

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

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CA 24-01227

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

BRYAN WHEELER, PLAINTIFF-APPELLANT-RESPONDENT,

V

MEMORANDUM AND ORDER

BRANSAFWAY INDUSTRIES, LLC, DEFENDANT-RESPONDENT,
NEW YORK POWER AUTHORITY, MAID OF THE MIST
CORPORATION, MAID OF THE MIST ENTERPRISES, INC.,
AND MAID OF THE MIST HOSPITALITY, LLC,
DEFENDANTS-RESPONDENTS-APPELLANTS.
(APPEAL NO. 3.)

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

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

HURWITZ & FINE, P.C., BUFFALO (DAVID R. ADAMS OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS-APPELLANTS.

Appeal and cross-appeal from an order of the Supreme Court,
Niagara County (Frank A. Sedita, III, J.), entered July 24, 2024. The
order, inter alia, directed the payment of \$10,000 to plaintiff's
counsel.

It is hereby ORDERED that the order so appealed from is
unanimously modified on the law by vacating that part granting
sanctions and as modified the order is affirmed 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