

**SUPERIOR COURT OF NEW JERSEY
ATLANTIC COUNTY – LAW DIVISION – SPECIAL CIVIL PART
NEW JERSEY TURNPIKE AUTHORITY,**

Plaintiff,

v.

Docket No.: ATL-DC-007956-25

DEVON T. BARBER,

Defendant.

Civil Action

NOTICE OF MOTION

TO: **Gregory F. Kotchick, Esq., Durkin & Durkin, LLC**

1120 Bloomfield Ave., P.O. Box 1289, West Caldwell, NJ 07007

Attorneys for Plaintiff NEW JERSEY TURNPIKE AUTHORITY (NJT)

PLEASE TAKE **NOTICE** that on the first available motion date, or as soon thereafter as counsel may be heard, Defendant **Devon T. Barber**, appearing pro se, shall move before the Superior Court of New Jersey, Law Division – Special Civil Part, Atlantic County, for an Order:

1. Striking Plaintiff's claims for administrative fees not supported by timely, compliant Advisory and Payment Requests (APRs);
2. Waiving fees for inadvertent violations under **N.J.A.C. 19:9-9.2(b)**;
3. Limiting any judgment to verified toll principal only;
4. Directing the parties to establish a **30/60/90-day installment plan** and Defendant's **E-ZPass enrollment**;
5. Denying Plaintiff's demand for attorney's fees and prejudgment interest; and
6. Granting such other just and equitable relief as this Court deems proper.

The undersigned relies upon the attached **Answer, Affirmative Defenses, Motion to Strike/Limit Administrative Fees, Equity Statement, Certification of Service, and Proposed Order**.

Respectfully submitted,

BY: Devon Tyler, 
Devon T. Barber, Pro Se

325 E. Jimmie Leeds Rd., Ste. 7 PMB 333

Galloway, NJ 08205

Tel: (609) 665-9350 | Email: devon@tiller.earth

Date: **September 3, 2025**

SUPERIOR COURT OF NEW JERSEY

ATLANTIC COUNTY – LAW DIVISION – SPECIAL CIVIL PART

NEW JERSEY TURNPIKE AUTHORITY,

Plaintiff,

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**ANSWER, AFFIRMATIVE DEFENSES, AND MOTION
TO STRIKE/LIMIT ADMINISTRATIVE FEES**

ANSWER

1. Defendant admits that the New Jersey Turnpike Authority (“NJTA”) is a statutory entity authorized to operate toll roads in New Jersey. Defendant denies that Plaintiff has authority to recover the specific administrative fees demanded absent strict compliance with binding law.
2. Defendant admits he was the one traveling in the automobile referenced and used E-ZPass express lanes in good faith, assuming tolls would be billed. Defendant denies any intent to evade tolls.
3. Defendant admits some tolls may have gone unpaid but denies liability for \$4,905.00 in administrative fees.
4. Defendant recalls receiving certain correspondence but does not concede that each alleged Advisory and Payment Request (APR) was timely, proper in content, or compliant with N.J.S.A. 27:23-34.3(a). To the extent any notices were received, the compounding \$50 demands were confusing and did not offer reasonable resolution such as a plate-based account or installment plan.
5. Defendant tenders willingness to pay verified toll principal (if properly proven) and to enroll in E-ZPass to prevent recurrence, but denies liability for unsupported administrative penalties.

Except as expressly admitted, all allegations are denied.

AFFIRMATIVE DEFENSES

1. **Statutory Noncompliance.** Under N.J.S.A. 27:23-34.3(a), administrative fees are recoverable only if based on the actual cost of processing and collecting a violation and

supported by a timely Advisory and Payment Request (APR). Plaintiff has not established compliance for each violation.

2. **Inadvercence Relief.** Under N.J.A.C. 19:9-9.2(b), fees must be waived when violations are inadvertent. Defendant's use of express lanes in good faith reliance on E-ZPass qualifies as inadvertence.
3. **Excessive Fines / Fundamental Fairness.** Fees nearly 24× greater than tolls are punitive and disproportionate, violating:
 - a. The Excessive Fines Clause of the Eighth Amendment, incorporated against the states in *Timbs v. Indiana*, 586 U.S. ___, 139 S. Ct. 682, 689–90 (2019);
 - b. The fundamental fairness doctrine under New Jersey law, which prohibits outcomes that “shock the judicial conscience,” *Doe v. Poritz*, 142 N.J. 1, 108, 662 A.2d 367, 418 (1995); and
 - c. The requirement that administrative fees approximate actual regulatory costs, *N.J. Ass'n of Health Care Facilities, Inc. v. Finley*, 83 N.J. 67, 79–80, 415 A.2d 1147, 1154 (1980).
4. **No Attorney's Fees / Prejudgment Interest.** No statute authorizes Plaintiff's recovery of attorney's fees or prejudgment interest here. Such demands must be stricken.
5. **Tender & Mitigation.** Defendant tenders prompt payment of verified toll principal and seeks E-ZPass enrollment to prevent recurrence; any additional fees are avoidable and should be denied.

X
X
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X
X

MOTION TO STRIKE/LIMIT ADMINISTRATIVE FEES AND DIRECT PLAN

POINT I – STATUTE CONTROLS

N.J.S.A. 27:23-34.3(a) authorizes only cost-based administrative fees, recoverable after the Authority issues a compliant Advisory and Payment Request (APR). Absent proof of timely

APR mailing, proper content, and a showing of actual costs incurred for each alleged violation, the \$50-per-violation charges are unrecoverable as a matter of law.

