

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

ORANGE COUNTY

24CVD000473-670

SHAYNE GUILIANO,

Plaintiff,

v.

LEILA STRICKLAND; MICHELLE
EGGER; BIOMILQ, INC.; JOHN
DOE BIOMILQ, INC.
SHAREHOLDERS;
BREAKTHROUGH ENERGY
VENTURES, LLC; JOHN DOE
BREAKTHROUGH ENERGY
VENTURES, LLC
SHAREHOLDERS;
SHAZI VISRAM; BLUE HORIZON
CORPORATION; and GOODWIN
PROCTER LLP,

Defendants and
Counterclaim
Plaintiff
Strickland,

v.

SHAYNE GUILIANO,

Counterclaim
Defendant.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 11 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 Shayne Guiliano (“Guiliano”) has been involved in related litigation with several of the Defendants in this action for over two years. Guiliano is currently

a defendant in a mandatory complex business case styled *BIOMILQ, Inc. v. Guiliano* (Orange County Civil Action No. 22 CVS 255) that is currently pending before the Honorable Michael L. Robinson, Special Superior Court Judge for Complex Business Cases, in the North Carolina Business Court. He is also the plaintiff in a suit for equitable distribution related to his divorce from Defendant Leila Strickland (“Strickland”) in a case styled *Guiliano v. Strickland* (Orange County Civil Action No. 22 CVD 283) that is currently pending in Orange County District Court.

3. Guiliano filed the Complaint initiating this action in Orange County District Court on 5 April 2024, asserting a claim against Strickland for equitable distribution; a claim against Defendants Strickland, Michelle Egger, and BIOMILQ, Inc. for declaratory relief; and claims against all Defendants for fraudulent conveyance, unjust enrichment, and injunctive relief. (*See* Compl. Equitable Distrib., Unjust Enrichment, Fraudulent Conv., Constructive Tr. ¶¶ 580–649 [hereinafter “Compl.”].)

4. Six days later, Guiliano initiated another related lawsuit, this time in Orange County Superior Court (Civil Action No. 24 CVS 500) (the “Superior Court Action”), asserting claims against Strickland for breach of fiduciary duty and constructive fraud; claims against Defendants Strickland, Michelle Egger, BIOMILQ, Inc., Breakthrough Energy Ventures, LLC, and Goodwin Proctor LLP for civil conspiracy and misappropriation of marital property; and against all defendants¹ for fraudulent conveyance, unjust enrichment, declaratory relief, injunctive relief,

¹ The Defendants in this action and the Superior Court Action are the same with two exceptions: Defendant John Doe Breakthrough Energy Ventures, LLC Shareholders appears only in this action and Defendant Bill Gates appears only in the Superior Court Action.

property interference pursuant to N.C.G.S. § 99A, pain and suffering resulting from intentional infliction of emotional distress, and unfair and deceptive trade practices. (See *Guiliano v. Strickland*, No. 24 CVS 500, Compl. Against Strickland & Her Confederates ¶¶ 703–842 [hereinafter “Super. Ct. Compl.”], ECF No. 3.)

5. Counsel for Defendant Goodwin Proctor LLP (“Goodwin”) represents that Goodwin received a summons in this action on 11 June 2024.² (NOD 6.) On 8 July 2024, Goodwin filed a Motion to Transfer to Superior Court Division (the “Motion to Transfer”) all but one claim pending in this action pursuant to N.C.G.S. § 7A-258, (see Def. Goodwin Proctor LLP’s Mot. Transfer Super. Ct. Div. 1 [hereinafter “Mot. Transfer”]), as well as a Notice of Designation in the Superior Court Action, (see *Guiliano v. Strickland*, No. 24 CVS 500, Notice Designation, ECF No. 6).³ Goodwin then timely filed its NOD in this action on the following day. (See NOD 1.)

6. Goodwin contends that designation as a mandatory complex business case is proper under N.C.G.S. §§ 7A-45.4(a)(5), (a)(8), and (b)(2). Designation under N.C.G.S. § 7A-45.4(a)(5) is proper if the action involves a material issue related to “[d]isputes involving the ownership, use, licensing, lease, installation, or performance of intellectual property, including computer software, software applications,

² In its Notice of Designation (the “NOD”), Goodwin represents that it “does not concede proper service and expressly reserves the right to seek dismissal for improper service.” (Notice Designation 6 [hereinafter “NOD”]).

