

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

STATE OF RHODE ISLAND,
Plaintiff,

v.

UPP Global, LLC
Defendant.

C.A. No.: PC-2024-_____

COMPLAINT

The State of Rhode Island *ex rel.* Peter F. Neronha, Attorney General, for its Complaint against Defendant UPP Global, LLC alleges:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Rhode Island Deceptive Trade Practices Act (“DTPA”), R.I. Gen. Laws §§ 6-13.1-1, et. seq.

2. Defendant UPP Global, LLC (“UPP Global”), has engaged in a pattern of unfair and deceptive trade practices targeted at Rhode Island consumers.

3. UPP Global operates a number of motor vehicle parking facilities in Providence, Newport, and East Greenwich. These parking facilities are open to the public, who may park in those garages or lots for a fee.

4. UPP Global employs different payment models depending on the facility. For example, the “Civic Center Garage” at 165 Washington Street in Providence uses gated entryways and exits where consumers pay for the amount of time they parked as they leave.

5. In their garage next to the Providence Performing Arts Center garage at 233 Weybosset Street in Providence, UPP Global utilizes “metered” kiosk where consumers pay immediately after they park for the amount of time they intend to park before leaving the facility.

6. Upon information and belief, UPP Global employs a series of unfair and deceptive tactics at their various parking facilities such as:

- a. Charging customers a fee identified as a tax and then keeping the proceeds;
- b. Charging customers a junk 10% “service fee”;
- c. Failing to disclose the price for parking until after a consumer has already parked;
- d. Advertising “hourly” parking then requiring customers to pay for multiple hours at a minimum;
- e. Refusing to accept cash payment; and
- f. Issuing “citations” that (1) mimic government-issued parking tickets, (2) without appropriate notice to the consumer, (3) that falsely threaten consequences from the Division of Motor Vehicles, (4) threaten a consumer’s credit or ability to rent a vehicle, and (5) offering an “appeals” process that appears to be illusory.

7. For example and as discussed further below, UPP Global issues “tickets” or “citations” to customers at “pay and display” lots who overstay their prepaid parking. These “citations” mimic government-issued parking tickets and threaten that a failure to pay a \$63.00 “fine” may affect the consumer’s driver’s license and vehicle registration renewal.

8. These threats are false and misleading: while these citations use language similar to a government-issued document and threaten action by a state agency, UPP Global has no power or authority over the Division of Motor Vehicles and the DMV will not deprive someone of their license or registration for failure to pay a “fine” imposed by a private company.

9. Similarly, UPP Global charges some customers a 7% fee identified as a “tax” even though parking at their facilities is sales-tax exempt.

10. And, upon information and belief, UPP Global kept any “tax” they collected and did not remit it to the State.

11. Given this pattern of unfair and deceptive conduct, the State now seeks court intervention to enjoin UPP Global's practices, provide monetary relief to harmed consumers, and levy an appropriate civil penalty to punish and deter illegal conduct.

II. PARTIES

12. Rhode Island Attorney General Peter F. Neronha is authorized to bring this action on behalf of the State of Rhode Island by R.I. Gen. Laws § 6-13.1, *et seq.* and R.I. Gen. Laws § 5-65-10(b).

13. Defendant UPP Global, LLC, which has also registered the fictitious name RI Parking Co., is a Delaware limited liability company registered with the Rhode Island Secretary of State ("Secretary of State"). UPP Global, LLC's principal office is located at 496 Congress Street, Suite 3, Portland, Maine 04101.

III. JURISDICTION AND VENUE

14. This Court has subject-matter jurisdiction over this matter under R.I. Gen. Laws § 6-13.1-5.

15. This Court has personal jurisdiction over UPP Global because it is registered to do business in Rhode Island with the Secretary of State and conducts significant business operations in Rhode Island.

IV. FACTUAL ALLEGATIONS

16. UPP, which started operating in 2013, is a parking management company operating in nine states with over 300 locations under management.

17. According to the Secretary of State's website, UPP Global registered to do business in the state in August 2019 and filed for the fictitious name "RI Parking Co." on October 15, 2019.

