

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ELKAY INTERIOR SYSTEMS
INTERNATIONAL, INC. and DIGNEY YORK
ASSOCIATES, LLC,

Plaintiffs,

v.

JAY S. WEISS,

Defendant.

C.A. No. 22-438-RGA-JLH

REPORT AND RECOMMENDATION

Pending before the court is Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint (D.I. 76). I heard oral argument on October 23, 2023. For the reasons announced from the bench at the conclusion of the hearing, I recommend that Defendant's motion be GRANTED-IN-PART and DENIED-IN-PART.

1. The Second Claim (styled as a "Cause of Action") for tortious interference with contracts should be DISMISSED.

2. The Motion to Dismiss should be DENIED as to the First Claim (breach of contract), the Third Claim (tortious interference with prospective business relationships), the Fourth Claim (unfair competition), and the Fifth Claim (trade secret misappropriation).

3. Defendant's request to strike the Jury Demand should be GRANTED.

This Report and Recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B), (C), Federal Rule of Civil Procedure 72(b)(1), and District of Delaware Local Rule 72.1. Any objections to the Report and Recommendation shall be filed within fourteen days and limited to ten pages. Any response shall be filed within fourteen days thereafter and limited to ten pages. The

failure of a party to object to legal conclusions may result in the loss of the right to de novo review in the district court. The parties are directed to the Court's "Standing Order for Objections Filed Under Fed. R. Civ. P. 72," dated March 7, 2022, a copy of which can be found on the Court's website.

Dated: October 23, 2023



Jennifer L. Hall
UNITED STATES MAGISTRATE JUDGE