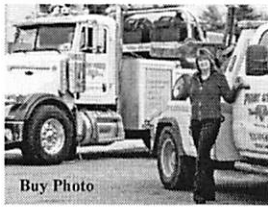


Towing firms say game in Delaware is unfair

Karl Baker, The News Journal 7:04 p.m. EST February 2, 2016

Market for towing disabled vehicles along most Delaware roads is controlled by state police



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(Photo: KYLE GRANTHAM/THE NEWS JOURNAL)

A lawsuit that is making its way through the Chancery court system is highlighting the little-known nature of the Delaware towing industry that some say favors a few, big companies at the expense of upstarts and motorists.

The market for towing disabled vehicles along most Delaware roads is controlled by state police and only favored, well-established companies win lucrative towing calls, multiple company owners have told The News Journal.

Gaining access to the state police's plethora of towing jobs is nearly impossible in New Castle County, they say, as the state doesn't respond to new requests.

"You never get a call back," said Luis Mercado, owner of Affordable Towing and Recovery in New Castle. "I've never come close to getting those contracts."



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Mercado said the company that receives most state police towing jobs is B&F Towing in New Castle.

B&F has the state police towing business "locked up," said Matt Howard, owner of American Towing in Wilmington. That firm has been towing for decades, he said, and has established a good rapport with state police officers as a result.

An official at B&F declined to comment.

Like Mercado, Howard tried to apply to become an approved tower with the state police but never was able to talk with the right person, he said.

"They pretty much just volleyball you around until you give up," said Howard. "So (towing) is not a competitive market."

State Police assign approved towing companies to designated areas to clear roads of abandoned or disabled vehicles, or those that are at the scene of a collision or arrest. Drivers can request their own towing service unless police officers determine that it may result in a time delay or safety hazard.

State police did not respond to a request for comment.

B&F is referenced in a lawsuit filed by Katherine Morris, owner of First State Towing, against State Police as being the beneficiary of 30 times more business in Troop 6, which encompasses much of northeastern New Castle County. In her lawsuit, Morris claims the agency acted with "evil motives" by allegedly favoring B&F and three other companies for lucrative towing jobs over her company because she is a woman.

Although First State is an authorized tower with State Police, the company is restricted to towing only within the Price's Corner and Elsmere area – a region with significantly fewer towing calls than others, said John LaRosa, attorney for Morris.

"They've shut her out of the old boys club," said LaRosa.

A hearing for her case was held in Chancery Court in Wilmington on Tuesday.

LaRosa is asking the state for a still undetermined amount of financial compensation "for years of lost revenue," and for a change in the way police distribute towing jobs to companies.

"We are seeking an injunction to make the state use a rotating list (of authorized towing companies,)" said LaRosa. First State "continues to lose tens of thousands of dollars monthly."

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Traffic moves along Interstate 95 near the Newark rest stop on Feb. 24. A court case in Delaware is shedding light on how tow trucks are issued to accident scenes. (Photo: KYLE GRANTHAM/THE NEWS JOURNAL)

LaRosa contends that towing jobs in northern New Castle County should rotate between all authorized companies. Assigning companies to designated regions that offer vastly different levels of business is against state law, LaRosa contends, which requires police to run an "equitable and uniform system of handling towing calls."

At Tuesday's motion to dismiss hearing, LaRosa argued that State Police consider some towing companies to be "more equal than others."

First State has been "crying" for a long time, said Gerald Spears, fleet manager at CPG Towing in New Castle, which is a State Police-approved tower, and is named in First State's lawsuit as receiving preferential treatment from law enforcement.

Spears said it is his company's strong track record of towing vehicles quickly that allows it to win jobs. Additionally, if police were to implement a rotating system, he said, it would lead to tow-truck drivers physically fighting each other at towing scenes.

"The companies that are doing it now are doing a good job," he said. "Why fix something that's not broken."

Carl Kanefsky, spokesman for Delaware Attorney General Matt Denn, said state law gives police the discretion to determine how to make an "equitable" towing system.

"Whether to go with a rotating system or have assigned areas" is up to them, Kanetsky said in an email.



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Joseph Handlon, attorney for the State Police, argued that state law does not give towing companies "a right to sue state government for additional business." He also said Morris's suit does not name specific instances of alleged sex discrimination during the two-year statute of limitations period.

"You have to specify who did what, why, and where," Handlon said. "An agency cannot be sued, it must be an individual."

Besides the state police division, official defendants named in the suit are Col. Nathaniel McQueen, state police superintendent, and an anonymous, "John Doe" from Troop 6 of the State Police.

Charlie Shuster, owner of Shuster's Auto Salvage, says First State, B&F and other big towing companies are being greedy with their frequent fights for more business. "There's more than enough for everybody" in the towing business, he said, and the greed of the large companies are driving up prices.

"They're all friends but they're greedy," Shuster said.

Morris said the dispute is about laws that need to be followed, as state statutes calls for an "equitable" system. Morris said she "can not count the number of jobs" she has lost because of the alleged exclusion of her company, but "it has been occurring since 2002."

One tow job can range in price, Morris said, between \$75 for towing a car a short distance to over \$1,000 for more complicated jobs that involve tractor-trailers or pulling vehicles out of ditches.

"I just don't want to be discriminated against," Morris said.

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