18. UPP operates parking structures and lots serving some of the State's most popular cultural venues and landmarks. For example, they currently operate the Civic Center Garage at 165 Washington Street ("Civic Center"), the Providence Performing Arts Center Garage at 233 Weybosset

Street (“PPAC”), the Providence Arcade Parking Lot at 87 Weybosset Street (the “Arcade”), and parking lots across Newport.

19. Among others, UPP Global operates the following parking facilities in Providence:

121 South Main Street, Providence, RI

321 South Main Street, Providence, RI

233 Weybosset Street, Providence, RI

165 Washington Street, Providence, RI

5 Memorial Boulevard, Providence, RI

87 Weybosset Street, Providence, RI

136 Dorrance Street, Providence, RI

250 South Water Street, Providence, RI

20. Among others, UPP Global operates the following parking facilities in Newport:

449 Thames Street, Newport, RI

458 Thames Street, Newport, RI

10 Washington Square, Newport, RI

250 Bellevue Ave, Newport, RI

21. UPP Global also operates a lot in East Greenwich, RI at 333 Main Street.

22. Upon information and belief, UPP typically operates their parking facility either by using an automated gated entrance or an automated pre-payment kiosk.

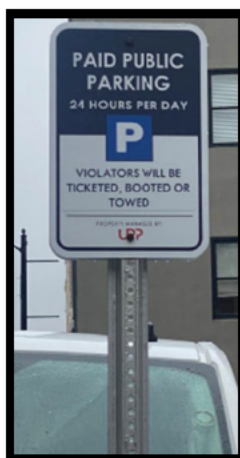
23. Upon information and belief, when a consumer pulls into a parking facility with a gated entrance, they will be prompted to insert their credit card or to take a ticket. Price information may be displayed on signage near the gate or on the machine where they insert their credit card or take a ticket. Consumers are then charged when exiting the parking lot.

24. Upon information and belief, in facilities where UPP utilizes a parking kiosk, customers park before paying and are directed to pay at a kiosk before leaving the facility; these are referred to as “metered” or “pay and display” lots.

25. Upon information and belief, in kiosk-based facilities, a customer may only see the price for parking and any other terms or conditions once they have already parked and arrive at the kiosk.

26. In kiosk-based facilities, customers will often be prompted to pre-pay for the amount of time they intend to park for.

27. “Pay and display” and “metered” facilities may include signs that threaten “violators” or those that “fail[] to pay” will be “ticketed”, issued a “citation”, or that their vehicle will be booted or towed:



28. UPP’s signage does not adequately explain what constitutes a “violation” or a “failure to pay.”

29. UPP’s signage may not explain that customers who stay only a few minutes longer than the time they pre-paid for may receive a “citation” or “ticket” asking for a fine that could be ten times more than the facilities’ hourly rate.

30. Additionally, consumers may not receive any receipt or ticket that explains the terms and conditions of their parking at UPP's facility, such as the consequences for running a few minutes later than expected.

Unfair and Deceptive "Citations"

31. As company founder Dan McNutt explained in a 2015 article in the Portland Free Press, the "heart" of UPP Global's business is the "pay and display" model where consumers pay when they park rather than when they depart.

32. As Mr. McNutt acknowledges, as a private business UPP Global does not have the authority to issue enforceable parking tickets for violations.

33. In other states, UPP Global had attached a "boot" to vehicles requiring them to pay a UPP employee a fine before they would allow the consumer to leave the lot.

34. According to local papers in Vermont and Maine, UPP Global's practices have led to consumer confusion and frustration. For example, the Burlington Free Press reported that "some customers have been surprised to find out that the lots are privately operated and therefore exempt from municipal parking rules" and the company was aware that some customers had tried to pay UPP Global parking tickets through the city website.¹ According to that article, the city's Director of Public Works wrote to UPP Global that customers believed their lots were "municipal facilities" and that UPP Global's "performance reflects on us..."

35. In Rhode Island, UPP Global has employed a different strategy: perhaps recognizing that they do not have the power of a municipal or state government, they are acting as a government imposter by issuing unfair and deceptive parking "tickets" which are labeled as "Citations."

¹ *Burlington Free Press*, Burlington's private downtown lots cause public confusion, March 13, 2017 (available at <https://www.burlingtonfreepress.com/story/news/local/2017/03/13/burlingtons-private-downtown-lots-cause-public-confusion/98479378/>).

