

<b>Lewis v Buena Vida Corp.</b>
2026 NY Slip Op 31848(U)
April 13, 2026
Supreme Court, Kings County
Docket Number: Index No. 510242/2025
Judge: Desmond A. Green
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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KIMBERLY LEWIS as Administratrix of the Estate of  
IVANHOE KHOURIE,

Plaintiff,

-against-

BUENA VIDA CORP., WYCKOFF HEIGHTS MEDICAL  
CENTER, NEW YORK PRESBYTERIAN/BROOKLYN  
METHODIST, KFG OPERATING I, LLC, d/b/a HOPKINS  
CENTER FOR REHAB AND HEALTH CARE, and  
THE BROOKLYN HOSPITAL CENTER,

Defendants.

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Present:

**Hon. Desmond A. Green**

Index No. 510242/2025

**DECISION AND ORDER**

Motion Seq. Nos. 001-006

The Court considered the following papers associated with motion sequence numbered 001-006, submitted on February 25, 2026, in Part 33:

Notice of Motion/Cross-Motion, Affirmations,  
and Exhibits Annexed \_\_\_\_\_  
Opposing Affirmations and Exhibits Annexed \_\_\_\_\_  
Reply Affirmations and Exhibits Annexed \_\_\_\_\_

29-35; 36-42; 43-45; 46-51; 52-55; 81-85  
71-80; 86-93; 94-101; 102-109; 110-117; 138-139  
128; 129; 130-132; 133-135; 136-137; 140

In this action to recover damages for personal injuries, five separate motions to dismiss by each defendant and one cross-motion for leave to amend by plaintiff have been consolidated for disposition and, upon consolidation and after oral argument, are decided as follows. The Court has placed the movant(s) in one of the four groups designated as “A” through “D” to streamline its analysis and determination.

Group “A” Movant: Nursing Home BUENA VIDA. The pre-answer motion to dismiss (in sequence number 2) by defendant BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER, sued herein as BUENA VIDA CORP. (“BUENA VIDA”), for an order, pursuant to CPLR §§ 3211 (a) (3), (5), and (8), dismissing the complaint as against it because, respectively, plaintiff KIMBERLY

LEWIS (“LEWIS”) has not been properly granted letters of administration for the estate of plaintiff’s decedent, IVANHOE KHOURIE (“KHOURIE”), and as such, lacks capacity to maintain this action; LEWIS commenced this action outside the applicable statute of limitations; and LEWIS failed to properly effectuate service of process on the correct BUENA VIDA entity, is *denied as untimely*.

Group “B” Movant: Nursing Home HOPKINS CENTER. The motion to dismiss (in sequence number 4) by defendant KGH OPERATING I, LLC, d/b/a HOPKINS CENTER FOR REHABILITATION AND HEALTH CARE (“HOPKINS CENTER”), for an order, pursuant to CPLR §§ 3211 (a) (3) and (5), dismissing the complaint as against it because, respectively, plaintiff LEWIS lacks the capacity to sue and “the cause of action for wrongful death [is] time-barred,”<sup>1</sup> is *granted to the extent* that the complaint against HOPKINS is dismissed *without prejudice and without costs/disbursements* for lack of capacity to sue, and the remainder of its motion is denied as academic because LEWIS has not pleaded a wrongful death claim against HOPKINS or any other defendant in her complaint.

Group “C” Movants: Hospitals TBHC, WYCKOFF, and METHODIST. The branches of the separate motions (in sequence number 1, 3, and 5) by respective defendants THE BROOKLYN HOSPITAL CENTER (“TBHC”), WYCKOFF HEIGHTS MEDICAL CENTER (“WYCKOFF”), and NEW YORK-PRESBYTERIAN HOSPITAL, as successor by merger to NEW YORK-PRESBYTERIAN BROOKLYN METHODIST HOSPITAL, sued herein as NEW YORK PRESBYTERIAN/BROOKLYN METHODIST

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<sup>1</sup> HOPKINS’s Notice of Motion, dated August 1, 2025, page 1, ¶ “(b)” (NYSCEF Doc No. 46).

