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17 THOMAS TRAX and JODI CILLEY

18 **UNITED STATES DISTRICT COURT**  
19 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

20 THOMAS TRAX and JODI CILLEY,  
21 individually and on behalf of all others  
22 similarly-situated,

23 Plaintiff,

24 vs.

25 TRANSPORTATION CORRIDOR  
26 AGENCIES d/b/a THE TOLL ROADS;  
27 FANEUIL, INC.; and DOES 1 to 10,  
28 inclusive,  
Defendants.

**Case No.: '18CV0420 DMS BLM**

**CLASS ACTION COMPLAINT FOR  
DAMAGES FOR VIOLATIONS OF:**

1. UNFAIR COMPETITION  
LAW, Cal. Bus. & Prof. Code  
§§ 17200, *et seq.*;
2. FAIR DEBT COLLECTION  
PRACTICES ACT, 15 U.S.C.  
§§ 1692, *et seq.*; and
3. ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES  
ACT, Cal. Civ. Code §§ 1788,  
*et seq.*

**JURY TRIAL DEMANDED**

1  
2 **INTRODUCTION**

- 3 1. The United States Congress has found abundant evidence of the use of abusive,  
4 deceptive, and unfair debt collection practices by many debt collectors, and has  
5 determined that abusive debt collection practices contribute to the number of  
6 personal bankruptcies, to marital instability, to the loss of jobs, and to invasions  
7 of individual privacy. Congress wrote the Fair Debt Collection Practices Act,  
8 15 U.S.C. §§ 1692, *et seq.* (hereinafter “FDCPA”), to eliminate abusive debt  
9 collection practices by debt collectors, to ensure that those debt collectors who  
10 refrain from using abusive debt collection practices are not competitively  
11 disadvantaged, and to promote consistent State action to protect consumers  
12 against debt collection abuses.
- 13 2. Similarly, the California legislature has determined that the banking and credit  
14 system and grantors of credit to consumers are dependent upon the collection of  
15 just and owing debts and that unfair or deceptive collection practices undermine  
16 the public confidence that is essential to the continued functioning of the banking  
17 and credit system, and sound extensions of credit to consumers. The Legislature  
18 further determined that there is a need to ensure that debt collectors exercise this  
19 responsibility with fairness, honesty and due regard for the debtor’s rights, and  
20 that debt collectors must be prohibited from engaging in unfair or deceptive acts  
21 or practices. With that in mind, the California legislature enacted the Rosenthal  
22 Fair Debt Collection Practices Act, California Civil Code §§ 1788-1788.32  
23 (“Rosenthal Act”).
- 24 3. Plaintiffs THOMAS TRAX (“Mr. Trax” or “Plaintiff”) and JODI CILLEY  
25 (“Ms. Cilley” or “Plaintiff”) (collectively the “Plaintiffs”), individually and on  
26 behalf of all others similarly situated, bring this Class Action Complaint for  
27 damages, injunctive relief, and any other available legal or equitable remedies  
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1 resulting from the actions of defendants TRANSPORTATION CORRIDOR  
2 AGENCIES d/b/a THE TOLL ROADS (“TCA”) and FANEUIL, INC.  
3 (“Faneuil”) (collectively “the Defendants”) in unlawfully and abusively  
4 attempting to collect a debt allegedly owed by Plaintiffs, and thereby causing  
5 damage to Plaintiffs.

6 4. Plaintiffs make these allegations on information and belief, with the exception  
7 of those allegations that pertain directly to a specific plaintiff, which Plaintiffs  
8 allege on personal knowledge.

9 5. While many violations are described below with specificity, this Complaint  
10 alleges violations of the statutes cited in their entirety.

11 6. Unless otherwise stated, all of the conduct engaged in by Defendants, or any  
12 directors, officers, employees, guides, agents, independent contractors,  
13 subcontractors, representatives, successors or assigns, thereof, took place in  
14 California.

15 7. Any violations by Defendants was knowing, willful, and intentional, and  
16 Defendants and the directors, officers, employees, guides, agents, independent  
17 contractors, subcontractors, representatives, successors or assigns, thereof, did  
18 not maintain procedures reasonably adapted to avoid any such specific violation.

