

# State of New York Court of Appeals

---

## MEMORANDUM

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

No. 72 SSM 38

Robert Gerrish,  
Respondent,

v.

56 Leonard LLC, et al.,  
Appellants,  
et al.,  
Defendant.

Submitted by Jason L. Beckerman, for appellants.  
Submitted by Scott N. Singer, for respondent.  
Real Estate Board of New York, amicus curiae.

### MEMORANDUM:

The order of the Appellate Division should be affirmed, with costs, and the certified question answered in the affirmative. Liberally construing the complaint, presuming the facts alleged to be true and affording plaintiff the benefit of all favorable inferences, the complaint states a cause of action and defendants' documentary evidence does not

establish, as a matter of law, that the work site where plaintiff's injury occurred was not a construction area in accordance with Labor Law § 241 (6).

\* \* \* \* \*

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur. Judge Feinman took no part.

Decided February 20, 2018