

North Country:Casella Takes On Opponents In Defamation Lawsuit

Lawsuit Respondent Says Case Is “Goliath Sues David”

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Dalton resident Jon Swan, left, defendant in a defamation lawsuit filed this week by Casella Waste Systems, speaks during a town hall meeting at the Littleton Opera House in August hosted by U.S. Sen. Maddie Hassan. (Photo by Paul Haves)



Taking on its opponents, Casella Waste Systems on Monday filed a defamation lawsuit against a Dalton man and two citizen groups opposed to a 180-acre landfill beside Forest Lake State Park in Dalton.

At Merrimack Superior Court, CWS filed suit against Jon Swan, also known as Jon Alvarez, the Forest Lake Association, and Save Forest Lake for what the company argues are damages “arising from Alvarez’s nearly year-long campaign on behalf of himself and the officers and participating members” of the Forest Lake Association and Save Forest Lake, who the company calls “Doe Defendants 1-20” and whose identities “are not yet known to [Casella].”

The company argues the intent of the alleged campaign is to “disparage [Casella’s] reputation by publishing and disseminating throughout the state of New Hampshire false statements of fact about the plaintiff online, in print, and in person.”

CWS, run by CEO John Casella, alleges the intent of Swan/Alvarez and the co-defendants “is to prevent [the company] from engaging in business in New Hampshire altogether and from developing landfill capacity in Dalton ... and they have published a multitude of falsehoods to accomplish that goal, all of which are defamatory statements for which the law makes defendants liable.”

Casella also argues that Swan/Alvarez has sought to interfere in the company's "prospective economic advantage."

In addition, the company alleges that many of Swan's/Alvarez's statements have been directed to state executive branch officials and lawmakers in Concord "with the purpose of damaging Casella's reputation in state government.

Swan/Alvarez, argues Casella, made false statements of fact and made statements "with the intent and effect of lowering Casella's esteem in the community."

After learning of the lawsuit on Tuesday, Swan said, "I stand by everything I've done, and when I have made error, I correct it. I try to make sure everything I say is supported by fact and data. I stand by what I've said."

In the 16-page two-count defamation of character lawsuit, Casella asks the court to issue an injunction against the defendants to prevent them from "defaming" the company, issue an order declaring that the defendants have defamed the company with their words and conduct, and award the company monetary damages for compensation and reasonable attorney's fees and costs.

The lawsuit was filed by Casella attorneys Bryan Gould and Cooley Arroyo, of the Cleveland, Waters and Bass law firm, who are two of six registered lobbyists for Casella for New Hampshire's 2020 legislative session (another six work for Casella subsidiary North Country Environmental Services), according to a recent check of lobbyists registered with the New Hampshire Secretary of State's office.

In a statement about the lawsuit, the company on Tuesday targeted Swan/Alvarez directly, saying "Casella has witnessed Swan's relentless attacks and false statements. As a result, he has damaged the reputation of Casella employees, our ability to responsibly do business in New Hampshire, and set a dangerous precedent for civic involvement on critical issues.

“Enough is enough,” said company representatives. “We’re not a society, or a company, that turns the other way when we and others are personally and wrongfully attacked. Swan’s actions over the past year have infringed upon the livelihood and freedoms of the people of New Hampshire and have taken the time and attention away from civic leaders, residents, and others who are attempting to make important, difficult decisions based on fact.

“While the use of the courts is not preferable, it is a necessary and just action considering Mr. Swan’s attacks and false claims,” they said.

“We are hopeful that this action results in Mr. Swan immediately ceasing any further false statements about Casella and helps move discussion about the project in Dalton to a more positive and productive track,” said company representatives.

The company has not yet filed an application for a landfill in Dalton.

The new lawsuit against opponents in Dalton comes after previous lawsuits filed by Casella against the town of Bethlehem that were part of efforts to expand its landfill there that the company bought in the mid-1990s.

Recently, opposition to a new landfill in Dalton, as well as an expanded Casella landfill in Bethlehem, has extended beyond Swan and Dalton.

At town meeting in March, Whitefield residents voted almost unanimously to approve a resolution opposing a Casella Waste landfill at Forest Lake in Dalton that the article states would negatively impact the quality of life in Whitefield much more than in Dalton.

The resolution was sent to the governor and executive council, state senators and state representatives, and New Hampshire Department of Environmental Services.

Afterward, on March 16, the Sugar Hill Board of Selectmen wrote letter to the governor in support for the Whitefield resolution opposing the landfill, citing concerns of negative impacts from increased truck traffic, unwanted odors, and declining property values in Sugar Hill, where some of the landfill trucks pass through and have been stored overnight on a property.

On March 23, Sugar Hill selectmen wrote another letter, citing concerns about air and water quality impacts to Forest Lake and “whether our state regulations are adequate to protect the public interest,” and concerns that the proposed landfill would adversely impact Dalton, Whitefield and surrounding towns and that the “default policy” is to site landfills in the North Country where land values are lower and “local towns have less capacity to fight back.”

Bethlehem voters in 2017 and 2018 voted against a proposal to expand the 61-acre Casella landfill to 161 acres, prompting the company to look elsewhere as it faces a landfill closure in Bethlehem in about 2026.

In July, Dalton residents, in a 154-129 vote at a special town meeting, approved temporary, emergency, zoning for Dalton in response to the proposed landfill.

In March, the New Hampshire House of Representatives, in 189-123 vote, passed House Bill 1319, sponsored by state Rep. Elaine French, D-Littleton, which seeks to prohibit the siting of new landfills or expanded landfills within two miles of the boundary of any state or national park.

Swan said he believes the defamation lawsuit could be an attempt to deflect and to defeat HB 1319.

“They lost in the House, they lost in Bethlehem, lost in Dalton twice, so they come after me,” he said. “Like I said all along, it’s like shooting fish in a barrel. I have been at war to save our lake and our state as I kept

going down that rabbit hole called Casella. It will be an interesting trial. Goliath sues David.”