

**Benfield Partners, Inc. v Home Record LLC**

2025 NY Slip Op 34147(U)

October 28, 2025

Supreme Court, New York County

Docket Number: Index No. 157655/2022

Judge: Arlene P. Bluth

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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. ARLENE P. BLUTH PART 14**

*Justice*

-----X

BENFIELD PARTNERS, INC.,  
  
Plaintiff,

**INDEX NO.** 157655/2022

**MOTION DATE** 10/27/2025

**MOTION SEQ. NO.** 008

- v -

HOME RECORD LLC, NYJE, LLC  
  
Defendants.

**DECISION + ORDER ON  
MOTION**

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The following e-filed documents, listed by NYSCEF document number (Motion 008) 164, 165, 166, 167, 174, 175, 176, 177, 178, 181, 182, 183

were read on this motion to/for COMPEL DISCOVERY/SANCTIONS.

Upon the foregoing papers, defendant Home Record LLC’s (“Home Record”) motion is granted to the extent that it seeks to compel discovery and to preclude evidence not produced in compliance with this order, and it is denied to the extent that it seeks attorney’s fees and monetary sanctions.

**Background**

Plaintiff Benfield Partners, Inc. (“Benfield”) is a contractor that was hired by defendant Home Record in 2021 to perform renovations on a property located at 74 Bowery in Manhattan. Benfield brought this action for breach of contract and foreclosure of a mechanic’s lien against the subject property and insists that it is owed \$230,120.23 plus interest from the date of the contract.

In this case, Home Record contends that Benfield did not finish the work on time and raised the affirmative defense of payment in full and counterclaims for lost profits of

approximately \$1,400,000 as well as salaries paid of approximately \$30,000 attributable to the alleged delay. Home Record also brought a counterclaim for willful exaggeration of the lien.

It must also be mentioned that on the same day it brought this case, Benfield brought another lawsuit against Home Record relating to similar work at a different address, index number 157656/2022.

Home Record served its first discovery demands in this case on October 14, 2022 (NYSCEF Doc. No. 14) and its second set of discovery demands on January 30, 2025 (NYSCEF Doc. No. 137). Home Record has also served two deficiency Letters – dated September 19, 2024 and January 30, 2025 (NSYCEF Doc. Nos. 106, 138).

Benfield obtained new counsel, who put in a notice of appearance on March 5, 2025 (NYSCEF Doc. No. 142). The parties agreed to finish document discovery by mid-April and to conduct EBTs by the end of April, which the Court ordered them to do (NYSCEF Doc. No. 146).

Home Record is not happy with Benfield's responses and brings the instant motion requesting an order: (a) pursuant to CPLR 3124 compelling Benfield to provide responsive discovery to Home Record's October 14, 2022 and January 30, 2025 Demands for Discovery and Inspection; (b) requiring Benfield to provide written responses to each demand stating whether the requested material will be produced, withheld on objection, or is not in plaintiff's possession, custody or control; (c) requiring Benfield to organize and label the over 38,000 documents produced to correspond to actual demands or provide an index cross-referencing each document to the relevant demand and identifying which documents relate to which lawsuit; (d) requiring an affidavit describing Benfield's efforts to locate responsive materials; (e) awarding Home Record its reasonable costs and attorney's fees incurred in making this motion; (f) precluding Benfield from introducing at trial any evidence responsive to Home Record's discovery demands that is

not produced in compliance with this order; (g) imposing such other sanctions as the Court deems appropriate for plaintiff's alleged violation of court orders; and (h) for such other and further relief as may appear just and proper.

#### Responses to Home Record's Discovery Demands

Home Record first asks the Court to compel Benfield to provide responsive discovery to Home Record's October 14, 2022 and January 30, 2025 Demands for Discovery and Inspection and requiring Benfield to provide written responses to each demand stating whether the requested material will be produced, withheld on objection, or is not in plaintiff's possession, custody or control. Home Record argues that Benfield is in violation of this Court's order to complete document discovery by mid-April 2025.

While Benfield contends that it complied with the Court's order to complete document discovery by mid-April, and points to an email dated April 17, 2025 (NYSCEF Doc. No. 151), Home Record argues that the April 17 email did not satisfy the burden of CPLR 3122(a) which requires production of documents along with written responses – calling the over 38,000 pages that it received as a “document dump without any written responses to defendant's October 14, 2022 demands” (NYSCEF Doc. No. 181).

Benfield served its objections and responses to Home Record's D&I request dated January 30, 2025 late – on May 12, 2025 (NYSCEF Doc. No. 176). Home Record contends that the responses were noncompliant as nineteen of the thirty-one demands received a response of “not in possession, custody or control” and for the remaining twelve demands, Benfield simply responded “Plaintiff produced responsive documents in its possession, custody or control.” Home Record further complains that the responses for which Benfield claimed to have already produced responsive documents contained no Bates number ranges, no file names, no date

ranges, and no indication where in the 38,000-page document production any responsive material could be found.

Benfield contends that all requisite information was included in email communications to Home Record which were sent the same day that the responses were submitted, May 12, 2025 (NYSCEF Doc. No. 177). The email contains language which breaks the document production into four different categories of documents and their Bates ranges. The categories are: 1) contract documents, invoices, budgets and billing; 2) text messages segregated by recipient/sender; 3) project documents; and 4) email in reverse chronological order with any attachments and also containing live cloud storage links (*id.*). Attached to the email is a 71-page spreadsheet which includes Bates ranges and file names covering 38,011 documents (*id.*). Benfield adds that the April 17 production is digital and fully searchable, so Home Record “can find anything it needs” (NYSCEF Doc. No. 174).

