

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

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CA 13-00341

PRESENT: FAHEY, J.P., PERADOTTO, LINDLEY, SCONIERS, AND WHALEN, JJ.

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BROWN & BROWN, INC. AND BROWN & BROWN OF NEW  
YORK, INC., PLAINTIFFS-RESPONDENTS,

V

OPINION AND ORDER

THERESA A. JOHNSON AND LAWLEY BENEFITS GROUP, LLC,  
DEFENDANTS-APPELLANTS.  
(APPEAL NO. 2.)

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PHILLIPS LYTLE LLP, BUFFALO (PRESTON L. ZARLOCK OF COUNSEL), FOR  
DEFENDANTS-APPELLANTS.

WARD GREENBERG HELLER & REIDY LLP, ROCHESTER, LITTLER MENDELSON, P.C.,  
NEW YORK CITY (DAVID S. WARNER OF COUNSEL), FOR  
PLAINTIFFS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (John A. Michalek, J.), entered January 10, 2013. The order, among other things, granted the motion of plaintiffs for leave to reargue and, upon reargument, reinstated that part of plaintiffs' first cause of action alleging that defendant Theresa A. Johnson breached the employee non-inducement covenant in her Employment Agreement.

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

Same Opinion by WHALEN, J. as in *Brown & Brown, Inc. v Johnson, et al.* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [Feb. 7, 2014]).

Entered: February 7, 2014

Frances E. Cafarell  
Clerk of the Court