

STATE OF NEW YORK  
COURT OF CLAIMS

DEC 10 2018

THOMAS RIVENBURG and DONNA RIVENBURG,  
as Co-Administrators of the Estate of  
AMANDA R. RIVENBURG,

OFFICE OF LEGAL RECORDS  
ALBANY, NEW YORK 12224

Claimants,

**NOTICE OF INTENTION  
TO FILE A CLAIM**

-against-

STATE OF NEW YORK,  
NEW YORK STATE DEPARTMENT  
OF TRANSPORTATION, and NEW YORK  
STATE DEPARTMENT OF MOTOR VEHICLES,

Defendants.

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**TO: Attorney General, State of New York  
Office of the Attorney General  
2<sup>nd</sup> Floor, Justice Building  
Empire State Plaza  
Albany, New York 12224**

**PLEASE TAKE NOTICE**, that Claimants Thomas Rivenburg and Donna Rivenburg, as Co-Administrators of the Estate of Amanda Rivenburg, by and through their attorneys, Girvin & Ferlazzo, P.C., intend to file a Claim against the State of New York pursuant to Sections 10 and 11 of the Court of Claims Act seeking economic and non-economic damages for injuries and/or losses sustained by Claimants arising out of and by reason of the facts and particulars set forth below:

**1. The Names and Post Office Addresses of Claimants and Their Attorney:**

The post office address of Claimant Thomas Rivenburg, Co-Administrator of the Estate of Amanda R. Rivenburg, is 342 Shaker Run, Albany, New York 12205. The post office address of Claimant Donna Rivenburg, Co-Administrator of the Estate of Amanda R. Rivenburg, is 732 Best Road, West Sand Lake, New York 12196. The name and post office address of Claimants'

attorney is Salvatore D. Ferlazzo, Esq., Girvin & Ferlazzo, P.C., 20 Corporate Woods Blvd., Albany, New York 12211.

**2. The Time When and Place Where Such Claim Arose:**

The Claim arises from a motor vehicle accident which occurred on Saturday, October 6, 2018, at approximately 1:55 p.m., at the intersection of State Route 30 and State Route 30A in the Town of Schoharie, County of Schoharie, State of New York.

**3. The Nature of the Claim**

The Claim seeks to recover money damages for serious personal injuries to, and the subsequent death of, Amanda R. Rivenburg which resulted from a motor vehicle accident occurring on October 6, 2018, and which was caused, in whole or in part, by the negligent acts and/or omissions of Defendant State of New York, its agencies, departments, officers, employees, and/or agents.

Immediately prior to the October 6, 2018 accident, Amanda Rivenburg was one of eighteen (18) passengers (including the driver) travelling in a modified 2001 Ford Excursion limousine ("limousine") in a southwest direction on State Route 30 and approaching the intersection of State Route 30 and State Route 30A in the Town of Schoharie, County of Schoharie, State of New York. The intersection of State Route 30 and State Route 30A is controlled by a stop sign requiring vehicles travelling on State Route 30 to come to a stop before entering the intersection. The motor vehicle accident occurred when the driver of the limousine in which Ms. Rivenburg and others were riding as passengers failed to stop and/or or was unable to come to a stop at the intersection of State Route 30 and State Route 30A, causing the

limousine to enter and travel completely through the intersection, proceed through the driveway and parking lot of an Apple Barrel Country Store located across the street from the intersection, strike a parked vehicle in the parking lot, and crash into a ravine before coming to a stop. As a result of the motor vehicle accident, Amanda Rivenburg sustained serious personal injuries, which injuries subsequently resulted her death.

The subject motor vehicle accident and the resulting personal injuries to, and the subsequent death of, Amanda R. Rivenburg, were caused, in whole or in part, by the negligent acts and/or omissions of Defendant State of New York, its agencies, departments, officers, employees, and/or agents in failing to keep State Route 30 and the intersection of State Route 30 and State Route 30A in a reasonably safe condition for travel by the public, and in permitting such roadways to be and remain in a defective, unsafe, hazardous, and/or dangerous condition, including but not limited to:

a. in negligently designing, planning, laying out, constructing, and/or reconstructing the subject highways and intersection without having conducted an adequate traffic plan and study;

b. in negligently designing, planning, laying out, constructing, and/or reconstructing Route 30 so as to have a steep downhill grade and slope as it approaches the intersection with Route 30A;

c. in negligently designing, planning, laying out, constructing, and/or reconstructing Route 30 so as to curve to the left as it approaches the intersection with Route 30A, thereby limiting the sight distance of vehicles approaching said intersection;

d. in negligently posting and maintaining an excessive and unsafe speed limit on Route 30 as it approaches the intersection with Route 30A, taking into consideration, inter alia,

the steep downhill grade and slope of the highway, the curvature of the highway, the limited sight distance of vehicles approaching said intersection, the weight and size of vehicles permitted to travel on said highway, and other considerations;

e. in negligently failing to design and install reasonable safety devices and features to reduce and/or prevent the risk of harm to the occupants of vehicles unable to come to a stop at the intersection of State Route 30 and State Route 30A, such as a runaway vehicle ramp or similar feature;

