

September 11, 2025

***VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED***

Erie County
Attn: Property Damage Department
Edward A. Rath County Office Building
95 Franklin Street
Buffalo, New York, 14202

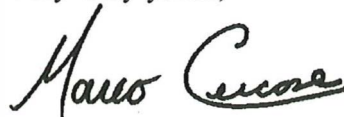
Erie County Water Authority
Ellicott Square Building
295 Main Street, Room 350
Buffalo, New York, 14203

Dear Sir or Madam:

Re: Notice of Claim Relative to Storage Tank Refurbishing
Projects Contracts W-034A, W-034B, and W-035A
Our File No.:14508.41477

This office has been retained to represent Amstar of Western New York, Inc. (“Amstar”). As Amstar now is represented by counsel, any future communications relating to this matter should be directed to the undersigned. Enclosed for service, please find Amstar’s notice of claim directed to Erie County and the Erie County Water Authority. Should you have any questions, please contact the undersigned directly.

Very truly yours,



Marco Cercone

/bms

Enclosure

IN THE MATTER OF THE CLAIM OF:

AMSTAR OF WESTERN NEW YORK, INC.

Claimant,

v.

NOTICE OF CLAIM

ERIE COUNTY WATER AUTHORITY, and
ERIE COUNTY,

RESPONDENTS.

TO: ERIE COUNTY WATER AUTHORITY and
ERIE COUNTY (collectively "Erie County")

PLEASE TAKE NOTICE that Rupp Pfalzgraf LLC, on behalf of the claimant, Amstar of Western New York, Inc. ("Amstar"), hereby makes claim and demand against Erie County as follows:

1. Amstar's post-office address is 825 Rein Road, Cheektowaga, New York, 14225.
2. Amstar's attorney is Marco Cercone, Esq., of Rupp Pfalzgraf LLC, with a post-office address at 1600 Liberty Building, 424 Main Street, Buffalo, New York, 14202.

3. Amstar's claim is grounded in negligence with respect to Erie County's improper selection and/or imposition of specifications and/or its failure to exercise the necessary diligence with respect to the project outlined below. By way of context, during the approximate time period of March 2022 through March 2024, Erie County awarded Amstar multiple contracts for comprehensive storage tank refurbishing work at various locations including Gartman, Chestnut Ridge, Sturgeon Point, and Clearwells facilities. Erie County's specifications, among other things, required Amstar to use Sikaflex 1A caulk manufactured by Sika Corporation. Amstar fully complied with ECWA's specifications. Following Amstar's completion of the specified work (which ECWA raised no issues with upon completion), in or around September 2024, ECWA performed an inspection that revealed a grey powdery substance on the steel tank floors. After initial testing to ensure the substance was not hazardous, further analysis confirmed that the substance was deteriorated Sikaflex 1A caulk. Thereafter, Erie County alleged that Amstar breached its warranty and demanded that Amstar, at its own expense, remediate all five tanks that it utilized Sika caulk on despite the fact that Erie County required Amstar to use Sika caulk and Erie County raised no issue with Amstar's workmanship at the time that the work originally was completed¹. This is memorialized in ECWA's March 31, 2025 letter. To date, Amstar, despite raising its objection to Erie County's characterization of events, in an effort to protect public health and preserve its business relationship with Erie County has remediated four of the five tanks to Erie County's satisfaction. At this juncture, Amstar has incurred damages in an amount no less than \$400,000 and this figure likely will surpass \$500,000 if further work is required, in addition to its lost revenue / opportunities incurred by way of its aforementioned remediation efforts.

¹ For context, the five tanks at issue are as follows: Contract W-034A (Rice Hill Tank and Wohlhueter Road Tank), Contract W-034B (Cole Road Tank and Eden 4 Tank), and Contract W-035A (Gartman Road Tank).

4. Upon information and belief, the incident described herein and resulting damages sustained by Amstar were caused as a result of the negligence, carelessness, recklessness, acts, omissions, and/or unlawful conduct on the part of the agents, servants, and/or employees of the Erie County, and more particularly, among other things, in failing properly to exercise the necessary diligence in the vetting, selection, and/or imposition of specifications for the work referenced in the preceding paragraph (i.e., the required application of Sika caulking which ultimately failed through no fault of Amstar).


5. It is alleged the incident described herein occurred without any negligence or carelessness on the part of Amstar and/or its representatives.

WHEREFORE, Amstar requests that Erie County honor and pay Amstar's claim. Erie County hereby is notified that unless it is adjusted and paid within the time provided by law from the date of presentation, the claimant intends to commence a lawsuit on this claim, together with interests, costs, and disbursements.



Marco Cercione, Esq.

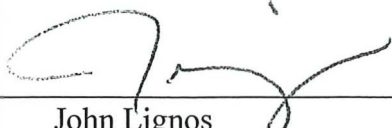
Sworn to before me this
10th day of September 2025


Notary Public

BRANDON MICHAEL SNYDER
Notary Public, State of New York
Erie County, No. 01SN6360816
My Commission Expires 06/26/2029

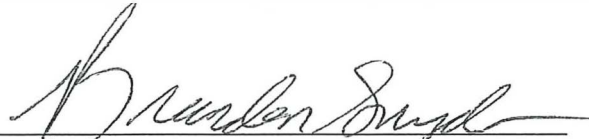
STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

I, John Lignos, being duly sworn, deposes and says that I am an owner and a representative of Amstar. I have read the foregoing notice of claim and know the contents thereof. The contents are true to my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.



John Lignos

Sworn to before me this
10th day of September 2025.



Notary Public

BRANDON MICHAEL SNYDER
Notary Public, State of New York
Erie County, No. 01SN6360816
My Commission Expires 06/26/2029