

# State of New York Court of Appeals

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

No. 76 SSM 2  
Erie Insurance Exchange,  
Appellant,  
v.  
J.M. Pereira & Sons, Inc.,  
et al.,  
Respondents.

Submitted by Dan D. Kohane, for appellant.  
Submitted by Robert D. Hooks, for respondent J.M. Pereira & Sons, Inc.  
Submitted by Matthew J. Schenker, for respondent RPC, Inc.  
Respondents Vega et al., precluded.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. Plaintiff failed to establish, as a matter of law, that the "loss was unambiguously excluded from the coverage of [the] policy" (Pioneer Tower Owners Assn. v State Farm Fire & Cas. Co., 12 NY3d 302, 307 [2009]). Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided March 22, 2018