DOCKET NO: CV-22-5050168 : SUPERIOR COURT

DENNIS BRADLEY : JUDICIAL DISTRICT OF BRIDGEPORT

V. :

MICHAEL DENKOVICH, ET AL : JUNE 11, 2024

MEMORANDUM OF DECISION ON DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

STATEMENT OF THE CASE

This action arises from the dissolution of a law firm operated by the parties.[1] From 2016 to 2022, the plaintiff, Dennis Bradley (Bradley), and the defendants, Michael Denkovich (Denkovich) and Peter Karayiannis (Karayiannis), operated the law firm Bradley, Denkovich & Karayiannis, P.C. (BDK) for the purpose of providing legal services. BDK was formed as a professional corporation with Bradley, Denkovich, and Karayiannis acting as sole shareholders with equal ownership interest in the firm. Prior to forming BDK, Bradley practiced at Bradley Law Group, LLC (BLG), which remained in existence after BDK was formed.

There was never a written shareholder agreement among the three BDK shareholders. In the initial years of BDK's operations, the parties agreed that fees earned in legal matters that each owner originated would belong to the firm. To that end, BDK's clients entered into engagement agreements with BDK, not individual attorneys, and all fees received from clients were property of BDK. Each of the three shareholders was to be paid a salary of $50,000 per year, and each would receive one-third of BDK's profits after expenses. Throughout BDK's existence, Denkovich and Karayiannis primarily focused their practice on personal injury matters, while Bradley focused his practice on immigration, family, criminal, and probate matters.

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[1] The following undisputed facts are adduced from the various exhibits provided by the parties in support of and in opposition to the defendants' motion for summary judgment.

Notice sent to all counsel & RJD.
6/11/24 [illegible] Asst. Clerk

In 2019, Bradley came under investigation by federal authorities and, in May 2021, he was indicted for conspiracy and wire fraud charges in the case captioned *United States* v. *Dennis A. Bradley, Jr., and Jessica Martinez, Defendants*, 3:21-cr-00087 (VAB). In addition, Denkovich and Karayiannis claim that they discovered information indicating that Bradley was performing legal services without contributing appropriate fees to BDK. By August 2022, Denkovich and Karayiannis decided to disassociate themselves from Bradley and they formed a separate firm called Karayiannis & Denkovich, P.C. (K&D).

Subsequently, Denkovich and Karayiannis moved into a new office space, taking with them the case files for all pending personal injury matters, as well as the case files for BDK personal injury matters that had been closed but were required to be safely maintained. Bradley continued to operate either individually or through BLG in the space that was formerly the BDK office. He retained all case files for pending immigration, family, criminal, and probate matters. In the course of setting up K&D, Denkovich and Karayiannis communicated with the clients of BDK to advise these clients of the firms' changes. BDK was dissolved on November 16, 2022.

The operative complaint in this action is the amended complaint (#146.00), filed on October 16, 2023. The amended complaint asserts claims for breach of contract, conversion, and tortious interference with contractual relations. More specifically, in count one, Bradley claims that BDK operated as a partnership and, since October 1, 2022, Denkovich and Karayiannis failed to pay Bradley his share of the firm's assets in accordance with the parties' implied in fact contract. In count two, Bradley alleges that beginning in August 2022, Denkovich and Karayiannis began converting BDK assets, including case files, from Bradley and BDK to themselves and K&D. Bradley also alleges in count two that from October 2020 to October 2022,

Denkovich and Karayiannis made referrals of BDK personal injury and medical malpractice cases to several other law firms and that they did not pay Bradley his share of the referral fees received from those firms. In count three, Bradley asserts that Denkovich and Karayiannis tortiously interfered with Bradley's relationships with multiple clients of the firm by advising them that he was going to jail and that they should have their representation changed from BDK to K&D.[2]

Pending before the court is the defendants' November 30, 2023 motion seeking summary judgment as to all counts of the amended complaint (#149.00). The motion was accompanied by a memorandum of law and exhibits (#151.00 & #152.00).[3] On February 5, 2024, the plaintiff

