants’ misleading representations regarding their excessive and unjustified administrative fees and civil penalties, as detailed above, were unfair, deceptive and unconscionable. As such, Defendants violated the VCPA in attempting to collect these penalties.

291. Specifically, the summonses and debt collection letters sent to Plaintiffs and discussed herein contain numerous misrepresentations regarding the amount of purported debts Plaintiffs and the class owed as well as the reasons for the purported debts.

292. In addition, the \$100 administrative fee assessed on each and every purported toll violation discussed herein is itself a misrepresentation—the \$100 amount is far in excess of any reasonable amount the Transurban Defendants pay to “administer” HOT Lanes’ users’ files.

293. Defendants violated the VCPA by engaging in a fraudulent and deceptive scheme to extort huge fines and penalties from Virginia consumers by threatening dire consequences. Many Virginia consumers have been forced to succumb to the aggressive and misleading tactics

of the Transurban Defendants and the Collection Defendants.

294. Defendants violated the VCPA by failing to disclose that the Transurban Defendants had no basis to assess ascending civil penalties in the absence of a lawful finding of guilt on prior toll violations.

295. Defendants violated the VCPA by assessing civil penalties in excess of those authorized by the Virginia E-ZPass User Agreement and Virginia law.

296. As a direct and proximate result of Defendants' deceptive, fraudulent, and unfair practices, Virginia residents have suffered injury in fact and/or actual damages in an amount to be determined at trial.

EIGHTH CLAIM FOR RELIEF
Tortious Interference with Contract
(On Behalf of Class 1 and 2)

297. Plaintiffs repeat and reallege each and every allegation contained above as though fully set forth herein.

298. Plaintiffs and E-Z Pass have contracted for toll road use services.

299. As part of that contract, Plaintiffs and the class members are entitled to, *inter alia*, use toll roads and may be assessed tolls and reasonable administrative fees and civil penalties where appropriate.

300. At all times, the Transurban Defendants were aware of the existence of the User Agreement between, on the one hand, Plaintiffs and the class members and, on the other hand, the E-Z Pass because the Transurban Defendants' business model for operation of the HOT Lanes assumes the existence of E-Z Pass users with E-Z Pass transponders. Indeed, cash payments are not accepted at any HOT Lanes toll gantries.

301. Transurban tortiously interferes with this contractual relationship and prevents

Plaintiffs and the class members from obtaining the full benefits of this contractual relationship with the E-Z Pass Entities.

302. The E-Z Pass contracts nowhere authorize E-Z Pass or the Transurban Defendants to charge excessive and unreasonable administrative fees and civil penalties..

303. The Transurban Defendants charged fees and penalties outside contrary to the Virginia law and contrary to the Plaintiffs' contracts with the E-Z Pass Entities. The Collection Defendants sought to collect those fees on Transurban Defendants' behalf.

304. Therefore, the Transurban Defendants tortiously interfered with the performance of the EZ Pass User Agreement.

305. With respect to the Maryland members of the Classes, the Transurban Defendants additionally tortiously interfered with the Maryland E-Z Pass User Agreement, which expressly stated, in the "Schedule of Fees," that "Civil Penalties" would be no more than \$50. Instead, the Transurban Defendants caused the assessment of civil penalties of up to \$1,000 per violation.

306. With respect to the Maryland members of the Classes, the Transurban Defendants additionally tortiously interfered with the Maryland E-Z Pass User Agreement, which nowhere authorized the assessment of "administrative fees."

307. With respect to the Maryland members of the Classes, the Transurban Defendants and the Collection Defendants additionally tortiously interfered with the Maryland E-Z Pass User Agreement by attempting to collect debts purportedly owing for use of HOT Lanes. The Maryland E-Z Pass User Agreement only authorizes "referral to the State of Maryland Central Collection Unit ("CCU"). The Maryland Motor Vehicle Administration (MVA) and CCU may assess additional fees." It does not authorize debt collection by the Transurban Defendants or the Collection Defendants.

308. With respect to users, like Plaintiff Brown, who initially opened their EZ-Pass account with E-Z Pass New York, the Transurban Defendants additionally tortiously interfered with the New York E-Z Pass User Agreement, which expressly stated, in the “Schedule of Fees,” that “administrative” would be no more than “\$50 per occurrence.” Instead, the Transurban Defendants caused the assessment of administrative fees of \$100 per violation.

309. With respect to Virginia members of the classes, the Transurban Defendants additionally tortiously interfered with the Virginia E-Z Pass User Agreement, which expressly stated, that any fees would be set by VDOT. Instead, the Transurban Defendants caused the assessment of fees and penalties beyond those set by VDOT.

310. As a direct, proximate, and foreseeable result of the Transurban Defendants’ tortious interference with Plaintiffs and the class members’ contracts with the E-Z Pass Entities, Plaintiffs and the class members have been legally injured and sustained damages by not receiving the full benefit of their contractual bargain.

311. Plaintiffs and members of the Classes have performed all, or substantially all, of the obligations imposed on them under the User Agreement.

312. Plaintiffs and members of the Classes have sustained damages as a result of the Transurban Defendants’ tortious interference with the User Agreement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Classes demand a jury trial on all claims so triable and judgment as follows:

- A. Declaring Defendants’ fee and penalty policies and practices and collection methods to be wrongful, unfair, and unconscionable and enjoining any such future collections;
- B. Unconstitutional restitution of fees and penalties paid to Defendants by Plaintiffs,

classes, and other appropriate deductory and/or injunctive relief, as a result of the wrongs alleged herein in an amount to be determined at trial;

- C. Disgorgement of the ill-gotten gains derived by Defendants from their misconduct;
- D. Actual damages in an amount according to proof;
- E. Punitive and exemplary damages;
- F. Pre-judgment interest at the maximum rate permitted by applicable law;
- G. Costs and disbursements assessed by Plaintiffs in connection with this action, including reasonable attorneys' fees pursuant to applicable law; and
- H. Such other relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs demand a jury trial on all causes of action so triable.

