

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Casella Waste Systems, Inc.

v.

Docket #217-2020-CV-212

Jon Swan f/k/a Jon Alvarez,
Save Forest Lake, et al.

PLAINTIFF'S MOTION TO COMPEL

The plaintiff, Casella Waste Systems, Inc. (“CWS”), respectfully moves the court for an order compelling the defendant, Jon Swan (“Swan”), to respond fully and completely to CWS’s second set of requests for the production of documents. This motion rests on the following grounds.

I. Introduction

Since learning in 2019 about CWS’s planned landfill project in Dalton, New Hampshire, Swan has undertaken, in a variety of venues, a campaign to prevent the development of the project. By far, the method he uses most frequently to disseminate his messaging is social media, maintaining close to fifty anti-CWS sites on Facebook alone. Of the thousands of social media posts and other public statements he has made in the past three years, ten false assertions of fact serve as the basis for CWS’s defamation claim against Swan. Accordingly, CWS has requested production of analytical audience data made available by social media companies to their account holders that would enable CWS to determine, for example, how many people saw the statements and how widely they were reposted. After substantial delay, Swan made “general

objections¹” to the requests and then produced a handful of documents in unusable and unresponsive form. CWS’s subsequent attempts to obtain the information it had sought have been unsuccessful, in large part because Swan is publicly invested in his characterization of this action as an attempt to silence him, apparently justifying in his mind his refusal to cooperate except perfunctorily. If this were the law, however, very little discovery would be accomplished in New Hampshire’s courts, contrary to the provisions of N.H. Super. Ct. R. 21(b). CWS therefore seeks an order compelling Swan to comply with his discovery obligations as a litigant under New Hampshire law.

II. Statement of Facts

In 2019, CWS disclosed publicly that, through a subsidiary, it had acquired an option on a portion of an 1,800-acre aggregation of land in Dalton for the purposes of developing a new landfill. Complaint at ¶14. After that disclosure, Swan created the organization Save Forest Lake (“SFL”) and began a campaign to prevent development of the project. A substantial part of his campaign is executed on social media platforms, principally on Facebook but also on Twitter and other platforms. Since 2019, Swan has created at least fifty Facebook accounts that he openly manages to oppose the landfill development. He has now made thousands of posts vilifying CWS and public and private figures who express disagreement with his views or his tactics.

On April 14, 2020, CWS sued Swan and SFL for defamation. CWS’s complaint enumerated dozens of the false statements made by Swan as of that time about the company. Swan and SFL responded to the complaint with a motion to dismiss, and after a hearing the court granted dismissal as to some of the false statements, but denied dismissal with respect to nine of

¹ As opposed to specific objections to each request as required by N.H. Super. Ct. R. 24(b)(2).

them, holding that if those statements were proven untrue they would be actionable as defamation. The nine statements that the court found actionable in its order on the motion to dismiss were as follows:

These include that Casella scammed elderly residents of Dalton, did not recycle most of the materials placed in “zero sort” bins, filled local landfills with out-of-state trash, illegally spilled 8,000 gallons of leachate into the Black River in Vermont, polluted the Ammonoosuc River, operated outside of permitted hours, sought to improperly influence the vote of the Bethlehem Planning Board, conspired with Horizons Engineering to avoid compliance with regulatory requirements, and improperly treated millions of gallons of leachate which were emptied into the Merrimack River.

Order (8/10/20) at 9 (quotations in original).

Since the court entered its order, Swan has maintained a nearly daily pace of posting on social media and making other public statements disparaging CWS. Of these thousands of statements, CWS identified two that were actionable as defamatory under the law as set out in the court’s order on the motion to dismiss, and received leave of court to amend its complaint to include them as additional grounds for its defamation claim. Swan habitually posts the same statements on multiple Facebook pages and Twitter feeds with the evident purpose of increasing his audience. The first actionable statement added to the complaint is Swan’s assertion that “[a] drainage channel at the landfill, operated by NCES [a CWS subsidiary], collects landfill pollutants and discharges those pollutants into the Ammonoosuc River.” Order (1/13/21). The second actionable statement added by amendment is Swan’s observation that CWS “weaponizes the legal system . . . to silence those who oppose them,” falsely claiming that CWS encouraged a local resident to seek a temporary restraining order against Swan. Order (6/29/21).

CWS propounded its first set of discovery requests on Swan on February 3, 2021. In its document requests, CWS asked for documents and records related to the defamatory messages Swan published on social media. *See, e.g.*, Exhibit A. CWS sought analytical social media data

to determine who had viewed Swan’s defamatory messages and thereby develop an understanding of how broadly they have been disseminated. Swan responded to the discovery requests on May 12, 2021 but included no analytical social media data in his response. Counsel for CWS and Swan conferred several times in an attempt to informally settle discovery issues, and on July 12, 2021, Swan’s counsel agreed to produce certain social media analytical data, so long as the effort required did not constitute what he characterized as an “undue burden” for his client. Exhibit B.²

Swan produced a supplemental production in response to CWS’s first discovery requests on September 24, 2021. Exhibit C.³ This production included six spreadsheets of analytical data. *Id.* Although this data is easy and free to access by page owners on Facebook, it is not available to third parties. Swan nonetheless objected to the requests as unduly burdensome and overbroad, and accused CWS of engaging in a “fishing expedition.” Exhibit D at ¶2(a). Four of the spreadsheets contained Facebook data but did not identify the accounts or pages to which they were associated, rendering them useless. Exhibit C. All of the spreadsheets contained data accessed in late August 2021 and reflected only 28 days of account activity, instead of beginning in 2019 and continuing to the date of the responses. *Id.*

² This exhibit is the email recap of the meet and confer between counsel that occurred on July 12, 2021. The email itself was sent on July 16, 2021.

³ This excerpt of Swan’s production contains only one of the Facebook data spreadsheets produced. Two of the Facebook data spreadsheets Swan produced were more limited in terms of data points for which information was collected, and thus are simple to produce in this format. The other four, and all the Facebook data spreadsheets provided by Swan in his later, February 18, 2022 production, contain a great many more data points and are too cumbersome to practicably print and produce in this format. This is not to say that Swan provided more data in those spreadsheets: the number of data points was greatly increased, but the period covered is still only the last 28 days from the point Swan created the report, rendering the data markedly incomplete, and thus of little to no use.

Rather than move to compel complete responses, CWS elected to propound a second set of document requests on November 1, 2021. Exhibit E. For each of the four main social media platforms Swan employs, his website, and any other social media platforms he has used to disseminate the statements at issue, CWS requested:

“[A]ny and all **documents** and **records** that embody, refer to, or relate to any and all **analytical data** for the **lifetime** of the account for each of **your** . . . pages and groups which have posted, reposted, shared, or referred to **your defamatory statements**. All such **analytical data** shall have clear indication as to which page and/or group it belongs by name and date of its creation, and identify which **defamatory statement(s)** have been posted, reposted, shared, or referred to on that page or group.

Id. at 6 (bolded words are defined elsewhere in the requests). For each request, CWS then detailed which data points⁴ are contemplated by the request; for example, CWS sought 16 data points for Facebook pages and nine for YouTube. *Id.* at 6-11. All of this data is readily available to Swan as the owner and custodian of the relevant accounts.

Because of the possibility that Swan might not know how to access and retrieve this type of data on the various social media platforms, CWS asked Swan if he would need additional time to fully respond to these document requests and offered technical assistance for accessing the data requested. Exhibit F. Swan requested 45 additional days to respond, or 75 days in total, and proposed providing his general objections to all the requests on November 15, 2021. CWS agreed to this proposal for additional time to respond to the requests and gather the information. CWS never agreed, however, that Swan could forgo individual responses to each request or that it would accept general objections in lieu of the specific objections required by rule.

⁴ In this context, “data points” means the specific data metric categories requested for each social media platform, including, but not limited to, number of consumers, number of posts, reach, frequency, impressions, views, clicks, likes, reactions, shares, reshares, replies, and comments. Data points vary between social media platforms since each platform handles interactions between the user, his statements, his audience, and their replies in different ways.

Although CWS accommodated this request for additional time, Swan delayed giving his general objections until November 30, 2021. Exhibit G. On that date, Swan claimed that the requests were unduly burdensome because in order to access the requested Facebook data, he would need to purchase specialized software. Exhibit H. CWS noted in response that Swan did not need any additional software to access the requested Facebook data, a fact Swan was aware of since he had already produced Facebook data similar to what is sought in the second set of requests in his September 24, 2021 production. Nevertheless, to eliminate any possibility of miscommunication or confusion, CWS provided simple, step-by-step instructions to access Facebook analytical data on December 3, 2021. *Id.*

On December 1, 2021, Swan's counsel informed the court that he would be out of office for most of the month of January to attend to a family medical issue but would resume a normal schedule by February 1, 2022. Counsel's Notice of Medical Leave (12/1/21). According to the agreement between the parties, Swan's production was due on January 17, 2022. On January 4, 2022, CWS reached out for an update on the defendant's discovery responses. Swan's counsel indicated that he had received data from Swan over the holiday weekend and would process it when he was back in office; he did not request an extension of time to respond, but in light of the reason for counsel's absence CWS did not object to a further delay.

By February 4, 2022, CWS had still not received the promised discovery production and sought an update. Defense counsel indicated that he was not in a position to make a "formal disclosure" that day and offered to provide "raw data." Exhibit I. CWS asked when the defendant expected to make the discovery production but received no response. *Id.* CWS followed up again on February 9, 2022. Swan's counsel replied the following day that he was still determining how to produce the responsive spreadsheets. Exhibit J. In none of these

communications did he request or receive an extension of time to produce the discovery response, which was then nearly a month overdue from the agreed upon extension.

On February 18, 2022, Swan produced a small amount of analytical data, claiming this was in response to an email from CWS on December 3, 2021.⁵ Exhibit K.⁶ His production made no mention of CWS's second discovery requests. It contained only data, with no documentation or explanation to indicate which discovery requests the data was responsive to, if any, and no document that asserted specific objections and responses as to each discovery request as required by rule. *Id.* Indeed, to date the plaintiff has not received written responses to the specific requests propounded on November 1, 2021. Instead, CWS has the general objections Swan has raised in various emails concerning the second set of discovery requests. In those messages, Swan objected generally to the “presumptive language about ‘defamatory statements’” in the requests, since he maintained he has not made defamatory statements; overbreadth; undue burden; and “open-ended” requests that he characterizes as “a classic fishing expedition.” Exhibit G; Exhibit L; Exhibit M.

The defendant's February production included only 22 documents. Exhibit K. Ten of these documents were duplicates of other items contained in the production, leaving only 12 original items. *Id.* Of these 12 documents, six were spreadsheets of analytical data from Facebook, again with no designations to indicate the page or group to which the data corresponds, and again covering only the limited timespan of the last 28 days, which, of course,

⁵ The only email sent to Swan that day contained CWS's instructions on how to access and download the requested Facebook data. No discovery requests were propounded in this email.

⁶ As explained earlier, this production excerpt does not contain the six spreadsheets of Facebook data provided by Swan since they are impracticable to produce in this format. *Ante*, at footnote 3. Once again, despite the broad range of data points provided, the lack of explanation as to relevance and source, and the limited time period of only the last 28 days, render these spreadsheets non-responsive and unusable.

significantly understates the dissemination of the actionable statements because it reveals nothing about the reach of the statements at the time they were made. The production also included five Twitter impression reports for Swan's Twitter account from August 2021 to January 2022, and one email newsletter from YouTube that contained some audience data for Swan's channel from the month of December 2021. *Id.*

One hundred and seven days passed before Swan produced these documents. Accessing and downloading this information should have taken only a few hours at most. Regarding Facebook, the likely source for most of the analytical data sought by CWS's requests, the data spreadsheets are generated automatically after the search inputs have been entered, and the instructions voluntarily provided by CWS walked the defendant through each step of the process needed to collect the requested information. Exhibit H.

No further discovery response was made by Swan. On March 14, 2022, CWS reiterated to Swan the deficiencies in his February responses to CWS's second discovery requests, putting Swan on notice that his actions violated discovery rules, and that unless the issues were promptly addressed, it would be forced to seek satisfaction from the court with a motion to compel. Swan responded on March 21, 2022, and declined to clarify or supplement his responses to CWS's second discovery requests. Swan suggested, as he has before, that CWS narrow the requests to seek analytical data for specific posts. CWS understands, however, that the requested data is not available from the social media platforms for individual posts; instead, it can be gathered for pages, accounts, or groups maintained on those platforms. In light of the incomplete and unorganized responses CWS has received from Swan to date on this issue, CWS has had to resort to this motion to compel full responses to its November 1, 2021 discovery requests.

III. Argument

“[D]iscovery is an integral part of our pretrial procedure and has been given a broad and liberal interpretation.” *Riddle Spring Realty Co. v. N.H.*, 107 N.H. 271, 273 (1966) (citation omitted). Discovery is intended to “reach the truth and to reach it as early in the process as possible by narrowing the issues pertaining to the controversy between the parties.” *Sawyer v. Boufford*, 113 N.H. 627, 628 (1973) (citation and quotation omitted). A party who receives a document request during discovery must respond to the request by making available the requested documents and making any specific objections to the requests. N.H. Super. Ct. R. 24(b)(2). A motion to compel should be granted when it seeks relevant information through reasonable discovery requests and the opposing party refuses to produce some or all of the requested information. *See N.H. Ball Bearings, Inc. v. Jackson*, 158 N.H. 421, 429-31 (2009).

For more than a year now, CWS has been seeking Swan’s analytical social media data, information relevant to the case that it cannot obtain except from Swan. After two sets of discovery requests from CWS, three productions from Swan, multiple amendments to the case structuring order, and multiple conferences and exchanges between counsel, Swan has made entirely incomplete productions of data and refused to provide information that is plainly discoverable.

The threshold factor for any discovery dispute is whether the requested information is relevant. N.H. Super. Ct. R. 21(b) (“[P]arties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action”); *see N.H. Ball Bearings, Inc.*, 158 N.H. at 431 (“Evidence is relevant if it has ‘any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.’”) (*quoting* N.H. R. Ev. 401). The

information sought by CWS's requests and through this motion is directly relevant to establishing the plaintiff's damages in this case. "A plaintiff proves defamation by showing that the defendant failed to exercise reasonable care in publishing a false and defamatory statement of fact about the plaintiff to a third party, assuming no valid privilege applies to the communication." *Pierson v. Hubbard*, 147 N.H. 760, 763 (2002). If defamation is established and no privilege applies, as the plaintiff has alleged in this case, the plaintiff may seek damages for harm to his or her reputation. *Thomas v. Telegraph Publishing Co.*, 155 N.H. 314, 322 (2007).

