

**Questions and Answers Regarding Lawsuit Against MTA
Seeking Refunds for E-ZPass Users**

E-ZPass users who have traveled in the Boston area may call 1-866-945-5312 for information about their rights.

Question: Who was sued in the lawsuit?

Answer: The defendant in the lawsuit is the Massachusetts Turnpike Authority (“MTA”).

Question: What relief does this lawsuit seek?

Answer: The lawsuit seeks refunds for E-ZPass users who were discriminatorily denied the benefits of the MTA’s FAST LANE Discount Program. This discount program only allows users of the in-state FAST LANE system to obtain discounts and denies the discounts to users of the out-of-state E-ZPass system. The lawsuit does not seek to end the FAST LANE Discount Program.

Question: If the lawsuit is successful, what will happen?

Answer: If the lawsuit is successful, E-ZPass users who paid the full tolls at the four toll plazas at issue in the lawsuit will receive refunds. The Massachusetts Turnpike Authority will not be required to eliminate the discount program but rather would be required to treat E-ZPass users the same as FAST LANE users.

Question: If I have used E-ZPass at one of the four toll plazas at issue in the lawsuit, what do I have to do to become a member of the class?

Answer: If the court decides that this case should be certified as a class action, you will not need to do anything to become a member of the class. **For further information about your rights, you may contact the law firm handling the case for the plaintiffs at 1-866-945-5312.**

Question: What are the toll plazas at issue in the lawsuit?

Answer: The four toll plazas at issue in the lawsuit are those located at Route 128, Allston-Brighton, the Ted Williams Tunnel and the Sumner Tunnel.

Question: What is the difference in price charged to E-ZPass versus FAST LANE users at these four toll plazas?

Answer: At Route 128 and Allston-Brighton, E-ZPass users pay 25 cents more than FAST LANE users. At the Ted Williams and Sumner Tunnels, E-ZPass users pay 50 cents more than FAST LANE users.

Question: What is E-ZPass?

Answer: E-ZPass is an automated toll collection system established by the governments of Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Virginia, and West Virginia.

Question: What is FAST LANE?

Answer: FAST LANE is the MTA's automated toll collection system.

Question: Is the lawsuit a class action?

Answer: The lawsuit is filed as a class action and asks the court to certify a class. If the court does certify the case as a class action, it will be a class action.

Question: Who would be included in the class?

Answer: The lawsuit requests the court to include in the class everyone who has used E-ZPass to pay an undiscounted toll at one of the four toll plazas in question from July 1, 2002 to present.

Question: Would the class be limited to those who live outside of Massachusetts?

Answer: The lawsuit does not seek to limit the class to those who live outside of Massachusetts but rather asks the court to include all E-ZPass users who paid the undiscounted tolls regardless of where they live now or where they lived in the past.

Question: What is the legal basis for the lawsuit?

Answer: The lawsuit alleges, among other things, that the MTA has violated E-ZPass users' constitutional rights requiring the equal treatment of interstate and intrastate commerce. The Constitution prohibits the states from imposing a higher toll or tax on transactions that cross state lines than it imposes on identical transactions that do not cross state lines. Every time an E-ZPass user passes through one of the four Boston area toll plazas at issue in the lawsuit, MTA charges that user more than it charges a FAST LANE user. The only difference between the two users is that the E-ZPass user has an out-of-state system and thus

the toll collection is an interstate transaction. The lawsuit alleges that this unequal discount program violates the United States Constitution's equal protection clause, commerce clause and privileges and immunities clause.

Question: Wasn't there a prior lawsuit about this?

Answer: There was prior, unsuccessful, lawsuit against MTA regarding the FAST LANE Discount program, *Doran v. Mass. Tpk. Auth.*, 348 F.3d 315 (1st Cir. 2003), but that case, which was never certified as a class, was quite different from this one. For example, the *Doran* lawsuit argued that even people who pay in cash should receive the discount. The current lawsuit is focused on electronic toll collection systems and does not seek refunds for cash users.

Question: How will the lawyers get paid in this case?

Answer: If the case is successful, the lawyers will ask the court to award fees out of any funds received from MTA for the class. In a class action, the court must approve the attorneys fees.

Question: Why should people traveling from the western suburbs bear such an unfair burden of paying for the Big Dig?

Answer: This is a good question but is not one that will be addressed in this lawsuit.

Question: I read in the newspapers that the MTA is considering elimination of the FAST LANE discount program. Is that going to happen?

Answer: The Boston Globe reported on August 22, 2008 that the MTA was considering elimination of the discount program because of the cost of the program to MTA. There was a similar report in the Globe on September 26, 2008. That is all that we have heard on this topic.

Question: Why is MTA saying it will be raising tolls again?

Answer: According to newspaper reports, MTA is operating at an enormous budget deficit. That deficit likely far exceeds whatever refunds it might be required to make to E-ZPass customers who should have received the discounts and thus MTA will need to address its deficit problem regardless of what happens in the lawsuit.

For further information about the lawsuit and your rights, you may contact the law firm handling the case for the plaintiffs at **1-866-945-5312**.