36. UPP Global's practice of issuing these citations is unfair and deceptive in at least five different ways.

37. *First*, despite being issued by a private company, these Citations mimic the appearance of a government-issued parking ticket, including language throughout that would lead a consumer to believe these were issued by a government entity or that UPP Global could use the power of the State against consumers:

CITATION
RI Parking Co.

CITATION

CITATION # : 65043699
VIOLATION : Non-Payment
ISSUE DATE : 09/17/23 11:37 AM Sun

FINE * = \$63.00

PLATE # : [REDACTED]
PLATE STATE : Rhode Island
ZONE : 116335 - 136

VEH MAKE : [REDACTED]
VEH MODEL : [REDACTED]
VEH COLOR : [REDACTED]

ENFORCEMENT AGENT: Josh

FEE SCHEDULE

PAY BY: 09/20/23 \$43.00
PAY BY: 10/17/23 \$63.00
THEREAFTER: \$103.00

*FINE includes admin fee of \$3.00


Pay Online at riparkingco.rmcpay.com

Appeals will only be accepted 7 days after issuance and must be submitted online. Late appeals will not be accepted.

By Issuing this citation, we allege that the vehicle with displayed license plate number has parked improperly or in violation to parking policies as referenced.

PAY ONLINE TODAY
<http://riparkingco.rmcpay.com>
(Details on Reverse)

HOW TO MAKE A PAYMENT
<http://riparkingco.rmcpay.com>



FEE SCHEDULE

PAY Within 3 days = 33% Discount
PAY After 3 days = Full Fine Amount
PAY After 30 days = Fine Amount Doubles

UNPAID CITATIONS MAY AFFECT

- Credit Rating
- Vehicle Registration
- License Renewal
- Ability to Rent a Vehicle

RI Parking Co. manages privately owned parking lots made available for public use with restrictions. These private parking lots are independent to the local municipality therefore, the rules, hours of service and pricing that govern the municipal parking lots do differ from the privately-owned parking facilities. Please respect the rights of private ownership and follow the policies by always paying for parking while in use and occupying this lot. Thank you.

38. For example, naming these “Citations” implies that they are issued by a government entity. According to the Merriam-Webster dictionary, the first definition of “citation” is “an official summons to appear (as before a court).”

39. Similarly, the Citation states that a consumer is being assessed a “fine”, that they are in “violation”, and have a right to “appeal.”

40. These loaded terms are all hallmarks of a government-issued parking ticket.

41. UPP’s signage may also identify these citations as “tickets.”

42. Like municipal parking tickets, UPP Global’s Citations also feature an escalating penalty whereby they offer a discount for tickets that are paid immediately but with increasing fines the longer a consumer takes to pay.

43. Not only do these Citations masquerade as a government-issued parking ticket, UPP Global even goes so far as to threaten government action against “violators” who fail to pay their “fine” in the time allotted.

44. **Second**, upon information and belief, UPP Global does not inform consumers at “metered” facilities (1) what constitutes a violation, (2) that paying but then overstaying their parking time will result in a citation or fine, or (3) they may be assessed a \$63.00 “fine” regardless of the hourly rate at the parking lot or the amount of time they overstayed their parking.

45. **Third**, these citations deceptively threaten consumers who fail to pay the “fine” with potential consequences for their driver’s license and vehicle registration.

46. Specifically, on the back of each citation issued in Rhode Island, UPP Global threatens that a failure to pay the Citation “may affect” a consumer’s “license renewal” or “vehicle registration.”

47. UPP Global does not have the ability to affect a consumer’s license renewal or vehicle registration.

48. The Rhode Island Division of Motor Vehicles will not refuse to renew someone's license or registration based on the demand of a private company.

49. *Fourth*, UPP threatens that a failure to pay the Citation may harm a consumer's credit and ability to rent vehicles in the future.

50. If UPP does not take action to harm a consumer's credit or ability to rent a vehicle (or does not have that ability), then this threat is deceptive because there no financial consequence for failing to pay the "fine."

