

STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV014990-400

BITCO GENERAL INSURANCE
CORPORATION, in its own right and
as assignee of CLARENCE I. STACK,
INC.,

Plaintiff,

v.

SAS RETAIL SERVICES, LLC,
Defendant.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 3 July 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 BITCO General Insurance Corporation (the “Plaintiff”), filed the Complaint initiating this action in Guilford County Superior Court on 1 July 2024. (*See* Compl. 1.) The next day, Plaintiff filed its Notice of Designation of Action as a Mandatory Complex Business Case Under N.C.G.S. § 7A-45.4. (*See* Notice Designation Action Mandatory Complex Bus. Case Under N.C.G.S. § 7A-45.4 at 1.)

3. Under N.C.G.S. § 7A-45.4(d)(1), “[t]he Notice of Designation shall be filed . . . [b]y the plaintiff . . . contemporaneously with the filing of the complaint[.]” The contemporaneous filing requirement of N.C.G.S. § 7A-45.4(d)(1) is mandatory. As a result, the Court determines that this action is not properly designated as a

mandatory complex business case in accord with N.C.G.S. § 7A-45.4(a) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases. *See, e.g., Shah v. Ahmed*, 2023 NCBC LEXIS 26, at *1–2, (N.C. Super. Ct. Feb. 13, 2023) (determining designation was improper when notice of designation was allegedly filed four months after the filing of the complaint); *Shenzhen Ruobilin Network Tech. Co. v. ChannelAdvisor Corp.*, 2022 NCBC LEXIS 144, at *1 (N.C. Super. Ct. Nov. 30, 2022) (determining designation was improper when notice of designation was filed thirty-three days after the filing of the complaint).

4. Moreover, even if the Notice of Designation had been timely filed, Plaintiff's contention that this case is properly designated under N.C.G.S. § 7A-45.4(a)(1) is misplaced. Designation under this section is proper if the action involves a material issue related to “[d]isputes involving the law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies, including disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.” Plaintiff alleges claims only for contractual and common law indemnification and statutory and common law contribution. None of these claims arises under or implicates Chapters 55 or 57D, or the law governing corporations, partnerships, or limited liability companies.

5. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 24 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 designation as a Rule 2.1 exceptional case may be pursued with the Senior Resident Superior Court Judge if deemed appropriate.

6. The Court's ruling is without prejudice to the right of any other party to seek designation of this matter as a mandatory complex business case as provided under N.C.G.S. § 7A-45.4.

SO ORDERED, this the 3rd day of July, 2024.

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