The Court finds that a party may not simply say that it produced documents that were responsive to discovery demands without any indication of which documents go with which demand. That is a document dump, and it is unacceptable. And adding “you can find what you need” is not good enough – part of the obligation of discovery is to respond to the demands. The responses provided by Benfield were indeed inadequate and therefore the Court grants the part of Home Record’s motion which seeks to compel Benfield to provide responsive discovery to Home Record’s October 14, 2022 and January 30, 2025 Demands for Discovery and Inspection and requiring Benfield to provide written responses to each demand stating whether the requested material will be produced, withheld on objection, or is not in plaintiff’s possession, custody or control.

### Document Organization

Home Record next moves the Court to compel Benfield to organize and label the documents it provided to correspond to Home Record's demands or to provide an index cross-referencing each document to the relevant demand and identifying which documents relate to which lawsuit.

Benfield argues that CPLR 3122(a) allows a party to produce documents as they are kept in the ordinary course of business, which is exactly what it has done. Home Record argues that combining over 38,000 pages from two separate lawsuits into a single production is not how Benfield keeps its records in the ordinary course of business but rather that it was compiled this way as a result of litigation.

While the Court understands that new counsel may have been in a rush to comply with discovery demands, the resulting document dump is wholly unacceptable. Now that counsel has had months to familiarize itself with the case(s), it must rise to the level of practice in Supreme Court and specifically respond to each of the demands by referring to which documents (by Bates stamp numbers) respond to which enumerated demand. The Court finds that it was improper for Benfield to dump over 38,000 documents that span two separate lawsuits – which Benfield itself brought – and to only break the documents into four categories with no reference indicating to which demands the documents respond nor to which lawsuit they relate. The file names provided on the spreadsheet are duplicative, often provide no indication of what the subject of the documents is, and provide absolutely no indication to which demands or which lawsuit the files are related. For example, the spreadsheet includes dozens of files named “Re\_.msg” and no other information. Home Record has had to defend two different cases that Benfield brought against it since 2022.

Benfield must respond to Home Record's demand for documents by providing the documents and identifying how its document production is responsive to Home Record's specific demands. Benfield brought two separate lawsuits and so must respond separately, with different captions. The cases are not consolidated, and the parties must keep them separate – at least for now. The Court therefore grants the part of Home Record's motion compelling Benfield to respond to the demands in an organized and specific manner.

#### Jackson Affidavit and Preclusion

Home Record moves for an order requiring Benfield to provide an affidavit describing any failed efforts to locate responsive materials and for the Court to preclude the introduction at trial of any evidence responsive to Home Record's discovery demands that is not produced in compliance with this Order.

Benfield does not oppose, and it makes sense. If Benfield does not have the documents to prove its case, then precluding it is ice in the winter. The Court therefore grants these parts of Home Record's motion and orders that Benfield provide a *Jackson* affidavit for each of the documents or groups of documents which it claims are not in its possession, custody or control and to preclude Benfield from introducing any evidence at trial responsive to Home Record's discovery demands that is not produced in compliance with this Order. In other words, if Benfield cannot find and produce a responsive document now, then it cannot use it at trial.

#### Attorney's Fees and Sanctions

Home Record requests attorney's fees for the costs incurred in making the instant motion as well as for further sanctions based on Benfield's alleged noncompliance with Court orders. Benfield says that these requests are unwarranted and intended to harass.

The Court does not find that an award of attorney's fees is appropriate at this time. Benfield got a new attorney, and the record shows that he has been working on this case; he has served responses, provided discovery, brought and opposed motions, and kept in touch with opposing counsel. Maybe he served the document dump to try to comply as best as he could at the time; the Court expects Benfield's new attorney to transform that document dump into an acceptable and professional response to discovery demands in accordance with this order and Supreme Court practice. The Court therefore denies these parts of Home Record's motion at this time. However, if Benfield and its attorney fail to cooperate with each other and fail to abide by this court order and get with the program, another motion may be made for appropriate relief.

Accordingly, it is hereby

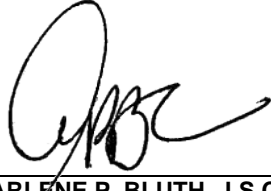
ORDERED that the Court grants the part of Home Record's motion seeking to compel Benfield to provide responsive discovery to Home Record's October 14, 2022 and January 30, 2025 Demands for Discovery and Inspection and requiring Benfield to provide specific written responses to each demand stating whether the requested material will be produced, withheld or objected to, or is not in plaintiff's possession, custody or control; Benfield shall serve its supplemental responses on or before December 1, 2025; and it is further

ORDERED that the part of Home Record's motion which seeks to compel Benfield to organize and label the documents it provided to correspond to Home Record's demands or to provide an index cross-referencing each document to the relevant demand and identifying which documents relate to which lawsuit is granted; Benfield shall separate the responses by index number and also provide the updated document files on or before January 10, 2026; and it is further

ORDERED that the parts of Home Record’s motion which seek an affidavit describing Benfield’s efforts to find the documents it claims are not in its possession and to preclude at trial any evidence that is responsive to Home Record’s demands and that Benfield does not provide in compliance with this order is granted without opposition; Benfield shall provide a *Jackson* affidavit at the same time that it provides its supplemental responses – on or before December 1, 2025; and it is further

ORDERED that the parts of Home Record’s motion which seek attorney’s fees, sanctions, and/or any further relief are denied at this time; the Court views the document dump as new counsel’s attempt to comply and is giving plaintiff’s counsel a chance to make it right.

See NYSCEF Doc. No. 163 for details on the next conference.

10/28/2025		
DATE		ARLENE P. BLUTH, J.S.C.
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE