

Helina Manesis, Esq.
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March 30, 2021

Via Regular Mail
Records Access Officer for the Department of Buildings
280 Broadway, 7th Floor
New York, NY 10007

Decedent : [REDACTED]
Date of Incident : [REDACTED]
Location of Incident : [REDACTED]

Dear Sir or Madam:

We have been retained to represent the family and estate of [REDACTED] who was killed as a result of a work-related accident that occurred in the elevator shaft at [REDACTED] 10452 on [REDACTED].

Under the provisions of the New York Freedom of Information Law, Article 6 of the Public Officers Law, I hereby request the **COMPLETE INVESTIGATION FILE** regarding the February 18, 2021 accident involving Joseph Rosa.

We also request records/documents or portions thereof pertaining to **COMPLAINTS, WORK ORDERS, MAINTENANCE RECORDS, INSPECTION RECORDS, VIOLATIONS, STOP WORK ORDERS, WITNESS STATEMENTS, SAFETY PLANS, REPAIR RECORDS and WORK PERMITS** with respect to the elevators at [REDACTED] for a period of three years prior to and including [REDACTED]. Additionally, I request any and all records in your possession regarding any elevator accident at the subject location between February 18, 2017 and February 18, 2021.

As you know, the Freedom of Information Law requires that an agency respond to a request within five business days of receipt of said request. Accordingly, please provide this office with a response to our request as soon as possible. In the event that a portion of our request is denied, please inform us of the reasons for the denial in writing and kindly provide the contact information of the person and/or entity to which we should direct our request.

Thank you for your assistance in regards to this matter. Should you have any questions, please do not hesitate to contact me directly.

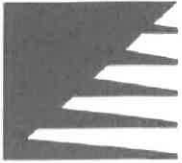
Regards,

ZAREMBA BROWN PLLC

Helina Manesis, Esq.
Partner

HM/ag





Helina Manesis, Esq.
Direct Line: 646-626-5851
E-mail: hmanesis@zarembabrown.com

March 30, 2021

Via Regular Mail
Occupational Safety & Health Administration
201 Varick Street, Room 670
New York, New York 10014

Decedent : [REDACTED]
Date of Incident : [REDACTED]
Location of Incident : [REDACTED]

FREEDOM OF INFORMATION LAW REQUEST
ACCESS TO PUBLIC RECORDS

To whom it may concern,

We have been retained to represent the family and estate of [REDACTED], who was killed as a result of a work-related accident that occurred in the elevator shaft at [REDACTED] [REDACTED] on [REDACTED]. In connection with this matter, please provide this office with the following under the Freedom of Information Law:

Copies of your complete investigation report(s), including, but not limited to:

- Any records obtained in connection with [REDACTED] incident;
- Any and all witness statements;
- Any and all elevator violations;
- Any and all photographs taken of the scene;
- Any documents referable to said investigation of an accident which involved [REDACTED] on [REDACTED] as an employee of [REDACTED] which occurred at the premises located at [REDACTED];
- Complete investigation report conducted by OSHA.

Thank you for your assistance in regards to this matter. Should you have any questions, please do not hesitate to contact me directly.

Regards,

ZAREMBA BROWN PLLC

Helina Manesis, Esq.
Partner

HM/ag



disclose the qualifications of each expert witness, including the curriculum vitae of each such witness; and (f) disclose a summary of the grounds of each expert's opinion.

DEFENSE MEDICAL EXPERT REPORTS

3) Copies of medical examination reports regarding defendant-designated physical, mental, vocational and/or other examinations of plaintiff.

SURVEILLANCE RECORDS

4) With regard to surveillance of the plaintiff, demand is hereby made for the following pursuant to CPLR § 3101(i) and the relevant case law. See, Tran v. New Rochelle Hospital Center, 99 N.Y.2d 383 (2003).

