

STATE OF NORTH CAROLINA  
SWAIN COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
25CV000014-860

SHIRA HEDGEPEETH,

Plaintiff,

v.

MARSHALL CORNBLUM;  
MICHAEL CORNBLUM; and SMCC  
CLUBHOUSE, LLC,

Defendants.

**SECOND ORDER ON  
DESIGNATION**

1. **THIS MATTER** is before the Court pursuant to the *Determination Order* issued on 12 March 2025 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 pursuant to N.C.G.S. § 7A-45.4. (ECF No. 8.)

2. Plaintiff Shira Hedgepeth filed the Complaint initiating this action in Swain County Superior Court on 10 January 2025, asserting claims against Defendants Marshall Cornblum, Michael Cornblum, and SMCC Clubhouse, LLC (collectively, the Defendants) for fraudulent misrepresentation, unfair and deceptive business practices, civil racketeering, civil conspiracy, and piercing the corporate veil. (*See* Compl. ¶¶ 69–121, ECF No. 2.) Plaintiff filed her first Notice of Designation (First NOD) with the Swain County Clerk of Superior Court on the same date. (*See* Notice Designation Mandatory Complex Bus., ECF No. 3.) On 13 January 2025, Plaintiff filed what appears to be an identical Complaint, adding a verification to the last page.

(Compl., ECF No. 4 [Compl.])<sup>1</sup> In its Order on Designation dated 31 January 2025 (First Order on Designation), the Court concluded that this action was not properly designated by Plaintiff under N.C.G.S. § 7A-45.4(a) for both substantive and procedural reasons. *See Hedgepeth v. Cornblum*, 2025 NCBC LEXIS 10, at \*3–4 (N.C. Super. Ct. Jan. 31, 2025).

3. Consequently, this action was not assigned to a Special Superior Court Judge for Complex Business Cases and instead proceeded on the regular civil superior court docket in Judicial District 43A.

4. On 7 March 2025, Plaintiff filed an Amended Notice of Designation (Amended NOD), attaching the original Complaint filed on 13 January 2025. (*See* Am. Notice Designation Mandatory Complex Bus., ECF No. 9 [Am. NOD].) Other than adding an additional paragraph referencing N.C.G.S. § 7A-45.4(a)(1) and (b)(3)<sup>2</sup>, the Amended NOD sets forth the same facts in support of designation as the First NOD. However, in addition to the contentions in the First NOD, by adding N.C.G.S. § 7A-45.4(b)(2) as a basis for designation, the Amended NOD adds that the case has to be designated to the Business Court because the amount in controversy is over five million dollars.

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<sup>1</sup> As set forth in the First Order on Designation, but for the addition of a verification by the Plaintiff at the end of the document, both Complaints filed on the record in this action are identical as to allegations and organization. (*Compare* Compl., ECF No. 3, *with* Compl., ECF No. 4.) As a result, when citing to the Complaint, the Court cites to the allegations within the Complaint found at ECF No. 4, as this is the most recent pleading filed.

<sup>2</sup> The Court assumes that Plaintiff intended to reference N.C.G.S. § 7A-45.4(b)(2), instead of (b)(3), as subsection (b)(3) was repealed in 2015. To avoid any confusion, any references herein will be to N.C.G.S. § 7A-45.4(b)(2).

5. As the Court explained in its First Order on Designation, this case involves a dispute regarding assessment and collection of clubhouse dues in the Smoky Mountain Country Club community, where “Plaintiff alleges Defendants took control of a non-profit homeowner’s association for the purpose of billing, assessing, and collecting homeowner’s dues for Defendants’ economic benefit, and asserts the father-son team committed both civil and criminal acts related to such activity.” *Hedgepeth*, 2025 NCBC LEXIS 10, at \*2.

6. In her Amended NOD, Plaintiff contends that designation as a mandatory complex business case is proper under N.C.G.S. § 7A-45.4(a)(1) and (b)(2). (*See generally* Am. NOD.) The Court will examine each basis for designation in turn.

