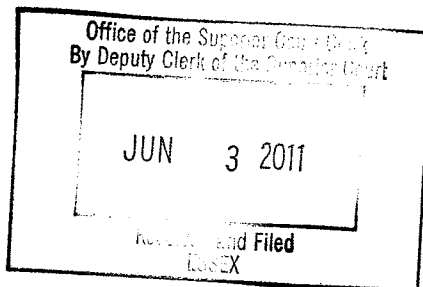


PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
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Attorney for Plaintiffs

By: Jeffrey Koziar
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(973) 648-7819



SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION,
ESSEX COUNTY
DOCKET NO. C-137-11

PAULA T. DOW, Attorney General of the State of New Jersey, and THOMAS R. CALCAGNI, Acting Director of the New Jersey Division of Consumer Affairs,

Plaintiffs,

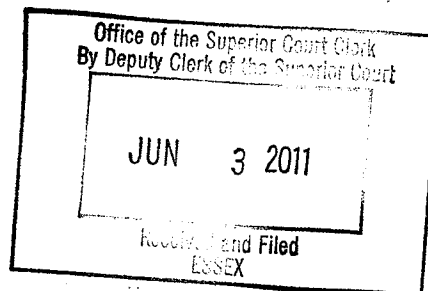
v.

GILLIAM TOWING SERVICE, INC. and MARLIN GILLIAM, individually and as owner and operator of GILLIAM TOWING SERVICE, INC. and JANE and JOHN DOES 1-10, individually and as owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives and/or independent contractors of GILLIAM TOWING SERVICE, INC. and XYZ CORPORATIONS 1-10,

Defendants.

Civil Action

COMPLAINT



Plaintiffs Paula T. Dow, Attorney General of the State of New Jersey ("Attorney General"),
with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Thomas R. Calcagni,

Acting Director of the New Jersey Division of Consumer Affairs (“Acting Director”), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of this Complaint state:

PRELIMINARY STATEMENT

1. Having your car towed involuntarily can be a difficult, costly and even traumatic experience. It is particularly jarring for those consumers who park briefly in a shopping plaza only to find their cars gone when they return. The State of New Jersey (“State” or “New Jersey”) has enacted careful safeguards to ensure that consumers will only have their motor vehicles involuntarily towed if they have disregarded clear and unambiguous parking prohibitions.

2. By enacting the Predatory Towing Prevention Act, N.J.S.A. 56:13-17 et seq. (“PTPA”), and its accompanying regulations, N.J.A.C. 13:45A-31.1 et seq. (“PTPA Regulations”), the New Jersey Legislature recognized the need to protect consumers from unscrupulous towing practices. Predatory towing refers to the practices of those towing companies who patrol parking lots and tow motor vehicles for the most minor of violations, or even no violation at all. Since predatory towers can charge hundreds of dollars in fees for each motor vehicle removed, such unscrupulous practices have proven very lucrative.

3. Since at least February 2010, Gilliam Towing Service, Inc. (“Gilliam Towing”) has engaged in predatory towing practices in violation of the PTPA and PTPA Regulations. Among other transgressions, Gilliam Towing has: (1) engaged in non-consensual private property towing in locations lacking the proper warning signs; (2) engaged “spotters” to identify towing targets; and (3) failed to include the times of non-consensual tows on its bills. Gilliam Towing’s unscrupulous business practices contravene the express terms and purposes underlying the PTPA, the PTPA Regulations as well as the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”).

PARTIES AND JURISDICTION

4. The Attorney General is charged with the responsibility of enforcing the CFA, N.J.S.A. 56:8-1 et seq., the PTPA, N.J.S.A. 56:13-17 et seq., and the PTPA Regulations, N.J.A.C. 13:45A-31.1 et. seq. The Acting Director is charged with the responsibility of administering the CFA, the PTPA and the PTPA Regulations on behalf of the Attorney General.

5. By this action, Plaintiffs seek injunctive and other relief for violations of the CFA, the PTPA and the PTPA Regulations. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-8, N.J.S.A. 56:8-11, N.J.S.A. 56:8-13 and N.J.S.A. 56:8-19 as well as the PTPA, N.J.S.A. 56:13-21. Venue is proper in Essex County, pursuant to R. 4:3-2, because it is a county in which Gilliam Towing and Marlin Gilliam have conducted business and in which the cause of action arose.

6. Gilliam Towing is a corporation established in the State on May 29, 2008. At all relevant times, Gilliam Towing has maintained a principal business address of 467 Chancellor Avenue, Irvington, New Jersey 07111.

7. Upon information and belief, the registered agent in the State for Gilliam Towing is Marlin Gilliam, who maintains a mailing address of 1415 Van Wickle Drive, Franklin Park, New Jersey 08823.

8. At all relevant times, Marlin Gilliam has been the owner and operator of Gilliam Towing and has designated himself as its President.

9. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives and/or independent contractors of Gilliam Towing who have

been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to the Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

10. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations that have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to the Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

11. Gilliam Towing and Marlin Gilliam are collectively referred to as "Defendants."

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

12. Upon information and belief, since at least 2008, Defendants have operated a towing company in the State and have engaged in the private property towing business.