The information sought by CWS's discovery requests is directly relevant to its damages in this matter, as it will help determine the extent of its damages by identifying the scope of Swan's audience for the defamatory statements. The courts have also acknowledged that the "extent to which the [defamatory] statements were circulated" is a relevant factor in assessing non-economic damages in a defamation case. *See Walker, Jr. v. Gill*, No. 2162016CV00316, 2018 WL 3326517, at *5 (N.H. Super. Apr. 12, 2018) (citing authorities). The data requested from Swan is intended to establish the scope of CWS's non-economic damages arising from the plaintiff's defamatory conduct.

The relevance of this information is underscored by the unique nature of this medium. If a defamatory statement is uttered in a room, the principal audience of the statement is the people present when the statement was made. A statement made on social media, however, has no readily identifiable boundaries to determine exposure. A party attempting to determine who viewed the messages must instead do so with analytical data characterizing the post containing that statement. This data, available only to the owner of a social media account, tracks who has interacted with the owner's social media activity. This is the best measure available to determine

who has viewed a defamatory message on social media, and what reaction the viewer had. CWS's request for this information is not a "fishing expedition," but rather an effort to gather analytical data that is central to its case and obtainable only from the defendant. This information is also necessary for the preparation of an expert report on the issue of CWS's damages.

Swan's "general objections" to producing the requested information are not compelling. CWS's discovery requests are not overbroad because they specifically delineate the analytical data sought to discover the scope and impact of Swan's defamatory statements. Exhibit E. CWS has requested only the data generated from the creation of each social media account⁷ to September 30, 2021, and only for those social media accounts which have posted, reposted, shared or referred to one of the potentially actionable statements at issue in this litigation. To precisely define what data was sought, CWS made six separate requests for data from Facebook, Twitter, Instagram, YouTube, web domains owned by Swan, and any other social media platform to which Swan has posted one of the potentially actionable statements.

Producing the relevant analytical data is not unduly burdensome because accessing and producing the requested information is simple and straightforward. Locating and exporting this data is not a burdensome task on the various platforms. On Facebook, for example, producing the requested data is as simple as logging into the account and accessing Facebook's free Insights tool, as CWS detailed in the step-by-step instructions it furnished to Swan in December. This tool lets the user define a date range for the data requested and choose each category of data

⁷ As far as CWS has been able to determine, Swan's social media accounts and pages that disseminated his defamatory messages seem to have been created in 2019 or some period thereafter. Thus, asking for data from the creation of the accounts to September of 2021 is designed to narrowly focus on the data generated by Swan's social media accounts, during the time in which he made his defamatory statements. On July 12, 2021, Swan agreed to produce relevant analytical data in response to CWS's first set of discovery requests in the range of the last three years, so his subsequent general objection to CWS's second discovery requests is inconsistent with his position on the plaintiff's first discovery requests. Exhibit B.

points to be included in the report. Facebook then creates a spreadsheet containing the requested information. Downloading the requested information for Swan’s main Facebook page, which has likely spread the majority of his defamatory messages, would thus be the sort of task accomplished while waiting for a pot of coffee to brew, not a burdensome process taking days or weeks. Since most of Swan’s pages on Facebook are likely created by his central account, analytical data for the central account, which includes data for all pages created by that account, likely encompasses a significant portion of the data he needs to produce for Facebook, but CWS has yet to receive this easily-accessible data.

CWS is not pursuing “open-ended requests” because it limited its definition of “defamatory statement” to reflect the court’s order on the motion to dismiss and the subsequent amendments to the complaint:

4. **‘Defamatory statement’** shall mean those actionable statements at issue in this litigation, including the allegations by **you** that **Casella**:
 - a. Scammed elderly residents of Dalton and Bethlehem.
 - b. Does not recycle most of the material placed in Casella’s Zero-Sort recycling bins, contributing to the collapse of the recycling market.
 - c. Fills New Hampshire landfills with out-of-state trash.
 - d. Illegally spilled 8,000 gallons of leachate into the Black River in Vermont.
 - e. Polluted the Ammonoosuc River.
 - f. Operated outside of permitted hours in regards to the accident which caused the alleged spill to the Black River in (d).
 - g. Sought to improperly influence the vote of the Bethlehem Planning Board by packing the board.
 - h. Conspired with Horizons Engineering to avoid compliance with regulatory requirements by means of a lot line adjustment.
 - i. Is complicit in sending millions of gallons of leachate to third parties who improperly treat it and then discharge it into the Merrimack River.
 - j. Weaponized the legal system against you by causing Vanessa Cardillo to request a protective order against **you**.

Second Set of RPDs to Def. Swan, page 2, Exhibit E. This definition was developed from the list of potentially actionable statement topics that the court identified in its order, with the

addition of the topics included in the amended complaint. Counsel for both parties previously agreed that this list represents the roster of potentially actionable statements that constitute CWS's claim for defamation. Exhibit N. Swan does not have to agree that his statements are defamatory in order to respond to the discovery requests utilizing the definitions set forth therein – he can simply utilize the definition to guide him to the social media accounts containing responsive information. To the extent Swan complains that the requests are overly-burdensome because they require him to gather requests from so many accounts and platforms, he can turn only to himself for blame. Moreover, it is unclear at this point whether Swan has even made an attempt to survey his many accounts and locate those that have disseminated the contested statements.

This motion reflects CWS's educated guesses as to what objections Swan is raising in response to these requests, as he has yet to assert *any* specific objections or provide responses specific to each of the requests in CWS's second set of requests for the production of documents. Swan's incomplete responses also require guesswork as to which request each document is purportedly responsive to, as Swan also failed to provide this information. Discovery responses must be full and specific, or in the alternative must communicate the objection(s) being asserted in place of a response. N.H. Super. Ct. R. 23(g); N.H. Super. Ct. R. 24(b)(2). Swan's repeated failure to produce specific responses and objections is contrary to the discovery rules, and has led to a delay in discovery that has materially harmed CWS, as it has instead expended time and resources to seek discovery information which should have been produced in full, or specifically objected to, long before now.

IV. Conclusion

As discussed throughout this motion, every effort CWS has made to informally resolve this discovery dispute has resulted in either a refusal to respond, or the promise of a data production which is ultimately unusable. Because the requested data can be accessed with minimal effort, and because considerable time has already been lost waiting for Swan to answer these requests, CWS respectfully requests the court grant this motion and require Swan to produce a supplemental production that fully answers CWS's requests within 15 days of the court's order.

Respectfully submitted,

CASELLA WASTE SYSTEMS, INC.
By Its Attorneys,

Date: 4/5/22

By: /s/ Morgan G. Tanafon
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CERTIFICATE OF SERVICE

I hereby certify that the within pleading is being served electronically through the court's ECF system upon counsel of record and all other parties who have entered electronic service contacts in this case.

Date: 4/5/22

/s/ Morgan G. Tanafon
Morgan G. Tanafon, Esq.

EXHIBIT A

Request No. 3:

Produce all **documents** and **records** that embody, refer to or relate to **Right to know** requests made by **you** to any agency or department of the State of New Hampshire concerning **Casella** and/or the **proposed Dalton landfill**.

Request No. 4:

Produce any and all **documents, records, and communications** that embody, refer to or relate to the statements set forth in the post published to the **Save Forest Lake Facebook page** on January 16, 2020 that is purportedly from the “Forest Lake Protective Bureau.”

Request No. 5:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to the disposal of waste placed in Zero-Sort® recycling bins.

Request No. 6:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to the alleged acceptance of out-of-state waste at **Casella** facilities.

Request No. 7:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to the December 27, 2019 semi-truck collision in Coventry, Vermont, involving a tanker truck carrying leachate from a **Casella** landfill.

Request No. 8:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** employees operated their facilities outside of permitted hours.

Request No. 9:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** imports out-of-state waste to increase its profits.

Request No. 10:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** has polluted the Ammonoosuc River.

Request No. 11:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** sought to improperly influence the vote of the Bethlehem Planning Board in May of 2019.

Request No. 12:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** attempted to “pack the Town of Bethlehem Planning Board” in May of 2019.

Request No. 13:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** and Horizons Engineering conspired to avoid compliance with regulatory requirements in connection with a proposed lot line adjustment in April of 2019.

Request No. 14:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** improperly treated leachate that was then discharged into the Merrimack River.

Request No. 15:

Produce any and all **documents, records, and communications** in **your** possession that embody, refer to or relate to any **public statement** by **you** that **Casella** “scammed” or otherwise misled elderly **people** to advocate on behalf of **Casella**.

EXHIBIT B

From: [Eggleton, Jeremy D.](#)
To: [Morgan G. Tanafon](#)
Cc: [Bryan Gould](#); [Cooley Arroyo](#); [Brenda Barnard](#)
Subject: RE: Second Meet and Confer Letter [IWOV-iManage.FID487758]
Date: Friday, July 16, 2021 12:25:34 PM

August 6 works great—thanks.

JE

From: Morgan G. Tanafon <TanafonM@cwbp.com>
Sent: Friday, July 16, 2021 11:02 AM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Cc: Bryan Gould <gouldb@cwbp.com>; Cooley Arroyo <arroyoc@cwbp.com>; Brenda Barnard <barnardb@cwbp.com>
Subject: Second Meet and Confer Letter

Dear Jeremy,

This letter is intended to memorialize our second discovery meet and confer earlier this week to ensure we both arrived at the same understanding. After consideration, I also set out a new proposal below for CWS's response to Mr. Swan's RPD #1.3.

During our meet and confer, we discussed outstanding discovery issues and arrived at the following conclusions:

1. CWS produced a supplemental production on Tuesday that replaced previously produced documents with versions that are easier to print. You received an email from Cooley listing the new Bates numbers for these replacement documents.
2. You agreed to speak with Mr. Swan regarding supplementing the information provided on social media accounts, analytical data for the same, and the posting locations for the past three years, limited by relevance to the actionable statements we discussed in our last meet and confer. Your position is that past a certain point of effort, some of the information requested might be unduly burdensome for Mr. Swan to produce. You will be following up with more information after your discussion with Mr. Swan in the next couple days.
3. I explained that the lack of context and information for Mr. Swan's production makes it difficult to identify the documents and how they relate to the case. Your position is that clarifying questions concerning his production should be asked at his deposition.
4. You agreed to supplement the information provided regarding the civil case Mr. Swan was previously involved in, without waiving the associated objections.
5. You agreed to clarify which documents Mr. Swan received in response to RSA 91-A right to know requests, and to produce any additional documents received from those requests, subject to your same objection on undue burden.
6. You agreed to speak to Mr. Swan regarding SFL-00000567, which is an indecipherable document, to discover what the document was intended to be and whether there was a transmission error.
7. You communicated that the "generally responsive" documents Mr. Swan produced are not responsive to any particular request but rather produced because they might be used

at trial.

8. We also discussed possible search terms to narrow the scope of Mr. Swan's Request for Production #3. CWS agreed to consider searching for documents involving inspections, inquiries, and actions from regulatory agencies from 01/01/2011 to the present. After further consideration and a closer review of Request #3, we have determined that the use of search terms in this manner would still be unduly burdensome and produce a great many documents that are irrelevant to the actionable statements remaining in the case. Accordingly, we propose producing documents that constitute "inquiries or actions" concerning environmental matters as they relate to Mr. Swan's allegations that CWS has polluted the Ammonoosuc River and been complicit in polluting the Merrimack River. The production will be limited to communications sent to CWS from state regulators in New Hampshire and federal regulatory agencies, if any, for a five-year period from the date of your request. This approach is reasonably calculated to produce information in CWS's possession sufficient to support or deny Swan's actionable statements regarding the rivers' pollution, while not imposing an undue burden on CWS. Any broader search would impose a much greater burden that would likely require CWS to engage third-party litigation discovery assistance and spend a considerable amount of time sifting through largely unresponsive documents, and would thus take a considerably longer time to prepare a meaningful production. Please let us know if you agree with this approach, and we will locate and produce any responsive documents that meet this description.

While we previously discussed July 20 as the date for supplementation, it now seems that August 6 will be more realistic. Please let me know if you agree to this date for supplementation; Mr. Swan's supplements can be provided by that date, as well.

Please let me know if this reflects your understanding of our discussion and agreements.

Regards,

Morgan

Morgan G. Tanafon

Associate

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Email: tanafonm@cwbp.com

With offices also in New London and Wolfeboro, NH, and Haverhill, MA.

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Visit the CWB web site at www.cwbpa.com

EXHIBIT C

Orr&Reno

Jeremy D. Eggleton
jeggleton@orr-reno.com
Direct Dial 603.223.9122
Direct Fax 603.223.9022

October 7, 2021

VIA ELECTRONIC MAIL

Bryan K. Gould, Esq.
gouldb@cwbp.com
Cooley A. Arroyo, Esq.
arroyoc@cwbp.com
Morgan G. Tanafon, Esq.
tanafonm@cwbp.com
Cleveland, Waters and Bass, P.A.
2 Capital Plaza
P.O. Box 1137
Concord, NH 03302-1137

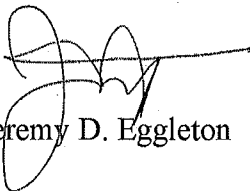
Re: Docket No. 217-2020-CV-212
Casella Waste Systems, Inc. v. Jon Swan & Save Forest Lake, et al.

Dear Attorneys Gould, Arroyo & Tanafon:

Attached please find the Supplemental Responses to Interrogatories, which have now been executed by Jon Swan before a Notary Public, relative to the above-referenced matter.

Please do not hesitate to contact me with any questions.

Very truly yours,



Jeremy D. Eggleton

JDE/mem
Enclosure
3301069_1

THESE INTERROGATORIES ARE PROPOUNDED IN ACCORDANCE WITH RULE 23 OF THE RULES OF THE SUPERIOR COURT OF THE STATE OF NEW HAMPSHIRE APPLICABLE IN CIVIL ACTIONS. YOU MUST ANSWER EACH QUESTION SEPARATELY AND FULLY IN WRITING AND UNDER OATH. YOU MUST RETURN THE ORIGINAL AND ONE COPY OF YOUR ANSWERS WITHIN THIRTY (30) DAYS OF THE DATE YOU RECEIVED THEM TO THE PARTY OR COUNSEL WHO SERVED THEM UPON YOU. IF YOU OBJECT TO ANY QUESTION, YOU MUST NOTE YOUR OBJECTION AND STATE THE REASON THEREFOR. IF YOU FAIL TO RETURN YOUR ANSWERS WITHIN THIRTY (30) DAYS, THE PARTY WHO SERVED THEM UPON YOU MAY INFORM THE COURT, AND THE COURT SHALL MAKE SUCH ORDERS AS JUSTICE REQUIRES, INCLUDING THE ENTRY OF AN ADDITIONAL DEFAULT AGAINST YOU.

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Casella Waste Systems, Inc.

v.

