

# 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. 29 SSM 19  
Min Zhong,  
Appellant,  
v.  
Peter J. Matranga,  
Respondent.

Submitted by Brian J. Isaac, for appellant.  
Submitted by Arlene E. Lewis, for respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. In response to defendant's prima facie showing of entitlement to summary judgment, plaintiff failed to raise a triable issue of material fact (*see Heltz v Barratt*, 24 NY3d 1185, 1187 [2014]; *Green v Mower*, 100 NY2d 529, 530 [2003]). Acting Chief Judge Cannataro and Judges Garcia, Wilson, Singas and Troutman concur. Judge Rivera dissents and votes to reverse and deny defendant's motion for summary judgment, for reasons stated in so much of the dissenting opinion by Justice Peter H. Moulton as concluded that, assuming defendant made out a prima facie case in support of his motion for summary judgment, plaintiff raised triable issues of material fact warranting denial of the motion (*see Min Zhong v Matranga*, 208 AD3d 439, 444-445 [Moulton, J. dissenting]).

Decided February 9, 2023