

STATE OF NORTH CAROLINA  
RANDOLPH COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
23 CVS 1239

STACY RODDY GRIFFIN, as  
Executrix of the ESTATE OF  
CHRISTOPHER LEE GRIFFIN,

Plaintiff,

v.

ADVISORS FINANCIAL CENTER,  
L.L.P. and CORNELIUS GRIFFIN,  
III,

Defendants.

**ORDER AND OPINION ON  
DEFENDANTS' MOTION FOR  
PARTIAL JUDGMENT ON THE  
PLEADINGS**

1. **THIS MATTER** is before the Court upon Defendants Advisors Financial Center, LLP (“Advisors” or the “Partnership”) and Cornelius Griffin, III’s (“Neal”; together with Advisors, “Defendants”) Motion for Partial Judgment on the Pleadings (the “Motion”) pursuant to Rule 12(c) of the North Carolina Rules of Civil Procedure (the “Rule(s)”) in the above-captioned case.<sup>1</sup>

2. Neal and his late brother, Christopher Lee Griffin (“Chris”), formed and operated Advisors to provide investment and financial planning services to clients in Randolph County, North Carolina and across the United States from 1995 until Chris’s untimely death in February 2022.<sup>2</sup> They did so pursuant to the terms of a Limited Liability Partnership Agreement (the “Partnership Agreement”), under which Neal held a 60% ownership interest and Chris held a 40% ownership interest.<sup>3</sup>

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<sup>1</sup> (ECF No. 24.)

<sup>2</sup> (Compl. ¶¶ 13, 16, 23, ECF No. 3.)

<sup>3</sup> (Compl. ¶¶ 14–15.)

Following Chris's death, Neal purported to liquidate Advisors at the end of 2022 pursuant to the terms of the Partnership Agreement.<sup>4</sup>

3. The Motion poses two discrete issues: (i) whether the Partnership has goodwill that should be accounted for in liquidating or selling the Partnership's assets after Chris's death and (ii) whether Chris's estate<sup>5</sup> may maintain a claim for conversion of Chris's interest in the Partnership.

4. Having considered the Motion, the parties' briefs in support of and in opposition to the Motion, the relevant pleadings, all other appropriate matters of record, and the arguments of counsel at the hearing on the Motion, the Court, for the reasons set forth below, **DENIES** the Motion seeking judgment on the Estate's claims for goodwill, **GRANTS** the Motion seeking judgment on the Estate's conversion claim, and **DISMISSES** the Estate's conversion claim against Defendants with prejudice.

*Johnston, Allison & Hord, P.A., by David T. Lewis, Kathleen D. B. Burchette, and William D. McClelland, for Plaintiff Stacy Roddy Griffin, as Executrix of the Estate of Christopher Lee Griffin.*

*Tuggle Duggins P.A., by Denis E. Jacobson, Brandy L. Mansouraty, and Daniel D. Stratton, for Defendants Advisors Financial Center, LLP and Cornelius Griffin, III.*

Bledsoe, Chief Judge.

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<sup>4</sup> (Compl. ¶¶ 38–46.)

<sup>5</sup> The plaintiff in this action is Chris's widow, Stacy Roddy Griffin, who has sued Defendants in her capacity as the Executrix of the Estate of Christopher Lee Griffin (the "Estate"). (Compl. ¶¶ 2–3, 9–10.)

## I.

### FACTUAL AND PROCEDURAL BACKGROUND

5. The Court does not make findings of fact on motions presented under Rule 12(c). Rather, the Court recites the allegations asserted and documents referenced in the pleadings that are relevant to the Court's determination of the Motion.

6. Article XI, section 11.03(a) of the Partnership Agreement addresses the consequences of a partner's death:

In the event of the death of a [p]artner, the estate of the deceased [p]artner shall continue to share in the [i]ncome, [l]osses and [c]ash [d]istributions of the Partnership for the balance of the calendar year in the same way the deceased [p]artner would have shared in them had he survived to the end of the calendar year. At any time prior to the end of the calendar year or within 30 days of the demise of the partner, whichever shall later occur, the surviving [p]artners shall have the option either to liquidate the Partnership or to have the Partnership purchase the interest of the deceased [p]artner. In the latter event, the estate of the deceased [p]artner shall have no interest in the Partnership and the surviving [p]artners shall have the right to continue the business by themselves or with others without accounting for trade name, good will or other intangible values.<sup>6</sup>

