

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

**JAMES E. MEYER,**  
**Plaintiff,**

**CIVIL ACTION**

v.

**DELAWARE VALLEY LIFT TRUCK,  
INC., et al.,**  
**Defendants.**

**NO. 18-1118**

**ORDER**

**AND NOW**, this 13th day of May, 2021, upon consideration of Plaintiff James E. Meyer's Motion for Partial Summary Judgment and briefing in support thereof (ECF Nos. 117, 134 & 135) and Defendants' responses thereto (ECF Nos. 129 & 132); Defendants Delaware Valley Lift Truck, Inc. and John W. Meyer's Motion for Summary Judgment and briefing in support thereof (ECF Nos. 118 & 136) and Plaintiff's response thereto (ECF No. 133); and Defendant the Law Offices of Barry F. Penn's Motion for Summary Judgment and briefing in support thereof (ECF Nos. 119 & 137) and Plaintiff's response thereto (ECF No. 130), **IT IS ORDERED** as follows:

1. Plaintiff's Motion (ECF No. 117) is **DENIED**.
2. Defendants Delaware Valley Lift Truck, Inc. and John W. Meyer's Motion (ECF No. 118) is **GRANTED IN PART** and **DENIED IN PART**. With respect to Count Five (breach of fiduciary duty) and Count Eight (breach of contract), the Motion is **DENIED**. The parties will proceed to trial on these claims. With respect to Count Nine (corporate waste), the Motion is **GRANTED**, and this claim is **DISMISSED WITH PREJUDICE**. A decision on Count One (appointment of a custodian) and Count Two (involuntary dissolution) is deferred until after trial on the breach of fiduciary duty and breach of contract claims.

3. Defendant the Law Offices of Barry F. Penn's Motion (ECF No. 119) is **GRANTED**. Count Ten (tortious interference with contract) and Count Eleven (aiding and abetting) are **DISMISSED WITH PREJUDICE**.

**BY THE COURT:**

**/s/Wendy Beetlestone, J.**

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**WENDY BEETLESTONE, J.**