Dated: June 8, 2015

Respectfully submitted,

/s/

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(Pro Hac Vices to be submitted for non-Virginia attorneys)
Attorneys for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of June, 2015, I have electronically filed the foregoing using the CM/ECF system, which will automatically send e-mail notification of such filing to all counsel of record.

/s/

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EXHIBIT 1

E-ZPass Customer Service Agreement

Virginia E-ZPass Terms and Conditions AGREEMENT

Subject to the terms of this Agreement, the *E-ZPass* Customer Service Center (Service Center) agrees to provide a transponder (*Standard E-ZPass* or *E-ZPass Flex*) to the User who in turn may use it to obtain passage on toll roads accepting *E-ZPass*.

USE OF THE E-ZPASS

User agrees:

1. a) The *E-ZPass* transponder is the property of VDOT.
2. b) To install the *E-ZPass* in accordance with the *E-ZPass* Installation Instructions. If failure to properly install the *E-ZPass* results in a toll violation, the user is subject to the full (non- discounted) toll and any administrative fees.
3. c) To proactively maintain a positive *E-ZPass* account balance.
4. d) That failure to maintain a positive *E-ZPass* balance could result in unpaid tolls, denied passage, violations, administrative fees and/or a court summons depending on the circumstances.
5. e) Not to exceed posted speeds at toll plazas and posted speed limits on open road toll facilities with no toll plazas.
6. f) That the *E-ZPass* Service Center shall have no obligation or liability to the User with respect to use or performance of the *E-ZPass*. User agrees to indemnify and hold the *E-ZPass* Service Center, the Commonwealth of Virginia, and all other operating agencies, their agents, representatives and respective employees harmless from and against any and all damage, loss, cost, expense, injury or liability relating to, arising from, or as a result of the use of, or the performance of the *E-ZPass*, or as a result of inaccurate *E-ZPass* User account inf
7. g) To be fully responsible for any and all charges arising from the use of each *E-ZPass* until such time as User either surrenders the *E-ZPass* transponder or reports it lost/stolen to the *E-ZPass* Service Center.
8. h) To use the *E-ZPass* only for the vehicle class for which the *E-ZPass* was issued. Use of the *E-ZPass* on a vehicle with a different number of axles, vehicle weight (over or under 7000 lbs), or tire configuration (duals) is a violation of this Agreement, may be a violation of applicable law and may result in additional charges, including administrative fees and/or termination of this Agreement.
9. i) To maintain a safe following distance of at least one vehicle length when passing through tolling points.
10. j) Not to dispute *E-ZPass* charges that are more than 6 months old.
11. k) That NO RECEIPT will be given at the lane for *E-ZPass* transactions.
12. l) To provide the *E-ZPass* Service Center with current, accurate and complete personal information to include, name, phone number(s), mailing address, email address, driver's license number and State, replenishment information, vehicle information, and license plates for all vehicles that will use the *E-ZPass*, and provide accurate and complete updates when information changes.

13. m) That any account with five (5) or more transponders will be required to utilize automatic required to utilize automatic replenishment.
14. n) Not to travel with more than one *E-ZPass* in a single vehicle.
15. o) To be fully aware of specific Facility Terms of Use for each Toll Facility used prior to travel and to use the *E-ZPass* in accordance with the specific Facility Terms of Use. These Terms of Use can be found on the Toll Facility's web site which can be reached via www.EZPassVA.com.

PREPAID ACCOUNT

User agrees to maintain a Prepaid Account with the Service Center to cover User's applicable tolls, charges and fees as described in this Agreement. Failure to maintain a positive balance shall constitute a breach of this Agreement and may subject the User to the loss of discounts, administrative costs, any unpaid toll charges as determined by the Virginia Department of Transportation (VDOT), the Toll Facility or any State where usage occurred, and termination of this agreement. User agrees that it is their responsibility to monitor their usage and account balance. *E-ZPass* provides a variety of means for checking account balances (including but not limited to quarterly and monthly statements, online review, and low balance yellow light indicators at some locations) and will attempt to notify the customer via balance alerts as a courtesy. *E-ZPass* shall not be responsible for any consequences arising as a result of failure to maintain a positive account balance. User shall be responsible for any violations, fees, claims, tolls and/or any other charges assessed as a result of failure to maintain a positive balance. No interest shall be paid on Prepaid Account balances.

ACCOUNT INACTIVITY

Users who do not use their account for toll payment for period of six months may be subject to account closure. Users who fail to return their transponders shall be subject to the lost/stolen fee and further collection procedures and legal action by the Commonwealth of Virginia to collect any outstanding balance. Any unclaimed balances will be treated as unclaimed property in accordance with the laws of the Commonwealth of Virginia.

E-ZPASS FLEX

E-ZPass Flex transponders provide additional functionality to permit users to identify when their vehicle can be classified as High Occupancy Vehicle (HOV) for the purposes of obtaining a discount on those facilities that support the additional *Flex* functionality. Any User of *Flex* transponders agrees:

1. a) To only activate the HOV switch when it is safe to do so. For maximum safety, the transponder should be set to the desired switch position before starting, and not during, a trip that will pass through the Toll Facility.
2. b) To only place the transponder in HOV mode when there are three or more people in the vehicle.
3. c) That the use of the transponder in HOV mode with less than three people in the vehicle on a Toll Facility offering a corresponding discount may result in enforcement by the

Virginia State Police and additional charges, including administrative fees, court penalties, fines and/or termination of this Agreement.

4. d) The *Flex* will function as a standard *E-ZPass* transponder regardless of switch position on Toll Facilities which do not support the *Flex* functionality.
5. e) Beginning on July 1st, 2015, users who have not used their *Flex* functionality for HOV transactions on Express Lanes for any prior six month period will be required to exchange the *Flex* transponder for a standard transponder (at no cost) or be subject to a one-time transponder functionality upgrade charge of \$10. Transponders obtained prior to October 1, 2014 will not be subject to this provision.

RETAIL TRANSPONDERS

E-ZPass On-the-Go Transponders that are obtained from a retailer must be registered by providing *E-ZPass* account holder information in order to obtain the full balance. Failure to register an *E-ZPass On-the-Go* retail transponder within 48 hours of first use may result in the invalidation of the transponder. It may take up to 48 hours after registration to reactivate an invalid transponder.

