

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 19-00104

PRESENT: SMITH, J.P., CARNI, NEMOYER, CURRAN, AND TROUTMAN, JJ.

JEANNETTE C. GIAMBRONE, NINO E. GIAMBRONE,
PLAINTIFFS-RESPONDENTS,
AND NATIONWIDE MUTUAL INSURANCE COMPANY, AS
SUBROGEE OF JEANNETTE C. GIAMBRONE AND NINO E.
GIAMBRONE, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

NIAGARA MOHAWK POWER CORPORATION, DOING BUSINESS
AS NATIONAL GRID, AND PETER T. SMITH,
DEFENDANTS-APPELLANTS.
(APPEAL NO. 2.)

BARCLAY DAMON LLP, BUFFALO (DENNIS R. MCCOY OF COUNSEL), FOR
DEFENDANTS-APPELLANTS.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (JOHN A. COLLINS OF COUNSEL),
FOR PLAINTIFFS-RESPONDENTS.

LAW OFFICE OF CHARLES F. HARMS, JR., GARDEN CITY (ANGELO CAPALBO OF
COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered October 1, 2018. The order denied defendants' motion for sanctions against plaintiffs pursuant to CPLR 3126.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Same memorandum as in *Giambrone v Niagara Mohawk Power Corp.* ([appeal No. 1] - AD3d - [Sept. 27, 2019] [4th Dept 2019]).

Entered: September 27, 2019

Mark W. Bennett
Clerk of the Court