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Startup Hits Florida Bar, Law Firm With \$11M Antitrust Suit

By **John Kennedy**

Law360, New York (November 8, 2017, 9:10 PM EST) -- A startup hit the Florida Bar and a Sunshine State law firm specializing in traffic ticket defense with an \$11.4 million lawsuit Wednesday for allegedly engaging in anti-competitive conduct that cost the company \$3.8 million.

Tikd Services LLC, which matches drivers with lawyers who will fight traffic tickets, says in its Florida federal complaint that from the moment the company received publicity, it has been subject to a coordinated attack by the bar and The Ticket Clinic, which according to its website has 28 offices in the state.

Before Tikd launched in Florida, the bar began an investigation based on a "baseless assertion" that the startup is practicing law in Florida, according to Wednesday's suit. Tikd says that it has fully cooperated with the bar but that after 10 months, the investigation continues "with no end in sight."

"Although the Florida Bar has no authority to decide what is, and what is not, the practice of law, the Bar has, through its actions and inaction, fostered the public impression that Tikd's services are illegal," Tikd alleges. "Unfortunately, not everyone welcomes innovation and competition."

Specifically, the bar issued an informal opinion that gives the false impression that lawyers working with Tikd could violate ethical rules, the suit says. The startup has asked to meet with the bar to explain that the company's practices are legal under Florida law and for the bar to publicly confirm that it has not yet reached any conclusion in its investigation, but the bar has refused, according to the complaint.

The Ticket Clinic, meanwhile, has complained to the bar that Tikd appears to be engaged in "the unlicensed practice of law," the startup says.

The firm has also filed ethics complaints with the bar against every attorney the firm could find who had worked with Tikd's customers, and has threatened competing lawyers with bar complaints and disbarment if they represent Tikd's users, the startup says.

As a result of this alleged anti-competitive conduct, lawyers have stopped working with Tikd or have refused to work with its users, the complaint alleges. Tikd says its losses total \$3.8 million and that it seeks treble damages.

Tikd allows drivers to upload tickets into its system for a fixed price. The startup then finds a lawyer to defend the ticket and guarantees the driver will pay no more money, regardless of the outcome.

The suit alleges that the attorneys who represent Tikd's users are not Tikd employees but independent practitioners whom Tikd does not control. The lawyers and drivers voluntarily enter into attorney-client relationships that do not include the startup, and Tikd pays lawyers a flat rate per representation, while the lawyers do not pay the startup anything, the suit says.

Florida law allows lawyers to receive payment for their services from third parties, as long as the attorneys' independence is not compromised, Tikd says, and the startup does not compromise the independence of the lawyers who work with it.

Tikd further argued that the Florida Bar is not immune from federal or state antitrust liability, because in 2015 the U.S. Supreme Court ruled in *North Carolina State Board of Dental Examiners v. Federal Trade Commission* that state agencies controlled by people who participate in the occupation the agency regulates are subject to antitrust laws unless the agency is actively supervised by politically accountable state officials.

The bar filed an amicus brief in that case, arguing that if the Supreme Court did not find such agencies immune from antitrust liability, the bar could face antitrust claims based on its actions, according to Tikd. The Supreme Court rejected the argument, and while other state bars changed their practices, the Florida Bar did not, Tikd alleges.

The Florida Bar does not comment on pending litigation, and The Ticket Clinic could not be immediately reached Wednesday.

Tikd is represented by Ramon A. Abadin of Sedgwick LLP and Peter D. Kennedy and David A. King of Graves Dougherty Hearon & Moody PC.

Counsel information for the defendants was unavailable Wednesday.

The case is *Tikd Services LLC v. The Florida Bar et al.*, case number 1:17-cv-24103, in the U.S. District Court for the Southern District of Florida.

--Editing by Edrienne Su.

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