

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA**

OFFICE OF THE ATTORNEY
GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

v.

DOLLAR THRIFTY AUTOMOTIVE
GROUP, INC., a foreign corporation,

Defendant.

Case No.:

Division:

**COMPLAINT FOR INJUNCTIVE RELIEF,
CIVIL PENALTIES, RESTITUTION, AND OTHER STATUTORY RELIEF**

The Plaintiff, OFFICE OF THE ATTORNEY GENERAL, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS (the “Attorney General’s Office”), by and through undersigned counsel, sues the Defendant, DOLLAR THRIFTY AUTOMOTIVE GROUP, INC. (“DTAG”).

INTRODUCTION

DTAG extracts thousands, if not hundreds of thousands, of dollars in deceptive toll charges each year from its Florida customers, many of whom are visitors who are unfamiliar with the State’s “cashless toll” roads where there is no option to pay cash for tolls. In Florida, drivers using “cashless” or “toll-by-plate” roads may pay for tolls through use of an electronic transponder, like SunPass, or be

billed for the toll and a small administrative fee through the license plate of the car. Use of cashless toll roads without a transponder is not illegal or a traffic violation. However, DTAG misrepresents charges for cashless tolls as fines or violations assessed by the State and bills its customers a grossly inflated per toll fee. DTAG then uses the threat of these excessive fees to induce consumers to purchase DTAG's alternative toll product, known as PlatePass, as a means of avoiding DTAG's unfairly inflated per-toll charges. PlatePass is a flat per day charge of \$10.49 for each day of the rental, regardless of whether the renter incurs a toll charge. Hundreds of consumers have complained that they were pressured into buying PlatePass when they did not need it.

Consumers are also misled by DTAG about the need to purchase a Damage Waiver Product from DTAG and whether the consumer's own insurance policy or credit card provides sufficient coverage for any accidents or damage to the rental car. Many consumers have complained that DTAG has forced them to purchase the Damage Waiver Products when they did not want them or need them.

In addition, many consumers complained DTAG did not sufficiently advise them of the cost of upgrading their car class, and many consumers were charged for an upgrade without adequate disclosure of the price.

JURISDICTION AND VENUE

1. This is an action for injunctive relief, costs, consumer restitution, attorney's fees, penalties, and other available statutory relief pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2018) ("FDUTPA").

2. This Court has subject-matter jurisdiction pursuant to the provisions of FDUTPA.

3. The injunctive and other equitable relief requested in this Complaint is within the jurisdiction of this Court and the amount in controversy satisfies the jurisdictional threshold of this Court.

4. All of the acts, practices, occurrences, and transactions upon which this Complaint are based occurred within four (4) years of the filing of this Complaint for purposes of sections 501.207(5) and 95.11(3), Florida Statutes (2018).

5. Venue is proper in the Circuit Court of the Fourth Judicial Circuit, in and for Duval County, Florida pursuant to section 47.011, Florida Statutes (2018).

6. DTAG is incorporated in the state of Oklahoma and conducts business throughout the country and the State of Florida.

ATTORNEY GENERAL'S OFFICE

7. The Attorney General's Office is an "enforcing authority" of FDUTPA and is authorized to bring this action and seek injunctive and other statutory relief pursuant to sections 501.207 and 501.2075, Florida Statutes (2018).

8. Pursuant to section 501.207(2), Florida Statutes (2018), the Attorney General's Office conducted an investigation of the alleged matters, and Attorney General Pam Bondi determined that this enforcement action against Defendant serves the public interest.

DEFENDANT

9. DTAG is a national car rental company that rents cars throughout the country and throughout the State of Florida.

FACTUAL ALLEGATIONS

Cashless Tolls

10. Throughout parts of Florida, there are toll roads known as cashless tolls or "toll-by-plate" where drivers are unable to pay for tolls with cash.

11. To pay for tolls on a cashless toll road, drivers may either use a transponder of some type (typically a SunPass) that will allow the State to charge the cost of the toll to the Sunpass account, or the State will take a picture of the vehicle's license plate and send the vehicle's owner a bill for the cost of the toll plus a small administrative fee.

12. The administrative fee charged by the State of Florida is capped at \$2.50 per month regardless of how many cashless tolls the consumer may go through in that month.

