

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D54599  
I/htr

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Argued - November 2, 2017

REINALDO E. RIVERA, J.P.  
JEFFREY A. COHEN  
SYLVIA O. HINDS-RADIX  
VALERIE BRATHWAITE NELSON, JJ.

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2017-00744

DECISION & ORDER

Christopher J. Smith, respondent, v Nelson Y.  
Fuentes, appellant.

(Index No. 609174/16)

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Russo & Tambasco, Melville, NY (Yamile R. Al-Sullami and Christopher M. Gavin of counsel), for appellant.

Rosenberg & Gluck, LLP, Holtsville, NY (Erin M. Hargis and Megan Mackenzie of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Suffolk County (Baisley, Jr., J.), dated January 13, 2017, which granted the plaintiff's motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

The plaintiff established his prima facie entitlement to judgment as a matter of law on the issue of liability by demonstrating that the sole proximate cause of the subject accident was the defendant's violation of Vehicle and Traffic Law § 1141 in making a left turn when it was not reasonably safe to do so, directly into the path of the plaintiff's oncoming vehicle (*see Mei-Hua Gao v Makrinos*, 147 AD3d 747, 747; *Attl v Spetler*, 137 AD3d 1176, 1176-1177; *Ducie v Ippolito*, 95 AD3d 1067, 1067). In opposition, the defendant failed to raise a triable issue of fact as to whether the plaintiff was comparatively at fault in the happening of the accident (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324).


The defendant's remaining contention that the plaintiff's motion was premature is

without merit.

Accordingly, the Supreme Court properly granted the plaintiff's motion for summary judgment on the issue of liability.

RIVERA, J.P., COHEN, HINDS-RADIX and BRATHWAITE NELSON, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court