TOLLS, CHARGES AND FEES

An *E-ZPass* User's Prepaid Account will be reduced by charges for:

1. a) Applicable tolls charged each time the *E-ZPass* is used to obtain passage on, continue upon, or exit from an *E-ZPass* or participating *E-ZPass* collection area.
2. b) **Statement Fees:** Quarterly summary statements are available to the User at no charge. Monthly detailed statements are available by mail for \$2.00 per each complete or partial group of three *E-ZPass* transponders in the account. Monthly detailed statements are available online for \$1.00 per account.
3. c) Any other fees or costs chargeable under this Agreement, including but not limited to returned check fees, credit card decline fees, lost, stolen or damaged *E-ZPass* costs, unpaid tolls, associated administrative costs and legal fees.

REPLENISHMENT THRESHOLD

A Low Balance occurs whenever the account balance drops to or below the established account Replenishment Threshold (minimum \$10.00 per *E-ZPass*). The initial Replenishment Threshold should be based on at least three days of anticipated usage. The Service Center reserves the right to increase the replenishment threshold based on User's usage patterns to aid in the maintenance of the accounts.

ACCOUNT REPLENISHMENT

Whenever the *E-ZPass* prepaid balance drops to or below the Replenishment Threshold, User agrees to replenish account by one of the following methods.

1. a) **Automatic account replenishment by credit/debit card or ACH (direct bank debit):** User's credit/debit card or bank account registered in the *E-ZPass* account will be charged a Replenishment Amount. The Replenishment Amount will be either the average monthly usage or \$35.00 per *E-ZPass*, whichever is greater. The Customer Service Center reserves the right to increase the *E-ZPass* account replenishment amount to compensate for usage patterns without notifying the User. If your credit/debit card or automatic checking account debit is declined more than once, you may become ineligible for auto replenishment. If an *E-ZPass* User with automatic replenishment receives a Low Balance notification in a toll lane for more than 24 hours, then User must call the Service Center to update account information.
2. b) **Manual *E-ZPass* account replenishment:** User must replenish their account once it reaches low balance in order to maintain a positive balance and avoid interruption in service. The minimum Replenishment Amount required for credit card replenishment is \$35.00 per *E-ZPass*. *E-ZPass* Service Centers do not accept starter checks or checks that do not include a pre-printed address. If check payments are returned by the bank, the *E-ZPass* User will be liable for a returned check fee of \$35.00 and may be required to replenish their *E-ZPass* account with certified funds, credit card or cash.

DAMAGED E-ZPASS

The *E-ZPass* is the property of VDOT. Any *E-ZPass* that has been altered, defaced or damaged in any manner will result in a fee of \$10.00 for each Standard *E-ZPass* transponder and \$20.00 for each *E-ZPass Flex* transponder.

LOST OR STOLEN E-ZPASS

User must notify the *E-ZPass* Service Center immediately of any lost or stolen *E-ZPass*, identifying the *E-ZPass* by serial number. Until the *E-ZPass* Service Center is notified, the *E-ZPass* User will continue to be responsible for charges. Once notified, the Service Center will invalidate the *E-ZPass*. The *E-ZPass* User shall be responsible for the cost of the lost or stolen *E-ZPass* (\$10.00 for each Standard transponder and \$20.00 for each *Flex* transponder). The fee will be waived if the *E-ZPass* User provides a copy of an official police report indicating that the *E-ZPass* was stolen.

TERMINATION

The *E-ZPass* Service Center and/or *E-ZPass* User may terminate this Agreement at any time. Upon termination of this Agreement, the *E-ZPass* User must promptly return all *E-ZPass(es)* in original condition, less normal wear to the *E-ZPass* Service Center, or make payment for any lost or stolen transponders. A refund will be processed within 65 days for any balance remaining in the User's

E-ZPass account, less any amounts owed under this Agreement. If the *E-ZPass* User's account balance is insufficient to cover charges, the *E-ZPass* User will be liable for all such amounts, and may become liable for additional service charges, fines, or penalties in accordance with applicable law if such unpaid charges are not promptly paid.

PRIVACY POLICY

It shall be the policy that VDOT shall only collect and retain *E-ZPass* patron information that is absolutely necessary and essential in order to properly conduct and record *E-ZPass* financial transactions. Information collected by VDOT relative to individual *E-ZPass* customer usage shall only be released:

1. a) In response to a bona fide court order/subpoena for information;
2. b) At the request of the individual *E-ZPass* account owner(s);
3. c) To collect unpaid tolls.

VDOT may provide *E-ZPass* patron usage data in summary form to assist in transportation research. However, under no circumstance will individual customer information be disclosed to any nonaffiliated third parties for use in telemarketing, direct mail marketing, or other marketing through electronic mail to customers. VDOT is subject to federal and state statutory requirements and may amend its *E-ZPass* privacy policy at any time without notice in accordance with applicable statutory requirements.

OTHER TERMS AND CONDITIONS

It is expressly understood and agreed that an *E-ZPass* User authorizes the Service Center to access User's credit card, debit card or ACH and make charges authorized under this Agreement. An *E-ZPass* User expressly understands and agrees that the *E-ZPass* Service Center shall not be liable to an *E-ZPass* User for any damages resulting from these actions. Additionally, the *E-ZPass* Service Center shall not be liable for:

1. a) Any incidental, indirect, special or consequential damages, including but not limited to, loss of use, revenues, profits or savings, even if the *E-ZPass* Service Center knew or should have known of the possibility of such damages; or
2. b) Claims, demands, or actions against an *E-ZPass* User by any person, corporation, or other legal entity resulting from the use of the *E-ZPass(es)*, credit report inquiry, check authorization and/or charging of the *E-ZPass* User's credit card, debit or check card. *E-ZPass* Users who elect to provide funds via automatic draft drawn directly against account deposits agree to be responsible for the adequacy of those funds to satisfy all amounts drawn against them.

