

Massachusetts Turnpike Toll Equity Trust

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Toll Equity Class Action Gains Momentum, Key Support

Former Attorney General Harshbarger named Trustee, former Romney Legal Counsel Winslow and Prominent International Law Firm Join Legal Team

BOSTON – Grassroots efforts to ensure toll equity in the Commonwealth are gaining significant momentum with more than 1,600 beneficiaries signing on to a class action Turnpike toll challenge and prominent Massachusetts leaders joining the bipartisan cause.

Scott Harshbarger will lead the Massachusetts Turnpike Toll Equity Trust as co-trustee, representing all toll-payers, a fitting role for the former Attorney General and national President and CEO of Common Cause. In addition to famed plaintiffs lawyer Jan R. Schlichtmann, Harshbarger joins Daniel B. Winslow, former District Court justice and Chief Legal Counsel to Governor Mitt Romney. Also joining the team is Don Griswold, a Washington D.C. based partner in the highly-regarded international law firm Reed Smith LLP.

“We are honored that such distinguished public citizens and leaders have joined our cause for Toll Equity,” said Sandra Murphy, lead plaintiff in the case.

Harshbarger and Winslow said they were drawn to the effort as a matter of basic fairness to toll-payers from MetroWest and the North Shore who have unfairly borne the brunt of Big Dig costs.

“This is a simple case of fairness and equity, two of the issues I have spent my career fighting for,” said Harshbarger, now Senior Counsel at Proskauer Rose LLP. “It’s time for the courts, the Legislature and the Governor to fix this inequity, and provide financial relief to toll-payers.”

“This lawsuit is based on an important legal principle of fairness in taxes and tolls that we, as Bay Staters and Americans, settled 300 years ago,” said Winslow.

“The Turnpike’s diversion of toll receipts is part of a disturbing trend we’re seeing across the country,” said Griswold, an expert in tax-related constitutional law. “This is another desperate cash-strapped state using illegal and unconstitutional means to raise badly-needed revenues.”

Harshbarger, Winslow and Schlichtmann said now is a critical time in the toll equity effort, with lawmakers in the House and Senate weighing a provision in the transportation reform bills which would mandate that tolls be used for maintenance, capital expenditures and operating expenses of the road where they are collected and nothing else.

The provision passed the House overwhelmingly in a budget amendment but was not included in the final version of the bill approved by the Senate. The differences between the bills are now being worked out by a six-person Conference Committee of Democrats and Republicans.

“Transportation equity is transportation reform,” said Winslow. “Without this provision, the legislative efforts to reform are mostly moving boxes around on the organizational chart.”

“We want the Conference Committee to do the right thing, to think equitably and act equitably with this reform,” said Harshbarger. “We are calling on the Governor, Speaker, Senate President and all the members to insist that this equity provision be included in their reform package.”

The plaintiffs who sued the Turnpike Authority last month in Middlesex Superior Court continue to make steady progress in the court system and in securing beneficiaries. Through a simple sign-up form on their website, <http://www.tollequity.com>, they have enrolled more than 1,600 named plaintiffs and beneficiaries to the class action.

On Monday, the case faces an important hearing before Superior Court Justice Herman Smith on a motion to attach all real estate assets of the Turnpike Authority so they cannot be sold or liquidated prior to a resolution in this case. Attaching the real estate will protect a possible rebate to toll-payers of up to 60 percent of the tolls they have paid in the last three years.

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Biographies of Trustee and Key Players

Scott Harshbarger

Scott Harshbarger is Senior Counsel to the Firm in the Boston office of Proskauer Rose LLP, one of the nation's preeminent law firms, providing a full range of legal services to major corporations and other clients nationally and internationally. His distinguished career has included major public office, nonprofit executive management, numerous board directorships and private legal counsel.

During his two terms as Massachusetts Attorney General from 1991 to 1999, Harshbarger was the first Attorney General in the nation to engage the health care community in developing hospital and HMO benefit guidelines. In leading Massachusetts' efforts against Big Tobacco, Harshbarger was among the first AGs nationally to recover the costs of health care associated with tobacco use, resulting in payments by the tobacco companies to the Commonwealth totaling \$300 million per year over the next 25 years. As the leading law enforcement officer of Massachusetts, he led major initiatives against white collar crime, public corruption, insurance and Medicaid fraud, environmental abuses and high-tech crime. Harshbarger built the first Family and Community Crimes Bureau, a department focused on family violence issues like elder and child abuse prosecution and prevention, and his Conflict Resolution/Violence Prevention Project (SCORE) earned a Ford Foundation Excellence in Government Award.

Harshbarger served as President and CEO of Common Cause in Washington, DC, the national non-profit citizen's lobby and government watchdog group founded by John Gardner, from August, 1999 to November, 2002. His term marked a major reform and renewal for the organization and thrust Common Cause into the public interest mainstream. Common Cause led the coalition of national business and public interest advocacy groups, including grassroots organizations.

Daniel Winslow

Daniel B. Winslow is a trial lawyer and a problem solver who helps clients accomplish their goals. Winslow served as chief legal counsel to then-Massachusetts Governor Mitt Romney and was previously a presiding justice and appellate division justice in the Massachusetts District Court. Winslow has been cited by Massachusetts Lawyers Weekly newspaper as one of the 35 most influential lawyers in Massachusetts in the past 35 years. Recognized as a Super Lawyer in Massachusetts by Law & Politics magazine, Winslow also has been named one of the nation's Top 500 Trial Lawyers by Lawdragon Magazine. He practices law in Boston.

Jan R. Schlichtmann

Jan R. Schlichtmann is one of the country's most notable plaintiff's attorneys. Schlichtmann specializes in the area of complex civil litigation including consumer, environmental, product, toxic, and mass tort litigation. In 1986, Schlichtmann received national recognition for his representation of eight Woburn, Massachusetts families against W.R. Grace and Beatrice Foods for the contamination of the Woburn City water supply. Schlichtmann's career and involvement in the Woburn case was chronicled in the national bestseller, "A Civil Action" that became a major motion picture starring John Travolta as Schlichtmann. Schlichtmann has served on the faculty of the New England School of Law and Suffolk Law School's continuing legal education program, and has been on the faculty of the National Judicial College in Reno, Nevada. He has lectured at many of the nation's law schools and colleges and spoken before numerous national and regional professional and civic groups, has appeared on a number of the country's major radio and television shows, and has participated in an array of public forums on issues of law, public policy and the environment.

Donald M. Griswold

Don Griswold is a partner in the Washington, D.C. office of Reed Smith LLP, one of the 15 largest law firms in the world. A member of the firm's renowned State Tax Practice, Don has for more than 25 years worked to maintain the rights of taxpayers. A recognized authority on tax-related constitutional legal issues, Don serves on the advisory boards of several prestigious state tax organizations and is a frequent speaker on a wide variety of state tax topics at conferences around the country. Don has briefed and argued cases addressing tax-related constitutional issues before administrative agencies, state courts, and federal courts, recently including an *amicus* brief to the U.S. Supreme Court in a constitutional challenge to a state tax statute on the grounds of discrimination and unfair apportionment, and a *cert* petition to the U.S. Supreme Court in a constitutional nexus case for a major credit card lender. He has obtained for his clients tens of millions of dollars in refunds of unconstitutional taxes and has achieved reductions of tax assessments in even larger amounts. Don's advice is sought by large corporations seeking to reevaluate and improve the quality and viability of their current state tax planning. Don also provides advice and legal opinions regarding the state and local tax implications of a wide variety of transactions, including mergers and acquisitions, spin-offs, asset dispositions and restructurings.