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[2] On November 22, 2023, the defendants filed an amended answer, special defenses, and counterclaims (#148.00). In their amended answer, the defendants deny the allegations of the complaint. In their special defenses, the defendants assert: (1) that Bradley lacks standing to claim that he has been wrongfully deprived of assets that belong to BDK and to pursue a personal claim with respect to those assets; (2) that Bradley's claims are barred by the doctrines of accord and satisfaction, estoppel, and waiver resulting from the parties' agreements to (a) offset the compensation that Bradley received as a state senator while not contributing to the Firm, and (b) divide BDK's clients between Denkovich and Karayiannis on the one hand and Bradley on the other to address Bradley's diversion of BDK business and receipts to himself and entities he owned; and (3) that Bradley's claims are barred by the doctrine of unclean hands. In their counterclaims, the defendants assert claims of breach of contract and defamation. Bradley filed a reply to the defendants' special defenses and counterclaims on February 6, 2024 (#156.00).

[3] The defendants' exhibits include: (1) an affidavit of Peter Karayiannis (#151.00); and (2) an affidavit from the defendants' counsel certifying (a) the articles of organization for Bradley Law Group, LLC, dated April 19, 2012, (b) the certificate of dissolution for BDK, P.C., dated November 16, 2022 , (c) the certificate of organization for Bradley Law Group, LLC, dated November 9, 2022, (d) pages of monthly statements dated January 2019-2022 for a Bank of America account in the name of Bradley Law Group, LLC, (e) excerpts of certified deposition testimony of the plaintiff, (f) the indictment in *United States* v. *Dennis A. Bradley, Jr., and Jessica Martinez, Defendants*, 3:21-cr-00087 (VAB), (g) the certificate of incorporation for K&D, P.C., dated August 31, 2022, and (h) the certificate of dissolution for BDK, P.C., dated November 16, 2022 (#152.00). Pursuant to the court's order, the defendants also submitted the complete transcript of the plaintiff's deposition testimony on February 28, 2024, along with an affidavit from the defendants' counsel attesting to its authenticity (#160.00).

filed a memorandum in opposition to the defendants' motion (#155.00) and, on February 20, 2024, the defendants filed a reply memorandum (#157.00). The court heard oral argument on the defendants' motion at remote hearings held on February 28, 2024, and April 24, 2024. For the following reasons, the defendants' motion for summary judgment is granted in part and denied in part.

DISCUSSION

I

LEGAL STANDARD

"Practice Book § 17-49 provides that summary judgment shall be rendered forthwith if the pleadings, affidavits and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. In deciding a motion for summary judgment, the trial court must view the evidence in the light most favorable to the nonmoving party. . . . The party moving for summary judgment has the burden of showing the absence of any genuine issue of material fact and that the party is, therefore, entitled to judgment as a matter of law." (Internal quotation marks omitted.) *Graham* v. *Commissioner of Transportation*, 330 Conn. 400, 414-415, 195 A.3d 664 (2018).

"In seeking summary judgment, it is the movant who has the burden of showing the nonexistence of any issue of fact. The courts are in entire agreement that the moving party for summary judgment has the burden of showing the absence of any genuine issue as to all the material facts, which, under applicable principles of substantive law, entitle[s] him to a judgment as a matter of law. The courts hold the movant to a strict standard. To satisfy his burden the movant must make a showing that it is quite clear what the truth is, and that excludes any real