Docket #217-2020-CV-212

Jon Swan f/k/a Jon Alvarez, Forest Lake
Association, Save Forest Lake, Doe Defendants 1-20

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

I, Jon Swan, Defendant in the above captioned matter, supplement my previously produced interrogatory answers with the following responses:

1. Reference is made to the email of June 7, 2021 from Morgan Tanafon, Esq. to my attorney, Jeremy D. Eggleton, Esq., setting forth interrogatories where the Plaintiff believed by answers to have been insufficient. I provide the following information without waiving my previously stated objections to said interrogatories.

2. "In response to Interrogatory 3, Mr. Swan omits many social media accounts which he has maintained in the last three years. He also fails to provide his username and the date he joined each service for those accounts he did identify... Also, while more understandable it was omitted, since Mr. Swan might not have understood we were requesting it, the analytical data from these social media platforms is included in this request under the definition of "Document." To delineate this request more clearly so he knows what we are looking for, we have and are requesting any and all ESI contained on or otherwise posted on social media webpages, such as

Facebook, Twitter, LinkedIn, Instagram, Pinterest, Google+, MySpace, etc. including any analytical data offered by these platforms that contain metrics such as follower count, view count, traffic sources, engagement trends, audience demographics, targeted ad information, revenue information, audience reach, etc.”

- a. I objected specifically to this request because it was overbroad and unduly burdensome, insofar as I have and maintain numerous social media accounts, and to track them all down including all relevant ESI relating to them, would be time consuming and disproportionate to the legitimate discovery needs of this case. The Plaintiff has identified the statements I’ve made online that it believes are defamatory. They are not, or they are just opinion; but to ask for every domain I might have a username for is merely a fishing expedition. That having been said, and without waiving any of my objections, I have obtained information from Facebook relating to recent user activity relating to posts I have made and provided this information in discovery. I did so to illustrate how burdensome the request would be regarding each and every post and platform I might have used in my multi-year public information campaign in opposition to Casella’s proposed waste facility, which I believe to be a dangerous threat to Forest Lake and the people of Dalton. Although it is relatively easy to obtain data for one or a handful of posts, it would be extraordinarily time consuming and unreasonable to provide the information sought by the Plaintiff in interrogatory #3.

3. Regarding Interrogatory 18, I provided some detail concerning a civil case I had been involved in in New York many years ago. I supplement that response as follows: Town of Hannibal v. Jon and Laura Alvarez, No. C-2011-1522, New York Supreme Court (Oswego County).

4. In follow up to Request for Production No. 2, I have reviewed my communications

with public authorities in NH and provided materials I received from them, as well as my inquiry communication if attached.

5. Regarding SFL-567, the document was produced by me in this format. I believe it was part of a package of materials I assembled and it seemed to be attached to the documents I was producing, so I produced it.

The foregoing supplemental responses to interrogatories are true to the best of my knowledge and belief.

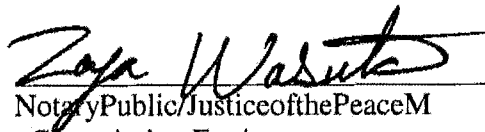
Dated: 10-6-21

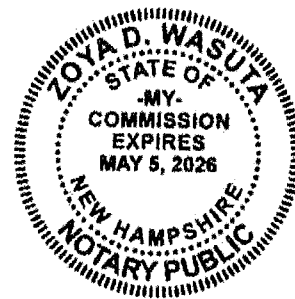

Jon Swan

STATE OF NEW HAMPSHIRE
COUNTY OF Grafton, SS.

Personally appeared before me the above-named Jon Swan and swore or affirmed that the foregoing supplemental responses to interrogatories are true to the best of his knowledge and belief.

Dated: 10/6/2021


Notary Public/Justice of the Peace
My Commission Expires:



3294361_1

Date	Total Members	Pending Members	Member		Posts	Comments	Reactions	Active	Members
			Approved Requests	Declined Requests					
2021-07-22	168	0	0	0	0	3	1	1	28
2021-07-23	168	0	0	0	0	5	1	8	52
2021-07-24	168	0	0	0	0	2	0	4	40
2021-07-25	168	0	0	0	0	4	0	9	50
2021-07-26	168	0	0	0	0	2	0	0	31
2021-07-27	168	1	0	0	0	2	0	1	37
2021-07-28	168	1	0	0	0	2	1	1	46
2021-07-29	168	0	0	0	1	2	0	7	42
2021-07-30	168	0	0	0	0	0	0	0	17
2021-07-31	169	1	1	0	0	2	0	0	19
2021-08-01	169	1	0	0	0	0	1	1	7
2021-08-02	169	1	0	0	0	1	0	1	30
2021-08-03	170	1	0	0	0	3	0	5	42
2021-08-04	170	1	0	0	0	0	0	2	18
2021-08-05	170	1	0	0	0	2	0	1	44
2021-08-06	170	1	0	0	0	1	0	1	29
2021-08-07	170	1	0	0	0	0	0	0	3
2021-08-08	170	1	0	0	0	0	0	0	2
2021-08-09	170	1	0	0	0	1	0	5	26
2021-08-10	170	1	0	0	0	1	0	4	39
2021-08-11	170	1	0	0	0	2	0	0	37
2021-08-12	170	1	0	0	0	1	3	19	69
2021-08-13	170	1	0	0	0	1	0	2	27
2021-08-14	170	1	0	0	0	0	0	0	8
2021-08-15	170	1	0	0	0	1	0	1	26
2021-08-16	170	1	0	0	0	2	0	7	38
2021-08-17	170	1	0	0	0	1	1	4	23
2021-08-18	170	1	0	0	0	0	0	0	6

Popular Days**Posts, Comments and Reactions**

Monday	5
Tuesday	6
Wednesday	2
Thursday	10
Friday	6
Saturday	4
Sunday	6

Posts	Member	Comments	Reactions	Views	Link
Like morning views like this? Say no to landfills near water bodies.	Derek Thornton	1	14	74	https://www.facebook.com/groups/214444936803362/posts/366535548260966/
Care to join us in Concord on September 10th? Fighting to protect and preserve NH, not trash it! Join us! #StopNorthernTrash	Save Forest Lake	2	8	60	https://www.facebook.com/groups/214444936803362/posts/365345725046615/
**State Says Casella Fell Short On Preventing Major Landfill Leachate Spill In Bethlehem, N.H. **	Save Forest Lake	1	8	48	https://www.facebook.com/groups/214444936803362/posts/353702492877605/
	Tom Tower	1	4	22	https://www.facebook.com/groups/214444936803362/posts/369835227930998/
	Save Forest Lake	1	2	51	https://www.facebook.com/groups/214444936803362/posts/357008559213665/
Great LTE in this weekend's Cal-Rec! We couldn't agree more, Mr. Cowan! If you agree, please consider joining the P.A.C.T. group!	Save Forest Lake	1	1	27	https://www.facebook.com/groups/214444936803362/posts/359003082347546/
	Save Forest Lake	0	6	48	https://www.facebook.com/groups/214444936803362/posts/361139885467199/
State Tells Casella To Stop Placing Waste Outside Of Permitted Landfill Limits by Robert Blechl July 22, 2021	Save Forest Lake	1	0	23	https://www.facebook.com/groups/214444936803362/posts/353106949603826/
	Save Forest Lake	0	5	45	https://www.facebook.com/groups/214444936803362/posts/357618509152670/

Casella's operational incompetence makes the AP news wire. They can't even stay in compliance at their existing landfill, how are we to trust in their abilities to do something they have never done before, design and build a NEW landfill on green, virgin land?	Save Forest Lake	0	3	39	https://www.facebook.com/groups/214444936803362/posts/354379872809867/
	Tom Tower	0	3	29	https://www.facebook.com/groups/214444936803362/posts/364899285091259/
We hope you can join us in Concord on September 10, 2PM for a RALLY to urge NHDES to DENY the wetlands permit application for this unneeded, unwanted landfill that would guarantee that the	Save Forest Lake	0	3	27	https://www.facebook.com/groups/214444936803362/posts/368529021394952/
	Save Forest Lake	0	3	12	https://www.facebook.com/groups/214444936803362/posts/351895253058329/
NCABC would like to thank the NH Sierra Club for all of their help to protect and preserve our NH environment!	Tom Tower	0	2	21	https://www.facebook.com/groups/214444936803362/posts/369105618003959/
Rally scheduled for Friday, September 10, 2021 at 2PM in front of the NH Dept of Environmental Services, to urge them to do the right thing and DENY the wetlands permit application. The public commenting period ends the following Monday, with a decision to be made within 45 days thereafter. Press conference to follow the rally. I hope you will mark your calendars and join us! #DENY	Save Forest Lake	0	2	18	https://www.facebook.com/groups/214444936803362/posts/355027626078425/
Gee, he should've called...but of course, he has no time for concerned property owners, just his political donors in Littleton, Schillings and Chutters. A sad reality...this will haunt him during his run for the US Senate. #TheNorthRemembers	Save Forest Lake	0	2	44	https://www.facebook.com/groups/214444936803362/posts/366099054971282/

	Save Forest Lake	0	2	24	https://www.facebook.com/groups/214444936803362/posts/369088471339007/
	Save Forest Lake	0	2	32	https://www.facebook.com/groups/214444936803362/posts/360228582224996/
We will be holding a **"Do The Right Thing NHDES" rally ** and press conference, on **Friday, September 10, 2PM** in front of the **NH Dept of Environmental Services building at 29 Hazen Drive in Concord, NH.** Please mark your calendars and join us. #DenyThePermit	Save Forest Lake	0	2	37	https://www.facebook.com/groups/214444936803362/posts/354964586084729/
	Save Forest Lake	0	1	40	https://www.facebook.com/groups/214444936803362/posts/366027988311722/
	Save Forest Lake	0	1	34	https://www.facebook.com/groups/214444936803362/posts/362894008625120/
Why is the NH Department of Environmental Services EDITING their video release of the July 14, 2021 public hearing for the wetlands permit application? They completely removed the well-deserved heckles and catcalls aimed at Casella's engineer Joe John Gay when he stated that ground and surface water impacts from the landfill "Can't Happen". As you will see, all of the thunderous applause aimed at speakers with whom the audience agreed was MUTED. WTF is that, DES?	Save Forest Lake	0	1	31	https://www.facebook.com/groups/214444936803362/posts/360884352159419/
	Tom Tower	0	1	28	https://www.facebook.com/groups/214444936803362/posts/355085466072641/
Associated Press story on Casella's handling 154,000 gallon leachate spill makes National news!	Tom Tower	0	1	23	https://www.facebook.com/groups/214444936803362/posts/355883142659540/
	Tom Tower	0	1	22	https://www.facebook.com/groups/214444936803362/posts/367372024843985/

Tom Tower	0	1	20	https://www.facebook.com/groups/214444936803362/posts/353139909600530/
Save Forest Lake	0	0	35	https://www.facebook.com/groups/214444936803362/posts/362412482006606/

EXHIBIT D

THESE INTERROGATORIES ARE PROPOUNDED IN ACCORDANCE WITH RULE 23 OF THE RULES OF THE SUPERIOR COURT OF THE STATE OF NEW HAMPSHIRE APPLICABLE IN CIVIL ACTIONS. YOU MUST ANSWER EACH QUESTION SEPARATELY AND FULLY IN WRITING AND UNDER OATH. YOU MUST RETURN THE ORIGINAL AND ONE COPY OF YOUR ANSWERS WITHIN THIRTY (30) DAYS OF THE DATE YOU RECEIVED THEM TO THE PARTY OR COUNSEL WHO SERVED THEM UPON YOU. IF YOU OBJECT TO ANY QUESTION, YOU MUST NOTE YOUR OBJECTION AND STATE THE REASON THEREFOR. IF YOU FAIL TO RETURN YOUR ANSWERS WITHIN THIRTY (30) DAYS, THE PARTY WHO SERVED THEM UPON YOU MAY INFORM THE COURT, AND THE COURT SHALL MAKE SUCH ORDERS AS JUSTICE REQUIRES, INCLUDING THE ENTRY OF AN ADDITIONAL DEFAULT AGAINST YOU.

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Casella Waste Systems, Inc.

v.

Docket #217-2020-CV-212

Jon Swan f/k/a Jon Alvarez, Forest Lake
Association, Save Forest Lake, Doe Defendants 1-20

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

I, Jon Swan, Defendant in the above captioned matter, supplement my previously produced interrogatory answers with the following responses:

1. Reference is made to the email of June 7, 2021 from Morgan Tanafon, Esq. to my attorney, Jeremy D. Eggleton, Esq., setting forth interrogatories where the Plaintiff believed by answers to have been insufficient. I provide the following information without waiving my previously stated objections to said interrogatories.

2. "In response to Interrogatory 3, Mr. Swan omits many social media accounts which he has maintained in the last three years. He also fails to provide his username and the date he joined each service for those accounts he did identify... Also, while more understandable it was omitted, since Mr. Swan might not have understood we were requesting it, the analytical data from these social media platforms is included in this request under the definition of "Document." To delineate this request more clearly so he knows what we are looking for, we have and are requesting any and all ESI contained on or otherwise posted on social media webpages, such as

Facebook, Twitter, LinkedIn, Instagram, Pinterest, Google+, MySpace, etc. including any analytical data offered by these platforms that contain metrics such as follower count, view count, traffic sources, engagement trends, audience demographics, targeted ad information, revenue information, audience reach, etc.”

- a. I objected specifically to this request because it was overbroad and unduly burdensome, insofar as I have and maintain numerous social media accounts, and to track them all down including all relevant ESI relating to them, would be time consuming and disproportionate to the legitimate discovery needs of this case. The Plaintiff has identified the statements I’ve made online that it believes are defamatory. They are not, or they are just opinion; but to ask for every domain I might have a username for is merely a fishing expedition. That having been said, and without waiving any of my objections, I have obtained information from Facebook relating to recent user activity relating to posts I have made and provided this information in discovery. I did so to illustrate how burdensome the request would be regarding each and every post and platform I might have used in my multi-year public information campaign in opposition to Casella’s proposed waste facility, which I believe to be a dangerous threat to Forest Lake and the people of Dalton. Although it is relatively easy to obtain data for one or a handful of posts, it would be extraordinarily time consuming and unreasonable to provide the information sought by the Plaintiff in interrogatory #3.

3. Regarding Interrogatory 18, I provided some detail concerning a civil case I had been involved in in New York many years ago. I supplement that response as follows: Town of Hannibal v. Jon and Laura Alvarez, No. C-2011-1522, New York Supreme Court (Oswego County).

4. In follow up to Request for Production No. 2, I have reviewed my communications

EXHIBIT E

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Casella Waste Systems, Inc.

v.