19 8. All violations alleged regarding the FDCPA or California’s Rosenthal Act are  
20 material violations of those statutes as these violations would limit the ability of  
21 a hypothetical least sophisticated debtor to make an intelligent choice as to the  
22 alleged debt and actions that should be taken to resolve the alleged debt.

23 9. Through this Class Action Complaint, Plaintiffs do not allege that any state court  
24 judgment was entered against Plaintiffs in error, and Plaintiffs do not seek to  
25 reverse or modify any judgment of any state court.

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**JURISDICTION AND VENUE**

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2 10. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. §  
3 1692(k), and 28 U.S.C. § 1367, for supplemental state claims.

4 11. This action arises out of Defendants’ violations of the Fair Debt Collection  
5 Practices Act, 15 U.S.C. §§ 1692 *et seq.* (“FDCPA”); California’s Rosenthal  
6 Fair Debt Collection Practices Act, California Civil Code §§ 1788-1788.32  
7 (“Rosenthal Act”); and California’s Unfair Competition Law, Cal. Bus. & Prof.  
8 Code §§ 17200, *et seq.* (“UCL”).

9 12. This Court has jurisdiction over Plaintiffs’ claims arising from Defendants’  
10 violations of Federal and California state law.

11 13. Because each Defendant conducts business within the State of California,  
12 personal jurisdiction is established.

13 14. Venue is proper pursuant to 28 U.S.C. § 1391.

14 15. At all times relevant, both Defendants conducted business within the State of  
15 California.

16 **PARTIES**

17 16. Plaintiffs are natural persons who reside in the County of San Diego, State of  
18 California, from whom a debt collector sought to collect a consumer debt which  
19 was due and owing, or alleged to be due and owing.

20 17. Plaintiffs are each a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

21 18. Plaintiffs are each a “debtor” as that term is defined under Cal. Civ. Code §  
22 1788.2(h).

23 19. Defendant TCA is a public agency with its principal place of business in Irvine,  
24 California.

25 20. Defendant TCA operates a public toll road system comprised of State Routes  
26 73, 133, 241, and 261.

27 21. Defendant Faneuil is located in the City of Hampton, in the State of Virginia.  
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1 22.Plaintiff is informed and believes, and thereon alleges, that Faneuil, during its  
2 ordinary course of business, regularly, on behalf of itself and/or others, engages  
3 in “debt collection” as that term is defined under Cal. Civ. Code § 1788.2(b);  
4 and is therefore a “debt collector” as that term is defined under Cal. Civ. Code §  
5 1788.2(c).

6 23.This case involves money, property, or its equivalent, due or owing, or alleged  
7 to be due or owing, from a natural person to another person, primarily for  
8 personal, family, or household purposes. As such, this action involves a  
9 “consumer debt” incurred as the result of a “consumer credit transaction” as  
10 those terms are defined under Cal. Civ. Code § 1788.2.

11 24.The true names and capacities, whether individual, corporate (including officers  
12 and directors thereof), associate, or otherwise, of the Doe Defendants, are  
13 unknown to Plaintiff. Thus, Plaintiff sues these defendants by such fictitious  
14 names pursuant to California Civil Procedure Code § 474. Plaintiff is informed  
15 and believes, and alleges thereon, that each defendant designated as a “Doe” is  
16 involved in, or is in some manner responsible, as a principal, beneficiary, agent,  
17 co-conspirator, joint venturer, alter ego, third party beneficiary, or otherwise, for  
18 the agreements, transactions, events, and/or acts described herein, and thereby  
19 proximately caused injuries and damages to Plaintiff. Plaintiff requests that  
20 when the true names and capacities of these Doe Defendants are ascertained,  
21 they may be inserted in all subsequent proceedings, and that this action may  
22 proceed against them under their true names.