13. Cashless toll roads are prevalent throughout South Florida, particularly in the Miami area.

14. Other parts of the state, such as Tampa, Orlando, and Fort Lauderdale have both cashless toll roads and toll roads that allow payment by electronic transponder or cash.

DTAG's PlatePass System

15. DTAG offers its customers the option of paying for tolls through its product called PlatePass. PlatePass may be used on all toll roads, including cashless toll roads.

16. DTAG currently charges customers \$10.49 plus tax per day for PlatePass for every day of the rental period.

17. PlatePass covers the cost of all tolls the customer may incur during the rental period.

18. PlatePass is a product that is provided by and administered by American Traffic Solutions, Inc. ("ATS")

19. DTAG contracts with ATS to provide and administer PlatePass.

20. If PlatePass is added to the car rental, DTAG, through ATS, charges the customer the \$10.49 fee for each day of the rental even if the customer does not go through any tolls during the rental period and for days when no tolls are incurred.

21. DTAG represents to customers or potential customers that PlatePass is a way for them to responsibly handle their toll fees while in Florida instead of incurring any fines, fees, or tickets for going through a cashless toll lane without paying.

22. The first time many customers learn of the option of buying PlatePass and the purpose of having it is when they arrive at the rental counter.

23. Many customers or potential customers are confused about why they would need PlatePass when they believe they could just pay in cash at any tolls they may encounter.

24. DTAG representatives have led customers or potential customers to believe one or more of the following:

- a. All roads in Florida have cashless tolls;
- b. Customers will not be able to access certain roads in Florida without PlatePass; and
- c. Customers will likely pay \$50 or more in tolls without PlatePass thereby making PlatePass appear like a reasonable option for paying for tolls.

25. DTAG representatives receive an incentive from DTAG when they are able to sell PlatePass to DTAG customers.

26. Upon information and belief, consumers have a difficult time finding information about PlatePass, cashless tolls, and their options for paying for tolls in Florida on DTAG's websites, in DTAG's written materials, and from its customer service representatives.

DTAG's Administrative Toll Fees

27. DTAG's rental agreements state that customers who opt not to purchase PlatePass but nonetheless go through a cashless toll without paying for the toll "will be liable for and we will charge you: (a) all tolls incurred for such use (at the highest, undiscounted applicable toll rate); (b) a \$15 administrative fee for each toll incurred (subject to a \$90 cap for such toll-related administrative fees for the rental period); and (c) all other applicable toll charges or fees, if any."

28. DTAG will currently charge a customer up to \$90 in "administrative" toll fees for each rental period. Until mid-2016, DTAG charged up to \$105 in "administrative" toll fees per rental period.

29. DTAG's \$15 administrative toll fee is a price set exclusively by DTAG and is not a fee charged by the State or any other entity.

30. DTAG conveys the impression to consumers that the \$15 administrative fee is a fine, ticket, and/or penalty for willfully failing to pay for a cashless toll.¹

31. In reality, the \$15 fee is DTAG's imposed penalty for not purchasing PlatePass.

32. When DTAG customers receive a bill for the tolls and administrative fees, the bill refers the customers to www.dollarrentalfine.com, www.thriftyrentalfine.com, and www.rentalcarticket.com, websites that are managed by ATS.

33. The website www.dollarrentalfine.com, describes PlatePass in its "About Us" section as a "...unique solution[] for...toll...violation processing..." further conveying the impression that failing to pay for a cashless toll is a violation of the law.

34. Until late 2016, DTAG did not provide any disclosures or information to consumers on its websites' reservation paths about the \$15 administrative fee.

35. It is difficult to find information on DTAG websites about the existence of the \$15 per toll charge. For example, for consumers to find information on a Dollar or Thrifty website about the existence and amount of DTAG's \$15 toll fee,

¹ Starting in Spring 2018, DTAG began charging its Florida customers \$9.99 for each administrative fee.

the consumer must click on “Travel Center,” then “Travel Tools,” and then scroll past seventeen topics to get to “PlatePass All-Inclusive Tolling.”

36. Upon information and belief, many DTAG customers are unaware of the \$15 per toll fee until they receive a charge on their credit card or a bill in the mail several weeks after their rental informing them of this charge.