doubt as to the existence of any genuine issue of material fact. . . . As the burden of proof is on the movant, the evidence must be viewed in the light most favorable to the opponent. . . . When documents submitted in support of a motion for summary judgment fail to establish that there is no genuine issue of material fact, the nonmoving party has no obligation to submit documents establishing the existence of such an issue. . . . Once the moving party has met its burden, however, the opposing party must present evidence that demonstrates the existence of some disputed factual issue. . . . It is not enough, however, for the opposing party merely to assert the existence of such a disputed issue. Mere assertions of fact . . . are insufficient to establish the existence of a material fact and, therefore, cannot refute evidence properly presented to the court under Practice Book § 380 [now § 17-45]." (Internal quotation marks omitted.) *Fiano* v. *Old Saybrook Fire Co. No. 1, Inc.*, 332 Conn. 93, 101, 209 A.3d 629 (2019). To be successful, "the nonmovant must recite specific facts . . . which contradict those stated in the movant's affidavits and documents. . . . The existence of the genuine issue of material fact must be demonstrated by counteraffidavits and concrete evidence." (Internal quotation marks omitted.) *Brusby* v. *Metropolitan District*, 160 Conn. App. 638, 646, 127 A.3d 257 (2015); see also *Bruno* v. *Whipple*, 162 Conn. App. 186, 214, 130 A.3d 899 (2015), cert. denied, 321 Conn. 901, 138 A.3d 280 (2016).

II

BREACH OF CONTRACT

As previously stated, count one of Bradley's amended complaint alleges that since October 1, 2022, the defendants failed to pay Bradley for his share of the firm's assets in accordance with the parties implied in fact contract. More specifically, Bradley alleges that "[a]t

all times since on or about October 1, 2022, [Denkovich and Karayiannis] have failed and refused to pay [Bradley] his share of BDK assets in accordance with their . . . implied in fact contract." Am. Compl., Count One, ¶ 6. Bradley defines the "BDK assets" that he seeks as "[a]ll income from case files [that] was shared one-third for each of the three partners." Am. Compl., Count One, ¶ 5 (b).

Denkovich and Karayiannis seek summary judgment on this contract claim essentially by arguing that the "implied in fact contract" on which Bradley bases his claim ceased to be in effect long before the parties law firm broke up. In response, Bradley claims that the contract at issue did not cease to exist in its entirety as the defendants claim.

The elements necessary to maintain a cause of action for breach of contract are well established and will not be fully reiterated here.[4] It appears undisputed that either an implied or

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[4] "The required elements necessary to sustain an action for breach of contract are the formation of an agreement, performance by one party, breach of the agreement by the other party and damages. . . . The existence of a contract is a question of fact to be determined by the trier on the basis of all of the evidence." (Citation omitted; internal quotation marks omitted.) *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, 157 Conn. App. 139, 159, 117 A.3d 876, cert. denied, 318 Conn. 902, 122 A.3d 631, 123 A.3d 882 (2015).

It is well established that "[a]n implied contract is an agreement between the parties which is not expressed in words but which is inferred from the acts and the conduct of the parties. . . . The test is whether the conduct and acts of the parties show an agreement." (Citations omitted.) *Brighenti* v. *New Britain Shirt Corp.*, 167 Conn. 403, 406, 356 A.2d 181 (1974). "[T]o prevail on [his] claim, the plaintiff must demonstrate an actual agreement by the defendant[s] to have [a] . . . contract with [him]. A contract implied in fact, like an express contract, depends on actual agreement. . . . Accordingly, to prevail on [his breach of contract] claim, which allege[s] the existence of an implied agreement between the parties, the plaintiff ha[s] the burden of proving by a fair preponderance of the evidence that the [defendants] had agreed, either by words or action or conduct, to undertake [some] form of actual contract commitment to [him] . . . . To survive a motion for summary judgment, the plaintiff ha[s] the burden of presenting evidence that the defendant[s] had agreed to some form of contract commitment." (Citations omitted; internal quotation marks omitted.) *Burnham* v. *Karl & Gelb, P.C.*, 50 Conn. App. 385, 388, 717 A.2d 811 (1998), aff'd, 252 Conn. 153, 745 A.2d 178 (2000).