The *E-ZPass* Service Center may change the terms of this Agreement at any time by providing written notice to the *E-ZPass* User. If the *E-ZPass* is used after an *E-ZPass* User receives notice of the new terms of this Agreement, then the *E-ZPass* User shall be bound by the new *E-ZPass* terms. For purposes of this Agreement, the *E-ZPass* User shall be deemed to have received notice 10 days after the notice is either emailed or deposited with the United States Postal Service, postage prepaid, addressed to the *E-ZPass* User at the most recent address registered on the *E-ZPass* User's account record at the *E-ZPass* Service Center.

The captions used in this Agreement have been inserted for convenience and for reference only and shall not be deemed to limit or define the text of this Agreement. The provisions of this

Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected. **For the purpose of giving any and all notice(s) to the *E-ZPass* Service Center required under the provisions of this Agreement, User shall use the following mailing address:**

***E-ZPass* VA Customer Service Center**

P.O. Box 1234

Clifton Forge, VA 24422-1234

EXHIBIT 2

E-ZPass® MARYLAND PRIVATE ACCOUNT TERMS AND CONDITIONS

These terms and conditions, together with your *E-ZPass* Maryland Application ("Application"), constitute your *E-ZPass* Maryland Agreement ("Agreement"). *E-ZPass* is a multi-state system, which includes *E-ZPass*, *E-ZPass* Plus, and other tolling facilities ("Facilities"). In Maryland, this system is operated by the Maryland Transportation Authority (hereinafter "*E-ZPass* Maryland"). *E-ZPass* Maryland has various agreements with other tolling entities to allow electronic financial transactions to be recorded by an *E-ZPass* transponder or other toll collection means and processed through an *E-ZPass* account. Please read these terms and conditions and keep them for your records. When you open your *E-ZPass* Maryland Account ("Account") or use an *E-ZPass* transponder issued by the Authority, you agree as follows:

I. GENERAL CONDITIONS

- a. You are responsible for maintaining your Account and for monitoring your Account balance and activity.
- b. You shall not assign the obligations or benefits of this Agreement to anyone else without the express written consent of *E-ZPass* Maryland.
- c. You must approach and pass through *E-ZPass* toll lanes at the posted speed limit. Failure to obey the posted speed limit may result in suspension of your Account or Account closure.
- d. In staffed toll lanes, you shall come to a complete stop and proceed only on a green signal unless otherwise directed, even if your vehicle is equipped with an *E-ZPass* transponder.
- e. You shall comply with all applicable traffic laws, regulations, signs, signals and directions of *E-ZPass* Maryland employees, agents and law enforcement officers.
- f. *E-ZPass* Maryland may deny any Application at any time because of outstanding account maintenance fees, unpaid video toll transactions, citations including civil penalties or the submission of false information.
- g. You acknowledge and understand that you and your vehicle may be recorded on a video monitoring system / or digitally photographed while traveling through a Maryland toll collection facility that have an agreement with *E-ZPass* Maryland and/or accept *E-ZPass*. You expressly understand that *E-ZPass* Maryland and other Facilities monitor the use of the transponder for the purpose of toll collection, traffic monitoring and detecting violations of this Agreement.
- h. You authorize *E-ZPass* Maryland to process through your Account, the payment of tolls and fees incurred from the use of Facilities.
- i. Failure to comply with this Agreement may result in any or all of the following: video toll transactions, citations including civil penalties, suspension of your Account, Account closure, refusal or suspension of your motor vehicle registration and referral to the State of Maryland Central Collection Unit ("CCU"). The Maryland Motor Vehicle Administration (MVA) and CCU may assess additional fees.

II. YOUR ACCOUNT

- a. You agree to inform *E-ZPass* Maryland of any changes to your Account. Failure to keep your Account up-to-date may result in video toll transactions. The following information must be kept current:
 1. Name(s) on the Account;
 2. Address;
 3. Telephone information;
 4. E-mail address;
 5. Vehicle information (license plate number and State, make, model, and year);
 6. Expiration date of credit card account, or change in credit card number;

7. Payment method; and
 8. Driver's license number and state of issuance or State issued identification card number and state of issuance..
- b. You may have up to four (4) transponders and ten (10) vehicles registered on your Private Account. If you require more than four (4) transponders or ten (10) vehicles on your Account, you must close your Private Account and open a Business Account. Please see the Business Account Terms and Conditions.
 - c. You must maintain a positive Account balance to cover applicable charges to your Account. Applicable tolls will be deducted from your Account each time the transponder or a vehicle registered on your Account is used. *E-ZPass* Maryland also may deduct from your Account any applicable fees. (See [XV. Schedule of Fees.](#))
 - d. No interest will be paid on any funds held in your Account.
 - e. You may be charged a monthly account maintenance fee based on your usage of *E-ZPass* Maryland toll facilities in the preceding month. On a monthly basis, *E-ZPass* Maryland will review your toll usage from the previous month. If your Account indicates two (2) or less *E-ZPass* Maryland toll facility transactions, the monthly account maintenance fee will be charged. If your Account reflects three (3) or more *E-ZPass* Maryland toll facility transactions, the monthly fee will be waived. The fee, if charged, will be deducted from your Account. Account maintenance fees are nonrefundable.
 - f. If you choose, you may receive a periodic statement, as selected on your Application. If there is no activity on your Account during the applicable period covered by such statement, you will not receive a statement.
 - g. You may be charged a fee for any request to retrieve a statement. Statements more than one (1) year old are not available.
 - h. You agree that sending information via mail, email, or text message to the address or cell phone number on your Application or to an address or cell phone number that you subsequently provide to *E-ZPass* Maryland constitutes notice to you of the tolls, fees or charges owed, changes to account terms and conditions, and of any determination by *E-ZPass* Maryland of any submitted dispute of tolls and fees related to this Agreement. You will be required to opt-in to text messaging service.

