Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN 74th JUDICIAL DISTRICT JUDICIAL CIRCUIT BAY COUNTY	SUMMONS	CASE NO. 24- 6989 -GC -MJ

Court address
1230 Washington Ave., Bay City, MI 48708

Court telephone no.
(989) 895-4232

Plaintiff's name, address, and telephone no.
Matthew B. Hewitt
Amy S. Hewitt
1435 Park Ave.
Bay City, MI 48708

v

Defendant's name, address, and telephone no.
UBP Bay City LLC,
a Delaware Limited Liability Company
3410 Belle Chase Way, Ste. 600
Lansing, MI 48911

Plaintiff's attorney, bar no., address, and telephone no.
GARSKE HEWITT PLC
By: Marcus R. Garske, P74472
708 S. Euclid Ave.
Bay City, MI 48706
(989) 355-0100

2024 MAY -3 AM 8:15

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

☐ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (MC 21) listing those cases.
☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
☑ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in ☐ this court, ☐ _____ Court, where it was given case number _____ and assigned to Judge _____

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date	Expiration date*	Court clerk
5-3-24	8-2-24	

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

Summons (3/23) **Case No.** 24- -GC

PROOF OF SERVICE

TO PROCESS SERVER: You must serve the summons and complaint and file proof of service with the court clerk before the expiration date on the summons. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

☐ I served ☐ personally ☐ by registered or certified mail, return receipt requested, and delivery restricted to the the addressee (copy of return receipt attached) a copy of the summons and the complaint, together with the attachments listed below, on:

☐ I have attempted to serve a copy of the summons and complaint, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

☐ I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

☐ I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
$		$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
$		$	$

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

Attachments (if any) on Date and time.

Signature on behalf of

Name (type or print)

MCL 600.1910, MCR 2.104, MCR 2.105

STATE OF MICHIGAN
74th DISTRICT COURT

MATTHEW B. HEWITT
AMY S. HEWITT,
Plaintiffs,

File No. 24- 6989 -GC

vs

HON. MARK JAMER

UBP BAY CITY LLC.
a Delaware Limited Liability Company,
Defendants

GARSKE HEWITT, PLC
By: Marcus R. Garske, P74472
Attorney for Plaintiff
708 S. Euclid Avenue
Bay City, MI 48706
(989) 355-0100

COMPLAINT FOR BREACH OF CONTRACT AND CONVERSION

NOW COMES Plaintiffs **MATTHEW B. HEWITT** and **AMY S. HEWITT,** by and through their attorneys **GARSKE HEWITT PLC** and **MARCUS R. GARSKE** (P74472), and states the following as their complaint against the Defendants herein:

1. Plaintiff Matthew B. Hewitt is an individual resident of the City of Bay City, Bay County, Michigan.

2. Plaintiff Amy S. Hewitt is an individual resident of the City of Bay City, Bay County, Michigan.

3. Upon information and belief, Defendant UBP Bay City LLC ("UBP") is a Delaware Limited Liability Company, authorized to conduct business in the State of Michigan as a Foreign Entity, and was at all times relevant to this matter conducting business in the City of Bay City, Bay County, Michigan.

4. This matter concerns claims that are less than $20,000.00.

5. Accordingly, jurisdiction and venue are proper in this Court.

GENERAL ALLEGATIONS

6. Paragraphs 1 through 5 are incorporated by reference.

7. On or about December 16, 2019 UBP and the City of Bay City entered into an Acquisition and Development Agreement for the sale of the two City owned Bascule bridges to UBP.

8. In exchange for the Bridges, UBP was authorized to collect certain tolls from motorists crossing the bridges per section 15 of said agreement. See attached

> 15. Tolls. UBP will finance the New Independence Bridge and Rehabilitated Liberty Bridge with private investments and will charge monetary tolls to use the crossing of the New Independence Bridge and the Rehabilitated Liberty Bridge in order to compensate the private investors and provide for all ongoing operations and maintenance. UBP shall be solely responsible for obtaining all approvals and permits necessary to set and collect Bridge users' tolls, as well as setting the amount to be collected. UBP and the City shall agree to initial toll rates and incentives substantially as outlined in the attached **Exhibit E**. The City agrees to support any legislation necessary to authorize the collection of and enforcement of tolls under this Agreement.