23 25.Plaintiff is informed and believes, and thereon alleges, that at all times  
24 mentioned herein, the Doe Defendants, 1 through 10, were agents or employees  
25 of each of their co-defendants, and by engaging in the conduct alleged herein,  
26 each was acting within the scope of their authority as such agent or employee,  
27 and with the permission and consent of their co-defendants, and each of them.  
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**BACKGROUND INFORMATION**

1  
2 26. On information and belief, Defendant TCA has been conducting business as a  
3 toll road operation in California for over twenty years.

4 27. TCA advertises itself as a “publicly-owned toll facilit[y].”

5 28. Contrary to its occasional claim to the contrary, on information and belief, TCA  
6 is not a government agency.

7 29. Today, more than 300,000 transactions between TCA and California drivers are  
8 recorded each day, with TCA grossing an enormous profit from those  
9 transactions.

10 30. One of the ways in which TCA profits is when persons intentionally drive their  
11 vehicles on the toll roads maintained by TCA, which creates an implied contract  
12 between the driver and TCA for the driver to pay a nominal amount of money  
13 to TCA for one-time use of its roadway.

14 31. All tolls on TCA’s roadways are assessed electronically. There are no traditional  
15 toll booths where a driver can stop and pay with cash.

16 32. Electronic means includes cameras, motion devices, and other recording  
17 equipment, which is used to document or record transactions between drivers  
18 and TCA. Further, future payment is expected to be made electronically using a  
19 credit system implemented by TCA, referred to as “FasTrak®”; “Charge  
20 ExpressAccount®”; “Invoice ExpressAccount®”; “Prepaid ExpressAccount®”;  
21 or “One-Time-Toll®”, rather than immediate payment.

22 33. All ExpressAccount and One-Time-Toll drivers are expected to pay an inflated  
23 amount compared to other forms of payments of money for the use of TCA’s  
24 roads even though TCA does not advertise the amount of money to consumers  
25 before consumers use TCA’s roadways.

26 34. Another way that TCA makes money in California is when persons drive their  
27 vehicles on the toll roads and subsequently these persons fail to pay a toll for the  
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1 use of those toll roads, and thereafter TCA “penalizes” those persons through  
2 California state authority, and in turn those persons are thereafter expected to  
3 pay the toll fees as well as the penalty.

4 35. After a period of time transpires from the consumer’s use of the toll roads in  
5 which the consumer fails to pay this toll, TCA makes a determination that these  
6 consumers are attempting to “evade,” even though TCA does not advertise the  
7 fee to consumers before consumers use the toll roads, and even though TCA has  
8 no evidence of any “evasion” other than mere non-payment of the toll.

9 36. Thereafter, TCA alleges the fee is owed to it, along with an additional amount,  
10 which TCA calls a “penalty,” and assigns, places, or otherwise transfers this  
11 alleged debt to Defendant Faneuil for collection of the debt, which Faneuil  
12 thereafter calls “violation processing, and violation processing services.”

13 37. Faneuil never purchases the debts, but instead collects the debts for TCA, and  
14 others, as a debt collector and agent of TCA.

15 38. Faneuil claims to have been collecting consumer debts for over 23 years, and  
16 attempts to collect these debts through a system it claims it designs and installs,  
17 as well as through the more traditional debt collection methods of sending letters  
18 and making calls to consumers Faneuil’s customers claim owe consumer debts.

19 39. For more than 23 years, Faneuil has designed, implemented and operated  
20 collection centers on behalf of its many commercial clients.

21 40. Faneuil collects debts for dozens, and perhaps more, unrelated companies.

22 41. Faneuil employs hundreds of collectors.

23 42. After TCA assigns, places, or otherwise transfers these consumer debts to  
24 Faneuil, Faneuil begins its process of collecting these debts by sending the  
25 consumers debt collection letters alleging a debt is owed by these consumers to  
26 TCA.

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1 43. Because these penalties are a significant source of revenue for Faneuil and TCA,  
2 both have a desire to maximize the debts collected by Faneuil for TCA.

3 44. Over the years, Faneuil and TCA have developed systems which, in the ordinary  
4 course of its business, regularly, on behalf of themselves or others, engage in  
5 debt collection.

6 45. Faneuil and TCA's payment system for its toll roads is largely electronic and  
7 assumes consumers have access to the Internet.