7. The Estate alleges that Neal has failed to comply with the Partnership Agreement by failing to either purchase Chris's interest in the Partnership or liquidate the Partnership "as a whole."<sup>7</sup> The Estate alleges that, instead, Neal closed the Partnership's bank accounts, transferred the Partnership's funds to non-Partnership bank accounts he set up to conduct the same business as the Partnership,

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<sup>6</sup> (Def's. Advisors Financial Center, LLP and Cornelius Griffin, III's Mot. Partial J. Pleadings Ex. A [hereinafter, "Partnership Agreement"], ECF No. 24.2.)

<sup>7</sup> (Compl. ¶¶ 40–42.)

and now operates a new business entity with the Partnership's clients, staff, building, and trade name.<sup>8</sup>

8. The Estate filed the Complaint initiating this action on 16 June 2023, asserting claims for breach of fiduciary duty against Neal and for breach of contract and conversion against both Defendants.<sup>9</sup> Defendants filed their Answer and Affirmative Defenses on 21 August 2023.<sup>10</sup>

9. Defendants filed the Motion on 15 November 2023.<sup>11</sup> After full briefing, the Court convened a hearing on the Motion on 25 January 2024, at which all parties were represented by counsel (the "Hearing").<sup>12</sup> The Motion is now ripe for resolution.

## II.

### LEGAL STANDARD

10. Rule 12(c) provides that "[a]fter the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." N.C.R. Civ. P. 12(c). The purpose of Rule 12(c) is "to dispose of baseless claims or defenses when the formal pleadings reveal their lack of merit and is appropriately employed where 'all the material allegations of fact are admitted in the pleadings and

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<sup>8</sup> (Compl. ¶¶ 41–42.)

<sup>9</sup> (Compl. ¶¶ 47–68.)

<sup>10</sup> (Compl. ¶ 11.)

<sup>11</sup> (Defs. Advisors Financial Center, LLP and Cornelius Griffin, III's Mot. Partial J. Pleadings [hereinafter, the "Mot."]; Defs. Advisors Financial Center, LLP and Cornelius Griffin, III's Br. Supp. Mot. Partial J. Pleadings [hereinafter, "Defs.' Br. Supp."], ECF No. 25.)

<sup>12</sup> (Notice Hearing, ECF No. 26.)

only questions of law remain.’ ” *DiCesare v. Charlotte-Mecklenburg Hosp. Auth.*, 376 N.C. 63, 70 (2020) (quoting *Ragsdale v. Kennedy*, 286 N.C. 130, 137 (1974)).

11. In considering a motion for judgment on the pleadings:

all well pleaded factual allegations in the nonmoving party’s pleadings are taken as true and all contravening assertions in the movant’s pleadings are taken as false. As with a motion to dismiss, the trial court is required to view the facts and permissible inferences in the light most favorable to the nonmoving party. A Rule 12(c) movant must show that the complaint fails to allege facts sufficient to state a cause of action or admits facts which constitute a complete legal bar to a cause of action.

*Tully v. City of Wilmington*, 370 N.C. 527, 532 (2018) (cleaned up).

12. “Judgment on the pleadings is proper when the movant clearly establishes that no material issue of fact remains to be resolved and that he is entitled to judgment as a matter of law.” *Shearin v. Brown*, 276 N.C. App. 8, 11 (2021) (cleaned up). Rule 12(c) motions “must be carefully scrutinized lest the nonmoving party be precluded from a full and fair hearing on the merits.” *Newman v. Stepp*, 376 N.C. 300, 305 (2020) (quoting *Ragsdale*, 286 N.C. at 137).

### III.

#### ANALYSIS

##### A. Goodwill

13. Defendants first seek a judicial determination that, as a “professional partnership,” the Partnership does not have goodwill that survives Chris’s death under North Carolina law.<sup>13</sup> As a result, Defendants seek a judgment barring the

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<sup>13</sup> (Defs.’ Br. Supp. 6–10.)

Estate from recovering damages for Defendants' failure to account for goodwill in determining the value of the Partnership's assets upon liquidation or sale.