(“METHODIST”), in each instance, for an order, pursuant to CPLR § 3211 (a) (5), dismissing the complaint against each such defendant as time-barred are *granted to the extent* that the complaint is dismissed *with prejudice and without costs/disbursements* against each such defendant as time-barred, and the remainder of such defendants’ respective motions is denied as academic.<sup>2</sup>

Group “D” Movant: LEWIS. The cross-motion (in sequence number 6) by plaintiff LEWIS for leave, pursuant to CPLR § 3025 (b), to amend her complaint to substitute BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER, as defendant in lieu of BUENA VIDA CORP. is *granted*.

### **BACKGROUND**

On March 4, 2022, plaintiff’s decedent, KHOURIE, age 80, then a resident of the BUENA VIDA nursing home, sustained a blunt force injury as a result of a fall. On the same day (March 4, 2022), KHOURIE was transferred to WYCKOFF and never returned to BUENA VIDA.<sup>3</sup> It can be deduced (by way of exclusion) that KHOURIE resided at

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<sup>2</sup> Separate and apart from the statute of limitations grounds for dismissal of the complaint, each of three Hospitals seek dismissal of the complaint for lack of capacity to sue and, in addition, two Hospitals seek dismissal for failure to state a claim. Specifically, TBHC seeks dismissal of the complaint, pursuant to CPLR §§ 3211 (a) (3) and (7), for lack of capacity to commence and maintain this action (TBHC’s Notice of Motion, dated July 25, 2025, page 1, ¶¶ (1) - (2) at NYSCEF Doc No. 29). Next, WYCKOFF seeks leave to amend its Verified Answer, dated April 3, 2025 (NYSCEF Doc No. 2), to plead an additional (or seventh by count) affirmative defense of lack of capacity to sue in its proposed Amended Verified Answer, dated July 31, 2025, ¶ 14 (NYSCEF Doc No. 44), and, upon granting such leave, to dismiss the complaint, pursuant to CPLR §§ 3211 (a) (3) and (7), for lack of capacity to sue and for failure to state a claim, respectively (WYCKOFF’s Notice of Motion, dated July 31, 2025, page 1 at NYSCEF Doc No. 43). Lastly, METHODIST seeks dismissal of the complaint, pursuant to CPLR §§ 3211 (a) (3) and (7), for lack of capacity to sue and for failure to state a claim, respectively (METHODIST’s Notice of Motion, dated August 27, 2025, page 1 at NYSCEF Doc No. 52).

<sup>3</sup> Although the length of KHOURIE’s hospitalization at WYCKOFF is not reflected in the record, the dispositive factor is that he was admitted for medical treatment to WYCKOFF on March 4, 2022, which obviously had been more than 2-1/2 years before LEWIS commenced this action on March 26, 2025.

HOPKINS CENTER from on or about March 4, 2022 and until on or about March 24, 2022. Subsequently, KHOURIE was hospitalized at METHODIST from March 24, 2022 to April 4, 2022. Finally, KHOURIE was hospitalized at TBHC from April 4, 2022 and until his death on April 17, 2022. The immediate cause of his death was complications of a blunt injury of his neck.<sup>4</sup>

LEWIS and her siblings were KHOURIE's surviving children. On May 4, 2023 (or approximately one year after KHOURIE's death), LEWIS retained the law firm of ROSENBAUM & ROSENBAUM (the "ROSENBAUM FIRM") to represent KHOURIE's "estate in relation to the [alleged] negligent care and treatment he received at [defendants' respective facilities]."<sup>5</sup> "By late February . . . 2025, [LEWIS] was able to provide all the requested Surrogate [Court's] information and documents to [the ROSENBAUM FIRM]."<sup>6</sup> On March 3, 2025, the ROSENBAUM FIRM filed a Petition for Letters of Limited Administration, dated February 19, 2025. By filing the petition and ancillary documents, the ROSENBAUM FIRM (on LEWIS's behalf) commenced ADMINISTRATION PROCEEDING, Estate of IVANHOE KHOURIE, File No. 2025-830, in the Kings County Surrogate's Court (the "Surrogate Court's Proceeding").<sup>7</sup>

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<sup>4</sup> KHOURI's Death Transcript or Certificate of Death, dated April 25, 2022 (NYSCEF Doc No. 73).

