

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

October 5, 2009

Mr. James C. Eaton
P. O. Box 267
Angola Crest II
10 Martin Lane
Lewes, DE 19958

Daniel P. Bennett, Esquire
Mintzer, Ceras, Zeros,
Latvia & Meyers, LP
1220 North Market Street. Suite 300
Wilmington, DE 19801

**RE: James Eaton v. Deer Park Springs Water et al
Civil Action No. S08C-07-011 THG**

Dear Mr. Eaton and Mr. Bennett:

On October 2, 2009, the Court heard the Motion of Defendant Nestle Waters North America, Inc. ("Nestle") to dismiss for failure to state a claim. The Motion was granted for the following reasons:

1. The Plaintiff resides in Delaware. He is a long haul truck driver.
2. Nestle is a Pennsylvania corporation doing business at Breinigville, PA.
3. Raven Transport, Inc. ("Raven") is a trucking company incorporated in Florida with its primary business in Jacksonville, Florida.
4. Raven dispatches its trucks and drivers to drive product from one place to another.
5. Plaintiff was dispatched by Raven to haul bottled water from Pennsylvania to a Wal-Mart retail store in Virginia.
6. Nestle loaded the truck with two more pallets of water than the bill of lading stated. The end result was that the U. S. Department of Transportation and Department of Motor Vehicles cited Raven, not Plaintiff, for being overweight.
7. Wal-Mart did not accept the additional two pallets of bottled water and Plaintiff drove back to Pennsylvania and the two pallets were returned to Nestle.

8. Plaintiff was paid for the trip back to Pennsylvania.
9. Raven paid the overweight ticket.
10. Plaintiff alleges the overweight citation to Raven has blemished his otherwise perfect driving record.
11. The Plaintiff sought \$50,000 in compensatory damages and \$2,000,000 in punitive damages alleging that the extra pellets not on the bill of lading, were placed on the truck deliberately and falsely.

Because the citation was to his employer, Raven, Mr. Eaton has not established any theory of recovery, much less any damages.

To the extent he alleges his complaint attempts to allege defamation, then that likewise fails. Nestle's paperwork and bill of lading for transportation products to Virginia has nothing to do with Mr. Eaton. It is not a defamatory document about Mr. Eaton, nor could these events be reasonably perceived as an attack on Mr. Eaton.

This case is, unfortunately, a frivolous filing for a minor inconvenience for which Mr. Eaton was compensated for his time in returning the two pallets of bottled water back to Nestle.

The case is dismissed.

IT IS SO ORDERED.

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

THG:baj
cc: Prothonotary