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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 233 SSM 39  
Rafael Batista,  
Appellant,  
v.  
Manhattanville College, et al.,  
Respondents,  
The Female Academy of the Sacred  
Heart,  
Defendant.

Submitted by Brian J. Isaac, for appellant.  
Submitted by Robert A. Lifson, for respondent  
Manhattanville College.  
Submitted by Thomas J. Burke, for respondent TJR, Inc.

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On review of submissions pursuant to section 500.11 of the Rules,  
order, insofar as appealed from, modified, without costs, by  
granting plaintiff's motion for partial summary judgment on the  
issue of liability on his Labor Law § 240(1) claim against  
defendants Manhattanville College and TJR, Inc. and, as so  
modified, affirmed, and certified question answered in the  
negative. Defendants failed to raise a triable issue of fact  
whether the plaintiff was the sole proximate cause of his  
accident (see Barreto v Metropolitan Transp. Auth., 25 NY3d 426,  
433-434 [2015]). Chief Judge DiFiore and Judges Pigott, Rivera,  
Abdus-Salaam, Stein, Fahey and Garcia concur.

Decided December 20, 2016