POINT II – INADVERTENCE RELIEF

N.J.A.C. 19:9-9.2(b) requires waiver of administrative fees where the owner proves violations were inadvertent. Defendant's use of E-ZPass express lanes in reliance on an active account constitutes good-faith inadvertence, triggering statutory relief. Only the underlying toll principal may be charged.

POINT III – AS-APPLIED DISPROPORTIONALITY

Plaintiff seeks approximately \$4,905 in fees on roughly \$200 of tolls — a **24:1 fee-to-toll ratio**. Such penalties are punitive, not compensatory, and violate:

- The **Excessive Fines Clause** of the Eighth Amendment (*Timbs v. Indiana*, 586 U.S. ___, 139 S. Ct. 682, 689–90 (2019));
- **Fundamental fairness** principles under New Jersey law (*Doe v. Poritz*, 142 N.J. 1, 108, 662 A.2d 367, 418 (1995)); and
- New Jersey's requirement that administrative fees reflect actual costs (*Finley*, 83 N.J. at 79–80).

POINT IV – EQUITABLE RESOLUTION

The Court may direct a practical resolution that enforces toll payment without perpetuating unconstitutional penalties. Defendant requests the Court to order:

“Within 21 days, the parties shall present a written 30/60/90-day installment plan for payment of verified toll principal, along with proof of Defendant’s E-ZPass enrollment tied to the subject vehicle’s license plate. Upon compliance, administrative fees shall be deemed satisfied.”

This balances statutory purpose, equity, and constitutional safeguards, while ensuring future toll compliance.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that this Court:

- Strike Plaintiff's claims for administrative fees not supported by timely APRs;
- Waive fees for inadvertent violations under **N.J.A.C. 19:9-9.2(b)** and limit recovery to toll principal;
- Recognize the as-applied disproportionality as unconstitutional and inequitable;
- Deny Plaintiff's demand for attorney's fees and prejudgment interest; and
- Direct the parties to establish a 30/60/90-day installment plan and Defendant's E-ZPass enrollment.

EQUITY AND PUBLIC POLICY STATEMENT

This case is not about refusing tolls. Defendant acknowledges tolls were incurred, believed billing would occur, and never intended to evade. Instead of offering a reasonable plate-based account or plan, Plaintiff relied on punishment upon punishment — dozens of notices each compounding \$50. Such escalation overwhelms ordinary travelers and undermines legislative intent. Equity requires toll principal be paid, but penalties untethered to statute and fairness must be denied. Resolution through verified tolls, enrollment in E-ZPass, and a manageable payment plan serves both justice and efficiency.

PRAYER FOR RELIEF

Defendant respectfully requests that this Court:

1. Strike Plaintiff's claims for administrative fees not supported by timely APRs;
2. Waive fees for inadvertent violations under **N.J.A.C. 19:9-9.2(b)** and limit any judgment to verified toll principal only.;

3. Direct the parties to establish a 30/60/90-day installment plan and Defendant's E-ZPass enrollment;
4. Deny Plaintiff's demand for attorney's fees and prejudgment interest; and
5. Grant such other and further relief as the Court deems just and equitable.

Respectfully submitted,

BY: Devon Tyler, XOX A.R.R.

Devon Tyler Barber, Pro Se

325 E. Jimmie Leeds Rd., Ste. 7 PMB 333
Galloway, NJ 08205

(609) 665-9350 • devon@tiller.earth

Date: September 3, 2025

PROPOSED ORDER

SUPERIOR COURT OF NEW JERSEY

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ORDER LIMITING ADMINISTRATIVE FEES AND DIRECTING RESOLUTION

This matter having been opened to the Court on the motion of Defendant, **Devon T. Barber**, appearing pro se, for an order striking or limiting administrative fees, and the Court having considered the pleadings and good cause appearing,

IT IS on this ____ day of _____, 2025, ORDERED that:

1. Plaintiff's claims for administrative fees are **stricken** absent proof of timely, compliant APRs for each alleged violation;
2. For events deemed **inadvertent** under **N.J.A.C. 19:9-9.2(b)**, recovery is limited to **toll principal only**;
3. Plaintiff may recover **verified toll principal only**, if proven;
4. The parties shall, within **21 days**, submit to the Court a written **30/60/90-day installment plan** and proof of Defendant's **E-ZPass enrollment** tied to the vehicle's license plate;
5. Plaintiff's demand for attorney's fees and prejudgment interest is **denied** absent statutory authorization;
6. Such other relief as the Court deems just and equitable is reserved.

SO ORDERED:

Honorable _____, J.S.C.

CERTIFICATION OF SERVICE

I, Devon Tyler Barber of the Paccillo Family, certify that on **September 3, 2025**, I served a true copy of the foregoing **Notice of Motion, Answer, Affirmative Defenses, Motion to Strike/Limitation, Equity Statement, and Proposed Order** upon Plaintiff's counsel, **Gregory F. Kotchick, Esq., Durkin & Durkin, LLC, 1120 Bloomfield Ave., P.O. Box 1289, West Caldwell, NJ 07007-1289**, by certified mail return receipt mail and submitted the same via JEDS. I certify that the foregoing statements are true. I am aware that if any of the foregoing is willfully false, I am subject to punishment.

X. BY: Devon Tyler 
All Rights Reserved.
/s/ Devon Tyler Barber, Pro Se

Date: **September 3, 2025**