

**MOTION NO. (782/12) CA 11-02291. -- WINIFRED K. DAY, PLAINTIFF-RESPONDENT,
V ONE BEACON INSURANCE, DEFENDANT-APPELLANT.** -- Motion for reargument of
the appeal is granted in part and, upon reargument, the memorandum and
order entered June 29, 2012 (96 AD3d 1678) is amended by deleting the
phrase "dismissing the amended complaint" from the second sentence of the
order and the second sentence of the third paragraph of the memorandum, and
by deleting the phrase "the amended complaint is dismissed" from the
ordering paragraph and substituting in place thereof "the first and second
causes of action of the amended complaint are dismissed"; and the motion
insofar as it sought in the alternative leave to appeal to the Court of
Appeals is denied. PRESENT: SCUDDER, P.J., SMITH, FAHEY, LINDLEY, AND
MARTOCHE, JJ. (Filed Oct. 5, 2012.)