8 46. Under the system that TCA and/or Faneuil have developed, vehicle owners must  
9 pay their tolls through TCA's website within five days of passing through the  
10 toll zone. This applies to drivers regardless of whether the driver knows that he  
11 or she is driving on a toll road or whether the driver knows how to pay the toll.

12 47. If a consumer does not have access to the Internet, perhaps because of lack of  
13 money, or lack of sophistication, it is unlikely that the consumer will ever be  
14 aware of what is alleged to be owed by the consumer; what is expected to be  
15 paid by the consumer; or where the consumer is expected to make any payment.  
16 Consequently, low income persons; senior citizens; unsophisticated persons; and  
17 other persons without computers or Internet access are often denied the  
18 information they need to pay whatever is alleged to be owed to TCA and/or  
19 Faneuil in a timely manner.

20 48. Neither Faneuil nor TCA provide vehicle owners with any advanced notice of  
21 the unpaid toll prior to charging them with what they call a penalty.

22 49. Consequently, because TCA and/or Faneuil do not use traditional modes of  
23 communication to communicate with these persons until after a "penalty" is  
24 assessed, and because TCA and/or Faneuil also increase the penalties allegedly  
25 owed by these persons as time goes by, these groups of people are treated  
26 unequally from other citizens.

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1 50.Faneuil and TCA rely on signs posted along the interstate to notify drivers that  
2 they are entering a toll road, and provide vague, unclear directions on how to  
3 pay the toll through the Internet.

4 51.Faneuil and TCA expect drivers, traveling at high speeds, to read and understand  
5 the information conveyed on small road-side signage as they drive by these  
6 signs.

7 52.Vehicle owners who do not pay the toll within five (5) calendar days are  
8 immediately assessed a toll evasion penalty and are subsequently sent a letter  
9 entitled “Notice of Toll Evasion” by Faneuil.

10 53.Vehicle owners who fail to pay the toll and the penalty within fifteen (15)  
11 calendar days are assessed an additional penalty, regardless of whether or not  
12 the vehicle owners are sent, or timely receive, a Notice of Toll Evasion.

13 54.These Notices of Toll Evasion also threaten a civil judgment and other collection  
14 efforts if consumers do not pay the penalty and the toll, including the threat to  
15 place a “registration lien” on the consumer’s vehicle.

16 55.As a result of these practices by Faneuil and TCA, nominal tolls transform into  
17 sizable payments (over 1,700% of the original toll amount), which, upon  
18 information and belief, often result the in payment of large amounts of money  
19 to Faneuil and The Toll Roads by consumers.

20 **FACTUAL ALLEGATIONS**

21 **Thomas Trax**

22 56.On August 20, 2017, Mr. Trax drove north on State Route 73, and on the same  
23 date, drove south on State Route 73.

24 57.During this trip, Mr. Trax unknowingly drove across a stretch of road operated  
25 as a toll road by Defendant.

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1 58. Mr. Trax is alleged to have incurred certain financial obligations for use of the  
2 toll road on or about August 20, 2017, in the form of a toll owed to Faneuil and  
3 TCA.

4 59. These financial obligations were primarily for personal, family or household  
5 purposes, and are therefore a “debt” as that term is defined by 15 U.S.C.  
6 §1692a(5).

7 60. These alleged obligations were money, property, or their equivalent, which is  
8 due or owing, or alleged to be due or owing, from a natural person to another  
9 person and are therefore a “debt” as that term is defined by California Civil Code  
10 §1788.2(d), and a “consumer debt” as that term is defined by California Civil  
11 Code §1788.2(f).

12 61. Mr. Trax did not realize that he had driven on a toll road and did not know that  
13 he had incurred a toll.

14 62. Sometime thereafter, but before September 7, 2017, Mr. Trax allegedly fell  
15 behind in the payment allegedly owed on the alleged debt.

16 63. Subsequently, but before September 7, 2017, the alleged debt was assigned,  
17 placed, or otherwise transferred to Faneuil for collection.

