

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Casella Waste Systems, Inc.

v.

Docket #217-2023-CV-00285

Jon Swan

**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO CLARIFY**

The plaintiff, Casella Waste Systems, Inc. ("Casella"), hereby responds to the defendant's, Jon Swan ("Swan"), motion to clarify this court's order of May 2, 2025.

1. In ruling on Swan's motion to compel, this court ordered Casella to submit affidavits attesting to the search that was conducted regarding certain discovery requests. Those affidavits are attached hereto as Exhibits 1 and 2.<sup>1</sup>

2. Swan filed a motion to clarify requesting the court require the affidavits address additional issues.

3. The specific issues Swan requested included the identification of the "mail hosting software and the security software employed by the Plaintiff" as well as specific locations where data may have been stored.

4. As stated in the affidavits, Casella utilizes Microsoft Exchange Online for its email service. Further, Casella enables the litigation hold feature on all Casella accounts at the time those accounts are created. As a result, there is no need to specifically address each location

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<sup>1</sup> Casella notes that it is not providing the specific email addresses of the individuals Swan requested communications to and from. Casella used those individuals' email addresses in the search, but out of respect for their privacy Casella has not provided the email addresses in the affidavit. If required, Casella can provide those email addresses, but requests that it be allowed to do so *in camera* and for attorneys' eyes only.

Swan identified in the motion to clarify. All Casella email is located within Microsoft Exchange Online.

5. Furthermore, undersigned counsel have reviewed the email chain referenced in the Affidavit of Tom Belden and concur with his statement that the undisclosed email is not related to Mr. Swan or the litigation.

WHEREFORE, Casella respectfully requests that the court grant the following relief:

- A. Deny the motion to clarify as moot based on the content of the affidavits; and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,

CASELLA WASTE SYSTEMS, INC.,

By Its Attorneys,

Date: May 22, 2025

By: /s/ Jacob M. Rhodes

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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: May 22, 2025

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

4933-7947-1430, v. 1

# Exhibit 1

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

CASELLA WASTE SYSTEMS, INC.

v.

Docket #217-2023-CV-00285

JON SWAN

**AFFIDAVIT OF TOM BELDEN**

1. My name is Tom Belden.
2. I am the Director of Infrastructure of Casella Waste Systems, Inc. ("Casella").
3. As part of my responsibilities, I oversee the implementation of policies related to Casella's email system.
4. Casella maintains its corporate email with Microsoft Exchange Online.
5. Microsoft Exchange Online has a "litigation hold" feature that preserves all emails and email drafts so that they cannot be permanently deleted by an account holder.
6. The litigation hold feature is enabled on every account maintained as part of Casella's email platform. This is a policy of Casella and part of the routine process to establish new accounts.
7. The "litigation hold" feature runs continuously on Casella's Microsoft Exchange Online platform. See Description of Litigation Hold Feature, attached hereto as Exhibit 1.
8. On or about November 1, 2024, I conducted a search for emails pursuant to the litigation hold policy.
9. This search included all emails received by or sent from any Casella account.
10. Casella does not utilize any separate security system archives, backup snapshots, or external systems that would capture information not captured by the litigation hold. In other

words, litigation hold includes everything sent to or from Casella accounts such that there was no need to search any other system.

11. I searched for email sent to, or received from email addresses associated with the following individuals:

- a. Dave Leonard
- b. Vic St. Cyr
- c. Pam Kathan
- d. Brian Fuller
- e. Eric Pilotte
- f. Jim Dannis
- g. Scott Kleinschrodt
- h. Eric Moore
- i. Thomas Dubreuil
- j. Donald Mooney
- k. Jessie Wentworth
- l. Christine Ordinetz

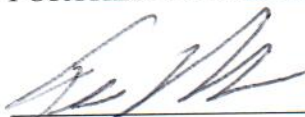
12. I received this list of emails to search for from Melissa Stevens, Associate General Counsel for Casella.

13. I limited my search for emails to and from each of these email addresses to a period beginning May 11, 2023, and ending May 25, 2023.

14. My search as described above produced two separate email chains. I understand the first email chain was produced in this litigation for attorneys' eyes only with certain parts redacted.

15. The second email chain contained none of the words identified in Attorney Eggleton's correspondence with Attorney Rhodes and had nothing whatsoever to do with Mr. Swan or this matter.

FURTHER THE AFFIANT SAYETH NOT:



Tom Belden

STATE OF ~~VERMONT~~ <sup>New York</sup>  
COUNTY OF ~~RUTLAND~~ <sup>Saratoga</sup>

Subscribed and sworn to (or affirmed) before me on this 22<sup>nd</sup> day of May, by Tom Belden.

Megon I Webb

Notary Public/Justice of the Peace

My commission expires: ~~01/31/2027~~

3/30/2029



## Exhibit 2



THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

CASELLA WASTE SYSTEMS, INC.

v.

Docket #217-2023-CV-00285

JON SWAN

**AFFIDAVIT OF REBECCA METCALF**

1. My name is Rebecca Metcalf.
2. I am employed by Casella Waste Systems, Inc. ("Casella") as its Manager of Community Engagement for New Hampshire.
3. As part of my responsibilities, I gather and maintain contact information for residents, businesses, and public officials in those areas of the state in which Casella does business.
4. On or about October 25, 2024, Melissa Stevens, Associate General Counsel for Casella, provided me with a list of names and asked me to provide email addresses associated with those names.
5. Those names were:
  - a. Dave Leonard
  - b. Vic St. Cyr
  - c. Pam Kathan
  - d. Brian Fuller
  - e. Eric Pilotte
  - f. Jim Dannis
  - g. Scott Kleinschrodt
  - h. Eric Moore
  - i. Thomas Dubreuil
  - j. Donald Mooney
  - k. Jessie Wentworth
  - l. Christine Ordinetz

6. I provided the email address in my possession for each of the above people to  
Melissa Stevens on October 28, 2025.

FURTHER THE AFFIANT SAYETH NOT:




Rebecca Metcalf

STATE OF NEW HAMPSHIRE

County of Grafton

Subscribed and sworn to (or affirmed) before me on this 22<sup>nd</sup> day of May, 2025, by

Rebecca Metcalf.



Notary Public/Justice of the Peace

My commission expires: 4/12/2028

