

https://www.caledonianrecord.com/news/local/casella-drops-defamation-lawsuit-against-dalton-landfill-opponent/article_763dc91b-54c8-5171-8e11-91909345872a.html

FEATURED

Casella Drops Defamation Lawsuit Against Dalton Landfill Opponent

Robert Blechl rblechl@caledonian-record.com Staff Writer

May 18, 2023

1 of 2



Jon Swan, founder of Save Forest Lake, addresses the White Mountains Regional SAU 36 School Board on Monday, April 5. Swan warned that a proposed landfill posed a traffic hazard for Whitefield Elementary School. (Photo by Paul Hayes)

After three years and more than \$100,000 in legal expenses incurred by the defendant, Casella Waste Systems has ended its defamation lawsuit against a vocal opponent of the company and its proposed landfill in Dalton.

On Tuesday, the litigation filed in April 2020 at Merrimack Superior Court in Concord against Dalton resident Jon Swan, the founder of Save Forest Lake, was closed out.

A stipulation for docket marking filed by Casella and agreed to by attorneys Bryan Gould, Cooley Arroyo and Morgan Tanafon, of the Cleveland Waters and Bass law firm that represents Casella, and attorney Jeremy Eggleton, legal counsel for Swan, states “neither party, no costs, no interest, no further action for same cause.”

The resolution of the case comes two months after a 33-page court order on March 10 that granted Swan, in part, a request for summary judgment and it follows a motion to reconsider that order filed by Casella that was denied by Judge John Kissinger on April 11.

In its lawsuit, Casella alleged that Swan’s campaign against the company is intended to “disparage [Casella’s] reputation” by publishing false statements of fact about the company online, in print and in person, prevent the company from doing business in New Hampshire, lower Casella’s esteem in the community, damage its reputation in state government, and intentionally interfere with its “prospective economic interests.”

Because of Swan’s statements, Casella argued it “suffered harm to its reputation and business.”

In August 2020, the judge dismissed the majority of the dozens of defamation claims alleged by Casella, concluding that Swan’s statements are either strongly worded opinion or rhetorical hyperbole and, as such, are not actionable for defamation, but said nine statements could be defamatory if the company can prove they are false.

Swan’s statements included Casella scamming elderly residents of Dalton, the company not recycling recyclables and filling local landfills with out-of-state trash, illegally spilling 8,000 gallons of leachate into the Black River in Vermont, polluting the Ammonoosuc River, operating outside of permitted hours at its landfill in Vermont, seeking to improperly influence the vote of the Bethlehem Planning Board, conspiring with Horizons Engineering to avoid compliance with regulatory requirements, and improperly treating millions of gallons of leachate emptied into the Merrimack River.

In his March order, the judge dismissed as defamatory five of Swan's comments about out-of-state trash in New Hampshire landfills, the company packing the Bethlehem Planning Board, wastewater treatment plants and the Merrimack River, pollution in the Ammonoosuc River, and zero-sort recycling and the collapse of the recycling market.

He denied, however, Swan's request to dismiss six comments pertaining to the company's leachate spill from a truck crash in Vermont, Casella scamming elderly residents and weaponizing the legal system, the operating hours at the Coventry landfill in Vermont, an ethics complaint about Casella and Horizons Engineering involving a lot line adjustment in Dalton, and the "purposeful introduction of PFOS/PFOA" contaminants in the Forest Lake area.

In his order, Kissinger said Casella's second amended complaint added the statement about the introduction of PFOS/PFOA, but Swan's motion for summary judgment did not address that statement, which, until the case was closed this week, had continued as a possible issue for trial.

Casella's denied motion for reconsideration had asked the judge to reconsider his order on Swan's motion for summary judgment regarding two posted statements, including what Swan said was Casella not recycling most of the recyclable materials placed in its zero-sort recycling bins because they are contaminated and end up in landfills and about "packing" the Bethlehem Planning Board.

An email sent Wednesday afternoon to Casella spokesman Jeff Weld was not returned by press time.

On March 13, following the judge's order dismissing the five claims, Swan shared a mass email stating "good news from the superior court today."

"To date, my legal expenses for this fight have totaled \$110,217.25 invoices attached," he wrote. "I am currently in arrears totaling \$11,701.37. I appreciate everyone's support ... Thank you all who have donated to the cause. We will win, there will not be a landfill next to Forest Lake. 4 years now ... quite the toll but a just fight, nonetheless."

Robert Blechl