III. ACCOUNT PAYMENTS AND REPLENISHMENT

- a. You must pay a minimum advance toll payment or replenishment amount, which is a prepayment to your Account, sufficient to pay Account charges for a one-month period of time.
- b. Advance toll payments are not available for use from your Account until twenty-four (24) hours after replenishment for in-State use and forty-eight (48) hours after replenishment for out-of-State use.
- c. *E-ZPass* Maryland will perform an Account analysis on all new Accounts thirty-five (35) days from the first use of a transponder and every sixty (60) days thereafter. If your average monthly usage, within a sixty (60) day period, is above or below your replenishment amount, *E-ZPass* Maryland will automatically adjust your replenishment amount to approximate one-month's level of use. The change in your replenishment amount will be reported on your account statement.
- d. You agree to replenish your Account by this amount when your Account balance decreases to or falls below the minimum balance specific to the Account plan you selected in your Application.
- e. You may choose to replenish your Account in one of the following ways:
 1. By credit card. You may authorize *E-ZPass* Maryland to charge your credit card automatically for all charges to your Account; or you may authorize a one-time online credit card payment via the website at www.ezpassmd.com, at an *E-ZPass* Maryland Stop-In Center, by telephone, or by mail;
 2. By check or money order made payable to *E-ZPass* Maryland. Your payment may be sent by mail or made at an *E-ZPass* Maryland Stop-In Center; or
 3. By cash payment in U.S. dollars in person at an *E-ZPass* Maryland

Stop-In Center. DO NOT SEND CASH BY MAIL OR LEAVE CASH IN A DROP BOX.

- f. You may have more than one replenishment transaction within a one-month period based upon your usage.
- g. If you fail to maintain a positive balance on your Account and you pass through a Maryland Facility, a video toll transaction will result. Further, if you fail to maintain a positive Account balance and you use Facilities outside of Maryland, you will be issued a violation notice from that state in accordance with its laws.
- h. You acknowledge that a fee will be charged to you for each returned check and returned ACH transaction should an overdraft occur. You agree that the fee may be deducted from your Account. (See Section [XV. Schedule of Fees.](#))

IV. DISCOUNT PLANS

E-ZPass Maryland discount plans are linked to a specific transponder assigned to your Account. Plan cycles begin when first used and end after the specified number of days of the plan or when all trips are used, whichever comes first. The account is charged the discounted toll rate when each trip is recorded using the transponder specifically associated with the valid discount plan. All *E-ZPass* Maryland discount plans are time sensitive. Any unused trips within the discount plan cycle will be deducted from your Account ten (10) days after the plan cycle ends and will be reflected on your statement. If the transponder is not read, but the license plate of the vehicle is registered on the Account, you will be charged the cash toll rate. If the transponder is not read and the license plate is not on the Account, a video toll transaction will result. Unused trips in a discount plan are not refundable.

V. ABOUT YOUR TRANSPONDER(S)

- a. You agree to correctly mount, display and use the transponder in accordance with the instructions provided by *E-ZPass* Maryland. Do not mount the transponder in any location that could interfere with your visibility or ability to operate your vehicle. Failure to mount the transponder correctly may hinder toll collection, may result in a higher toll rate being deducted from your Account or may result in a video toll transaction.
- b. A nonrefundable fee will be charged for each transponder issued to your new Account or to an existing *E-ZPass* Maryland Account, unless you are using a valid previously-owned transponder, in which case no fee will be charged.
- c. A defective transponder may be replaced with a similar unit within the transponder's warranty period if the transponder has not been damaged, defaced, or improperly used as determined by *E-ZPass* Maryland. However, if *E-ZPass* Maryland determines the transponder has been damaged, defaced, or improperly used, a nonrefundable fee will be charged for a replacement transponder. The warranty period begins on the date of issuance of the transponder to the first owner and is based upon the model of the transponder.
- d. You may use the transponder only with the vehicle(s) specifically registered on your Account.
- e. When you use the transponder or any vehicle registered on your Account at any Facilities, you authorize *E-ZPass* Maryland to debit your Account for such use.
- f. If you use the transponder at Facilities outside of Maryland, you are subject to the laws and regulations governing such use.
- g. Transactions in which the transponder is not read may result in a higher toll rate being deducted from your Account or the issuance of a video toll transaction.
- h. If your transponder is lost or stolen, you must immediately notify *E-ZPass* Maryland verbally, in writing, or via the website. Until you notify *E-ZPass* Maryland that your transponder has been lost or stolen, *E-ZPass* Maryland will continue to deduct any tolls or fees incurred by your transponder from your Account. You will not be liable for transponder use that occurs after you notify *E-ZPass* Maryland. If a replacement transponder is requested, a nonrefundable fee will be charged for the replacement.
- i. If you no longer wish to use a transponder issued to your Account, you may return the transponder to *E-ZPass* Maryland for proper disposal. If you are returning your transponder and closing your Account, refer to the Termination section of this Agreement for voluntary Account closure instructions.

VI. ACCOUNT AGREEMENT MODIFICATIONS

E-ZPass Maryland may change the terms and conditions of this Agreement at any time by advance notice. These terms and conditions shall be effective on October 1, 2013. If you do not agree to accept the new terms and conditions, you must close your Account prior to the effective date of the new terms and conditions. The invalidity of any of the terms and conditions of this Agreement shall not affect the enforceability of any other terms and conditions of this Agreement, which shall remain in full force and effect.

VII. VIDEO TOLL TRANSACTIONS

- a. A video toll transaction will occur at Maryland Facilities in any of the following scenarios:
 1. When a transponder is used, and the Account has a negative balance;
 2. When the transponder is not read for any reason, including improper mounting to your vehicle and is used in a vehicle that is not registered on your Account;
 3. When the transponder is used after it has been reported lost or stolen; and
 4. When the Account has been suspended or closed.
- b. Video toll transactions will be mailed via a Notice of Toll Due to the registered owner of the vehicle.

VIII. DISPUTES

You hereby authorize *E-ZPass* Maryland to decide every question or issue in connection with or related to this Agreement, including, without limitation, the imposition of tolls, fees, or other charges incurred, applied or stated for the use or misuse of your transponder or Account. You may dispute the imposition of charges or fees related to your Account verbally or in writing to the *E-ZPass* Maryland Service Center. Such dispute must be made within one hundred twenty (120) days from the date the transaction is posted to your Account.