18 64. On or about September 7, 2017, a Notice of Toll Evasion was mailed to Mr.  
19 Trax. The Notice stated that Mr. Trax owed \$12.44 for the two tolls incurred on  
20 August 20, 2017, plus a \$115.00 penalty for a total of \$127.44 due by October  
21 6, 2017. The Notice also stated that if Mr. Trax did not pay \$127.44 by October  
22 6, 2017, then the total amount owed would increase to \$212.44. If an unpaid  
23 balance remained as of November 6, 2017, Mr. Trax would be subject to a  
24 vehicle registration lien.

25 65. This letter by Faneuil identified itself as a letter attempting to collect a debt.

26 66. This letter was a “communication” as that term is defined by 15 U.S.C. §  
27 1692a(2), and an “initial communication” consistent with 15 U.S.C. § 1692g(a).  
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1 67. This communication constitutes a “debt collection” as defined by Cal. Civ. Code  
2 1788.2(b), and an “initial communication” consistent with Cal. Civ. Code §  
3 1812.700(b).

4 68. Faneuil failed within five days after its initial communication with Mr. Trax, to  
5 provide written notification containing a statement that unless Mr. Trax, within  
6 thirty days after receipt of that notice, disputed the validity of the debt, or any  
7 portion thereof, Faneuil would assume the debt was valid. Faneuil further failed,  
8 within five days after its initial communication, with Mr. Trax to provide a  
9 written notice containing a statement that if Mr. Trax notified Faneuil in writing,  
10 within the thirty-day period, that the debt or any portion thereof was disputed,  
11 Faneuil would obtain verification of the debt or a copy of a judgment against  
12 Mr. Trax and a copy of such verification or judgment would be mailed to Mr.  
13 Trax, and Faneuil would provide Mr. Trax with the name and address of the  
14 original creditor. This omission by Faneuil violated 15 U.S.C. § 1692g.

15 69. Because this omission violated the language in 15 U.S.C. § 1692g, Faneuil also  
16 violated Cal. Civ. Code § 1788.17 as it incorporates 15 U.S.C. § 1692g.

17 70. In this communication, Faneuil failed to communicate that it was attempting to  
18 collect a debt and that any information obtained would be used for that purpose.  
19 This omission violated 15 U.S.C. § 1692e(11).

20 71. Because this omission violated the language in 15 U.S.C. § 1692e(11), Faneuil  
21 also violated Cal. Civ. Code § 1788.17 as it incorporates 15 U.S.C. § 1692e(11).

22 72. Through this communication to Mr. Trax, Faneuil made a false representation  
23 concerning the character, amount, or legal status of a debt. Consequently,  
24 Faneuil violated 15 U.S.C. § 1692e(2)(A).

25 73. Because this omission violated the language in 15 U.S.C. § 1692e(11), Faneuil  
26 also violated Cal. Civ. Code § 1788.17 as it incorporates 15 U.S.C. § 1692e(11).

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**Jodi Cilley**

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2 74. On October 19, 2017, Ms. Cilley drove north on State Route 73.

3 75. During this trip, Ms. Cilley unknowingly drove across a stretch of road operated  
4 as a toll road by Defendant.

5 76. Ms. Cilley is alleged to have incurred certain financial obligations for use of the  
6 toll road on or about October 19, 2017, in the form of a toll owed to Faneuil and  
7 TCA.

8 77. These financial obligations were primarily for personal, family or household  
9 purposes, and are therefore a “debt” as that term is defined by 15 U.S.C.  
10 §1692a(5).

11 78. These alleged obligations were money, property, or their equivalent, which is  
12 due or owing, or alleged to be due or owing, from a natural person to another  
13 person and are therefore a “debt” as that term is defined by California Civil Code  
14 §1788.2(d), and a “consumer debt” as that term is defined by California Civil  
15 Code §1788.2(f).

16 79. Ms. Cilley did not realize that he had driven on a toll road and did not know that  
17 he had incurred a toll.

18 80. Sometime thereafter, but before October 30, 2017, Mr. Trax allegedly fell  
19 behind in the payment allegedly owed on the alleged debt.

20 81. Subsequently, but before on or about September 7, 2017, the alleged debt was  
21 assigned, placed, or otherwise transferred to Faneuil for collection.

