

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BEATRICE McINTOSH,

Plaintiff,

- against -

SUPERIOR BULK LOGISTICS, INC. and
RICHARD E. JOHNSON,

Defendants.

ORDER

10-CV-3144

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ FEB 23 2012 ★

BROOKLYN OFFICE



JACK B. WEINSTEIN, United States District Judge:

Having been hurt in an auto accident, plaintiff sues for physical injuries. Defendants move for summary judgment on the grounds that the damage caused was not serious and that plaintiff was not prevented from performing her customary daily activities for not less than 90 days during the 180 days immediately following the incident.

A critical witness is treating physician Dr. Denny Rodriguez. His records should have been produced by plaintiff and made available to defendants by the close of discovery on August 31, 2011. To permit a sound decision on the merits, discovery is reopened so that Dr. Rodriguez's deposition can be promptly taken at plaintiff's expense, including cost of the transcript.

The motion for summary judgment is denied, but should be promptly renewed by defendants on the present papers, as supplemented by additional information obtained as a result of Dr. Rodriguez's deposition.

SO ORDERED.

Jack B. Weinstein
Senior United States District Judge

Date: February 22, 2012
Brooklyn, New York