1. The Estate's Mootness/Ripeness Argument

14. As an initial matter, the Estate contends that the Motion should be denied as moot or as seeking an advisory opinion because Defendants have sought a determination concerning the proper accounting for goodwill on sale or liquidation when the Estate has pleaded that neither a sale nor liquidation has yet to occur.<sup>14</sup> *See, e.g., Town of Tryon v. Duke Power Co.*, 222 N.C. 200, 200 (1942) (“It is no part of the function of the courts . . . to give advisory opinions, or to answer moot questions, or to maintain a legal bureau for those who may chance to be interested, for the time being, in the pursuit of some academic matter.”) (cleaned up). But the Estate ignores that it has advanced a claim for contract damages against Defendants for allegedly failing to purchase Chris's interest or sell the Partnership as required under the Partnership Agreement—a claim which will necessarily put at issue whether the Partnership's goodwill expired with Chris's death. As a result, the Court concludes that Defendants' Motion raises a justiciable issue that is ripe for adjudication. *See, e.g., Crescent Univ. City Venture v. AP Atl., Inc.*, 2019 NCBC LEXIS 46, at \*86–87 (N.C. Super. Ct. Aug. 8, 2019) (rejecting mootness challenge to damages determination because “in the event [defendant] is found liable to [plaintiff] for breach of contract, [plaintiff] may be entitled to recover these expenses”).

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<sup>14</sup> (Pl. Stacy Roddy Griffin, as Executrix of the Estate of Christopher Lee Griffin's Br. Resp. Defs.' Mot. Partial J. Pleadings 4–5 [hereinafter, “Pl.'s Br. Opp'n”], ECF No. 32.)

## 2. The Estate's Argument Based on the Partnership Agreement

15. The Estate next contends that, in order to give meaning to section 11.03(a) of the Partnership Agreement, “the Court must conclude that goodwill existed at the time of Chris’s death, his Estate possessed a right for an accounting of goodwill, and that right is only extinguished by a buyout of the Estate’s partnership interest by Advisors or payment of the Estate’s liquidation interest[.]”<sup>15</sup> The Court disagrees.

16. Section 11.03(a) provides, in relevant part, as follows:

At any time prior to the end of the calendar year or within 30 days of the demise of the partner, whichever shall later occur, the surviving [p]artners shall have the option either to liquidate the Partnership or to have the Partnership purchase the interest of the deceased [p]artner. In the latter event, the estate of the deceased [p]artner shall have no interest in the Partnership and the surviving [p]artners shall have the right to continue the business by themselves or with others without accounting for trade name, good will or other intangible values.<sup>16</sup>

17. Rather than necessarily imply that goodwill existed upon Chris’s death, the Partnership Agreement instead is silent as to an accounting for goodwill in the event of a liquidation and states only that, if the surviving partner elects to cause the Partnership to purchase the deceased partner’s interest and continue the Partnership, he may do so without accounting to the deceased partner’s estate for “trade name, good will or other intangibles.”<sup>17</sup> That the surviving partner may continue the Partnership without accounting for goodwill does not imply that the Estate had a right to an accounting for goodwill at the time of Chris’s death. The

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<sup>15</sup> (Pl.’s Br. Opp’n 12.)

<sup>16</sup> (Partnership Agreement Art. XI § 11.03(a).)

<sup>17</sup> (Partnership Agreement Art. XI § 11.03(a).)

Court therefore rejects Plaintiff's contract construction as inconsistent with the plain language of the Partnership Agreement. *See, e.g., State v. Philip Morris USA, Inc.*, 363 N.C. 623, 631 (2009) ("Interpreting a contract requires the court to examine the language of the contract itself for indications of the parties' intent at the moment of execution. If the plain language of a contract is clear, the intention of the parties is inferred from the words of the contract." (cleaned up)).

### 3. The Estate's Professional Partnership Argument

18. Having dispatched with the Estate's initial two arguments, the Court now turns to the parties' core contentions on the Motion. As noted above, Defendants contend that the Partnership is a "professional partnership" and thus had no goodwill following Chris's death for which an accounting is required upon liquidation or sale.<sup>18</sup>

19. For their support, Defendants heavily rely upon the Court of Appeals' decision in *Craver v. Nakagama*, 94 N.C. App. 158 (1989). *Craver* involved a funeral home business initially owned and operated as a partnership by two founding partners who were heavily involved in the day-to-day management of the business. *Id.* at 160. After the founders' deaths, their partnership interests passed to persons who did not engage in day-to-day management and instead hired properly licensed employees to operate the business. *Id.* In determining whether the partnership's property included goodwill, the Court of Appeals drew a distinction between "professional partnerships"—in which "the business conducted . . . is said to be personal with the client depending upon the individual skill, judgment and

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<sup>18</sup> (Defs.' Br. Supp. 6–10.)



reputation of the partner with whom the client is dealing”—and “commercial partnerships”—in which the basis for the firm’s reputation and business is the “skill and judgment of the partnership’s employees, not the partners themselves.” *Id.* at 161.

