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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 146 SSM 30  
Jessica Torres,  
Respondent,  
v.  
Irene G. Cergnul, M.D., et al.,  
Appellants,  
New York City Health and  
Hospitals Corporation, et al.,  
Defendants.

Submitted by Steven C. Mandell, for appellants.  
Submitted by Carl B. Tegtmeier, for respondent.

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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. Defendants Irene G. Cergnul, M.D. and Bronx-Lebanon Hospital Center did not preserve for our review their argument concerning the admissibility of the expert affidavit submitted by plaintiff in opposition to their motion for summary judgment. Moreover, defendant Bronx-Lebanon Hospital Center has abandoned any other argument. On this record, triable questions of fact preclude summary judgment in favor of defendants. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur. Judge Garcia dissents and votes to reverse and answer the certified question in the negative, for reasons stated in the dissenting opinion by Justice Andrias at the Appellate Division (146 AD3d 509, at 512-522).

Decided December 12, 2017