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

No. 178 SSM 18
Louise DiGiulio, &c.,
Appellant,
v.
Gran, Inc., &c., et al.,
Respondents.
(And a third-party action.)

Submitted by David S. Gould, for appellant.
Submitted by Douglas S. Langholz, for respondents.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs.

Assuming arguendo that General Business Law § 627-a
implicitly created a duty for defendants to use the automated

external defibrillator (AED) the section required them to provide at their facility, plaintiff cannot recover because she failed to raise a triable issue of fact demonstrating that defendants' or their employees' failure to access the AED was grossly negligent (see General Business Law § 627-a [3]; Public Health Law § 3000-a). Defendants also did not breach any common-law duty to render aid to the decedent.

Plaintiff's remaining contention lacks merit.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided June 14, 2011