Docket #217-2020-CV-212

Jon Swan f/k/a Jon Alvarez, Forest Lake Association,
Save Forest Lake, Doe Defendants 1-20

**SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
TO DEFENDANT JON SWAN f/k/a JON ALVAREZ**

Plaintiff, Casella Waste Systems, Inc. (“Casella”), hereby requests that the defendant Jon Swan f/k/a Jon Alvarez produce the following materials in accordance with Super. Ct. R. Civ. 24 and the instructions and definitions set forth below.

DEFINITIONS

The following definitions apply to these requests.

1. “**Analytical data**” shall mean any and all **ESI** tracking, recording, and/or measuring the audience, impact, and/or reach of websites and **social media** accounts, pages, profiles, and/or groups. Specific metrics are provided in the requests for each category for which data is requested.

2. “**Casella**” shall mean the plaintiff, Casella Waste Systems, Inc., and any of its corporate subsidiaries, including, but not limited to, North Country Environmental Services, Inc. and Granite State Landfill, LLC.

3. “**Communication**” shall mean all oral, visual, or other sensory means of transmitting information including, without limitation, face-to-face conversations and telephonic and other electronic or mechanical means of transmitting information, messages, or statements.

4. “**Defamatory statement**” shall mean those actionable statements at issue in this litigation, including the allegations by **you** that **Casella**:

- a. Scammed elderly residents of Dalton and Bethlehem.
- b. Does not recycle most of the material placed in Casella’s Zero-Sort recycling bins, contributing to the collapse of the recycling market.
- c. Fills New Hampshire landfills with out-of-state trash.
- d. Illegally spilled 8,000 gallons of leachate into the Black River in Vermont.
- e. Polluted the Ammonoosuc River.
- f. Operated outside of permitted hours in regards to the accident which caused the alleged spill to the Black River in (d).
- g. Sought to improperly influence the vote of the Bethlehem Planning Board by packing the board.
- h. Conspired with Horizons Engineering to avoid compliance with regulatory requirements by means of a lot line adjustment.
- i. Is complicit in sending millions of gallons of leachate to third parties who improperly treat it and then discharge it into the Merrimack River.
- j. Weaponized the legal system against you by causing Vanessa Cardillo to request a protective order against **you**.

5. “**Document**” shall mean any written or printed information, irrespective of the medium upon which it was recorded, including without limitation, writings, drawings, graphs, charts, photographs, recordings, notes, diaries, calendars, books, papers, journals, accounts, invoices, **social media** accounts, and any computer-generated, computer-stored, or **ESI**, and includes preliminary versions, drafts, and revisions. It also includes the original and every non-

identical copy (whether different from the original because of handwritten notes, underlining on the copy, or otherwise), regardless of origin or location. This definition includes but is not limited to **ESI** stored on a computer, smart phone, tablet, computer disk, hard drive, server, flash drive, memory card, or other storage media to which **you** have access, including in or on storage clouds, drop boxes, or websites and including any and all **ESI** contained on or otherwise posted on **social media** webpages.

6. “**ESI**” shall mean electronically stored information within the meaning of Super. Ct. R. Civil 25.

7. “**Identify**” shall mean, with respect to an individual or entity, providing the name, title (if applicable), current address, and current telephone number of any person or entity responsive to the question, and “**identity**” shall mean such person or entity’s name, title, current address and current telephone number.

8. “**Lifetime**” shall mean the period of time from the creation of the account, page, group, handle, channel, website, or similar internet platform to September 30, 2021.

9. “**Record**” shall mean any information that has been preserved in any fashion other than by human memory alone.

10. “**Social media**” shall mean all social media platforms including, but not limited to, Facebook, Twitter, LinkedIn, Instagram, Pinterest, Reddit, and YouTube.

11. “**You**” or “**your**” shall mean Jon Swan, f/k/a Jon Alvarez, and his organization, Save Forest Lake.

Note: All defined terms appear in **bold print** in these requests for production.

INSTRUCTIONS

All materials responsive to these requests shall be produced within thirty (30) days and during regular business hours at the offices of Cleveland, Waters and Bass, P.A., Two Capital Plaza, P.O. Box 1137, Concord, New Hampshire 03302-1137. All such materials shall be segregated in accordance with the number of the paragraph of the request to which they correspond, in accordance with Super. Ct. R. Civ. 24(b)(3). Unless otherwise indicated, please limit **your** responses to responsive information created within the last three (3) years from the date of these requests.

For any request that seeks, in whole or in part, a **record, document, or communication** which **you** believe to be privileged or subject to protection under the work-product doctrine, please respond to the request to the extent it does not seek such information. With respect to a **record, document, or communication** you believe to be so privileged or protected, please provide a privilege log pursuant to Super. Ct. R. Civ. 21(c) contemporaneously with **your** responses stating, for each such **record, document, or communication**:

- a. its date;
- b. with whom the information originated;
- c. to whom the information has been disseminated;
- d. its general subject;
- e. if embodied in a **document** or **record**, **identify** its current custodian; and
- f. the claimed basis of privilege or protection.

These requests shall be deemed to include a request for ongoing supplementation so that any additional information relating in any way to these requests that becomes known to **you**, up

to and including the time of trial, shall be supplied to the plaintiff promptly in accordance with Super. Ct. R. Civ. 21(g).

If **you** need assistance with the process of accessing **analytical data** for **your** relevant websites and **social media** accounts, pages, profiles, and/or groups, the plaintiff offers technical advice to explain the process by which the **analytical data** can be retrieved.

[Requests begin on the following page.]

Request No. 1:

Produce any and all **documents** and **records** that embody, refer to, or relate to any and all **analytical data** for the **lifetime** of the account for each of **your** Facebook pages and groups which have posted, reposted, shared, or referred to **your defamatory statements**. All such **analytical data** shall have clear indication as to which page and/or group it belongs by name and date of its creation, and identify which **defamatory statement(s)** have been posted, reposted, shared, or referred to on that page or group. **Analytical data** from Facebook includes:

- # of Users (users; members; consumers)
- # of Posts
- Reach (organic; paid promotion; viral; total)
- Frequency (organic; paid; viral; total)
- Impressions (organic; paid; viral; total)
- Views (organic; paid; viral; total)
- Clicks (organic; paid; viral; total)
- Likes
- Reactions
- Shares
- Reshares
- Comments
- Consumption (organic; paid; viral; total)
- Actions
- Get-Directions
- Website clicks
- For paid promotions: add the following information:
 - Spending & Pricing (e.g., CPR)
 - Targeting method
 - Interest-terms or keywords used for targeting by interest (e.g., environment, landfill, Casella)
 - Geotargeting information (e.g., state, county, zip code, etc.)

Request No. 2:

Produce any and all **documents** and **records** that embody, refer to, or relate to any and all **analytical data** for the **lifetime** of the account for each of **your** Twitter handles which have posted, reposted, shared, or referred to **your defamatory statements**. All such **analytical data** shall have clear indication as to which account it belongs by name and date of its creation, and identify which **defamatory statement(s)** have been posted, reposted, shared, or referred to on that account. **Analytical data** from Twitter includes:

- # of followers
- # of following
- # of tweets
- # of retweets
- # of @mentions
- Hashtags (e.g., #DumpCasella)
- Reach
- Frequency
- Impressions
- Likes
- Replies
- Comments
- Media Views
- Detail Expands
- Profile Clicks
- Hashtag Clicks
- Link Clicks
- New Follower Gained
- Engagement Rate
- Follower Growth
- For paid promotions: add the following information
 - Spending & Pricing (e.g., CPR)
 - Targeting method
 - Interest-terms or keywords used for targeting by interest (e.g., environment, landfill, Casella)
 - Geotargeting information (e.g., state, county, zip code, etc.)

Request No. 3:

Produce any and all **documents** and **records** that embody, refer to, or relate to any and all **analytical data** for the **lifetime** of the account for each of **your** Instagram accounts which have posted, reposted, shared, or referred to **your defamatory statements**. All such **analytical data** shall have clear indication as to which account it belongs by name and date of its creation, and identify which **defamatory statement(s)** have been posted, reposted, shared, or referred to on that account. **Analytical data** from Instagram includes:

- # of Followers
- # of posts
- Hashtags (e.g., #DumpCasella)
- Reach (organic; paid; viral; total)
- Likes (organic; paid; viral; total)
- Comments
- Saves
- Shares
- Reshares
- Comments
- Engagement rate per follower
- Engagement rate per post
- Story views
 - Retention rate; exit rate; completion rate
- Traffic
- Follower growth
- For paid promotions: add the following information
 - Spending & Pricing (e.g., CPR)
 - Targeting method
 - Interest-terms or keywords used for targeting by interest (e.g., environment, landfill, Casella)
 - Geotargeting information (e.g., state, county, zip code, etc.)

Request No. 4:

Produce any and all **documents** and **records** that embody, refer to, or relate to any and all **analytical data** for the **lifetime** of the account for each of **your** YouTube accounts which have posted, reposted, shared, or referred to **your defamatory statements**. All such **analytical data** shall have clear indication as to which account it belongs by name and date of its creation, and identify which **defamatory statement(s)** have been posted, reposted, shared, or referred to on that account. **Analytical data** from YouTube includes:

- # of subscribers
- # of views
- # of videos
- Reach
- Frequency
- Impressions
- Engagement (Likes, Shares, Reshares, Saves, Played, Played time)
- Comments
- Audience-level data (unique viewers, returning viewers, new viewers, total members)
- For paid promotions: add the following information:
 - Spending & Pricing (e.g., CPR)
 - Targeting method
 - Interest-terms, search terms or keywords used for targeting by interest (e.g., environment, landfill, Casella)
 - Geotargeting information (e.g., state, county, zip code, etc.)

Request No. 5:

Produce any and all **documents** and **records** that embody, refer to, or relate to any and all **analytical data** for the **lifetime** of the account for each of **your** website domains which have posted, reposted, shared, or referred to **your defamatory statements**. All such **analytical data** shall have clear indication as to which website it belongs by name and date of its creation, and identify which **defamatory statement(s)** have been posted, reposted, shared, or referred to on that website. **Analytical data** for websites can be obtained from Google Analytics, and includes:

- # of users
- # of visitors
- # of views
- # of events
- Reach
- Frequency
- Impression
- Time spent, average
- Traffic sources
- Referring Domains
- Referring Social Sources
- Keywords (in SEO)
- Conversion
- For paid promotions: add the following information
 - Spending & Pricing (e.g., CPR)
 - Targeting method
 - Interest-terms or keywords used for targeting by interest (e.g., environment, landfill, Casella)
 - Geotargeting information (e.g., state, county, zip code, etc.)

Request No. 6:

Produce any and all **documents** and **records** that embody, refer to, or relate to any and all **analytical data** for the **lifetime** of each specific social media or website post in which you make a **defamatory statement**. All such **analytical data** shall have clear indication as to which post and platform it belongs by name and date of its creation, and identify which **defamatory statement(s)** have been posted, reposted, shared, or referred to on that post. **Analytical data** for specific posts could include:

- Screenshot
- Texts (including hashtags, links, etc.)
- Images
- Landing pages
- Likes
- Shares
- Reactions by positive vs. negative
- Comments (full texts)

Respectfully submitted,

CASELLA WASTE SYSTEMS, INC.

By Its Attorneys,

Date: November 1, 2021

By: /s/ Morgan G. Tanafon

Bryan K. Gould, Esq. (NH Bar #8165)

gouldb@cwbp.com

Cooley A. Arroyo, Esq. (NH Bar #265810)

arroyoc@cwbp.com

Morgan G. Tanafon, Esq. (NH Bar #272632)

tanafonm@cwbp.com

Cleveland, Waters and Bass, P.A.

2 Capital Plaza, P.O. Box 1137

Concord, NH 03302-1137

(603) 224-7761

CERTIFICATE OF SERVICE

I hereby certify that the within document was this day emailed to Jeremy D. Eggleton, Esq., Orr & Reno, P.A.

Date: November 1, 2021

/s/ Morgan Tanafon

Morgan G. Tanafon, Esq.

EXHIBIT F

Morgan G. Tanafon

From: Morgan G. Tanafon
Sent: Monday, November 1, 2021 5:11 PM
To: Eggleton, Jeremy D.
Subject: RE: Casella Waste Systems, Inc. v. Jon Swan fka Jon Alvarez, et al.

Thanks Jeremy, that makes sense. I'll get an amended CSO to you for your review tomorrow.

I also wanted to bring up that we use more specific social media and ESI "terms of art" in order to precisely communicate what metrics we are looking for. To our understanding, all of these are fairly simple to access for each platform, and providing the specific terms for each platform ought to help in finding the correct data. However, to the extent that Swan has questions or is unsure with how to access some of the information, we can offer assistance, if needed. If you want to pass any technical questions along to me from him, we'll work on answering those and providing any directions necessary.

We're also willing to pull the information ourselves if Swan is willing to give us access, in case he does not want to go through the process of pulling all the analytics.

Either way, don't hesitate to let me know if you have any questions.

Regards,

Morgan

Morgan G. Tanafon
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With offices also in New London and Wolfeboro, NH, and Haverhill, MA.

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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Monday, November 1, 2021 4:50 PM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: FW: Casella Waste Systems, Inc. v. Jon Swan fka Jon Alvarez, et al.

You were going to ask for the amount of time my client would need to respond—I'm sorry for not getting back to you. Let's say 75 days (60 days being new years) and if I have categorical objections or anything of that nature, I'll let you know by 11/15?

JE

From: Brenda Barnard <barnardb@cwbp.com>
Sent: Monday, November 1, 2021 4:46 PM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Cc: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: Casella Waste Systems, Inc. v. Jon Swan fka Jon Alvarez, et al.

Good afternoon,

Attached is a second set of requests for production of documents propounded upon Jon Swan.

Thank you.

Brenda M. Barnard
CLEVELAND, WATERS AND BASS, P.A.
Two Capital Plaza, 5th Floor
P.O. Box 1137
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EXHIBIT G

From: [Eggleton, Jeremy D.](#)
To: [Brenda Barnard](#)
Cc: [Morgan G. Tanafon](#)
Subject: RE: Casella Waste Systems, Inc. v. Jon Swan fka Jon Alvarez, et al. [IWOV-iManage.FID487758]
Date: Tuesday, November 30, 2021 8:42:08 AM

Morgan,

With apologies for my delay—I will be objecting to the presumptive language about “defamatory statements” because there aren’t any, but beyond that, we have again an overbreadth problem. Perhaps you could identify the specific accounts that you think contain such statements and we can pull that data. As it is, you’re asking Jon to divine which statements you think are defamatory and produce data from accounts that contain those statements. It’s a circular error. If you have specific accounts (by username/handle) that you are looking for, let me know and we’ll assess how practicable it is to obtain the information in question. I am not going to allow Jon to get immersed in some long fishing expedition that involves extended interactions with your IT people. If he can pull the data simply and easily for the accounts you have named, I don’t see how I can object to that. But as framed these questions place too much discretion on us to come up with which accounts you are looking for—and my answer would have to be that there are no responsive documents because your requests presume defamation that doesn’t exist. Rather than going down that useless sophistry morass, I prefer that you just tell us which accounts you have identified that you want the data for.