"A contractual promise cannot be created by plucking phrases out of context; there must

oral agreement existed between the parties wherein the parties agreed: (a) that fees received from clients would be property of BDK; (b) that each of the three owners would be paid a salary of $50,000; (c) that each of the three owners would receive one-third of the firm's profits after expenses; and (d) that Denkovich and Karayiannis would principally focus on personal injury matters, while Bradley focused on immigration, family, criminal, and probate matters. What is disputed, however, is when this agreement between the parties ceased to exist. Denkovich and Karayiannis argue that the agreement between the parties ceased to exist as of September 2022, following the formation of K&D and the taking of BDK personal injury case files to K&D. To that end, Denkovich and Karayiannis argue that by October 1, 2022, the operative date set forth in count one with respect to the alleged breach of contract, the parties were not practicing together as BDK and neither party could claim an interest in the matters that the others were handling. See Defs.' Memo in Supp. Summ. J., p. 10. In response, Bradley contends that although there was a change in operation as to certain aspects of BDK's practice–relating to additional responsibility regarding payments to clerical employees–there was not a cessation of operations of the entirety of BDK and, therefore, a genuine issue of material fact exists as to when the parties' implied agreement ceased to exist. See Pl.'s Obj. Summ. J., pp. 3-4.

A genuine issue of material fact exists as to whether Denkovich and Karayiannis failed to pay Bradley his share of income from case files from October 1, 2022, to November 16, 2022, if such income exists, in accordance with the parties' implied agreement. The evidence establishes

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be a meeting of the minds between the parties. . . . In order to support contractual liability, the defendants' representations must be sufficiently definite to manifest a present intention on the part of the defendants to undertake immediate contractual obligations to the plaintiff." Id., 389.

that although Denkovich and Karayiannis formed K&D on August 31, 2022, BDK remained in existence after that date until it was dissolved on November 16, 2022. When Denkovich and Karayiannis moved into a new office space in September 2022, Bradley continued to operate under BLG in the space that was formerly the BDK office. Although there is evidence that the parties discussed dissolving BDK in early-mid 2022; see Bradley Dep. 97:17-24, 101:2-19, Karayiannis Aff. ¶¶ 14-15; there is no evidence memorializing the parties' discussion or intent to dissolve before BDK dissolved on November 16, 2022. Moreover, there is evidence that BDK continued to operate following Denkovich and Karayiannis' departure, and that Bradley was responsible for maintaining the administrative aspects of BDK. See Bradley Dep. 101:20-25, 102:1-19.

In summary, there are genuine issues of material fact concerning exactly when BDK stopped receiving income subject to the parties' distribution agreement, and therefore, summary judgment as to count one is denied.

III

CONVERSION

The defendants next seek summary judgment with regard to count two of Bradley's amended complaint on the grounds that Bradley: (1) lacks standing to assert a conversion claim with respect to the property of the parties' former law firm; and (2) cannot prove that the property at issue belonged to him, and therefore, he cannot satisfy a threshold element of a conversion claim. In response, Bradley asserts that he has standing to bring a claim of conversion because

the assets at issue belonged jointly and severally to each attorney operating under the implied in fact contract. The court agrees with the defendants.[5]

The law is well-established that a plaintiff's standing to maintain his complaint is a jurisdictional requisite for the court's subject matter jurisdiction.[6] Although somewhat muddled in Bradley's complaint and arguments, a distinction must be made between funds or assets belonging to BDK as compared to Bradley's interests in BDK. The law is settled that Bradley, as a shareholder of BDK, does not have standing to individually assert claims held by BDK.

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[5] The proper procedural vehicle to raise a jurisdictional question, such as standing, is a motion to dismiss. Practice Book § 10-30. Rather than directing the defendants to file a motion to dismiss on the standing issue, the court will treat their motion for summary judgment as a motion to dismiss in order to more expeditiously advance resolution of the question. See *Cadle Co.* v. *D'Addario*, 268 Conn. 441, 445, n. 5, 844 A.2d 836 (2004) (as proper procedural vehicle for disputing party's standing is motion to dismiss, "we treat the parties' cross motions for summary judgment as a motion to dismiss").