State Fees for Cashless Tolls

37. Florida’s Turnpike Enterprise, a division of the State of Florida, Department of Transportation, has a contract with ATS for the processing of toll fees incurred by DTAG rental cars.

38. The Turnpike Enterprise processes all DTAG toll fees through a process called toll-by-plate or video tolling.

39. The Turnpike Enterprise video records all cars passing through a cashless toll. When a car does not have a transponder to pay for the toll (such as a SunPass), the Turnpike Enterprise reads the license plate of the vehicle going through the toll to determine who to bill for the unpaid toll.

40. The Turnpike Enterprise processes toll fees for both PlatePass and those DTAG customers who do not purchase PlatePass through toll-by-plate.

41. ATS pays the Turnpike Enterprise the same amount in toll fees regardless of whether PlatePass is added to the rental.

42. The Turnpike Enterprise charges ATS a discounted toll rate for each toll a DTAG car passes through. This discounted rate is the same rate SunPass users pay and is between 25-33% less than the posted toll rate.

43. The Turnpike Enterprise charges ATS \$0.085 for each license plate it reads plus a 6% management fee for the toll. This fee is roughly equivalent to \$0.15 for a \$1.00 toll.

The Rental Car Toll Fee Market

44. DTAG's administrative toll fees far exceed what its competitors charge.

45. Most car rental companies charge customers a \$3.95 fee per day plus the cost of the toll for the rental period. These fees are then typically capped at \$19.95 for the rental period.

46. Some companies charge customers the \$3.95 fee only for the days when a toll fee is incurred.

47. DTAG's parent company, Hertz, charges a \$4.95 per day fee with a cap of \$24.75 for the rental period.

48. Other car companies' toll fees are only invoked when the customer goes through a cashless toll without paying.

49. DTAG administrative fees are 600% higher than what the Turnpike Enterprise charges for the same service.

Damage Waiver Products

50. DTAG offers its customers the option of purchasing Damage Waiver Products such as: Loss Damage Waiver, Supplemental Liability Insurance, Personal Protection Plan, Protection Plus, Personal Accident Insurance, Personal Effects Insurance, Emergency Sickness Protection, and Uninsured and Underinsured Motorist Protection. (“Damage Waiver Products”).

51. These products act like a type of insurance that can relieve the customer of any obligation to pay for damage to the rental vehicle or to other vehicles while in the customer’s possession.

52. Many consumers have personal insurance policies and/or credit cards that provide insurance for any damage that may occur to the rental vehicle.

53. Many consumers have complained to the Attorney General that DTAG charged them for Damage Waiver Products even when they declined acceptance of the products.

54. Consumers complain that DTAG added the products to their account without their knowledge or were added to their account after they specifically declined them.

55. Consumers also complain that DTAG counter service representatives told them the Damage Waiver Products were required and could not be declined.

56. DTAG counter service representatives receive an incentive when they are able to upsell a consumer into purchasing a Damage Waiver Product.

Vehicle Upgrades

57. DTAG customers have the option of upgrading their car class from their reserved car class to a higher level (i.e. from an economy car to a midsize car).

58. Consumers have complained to the Attorney General they were charged for a higher car class when there were no cars available in the car class they reserved.

59. Other consumers complained that counter service agent represented to the consumer that the cost of the upgrade was a total cost rather than a per day cost (i.e. \$9.99 for the upgrade versus \$9.99 for each day of the rental).

60. DTAG counter service representatives receive an incentive when they are able to upsell a consumer into an upgraded car class.

COUNT I

VIOLATIONS OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT, CHAPTER 501, PART II, FLORIDA STATUTES (2018)

61. The Attorney General's Office incorporates and adopts by reference paragraphs 1 through 60 as if set forth fully herein.

62. Section 501.204(1), Florida Statutes (2018), makes illegal “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce”.

63. At all relevant times, Defendant engaged in deceptive, unfair, and unconscionable acts or practices in the conduct of trade or commerce in violation of Section 501.204(1), Florida Statutes (2018), as alleged in Paragraphs 1 through 60 herein.