JE

From: Brenda Barnard <barnardb@cwbp.com>
Sent: Monday, November 1, 2021 4:46 PM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Cc: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: Casella Waste Systems, Inc. v. Jon Swan fka Jon Alvarez, et al.

Good afternoon,

Attached is a second set of requests for production of documents propounded upon Jon Swan.

Thank you.

Brenda M. Barnard
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EXHIBIT H

From: [Morgan G. Tanafon](#)
To: [Eggleton, Jeremy D.](#)
Subject: RE: update [IWOV-iManage.FID487758]
Date: Friday, December 3, 2021 4:32:00 PM
Attachments: [Instructions to Obtain Facebook Page Insight Data.pdf](#)
[Instructions to Obtain Facebook Profile Insight Data.pdf](#)

Jeremy,

Attached are instructions we've put together on accessing some of the relevant data in Facebook – page and profile data have slightly different access procedures, so we provided instructions for each one. Some of the data might also be involved in some of Mr. Swan's Facebook "groups" but he sent some group data last time so he seems familiar with the data accessing process for those. Please let us know if Mr. Swan has any questions about these, or any questions about accessing analytical data on other platforms.

Have a pleasant weekend,

Regards,

Morgan

Morgan G. Tanafon
Associate
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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Thursday, December 2, 2021 9:59 AM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: Re: update [IWOV-iManage.FID487758]

Thanks Morgan.

Get [Outlook for iOS](#)

From: Morgan G. Tanafon <TanafonM@cwbp.com>
Sent: Thursday, December 2, 2021 9:45:17 AM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Subject: RE: update [IWOV-iManage.FID487758]

Jeremy,

Mr. Swan does not have to download a new tool to access the data on Facebook – to my understanding it is available as a matter of course to users and is called “Page Insights” or something similar. He already provided us some information from insights in his last discovery production. We’ll work on putting together some simple instructions to pass along – I’ll try to get that to you tomorrow if possible.

Regarding your medical leave in January, best wishes for you and your family’s health.

Regards,

Morgan

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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Tuesday, November 30, 2021 12:38 PM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: RE: update [IWOV-iManage.FID487758]

Morgan,

My understanding as to, for example, Facebook, is that Jon will need to download a new tool, Facebook Business Suite and try to obtain user data. I don't think that can be considered reasonable. You're asking for documents and information that my client doesn't collect on a regular basis. If you think there's an easier or more readily available way of getting this information, please let me know what it is.

JE

From: Morgan G. Tanafon <TanafonM@cwbp.com>

Sent: Tuesday, November 30, 2021 12:33 PM

To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>

Subject: RE: update [IWOV-iManage.FID487758]

Jeremy,

Mr. Swan made the statements that are at issue, and has chosen to be very active on social media and post these statements in a variety of locations. He has also chosen to make certain actionable statements and post that same statement with minor variations to multiple platforms and multiple accounts within those platforms. The breadth of his dissemination of those statements is unknown by anyone except himself. This is not a simple matter of listing social media accounts which posted specific iterations of actionable statements. We're not fishing here – we're going to the person with the most direct, personal knowledge and the access needed to produce the data. Mr. Swan has both knowledge of what he posted, and the access needed to pull analytical data for the relevant accounts. The analytical data from accounts that posted statements at issue is directly relevant to the impact of those statements, and thus the subject matter of this action. We've defined specifically what we are looking for, and which statements are at issue.

If he does not produce the data requested in usable form (which I wish to stress since in the past his productions have been somewhat chaotic) we will likely move to compel. This task is not too burdensome, but if Mr. Swan would rather not produce the data himself, he can give access to us so we can pull the relevant data. We'd certainly be willing to discuss a protective order to address any privacy or confidentiality concerns he has, in that event. But one way or the other, the data must be produced.

Regards,

Morgan

Morgan G. Tanafon

Associate

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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Tuesday, November 30, 2021 11:54 AM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: update [IWOV-iManage.FID487758]

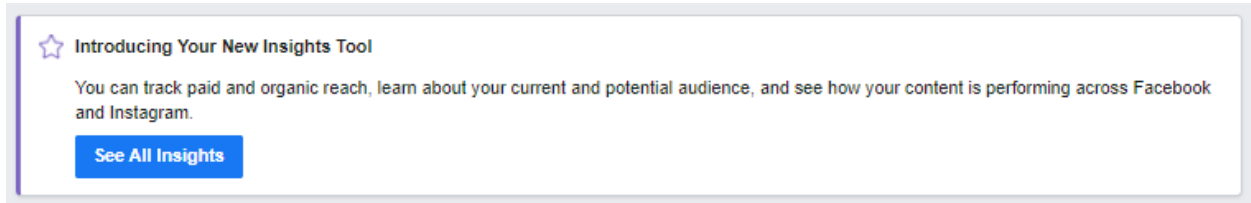
Hi Morgan,

I have traded emails with Jon and we are going to try to see what we can pull in terms of reasonably available data for his primary FB account while you and I work out our differences on the scope of the request—just to let you know that we are trying to get you something in good faith. I will keep you posted on that, but in the meantime, I think if you had a list of the specific site and handle names that you want us to look for (for example—and I have no idea if such a handle exists —“@saveforestlake/Facebook”)

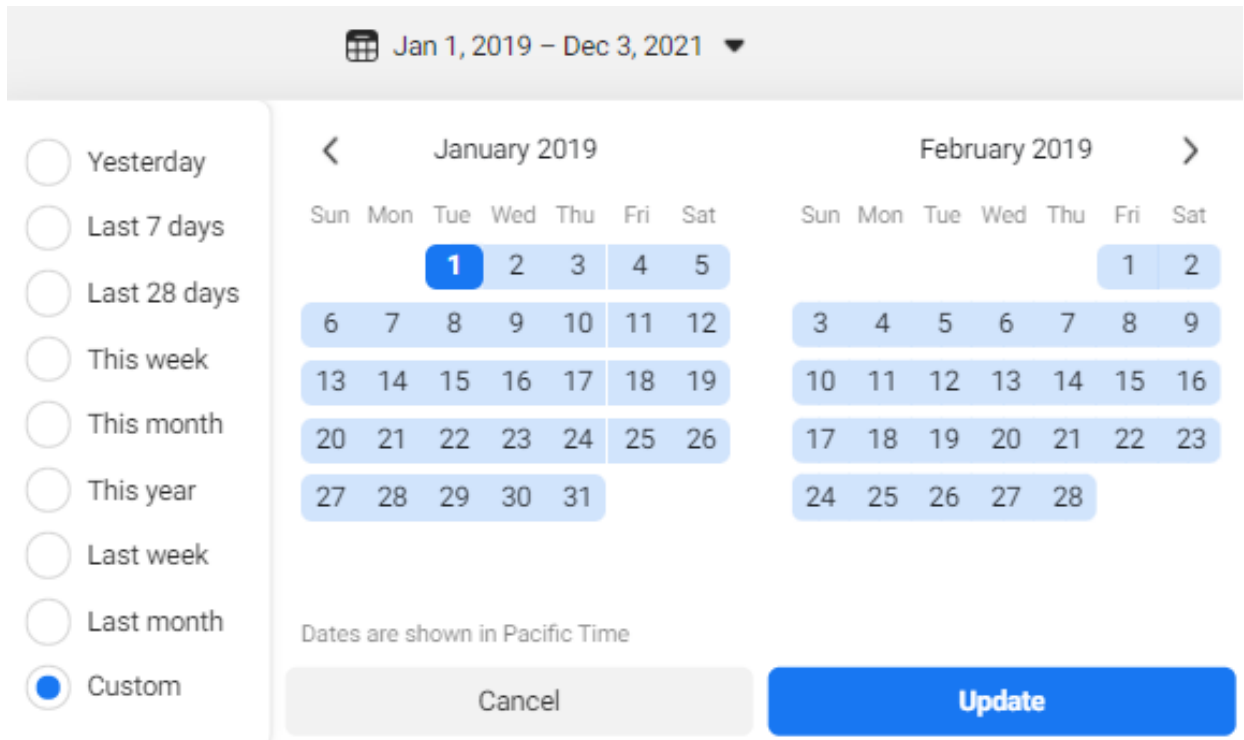
JE

Instructions to Obtain Facebook Page Insight Data

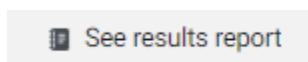
1. Go to Facebook.com on your computer's web browser.
2. In the column on the right-hand side of the screen, Facebook pages owned by the user will be listed under "Your Pages." Click on the desired page.
3. In the column on the left-hand side of the screen, click on "Insights."
4. At the top of the screen, a box titled "Introducing Your New Insights Tool" should appear. Click on the blue box titled "See All Insights."



5. At the top of the screen, a calendar button will appear. When clicking on this calendar, an option will appear to set the date parameters for the data. Within this option, click "Custom." Click the arrow back to January 1, 2019 and select that date. Then, click to the present date. A light blue highlighting should appear on the days selected. Then, click the blue button titled "Update."

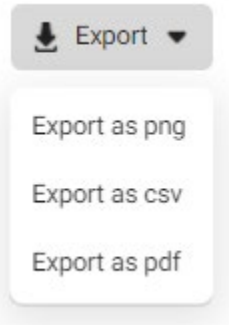


6. There are three categories of Insights available on this screen: Results, Content, and Audience. For each category, select the button titled "See results report."



Instructions to Obtain Facebook Page Insight Data

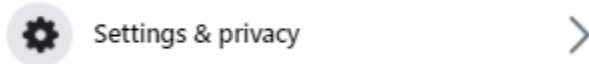
7. Next select the button in the top right corner titled “Export” and select “Export as csv” in the drop down menu.



8. The Excel spreadsheet will automatically download to your computer. Complete this process with the Content and Audience portions of your Insights.

Instructions to Obtain Facebook Profile Insight Data

1. Go to Facebook.com on your computer's web browser.
2. Click the small arrow button in the top right corner of the screen.
3. Click Settings & privacy from the drop down menu.



4. Click Settings on the next menu.


← **Settings & privacy**




5. On the left-hand side of the screen, click "Your Facebook Information."

Settings

 General



 Security and Login

 **Your Facebook Information**

6. Next, click the "View" button in the section titled "Download Your Information."
7. In the "Select file options" section, select the following fields:
 - a. Format: HTML
 - b. Media Quality: High
 - c. Date range: Custom
 - d. Start date: Jan. 1, 2019
 - e. End date: the present date

Select file options

You can choose the file format, media quality and date range for your download. HTML format is easy to view while JSON format allows another service to more easily import the file. Media quality is the quality of your photos and videos but also affects file size.

Format HTML	▼
Media Quality High	▼
Date range (required) Custom	▼
 Start date Jan 1, 2019	 End date Dec 3, 2021

Instructions to Obtain Facebook Profile Insight Data

8. In the “Select information to download” section, you will see many data-type options to select. Please select the following categories of data to download:
 - a. Posts
 - b. Pages
 - c. Events
 - d. Comments and reactions
 - e. Groups

9. At the very bottom of the page, click the blue button that reads “Request a download.”

Start your download

Your download may contain private information. You should keep it secure and take precautions when storing it, sending it or uploading it to another service.

[Request a download](#)

EXHIBIT I

From: [Morgan G. Tanafon](#)
To: [Eggleton, Jeremy D.](#)
Subject: RE: Casella v. Swan - Discovery Production
Date: Friday, February 4, 2022 1:41:00 PM

How soon to you anticipate being in a position to make a formal disclosure?

Let me check into that communication from Swan. If it turns out we overlooked producing it, we'll make a supplemental production for you.

Morgan

Morgan G. Tanafon
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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Friday, February 4, 2022 1:34 PM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: RE: Casella v. Swan - Discovery Production

Hi Morgan, you've been on my mind today.

I am happy to forward you my client's information dumps (removing any communication) preliminarily, but I'm not in position to make a formal disclosure with bates-stamping etc. today. I'm still catching up from my wife's surgery.

By the way, do you have the communication in which my client alleged that Casella was weaponizing the legal system? I don't find it in your production... or was it attached to your motion to amend?

Thanks!

Jeremy

From: Morgan G. Tanafon <TanafonM@cwbp.com>
Sent: Friday, February 4, 2022 1:28 PM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Subject: Casella v. Swan - Discovery Production

Jeremy,

Checking in on the discovery production from Swan. Will you be producing today?

Regards,

Morgan

Morgan G. Tanafon
Associate
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EXHIBIT J

From: [Eggleton, Jeremy D.](#)
To: [Morgan G. Tanafon](#)
Subject: update on discovery [IWOV-iManage.FID487758]
Date: Thursday, February 10, 2022 1:11:39 PM
Attachments: [image001.png](#)

Morgan—the only question I have (still not answered by my team) is whether I need to/am able to run the spreadsheets through our production software for bates stamping etc. I think we produce them ordinarily as native files regardless, but am waiting to hear back from IT on it.

As an aside, we are prepping a SJM in this case and I have a combined memo/statement that exceeds 25 pages due to the large number of utterances that I have to address. Would you assent to a statement/memorandum that exceeds the combined 25 page limit under NH Super Ct. R 12(g) (1)?

Thanks!

Jeremy D. Eggleton

Orr&Reno

Sustained Excellence Since 1946.

