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Yankwitt LLP's Compelling Summary Judgment Motion Limits Shareholder Derivative Action Against Its Clients

Yankwitt LLP successfully obtained a dismissal of most claims against its clients in a shareholder derivative litigation pending in the Southern District of New York before Magistrate Judge Judith C. McCarthy. Yankwitt represents an individual defendant and a corporate defendant in the litigation involving two brothers who co-own a food manufacturing business.

The plaintiff asserted 14 separate causes of action against his brother and his brother's wholly owned business, accusing them of breaching various duties and of business torts. According to the plaintiff, the defendants damaged the brothers' jointly-owned family business and drove down its book value. After completing discovery, Yankwitt LLP moved for summary judgment on behalf of the defendants, arguing that the plaintiff's wild accusations against his brother were not borne out in discovery and that, in fact, his brother had saved their business and helped make it profitable.

On August 23, 2022, Judge McCarthy granted the majority of Yankwitt LLP's motion, dismissing all claims asserted against its corporate client and the majority of the claims asserted against its individual client. Regarding the two surviving claims, Judge McCarthy held that the plaintiff would not be permitted to rely on his theory that his brother had diminished the book value of their business since that theory was not supported by admissible evidence.

Yankwitt LLP looks forward to continuing to fight for its individual client as the significantly pared-down case heads to trial on the plaintiff's two remaining claims and the individual defendant's counterclaims.

The case is *Endico v. Endico*, Civ No. 19-CV-7231 (S.D.N.Y.).