

State of New York Court of Appeals

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 44 SSM 1
David J. Lemieux,
Appellant,
v.
Alton E. Horn et al.,
Respondents.

Aaron D. Fine, for appellant.
James W. Cunningham, for respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. The Appellate Division correctly concluded that defendant established prima facie entitlement to summary judgment and plaintiff failed to raise a triable issue of fact whether he suffered a serious injury within the meaning of Insurance Law § 5102 (d) as a result of the accident (*see Pommells v Perez*, 4 NY3d 566, 573-575 [2005]; *Franchini v Palmieri*, 1 NY3d 536, 537 [2003]). Acting Chief Judge Cannataro and Judges Rivera, Garcia, Wilson, Singas and Troutman concur.

Decided March 16, 2023