45 South Main Street, P.O. Box 3550

Concord, NH 03302-3550

Phone: 603.224.2381

Direct Ext: 603.223.9122

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www.orr-reno.com

Hanover, N.H. Office (physical only):

23 South Main Street, Suite 3C

Hanover, N.H. 03755

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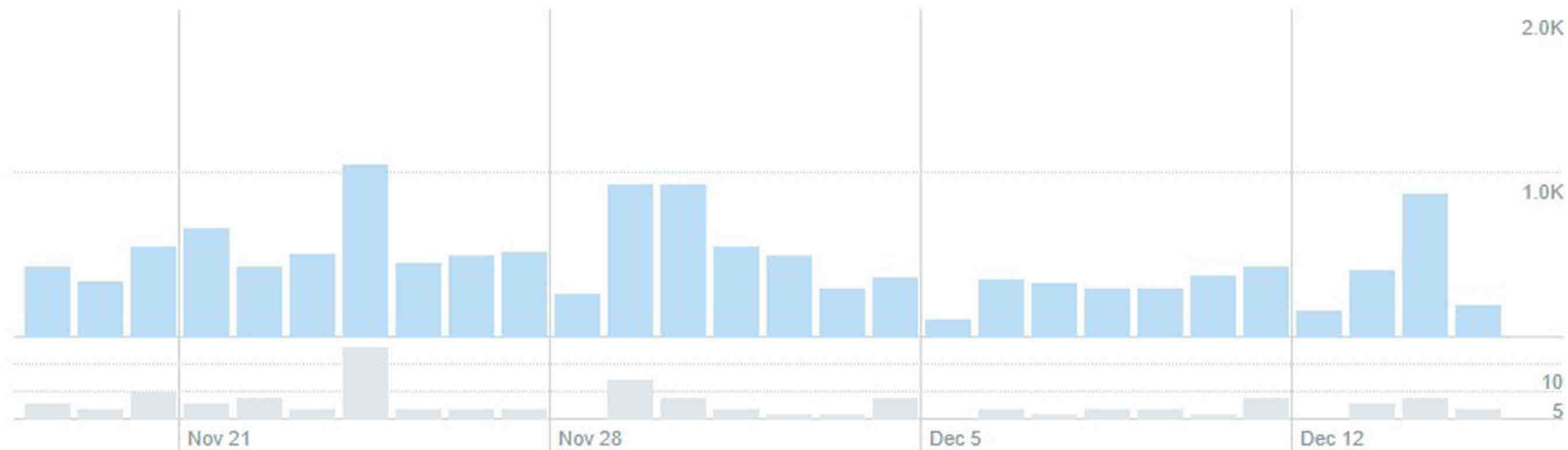
EXHIBIT K

Tweet activity

Last 28 Days

Export data

Your Tweets earned **13.4K impressions** over this **28 day** period



2.0K

1.0K

10

5

YOUR TWEETS

During this 28 day period, you earned **471 impressions** per day.

SFL-00001485

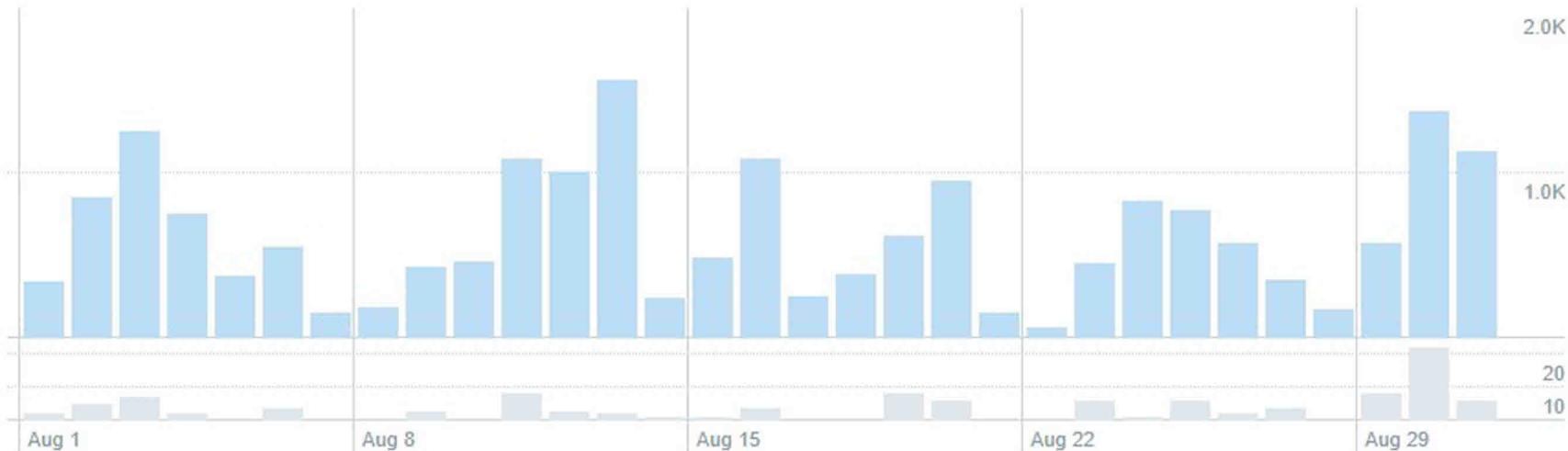


Tweet activity

August 2021

Export data

Your Tweets earned **19.6K impressions** over this **31 day** period



YOUR TWEETS
During this 31 day period, you earned **632 impressions** per day.

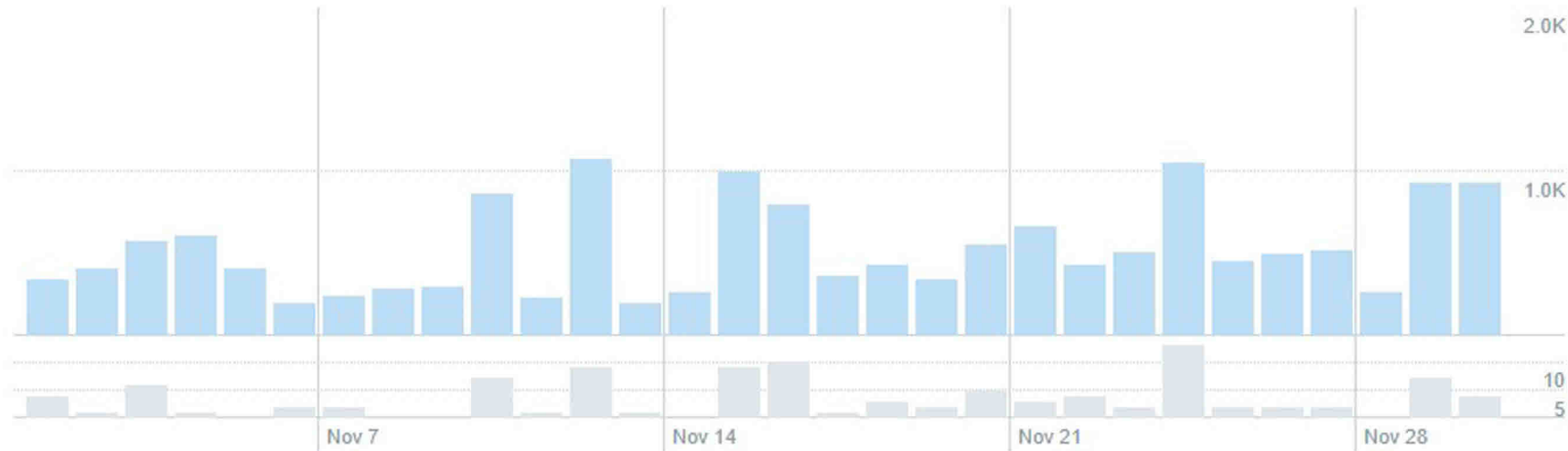


Tweet activity

November 2021

Export data

Your Tweets earned **15.8K impressions** over this **30 day** period



YOUR TWEETS

During this 30 day period, you earned **527 impressions** per day.



Tweet activity

October 2021

Export data

Your Tweets earned **14.4K impressions** over this **31 day** period



YOUR TWEETS
During this 31 day period, you earned **465 impressions** per day.

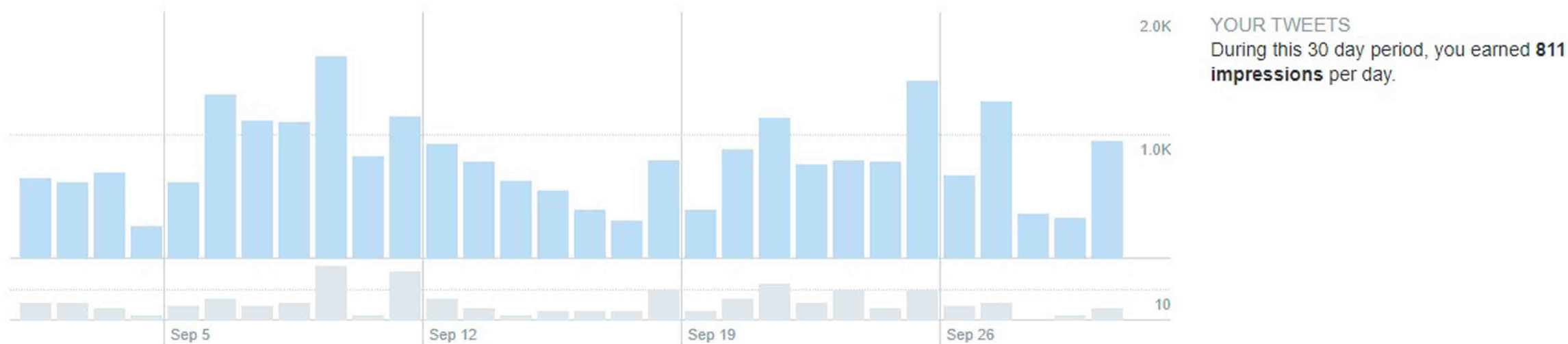


Tweet activity

September 2021

Export data

Your Tweets earned **24.3K impressions** over this **30 day** period



Redacted

Redacted

----- Forwarded Message -----

From: YouTube Creators <no-reply@youtube.com>

To: "saveforestlake@yahoo.com" <saveforestlake@yahoo.com>

Sent: Wednesday, January 19, 2022, 07:20:40 PM EST

Subject: Save Forest Lake, start 2022 with tips from your January Creator Monthly Newsletter!

January 2022

Creator Monthly

**Save Forest Lake,
here's how your
channel did last
month**

Save Forest Lake,

2

NEW SUBSCRIBERS

584

TOTAL VIEWS

2,884

MINUTES WATCHED

**here's how your
channel did last
month**

2

NEW SUBSCRIBERS

584

TOTAL VIEWS

2,884

MINUTES WATCHED

It's a new year – the perfect time to set new goals! Review your Analytics to see what's working and what can be improved. Then read below to focus on your channel strategy and continue to grow.

It's a new year – the perfect time to set new goals! Review your Analytics to see what's working and what can be

improved. Then read below to focus on your channel strategy and continue to grow.

EXPLORE YOUR STATS

EXPLORE YOUR STATS

Here's what's new with YouTube

Set your channel up for success

Find tips to manage your channel on the YouTube for Creators site. No matter if you're new or looking to reboot, this is the beginning of a new year for your channel.

Break out of your routine with Shorts

Get creative with your content

strategy—make YouTube Shorts a part of your upload schedule. Surprise fans with something different and potentially gain new ones!

Want to learn how to make your content more inclusive?

Meet 5 creators from Asia who're using their voices to raise disability awareness and share advice on how to make content more accessible.

Find 3 tips to create successful Shorts

Short-form video goes a long way, just ask Jake Fellman, who's Shorts rocketed to 9M subs in 1 year. Read his 3 tips on creating Shorts and apply it to your strategy.

Creator Spotlight

Why order Italian food when you can make it in your kitchen? Jim of Sip and Feast walks you step-by-step through delicious recipes passed down from his grandmother.

This is just the beginning—your

determination will get you far!

See you next month!

Team YouTube

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San Bruno, CA 94066

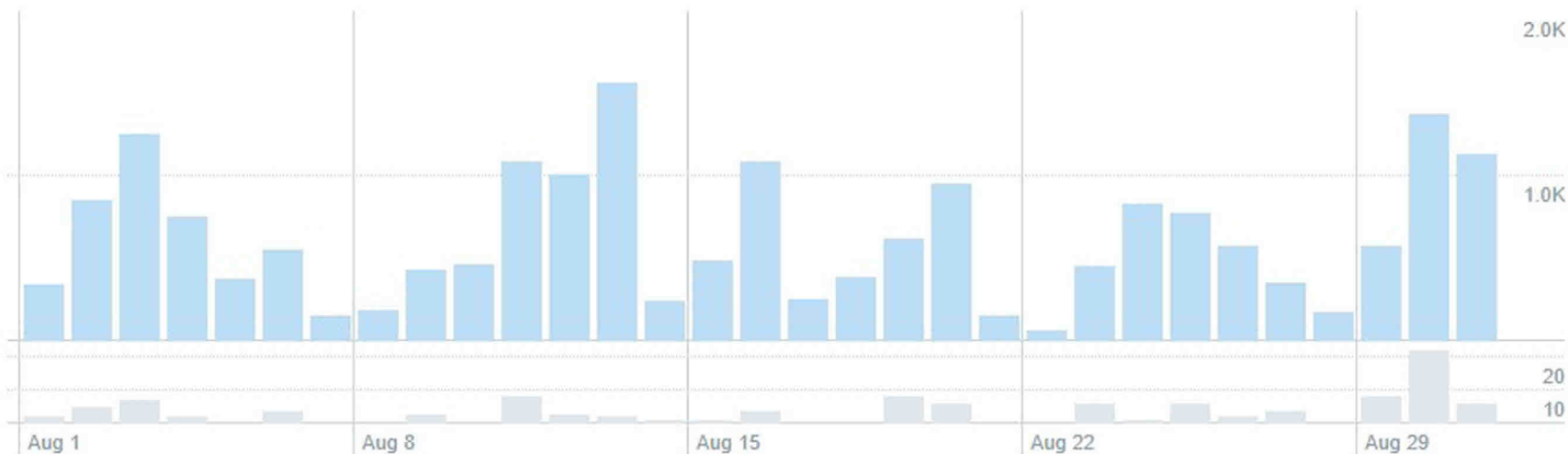


Tweet activity

August 2021

Export data

Your Tweets earned **19.6K impressions** over this **31 day** period



YOUR TWEETS
 During this 31 day period, you earned **632 impressions** per day.

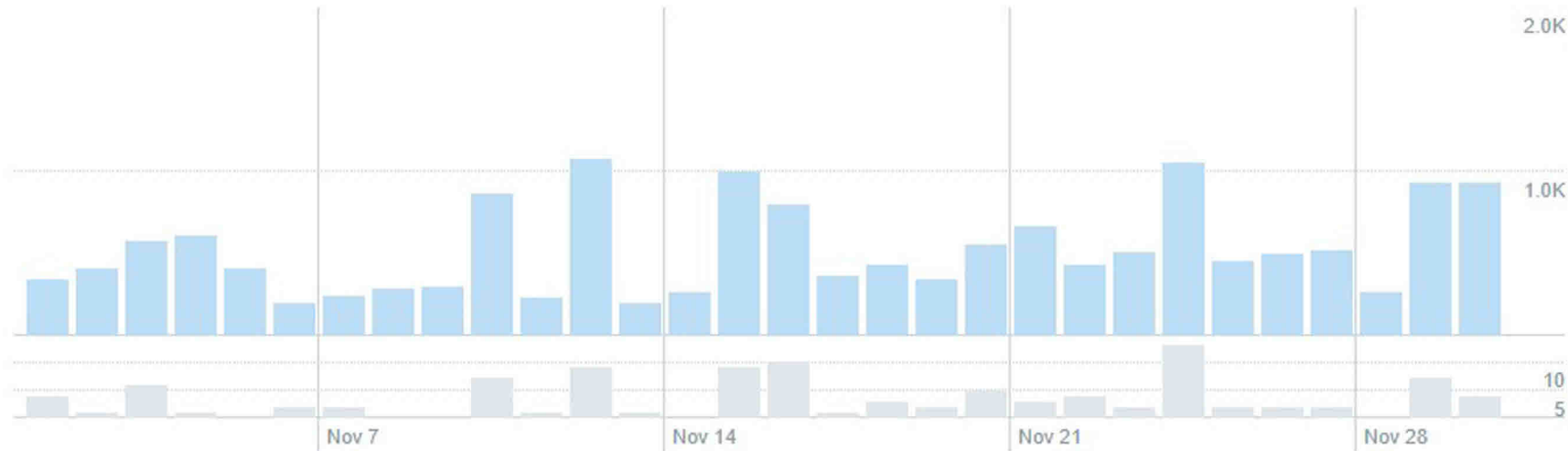


Tweet activity

November 2021

Export data

Your Tweets earned **15.8K impressions** over this **30 day** period



2.0K

YOUR TWEETS

During this 30 day period, you earned **527 impressions** per day.

