

# Solid Waste Transfer Station: Federal Appellate Court Addresses Nuisance Claim



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The United States Court of Appeals for the 11th Circuit (“11th Circuit”) addressed in a December 30th Opinion an issue arising out of a nuisance action filed against a garbage transfer station (i.e., solid waste transfer station). See *Yeager v. Advanced Disposal Services Alabama, LLC, et.al*, 2022 WL 17998532.

The question addressed was whether certain issues (odors, noise, etc.) associated with a solid waste transfer station constituted a nuisance under Alabama law.

Barry and Ramona Yeager (collectively, “Yeagers”) own a home in Theodore, Alabama, in which they have lived for at least 30 years. Advanced Disposal Services Mobile Transfer Station LLC (“ADS Mobile”) built a garbage transfer station (solid waste transfer station) across the street from the Yeagers’ property.

ADS Mobile obtained a solid waste permit from the Alabama Department of Public Health in 2011. The transfer station was operated until the facility was sold in 2020.

The Opinion describes the transfer station operation as including garbage collection trucks dumping their loads of solid municipal waste onto a concrete tipping floor. Mr. Bult’s Inc. (“Bult’s”) loaded the waste from the tipping floor onto tractors and trailers and transported it to a landfill.

The Yeagers alleged that the transfer station caused:

. . . noise, odors, wind-blown trash, and vermin (primarily seagulls) that have interfered with the enjoyment of their property and diminished its value.

The Yeagers filed a complaint in Mobile County, Alabama, against ADS Mobile, Advanced Services Alabama LLC (“ADS Alabama”), and Bult’s alleging the transfer station was a nuisance and that defendants’ acts and omissions were negligent and wanton, and that they willfully intentionally violated Alabama State Board of Health rules by locating the transfer station within 500 feet of their home. The lawsuit was removed to federal court.

Various full and partial summary judgment motions were filed by the defendants. The United States District Court entered summary judgment in favor of ADS Mobile, ADS Alabama, and Mr. Bult.

The 11th Circuit noted on appeal that under Alabama law a nuisance is:

. . . anything that works hurt, inconvenience, or damage to another, as long as the hurt or inconvenience is not fanciful or such as would affect only of a fastidious taste.

The 11th Circuit stated that the essence of private nuisance is an interference with the use and enjoyment of land. It also held that the plaintiff in an Alabama nuisance action must show conduct:

. . . be it intentional, unintentional, or negligent, on the defendant's part, which was the breach of a legal duty, and which factually and proximately caused the complained-of hurt, inconvenience, or damage.

Alabama courts are stated, in the context of resolving nuisance claims, to recognize a duty to not materially interfere with the use and enjoyment of neighboring properties. As a result, even a lawfully established business will be deemed a nuisance if because of the situation, the inherent qualities of the business, or the manner in which it is conducted, it directly causes material annoyance or inconvenience to the occupants of adjacent dwellings rendering them physically uncomfortable.

The 11th Circuit held that the Yeagers presented sufficient evidence to create a genuine issue for the jury on their nuisance claim against ADS Mobile based on noise, odors, and seagulls caused by the operation of the transfer station. It specifically noted allegations that included:

- Noise from trucks entering and leaving the facility beginning at 4:15 a.m. and continuing through the day
- The transfer station received waste seven days a week, opening at 4:00 a.m. Monday through Saturday
- The number of tractor-trailers utilized

Whether the noise caused by truck traffic associated with the transfer station was sufficient to constitute a nuisance (in combination with the odors and seagulls complained of by the Yeagers) was deemed a question of fact dependent on the nature and character of the noise, its constancy or frequency, and the extent of the inconvenience.

The 11th Circuit also referenced the alleged foul odors as presenting sufficient evidence that created a genuine issue of fact. Also referenced by the Yeagers were seagulls flocking overhead in terms of noise and droppings which constituted noticeable stains.

In addressing allegations that trash was dropped in the Yeagers' yard, the 11th Circuit indicated that evidence fell short of establishing proximate causation because it was caused by third parties carrying loads of garbage in uncovered trucks in violation of Alabama law.

The 11th Circuit, nevertheless, concluded that the District Court erred in entering summary judgment on the Yeagers' Alabama nuisance claim. However, it upheld the District Court's limiting the damages recoverable for that claim. It states that the Yeagers failed to produce evidence of claim damages in the amount of reduced property value.

A copy of the Opinion can be downloaded [here](#).