- a) Videotapes, films, movies, surveillance tapes, photographs and/or recordings of any type made by, or on behalf of, the defendants and/or their agents, servants, representatives, employees, investigators and/or claims departments;
- b) Name, address, business association and qualifications of the person(s) who made the surveillance recording(s), in addition to a statement as to the affiliation with which said person(s) has/had with the defendant(s);
- c) Exact amount of time during which the plaintiff was held under surveillance;
- d) Distance from which the surveillance was conducted;
- e) Location from which the surveillance was conducted;
- f) Location that was kept under surveillance;
- g) Total amount of time that the surveilling individual(s) and/or their agents spent waiting to obtain the surveillance materials;
- h) Names of all individuals who conducted the surveillance and who were present when the camera was recording;

- i) Statement as to the length of each surveillance recording in minutes, and the times during which the camera was recording;
- j) Make and model number of the camera;
- k) Type of film used, and the speed at which the films was shot;
- l) Manner in which the film was developed and by whom it was developed;
- m) Affirmation as to the custody of the film and/or videotape(s) and/or recording(s), and the location at which the item(s) was maintained from the time it was taken until the present time; and
- n) Statement as to how the plaintiff was identified by the person(s) who performed the surveillance, and whether any contact was made with the plaintiff.

PRIOR LAWSUITS AND INSURANCE CLAIMS

5) Copies of the claims made against the defendants during the applicable insurance policy period, the amount sought in each claim, and the total amounts paid out against the policy. *See Greenwald v. Eisman*, 502 N.Y.S.2d 56 (2nd Dept. 1986); *Kimbell v. Davis*, 438 N.Y.S.2d 860 (2nd Dept. 1981).

6) Names and captions of prior lawsuits brought against the defendant(s) in relation to work-site accidents/personal injuries. *See Davis v. Solondz*, 122 A.D.2d 401 (3rd Dept. 1986).

INSURANCE INFORMATION

7) Primary insurance agreement in which each defendant(s) is either a named insured or an additional named insured, and/or under which said agreement may apply to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse payments made to satisfy the judgment which may be had as against said defendant(s). Representations of coverage

are not acceptable and complete copies of the policies must be provided. *See Sprague v. IBM*, 120 A.D.2d 514 (2nd Dept. 1986); *Kimbell v. Davis*, 438 N.Y.S.2d 860 (2nd Dept. 1981).

8) The co-insurance agreement in which each defendant(s) is either a named insured or an additional named insured, and/or under which said agreement may apply to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse payments made to satisfy the judgment which may be had as against said defendant(s). Representations of coverage are not acceptable and complete copies of the policies must be provided. *See Sprague v. IBM*, 120 A.D.2d 514 (2nd Dept. 1986); *Kimbell v. Davis*, 438 N.Y.S.2d 860 (2nd Dept. 1981).

9) The excess insurance agreement in which each defendant(s) is either a named insured or an additional named insured, and/or under which said agreement may apply to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse payments made to satisfy the judgment which may be had as against said defendant(s). Representations of coverage are not acceptable and complete copies of the policies must be provided. *See Sprague v. IBM*, 120 A.D.2d 514 (2nd Dept. 1986); *Kimbell v. Davis*, 438 N.Y.S.2d 860 (2nd Dept. 1981).

10) The umbrella insurance agreement in which each defendant(s) is either a named insured or an additional named insured, and/or under which said agreement may apply to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse payments made to satisfy the judgment which may be had as against said defendant(s). Representations of coverage are not acceptable and complete copies of the policies must be provided. *See Sprague v. IBM*, 120 A.D.2d 514 (2nd Dept. 1986); *Kimbell v. Davis*, 438 N.Y.S.2d 860 (2nd Dept. 1981).

CONTRACTS

11) Contracts and/or other written agreements entered into by/with any defendants relative to the performance of any work, labor and/or services at the premises where plaintiff's

accident occurred, including those between any defendant and any owner, contractor, sub-contractor, safety company and/or other entity involved with construction, renovation and/or demolition at the subject premises.

OSHA RECORDS

12) Correspondence, reports and/or other writings received from and/or sent to the Occupational Safety and Health Administration (“OSHA”) relative to the subject accident.

13) Citations, violations and/or other writings or reports issued by the Occupational Safety and Health Administration (“OSHA”) relative to the subject accident.

14) OSHA Form 300 (Log of Work-Related Injuries and Illnesses) in which the subject accident was referenced.

15) OSHA Form 300A (Summary of Work-Related Injuries and Illnesses) for the calendar year of the subject accident and one year prior thereto.