1.0K

10

5

Nov 7

Nov 14

Nov 21

Nov 28



Tweet activity

October 2021

Export data

Your Tweets earned **14.4K impressions** over this **31 day** period



YOUR TWEETS
 During this 31 day period, you earned **465 impressions per day**.

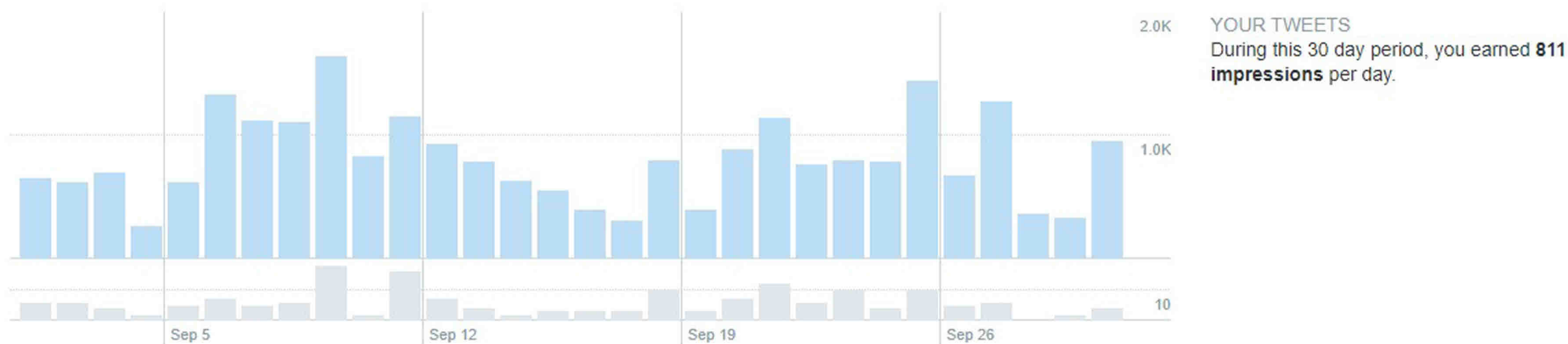


Tweet activity

September 2021

Export data

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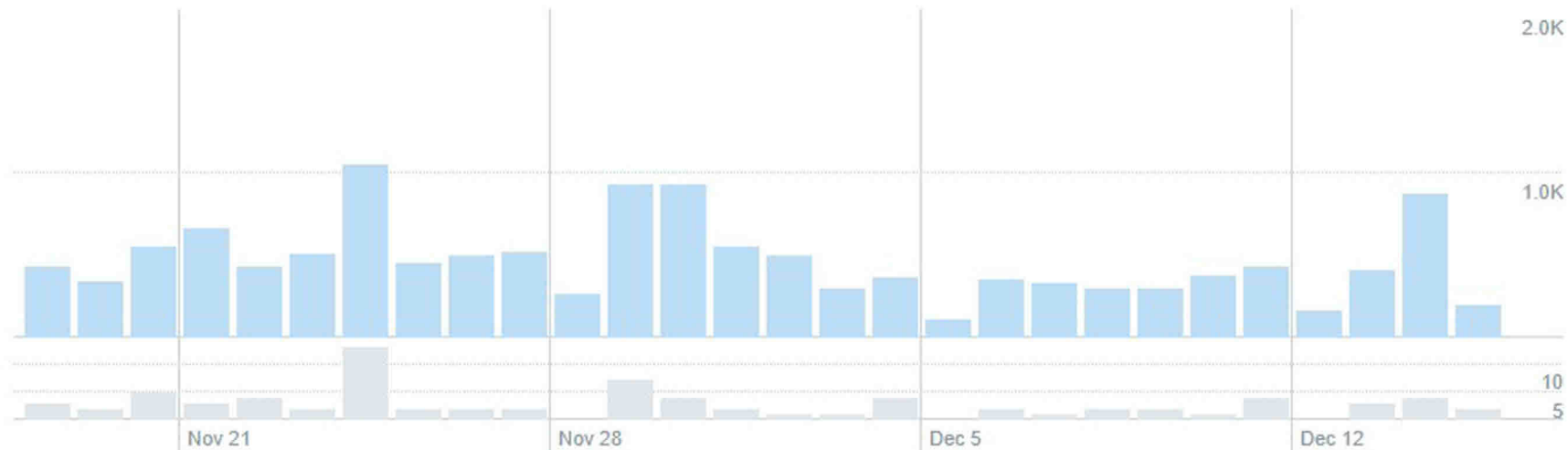


Tweet activity

Last 28 Days

Export data

Your Tweets earned **13.4K impressions** over this **28 day** period



2.0K

1.0K

10

5

YOUR TWEETS

During this 28 day period, you earned **471 impressions** per day.

SFL-00001500

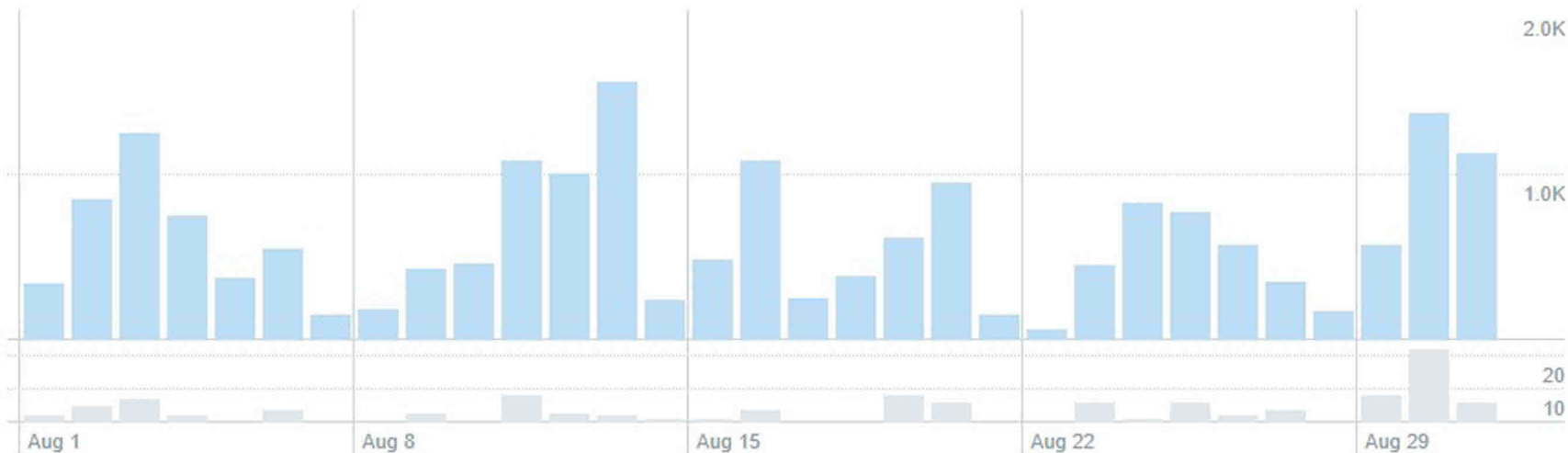


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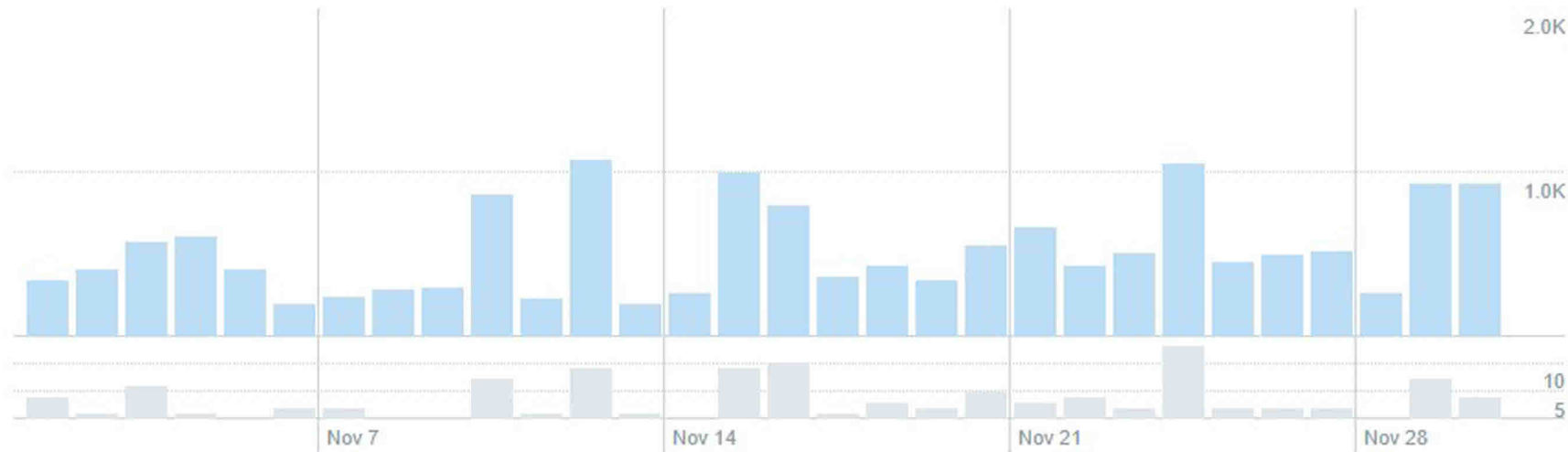


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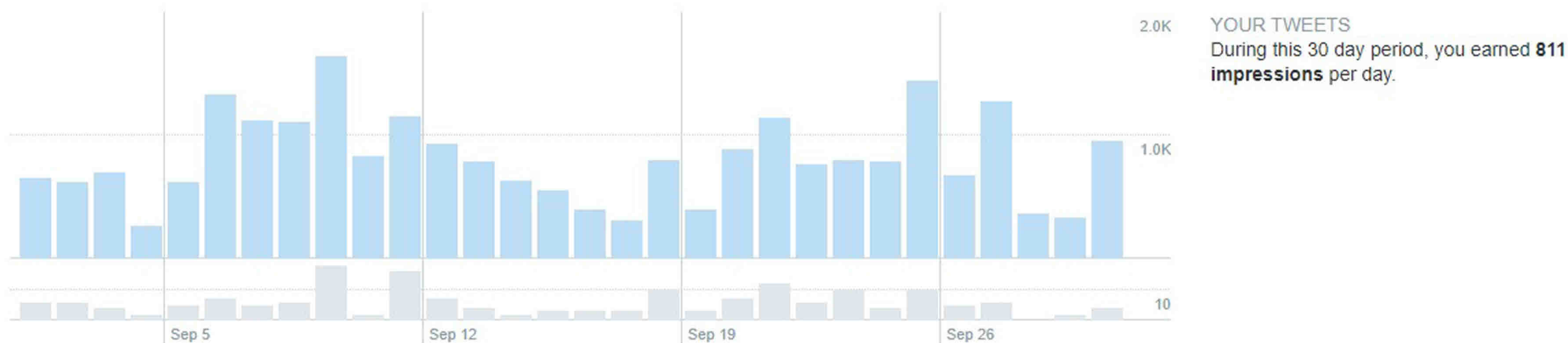


Tweet activity

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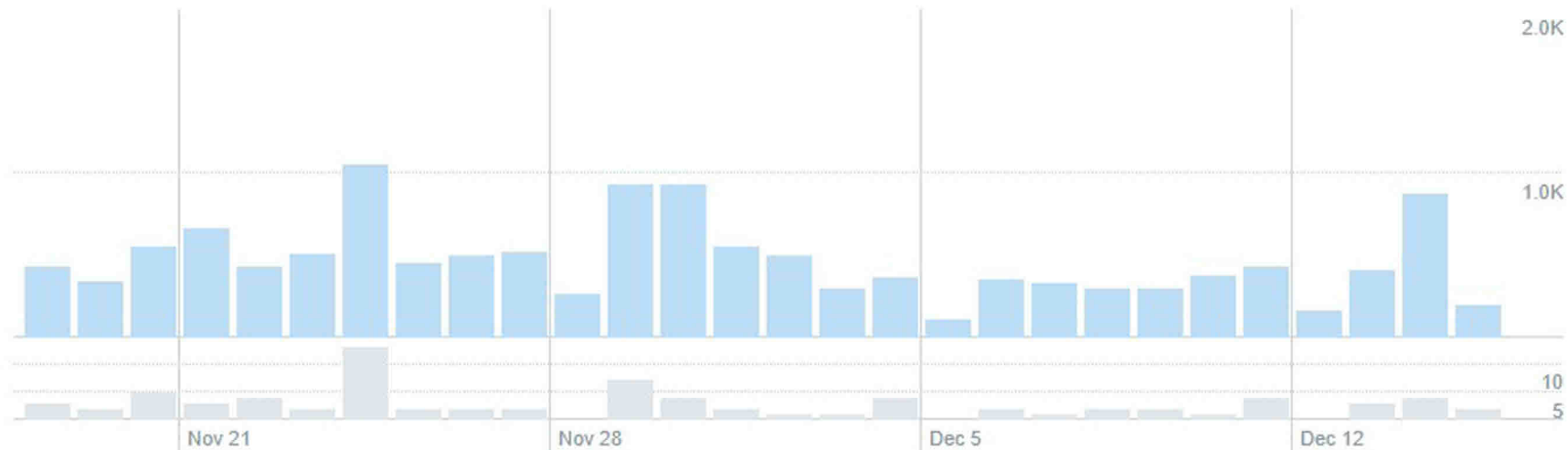


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5

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During this 28 day period, you earned **471 impressions** per day.