13. Upon information and belief, Defendants have conducted private property towing at a parking lot located at 25-33 Court Street, Newark, New Jersey 07102 ("25-33 Court Street Lot").

14. At least as of March 10, 2011, the 25-33 Court Street Lot posted seven (7) signs using the following language:

WARNING
ALL ILLEGALLY
PARKED VEHICLES
WILL BE TOWED AWAY
AT OWNER'S EXPENSE
NJ Statute 39:4-56-6
GILLIAM
TOWING SERVICE
973.351.9898

15. Upon information and belief, none of the seven (7) signs posted in the 25-33 Court Street Lot as of March 10, 2011 were 36 inches high and 36 inches wide. These signs were still posted as of May 24, 2011.

16. Upon information and belief, Gilliam Towing towed at least one hundred (100) motor vehicles from the 25-33 Court Street Lot between January 1, 2011 and April 18, 2011.

17. At least as of May 24, 2011, two (2) of the three (3) entrances and exits of the 25-33 Court Street Lot had signs 36 inches high and 36 inches wide posted that included the following language:

Attorney General's Office 1 800 368-8808

Parking Authorized Only While Patron at _____

During Regular Business Hours
UNAUTHORIZED VEHICLES WILL BE TOWED
AT OWNER'S EXPENSE
to

Gilliam Towing Service
467 Chancellor Ave. Irvington, NJ 07111
Telephone: (973) 351-9898

Vehicles Retrievable 9 A.M. to 6 P.M. Weekdays
After hours and weekend returns at additional charge.

TARIFFS CHARGED

Towing

Storage (first 24 hours)

18. Upon information and belief, Defendants have conducted private property towing at a parking lot located at 127 Halsey Street, Newark, New Jersey 07102. ("127 Halsey Street Lot").

19. At least as of May 24, 2011, the 127 Halsey Street Lot posted two (2) signs using the following language:

WARNING
ALL ILLEGALLY PARKED
VEHICLES WILL BE TOWED
AWAY AT OWNER'S EXPENSES
NJ Statute 39:4-56-6
BY: J. GILLIAM
TOWING SERVICE
TEL: 973-624-7125
cell: 862-849-0696
cell: 973-418-1817

20. Upon information and belief, none of the signs posted in the 127 Halsey Street Lot as of May 24, 2011 were 36 inches high and 36 inches wide.

21. Upon information and belief, Defendants have conducted private property towing at a parking lot located at 80 Court Street, Newark, New Jersey 07102. ("80 Court Street Lot").

22. At least as of May 24, 2011, the 80 Court Street Lot posted one (1) sign using the following language:

WARNING
ALL ILLEGALLY PARKED
VEHICLES WILL BE TOWED
AWAY AT OWNER'S EXPENSES
NJ Statute 39:4-56-6
GILLIAM
TOWING SERVICE
TEL: 973-351-9898

23. Upon information and belief, the sign posted in the 80 Court Street Lot as of May 24, 2011 was not 36 inches high and 36 inches wide.

24. To date, the New Jersey Division of Consumer Affairs ("Division") has received one (1) consumer complaint against Gilliam Towing concerning a tow that occurred on February 22, 2010. The complaint alleges that Defendants identified towing targets by means of "spotting."

COUNT I

**VIOLATION OF THE PTPA AND
THE PTPA REGULATIONS BY DEFENDANTS
(SIGNAGE VIOLATIONS)**

25. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 24 above as if more fully set forth herein.

26. The PTPA sets forth specific requirements for signage concerning unauthorized parking and any resultant towing, as follows:

a. No person shall tow any motor vehicle parked for an unauthorized purpose or during a time at which such parking is not permitted from any privately owned parking lot, from other private property or from any common driveway without the consent of the motor vehicle owner or operator, unless:

...

(2) there is posted in a conspicuous place at all vehicular entrances to the property which can easily be seen by the public, a sign no smaller than 36 inches high and 36 inches wide stating:

(a) the purpose or purposes for which parking is authorized and the times during which such parking is permitted;

(b) that unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;

(c) the name, address, and telephone number of the towing company that will perform the towing;

(d) the charges for the towing and storage of towed motor vehicles;

(e) the street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed; and

(f) such contact information for the Division of Consumer Affairs as may be required by regulation; . . .

[N.J.S.A. 56:13-13.]

27. The PTPA Regulations, N.J.A.C. 13:45A-31.6(a)(2) set forth similar requirements, in addition to the telephone number of “1-800-242-5846, prompt number 4” for the Division.

28. At least since February, 2010, Defendants have violated the PTPA and PTPA Regulations by repeatedly towing motor vehicles without the vehicle’s owner or operator’s consent from private property where the signs posted on the property failed to include the parking rules and towing conditions set forth in N.J.S.A. 56:13-13 and N.J.A.C. 13:45A-31.6(a)(2).

29. Each instance where Defendants have towed a motor vehicle from a parking lot or other private property at which the signage required by the PTPA and/or the PTPA Regulations has not been posted constitutes a separate violation of the PTPA, N.J.S.A. 56:13-13, and/or the PTPA Regulations, N.J.A.C. 13:45A-31.6(a)(2).

30. The PTPA, N.J.S.A. 56:13-21, provides that “[i]t is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate any provision of this act [C.56:13-7 et al.]”

31. The PTPA Regulations, N.J.A.C. 13:45A-31.10, similarly provide that “a violation of any of the rules in this subchapter shall be considered an unlawful practice under P.L.1960, c.39 (N.J.S.A. 56:8-1 et seq.)”

32. Each violation of the PTPA and/or the PTPA Regulations constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

COUNT II

**VIOLATION OF THE PTPA AND
THE PTPA REGULATIONS BY DEFENDANTS
(UNLAWFUL PRACTICES)**

33. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 32 above as if more fully set forth herein.

34. The PTPA identifies unlawful practices by towing companies and provides, in pertinent part:

It shall be an unlawful practice for any private property towing company or for any other towing company that provides non-consensual towing services:

...

h. To monitor, patrol, or otherwise surveil a private property for the purposes of identifying vehicles parked for unauthorized purposes and towing a motor vehicle parked for an unauthorized purpose from such private property without having been specifically requested to tow such vehicle by the owner of the property.

[N.J.S.A. 56:13-16(e), (f), (g), (h).]

35. Additionally, the PTPA Regulations, specifically N.J.A.C. 13:45A-31.4, set forth private property towing practices which include:

(I) A bill for a private property tow or other non-consensual tow shall include the time at which a towed motor vehicle was delivered to a towing company's storage facility .

36. At least since February, 2010, Defendant have engaged in unlawful business practices in violation of the PTPA and the PTPA Regulations including, but not limited to, the following:

- a. Repeatedly patrolling private property for the purposes of identifying motor vehicles parked for unauthorized purposes.
- b. Repeatedly failing to include the times of non-consensual tows on their bills.

37. Each instance where Defendants have engaged in such unlawful practices constitutes a separate violation of the PTPA, N.J.S.A. 56:13-16, and/or the PTPA Regulations, N.J.A.C. 13:45A-31.8.

38. Each violation of the PTPA and/or the PTPA Regulations constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

COUNT III

VIOLATION OF THE CFA, PTPA AND PTPA REGULATIONS BY DEFENDANT MARLIN GILLIAM

39. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 38 above as if more fully set forth at length herein.

40. At all relevant times, Marlin Gilliam has been the owner, officer, director, shareholder, founder, manager, agent, servant, employee and/or representative of Gilliam Towing and controlled and directed the activities of that entity.

41. Marlin Gilliam is personally liable for the violations of the CFA, PTPA and PTPA Regulations committed by Gilliam Towing.

PRAYER FOR RELIEF

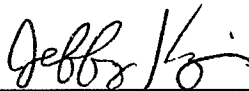
WHEREFORE, based upon the foregoing allegations, the Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts of Defendants constitute multiple instances of unlawful practices in violation of the PTPA, N.J.S.A. 56:13-7 et seq., the PTPA Regulations, N.J.A.C. 13:45A-31.1 et seq., and the CFA, N.J.S.A. 56:8-1 et seq.;
- (b) Permanently enjoining Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors, corporations, subsidiaries, affiliates,

successors, assigns and all other persons or entities directly under their control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the PTPA, N.J.S.A. 56:13-7 et seq., the PTPA Regulations, N.J.A.C. 13:45A-31.1 et seq., and the CFA, N.J.S.A. 56:8-1 et seq., including, but not limited to, the acts and practices alleged in the Complaint;

- (c) Directing the assessment of restitution amounts against Defendants jointly and severally to restore to any affected person, whether or not named in this Complaint, any money acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the PTPA, N.J.S.A. 56:13-21(b), and the CFA, N.J.S.A. 56:8-8;
- (d) Assessing the maximum statutory civil penalties against Defendants jointly and severally for each and every violation of the PTPA, the PTPA Regulations and the CFA, in accordance with N.J.S.A. 56:13-21, N.J.A.C. 13:45A-31.10 and N.J.S.A. 56:8-13;
- (e) Directing the assessment of costs and fees, including attorneys' fees, against Defendants jointly and severally for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interests of justice may require.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 

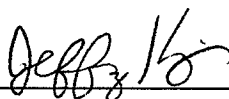
Jeffrey Koziar
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: June 3, 2011
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the PTPA, N.J.S.A. 56:13-17 et seq., and the PTPA Regulations, N.J.A.C. 13:45A-31.1 et. seq., and the CFA, N.J.S.A. 56:8-1 et seq., is not the subject of any other action pending in any other court of this State. I am aware that private contract and other actions have been brought against the Defendants, but have no direct information that any such actions involve consumer fraud allegations. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Jeffrey Koziar
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: June 3, 2011
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Jeffrey Koziar
Jeffrey Koziar
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: June 3, 2011
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Jeffrey Koziar, Deputy Attorney General, is hereby designated as trial counsel on behalf of Plaintiffs in this action.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Jeffrey Koziar
Jeffrey Koziar
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: June 3, 2011
Newark, New Jersey