<sup>5</sup> Affirmation of KIMBERLY LEWIS, dated October 16, 2025, ¶ 11 (NYSCEF Doc No. 76); Undated Attorney Affirmation of FRANK M. RIZZO, Esq., an associate with the ROSENBAUM FIRM, ¶ 2 (NYSCEF Doc No. 137).

<sup>6</sup> LEWIS's Affirmation, ¶ 17.

<sup>7</sup> LEWIS's Petition for Letters of Limited Administration, dated February 19, 2025 (NYSCEF Doc No. 2025).

On March 26, 2025, but before any letters of administration were issued to LEWIS in the Surrogate's Court Proceeding, LEWIS (by the ROSENBAUM FIRM) commenced this action. In the accompanying complaint, LEWIS alleges that she was acting (and suing in the capacity) as the "Administratrix of the Estate of . . . KHOURIE."<sup>8</sup> LEWIS's complaint in this action was verified on her behalf by the ROSENBAUM FIRM, which, as noted, also acted as her counsel in the pending Surrogate's Court Proceeding.<sup>9</sup>

On July 31, 2025 (and during the pendency of this action), the Surrogate's Court requested five separate "corrections/supplementations."<sup>10</sup> On or about August 4, 2025, LEWIS (by the ROSENBAUM FIRM) filed an Amended Petition for Letters of Temporary Administration in the Surrogate's Court Proceeding, together with the Attorney Affirmation as to the Amended Petition.<sup>11</sup> On August 15, 2025, the Surrogate's Court issued an Order Granting Temporary Letters of Administration to LEWIS.<sup>12</sup>

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<sup>8</sup> Verified Complaint, dated March 26, 2025, ¶ 1 (NYSCEF Doc No. 1).

<sup>9</sup> Attorney Verification by FRANK M. RIZZO, Esq. of the ROSENBAUM FIRM, dated March 26, 2025 (part of NYSCEF Doc No. 1).

<sup>10</sup> E-mail, dated July 31, 2025 and timed at 4:34 p.m., from a member of the Surrogate's Court staff to the ROSENBAUM FIRM. The Court takes judicial notice of this e-mail which is part of the file in the Surrogate Court's Proceeding (*see Kingsbrook Jewish Med. Ctr. v Allstate Ins. Co.*, 61 AD3d 13, 19-20 [2d Dept 2009] ["Judicial notice has never been strictly limited to the constitutions, resolutions, ordinances, and regulations of government, but has been applied by case law to . . . undisputed court records and files. . . ."] [internal citations omitted]).

<sup>11</sup> Amended Petition for Letters of Temporary Administration, dated August 4, 2025, and the Attorney Affirmation as to Amended Petition, also affirmed August 4, 2025, both of which are part of the file in the Surrogate's Court Proceeding.

<sup>12</sup> Surrogate's Court's Order, dated August 15, 2025 (NYSCEF Doc No. 89).