f. in negligently failing to post and maintain adequate and appropriate signage, warnings, and/or traffic control devices on the subject roadways and intersection;

g. in negligently failing to limit the size, class, weight, and length of vehicles permitted to travel on said highways in light of the features and conditions of said highways;

h. in negligently failing to identify and remove and/or eliminate roadside features presenting a hazard to vehicles leaving the subject highways and intersection;

i. in negligently failing to inspect, study and/or review the design, plan, and lay out of the subject highways and intersection following its construction and/or reconstruction in light of actual operation;

j. in negligently creating defective, unsafe, hazardous, and/or dangerous conditions with respect to the subject highways and intersection;

k. in negligently permitting the subject highways and intersection to remain in a defective, unsafe, hazardous, and/or dangerous condition despite actual and/or constructive notice thereof;

l. in negligently permitting the subject highways and intersection to be used for public travel notwithstanding their defective, unsafe, hazardous, and/or dangerous condition; and/or

m. in negligently failing to timely remedy and correct the defective, unsafe, hazardous, and/or dangerous condition of the subject highways and intersection despite actual and/or constructive notice thereof;

The subject motor vehicle accident and the resulting personal injuries to, and the subsequent death of, Amanda R. Rivenburg, were further caused, in whole or in part, by the negligent acts and/or omissions of Defendant State of New York, its agencies, departments, officers, employees, and/or agents, in failing to perform and discharge a special duty owed to Amanda Rivenburg and the other passengers traveling in the modified 2001 Ford Excursion limousine on October 6, 2018, to exercise reasonable care in discharging its statutory and regulatory functions relating to the inspection and/or certification of the subject vehicle, including but not limited to in failing to ensure that the subject vehicle was fit for safe operation on public highways; in permitting the subject vehicle to remain in service despite the vehicle having failed prior inspections, including one conducted in September, 2018; in allowing the subject vehicle to be and remain available for-hire by the public; in failing to take affirmative action to prevent the use and/or operation of the subject vehicle while unfit for safe operation on public highways; in failing to appropriately warn the public of the unsafe condition of the subject vehicle; and in failing to suspend and/or revoke the registration issued for the subject vehicle.

**4. The Items of Damage or Injuries Claimed**

By reason of the negligence of Defendants, the following items of damage or injuries are claimed: pre-impact terror; fear of impending death; multiple personal injuries; conscious pain and suffering; wrongful death; economic loss; related expenses and costs. Claimants seek to recover money damages for pain and suffering, wrongful death, economic and non-economic damages, and all other injuries and losses sustained.

Dated: December 10, 2018

GIRVIN & FERLAZZO, P.C.  
Attorneys for Claimants

By: 

Salvatore D. Ferlazzo, Esq.

Office and P.O. Address

20 Corporate Woods Boulevard  
Albany, New York 12211

T: (518) 462-0300

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E: [sdf@girvinlaw.com](mailto:sdf@girvinlaw.com)

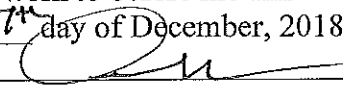
VERIFICATION

STATE OF NEW YORK    )  
  ) S.S.:  
COUNTY OF ALBANY    )

THOMAS RIVENBURG, being duly sworn, deposes and says that deponent is one of the Claimants identified in the above Notice of Intention to File a Claim; that he has read the foregoing Notice of Intention to File Claim and knows the contents thereof; that the same is true to his own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, he believes them to be true.

  
\_\_\_\_\_  
THOMAS RIVENBURG

Sworn to before me this  
6<sup>th</sup> day of December, 2018

  
\_\_\_\_\_  
Notary Public-State of New York

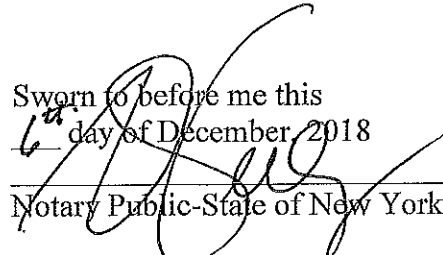
**CHRISTOPHER P. LANGLOIS**  
Notary Public, State of New York  
Reg. No. 02LA6368054  
Qualified in Albany County  
Commission Expires December 4, 2021

STATE OF NEW YORK    )  
  ) S.S.:  
COUNTY OF ALBANY    )

DONNA RIVENBURG, being duly sworn, deposes and says that deponent is one of the Claimants identified in the above Notice of Intention to File a Claim; that she has read the foregoing Notice of Intention to File Claim and knows the contents thereof; that the same is true to her own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters, she believes them to be true.

  
\_\_\_\_\_  
DONNA RIVENBURG

Sworn to before me this  
6<sup>th</sup> day of December, 2018

  
\_\_\_\_\_  
Notary Public-State of New York

**SALVATORE D. FERLAZZO**  
Notary Public, State of New York  
No. 4792412  
Qualified in Albany County  
Commission Expires November 30, 2021