[6] "Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless he [or she] has, in an individual or representative capacity, some real interest in the cause of action, or a legal or equitable right, title or interest in the subject matter of the controversy. . . . When standing is put in issue, the question is whether the person whose standing is challenged is a proper party to request an adjudication of the issue. . . . Standing requires no more than a colorable claim of injury; a [party] ordinarily establishes . . . standing by allegations of injury. Similarly, standing exists to attempt to vindicate arguably protected interests . . . .

"Standing is established by showing that the party claiming it is authorized by statute to bring suit or is classically aggrieved. . . . The fundamental test for determining aggrievement encompasses a well-settled twofold determination: first, the party claiming aggrievement must successfully demonstrate a specific, personal and legal interest in [the subject matter of the challenged action], as distinguished from a general interest, such as is the concern of all members of the community as a whole. Second, the party claiming aggrievement must successfully establish that this specific personal and legal interest has been specially and injuriously affected by the [challenged action] . . . . Aggrievement is established if there is a possibility, as distinguished from a certainty, that some legally protected interest . . . has been adversely affected." (Internal quotation marks omitted.) *Smith* v. *Snyder*, 267 Conn. 456, 460-61, 839 A.2d 589 (2004).

Although a derivative action may be available (see General Statutes § 52-572j), no such action is before the court. The point is not that Bradley has no interest whatsoever about money that BDK may have failed to receive as a result of any alleged wrongs committed by the defendants, but that the established rule is that any such interest is a derivative one that is too indirect and insufficient to establish standing. "It is commonly understood that [a] shareholder–even the sole shareholder–does not have standing to assert claims alleging wrongs to the corporation." (Internal quotation marks omitted.) *Smith* v. *Snyder*, 267 Conn. 456, 461, 839 A.2d 589 (2004).

On the other hand, although Bradley does not have standing to seek recovery of funds owed to BDK, he does have standing to assert claims for distributions that he was entitled to receive from BDK. The defendants contend that any such conversion claim by Bradley still fails as a matter of law. The court agrees for the following reasons.

"To establish a prima facie case of conversion, the plaintiff [must] demonstrate that (1) the material at issue belonged to the plaintiff, (2) that [the defendant] deprived the plaintiff of that material for an indefinite period of time, (3) that [the defendant's] conduct was unauthorized and (4) that [the defendant's] conduct harmed the plaintiff." (Internal quotation marks omitted.) *Coster* v. *Duquette*, 119 Conn. App. 827, 832, 990 A.2d 362 (2010).

"Under our case law, [m]oney can clearly be the subject to conversion. . . . The plaintiffs must establish, however, legal ownership or right to possession of specifically identifiable moneys." (Citations omitted; internal quotation marks omitted.) *Deming* v. *Nationwide Mutual Ins. Co.*, 279 Conn. 745, 771-772, 905 A.2d 623 (2006). "In *Macomber* v. *Travelers Property & Casualty Corp.*, 261 Conn. 620, 804 A.2d 180 (2002), our Supreme Court set forth the general rule that, although money may be the subject of civil theft, [a]n action for conversion of funds

may not be maintained to satisfy a mere obligation to pay money. . . . [I]n order to establish a valid claim . . . a party must show ownership or the right to possess specific, identifiable money, rather than the right to payment of money generally. . . . A mere obligation to pay money may not be enforced by a conversion [or civil theft] action . . . and an action in tort is inappropriate where the basis of the suit is a contract, either express or implied." (Citation omitted; emphasis omitted; internal quotation marks omitted.) *Hamann* v. *Carl*, 196 Conn. App. 583, 598, 230 A.3d 803, cert. denied, 335 Conn. 949, 238 A.3d 22 (2020).