22 82. On October 30, 2017, a Notice of Toll Evasion was mailed to Ms. Cilley. The  
23 Notice stated that Ms. Cilley owed \$6.49 for the toll incurred on October 19,  
24 2017, plus a \$57.50 penalty for a total of \$63.99 due by November 28, 2017.  
25 The Notice also stated that if Ms. Cilley did not pay \$63.99 by November 28,  
26 2017, then the total amount owed would increase to \$106.49. If an unpaid  
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1 balance remained as of December 29, 2017, Ms. Cilley would be subject to a  
2 vehicle registration lien.

3 83. This letter by Faneuil identified itself as a letter attempting to collect a debt.

4 84. This letter was a “communication” as that term is defined by 15 U.S.C. §  
5 1692a(2), and an “initial communication” consistent with 15 U.S.C. § 1692g(a).

6 85. This communication constitutes a “debt collection” as defined by Cal. Civ. Code  
7 1788.2(b), and an “initial communication” consistent with Cal. Civ. Code §  
8 1812.700(b).

9 86. Faneuil failed within five days after its initial communication with Ms. Cilley,  
10 to provide written notification containing a statement that unless Ms. Cilley,  
11 within thirty days after receipt of that notice, disputed the validity of the debt, or  
12 any portion thereof, Faneuil would assume the debt was valid. Faneuil further  
13 failed, within five days after its initial communication, with Ms. Cilley to  
14 provide a written notice containing a statement that if Ms. Cilley notified Faneuil  
15 in writing, within the thirty-day period, that the debt or any portion thereof was  
16 disputed, Faneuil would obtain verification of the debt or a copy of a judgment  
17 against Ms. Cilley and a copy of such verification or judgment would be mailed  
18 to Ms. Cilley, and Faneuil would provide Ms. Cilley with the name and address  
19 of the original creditor. This omission by Faneuil violated 15 U.S.C. § 1692g.

20 87. Because this omission violated the language in 15 U.S.C. § 1692g, Faneuil also  
21 violated Cal. Civ. Code § 1788.17 as it incorporates 15 U.S.C. § 1692g.

22 88. In this communication, Faneuil failed to communicate that it was attempting to  
23 collect a debt and that any information obtained would be used for that purpose.  
24 This omission violated 15 U.S.C. § 1692e(11).

25 89. Because this omission violated the language in 15 U.S.C. § 1692e(11), Faneuil  
26 also violated Cal. Civ. Code § 1788.17 as it incorporates 15 U.S.C. § 1692e(11).

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1 90. Through this communication to Mr. Trax, Faneuil made a false representation  
2 concerning the character, amount, or legal status of a debt. Consequently,  
3 Faneuil violated 15 U.S.C. § 1692e(2)(A).

4 91. Because this omission violated the language in 15 U.S.C. § 1692e(11), Faneuil  
5 also violated Cal. Civ. Code § 1788.17 as it incorporates 15 U.S.C. § 1692e(11).

6 92. Out of fear of incurring additional penalties and being subject to a vehicle  
7 registration lien, Ms. Cilley paid the toll and penalty, in the amount of \$106.49,  
8 on or about January 18, 2018.

9 93. Plaintiffs were not given sufficient notice of the toll fees incurred or adequate  
10 time to provide payment before Defendant assessed a severe penalty and  
11 threatened a vehicle registration lien on Plaintiffs' vehicles.

12 94. Defendant did not provide advanced notice that a penalty would be charged  
13 against Plaintiffs if their tolls were not paid within a certain period, nor did  
14 Defendant provide advance notice of the amount of the penalty, or when it would  
15 accrue. Thus, Plaintiffs could not have reasonably avoided the penalty charged  
16 against them.

17 **CLASS ACTION ALLEGATIONS**

18 95. Plaintiffs bring this class action on behalf of themselves and all other persons  
19 similarly-situated.

20 96. The class which Plaintiffs seek to represent is defined as:

21 *All persons within the State of California who received a Notice of Toll*  
22 *Evasion after traveling on a toll road operated by Defendant within four*  
23 *years from the time of the filing of this Complaint.*

24 97. Plaintiffs each fall within the class definition and are each a member of the class.

