

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

310

CA 24-01226

PRESENT: LINDLEY, J.P., MONTOUR, OGDEN, GREENWOOD, AND KEANE, JJ.

BRYAN WHEELER, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

BRANDSAFWAY INDUSTRIES, LLC, NEW YORK
POWER AUTHORITY, MAID OF THE MIST CORPORATION,
MAID OF THE MIST ENTERPRISES, INC., AND
MAID OF THE MIST HOSPITALITY, LLC,
DEFENDANTS-RESPONDENTS.
(APPEAL NO. 2.)

COLLINS & COLLINS ATTORNEYS, LLC, BUFFALO (ETHAN W. COLLINS OF
COUNSEL), FOR PLAINTIFF-APPELLANT.

GIBSON, MCASKILL & CROSBY, LLP, BUFFALO (NORMAN B. VITI, JR., OF
COUNSEL), FOR DEFENDANT-RESPONDENT BRANDSAFWAY INDUSTRIES, LLC.

HURWITZ & FINE, P.C., BUFFALO (DAVID R. ADAMS OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS NEW YORK POWER AUTHORITY, MAID OF THE MIST
CORPORATION, MAID OF THE MIST ENTERPRISES, INC., AND MAID OF THE MIST
HOSPITALITY, LLC.

Appeal from an order of the Supreme Court, Niagara County (Frank
A. Sedita, III, J.), entered May 23, 2024. The order, inter alia,
granted an evidentiary hearing.

It is hereby ORDERED that said appeal is unanimously dismissed
without costs.

Same memorandum as in *Wheeler v Brandsafway Indus., LLC* ([appeal
No. 1] – AD3d – [June 27, 2025] [4th Dept 2025]).

Entered: June 27, 2025

Ann Dillon Flynn
Clerk of the Court