## DISCUSSION

### Group “A” Movant: Nursing Home BUENA VIDA

An action is commenced by filing a summons and complaint” (CPLR § 304 [a]). As a general rule, a defendant’s appearance “shall be made within twenty days after service of the summons” (CPLR § 320 [a]). “The defendant appears by serving an answer or a notice of appearance, or by making a motion which has the effect of extending the time to answer” (CPLR § 320 [a]). Service of a notice of motion to dismiss a complaint pursuant to CPLR § 3211 (a) extends a defendant’s time to answer the complaint (*see* CPLR § 3211 [f]). A motion to dismiss a complaint pursuant to CPLR 3211 (a) may be based on various grounds, including lack of capacity, statute of limitations, and lack of personal jurisdiction (*see* CPLR §§ 3211 [a] [3], [5], and [8], respectively). Such a motion must be made “*before service of the responsive pleading is required*” (CPLR § 3211 [e] [emphasis added]) (*see US Bank N.A. v Gilchrist*, 172 AD3d 1425, 1426-1427 [2d Dept 2019]; *Bennett v Hucke*, 64 AD3d 529, 530 [2d Dept 2009]).

Here, it is undisputed that BUENA VIDA’s pre-answer motion to dismiss was *not* made within the time period in which it was required to serve an answer (*see* CPLR § 3211 [e]). Moreover, BUENA VIDA sought no extension of time to make its motion, nor was one granted by the Court (*see* CPLR § 2004). Accordingly, BUENA VIDA’s pre-answer motion to dismiss is *denied as untimely* (*see Bennett*, 64 AD3d at 530; *Bowes v Healy*, 40 AD3d 566 [2d Dept 2007]; *Diaz v DiGiulio*, 29 AD3d 623 [2d Dept 2006]).

Pursuant to CPLR § 3211 (f), BUENA VIDA is directed to electronically answer the complaint within ten days after electronic service of this decision and order with notice of entry on BUENA VIDA's counsel. Therein, BUENA VIDA may (if it be so advised) assert the defenses of lack of capacity to sue and the statute of limitations. The interposition of the lack-of-capacity defense by BUENA VIDA in its answer would not result in prejudice or surprise to LEWIS because, as discussed below, co-defendant HOPKINS CENTER timely asserted such defense in its answer (*see DLJ Mortg. Capital, Inc. v David*, 147 AD3d 1024, 1025-1026 [2d Dept 2017]). Likewise, the interposition of the statute-of-limitations defense by BUENA VIDA in its answer similarly would not result in prejudice or surprise to LEWIS because, as discussed below, the Hospitals timely asserted such defense in their respective answers.

Separately from the foregoing, BUENA VIDA may (if it be so advised) pursue any appropriate relief by way of a summary judgment motion in the normal course of this action with respect to its affirmative defenses of lack of capacity and statute of limitations, pursuant to CPLR §§ 3211 (a) (3) and (5), respectively, *but not with respect to its remaining affirmative defense of lack of personal jurisdiction*, pursuant to CPLR § 3211 (a) (8). To be clear: “a waiver of the defenses listed in CPLR [ §§ 3211 (a) . . . (3) . . . [and] (5) . . . may generally be retracted through amendment to the answer pursuant to CPLR [ § ] 3025 to include the waived defense[s]” (*GMAC Mtge., LLC v Winsome Coombs*, 191 AD3d 37, 42 [2d Dept 2020]). Conversely, however, “the waiver of a [personal] jurisdictional defense [as listed in CPLR ( § ) 3211 (a) (8) . . . ] *cannot* be nullified by a subsequent amendment to a pleading adding the missing affirmative defense” (*GMAC Mtge., LLC*, 191 AD3d at 41 [internal

quotation marks omitted; emphasis added]). Having thus waived personal jurisdiction, BUENA VIDA may *not* object to LEWIS's cross-motion for leave, pursuant to CPLR § 3025 (b), to substitute BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER, as defendant in lieu of BUENA VIDA CORP.

