

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**446**

**CA 17-01962**

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, CURRAN, AND TROUTMAN, JJ.

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CARMEN VEGA, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

SHERRY M. CRANE, ADMINISTRATOR OF THE ESTATE OF  
COLLIN WARD CRANE, DECEASED, JEFFREY CRANE,  
DEFENDANTS-APPELLANTS,  
ET AL., DEFENDANT.  
(APPEAL NO. 1.)

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CHELUS, HERDZIK, SPEYER & MONTE, P.C., BUFFALO (MICHAEL J. CHMIEL OF  
COUNSEL), FOR DEFENDANTS-APPELLANTS.

FARACI LANGE, LLP, ROCHESTER (CAROL A. MCKENNA OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Genesee County (Emilio L. Colaiacovo, J.), entered February 10, 2017. The order, insofar as appealed from, granted that part of the cross motion of plaintiff for partial summary judgment on negligence against defendants Sherry M. Crane, as administrator of the estate of Collin Ward Crane, deceased, and Jeffrey Crane.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Plaintiff commenced this action alleging that she sustained a serious injury as defined by Insurance Law § 5102 (d) in a motor vehicle accident as a result of the negligence of decedent, Collin Ward Crane. Contrary to the contention of Sherry M. Crane, as administrator of decedent's estate, and Jeffrey Crane (defendants), Supreme Court properly granted that part of plaintiff's cross motion seeking partial summary judgment on negligence against them. The accident reconstruction report, which was submitted by plaintiff in support of the cross motion, established that decedent's vehicle " `crossed the center line of the highway and struck [plaintiff's] vehicle,' " and, in opposition, defendants failed to provide evidence of a nonnegligent explanation for the collision (*Graham v Gerow*, 126 AD3d 1549, 1549 [4th Dept 2015]; see *Levi v Benyaminova*, 128 AD3d 779, 780 [2d Dept 2015]).

Entered: May 4, 2018

Mark W. Bennett  
Clerk of the Court