

## cyberlaw: the brave new e-world

By Anne F. Downey



### E-ZPass

Faced with the impending demise of the Grand Island toll booths, in March, I signed up for E-ZPass. Registering for E-ZPass triggered mixed emotions...was I finally casting aside my Luddite ways and joining the era of modern transportation, or was I selling my soul to Big Brother? Maybe both.

As stated at New York's E-ZPass website (E-ZPassNY.com), "E-ZPass® is an electronic toll collection (ETC) system that allows you to prepay your tolls, eliminating the need to stop at the toll plaza. The system has three components: a toll tag, which is placed inside your vehicle; an overhead antenna, which reads the toll tag and collects the toll; and video cameras to identify toll evaders."

At a grocery store, I paid \$25 for a toll tag (an RFID transponder), and promptly installed it inside my Toyota's windshield, near the rear-view mirror. Then I logged into the E-ZPassNY.com website and gave Big Brother my credit card information and instructions to auto-replenish the account whenever it drops below a threshold. Because we sometimes pull an RV, I separately ordered a special toll tag to be used in place of the normal tag when pulling our trailer. Someday, if my husband decides to get a toll tag for his car (linked to the same account), he will need to pay \$25 for a transponder.

E-ZPass is a registered trademark of the Port Authority of New York and New Jersey. In New York, the Thruway Authority oversees the E-ZPass system, with involvement also of other agencies such as the NYS Bridge Authority, the Buffalo and Fort Erie Public Bridge Authority, and the Metropolitan Transportation Authority.

According to Wikipedia, "E-ZPass is an electronic toll collection system used on most tolled roads, bridges, and tunnels in the Midwestern and Northeastern United States, as far south as North Carolina and as far west as Illinois. The E-ZPass Interagency Group (IAG) consists of 38 member agencies in operation within 16

states, which use the same technology and allow travelers to use the same transponder on toll roads throughout the network. Since its creation in 1987, various independent systems that use the same technology have been folded into the E-ZPass system, including the I-Pass in Illinois and the NC Quick Pass in North Carolina. Negotiations are ongoing for nationwide interoperability in the United States."

Our family recently used E-ZPass on the way down to the Delaware shore and back. There was one section of the route where, as with the new Grand Island system, the toll road is cashless, the only options being E-ZPass or to receive a bill by mail. The E-ZPass charge was 90 cents, while pay-by-mail would cost \$2.00.

Cashless tolling is currently in place at the Governor Mario M. Cuomo Bridge (a/k/a Tappan Zee Bridge) and the Grand Island Bridges, and it is supposed to expand system-wide in New York by 2020. Cashless tolling systems are expensive to set up, and I believe New York has not yet fully identified the financial resources for the project. While a cashless system eliminates the expense of toll collector jobs, such systems may also lead to a drop in toll revenues due to the fairly high rate of drivers who fail to pay the toll by mail. Proponents of cashless systems note that travel becomes faster, easier, and results in less congestion, pollution, and accidents. Critics note that toll collector jobs are lost and that low-income persons may have difficulty participating in such systems and will pay higher charges for toll-by-mail.