Group "B" Movant: Nursing Home HOPKINS CENTER

"A personal representative who has received letters of administration of the estate of a decedent is the only party who is authorized to bring a survival action for personal injuries sustained by the decedent. . ." (*Mingone v State of New York*, 100 AD2d 897, 899 [2d Dept 1984]). "[T]he statutory requirement of a duly appointed administrator is in the nature of a condition precedent to the right to bring the suit and, as such, is an essential element of the claim" (*Carrick v Central Gen. Hosp.*, 51 NY2d 242, 250 [1980]). "Thus, a 'proposed administrator' who has not obtained letters of administration lacks capacity to bring an action to recover damages for personal injuries . . . on behalf of a decedent's estate" (*Estate of Moore v Nassau Operating Co., LLC*, 245 AD3d 798, 799 [2d Dept 2026]).

Here, LEWIS, in effect, conceded that she had not been appointed administrator of the estate of her father, KHOURIE, when she filed the present complaint. As such, LEWIS lacked capacity to bring this action to recover damages for personal injuries on behalf of KHOURIE's estate (*see Larson v Shore View Rehabilitation & Nursing Ctr.*, \_\_\_ AD3d \_\_\_,

2026 NY Slip Op 00883, \*2 [2d Dept 2026]; *Shelley v South Shore Healthcare*, 123 AD3d 797, 798 [2d Dept 2014]).<sup>13</sup>

One caveat is in order, however. The dismissal of this action against HOPKINS CENTER for lack of capacity to sue is *not* a dismissal on the merits. LEWIS may (as she already did) “remedy this defect by obtaining letters of administration within the six-month savings period provided under CPLR [§] 205 (a)” (*Rodriguez v River Val. Care Ctr., Inc.*, 175 AD3d 432, 433 [1st Dept 2019]; *see also Tumminia v Staten Is. Univ. Hosp.*, 241 AD3d 17, 23 [2d Dept 2025]; *Robles v Brooklyn-Queens Nursing Home, Inc.*, 131 AD3d 1032, 1033 [2d Dept 2015]). Accordingly, HOPKINS CENTER’s motion is granted *only to the extent* of dismissing the complaint against it *without prejudice and without costs/disbursements* to LEWIS’s commencement of a new action, pursuant to CPLR § 205 (a), within six months after electronic service on her counsel of a copy of this decision and order with notice of entry (*see Estate of Moore*, 245 AD3d at 800).

Contrary to HOPKINS CENTER’s contention, this action does not *plead* a wrongful death claim against it or any other defendant. LEWIS’s inclusion of the phrase “wrongful death” in the Prayer for Relief (Complaint, ¶ 154) was non-substantive. To reiterate and to emphasize: because dismissal of the complaint against HOPKINS CENTER is solely for lack of capacity to sue, such dismissal against it is *without prejudice and without costs/disbursements*.

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<sup>13</sup> In that regard, the Court notes that HOPKINS CENTER timely asserted LEWIS’s lack of capacity to sue in its 11<sup>th</sup> affirmative defense of its answer (*see HOPKINS CENTER’s Verified Answer*, dated May 22, 2025 at NYSCEF Doc No. 16).

Group “C” Movants: Hospitals TBHC, WYCKOFF, and METHODIST

Each Hospital moved for an order, pursuant to (among other provisions) CPLR § 3211 (a) (5), to dismiss the complaint, contending all of LEWIS’s allegations sound in medical malpractice and are barred by the 2½-year statute of limitations governing medical malpractice actions (*see* CPLR § 214-a).<sup>14</sup> Conversely, LEWIS contends (in ¶ 11 of her counsel’s joint affirmation in opposition to, among others, the Hospitals’ motions) that her claims sound in common-law negligence (rather than in medical malpractice) and, therefore, are governed by a longer, three-year statute of limitations (*see* CPLR § 214 [5]).