16) OSHA Form 301 (Injury and Illness Incident Report) relating to the subject accident.

17) OSHA Safety Data Sheets pertaining to any hazardous chemicals involved in the subject accident.

WITNESSES

18) Name, address, phone number and employment status of any witness to the plaintiff’s accident, with last known address to be provided if said person was employed by any defendant on the date of the subject accident but is no longer so employed.

19) Name, address, phone number and employment status of any witness that has knowledge as to the manner and/or circumstances in which the plaintiff was injured, with last

known address to be provided if said person was employed by any defendant on the date of the subject accident but is no longer so employed.

20) Name, address, phone number and employment status of any witness to the alleged dangerous condition(s), with last known address to be provided if said person was employed by any defendant on the date of the subject accident but is no longer so employed.

21) Name, address, phone number and employment status of any witness to the plaintiff's alleged injuries and/or post-accident physical condition, with last known address to be provided if said person was employed by any defendant on the date of the subject accident but is no longer so employed.

22) Name, address, phone number and employment status of any person with knowledge of the acts, notice and/or conditions substantiating any affirmative defenses asserted by any defendants, with last known address to be provided if said person was employed by any defendant on the date of the subject accident but is no longer so employed.

23) Name, address, phone number and employment status of any person with knowledge of any of the liability, injuries and/or damages issues in this case, with last known address to be provided if said person was employed by any defendant on the date of the subject accident but is no longer so employed.

24) Complete name and address of all contractors and sub-contractors employed by each defendant as of the date of the subject accident, including any site safety contractors and onsite medics.

STATEMENTS

25) Written statements of the plaintiff relating to the subject accident.

26) All statements of the plaintiff relating to the subject accident, including those obtained from electronically recorded conversations.

27) Written statements by any of the parties relating to the subject accident, the alleged dangerous condition(s), the plaintiff's alleged injuries, and/or the plaintiff's post-accident physical condition.

28) Written statements of any witnesses to the subject accident.

29) Written statements of any witnesses to the alleged dangerous condition(s).

30) Written statements of any witnesses to the plaintiff's alleged injuries and/or post-accident physical condition.

31) State whether any statements, in any form, including those obtained by electronically recorded conversations, of any person who was either a witness to the subject accident or to any condition related to the subject accident, can no longer be independently obtained by the plaintiff due to the death, unavailability or other hardship of said witness. If so, such statements are to be produced.

32) Copy of any statement relating to any prior occurrences or claims reflected in any report from the Central Index Bureau ("CIB"), which report shall be provided in the same manner as if the original statement of the plaintiff were in the possession of the defendant(s) or its representatives.

33) All recorded conversations/statements between defendant(s) and his/her/its insurer regarding the subject accident. *See Sigelakis v. Washington Group, LLC*, 46 A.D.3d 800 (2nd Dept. 2007); *James v. Metro N.C. Railroad*, 166 A.D.2d 266 (1st Dept. 1990).

PHOTOGRAPHS AND VIDEOS

34) Duplicate digital copy of original progress photographs and/or photographs of the work being performed at the subject premises during the three (3) month period preceding and including the date of the subject accident.

35) Duplicate digital copy of original photographs relating to the subject accident, including the metadata pertaining to said photographs.

36) Duplicate digital copy of original photographs relating to the investigation of subject accident, including the metadata pertaining to said photographs.

37) Duplicate digital copy of original videos and/or surveillance footage relating to the subject accident, including the metadata pertaining to said videos and/or surveillance footage.

38) Duplicate digital copy of original videos and/or surveillance footage capturing the subject accident, including the metadata pertaining to said videos and/or surveillance footage.

39) Duplicate digital copy of original videos and/or surveillance footage relating to the investigation of the subject accident, including the metadata pertaining to said videos and/or surveillance footage.

40) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting the scaffold involved in the subject accident (if a scaffold was involved), for a period of three (3) months prior to and including the date of the subject accident.

41) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting the ladder involved in the subject accident (if a ladder was involved), for a period of three (3) months prior to and including the date of the subject accident.

42) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting the equipment, tools, machines and/or other instrumentalities

involved in the subject accident, for a period of three (3) months prior to and including the date of the subject accident.

43) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting the subject accident site, for a period of three (3) months prior to and including the date of the subject accident.

44) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting the work area and/or passageway in which the subject accident occurred, for a period of three (3) months prior to and including the date of the subject accident.

45) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting the plaintiff on the date of the subject accident.

46) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting any of the plaintiff's alleged injuries.

47) Duplicate digital copy of original photographs, videos and/or surveillance footage, including metadata, depicting the plaintiff at the subject job site, for a period of three (3) months prior to the subject accident up to the present.

48) State whether there are any photographs, videos, surveillance footage, blueprints, diagrams, sketches and/or notes of any conditions related to the subject accident which can no longer be independently obtained by the plaintiff due to a change in such conditions, as is commonly the case at construction sites. If so, such photographs, videos, surveillance footage, blueprints, diagrams, sketches and/or notes are to be produced.

NOTICE TO PRODUCE

49) Complete name of each person in the employ of each defendant who was present at the subject premises on the date of the subject accident, with last known addresses to be provided for those no longer employed.

50) Identity of the owner of the scaffold involved in the subject accident, if a scaffold was involved.

51) Identity of the company that erected the scaffold involved in the subject accident, if a scaffold was involved.

52) Identity of the owner of the ladder involved in the subject accident, if a ladder was involved.

53) Identity of the company that erected the ladder involved in the subject accident, if a ladder was involved.

54) Complete name of the following companies/entities as of the date of the subject accident:

- a) general contractor;
- b) prime contractor;
- c) construction manager;
- d) sub-contractors;
- e) site safety contractor; and
- f) onsite medic and/or medic company.

55) Complete name of the following individuals on behalf of each defendant, general contractor, prime contractor, construction manager, sub-contractor and site safety contractor, as of

the date of the subject accident, with last know addresses and employers to be provided for those no longer employed:

- a) foreman;
- b) assistant foreman;
- c) superintendent;
- d) assistant superintendent;
- e) project manager;
- f) project director;
- g) safety engineer;
- h) site safety manager; and
- i) onsite medic.

DOCUMENTS AND RECORDS

56) Daily work records, job reports, logbook entries and/or other written materials prepared and/or received in the ordinary course of business, detailing the daily work performed by each defendant at the subject premises during the three (3) month period preceding and including the date of the subject accident.

57) Construction permits, and applications related thereto, for the subject premises for a period of one (1) year prior to and including the date of the subject accident.

58) Logbook entries, daily work records, letters, memos, notes, emails and/or text messages referencing and/or pertaining to the subject accident.

59) Duplicate scalable digital copy of the original blueprints, engineering plans and/or shop drawings relating to the subject premises and the subject accident site, prepared by the defendant(s), furnished to the defendant(s) and/or in the possession of the defendant(s).

60) Notes, memos, handouts, sign-in sheets, syllabuses and/or other documents and materials pertaining to safety meetings held at the subject premises and/or relating to the subject work site, for six (6) months preceding and including the date of the subject accident.

61) Notes, memos, handouts, sign-in sheets, syllabuses and/or other documents and materials pertaining to any safety meeting(s) in which the subject accident was referenced and/or discussed.

62) Notes, memos, handouts, sign-in sheets, syllabuses and/or other documents and materials pertaining to progress meetings held at the subject premises and/or relating to the subject work site, for six (6) months preceding and including the date of the subject accident.

63) Notes, memos, handouts, sign-in sheets, syllabuses and/or other documents and materials pertaining to any progress meeting(s) in which the subject accident was referenced and/or discussed.

64) Notes, memos, handouts, sign-in sheets, syllabuses and/or other documents and materials pertaining to toolbox talks held at the subject premises and/or relating to the subject work site, for six (6) months preceding and including the date of the subject accident.

65) Notes, memos, handouts, sign-in sheets, syllabuses and/or other documents and materials pertaining to any toolbox talk(s) in which the subject accident was referenced and/or discussed.

66) Transcripts of the minutes of the safety meetings, progress meetings and/or toolbox talks held at the subject premises and/or relating to the subject work site, for six (6) months preceding and including the date of the subject accident.

67) Transcripts of the minutes of any safety meeting(s), progress meeting(s) and/or toolbox talk(s) in which the subject accident was referenced and/or discussed.