IX. TERMINATION

- a. In order to terminate this Agreement and voluntarily close your Account, you may:
 1. Access your *E-ZPass* Maryland Account at www.ezpassmd.com and submit a request stating your intent to close your Account and terminate this Agreement;
 2. Send a written request stating your intent to close your Account and terminate this Agreement;
 3. Visit an *E-ZPass* Maryland Stop-In Center and request to close your Account and terminate this Agreement; or
 4. Contact the *E-ZPass* Maryland Service Center at 1-888-321-6824 and request to close your Account and terminate this Agreement.
- b. Additionally, you shall:
 1. Pay all amounts owed to *E-ZPass* Maryland, including:
 - a. Pending toll transactions;
 - b. Unused discount plan charges;
 - c. Negative Account balance;
 - d. Unpaid tolls, fees, and civil penalties and
 - e. Other Account related fees, as applicable.
 2. Stop using your Account as it is no longer valid for any toll activity throughout the entire *E-ZPass* system.
- c. If the financial settlement results in a positive Account balance, a refund will be issued. If a negative Account balance results, a letter showing the balance due will be sent to you for payment. Unused trips in a discount plan are not eligible for refunds. Refunds are sent within thirty (30) days of Account termination in accordance with a) and b) above.
- d. *E-ZPass* Maryland may terminate this Agreement and close your Account at any time and for any reason, including inactivity.
- e. You may return your transponder(s) to *E-ZPass* Maryland for proper disposal

since it contains a lithium battery. If you do not return your transponder to *E-ZPass* Maryland for proper disposal, you are responsible for consulting federal, state and local waste regulations to determine appropriate disposal options.

X. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

XI. COLLECTION OF EXPENSES

You agree to pay all costs, including attorneys' fees, incurred by *E-ZPass* Maryland and all entities providing *E-ZPass* services to collect any funds, including CCU and MVA fees, due under the terms of this Agreement.

XII. NON-DISCLOSURE

E-ZPass Maryland respects the right of privacy and confidentiality of all Account holders. Account information will not be disclosed to third parties without your consent except as permissible by law and the policies of *E-ZPass* and the entities providing *E-ZPass* services.

XIII. DISCLAIMER

You acknowledge that *E-ZPass* Maryland and all entities providing *E-ZPass* services have not made, and expressly disclaim any representation or warranty, expressed or implied, relating to the transponder including, without limitation, any implied or expressed warranty of merchantability, fitness for a particular purpose or conformity to models or samples. You agree that *E-ZPass* Maryland and all entities providing *E-ZPass* services will have no obligation or liability whatsoever to you with respect to your use or the performance of the transponder, except as specifically provided herein. You agree to indemnify and hold harmless *E-ZPass* Maryland and all entities providing *E-ZPass* services from and against all damage, loss, cost, expense or liability relating to, arising from, or as a result of, the use, installation, performance, or removal of the transponder.

XIV. INQUIRIES AND CORRESPONDENCE

Please send all correspondence, inquiries, payments and transponder returns to: Maryland Service Center, P.O. Box 17600, Baltimore, Maryland 21297-7600.

XV. SCHEDULE OF FEES

Nonrefundable Transponder fee: Prices vary by model

Monthly Account Maintenance Fee, if applicable (see Section [11.e](#))

Insufficient Funds Fee (Returned check fee): \$25.00

Civil penalty: \$50.00

Additional copies of statements: \$.25 per page

All fees are subject to change without notice.

Effective: October 1, 2013

EXHIBIT 3

Terms and Conditions – Individual Accounts

These terms and conditions, together with your *E-ZPass* application ("Application"), constitute your *E-ZPass* Agreement ("Agreement"). *E-ZPass* is an electronic toll collection system that allows you to pay charges incurred at *E-ZPass* facilities. New York *E-ZPass* is operated under the auspices of the Triborough Bridge and Tunnel Authority ("TBTA") (also known as MTA Bridges and Tunnels), the New York State Thruway Authority ("NYSTA"), and the Port Authority of New York and New Jersey ("PANYNJ"). Your *E-ZPass* Account ("Account") will be operable on all *E-ZPass* facilities, regardless of location. Your Account will be assigned to one of the abovementioned New York entities and your Agreement is with that particular entity. Identification of the New York entity to which your Account has been assigned and with which you have your Agreement appears on your *E-ZPass* tag(s) ("Tag"). Please read these terms and conditions and keep them for your records. When you open your Account or use your *E-ZPass* Tag, you agree to the following terms and conditions:

1. GENERAL

- a. Failure to comply with this Agreement may result in termination of your Account.
- b. You may not assign the obligations or benefits of this Agreement.
- c. Failure to pay charges to your Account may result in penalties as provided by law.
- d. You must approach and pass through *E-ZPass* toll lanes at the posted speed limit. Failure to obey the posted speed limit may result in suspension or revocation of your Account, and/or other penalties as provided by law.
- e. You must comply with all applicable traffic laws, regulations, signs and signals, and the directions of toll collectors and law enforcement officers.

2. TAG USE

- a. Cash or check customers must pay a deposit of \$10 for each Tag. The deposit will be refunded when you close your Account and return the Tag in good condition as determined solely by *E-ZPass*. The Tag deposit is waived for customers authorizing Account replenishment via automatic charge to a credit card, or automatic withdrawal from a checking account.
- b. You may only use the Tag on a vehicle class that corresponds to the class of Tag provided to you by *E-ZPass*.
- c. In accordance with Section 5 herein, you must surrender a Tag immediately upon request.
- d. When you use the Tag at any *E-ZPass* facility, you authorize *E-ZPass* to debit your Account for the charges incurred.
- e. If you use the Tag on *E-ZPass* facilities other than New York *E-ZPass* facilities, you are subject to the laws and regulations governing use at such facilities.
- f. You must maintain a sufficient balance in your pre-payment Account, and may not use the Tag or permit Tag use unless a sufficient balance is maintained.
- g. You must properly install your Tag in or on your vehicle pursuant to the mounting instructions provided with your Tag(s). Failure to do so may result in your Tag not being read in the lane, the gate not being raised at some facilities, and may result in a violation for which you may be assessed administrative fees or other penalties as provided by law. Failure to properly mount your Tag may also result in images being taken of your license plate to identify the registered owner and the addition of your license plate to your Account based on motor vehicle registration records. These images may be used to post toll charges at the cash rate and/or additional administrative fees to your Account.