³ On 11 July 2024, the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, designated the Superior Court Action as a mandatory complex business case, (see *Guiliano v. Strickland*, No. 24 CVS 500, Designation Order, ECF No. 1), and the undersigned assigned that matter to the Honorable Michael L. Robinson, Special Superior Court Judge for Complex Business Cases, (see *Guiliano v. Strickland*, No. 24 CVS 500, Assignment Order, ECF No. 2).

information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies.” Designation under N.C.G.S. § 7A-45.4(a)(8) is proper if the action involves a material issue related to “[d]isputes involving trade secrets, including disputes arising under Article 24 of Chapter 66 of the General Statutes.” Under N.C.G.S. § 7A-45.4(b)(2), when “[a]n action described in subdivision (1), (2), (3), (4), (5), or (8) of subsection (a) of this section in which the amount in controversy computed in accordance with G.S. 7A-243 is at least five million dollars (\$5,000,000)[, it] shall be designated as a mandatory complex business case by the party whose pleading caused the amount in controversy to equal or exceed five million dollars (\$5,000,000).” N.C.G.S. § 7A-45.4(b)(2).

7. In support of designation under N.C.G.S. § 7A-45.4(a)(5) and (8), Goodwin argues that this action involves disputes regarding “the ownership and use of intellectual property[,]” contending that the Complaint is “replete with allegations concerning patent rights and other intellectual[]property rights[,]” as well as “trade secrets.” (NOD 3.) Goodwin also contends that designation under N.C.G.S. § 7A-45.4(b)(2) is proper because the amount in controversy exceeds \$5 million. (*See* NOD 4; *see, e.g.*, Compl. ¶¶ 188 (alleging “tens of billions of dollars in economic interests which may be held in constructive trust by [BIOMILQ,] Inc. and [BIOMILQ,] Inc. shareholders[]”), 225 (alleging BIOMILQ, Inc. has been “unjustly enriched by \$21,000,000 in third party payments”), 229 (alleging that the equity value of BIOMILQ, Inc.’s shares exceeds \$85,000,000).)

8. Goodwin contends that four of the five the claims Guiliano brings in this action—namely, his claims for declaratory relief, fraudulent conveyance, unjust enrichment, and injunctive relief—are identical to four of the claims he brings in the Superior Court Action. (See NOD 5; compare Compl. ¶¶ 590–649, with *Guiliano v. Strickland*, No. 24 CVS 500, Super. Ct. Compl. ¶¶ 703–63.) Goodwin argues that the “[S]uperior [C]ourt division is the proper division” for these four claims, and requests this Court to sever these claims from the equitable distribution claim and grant its Motion to Transfer the severed claims to the Superior Court division. (NOD 6.) In support of its position, Goodwin relies on this Court’s recent decision in *Miller v. RedGoose LLC*, 2024 NCBC LEXIS 16 (N.C. Super. Ct. Jan. 30, 2024). (See NOD 6.)

9. But the Court concludes that *Miller* is distinguishable from the situation here. First, the plaintiff in *Miller* did not oppose the motion to transfer that matter from the District Court division to the Superior Court division. See *Miller*, 2024 NCBC LEXIS 16, at *2 n.1. In contrast, Guiliano filed an Opposition to Goodwin’s Motion to Transfer (the “Opposition”) on 16 July 2024. (See Opp’n Mot. Transfer.) More importantly, *Miller* did not include a claim for equitable distribution. The District Court division has exclusive jurisdiction over all equitable distribution claims. See N.C.G.S. § 7A-244 (“The district court division is the proper division without regard to the amount in controversy, for the trial of civil actions and proceedings for . . . equitable distribution of property[.]”). As a result, this Court cannot transfer this action to the Superior Court division pursuant to N.C.G.S. § 7A-258 to resolve Goodwin’s pending Motion to Transfer as it did in *Miller*.

10. Based on the foregoing, the Court determines that, at this time, this action shall not proceed as a mandatory complex business case under N.C.G.S. § 7A-45.4(a) or (b) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases.

11. Consistent with the Determination Order, the Court hereby advises the Chief District Court Judge of Judicial District 18 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 in the District Court division.

12. However, the Court's ruling is without prejudice to the right of Goodwin or any other party to otherwise seek designation as a mandatory complex business case under N.C.G.S. § 7A-45.4 should the Orange County District Court sever Guiliano's claims for declaratory relief, fraudulent conveyance, unjust enrichment, and injunctive relief from the equitable distribution claim into a separate action.

SO ORDERED, this the 16th day of July, 2024.

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