51. If UPP does take action to harm a consumer's credit or ability to rent a vehicle based on the consumer's failure to pay a unilaterally imposed "fine", then this practice is unfair.

52. On information and belief, UPP Global does not notify consumers in any way prior to issuing a "citation" that parking in their facilities may result in harm to their credit, their ability to rent vehicles in the future, or that they could be sent to a collections agency.

53. *Fifth*, UPP Global represents on each citation that the consumer has the ability to follow an "appeal" process.

54. However, this "appeal" process may be illusory to the extent that UPP Global does not apply any objective criteria or simply fails to respond.

55. Consumer Complaints to the Office of the Attorney General have confirmed that these "citation" tactics are unfair and deceptive to consumers.

56. For example, **Consumer A** filed a complaint after she parked her vehicle in UPP's lot at 125 Dorrance Street on September, 17, 2023.

57. According to Consumer A, she paid \$18.00 when she pulled into the lot and was sent a receipt.

58. According to Consumer A, when she returned to her vehicle, she had a Citation on her vehicle which demanded \$63.00 in payment, and that if the amount were not paid by October 17, 2023, that Consumer F would owe UPP Global \$103.00.

59. Subsequently, Consumer A received a letter in the mail entitled “Notification of Delinquent Payment,” which stated that “[t]his violation was legally issued to the above noted vehicle...you are responsible for paying this parking violation” and that “[f]urther penalties may include vehicle immobilization and/or towing at additional expense to you if parking on RI Parking Co. operated property.”

60. According to Consumer A, she asked a company employee on what basis she was assessed the citation. She stated that they provided no explanation or response, and instead told Consumer A that her failure to pay could affect Consumer A’s license renewal and registration.

Added Fees Disguised as Sales Tax

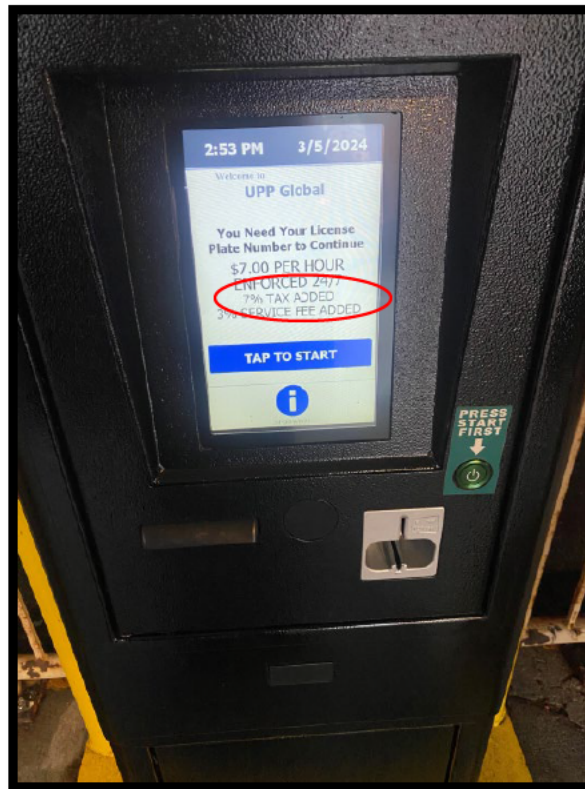
61. Parking facilities in Rhode Island are not subject to the State’s sales or use taxes.

