

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| <p>Anthony Fagan,</p> <p style="text-align:center">Plaintiff,</p> <p style="text-align:center">v.</p> <p>Elwyn Inc. and Ben Dourte,</p> <p>Defendant.</p> | <p>CIVIL ACTION</p> <p>NO. 17-393</p> |
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ORDER

AND NOW, this 11th day of August 2017, after review of Plaintiff's Complaint (ECF 1), Defendants' Partial Motion to Dismiss (ECF 8), Plaintiff's Response (ECF 9), Defendants' Reply (ECF 12), and for the reasons stated in the accompanying memorandum, it is hereby **ORDERED** that Defendants' Motion (ECF 8) is **GRANTED IN PART AND DENIED IN PART AS FOLLOWS**:

- Defendants' Motion is **DENIED** with respect to Count I;
- Defendants' Motion is **GRANTED WITHOUT PREJUDICE** with respect to Count II and Count V.

Plaintiff is granted leave to file an amended complaint within 14 days.

BY THE COURT:

/s/ Michael M. Baylson
MICHAEL M. BAYLSON, U.S.D.J.

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