3. YOUR ACCOUNT

- a. You must maintain a prepaid amount in your pre-payment Account to cover applicable charges to your Account.
- b. Applicable charges, if any, will be deducted from your Account each time the Tag is used.
- c. *E-ZPass* may deduct from your Account applicable administrative fees incurred pursuant to this Agreement.
- d. Your Account may be suspended based upon speed infractions, outstanding violations and/or for failure to pay administrative fees.
- e. No interest will be paid on balances in your Account or on refundable Tag deposits.
- f. You will receive a periodic statement unless there are no transactions and no financial activity in your Account during the applicable period covered by such statement. It is your obligation to review such statements and follow the procedure in Section 6 if you wish to dispute any charges.
- g. You will be charged a fee for any request to retrieve a statement previously provided.
- h. You may, no more than four times per year, suspend the following monthly use plans for a minimum of one week and extend the monthly period for calculating the minimum commuter trip charge by calling 1-800-333-TOLL (1-800-333-8655): Tappan Zee Bridge Commuter (TZC), Tappan Zee Bridge Carpool Commuter (TZPL), Grand Island Commuter (GIC), New Rochelle

Commuter (NRC), Yonkers Commuter (YKC), Harriman Commuter (HAC), and Bridge Authority Discount (NYSBA). The first Tag use at the applicable bridge after the minimum one-week period will reactivate the monthly use plan.

- i. *E-ZPass*, in its discretion, may receive updated information about your credit card, including new account numbers and expiration dates, from the financial institution issuing the card.
- j. *E-ZPass*, in its discretion, may receive updated information about your address from the United States Postal Service.

4. ACCOUNT PRE-PAYMENT

- a. You must pay a minimum prepaid amount sufficient to pay charges to your Account for a one-month period.
- b. Your Account must be replenished by your prepaid amount when your Account balance decreases to or below the replenishment point specific to your Account plan. The date on which your Account will be replenished will vary based upon Account activity. You may choose to replenish your Account in one of the following ways:
 1. Authorizing *E-ZPass* to automatically charge your credit card or automatically withdraw funds from your checking account for all charges to your Account.
 - a. For customers using checking account for auto replenishment:
 1. You agree and are aware that you are pre-authorizing *E-ZPass* to withdraw funds from your bank account each time your Account balance decreases to or below the replenishment point specific to your Account.
 2. You agree and are aware that the amount of the Automatic Clearing House (ACH) withdrawals from your checking account to cover your tolls and fees may vary between \$0.01 and \$3000.00, depending upon your *E-ZPass* account activity.
 2. Checks (or Money Orders) made payable to *E-ZPass* in U.S. dollars only. A returned check fee of \$25 will be charged for each check returned to *E-ZPass* unpaid by your bank.
 3. Cash payments made at an *E-ZPass* Customer Service Center only in U.S. dollars, or in Canadian dollars at the exchange rate *E-ZPass* may determine.

DO NOT SEND CASH BY MAIL.

- c. An Account analysis is performed on all new Accounts 35 days from the first Tag use and every 90 days thereafter. If your monthly use is consistently above or below your prepaid amount, *E-ZPass* will adjust your prepaid amount to approximate a one-month level of use.
- d. If you have chosen to replenish your Account with a credit card, you may be enrolled in the *E-ZPass* Plus program. This Program allows you to use your Tag at authorized *E-ZPass* Plus facilities. If your Tag is used to incur *E-ZPass* Plus charges, then *E-ZPass* may charge your credit card that amount. Such credit card charges may be different from your replenishment amount and charged to your credit card at any time. By participating in *E-ZPass* Plus, you consent to the release of your name and address to *E-ZPass* Plus facility operators for collection purposes. If you choose not to participate in *E-ZPass* Plus, you must notify the *E-ZPass* Customer Service Center.
- e. Depending on usage or other charges to your Account, there may be more than one replenishment transaction within one statement period.

5. VIOLATIONS

- a. If you use the Tag when your Account is in a negative balance, suspended or revoked as a result of *E-ZPass* speed violations or any other reason, or after the Tag has been reported lost or stolen, you may: incur administrative fees of up to \$50 per occurrence; be charged the full, undiscounted charge; and/or be asked to surrender the Tag to *E-ZPass* via certified mail or to plaza personnel
- b. If you use the Tag in a vehicle other than one of the class for which the Tag is designated, you may incur administrative fees of up to \$50 per occurrence and/or be asked to surrender the Tag to *E-ZPass* via certified mail or to plaza personnel. Such continued misuse may result in revocation of your Account.

6. DISPUTES

You hereby authorize *E-ZPass* to decide in the first instance every question or dispute arising from, under, in connection with or related to this Agreement, including, without limitation, the imposition of tolls, fees, or other charges incurred, applied or stated for the use or misuse of your Tag or Account. All disputes must be submitted in writing to the *E-ZPass* Customer Service Center within 180 days of notice that a toll, fee, or other charge has been made to your Account. You agree that the mailing or emailing to the address you have provided to *E-ZPass* or as updated by the United States Postal Service constitutes notice to you of the tolls, fees and charges contained therein and of any determination by *E-ZPass* of your submitted dispute. The

resolution of claims against PANYNJ, NYSTA and TBTA arising from, under, in connection with or in any way related to this Agreement including, without limitation, the imposition of tolls, fees, or other charges incurred, applied or stated for the use or misuse of your Tag or Account, are governed as follows:

- PANYNJ – the provisions of New York State Unconsolidated Laws, Sections 7101 through 7136 or New Jersey Statutes Annotated, Sections 32:1-157 through 32:1-176.
- NYSTA – the provisions of Section 361-b of the New York State Public Authorities Law.
- TBTA – no action shall lie or be maintained unless such action shall be commenced within one year of notice of *E-ZPass*' determination regarding your dispute submitted pursuant to this Agreement.

