

**Shapiro v Riverspring Licensed Home Care Servs.**

2025 NY Slip Op 32238(U)

June 17, 2025

Supreme Court, New York County

Docket Number: Index No. 805235/2021

Judge: Kathy J. King

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. KATHY J. KING PART 06**

*Justice*

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NATHANIEL SHAPIRO, AS EXECUTOR OF THE LAST  
WILL AND TESTAMENT OF HILDA SALORT, DECEASED,  
and NATHANIEL SHAPIRO, PERSONALLY,

Plaintiffs,

INDEX NO. 805235/2021

MOTION DATE 03/13/2025

MOTION SEQ. NO. 006

- v -

RIVERSPRING LICENSED HOME CARE SERVICES  
AGENCY INC., FIFTY FIRST CAPITOL ASSOCIATES,  
FIFTY FIRST CAPITOL CORP., MULTIFAMILY  
MANAGEMENT SERVICES LLC, SANDY PERSAUD, and  
ANGELA KNIGHT,

Defendants.

**DECISION + ORDER ON  
MOTION**

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RIVERSPRING LICENSED HOME CARE SERVICES  
AGENCY INC., and ANGELA KNIGHT

Plaintiffs,

Third-Party  
Index No. 595604/2022

-against-

BNV HOME CARE AGENCY, INC.

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 006) 117, 118, 119, 120,  
121, 122, 123, 124, 125, 126, 128, 129, 132

were read on this motion to/for DISMISSAL.

Upon the foregoing documents, and oral arguments having been heard, the  
Defendants/third-party Plaintiffs, “ELDERSERVE HEALTH INC. d/b/a RIVERSPRING AT  
HOME” s/h/a “RIVERSPRING LICENSED HOME CASE SERVICES AGENCY, INC. d/b/a  
RIVERSPRING AT HOME” and ANGELA KNIGHT, move for an order:

- 1) Pursuant to CPLR §3126(2) and (3), dismissing plaintiff's action in its entirety for his willful and contumacious failure to comply with the Compliance Conference Orders, dated November 30, 2023, May 2, 2024, June 30, 2024, and December 12, 2024, and failure to respond to defendants' demands for discovery; or, alternatively,
- 2) Pursuant to CPLR §3126(2), precluding plaintiff from offering evidence against defendants at trial or submitting affidavits in response to any dispositive motions, due to failure to comply with discovery demands; or, alternatively,
- 3) Pursuant to CPLR §§3126 and 3124, compelling plaintiff to provide the discovery by a date certain and automatically dismissing the Complaint and directing the Clerk to enter judgment accordingly if plaintiff fails to do so.

The Plaintiff opposes.

Defendants' motion is granted in part and denied in part as set forth herewith.

The record indicates that good faith communications were sent by defendants via email on May 4, 2022, via voicemail on or about August 2, 2022, and via letter on or about October 3, 2022, and November 9, 2022, in an effort to obtain outstanding discovery, which include a demand for authorizations unrestricted in time. Further, Defendants served an additional Demand for Authorizations on or about February 15, 2023. However, the Plaintiff pro-offered evidence showing his attempts to respond to the outstanding discovery and correct the outstanding HIPAA authorizations requested by the Defendants. Thus, the Court compels the Plaintiff to provide the remaining HIPAA authorizations as discussed during oral arguments with opposing counsel and the Court.

In its discovery motion, the Defendants also request a second amended Verified Bill of Particulars and argue that the amended Verified Bill of Particulars dated November 15, 2023, is

insufficient as it only contains generalized allegations as to all named parties. The Plaintiff argues that a discovery motion is an inappropriate avenue for such requests. However, the Court disagrees with Plaintiff's contentions. A Bill of Particulars is not just about providing some information, it's about providing sufficient information to fulfill its purpose in amplifying the pleadings, limiting the proof, and preventing surprise at trial (*see* CPLR 3041; CPLR 3043). Thus, the Court compels the Plaintiff to provide a second amended Verified Bill of Particulars so as to include the specific allegations as to each Defendant.

Accordingly, it is hereby

**ORDERED** that the Defendants/third-party Plaintiff's motion is granted to the extent of compelling the Plaintiff to provide the HIPAA authorizations, to the extent not already provided, within thirty (30) days of the date of this Order; and it is further

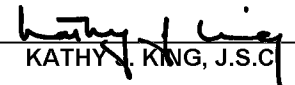
**ORDERED** that the Defendants/third-party Plaintiff's motion is also granted to the extent of compelling the Plaintiff to provide an amended Verified Bill of Particulars so as to include the specific allegations as to each Defendant in accordance with the CPLR within thirty (30) days of the date of this Order; and it is further

**ORDERED** that if Plaintiff fails to provide the said HIPAA authorizations and amended Verified Bill of Particulars by the designated dates set forth herein, the complaint is dismissed.

This Order is self-executing; and it is further

**ORDERED** that the Defendants/third-party Plaintiff's motion is denied in all other respects.

This constitutes the decision and order of the Court.

<u>6/17/2025</u> DATE			 KATHY J. KING, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> OTHER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> SUBMIT ORDER
			<input type="checkbox"/> FIDUCIARY APPOINTMENT
			<input type="checkbox"/> REFERENCE