25 98. Excluded from the class is the Defendant, Defendant's agents and employees,  
26 and the Judge to whom this action is assigned and any member of the Judge's  
27 staff and immediate family.

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1 99. Plaintiffs reserve the right to expand the class definition to seek recovery on  
2 behalf of additional persons as warranted as facts are learned in further  
3 investigation and discovery.

4 100. The members of the class are capable of being described without managerial  
5 or administrative problems. The members of the class are readily ascertainable  
6 from the information and records in the possession, custody, or control of  
7 Defendant.

8 101. The class is composed of thousands of individuals. Therefore, it is reasonable  
9 to conclude that the class is sufficiently numerous such that individual joinder  
10 of all members is impractical. The disposition of the claims in a class action will  
11 provide substantial benefit to the parties and the Court in avoiding a multiplicity  
12 of identical suits. The class can be identified through Defendant's records.

13 102. There are common questions of law and fact that predominate over any  
14 questions affecting only the individual members of the class. The wrongs alleged  
15 against Defendant are common to each and every member of the putative class.

16 103. Plaintiffs both received Defendant's standard Notice of Evasion form. As  
17 such, Plaintiffs are asserting claims that are typical of the proposed class.  
18 Plaintiffs will fairly and adequately represent and protect the interests of the  
19 class in that Plaintiffs have no interests antagonistic to any member of the class.

20 104. Plaintiffs and the members of the class have all suffered harm as a result of  
21 Defendant's unlawful and wrongful conduct. Absent a class action, consumers  
22 will continue to suffer economic harm. Because of the size of the individual class  
23 members' claims, few class members could afford to seek legal redress for the  
24 wrongs complained of herein.

25 105. Defendant's defenses are and will be typical of and the same or identical for  
26 each of the members of the class and will be based on the same legal and factual  
27 theories. There are no unique defenses to any of the class members' claims.

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1 106. A class action is a superior method for the fair and efficient adjudication of  
2 this controversy. Class-wide damages are essential to induce Defendant to  
3 comply with federal law. The interest of class members in individually  
4 controlling the prosecution of separate claims against Defendant is small. The  
5 maximum statutory damages in an individual action for a violation of this statute  
6 are minimal. Management of these claims is likely to present significantly fewer  
7 difficulties than those presented in many class claims.

8 **FIRST CAUSE OF ACTION**  
9 **UNFAIR COMPETITION LAW (“UCL”)**  
10 **(Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**

11 107. Plaintiffs incorporate by reference, all preceding paragraphs, as though fully  
12 set forth in this cause of action.

13 108. Each Plaintiff is a “person” as that term is defined under California Business  
14 & Professions Code § 17201.

15 109. Defendant is a “person” as that term is defined under California Business &  
16 Professions Code § 17201.

17 110. Plaintiffs have a private right of action on both an individual and  
18 representative basis pursuant to California Business & Professions Code §  
19 17204.

20 111. California Business & Professions Code §17200, states in relevant part, the  
21 following:

22 *As used in this chapter, unfair competition shall mean and include any*  
23 *unlawful, unfair or fraudulent business act or practice and unfair, deceptive,*  
24 *untrue or misleading advertising and any act prohibited by Chapter 1*  
*(commencing with Section 17500) of Part 3 of Division 7 of the Business and*  
*Professions Code.*

25 112. Defendant engaged in unfair competition, as that term is understood in  
26 California Business & Professions Code §17200, by its unlawful, unfair and  
27 fraudulent business practice as explained in detail above.  
28

1 113. Defendant failed to adequately alert drivers that they were entering a toll  
2 road.

3 114. Defendant failed to notify drivers that they owed a toll until after Defendant  
4 had assessed a late fee.

5 115. Defendant's actions caused economic damage to Plaintiffs as detailed above.

6 116. Plaintiffs and the class, and each of them, have been damaged by said practice  
7 and seek relief as prayed below.

