

STATE OF NORTH CAROLINA  
ROBESON COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
23 CVS 2746

JADIERA CARABALLO-LOPEZ,  
as Administratrix of The Estate  
of DERECK R. CARRERO,

Plaintiff,

v.

RETAIL BUSINESS SERVICES,  
LLC; FOOD LION, LLC; ADUSA  
SUPPLY CHAIN SERVICES, LLC;  
DELHAIZE US HOLDING, INC.;  
DELHAIZE AMERICA, LLC;  
DELHAIZE THE LION AMERICA,  
LLC; ADUSA PROCUREMENT,  
LLC; AHOLD DELHAIZE USA,  
INC.; ADUSA COMMERCIAL  
HOLDINGS, INC.; LARRY CONRAD  
MCNEILL, JR.; MARK L. SENS; and  
THE RAYMOND CORPORATION,

Defendants.

**ORDER ON DESIGNATION**

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 7 March 2024 by the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, directing the undersigned to determine whether this action is properly designated as a mandatory complex business case in accord with N.C.G.S. § 7A-45.4(a).

2. Plaintiff Jadiera Caraballo-Lopez, as Administratrix of the Estate of Dereck R. Carrero (the "Plaintiff"), filed the Complaint with Jury Demand and with Plaintiff's First Interrogatories, First Requests for Production of Documents, Request for Inspection, and First Requests for Admissions Attached initiating this action in Robeson County Superior Court on 25 September 2023.

3. On 4 October 2023, Plaintiff filed her First Amended Complaint with Jury Demand and with Plaintiff's First Interrogatories, First Requests for Production of Documents, Request for Inspection, and First Requests for Admissions Attached (the "FAC"). In an e-mail to the Business Court's Senior Court Coordinator dated 8 March 2024 and copying all counsel of record, counsel for Defendants Retail Business Services, LLC, Food Lion, LLC, ADUSA Supply Chain Services, LLC, Delhaize US Holding, Inc., Delhaize America, LLC, Delhaize The Lion America, LLC, ADUSA Procurement, LLC, Ahold Delhaize USA, Inc., ADUSA Commercial Holdings, Inc., and Mark L. Sens (the "Moving Defendants") attached Affidavits of Service showing that all Moving Defendants, except Sens, accepted service of the FAC on 12 October 2023. Sens accepted service of the FAC on 5 October 2023.

4. In his 8 March 2024 e-mail, counsel for Moving Defendants also represented that a Notice of Designation to the North Carolina Business Court (the "NOD") for this matter was sent via U.S. mail to the Robeson County Clerk of Court on 6 March 2024.

5. Moving Defendants seek designation as a mandatory complex business case pursuant to N.C.G.S. § 7A-45.4(a)(1). However, under section 7A-45.4(d)(3), "[t]he Notice of Designation shall be filed[ ] . . . [b]y any defendant . . . within 30 days of receipt of service of the pleading seeking relief from the defendant . . . [.]" Moving Defendants' failure to file their NOD within thirty days of accepting service of the FAC renders the NOD untimely. As a result, the Court determines that this action is not properly designated as a mandatory complex business case in accord with

section 7A-45.4(a) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases. *See, e.g., Bradford Aquatic Grp., LLC v. Barber*, 2023 NCBC LEXIS 83, at \*2 (N.C. Super. Ct. June 19, 2023) (determining designation was improper when defendant filed the notice of designation more than three months after accepting service of the complaint); *Prod. Recovery Mgmt., Inc. v. D.D. Williamson & Co.*, 2018 NCBC LEXIS 248, at \*3 (N.C. Super. Ct. Dec. 21, 2018) (“The time for designation . . . is set independently from the time to answer or respond.”).

6. Moreover, a review of the FAC makes plain that this is a wrongful death action. Section 7A-45.4(h) expressly excludes such actions from designation as mandatory complex business cases. *See* N.C.G.S. § 7A-45.4(h) (“Nothing in this section is intended to permit actions for personal injury grounded in tort to be designated as mandatory complex business cases[.]”). As a result, even if Moving Defendants’ NOD had been timely filed, designation of this action would still be improper on this separate and independent ground.

7. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 20 that this action is not properly designated as a mandatory complex business case so that the action may be treated as any other civil action, wherein the parties may pursue designation as a Rule 2.1 exceptional case with the Senior Resident Superior Court Judge if deemed appropriate.

**SO ORDERED**, this the 11th day of March, 2024.

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