

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

1122

CA 11-00320

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND LINDLEY, JJ.

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COLLEEN O'BRIEN, PLAINTIFF-RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

LARRY J. BAINBRIDGE AND FEDEX GROUND PACKAGE  
SYSTEM, INC., DEFENDANTS-APPELLANTS-RESPONDENTS.  
(APPEAL NO. 1.)

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BURDEN, GULISANO & HICKEY, LLC, BUFFALO (SARAH HANSEN OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS-RESPONDENTS.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (JOHN A. COLLINS OF COUNSEL),  
FOR PLAINTIFF-RESPONDENT-APPELLANT.

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Appeal and cross appeal from an order of the Supreme Court, Erie  
County (Timothy J. Drury, J.), entered September 14, 2010 in a  
personal injury action. The order denied the motion of defendants for  
summary judgment dismissing the complaint and denied the cross motion  
of plaintiff for partial summary judgment on the issue of serious  
injury.

It is hereby ORDERED that said appeal from the order insofar as  
it denied defendants' motion is unanimously dismissed and the order is  
affirmed without costs.

Same Memorandum as in *O'Brien v Bainbridge* ([appeal No. 2] \_\_\_\_  
AD3d \_\_\_\_ [Nov. 18, 2011]).

Entered: November 18, 2011

Patricia L. Morgan  
Clerk of the Court