

The Post-Journal

Casella Files Motion To Dismiss County's Claim In 2020 Landfill Death

A Buffalo company is trying to sever itself from a lawsuit filed by Chautauqua County that is tied to the death of a Portland man at the Chautauqua County Landfill in 2020.

On Aug. 3, 2020, 56-year-old Scott M. Deming, who was described as an independent contractor, was standing behind a large pile of garbage and debris that he had just dumped at the landfill in the town of Ellery when he was struck by a bulldozer. The Sheriff's Office said the bulldozer operator had "no idea" Deming was behind the pile when the debris was pushed into a pit.

While the county is being sued by Deming's estate, the county filed a related case as a third-party plaintiff, filing suit against Bestway Container Services LLC and Casella Waste Management of N.Y. LLC. The county says if it is ordered to pay damages to Deming's estate, Casella should have to pay a portion of the damages. Casella bought Bestway in 2021.

"Plaintiff is improperly attempting to hold Third-Party Plaintiffs responsible solely because of their relationship with the wrongdoer, Third-Party Defendants," the county wrote in its 2023 filing against Bestway Container Services and Casella Waste Management. "Third-Party Defendants owed a duty of care to Third-Party Plaintiffs to properly train

their employees, but Third-Party Defendants breached this duty, thereby directly and proximately causing Plaintiff's alleged injuries."

This week, lawyers for Casella argued in a memorandum of law seeking to dismiss the county's third-party lawsuit against the waste management company that its 2021 purchase of Bestway that the claim against Bestway hadn't been disclosed and that Casella's purchase included only Bestway's assets, not its liabilities. Attorney David Brock argues the county hasn't stated a viable cause of action against Casella and its claim against the Buffalo-based company should be dismissed.

"Casella has submitted documentary evidence that conclusively establishes that Casella is not a successor in interest to Bestway, and thus owes no obligation, or liability, to Chautauqua," Brock wrote. "Each of Chautauqua's claims are contradicted by the clear terms of Casella's purchase of Bestway's assets (only) which occurred nearly a year after the subject accident, and therefore must be dismissed as a matter of law."

According to court documents, the Law Office of Michael D. Hollenbeck of Buffalo is representing Deming's estate. Deming's son Scott Deming Jr., alleges that Deming's death was "the result of negligence, carelessness, recklessness, and unlawful conduct on the part of the defendants, Chautauqua County Department of Public Facilities, Chautauqua County landfill and James Christ" the individual who operated the bulldozer. The initial lawsuit does not include a specific amount of damages being sought. Over the past three years attorneys have taken depositions in the case and filed motions seeking information.

"The decedent's next of kin were dependent upon decedent for support, maintenance, nurture, comfort, advice, aid and society, which they are now deprived of as a result of the aforesaid incident," the 2021 filing states. "As a result of the aforesaid incident, medical, funeral and burial expenses have been incurred. By reason of decedent's death caused by the negligence of the defendants as aforesaid, his distributees and next of kin have sustained damages in an amount that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction. By reason of decedent's death caused by the negligence of the defendants as aforesaid,

his distributees have been damaged, and the amount of damages sought herein by the plaintiff on behalf of the said distributees shall exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction.”

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