62. Rhode Island’s sales tax rate is currently set at 7%.

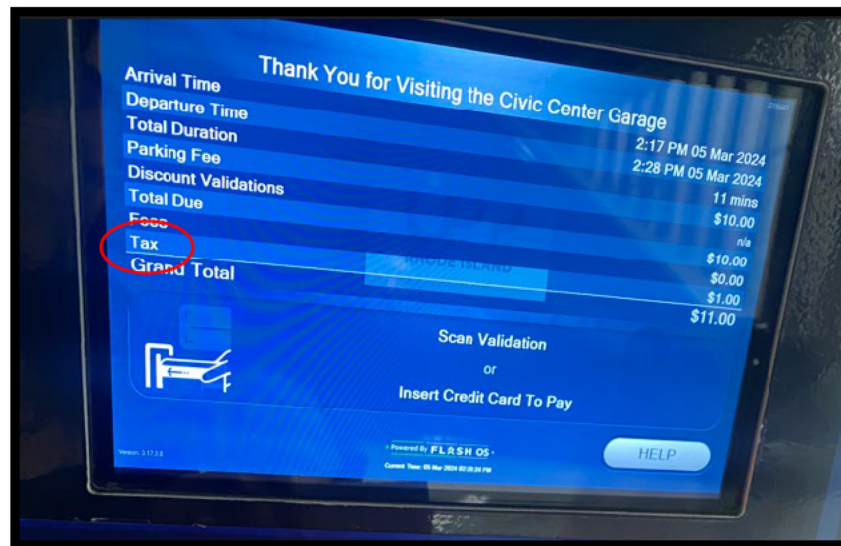
63. Upon information and belief, while parking facilities may pay certain licensing or other fees to municipal or state entities, those fees are not taxes on a consumer’s purchase of parking services and do not correlate to the amount a parking business charges a particular customer.

64. Despite this, UPP Global charges some consumers an additional fee it describes as a “tax.”

65. For example, at the PPAC garage, UPP Global charges customer an additional 7% for “tax added”:



66. Similarly, at the Civic Center garage, customers are told they are paying a 10% tax when they are attempting to pay and leave the garage:



67. On information and belief, UPP Global has never paid any amount of sales tax to the State.

68. On information and belief, UPP Global keeps any amount they collect in “tax” from consumers.

69. Therefore, UPP Global is tacking on added fees to customer transactions under the guise of collecting tax on behalf of the State; again, they are acting under the guise of government authority and legal requirement to secure additional payments from consumers.

Junk “Service Fees”

70. At parking facilities where UPP Global does not charge a “tax” fee, they may still charge each customer a 10% “Service Fee” that is not included in the hourly rate.

71. Upon information and belief, at those facilities every customer is charged a service fee regardless of how they offer to pay for any “service” provided by UPP Global.

72. Upon information and belief, at some of those facilities there are actually no services provided other than the privilege of parking without receiving a citation, such as a security guard or access to restrooms.

73. Additionally, UPP Global does not allow customers to avoid paying a service fee by paying in cash.

74. Therefore, this service fee is not used to pay for additional “services” and is instead used for some other undisclosed purposes.

75. Upon information and belief, this “service fee” appears similar to the “convenience fee” that the city of Providence’s third-party online parking payment provider (Passport Parking) charges. However, when using Passport, presumably some or all of the underlying cost to park is paid to the city and parkers are still offered the ability to avoid paying any added fee by paying with cash at the meter.

Failure to Advertise or Post Parking Rates

76. At many of their “pay and display” facilities, UPP Global does not post or advertise visible rates or prices.

77. For example, at their 87 Weybosset Street parking lot, there is no signage or price display at the entrance, on or around the payment kiosk, or the parking area that discloses how much a customer can expect to pay.

78. The price is only displayed once a customer presses a button on the kiosk itself to turn on the display.

79. Therefore, to learn how much they may be charged, a customer must potentially find a parking spot, exit their vehicle with their credit card, approach the payment kiosk and press a button to turn on the display before they are first informed about the price, fees and taxes, or an hourly minimum.

80. This harms consumers who may waste time waiting to find a parking spot in the facility or in line at the kiosk before deciding to leave, end up paying more than they would otherwise given their inability to look for another place to park before their show or event, and harms competitors who do visibly advertise their parking rates but may lose customers who are lured to a UPP Global facility.

Deceptive Advertising and Signage Regarding “Hourly” Rates

81. UPP Global advertises that customers can park “hourly” – i.e., they can pay hour by hour for the amount of time they need to park.

82. On information and belief, after luring a customer in with the promise of an “hourly” parking rate, UPP Global may then charge customers charge customers for multiple hours or require a customer to purchase more hours than they need.

83. For example, **Consumer B** filed a complaint with the OAG explaining that a UPP Global staff member forced her to pay for five hours despite the kiosk offering an hourly payment option.

84. According to Consumer B, she attended a musical theater performance at the Providence Performing Arts Center on Sunday, October 22, 2023.