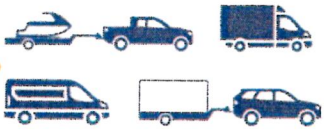
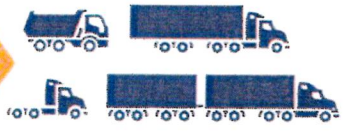
9. Exhibit E of the Acquisition and Development Agreement contained a 5-year exception to tolls for all City residents with a transponder. See attached

> ❖ No tolls will be charged to Bay City residents with a Transponder on either Bridge for a period of 5-years after the New Independence Bridge or the Rehabilitated Liberty Bridge is open to traffic.

10. Plaintiffs being City residents properly applied for and received a transponder for all 3 passenger vehicles owned by the Plaintiffs.

11. The posted rate structure for bridge crossings are both published on the Defendants web page as well as prominently on signage immediately prior to crossing the bridge. See posted rate structure

Liberty Bridge Toll Rates *(effective 2023)*

VEHICLE CLASS	VEHICLE TYPE	BAY CITY RESIDENTS WITH TRANSPONDER	NON-RESIDENT WITH TRANSPONDER	COMMERCIAL WITH TRANSPONDER	PAY BY PLATE WITHOUT TRANSPONDER
1		FREE *until 2028*	$2/crossing OR $15/month *unlimited crossings*	$2	$5.50
2		$2	$4	$4	$7.50
3		$8	$8	$8	$11.50

12. Plaintiffs drove their passenger vehicle, a 2018 Chevy sedan, across the Liberty Bridge on March 28, 2024 several times.

13. On all but one occasion the Defendant properly did not charge any toll as the Plaintiffs vehicle is a properly registered transponder bearing City resident vehicle.

14. On one crossing the Defendant charged a toll by plate amount of $4.00.

15. The Defendant properly identifies the license plate being tolled as the license plate associated with the Plaintiffs otherwise properly registered and transponder bearing vehicle.

16. Despite being both a transponder bearing vehicle, and exhibiting a license plate that is duly registered with the Defendant as a City Resident owned vehicle, the Defendant charged $4.00.

17. According to the Defendants published rate structure, there is no fee for any version of a passenger vehicle, resident or non-resident, that is $4.00.

18. Upon discovery of the improper charge on April 16, 2024, the Plaintiffs attempted to file an electronic customer service case at 1:38pm to resolve the issue, without success.

19. At 2:28pm Plaintiffs submitted a general inquiry electronically to attempt to resolve, again without success.

20. Receiving no response to either electronic claim submitted, the Plaintiffs then called customer

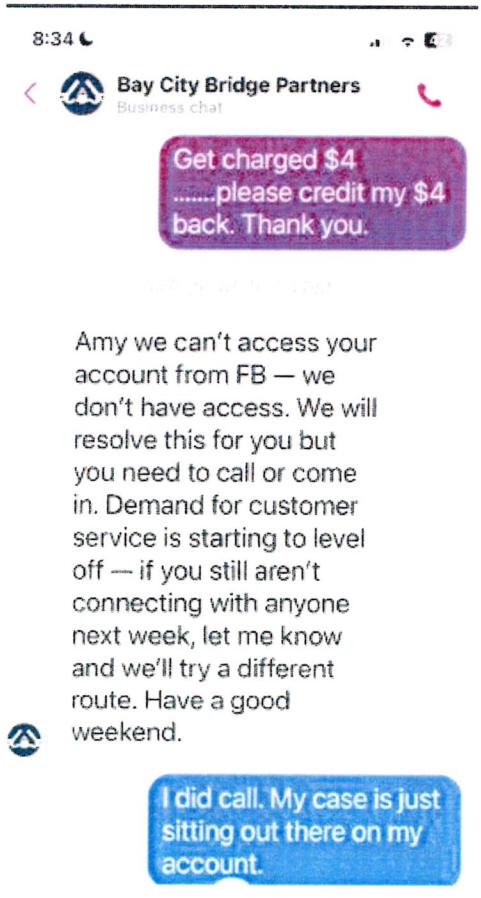
service around 4pm to make contact with Defendant in an attempt to correct the issue, having to wait in excess of 45 minutes on the telephone.

21. The customer service representative of the Defendant verified that the vehicle in question crossing at that particular time was in fact the Plaintiffs vehicle and that the vehicle was properly registered and had a transponder.

22. Despite verifying the errors that not only was the vehicle properly a City Resident vehicle, and that the fee was incorrect, the Defendants customer representative informed Plaintiffs that the local office lacked authority to correct the issue, and that the matter would have to be submitted elsewhere.