8 117. As a direct and proximate result of the aforementioned acts and omissions by  
9 Defendant, Defendant received and continues to hold monies rightfully  
10 belonging to Plaintiffs and others similarly situated.

11 118. Plaintiffs reserve the right to allege further conduct constituting unfair  
12 competition within the meaning of Section 17200, as the misconduct alleged  
13 herein is ongoing and continues to this date.

14 **SECOND CAUSE OF ACTION**  
15 **FAIR DEBT COLLECTION PRACTICES ACT ("FDCPA")**  
16 **(15 U.S.C. §§ 1692, *et seq.*)**

17 119. Plaintiffs incorporate by reference, all preceding paragraphs, as though fully  
18 set forth in this cause of action.

19 120. The foregoing acts and omissions constitute numerous and multiple  
20 violations of the FDCPA, including but not limited to each and every one of the  
21 above-cited provisions of the FDCPA, 15 U.S.C. §§ 1692, *et seq.*

22 121. As a result of each and every violation of the FDCPA, Plaintiffs are entitled  
23 to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages  
24 in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and,  
25 reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from  
26 Defendant.

27 ///

28 ///

**THIRD CAUSE OF ACTION**

**ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (“ROSENTHAL ACT”)  
(15 U.S.C. §§ 1692, et seq.)**

122. Plaintiffs incorporate by reference, all preceding paragraphs, as though fully set forth in this cause of action.

123. The foregoing acts and omissions constitute numerous and multiple violations of the Rosenthal Act, including but not limited to each and every one of the above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32.

124. As a result of each and every violation of the Rosenthal Act, Plaintiffs are entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney’s fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

**PRAYER FOR RELIEF**

Wherefore, Plaintiffs respectfully request that this Court grant Plaintiffs and the putative class the following relief against Defendant, and each of them:

- 125. For an Order certifying this matter as a Class Action;
- 126. For an Order that Plaintiffs be appointed as the Class Representatives;
- 127. For an Order that Plaintiffs’ attorneys be appointed as Class Counsel;
- 128. For all compensatory damages;
- 129. For all special damages;
- 130. For restitution and injunctive relief pursuant to Business and Professions Code § 17203;
- 131. For recovery of reasonable attorney’s fees pursuant to California Code of Civil Procedure § 1021.5;
- 132. An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);

1 133. An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §  
2 1692k(a)(2)(A);

3 134. An award of costs of litigation and reasonable attorney's fees, pursuant to 15  
4 U.S.C. § 1692k(a)(3);

5 135. An award of actual damages pursuant to California Civil Code § 1788.30(a);

6 136. An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code §  
7 1788.30(b);

8 137. An award of costs of litigation and reasonable attorney's fees, pursuant to  
9 Cal. Civ. Code § 1788.30(c).

10 138. For costs of suit; and

11 139. For all other such relief as this Court deems just and proper.

12  
13 Date: February 21, 2018

/s/ Abbas Kazerounian

Abbas Kazerounian

Attorney for Plaintiff

14  
15  
16 **Additional Counsel for Plaintiffs:**

17 Joshua B. Swigart, Esq. (SBN: 225557)

18 josh@westcoastlitigation.com

19 Robert L. Hyde, Esq. (SBN: 227183)

20 bob@westcoastlitigation.com

**HYDE & SWIGART APC**

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22 San Diego, CA 92108

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Thomas Trax and Jodi Cilley

(b) County of Residence of First Listed Plaintiff San Diego County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Abbas Kazerounian, Esq., Kazerouni Law Group, 245 Fischer Avenue, Unit D1, Costa Mesa, CA 92626, (800) 400-6808

DEFENDANTS

Transportation Corridor Agencies d/b/a The Toll Roads; Faneuil, Inc.; and Does 1 to 10

County of Residence of First Listed Defendant Orange County (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'18CV0420 DMS BLM

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1692

Brief description of cause:

Unlawful debt collection and unfair business practices

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/21/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
  
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
  
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
  
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
  
- V. **Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
  
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
  
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
  
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Plaintiffs Claim Collection Notices for Unpaid Tolls Don't Jibe with Federal, State Laws](#)

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