85. According to Consumer B, she entered the UPP Global garage at 165 Washington Street in Providence and was directed to park on the second floor by an attendant.

86. According to Consumer B, there was no posted parking rate when she pulled in.

87. According to Consumer B, she went to a kiosk to pay for parking and another attendant insisted that he enter her information into the kiosk.

88. According to Consumer B, the attendant then keyed into the Kiosk that she needed to park for five hours.

89. According to Consumer B, she informed the attendant that the show she was attending was only two hours long, but the attendant refused to decrease the number of hours she would be charged for and she ended up paying \$51.60 for 5 hours of parking.

90. According to Consumer B, when she exited the garage she asked for a refund of her unused time but a second attendant refused to provide a refund.

91. Similarly, at their lot next to the Providence Arcade, UPP Global advertises that they offer hourly rates:



92. However, when a potential customer reaches their kiosk, it is revealed that there is actually a two-hour minimum purchase:

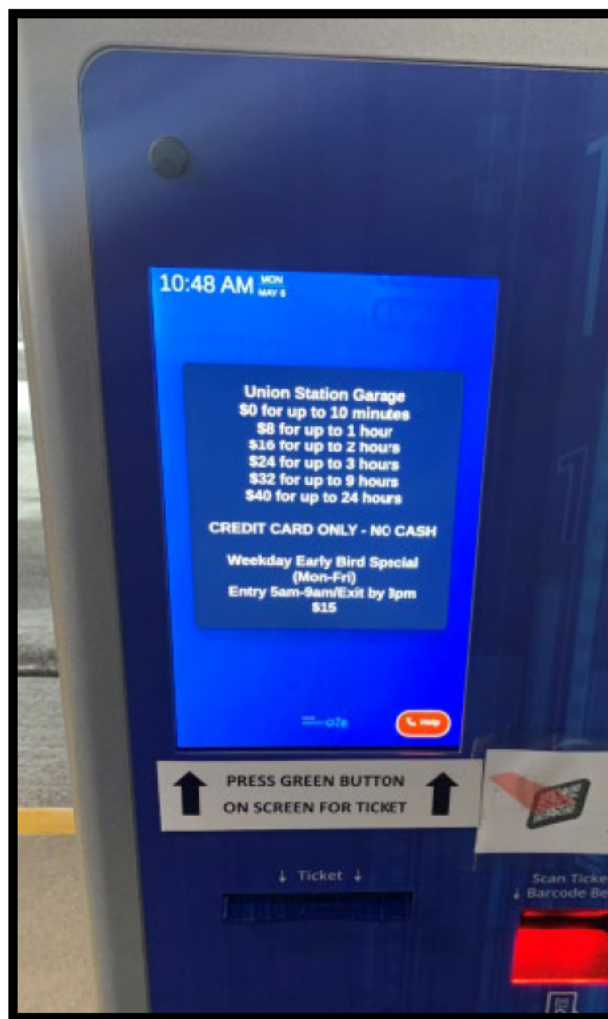


Refusal to Accept Cash Payment

93. The DTPA prohibits any retail business from requiring the use of credit and must accept legal tender currency – i.e., cash – when offered as payment.

94. Despite offering parking services to the public, UPP Global does not accept cash payment in some parking facilities.

95. For example, in their garage at 5 Memorial Boulevard in Providence, UPP Global prominently displays that they accept “CREDIT CARD ONLY – NO CASH”:



96. Consumers who do not have credit cards, or otherwise prefer to pay in cash, are therefore unable to park at these facilities.

V. COUNTS

COUNT I: VIOLATION OF THE RHODE ISLAND DECEPTIVE TRADE PRACTICES ACT R.I. GEN. LAWS § 6-13.1-2

97. Paragraphs 1 through 96 are incorporated herein.

98. Defendants have engaged in repeated violation of the Rhode Island Deceptive Trade Practices Act (“DTPA”) by employing numerous unfair and/or deceptive tactics, potentially committing several violations during a single interaction with a consumer.