64. Defendant violated FDUTPA by *inter alia*:

- a. Charging excessive “administrative fees” without disclosing to consumers that the fee is a profit and not a charge required by the State;
- b. Charging an excessive “administrative fee” to induce customers to purchase PlatePass;
- c. Representing its \$15 per toll charge as a fee, fine, or penalty, when in reality, it is an alternate pricing structure imposed by DTAG (all inclusive versus a per toll fee);
- d. Charging customers the full undiscounted toll rate when DTAG through its agent ATS is only charged the discounted rate;
- e. Failing to clearly and conspicuously disclose the existence of and amount of its \$15 administrative fee;

- f. Misrepresenting to customers the utility of PlatePass to induce them to purchase the product;
- g. Misrepresenting to consumers that they needed to purchase a Damage Waiver Product;
- h. Charging consumers for a Damage Waiver Product when the consumers had declined the product;
- i. Charging consumers for an upgraded car class when DTAG did not have the reserved car class available; and
- j. Misrepresenting to consumers the total cost of a car class upgrade.

65. Pursuant to section 501.207, Florida Statutes (2018), the Attorney General's Office is authorized to bring an action to enforce Chapter 501, Part II Florida Statutes (2018).

66. Pursuant to section 501.207(1)(b), Florida Statutes (2018), the Department is authorized to bring an action to enjoin the Defendant from further violations of FDUTPA.

67. Pursuant to section 501.207(3), Florida Statutes (2018), this Court is authorized in an action brought by the Attorney General's Office under section 501.207(1), Florida Statutes (2018), to enter an order that the Defendant provide

restitution to consumers found to have been injured by Defendant's violations of FDUTPA.

68. Defendant has committed one or more willful violations of section 501.2075, Florida Statutes (2018), and this Court is authorized to impose a civil penalty upon the Defendant of not more than \$10,000 for each willful violation of section 501.204, Florida Statutes, by Defendant.

69. Defendant has committed one or more willful violations of section 501.2077, Florida Statutes (2018). and this Court is authorized to impose a civil penalty upon the Defendant of not more than \$15,000 for each willful violation of section 501.204, Florida Statutes (2018), that victimizes a senior citizen, handicapped person, or member of the military as defined in that section.

70. The Attorney General's Office has incurred reasonable attorney's fees and costs and is entitled to have those fees and costs reimbursed by Defendant pursuant to sections 501.2075 and 501.2105, Florida Statutes (2018).

PRAYER FOR RELIEF

WHEREFORE, the Attorney General's Office respectfully requests that this Court grant the following relief:

- A. Entry of an Order finding that Defendant violated section 501.204(1), Florida Statutes (2018), by charging fees to consumers that were not properly disclosed, charging fees to consumers that Defendant did not earn,

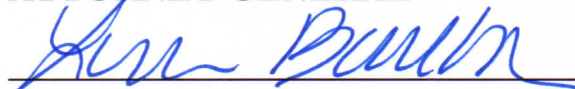
and misrepresenting the costs and purported benefits of Defendant's products to consumers.

- B. Entry of an Order temporarily and permanently enjoining the Defendant, its officers, agents, employees, or any other persons who act under, by, through, or on behalf of Defendant, from making material misrepresentations to consumers about the nature of its administrative toll fees, failing to clearly and conspicuously disclose the existence and amount of its administrative toll fees and the costs of its PlatePass product, misrepresenting the value and benefit to consumers of its PlatePass product, charging consumers for Damage Waiver products when the consumer had not agreed to the charge, and misrepresenting to consumers the cost of a vehicle car class upgrade.
- C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendant's violations of FDUTPA, including but not limited to restitution, the refund of monies paid, and disgorgement of ill-gotten monies pursuant to section 501.207(3), Florida Statutes (2018).
- D. Entry of an Order assessing against the Defendant civil penalties in the amount of \$10,000 for each act or practice found to be in violation of FDUTPA, pursuant to section 501.2075, Florida Statutes (2018).

- E. Entry of an Order against the Defendant assessing civil penalties in the amount of \$15,000 for each act or practice found to be in violation of FDUTPA, pursuant to section 501.2077, Florida Statutes (2018).
- F. Entry of an Order awarding the Department its reasonable investigative fees, attorney's fees, and costs of bringing and maintaining this action.
- G. Entry of an Order granting such other relief as this Court deems just and proper.

Respectfully submitted,

PAM BONDI
ATTORNEY GENERAL



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