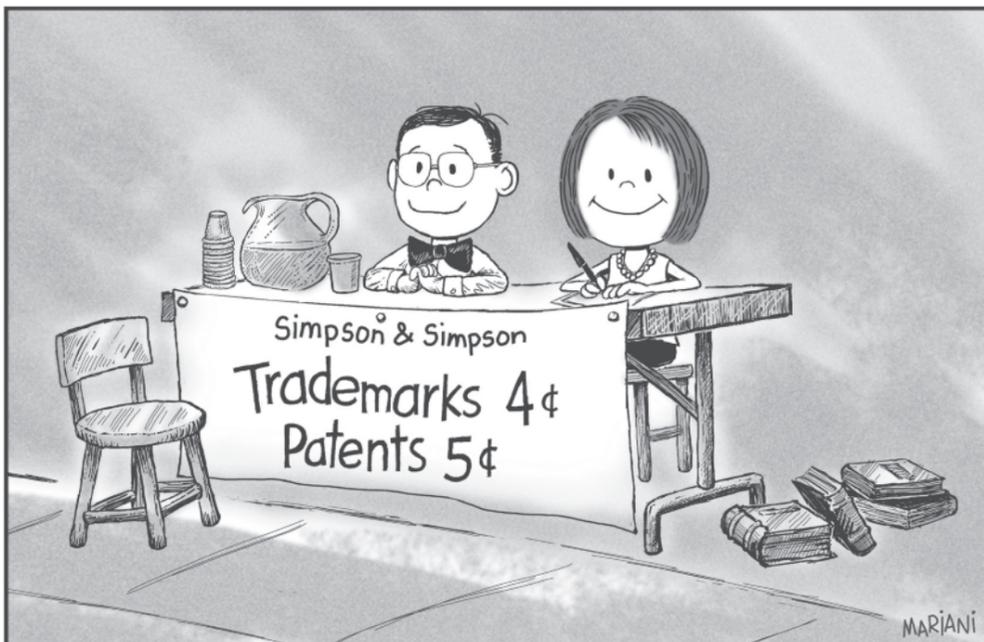
There are online rumors about speeding tickets related to using E-ZPass. Although I did not find any evidence of penalties imposed for persons identified by the E-ZPass system as driving too quickly from Point A to Point B, it is clear that drivers who speed through a toll booth can receive a violation notice. In New York, a first violation may trigger a warning, but repeat violations may result in E-ZPass privileges being suspended for 60 or 180 days or revoked entirely. Other violations include driving through an E-ZPass lane

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without an account, having insufficient funds in the account, using the transponder in a car not listed with the account, and using the transponder in the wrong class of vehicle (for example, using a car tag when pulling an RV).

In New York, E-ZPass violations are not traffic tickets that result in points on a license (but a person driving too fast through a toll booth can also be pulled over by law enforcement). The Thruway Authority states: "The New York State Department of Motor Vehicles has a regulation that allows suspension of the vehicle registration of motorists with three or more unpaid tolls, violation fees and other charges resulting from violations on different days, as well as registration suspension of commercial vehicle owners with \$200 or more in unpaid tolls and violation fees, within a period of five years. Repeated notices are sent before eligibility for suspension. Prior to the suspension taking effect, the registrant may request a hearing before a DMV administrative law judge. If the registrant requests a hearing, the suspension will be held in abeyance until the conclusion of the hearing."

E-Z Pass is not limited to highway tolls. In New York State, payment by E-ZPass is accepted for parking at JFK and LaGuardia airports, the Albany International Airport, and the New York State Fair. In the future, use of E-ZPass may expand to other goods/services. In 2001, the MTA experimented with an E-ZPass payment system at two McDonald's drive-thru restaurants on Long Island. Customers paid for their meals by E-ZPass, and the MTA pocketed 15 cents per transaction. One reporter said the experiment ended when toll tags were stolen and hefty food bills were racked up.

In the next column or two, we will examine E-ZPass privacy issues, as well as recent litigation involving E-ZPass. [B]



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Tutoring is a one-hour-per-week commitment. You may also sign up to tutor with other colleagues if you want to share the weekly commitment. Sessions can be held any day Monday-Friday 8:00-9:00 a.m., Monday-Thursday 4:00-5:00 p.m., or Monday-Thursday 4:30-5:30 p.m. Tutoring begins October 15th and takes place at Buffalo School #18, 750 West Avenue in Buffalo. Our official tutor kick-off event will take place **October 9, 2018** at Buffalo School #18. If you would like to volunteer to tutor a child, please visit [lawyersforlearning.org](http://lawyersforlearning.org) to submit your application. For more information or questions, please contact the Lawyers for Learning tutoring coordinator, Sarah Duval, at [sduval@elderjusticenyc.org](mailto:sduval@elderjusticenyc.org) or 853-3087, ext. 225. [B]

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