

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Case No. 217-2023-CV-00285

Casella Waste Systems, Inc.

v.

Jon Swan

**DEFENDANT'S PRETRIAL STATEMENT**

Mr. Swan submits the following pretrial statement in accordance with N.H. Super. Ct. R. 35(b):

1. Statement: John Swan is a U.S. Army veteran of the Iraq war. From Dalton, New Hampshire, Mr. Swan has led an active public opposition to the Plaintiff, Casella's plans to construct a landfill next to Forest Lake in that town. Individually and through his Save Forest Lake website, he has written letters, testified before the legislature, attended rallies and protests, and made literally thousands of internet posts on social media in an effort to stop the landfill in Dalton and shut down the Casella landfill in Bethlehem, N.H. In 2019, Casella filed a lawsuit against Mr. Swan, accusing him of defaming Casella in dozens of social media posts. The Court dismissed most of those allegations but preserved a handful for trial in 2023. Before the trial in 2023, Mr. Swan and Casella reached a settlement agreement. The parties dropped their claims and counterclaims and Mr. Swan paid Casella \$1500. In addition, Mr. Swan agreed to frame his commentary as opinion in public statements and both parties agreed to keep the settlement agreement and its specific terms strictly confidential. The parties filed documents with the Court ending the lawsuit and a local reporter at the Caledonian Record wrote a story about that filing. Mr. Swan posted a link to that story on his website. The story did not mention the settlement

agreement, its existence, or any of its terms and Mr. Swan was not quoted. In fact, he refused to comment on the story when asked by the reporter. Casella promptly sued him in this case for breaching the settlement agreement. In Casella's public lawsuit, it announced the existence of a settlement agreement and its specific terms. Mr. Swan answered that lawsuit and asserted counterclaims, arguing that Casella, not he, breached the confidentiality provision of the settlement agreement, which was his only benefit from the agreement going forward. Therefore, he asked the Court to terminate the agreement. Mr. Swan continued to post on social media in opposition to Casella's activities, and Casella argues that his posts violate the provision of the settlement agreement requiring him to couch his statements as opinion. He argues that Casella's breach nullified the agreement and that his statements are clearly opinion and therefore not a violation.

2. **Disputes of fact:** all issues of fact are disputed except those stipulated.

3. **Applicable law:** the Plaintiff's claims and the Defendant's defenses and counterclaims arise under New Hampshire's common law of contract, including damages, rescission, anticipatory breach and breach of contract. This case also implicates New Hampshire law regarding liquidated damages and the burden-shifting procedures required in a trial concerning the application of a liquidated damages provision. Mr. Swan has sought attorney's fees and costs and has requested damages, rescission and attorney's fees because believes to be frivolous and oppressive.

4. **Disputed issues of law:** subject to the parties' claims of error, most issues of law have been addressed by the Court's rulings. It is not fully clear the extent to which Mr. Swan will be able to testify about the facts of this case, under the Court's rulings to date.

5. **Specific claims of liability and defenses:** The Plaintiff claims that Mr. Swan has breached the 2023 settlement agreement and is required to pay liquidated damages of \$5,000 per breaching statement. The Defendant argues in counter that the Plaintiff breached the agreement first, and irrevocably and asks that the jury to deem the agreement rescinded. Mr. Swan asserts that his statements do not breach the agreement and even if they did, Casella's breach in the first instance, to wit, by disclosing the existence and terms of the settlement agreement in public and to third parties, released him from its terms.

6. **Itemized Special Damages:** Casella is seeking \$5,000 per alleged breach for a total damages claim of approximate \$85,000.

7. **Specification of Injuries:** Casella does not specify any injuries or actual harm. It is seeking liquidated damages.

8. **Status of Settlement Negotiations:** The parties have not attempted to mediate this matter but have explored settlement possibilities. Both parties, to date, have agreed that settlement is unlikely in light of the origins of this case.

9. **Exhibits:** Mr. Swan's exhibit list, filed April 7, 2026, is incorporated by reference herein. He reserves the right to amend, modify and supplement his exhibit list up to and including the entire time of trial.

10. **Depositions to be read into evidence:** The Parties have taken the depositions of Rebecca Metcalf, Tom Belden, and Dave Leonard. It is expected that each of these parties will be present for the trial.

11. **Waiver of claims or defenses:** Mr. Swan waives no claims or defenses.

12. **Witnesses:** Mr. Swan's witness list, filed April 7, 2026, is incorporated herein. He reserves the right to amend, modify and supplement his witness list up to and including the entire time of trial.

13. **View:** Not applicable.

14. **Trial counsel:** Jeremy Eggleton for Mr. Swan (lead), may be joined by an associate to be identified.

Respectfully submitted,

JON SWAN

By his Attorneys:

ORR & RENO, P.A.

Dated: April 7, 2026

By: /s/ Jeremy D. Eggleton  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was forwarded, this day, to all counsel via the Court's electronic file and serve system.

/s/ Jeremy D. Eggleton  
Jeremy D. Eggleton