99. The DTPA prohibits any person or entity from engaging in unfair methods of competition and unfair or deceptive acts or practices in trade or commerce in Rhode Island. This includes prohibitions on making material misrepresentations or omissions, violating public policy, engaging in unscrupulous or unethical conduct, causing a likelihood of confusion or misunderstanding that private business is associated or connected to a government actor, representing that a person has an affiliation or connection to a government actor that he or she does not have; advertising services with intent not to sell them as advertised, engaging in conduct that creates a likelihood of confusion or misunderstanding, and conduct that misleads or deceives members of the public in a material respect.

100. As described above, Defendant’s business practices violate the DTPA in a number of ways. UPP Global violated the DTPA each time that they:

- a. Issued a ticker or citation to a consumer that mimics a government-issued ticket or fine. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(iii), (v), (xii), (xiii), (xiv).
- b. Assessed a \$63.00 fine to consumers without providing a warning or disclosure regarding the consequences of overstaying their pre-paid parking time. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(xii), (xiii), (xiv).

- c. Made a misrepresentation that a failure to pay a citation issued or fine assessed by UPP Global may affect a consumer's driver's license or registration. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(iii), (v), (xii), (xiii), (xiv).
- d. Threatened or actually took any action against a consumer that may affect their credit rating or ability to rent a vehicle for failing to pay a fine assessed by UPP Global where the amount of the fine or potential harm to their credit was not disclosed prior to their paying for parking. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(xii), (xiii).
- e. Misrepresented that consumers have the ability to appeal a citation or fine if they are unable to submit the appeal or if UPP Global can arbitrarily deny the appeal. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(xiii), (xiv).
- f. Misrepresented an added fee as a "tax" charge. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(ii), (xiii), (xiv).
- g. Charged consumers a 10% "service fee" in addition to the rate or price for parking. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(xii), (xiii).
- h. Failed to disclose the price to park until a consumer exited their vehicle and accessed the parking kiosk. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(xii), (xiii).
- i. Misrepresented that parking was available hourly when in fact consumers were required to purchase a minimum of two hours or more. *See* R.I. Gen. Laws §§ 6-13.1-1(6)(ix), (xii), (xiii).
- j. Required the use of a credit card for the purchase of parking services. *See* R.I. Gen. Laws §§ 6-13.1-30.

101. Therefore, Defendants engaged in unfair acts or practices in the conduct of trade or commerce, in violation of R.I. Gen. Laws § 6-13.1-2, as defined by R.I. Gen. Laws § 6-13.1-1(6).

102. UPP Global knew or should have known they were making misrepresentations or material omission.

**COUNT II: RESTRAINT OF PROHIBITED ACTS UNDER
DECEPTIVE TRADE PRACTICES ACT
R.I. GEN. LAWS § 6-13.1-5**

103. Paragraphs 1 through 102 are incorporated herein.

104. Defendants are using and are about to use methods, acts, and practices declared to be unlawful by R.I. Gen. Laws § 6-13.1-2.

105. R.I. Gen. Laws § 6-13.1-5 states that “Whenever the attorney general has reason to believe that any person is using, has used, or is about to use any method, act, or practice declared to be unlawful by § 6-13.1-2, and that proceedings would be in the public interest, the attorney general may bring an action in the name of the state against the person to restrain by temporary or permanent injunction the use of the method, act, or practice, upon the giving of appropriate notice to that person and to seek any other relief that may be appropriate.”

106. Proceedings to restrain such acts are in the public interest.

VI. PRAYER FOR RELIEF

WHEREFORE, the State of Rhode Island requests that this Honorable Court, after trial on the merits, grant the following relief:

- A. Enter an order permanently enjoining Defendants from engaging in the unfair and deceptive conduct described herein;
- B. Order Defendants to pay restitution and other appropriate equitable monetary relief;
- C. Order Defendants to pay the State’s costs and attorneys’ fees;
- D. Order Defendants to pay a civil penalty of up to ten thousand dollars (\$10,000.00) per violation of the Deceptive Trade Practices Act as provided by R.I. Gen. Laws § 6-13.1-8;
- E. And order any other relief that the Court deems appropriate.

Respectfully submitted,

STATE OF RHODE ISLAND,

By Its Attorneys:
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/s/ Stephen N. Provazza
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CERTIFICATION OF SERVICE

I, the undersigned, hereby certify that on the 13th day of August 2024, I filed this document electronically and it is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Meghan Spooner