

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**852**

**CA 15-00121**

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, TROUTMAN, AND SCUDDER, JJ.

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MANFRED SACHS, CLAIMANT-APPELLANT,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK, DEFENDANT-RESPONDENT.  
(CLAIM NO. 122079.)

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MANFRED SACHS, CLAIMANT-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (LAURA ETLINGER OF COUNSEL), FOR DEFENDANT-RESPONDENT.

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Appeal from a judgment of the Court of Claims (Michael E. Hudson, J.), entered November 21, 2014. The judgment dismissed the claim against defendant.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Claimant commenced this action seeking, inter alia, damages for injuries he sustained as a result of allegedly improper medical treatment that he received at the correctional facilities where he was incarcerated. Contrary to claimant's contention, the Court of Claims properly granted defendant's motion to dismiss at the close of claimant's proof at trial based upon his failure to present any expert medical evidence (*see McDonald v State of New York*, 13 AD3d 1199, 1200). Issues concerning whether the treatment deviated from the accepted standard of care and whether it caused injuries are not "matters within the ordinary experience and knowledge of laypersons" (*Mosberg v Elahi*, 80 NY2d 941, 942; *see Abascal v State of New York*, 93 AD3d 1216, 1217, *lv denied* 19 NY3d 805). We reject claimant's contention that the claim sounds in ordinary negligence. Rather, we conclude that the claim is substantially related to medical diagnosis and treatment, and thus that "the action it gives rise to is by definition one for medical malpractice" (*McDonald*, 13 AD3d at 1200 [internal quotation marks omitted]; *see Weiner v Lenox Hill Hosp.*, 88 NY2d 784, 787-788).

Entered: October 7, 2016

Frances E. Cafarell  
Clerk of the Court