“[T]he distinction between medical malpractice and negligence is a subtle one, for medical malpractice is but a species of negligence and no rigid analytical line separates the two” (*Weiner v Lenox Hill Hosp.*, 88 NY2d 784, 787 [1996] [internal quotation marks omitted]). Medical malpractice is “[a] negligent act or omission by a health care provider that constitutes medical treatment or bears a substantial relationship to the rendition of medical treatment by a licensed physician to a particular patient” (*Rabinovich v Maimonides Med. Ctr.*, 179 AD3d 88, 93 [2d Dept 2019]). “By contrast, when the gravamen of the complaint is not negligence in furnishing medical treatment to a patient, but the hospital’s failure in fulfilling a different duty, the claim sounds in negligence” (*Weiner*, 88 NY2d at 788 [internal quotation marks omitted]). Stated otherwise, “an action sounds in ordinary negligence when

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<sup>14</sup> Each Hospital timely asserted statute of limitations as an affirmative defense in its respective answer (*see* TBHC’s Verified Answer, dated June 4, 2025, sixth affirmative defense; WYCKOFF’s Verified Answer, dated April 3, 2025, second affirmative defense; METHODIST’s Verified Answer, dated April 24, 2025, eighth affirmative defense) (NYSCEF Doc Nos. 22, 2, and 13, respectively).

jurors can utilize their common everyday experiences to determine the allegations of a lack of due care” (*Rabinovich*, 179 AD3d at 93).

Here, LEWIS’s claims against each Hospital sound in medical malpractice because “the complaint [at issue] challenges [each Hospital’s respective] performance of functions that are an integral part of the process of rendering medical treatment and diagnosis to a patient” (*Estate of Bell v WSNCHS N., Inc.*, 153 AD3d 498, 499 [2d Dept 2017] [internal quotation marks omitted]). Contrary to LEWIS’s contention, her claims against the Hospitals sound in medical malpractice (rather than in common-law negligence), as summarized in the margin below.<sup>15</sup>

Accordingly, the branches of the respective motions of TBHC, WYCKOFF, and METHODIST for an order, pursuant to CPLR § 3211 (a) (5), dismissing the complaint against such Hospital as time-barred are granted, and the complaint is dismissed *with prejudice and without costs/disbursements* against each Hospital, and the remainder of their motions is denied as academic.

Group “D” Movant: LEWIS

LEWIS’s cross-moves for leave, pursuant to CPLR § 3025 (b), to amend her complaint to substitute BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING

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<sup>15</sup> As to each Hospital, LEWIS alleges in her complaint that TBHC, WYCKOFF, and METHODIST were each “negligent in [its] failure to understand, appreciate and properly evaluate the severity of [K HOURIE’s] injuries; . . . further negligent in [its] failure to adhere to good and accepted practices in the fields of medical care, advance life support care, emergency medical technician care, and other good and accepted practices then and there preeminent in [its] fields of expertise; . . . further negligent in failing to appropriate[ly] assess, monitor and intervene with the proper medical care under the circumstances” (Complaint, ¶¶ 137, 140 [TBHC]; ¶¶ 76, 79, 80 [WYCKOFF]; ¶¶ 96, 98-100 [METHODIST]).

CARE & REHABILITATION CENTER, as defendant in lieu of BUENA VIDA CORP. “A party may amend his [or her] pleading . . . at any time by leave of court. . .” (CPLR § 3025 [b]). “Whether to grant leave to amend is within the [motion] court’s discretion” (*Johnson v Ortiz Transp., LLC*, 205 AD3d 696, 697 [2d Dept 2022]). “[L]eave to amend a pleading should be granted where the amendment is neither palpably insufficient nor patently devoid of merit, and the delay in seeking amendment does not prejudice or surprise the opposing party” (*DLJ Mortg. Capital*, 147 AD3d at 1025). “The burden of demonstrating prejudice or surprise, or that a proposed amendment is palpably insufficient or patently devoid of merit, falls upon the party opposing the motion” (*Ditech Fin., LLC v Khan*, 189 AD3d 1360, 1362 [2d Dept 2020]).

Here, leave to amend the complaint to substitute BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER, as defendant in lieu of BUENA VIDA CORP. is appropriate for two reasons. First, BUENA VIDA did not oppose LEWIS’s cross-motion for leave to amend.<sup>16</sup> Second (and as stated above), BUENA VIDA irrevocably waived its defense of lack of personal jurisdiction (*see GMAC Mtge., LLC*, 191 AD3d at 41).