23. It is unknown where said issues need to go to be resolved, despite the contractual agreement with the City that UBP would have local representatives.

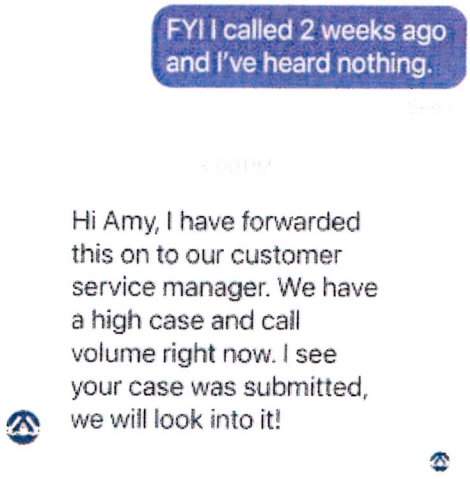
24. Again on April 26, 2024, some ten days after the initial submission, Plaintiffs again contacted Defendant via their social media page to try and determine the status.



25. Defendants responded electronically that they cannot access the account electronically, and

that the Plaintiffs would need to come in to the office.

26. As of April 30, 2024, Plaintiff contacted Defendants yet again to which the following non-responsive response was received.



COUNT I- BREACH OF CONTRACT

27. Paragraphs 1 through 26 are incorporated by reference.

28. Defendants entered into an agreement with the City of Bay City that for a period of 5 years there would be no tolls for City Residents with a transponder.

29. By virtue of establishing the account with Defendant, and by providing verification of City Residency and vehicle registrations, a direct contract was entered into between Plaintiff and Defendants.

30. Plaintiffs have complied with the contract between the parties by properly registering the vehicle and crossing with a transponder.

31. Defendants have breached the agreement by charging a fee to a city resident in contravention of the publicly published agreement.

32. By publishing the fee structure prior to crossing, the Defendants have made an implied contractual agreement with anyone that chooses to utilize the bridge that the fees will be as published, transponder or not.

33. Defendants have breached that agreement by charging a fee that is not even a listed or posted fee.

WHEREFORE, Plaintiffs request that this Court enter a judgment in their favor and against Defendants in the amount of no less than $4.00, and further award Plaintiffs all such other relief to which they may be entitled to recover including legal fees and costs.

COUNT II – CONVERSION

34. Paragraphs 1 through 33 are incorporated by reference.

35. The Plaintiffs in this matter complied with all requirements under the contractual agreements between the parties and proceeded at all times in good faith.

36. The Plaintiffs have repeatedly, both orally and in writing, demanded a return of the improper toll.

37. The Defendants have verified the error and confirmed the improper toll.

38. The Defendants having been given ample time to correct the issue, through their inactions have impliedly refused to return the improper toll.

39. The Defendants refusal to return the improper toll charged to the Plaintiffs is wrongful and amounts to common-law conversion and conversion under MCL 600.2919a, which has cause Plaintiffs to suffer damages in the amount of at least $12.00.

WHEREFORE, Plaintiffs request that this Court enter judgment against Defendants in the amount of $12.00, plus interest, costs, actual attorney fees, and any other relief that the Court may deem appropriate under the circumstances.

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THIS PETITION HAS BEEN EXAMINED BY ME AND THAT ITS CONTENTS ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

Dated: 5/1/2024

Matthew B. Hewitt
ID Bhr55GMXV2nyGCHTw7R5yKWL

Matthew B. Hewitt
Plaintiff

Dated: 5/1/2024

ID azgCQeyeqUnF8HaQ1Q8r5HBe

Amy S. Hewitt
Plaintiff

Respectfully Submitted,
GARSKE HEWITT PLC

Dated: 5/2/2024

By: Marcus R. Garske (P74472)
Attorney for Plaintiffs

eSignature Details

Signer ID:	**azgCQeyeqUnF8HaQ1Q8r5HBe**
Signed by:	Amy S Hewitt
Sent to email:	asombrosa1@gmail.com
IP Address:	64.90.214.38
Signed at:	May 1 2024, 2:14 pm EDT

Signer ID:	**Bhr55GMXV2nyGCHTw7R5yKWL**
Signed by:	Matthew Hewitt
Sent to email:	matthewitt@garskelaw.com
IP Address:	24.247.237.121
Signed at:	May 1 2024, 4:52 pm EDT