

State of New York Court of Appeals

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

No. 38 SSM 29
Karen L. Battaglia,
Appellant,
v.
MDC Concourse Center, LLC,
et al.,
Respondents.

Submitted by John A. Collins, for appellant.
Submitted by Kelly J. Philips, for respondents MDC Concourse Center, LLC et al.
Submitted by Kevin E. Loftus, for respondent R. D. Trucking & Transportation, Inc.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. In this context, defendants MDC Concourse Center, LLC; McGuire Development Company, LLC; Maguire Management Company, LLC; and R.D. Trucking & Transportation, Inc. established prima facie their entitlement to judgment as a matter of law by “submitting uncontroverted evidence that a storm was ongoing at the time of [plaintiff]’s fall” (Sherman v New York State Thruway Auth., 27 NY3d 1019, 1021 [2016]). In opposition, plaintiff failed to raise a triable question of fact. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided February 18, 2020