"Money earned by a corporation remains the property of the corporation, and does not become the property of the stockholders, unless and until it is distributed among them by the corporation." (Internal quotation marks omitted.) *Spooner* v. *Phillips*, 62 Conn. 62, 73, 24 A. 524 (1892). Thus, Bradley's conversion claim fails because he does not claim that the defendants converted funds distributed to or received by him. Bradley essentially claims that the defendants wrongfully deprived him from receiving funds from BDK and an action for conversion cannot be maintained based on an obligation to receive money as alleged in this manner.

IV

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

The defendants next seek summary judgment with regard to count three of Bradley's amended complaint on the grounds: (1) that Bradley lacks standing to assert a tortious interference claim with respect to the contractual relations of the parties' former law firm; and (2) that because Bradley cannot prove interference with any contractual relationship of his, he cannot meet the threshold elements necessary to support a tortious interference claim. The court agrees with part of the defendants' argument.

"A claim for tortious interference with contractual relations requires the plaintiff to establish (1) the existence of a contractual or beneficial relationship, (2) the defendants' knowledge of that relationship, (3) the defendants' intent to interfere with the relationship, (4) the interference was tortious, and (5) a loss suffered by the plaintiff that was caused by the defendants' tortious conduct." (Internal quotation marks omitted.) *Landmark Investment Group, LLC* v. *CALCO Construction & Development Co.*, 318 Conn. 847, 864, 124 A.3d 847 (2015). "[I]n an action for tortious interference, not every act that disturbs a contract or business expectancy is actionable. . . . [F]or a plaintiff successfully to prosecute [an action for tortious interference] it must prove that the defendant's conduct was in fact tortious. This element may be satisfied by proof that the defendant was guilty of fraud, misrepresentation, intimidation or molestation. . . or that the defendant acted maliciously. . . . The plaintiff in a tortious interference claim must demonstrate malice on the part of the defendant, not in the sense of ill will, but intentional interference without justification." (Citations omitted; internal quotation marks omitted.) Id., 868-869.

The court agrees with the defendants that Bradley is without authority or standing to claim that they tortiously interfered with contracts between BDK and its clients.[7] Bradley does

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[7]The court notes that Bradley's claim that the defendants tortiously interfered with the contracts between BDK and its clients also appears precluded because, under these circumstances, the defendants were acting as agents of BDK. To explain further, "it is well-settled that the tort of interference with contractual relations only lies when a third party adversely affects the contractual relations of two *other* parties. . . . [T]here can be no intentional interference with contractual relations by someone who is directly or indirectly a party to the contract. [T]he general rule is that the agent may not be charged with having interfered with a contract of the agent's principal. . . . [A]n agent acting legitimately within the scope of his authority cannot be held liable for interfering with or inducing his principal to breach a contract between his principal and a third party, because to hold him liable would be, in effect to hold the corporation liable in tort for breaching its own contract." (Citations omitted; emphasis in

not actually argue to the contrary. Bradley insists that he also complains that the defendants tortiously interfered with personal contracts that he had with his own clients. The evidence indicates that after the formation of BDK, Bradley provided legal services individually. Bradley can claim that the defendants tortiously interfered with his contracts with these clients notwithstanding the defendants' concerns that these contracts may have been inconsistent with the parties' expectations regarding BDK.

Consequently, as to the third count of the amended complaint, any claims by Bradley that the defendants interfered with contracts between BDK and its clients are subject to dismissal, but the defendants' motion for judgment or dismissal in their favor is denied to the extent that this count alleges that the defendants tortiously interfered with contracts between Bradley and his clients.

CONCLUSION

For these reasons, the defendants' motion for summary judgment is denied as to count one of the amended complaint and granted as to count two. As to count three, the motion is denied as to the claims that the defendants tortiously interfered with contracts between Bradley and his clients, but the court issues an order of dismissal as to the claims that the defendants interfered with contracts between BDK and its clients.

So ordered this 11th day of June 2024.

HONORABLE BARRY STEVENS
JUDGE TRIAL REFEREE

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original; internal quotation marks omitted.) *Metcoff* v. *Lebovics*, 123 Conn. App. 512, 520-521, 2 A.3d 942 (2010).