EXHIBIT L

From: [Eggleton, Jeremy D.](#)
To: [Morgan G. Tanafon](#)
Cc: [Bryan Gould](#)
Subject: Re: update [IWOV-iManage.FID487758]
Date: Tuesday, January 4, 2022 9:42:59 AM

Morgan:

I received a couple of data dumps over the holiday which I will process as soon as I am back in the office. I think my categorical objection is as I expressed in my prior email, I.e., overbroad and unduly burdensome—a classic fishing expedition that requires my client to provide evidence you think is helpful for proving your case. Nevertheless, notwithstanding that objection, I've asked Jon to see if he could try to get some of the data that you've asked for.

Jeremy

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From: Morgan G. Tanafon <TanafonM@cwbp.com>
Sent: Tuesday, January 4, 2022 9:34:50 AM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Cc: Bryan Gould <gouldb@cwbp.com>
Subject: RE: update [IWOV-iManage.FID487758]

Jeremy,

It is now less than two weeks until Swan's discovery responses are due. We haven't received any update since we sent the information on how to access the relevant Facebook data about a month ago. Please let us know how discovery production is progressing and if you anticipate making any categorical objections.

Regards,

Morgan

Morgan G. Tanafon
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With offices also in New London and Wolfeboro, NH, and Haverhill, MA.

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From: Morgan G. Tanafon
Sent: Friday, December 3, 2021 4:33 PM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Subject: RE: update [IWOV-iManage.FID487758]

Jeremy,

Attached are instructions we've put together on accessing some of the relevant data in Facebook – page and profile data have slightly different access procedures, so we provided instructions for each one. Some of the data might also be involved in some of Mr. Swan's Facebook "groups" but he sent some group data last time so he seems familiar with the data accessing process for those. Please let us know if Mr. Swan has any questions about these, or any questions about accessing analytical data on other platforms.

Have a pleasant weekend,

Regards,

Morgan

Morgan G. Tanafon
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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Thursday, December 2, 2021 9:59 AM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: Re: update [IWOV-iManage.FID487758]

Thanks Morgan.

Get [Outlook for iOS](#)

From: Morgan G. Tanafon <TanafonM@cwbp.com>
Sent: Thursday, December 2, 2021 9:45:17 AM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Subject: RE: update [IWOV-iManage.FID487758]

Jeremy,

Mr. Swan does not have to download a new tool to access the data on Facebook – to my understanding it is available as a matter of course to users and is called “Page Insights” or something similar. He already provided us some information from insights in his last discovery production. We’ll work on putting together some simple instructions to pass along – I’ll try to get that to you tomorrow if possible.

Regarding your medical leave in January, best wishes for you and your family’s health.

Regards,

Morgan

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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Tuesday, November 30, 2021 12:38 PM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: RE: update [IWOV-iManage.FID487758]

Morgan,

My understanding as to, for example, Facebook, is that Jon will need to download a new tool, Facebook Business Suite and try to obtain user data. I don't think that can be considered reasonable. You're asking for documents and information that my client doesn't collect on a regular basis. If you think there's an easier or more readily available way of getting this information, please let me know what it is.

JE

From: Morgan G. Tanafon <TanafonM@cwbp.com>
Sent: Tuesday, November 30, 2021 12:33 PM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Subject: RE: update [IWOV-iManage.FID487758]

Jeremy,

Mr. Swan made the statements that are at issue, and has chosen to be very active on social media and post these statements in a variety of locations. He has also chosen to make certain actionable statements and post that same statement with minor variations to multiple platforms and multiple accounts within those platforms. The breadth of his dissemination of those statements is unknown by anyone except himself. This is not a simple matter of listing social media accounts which posted specific iterations of actionable statements. We're not fishing here – we're going to the person with the most direct, personal knowledge and the access needed to produce the data. Mr. Swan has both knowledge of what he posted, and the access needed to pull analytical data for the relevant accounts. The analytical data from accounts that posted statements at issue is directly relevant to the impact of those statements, and thus the subject matter of this action. We've defined specifically what we are looking for, and which statements are at issue.

If he does not produce the data requested in usable form (which I wish to stress since in the past his productions have been somewhat chaotic) we will likely move to compel. This task is not too burdensome, but if Mr. Swan would rather not produce the data himself, he can give access to us so we can pull the relevant data. We'd certainly be willing to discuss a protective order to address any privacy or confidentiality concerns he has, in that event. But one way or the other, the data must be produced.

Regards,

Morgan

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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Tuesday, November 30, 2021 11:54 AM
To: Morgan G. Tanafon <TanafonM@cwbp.com>
Subject: update [IWOV-iManage.FID487758]

Hi Morgan,

I have traded emails with Jon and we are going to try to see what we can pull in terms of reasonably available data for his primary FB account while you and I work out our differences on the scope of the request—just to let you know that we are trying to get you something in good faith. I will keep you posted on that, but in the meantime, I think if you had a list of the specific site and handle names that you want us to look for (for example—and I have no idea if such a handle exists —“@saveforestlake/Facebook”)

JE

EXHIBIT M

From: [Eggleton, Jeremy D.](#)
To: [Morgan G. Tanafon](#)
Cc: [Bryan Gould](#); [Cooley Arroyo](#)
Subject: RE: update [IWOV-iManage.FID487758]
Date: Monday, March 21, 2022 8:53:27 AM
Attachments: [image002.png](#)
[image003.png](#)

Good morning, Morgan, Bryan and Cooley,

We stand by our previous objection to the request for production relating to Mr. Swan's/SFL's social media traffic. It is a classic fishing expedition, it's unduly burdensome, it's overbroad, it's open-ended—we think that we will prevail on a motion to compel that you might file. I will say that if you have specific posts that you want us to try to obtain viewer data for, that might narrow your request into a reasonable range. General Facebook and social media user data is not relevant to the breadth of exposure of any specific tweet or post. At a minimum, we don't see the Court awarding attorney's fees given that we stated our objection to you months ago and have agreed to provide a reasonable amount of data.

But I see a larger issue here. Your requests go to damages, i.e., the extent/exposure of any given defamatory statement. Notwithstanding the respectful and collaborative approach we have taken to the issues in this matter—which I appreciate and which, I hope you agree, has been reciprocal—you know very well how dimly I view this case from a legal perspective. I think it is a travesty that it has gone on as long as it has. If there is a better example of using the judicial process to punish an activist for speaking out about a project, I haven't seen it. My summary judgment motion will, I believe, dispose of the remaining outstanding claims/statements as a legal matter. It would only be if the summary judgment motion fails to do so that your damages evidence would be relevant—and there would be ample time before trial to produce the relevant data.

Therefore, I propose that you take your deposition of my client within the next two weeks on whatever issues you feel are appropriate, and that I file my motion for summary judgment immediately thereafter. I would be willing to suspend the deposition to a later date to address damages discovery questions you might have if this goes past the summary judgment stage.

Thanks,

Jeremy

From: Morgan G. Tanafon <TanafonM@cwbp.com>
Sent: Monday, March 14, 2022 11:33 AM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Cc: Bryan Gould <gouldb@cwbp.com>; Cooley Arroyo <arroyoc@cwbp.com>
Subject: RE: update [IWOV-iManage.FID487758]

Jeremy,

As we've previously stated, our position is that your motion for summary judgment should not be filed until your client's paper discovery and deposition are complete. Mr. Swan's last production was inadequate, lacking most of the essential information sought by our requests, including useless duplication of information that further reduces the useable data provided, and failing to identify what it does provide. It includes six spreadsheets of Facebook data (SFL-1479-1484) that contain no indications identifying the account(s) to which the data corresponds, and there appears to be no accompanying document that explains the documents produced or indicates the request to which each item is responsive. If this, or any other information was omitted in error, please send it to us as soon as possible. If this information has not yet been gathered or prepared, your client must do so immediately to comply with his discovery obligations under the applicable court rules.

CWS propounded its second set of requests for production on November 1, 2021. We agreed at that time to allow your client an additional six weeks to respond beyond the 30 day period imposed by the rule. Swan's responses were therefore due on January 17th, 2022, but we did not receive them. As a professional courtesy, we refrained from pressing for the production in light of your medical leave during January 2022. According to your communications, you returned to the office in early February, but despite repeated inquiries, we only received the discovery production on February 18, 2022, a month after the extended deadline had passed. This production, at a minimum, is lacking basic requested and required information. Swan was already given an extension of time for his responses and took an additional month without requesting an extension to satisfy his discovery obligations, so the lack of basic organization and information in this production is troubling and contrary to the court rules on discovery.

We would be well within our rights to request the court impose discovery sanctions, and we expressly reserve that option. At a minimum, unless a supplemental production sufficiently addresses the issues with your client's discovery production, we will move to compel. If possible, however, we would prefer to settle discovery issues informally. Your client must respond completely and coherently to our discovery requests. Please promptly remit to us the requested discovery information.

Regards,

Morgan

Morgan G. Tanafon

Associate

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P.O. Box 1137

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From: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Sent: Monday, March 14, 2022 9:32 AM
To: Bryan Gould <gouldb@cwbpa.com>
Cc: Morgan G. Tanafon <TanafonM@cwbpa.com>
Subject: RE: update [IWOV-iManage.FID487758]

Bryan,

I would like to file my motion no later than April 1. That gives us two weeks for your deposition, which should be enough time as long as we can schedule him. Please advise.

Thanks!

JE

From: Bryan Gould <gouldb@cwbpa.com>
Sent: Thursday, March 3, 2022 10:18 AM
To: Eggleton, Jeremy D. <JEggleton@orr-reno.com>
Cc: Morgan G. Tanafon <TanafonM@cwbpa.com>
Subject: RE: update

Jeremy:

We were actually discussing that earlier this week. Because we want to get the deposition done in one sitting, we are determining whether we have everything we need to complete it. The plan is to schedule the deposition soon, but when we ask for it to actually take place will depend on the outcome of our determination. Stay tuned.

Best regards.

Bryan

From: Eggleton, Jeremy D. [<mailto:JEggleton@orr-reno.com>]

Sent: Wednesday, March 02, 2022 2:16 PM

To: Morgan G. Tanafon <TanafonM@cwbp.com>; Bryan Gould <gouldb@cwbp.com>

Subject: update

Greetings,

Checking in on when you would like to depose Jon?

Thanks,

Jeremy

Jeremy D. Eggleton

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EXHIBIT N

From: [Morgan G. Tanafon](#)
To: ["Eggleton, Jeremy D."](#)
Cc: [Bryan Gould](#); [Cooley Arroyo](#)
Subject: Alvarez - Meet and Confer Follow-up
Date: Thursday, July 8, 2021 5:01:00 PM

Dear Jeremy,

This email is intended to memorialize our discovery meet and confer on July 7 to ensure we both arrived at the same understanding and that we agree on how we are moving forward on resolving the discovery disputes still at issue. I know we still have some issues to address after yesterday's meeting was cut short, and I hope we can set up another call to conclude our conversation in the coming days. I'm available July 12 from 9am to 3pm, or July 13 from 10am to 2pm, so please let me know if either of these works for you or if you have another workable date and time you'd prefer.

During our meet and confer, we discussed outstanding discovery issues and arrived at the following conclusions:

1. We discussed which of Swan's allegedly defamatory statements are still actionable after the Order on the Motion to Dismiss (8/10/20). We determined that Swan's statements concerning the following topics are still actionable:
 - a. Swan's assertion that Casella scammed Don Mooney in Dalton and Cliff Crosby in Bethlehem.
 - b. Swan's assertion that the high contamination rate of Casella's "zero-sort" recycling system means it landfills most of its recyclables, which contributed to the collapse of the recycling market.
 - c. Swan's assertion that Casella filled NH landfills with out of state trash.
 - d. Swan's assertion that Casella illegally spilled 8,000 gallons of leachate into the Black River in Vermont.
 - e. Swan's assertion that Casella's Coventry landfill was operating outside permitted hours in relation to the accident that resulted in the leachate spill near the Black River.
 - f. Swan's assertion that Casella polluted the Ammonoosuc River.
 - g. Swan's assertion that Casella tried to improperly influence the vote of the Bethlehem Planning Board by "packing" the Board.
 - h. Swan's assertion that Casella conspired with Horizons Engineering to avoid compliance with regulatory requirements via a deceptive lot line adjustment.
 - i. Swan's assertion that Casella was complicit in sending millions of gallons of leachate to third parties knowing they would improperly treat it before discharging it into the Merrimack River.
 - j. Swan's assertion that Casella has somehow participated in Ms. Cardillo's effort to obtain a protective order against Swan, weaponized the legal system against him and thus committed a fraud upon the court.

Since the Motion to Dismiss limited potentially actionable statements to these topics (and any possible future false statements of fact that Swan makes), we concluded that the scope of relevance for discovery is limited to this list of topics.

2. Casella agreed to consider supplementing its discovery productions for three requests:
 - a. Response to Interrogatory #7: Supplementing the response to identify civil litigation for a period from January 1, 2011 to the present, for all cases involving the Coventry or NCES landfills, or the Merrimack or Ammonoosuc Rivers.

- b. Response to Interrogatory #15: Supplementing the response include any communications, studies, or reports concerning the leachate spill accident near the Black River on December 27, 2019.
- c. Request for Production #3: Supplementing the production to include documents regarding inspections, inquiries, and actions by regulatory agencies since January 1, 2011 that involve the Coventry or NCES landfills, or the Merrimack or Ammonoosuc Rivers.

Casella will finalize its determination about these proposed supplementations after we've had our follow-up meeting to conclude our conversation from yesterday.

- 3. We discussed the defendant's request for communications between Casella and the Town of Dalton. Casella's position is that Swan made specific allegations that Casella "scammed" two persons (Don Mooney and Cliff Crosby, not named but clearly indicated by circumstance), and thus the current production satisfies the relevant portions of the request. Your position is the statement implicated an effort by Casella to scam all the elderly residents of Dalton, and thus all communications between Casella and the town are relevant. We did not reach a resolution on this issue.
- 4. We began to discuss Casella's issues with Swan's discovery production but were cut short by circumstance. You indicated that some parts of Swan's production would be supplemented, but we have not yet determined which specific aspects require supplementation and which (if any) must be addressed with a motion to compel. Further discussion is needed on this topic.
- 5. We tentatively agreed on mutual supplemental productions for those items we'd agreed to supplement on or before July 20. As I do not yet know what if anything you have agreed to produce by that date, that production is currently on hold on our end until we can come to a landing on what supplemented responses we can expect from Swan. Depending on how long it takes to have our follow up call, we might want to reschedule that date to give us both time to arrange the supplemental production.

Please let me know if this reflects your understanding of our discussion and agreements. I look forward to scheduling a follow-up meet and confer as soon as possible to conclude our conversation about Swan's production and iron out exactly which requests he will be supplementing. Please let me know what dates and times would work best for you.

Regards,

Morgan

Morgan G. Tanafon
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