

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Casella Waste Systems, Inc.

v.

Docket #217-2023-CV-00285

Jon Swan

PLAINTIFF'S PRETRIAL STATEMENT

NOW COMES the Plaintiff, Casella Waste Systems, Inc. ("Casella", or the "Plaintiff"), by and through its attorneys, Cleveland, Waters and Bass, P.A., and Lehmann Major List, PLLC and submits the within Pretrial Statement pursuant to Superior Court Civil Rule 35.

- I. **Uncontested Facts.** The Parties entered into a Settlement Agreement to resolve defamation litigation brought by Casella. The Settlement Agreement required the Defendant to include certain statements and information when making statements to a third party that attributed conduct or intent to Casella. The Defendant made approximately 17 separate social media posts which mentioned Casella's subsidiary, North Country Environmental Services, Inc.'s or its landfill.
- II. **Contested Issues of Fact.** The Plaintiff believes all other facts in this matter to be contested.
- III. **Applicable Law.** New Hampshire common law and statutory law of contracts.
- IV. **Disputed Issues of Law.** Plaintiff understands that the disputed issues of law as to the amount of damages will be addressed at a post-trial hearing. Plaintiff further disputes that rescission is an available, appropriate, or equitable remedy.

V. **Specific Claims of Liability by the Party Making the Claim.** The Defendant has brought a counterclaim for breach of contract and a claim for attorneys' fees. The Plaintiff has brought claims as discussed below:

a. The Plaintiff has brought a claim for Breach of Contract for each of the statements the Defendant made which violated the settlement agreement.

b. The Plaintiff has brought a claim for breach of the covenant of good faith and fair dealing based on the Defendant's breach of the confidentiality clause in the settlement agreement.

VI. **Defendant's Specific Defenses.** The Plaintiff's defenses to the Defendant's counterclaims are discussed below. For the Defendant's defenses to the Plaintiff's claims, *see* the Defendant's Pretrial Statement. The Defendant is not entitled to rescission of the settlement agreement because he breached the agreement prior to any breach of the Plaintiff. The Defendant is not entitled to a finding that the Plaintiff breached the settlement agreement because factually the Plaintiff did not breach, and even if the Plaintiff technically breached the settlement agreement, such breach was not material.

VII. **Itemized Special Damages.** The Plaintiff is entitled to \$85,000.00 calculated based on the settlement agreement's liquidated damages of \$5,000.00 per breach. The Plaintiff understands that the amount of damages may be addressed at a post-trial hearing.

VIII. **Specification of Injuries.** Breach of Contract and Breach of the Implied Covenant of Good Faith and Fair Dealing.

- IX. The Status of Settlement Negotiations.** The Parties did not participate in mediation as this suit arose out of a settlement agreement negotiated during mediation for the initial defamation action.
- X. Defendant's Exhibit List.** Please see the Defendant's Preliminary Exhibit and Witness List filed contemporaneously herewith.
- XI. Depositions to be Read into Evidence.** The Defendant reserves the right to read into evidence any deposition given in this case, subject to all proper objections.
- XII. Waiver of Claims or Defenses.** The Defendant does not waive any claims or defenses at this time.
- XIII. Defendant's Witness List.** Please see the Defendant's Preliminary Exhibit and Witness List filed contemporaneously herewith.
- XIV. Request for a View.** The Defendant does not request a view.
- XV. Names and Addresses of Trial Attorneys.**
- a. For the Plaintiff: Richard J. Lehmann, Esq., Lehmann Major List, PLLC, 6 Garvins Falls Road, Concord, New Hampshire 03301 and Jacob M. Rhodes, Esq. Cleveland, Waters and Bass, P.A., Two Capital Plaza, Fifth Floor, Concord, New Hampshire 03301.
 - b. For the Defendant: Jeremy D. Eggleton, Esq. 45 South Main Street, PO Box 3550, Concord, New Hampshire 03302-3550.

Respectfully submitted,

CASELLA WASTE SYSTEMS, INC.,
By Its Attorneys,

Date: April 6, 2026

/s/ Jacob M. Rhodes
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-and-

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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: April 6, 2026

/s/ Jacob M. Rhodes
Jacob M. Rhodes, Esq.

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