7. LOST/STOLEN OR NON-OPERATIONAL TAGS

You will not be liable for unauthorized Tag use that occurs after you notify *E-ZPass*, orally or in writing, of loss, theft or possible unauthorized use. However, if a Tag is reported lost, stolen, or found to be defaced or damaged, you will be charged \$16.00 for interior Tags and \$22.00 for exterior Tags. If the Tag is non-operational for reasons other than abuse or improper use, and the Tag is returned to an *E-ZPass* Customer Service Center, *E-ZPass* will replace it at no charge.

8. DISCLAIMER

You acknowledge that *E-ZPass* and all entities providing *E-ZPass* services have not made, and expressly disclaim any representation or warranty, express or implied relating to the Tag including, without limitation, any implied or express warranty of merchantability, fitness for a particular purpose or conformity to models or samples. You agree that *E-ZPass* and all entities providing *E-ZPass* services will have no obligation or liability whatsoever to you with respect to your use of or the performance of the Tag. You agree to indemnify and hold harmless *E-ZPass* and all entities providing *E-ZPass* services from and against all damage, loss, cost, expense or liability relating to, arising from, or as a result of, the use or performance of the Tag.

9. TERMINATION

You may terminate this Agreement at any time by requesting such termination in writing and returning the Tag(s) to *E-ZPass*. Tags should be returned to an *E-ZPass* Customer Service Center in person or by certified mail. Tags remain the property of the entities providing *E-ZPass* services. Once all outstanding charges have been deducted from your Account following your termination of this Agreement and return of the Tag(s), any remaining balance and Tag(s) deposit will be refunded to you. Such refund will be made in the form of a check or credit to your credit card, depending on the manner in which you have chosen to replenish your Account balance.

10. COLLECTION OF EXPENSES

You agree to pay all costs, including attorneys' fees, incurred by *E-ZPass* and all entities providing *E-ZPass* services to collect any monies due under the terms of this Agreement.

11. MODIFICATIONS

The New York entity to which your Account is assigned may change the terms of this Agreement at any time by advance written notice. Such modified terms shall take effect on the date specified therein. The invalidity of any term or terms of this Agreement shall not affect any other term of this Agreement, which shall remain in full force and effect.

12. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

13. CHANGES

You agree to inform *E-ZPass* of any changes to the information provided to *E-ZPass*, including, but not limited to:

- Address,
- Vehicle information,
- Credit card account information (i.e., number, expiration date),
- Checking account information,
- Payment method,
- Email address,
- Phone numbers.

14. NON-DISCLOSURE

E-ZPass respects the privacy of all Account holders. Account information will not be disclosed to third parties without your consent except as required or permitted by law and the policies of *E-ZPass* and the entities providing *E-ZPass* services.

15. PAYMENTS, TAGS AND CORRESPONDENCE

Please send all correspondence, payments, Tag returns, or violation inquiries to:

E-ZPass Customer Service Center

Applications and Returned Tags:

PO Box 149001
Staten Island, NY 10314-9001

Account Replenishment Payments:

PO Box 15185
Albany, NY 12212-5185

Violation Payments and Inquiries:

PO Box 15186
Albany, NY 12212-5186

Customer Account Correspondence:

PO Box 15187
Albany, NY 12212-5187

16. SCHEDULE OF DEPOSITS/ADMINISTRATIVE FEES

Per tag deposit (customers who choose to replenish by cash and check)	\$10.00
Per tag deposit (customers who choose automatic replenishment by credit card or checking account)	waived
Cost of Tag if defaced, damaged, lost or stolen:	Interior \$16.00 Exterior \$22.00
Bank declined ACH payment transaction	Up to \$25.00
Returned check fee	\$25.00
Monthly statement by mail, annual fee	\$6.00
Duplicate copy of Statement	\$2.00
PANYNJ monthly Account service fee	\$1.00
Account revocation fee	\$25.00
Tag retention fee	\$25.00
Other Tag misuse/violation administrative fees	Up to \$50.00

E-ZPass and the entities providing *E-ZPass* services reserve the right to assess additional fees.

17. ADDITIONAL TERMS AND CONDITIONS FOR CUSTOMERS ELECTING TO ENROLL IN THE PAY PER TRIP E-ZPASS PLAN

- a. By opening a Pay Per Trip *E-ZPass* account you must provide your routing and checking account numbers (back up credit card is optional).
 1. You agree and are aware that you are pre authorizing *E-ZPass* to withdraw funds from your bank account on each day when you incur toll charges and account fees.
 2. You agree and are aware that the amount of the Automatic Clearing House (ACH) withdrawals from your checking account to cover your tolls and fees may vary between \$0.01 and \$300.00.
 3. You agree and are aware that the ACH withdrawals from your checking account may be on or around the day of your toll transactions for the total of all your toll transactions and fees.
 1. Weekend and holiday toll transactions and charges may be collected from the ACH account on the following business day.
- b. You agree to maintain sufficient funds in your bank account to cover all *E-ZPass* charges and may not permit Tag use unless a sufficient balance is maintained in your bank account or payment will be made by means of the valid back-up credit card you have provided.
- c. In the event your bank rejects any *E-ZPass* ACH transaction and a valid payment back-up credit card has been provided, you agree that your Account will be converted to a pre-payment credit card replenishment Account and then subject to the pre-payment terms and conditions as stated.
- d. In the event your bank rejects any *E-ZPass* ACH transaction and a back-up credit card has not been provided, you agree that your Account will be converted to a cash pre-payment Account. You must not use your *E-ZPass* tag(s) until you have funded this cash Account.
- e. If you use the Tag when your bank account has insufficient funds and payment is not made by means of your back-up credit card, you may incur administrative fees of up to \$50 per occurrence; be charged the full, undiscounted charge; and/or be asked to surrender the Tag to *E-ZPass* via certified mail or to plaza personnel.
- f. You agree to inform *E-ZPass* of any changes to your bank account information and, if applicable, credit card information provided to *E-ZPass*.
- g. A \$10 per tag deposit is required if you do not provide a back-up credit card on your Account.
- h. If any of the terms and conditions in Section 17 conflict with the provisions in Sections 1 through 16, then the provisions in section 17 shall apply to customers who elect to enroll in the Pay Per Trip *E-ZPass* Plan.