68) Repair, maintenance, safety and/or inspection records relating to the scaffold involved in the subject accident (if a scaffold was involved), for a period of six (6) months prior to and including the date of the subject accident.

69) Repair, maintenance, safety and/or inspection records relating to the ladder involved in the subject accident (if a ladder was involved), for a period of six (6) months prior to and including the date of the subject accident.

70) Repair, maintenance, safety and/or inspection records relating to the equipment, tools, machines and/or other instrumentalities involved in the subject accident, for a period of six (6) months prior to and including the date of the subject accident.

71) Repair, maintenance, safety and/or inspection records relating to the subject premises, for a period of six (6) months prior to and including the date of the subject accident.

72) Repair, maintenance, safety and/or inspection records relating to the subject accident site, for a period of six (6) months prior to and including the date of the subject accident.

73) Repair, maintenance, safety and/or inspection records relating to the work area in which the subject accident occurred, for a period of six (6) months prior to and including the date of the subject accident.

74) Repair, maintenance, safety and/or inspection records relating to the passageway in which the subject accident occurred, for a period of six (6) months prior to and including the date of the subject accident.

75) Documents, notes, emails, text messages, letters, memos and/or any other writings or records concerning any oral or written complaints about the condition or absence of the devices/equipment/tools/instrumentalities, or alternatives, involved in the subject accident, for a period of six (6) months prior to and including the date of the subject accident.

76) Documents, notes, emails, text messages, letters, memos and/or any other writings or records concerning any oral or written complaints about the subject accident site, work area and/or passageway in which the subject accident occurred, for a period of six (6) months prior to and including the date of the subject accident.

77) Safety manual, safety plan, safe work plan, site safety plan, job site safety program, health and safety manual and/or any other safety rules, regulations, policies and/or procedures relating to the subject work site in effect on the date of the subject accident, prepared by the defendant(s), furnished to the defendant(s) and/or in the possession of the defendant(s).

78) Task/job hazard analysis, reviews, and/or plans that applied to the work taking place at the time of the plaintiff's incident.

79) Meeting minutes or records from look-ahead meetings for 3 months before the subject incident.

80) Site-Specific Fall Protection Plan in effect on the date of the subject accident.

81) Safety reports, investigations and/or memoranda relating to the subject work site and/or the means of worker protection thereat, prepared by the defendant(s), furnished to the

defendant(s) and/or in the possession of the defendant(s), for a period of six (6) months prior to and including the date of the subject accident.

82) Citations, violations and/or other writings or reports provided to and/or issued by the NYC Department of Buildings in relation to the subject accident.

83) Citations, violations and/or other writings or reports provided to and/or issued by the NYC Department of Environmental Protection in relation to the subject accident.

84) Workers' Compensation C-3 Employee Claim Form relating to the subject accident.

85) Workers' Compensation C-2F Employer's Report of Injury Form relating to the subject accident.

86) Equipment list of each defendant, general contractor, prime contractor, construction manager, sub-contractor and site safety contractor with regard to the subject work site.

87) Construction specifications ("specs") pertaining to the subject work site and the work that was being performed on the date of the subject accident.

88) Site Safety Manager Log relating to the subject work site, for the period of thirty (30) days prior to and including the date of the subject accident.

89) Site Safety Manager Daily Report relating to the subject work site, for the period of thirty (30) days prior to and including the date of the subject accident.

90) Periodic progress reports prepared by, provided to and/or in the possession of any defendant, for the period of 30 days prior to and including the date of the subject accident.

91) Look Ahead Schedules prepared by, provided to and/or in the possession of any defendant, for the period of six (6) months prior to and including the date of the subject accident.

PLEASE TAKE FURTHER NOTICE, that the within is a continuing demand and that defendants' failure to comply herewith for any items presently unavailable but subsequently obtained will result in a motion to preclude same from production at the time of trial.

Dated: New York, New York
May 3, 2021

By:

ZAREMBA BROWN PLLC

A handwritten signature in black ink, appearing to read 'Helina Manesis', written over a horizontal line.

Helina Manesis, Esq.
Attorneys for Plaintiff
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New York, New York 10005
(212) 380-6700