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<sup>16</sup> Although BUENA VIDA filed a reply affirmation in further support of its motion to dismiss (NYSCEF Doc No. 140), it did not assert therein or in any separate filing that LEWIS’s cross-motion for leave to amend should be denied. Conversely, THBC and METHODIST, although not aggrieved by the proposed amendment, expressly objected to LEWIS’s cross-motion for leave to amend (NYSCEF Doc Nos. 133 and 138, respectively).

The Court has considered the parties' remaining contentions and found them unavailing or moot in light of its determination. All relief not expressly granted herein is denied.

### CONCLUSION

Accordingly, it is

ORDERED that the pre-answer motion to dismiss (in sequence number 2) by defendant BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER, sued herein as BUENA VIDA CORP., is *denied as untimely*; and it is further

ORDERED that the motion to dismiss (in sequence number 4) by defendant KGH OPERATING I, LLC, d/b/a HOPKINS CENTER FOR REHABILITATION AND HEALTH CARE, is *granted to the extent* that the complaint against it is dismissed *without prejudice and without costs/disbursements* for lack of capacity to sue, and the remainder of its motion is denied as academic; and it is further

ORDERED that the branches of the separate motions to dismiss (in sequence number 1, 3, and 5) by respective defendants THE BROOKLYN HOSPITAL CENTER, WYCKOFF HEIGHTS MEDICAL CENTER, and NEW YORK-PRESBYTERIAN HOSPITAL, as successor by merger to NEW YORK-PRESBYTERIAN BROOKLYN METHODIST HOSPITAL, sued herein as NEW YORK PRESBYTERIAN/BROOKLYN METHODIST, are each *granted to the extent* that the complaint is dismissed *with prejudice*

and without costs/disbursements against each such defendant as time-barred, and the remainder of such defendants' respective motions is denied as academic; and it is further

ORDERED that the cross-motion (in sequence number 6) by plaintiff LEWIS for leave, pursuant to CPLR § 3025 (b), to amend her complaint to substitute BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER, as defendant in lieu of BUENA VIDA CORP. is *granted*; and it is further

ORDERED that the action is severed and continued against remaining defendant BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER; and it is further

ORDERED that the caption of this action is corrected and amended to read in its entirety as follows:

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KIMBERLY LEWIS as Administratrix of the Estate of  
IVANHOE KHOURIE, *pursuant to the Temporary Letters  
of Administration, issued August 15, 2025,*

Plaintiff,

-against-

BUENA VIDA SNF, LLC, doing business as  
BUENA VIDA CONTINUING CARE &  
REHABILITATION CENTER,

Defendant.  
-----X

; and it is further

ORDERED that BUENA VIDA SNF, LLC, doing business as BUENA VIDA CONTINUING CARE & REHABILITATION CENTER, is directed to answer the amended

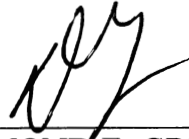
complaint within ten days of electronic service of this decision and order with notice of entry on its counsel, pursuant to CPLR § 3211 (f); and it is further

ORDERED that METHODIST’s counsel is directed to electronically serve a copy of this decision and order with notice of entry on the other parties’ respective counsel, as well as on PATRICIA WRIGHT, appearing pro se as a distributee of the Estate of IVANHOE KHOURIE, by first-class mail, at 65 East 96<sup>th</sup> Street, Apt. 2, Brooklyn, New York 11212 (NYSCEF Doc No. 141), and to electronically file an affidavit of service thereof with the Kings County Clerk.

This constitutes the decision/order of the Court.

Dated: ~~March~~ <sup>April 13</sup> \_\_, 2026

ENTER,



HON. DESMOND E. GREEN, J.S.C.

KINGS COUNTY CLERK  
FILED  
2026 APR 27 A 9:43