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## Fines for express lane violations take their toll

A group of motorists is suing two tollway agencies over tens of thousands of dollars in penalties.

By Dan Weikel  
Times Staff Writer

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To renew her vehicle registration, Pamela Mathews Avery of Riverside County said she cleared up \$346 in unpaid tolls for using the 91 Express Lanes. Nevertheless, the Orange County Transportation Authority, which owns the tollway, says that she still owes \$47,850 in penalties.

Ruth Arlene Murray, 72, of San Bernardino County faces more than \$70,000 in fines for failing to pay \$504 in tolls to the Transportation Corridor Agencies, another turnpike operator. And OCTA has assessed Stephanie and Brian Young of Corona \$53,550 in penalties for \$580 in unpaid tolls.

"This is ridiculous," said Stephanie Young, the mother of three children. "Not everyone with these penalties was deliberately abusing the tollways. People should not face losing their homes and their cars over fines like this."

Avery, Murray, Young and 13 other motorists are suing the operators of Orange County's toll roads, alleging that they were illegally fined almost \$334,000 for failing to pay about \$2,500 in tolls.

The lawsuit accuses the transportation authority and the Transportation Corridor Agencies of violating constitutional protections against excessive fines. A hundred dollars in unpaid tolls, for example, can represent dozens of toll violations, each carrying a potential penalty of up to \$500.

The motorists also allege that the government agencies mishandled their requests to correct mistakes, denied them adequate opportunities to contest penalties, and imposed stiff fines although violations were unintentional and some tolls were eventually paid.

"They are just taking advantage of people," said Yolanda Edmundson of Rancho Santa Margarita, who, along with her husband, Geoffrey, faces \$4,300 in penalties for failing to pay \$75 in tolls. "I am not a chronic abuser like they make us out to be."

Officials for both agencies said their toll enforcement procedures are fair and comply with state law. Motorists, they said, are notified repeatedly of unpaid tolls and have ample opportunity to clear their debts or contest violations before serious penalties are imposed.

"We are confident that we have sufficient documentation on each one of these motorists to defend ourselves in court," said Kirk Avila, who manages the 91 Express Lanes for OCTA. "These are chronic violators who continued to use the tollway without paying."

The lawsuit was filed in Orange County Superior Court in January. It seeks unspecified damages and a court order to overturn the fines.

Five of the 16 motorists are from Riverside and San Bernardino counties. The others live in Orange County.

Anat Levy, one of the group's attorneys, said she will ask a judge in the weeks ahead to declare the lawsuit a class action, which could add tens of thousands of tollway users to the case.

The OCTA operates the 91 Express Lanes, a 10-mile-long, four-lane tollway that runs down the median of the Riverside Freeway from the Costa Mesa Freeway to the Orange County line. Tolls range from \$1.15 to \$9.25 one way.

The Irvine-based Transportation Corridor Agencies owns a 51-mile network of tollways, including the Eastern, the Foothill, and the San Joaquin Hills. The TCA charges \$0.50 to \$4.75 each way.

The state vehicle code allows turnpike agencies to establish enforcement policies and impose fines of up to \$500 per toll violation.

Edmundson, who was assessed \$4,300 in fines for \$75 in unpaid tolls, said the problem began in July 2004 when her family switched banks and forgot to notify the TCA. Since 1997, the Edmundsons said they had paid their tolls electronically from a checking account.

Edmondson recalled that she contacted the TCA to correct the problem and was told there would be \$699 in penalties. She said she agreed to make payments, but never heard back from the TCA until she and her husband were notified in August 2006 that they owed \$4,300 in penalties.

"We realized our errors and tried to rectify them," Edmondson said. "There is no way we are going to pay the \$4,300. We are just working people."

In another example, the OCTA assessed Bill and Jennifer Sempertegui of Riverside County \$93,000 in potential penalties for failing to pay \$300 in tolls on the 91 Express Lanes.

According to court records, Bill Sempertegui blamed the violations on a faulty transponder that the OCTA had assured him was working properly. The electronic devices record when motorists use the road so tolls can be charged.

At one point, Sempertegui said, the violations continued and he inquired about his toll way account at the OCTA. According to the lawsuit, he was informed that his payments were up to date and that any violations would be removed.

About a year later in 2004, Sempertegui said, he and his wife received a notice that the OCTA would seek a \$93,000 judgment against them unless they settled. In the middle of trying to buy a home, Sempertegui said he decided to pay \$21,000 to end the matter.

"There is intense pressure by these agencies to get people to settle," Levy said. "They threaten to get judgments, put liens on houses, take your car and drag you into court all over a few hundred dollars."

OCTA and TCA officials declined to discuss specific cases. But they said their toll enforcement practices are legal and a necessary incentive to keep tolls flowing into the agencies.

"The violation process is important and a deterrent," said Jennifer Seaton, a TCA spokeswoman. "It makes it fair for those who pay their tolls."

The TCA had more than 1 million toll violations in 2006, Seaton said. About 375,000 remain uncollected today, representing almost \$18 million in revenue.

Officials say at least two notices are sent to motorists demanding payment before the matters are sent to collection agencies, which send out additional notices.

With each notice, penalties increase and the fees can grow exponentially up to \$500 per violation for repeat offenders.

"Chronic violators who ignore notices can generate substantial amounts of money in penalties," Avila said.

If efforts by collection agencies fail, tollway agencies can seek a judgment in court to impose penalties on violators. Officials say offending motorists are notified of the proceeding and have 30 days to respond to the agency before the court action is taken. However, officials say, there is no opportunity for violators to dispute the penalty at the court hearing.

Although there is a mechanism to contest violations, the motorists allege that it violates their constitutional right to due process because they have little opportunity to defend themselves.

Levy said the grounds to challenge a violation are limited to such reasons as whether a vehicle involved in a toll violation had been sold, stolen or was a rental. She also said that motorists should be given the opportunity to defend themselves during court hearings to establish penalties.

"People call time after time to contest violations and nothing changes," Levy said. "I even have one client who was assessed \$20,000 in penalties while contesting the violations."

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(INFOBOX BELOW)

A heavy toll on motorists

Sixteen people are suing Orange County toll road operators, claiming they were assessed exorbitant penalties for failing to pay a few hundred dollars in tolls.

Plaintiff	County	Unpaid Penalties By		
		toll fees	assessed	agency*
Pamela M. Avery	Riverside	\$346	\$47,850	OCTA
Yolanda, Geoffrey Edmundson	Orange	75	4,300	TCA
Rachelle Geach	Orange	200	28,690	TCA
Maria, Pablo Gonzalez	Orange	NA	17,000	OCTA
Ruth, Jeff Murray	S.B./Riv.	504	70,000	TCA
Cyndi and Michael Roldan	Orange	70	1,600	TCA
Marta Roybal, Ron Hall	Orange	300	17,820	TCA
Jennifer, Bill Sempertegui	Riverside	300	93,000**	OCTA
Stephanie, Brian Young	Orange	580	53,550	OCTA

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\*Orange County Transportation Authority and Transportation Corridor Agencies

\*\*In a settlement, Sempertegui agreed to pay \$21,000 in penalties before the lawsuit was filed.

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Source: Orange County Superior Court records. Graphics reporting by Dan Weikel

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