20. The Court of Appeals recognized that when the founders ran the funeral home, it was a professional partnership—one “whose reputation rest[ed] solely on the individual skill of the partners”—and thus “[had] no goodwill that [could] be distributed once the partnership [was] dissolve[d].” *Id.* at 161. But the Court of Appeals concluded that, after the founders’ deaths, the funeral home’s name was “no longer descriptive of the people running the business” and instead “began to acquire, through the incrustations of time, a veneer of associations artificial and impersonal.” *Id.* at 161 (cleaned up). Accordingly, the court concluded that the partnership had become commercial rather than professional and, as a result, held that its goodwill could be sold upon dissolution. *Id.*

21. Defendants argue that the Partnership—a financial services business in which “the business conducted . . . is said to be personal with the client depending upon the individual skill, judgment and reputation of the partner with whom the client is dealing,” *id.* at 161—is a professional partnership under North Carolina law whose goodwill is necessarily extinguished upon the death of a partner. As such, Defendants contend that Plaintiff’s claims should be dismissed to the extent they seek an accounting and recovery for the Partnership’s goodwill on or after Chris’s death.<sup>19</sup>

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<sup>19</sup> (Defs.’ Br. Supp. 6–10.)

22. The Estate makes several arguments in opposition.

23. First, the Estate contends that the Partnership cannot be a professional partnership because it is organized as a limited liability partnership (“LLP”).<sup>20</sup> But the fact that the Partnership’s partners elected to organize as an LLP shows only that they chose to avoid personal liability for the Partnership’s debts and obligations, *see* N.C.G.S. §59-45(a1); it says nothing about whether the business was to be operated as a professional or commercial partnership. The Court therefore finds the Estate’s contention unpersuasive.

24. Next, the Estate argues that, because the North Carolina Professional Corporation Act (the “Professional Corporation Act”)<sup>21</sup> does not include financial services as one of the licensed professional services in section 55B-2, the Partnership is not engaged in a profession and thus cannot be a professional partnership.<sup>22</sup> The Court again disagrees. Not only are the definitions listed in section 55B-2 applicable only to the Professional Corporation Act, *see* N.C.G.S. § 55B-2, but the Estate also alleges that Advisors is a limited liability partnership, not a professional corporation subject to the Professional Corporation Act.<sup>23</sup> Moreover, the Court of Appeals concluded that the provision of mortuary services by the founders in *Craver* was a professional partnership even though mortuary services are not included in section

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<sup>20</sup> (Pl.’s Br. Opp’n 6.)

<sup>21</sup> N.C.G.S. §§ 55B-1–B-16.

<sup>22</sup> (Pl.’s Br. Opp’n 6–7.)

<sup>23</sup> (*See generally* Compl.)

55B-2. Furthermore, it cannot be reasonably disputed that the provision of financial services requires a high level of education, skill, and judgment like other recognized professions. Indeed, financial services providers are subject to extensive state and federal regulation, *see e.g.* N.C.G.S § 78C, are subject to strict licensing requirements, and have close, confidential, personal relationships with their clients like other recognized professions.<sup>24</sup> *See, e.g., Cook v. Lauten*, 1 Ill.App.2d 255, 260 (1954) (noting that “[t]he work of [c]ertified [p]ublic [a]ccountants requires skill, learning, and experience[]”); *Hunt v. Street*, 182 Tenn. 167, 172 (1945) (observing that “[a]rchitecture calls for the highest skill”); *Lyon v. Lyon*, 246 Cal.App.2d, 519, 524 (1966) (noting that the reputation of a professional partnership for the practice of law depends on “the personal and confidential relationship existing between each such member and client”). For each of these reasons, therefore, the Court finds Plaintiff’s contention to be without merit.

