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# Towing contract lawsuit dismissed

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A lawsuit filed last year against several Shelby Township officials by two towing companies over a three-year contract that was awarded to one of their competitors has been dismissed with prejudice in federal court.

Shelby Township Police Chief Robert Shelide and six members of the Board of Trustees – Supervisor Richard Stathakis, Clerk Stanley Grot, Treasurer Michael Flynn, and Trustees Paul Viar, Paula Filar and Douglas Wozniak – were identified as defendants in the lawsuit, which was filed in October 2015 in U.S. District Court in Detroit on behalf of Ruehle's Towing Inc. of Mount Clemens and Jimmy's Towing Recovery & Transport of Shelby Township.

"The decision by Ruehle's and Jimmy's Towing to file a lawsuit naming board members and the police chief personally was disappointing," Township Attorney Rob Huth said. "Still, the township board was unwilling to back down when faced with outrageous claims

by disappointed bidders. Thankfully, the federal court wasted no time and tossed all claims."

Among numerous allegations, the lawsuit claimed the township manipulated a scoring system devised by the Police Department to ensure Utica Van Dyke would win the sought-after contract, which had previously been awarded to Ruehle's Towing in 2012.

"The manufactured bidding and scoring process was a sham, or mere instrumentality by which the Board (of Trustees) and ... Shelide privately selected their preferred contractor without actual reference to the publicly established criteria or process," the lawsuit contended.

It also claimed that Shelby Township breached its three-year contract with Ruehle's when the Board of Trustees voted 5-1 on July 21, 2015, to award a new contract to Utica Van Dyke Towing.

"Plaintiffs assert that because Ruehle's contract could only be extended in additional increments of three years per its plan language and because Shelby Township by its board and Police Department continued to utilize Ruehle's for



FILE PHOTO – THE SOURCE

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months after the stated original contract term, the parties, in effect, extended that contract through at least Feb. 21, 2018," according to court documents.

Shelby Township officials disagreed and filed a motion to dismiss the complaint on Nov. 23,

2015. They argued that "as mere disappointed bidders," the plaintiffs "lack standing to bring a due process claim based on the bidding process and that the breach of contract claim fails as a matter of law."

The township's request was

granted by U.S. District Judge Judith Levy (Eastern District of Michigan), who stated in a May 18 opinion that "because the plaintiffs failed to plead that they were ever awarded the contract that arose from the bidding process, that their original contract was renewed, or that state or local law imposed an external factor that limited (the defendants') discretion in awarding this contract, the plaintiff's due process claim must be dismissed."

Levy also wrote that "because it was necessary to reach the issue of whether the original contract was renewed to decide the due process claim, the plaintiff's contract claim must also be dismissed."

The lawsuit marked at least the third time since 2012 Shelby Township found itself in court as a result of decisions officials made regarding towing contracts.

In 2012, after the work was awarded to Ruehle's, longtime towing provider Nightingale Service and Towing filed a lawsuit, also in U.S. District Court, alleging similar violations.

That litigation was settled with

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# Lawsuit

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Nightingale receiving a payment of \$745,000. When legal fees were added in, the total topped \$1 million.

While the township's insurance company agreed

to pay \$500,000 of the money, Shelby Township officials tapped the police budget for \$500,000, despite the fact the department was never named as a defendant in the Nightingale case.

Also in 2012, Utica Van Dyke filed a lawsuit claiming its contract with Shelby

Township was terminated in 2009 for political reasons. That case was resolved at no cost to the township, Huth said.

Calls to the plaintiff's attorney, Eric Buikema, were not returned by press time.

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*The Macomb Daily contributed to this report.*