25. Having reached this point in the analysis, however, the Court is not prepared to conclude on the current pleadings that the Partnership is a professional partnership as a matter of law. As noted above, *Craver* holds that “a professional partnership whose reputation rests *solely* on the individual skill of the partners has no goodwill that can be distributed once the partnership dissolves.” 94 N.C. App. at 161 (emphasis added). While the Estate pleads that Chris and Neal “founded and built a successful, well-respected investment and financial planning firm together”<sup>25</sup>

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<sup>24</sup> (Compl. ¶ 19.)

<sup>25</sup> (Compl. Introduction.)

and that since Chris’s death, the Partnership has touted that “Neal and Chris made an incomparable ‘team,’”<sup>26</sup> the Estate also pleads that the Partnership used “its *team’s* financial experience and expertise to help its clients meet financial goals and pursue long-term growth and wealth” and that Chris “took the laboring oar in managing . . . the Partnership’s *internal team*[,]”<sup>27</sup> These allegations, viewed in the light most favorable to Plaintiff, would permit a factfinder to conclude that the Partnership’s reputation was due not only to Neal’s and Chris’s individual skill, but also to the skill of the internal team members who worked for the Partnership. As a result, a reasonable factfinder could conclude on the pleaded facts that the Partnership’s reputation did not rest *solely* on Neal’s and Chris’s individual skill, negating a necessary condition to the rule announced in *Craver* on which Defendants rely. The Court therefore concludes that Defendants’ Motion seeking judgment on the Estate’s claims to the extent they seek an accounting for goodwill must be denied under Rule 12(c).

B. Conversion

26. Defendants also seek judgment on the Estate’s claim against Defendants for allegedly converting the Estate’s “40% interest in the Partnership” because North Carolina does not recognize a claim for conversion of this sort of intangible asset.<sup>28</sup> The Court agrees.

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<sup>26</sup> (Compl. ¶ 29.)

<sup>27</sup> (Compl. ¶¶ 17, 20 (emphasis added).)

<sup>28</sup> (Defs.’ Br. Supp. 10–11; *see also* Compl. ¶¶ 65, 68.)

27. First, this Court has recognized that a partnership interest is an intangible interest. *See, e.g., Surratt v. Brown*, 2015 NCBC LEXIS 75, at \*15–16 (N.C. Super. Ct. July 27, 2015) (holding that “[plaintiff’s] right to partnership property, his membership in the LLC/Partnership, and his right to participate in the management of the LLC/Partnership[]” were intangible interests).

28. So, too, are the Estate’s contract rights under the Partnership Agreement. *See, e.g., Window World of N. Atlanta, Inc. v. Window World, Inc.*, 2018 NCBC LEXIS 111, at \*9–10 (N.C. Super. Ct. Oct. 22, 2018) (holding that contract rights are not “tangible property upon which a claim for conversion may be based”); *Horne Heating & Air Conditioning Co. v. Horne*, 2017 NCBC LEXIS 96, at \*9 (N.C. Super. Ct. Oct. 11, 2017) (dismissing a claim for conversion of a contractual right, “which our courts have deemed an intangible interest under North Carolina law”).

29. Since this Court has made clear that “intangible interests cannot properly be the subject of a conversion claim,” *Conservation Station, Inc. v. Bolesky*, 2023 NCBC LEXIS 164, at \*26–27 (N.C. Super. Ct. Dec. 12, 2023), the Estate’s claim for conversion of Chris’s partnership interest necessarily fails as a matter of law. *See also, e.g., Norman v. Nash Johnson & Sons’ Farms, Inc.*, 140 N.C. App. 390, 414 (2000) (holding that “only goods and personal property are properly the subjects of a claim for conversion”).

IV.

CONCLUSION

30. **WHEREFORE**, for the reasons set forth above, the Court hereby **GRANTS in part** and **DENIES in part** the Motion as follows:

- a. Defendants' Motion is hereby **DENIED** to the extent Defendants seek judgment in their favor on the Estate's claims for goodwill; and
- b. Defendants' Motion is hereby **GRANTED** as to the Estate's claim for conversion and that claim is hereby **DISMISSED** with prejudice.

**SO ORDERED**, this the 22nd day of April, 2024.

/s/ Louis A. Bledsoe, III  
Louis A. Bledsoe, III  
Chief Business Court Judge