**A. Procedural Shortcomings**

7. Despite Plaintiff’s efforts, this case continues to be improperly designated under section 7A-45.4 for multiple substantive and procedural reasons. First, section 7A-45.4 does not provide a procedure for amending a notice of designation. In addition, the Amended NOD was filed by Plaintiff outside of the time limits set forth in N.C.G.S. § 7A-45.4(d). Section 7A-45.4(d) provides, “[t]he Notice of Designation shall be filed [b]y the plaintiff . . . *contemporaneously* with the filing of the complaint[.]” N.C.G.S. § 7A-45.4(d) (emphasis added). Here, Plaintiff’s Amended NOD was filed almost 2 months after the Complaint was filed, causing it to be untimely for purposes of determining proper designation under N.C.G.S. § 7A-45.4(a)(1). Despite Plaintiff’s procedural shortcomings, the Court will address below

whether this case has been properly designated under N.C.G.S. § 7A-45.4(a)(1) and (b)(2).

**B. Section 7A-45.4(a)(1)**

8. As the Court explained in its First Order on Designation, this case does not fall within the limits of N.C.G.S. § 7A-45.4(a)(1). *Hedgepeth*, 2025 NCBC LEXIS 10, at \*2–3. Designation under section 7A-45.4(a)(1) 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.” N.C.G.S. § 7A-45.4(a)(1). This Court has held, and continues to hold, that “a claim for piercing the corporate veil, standing alone, is insufficient to support mandatory complex business case designation under N.C.G.S. § 7A-45.4(a)(1).” *Hedgepeth*, 2025 NCBC LEXIS 10, at \*3 (citations omitted). The Court concludes that Plaintiff’s reliance on the Complaint’s veil-piercing allegation is insufficient to support designation under N.C.G.S. § 7A-45.4(a)(1).

9. While Plaintiff has failed to show procedural entitlement to designation under N.C.G.S. § 7A-45.4(a)(1) because of both her failure to timely submit her Notice of Designation, and her failure to include a claim justifying designation under subsection (a)(1) of the relevant statutory provision, Plaintiff attempts to justify her untimeliness by claiming designation is required under section 7A-45.4(b). *See* Am. NOD 1. In this regard, section 7A-45.4(g) still permits designation to the Business

Court “[i]f an action required to be designated as a mandatory complex business case pursuant to subsection (b) of this section is not so designated[.]” N.C.G.S. § 7A-45.4(g); *see also Stout v. Alcon Ent., LLC*, 2021 NCBC LEXIS 96, at \*5 (N.C. Super. Ct. Oct. 21, 2021). In other words, given the wording of subsections (b)(2) and (g) of N.C.G.S. § 7A-45.4, the Court concludes that, even if untimely, if a case is properly designated under subsection (a), and properly involves a claim for more than five million dollars, the Court MUST designate the action as a mandatory complex business case pursuant to section 7A-45.4(b)(2).

**C. Section 7A-45.4(b)(2)**

10. Section 7A-45.4(b)(2) provides that “[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) 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).

11. As set forth above, the Court previously concluded—and continues to conclude—that the allegations in the Complaint do not provide a basis for designation under N.C.G.S. § 7A-45.4(a)(1). Designation under subsection (b)(2) is predicated on a case satisfying one of the criteria listed in subsection (a). *See Narsi Dev. I, LLC v. Birkdale Real Estate Invs., LLC*, 2021 NCBC LEXIS 21, at \*5 (N.C. Super. Ct. Mar. 16, 2021). Other than subsection (a)(1), Plaintiff relies on no other basis for mandatory complex business case designation listed in subsection (b)(2). *See Am.*

NOD 1. Because Plaintiff's claims do not give rise to designation under any subsection of 7A-45.4(a), including (a)(1), designation under section 7A-45.4(b)(2) is improper. Therefore, Plaintiff's efforts to qualify this action for "mandatory" mandatory designation under N.C.G.S. § 7A-45.4(b)(2) necessarily fail.

12. Additionally, the Court concludes that designation is improper pursuant to N.C.G.S. § 7A-45.4(b)(2) because the amount in controversy requirement is not met. Section 7A-45.4(b)(2) requires designation when the "*pleading* caused the amount in controversy to equal or exceed five million dollars[.]" N.C.G.S. § 7A-45.4(b)(2) (emphasis added). Rule 8 of the North Carolina Rules of Civil Procedure requires that "[i]n all actions involving a material issue related to any of the subjects listed in G.S. 7A-45.4(a)(1), (2), (3), (4), (5), or (8), the *pleading* shall state whether or not relief is demanded for damages incurred or to be incurred in an amount equal to or exceeding five million dollars (\$5,000,000)." N.C.G.S. § 1A-1, Rule 8(a)(2) (emphasis added).

13. On its face, Plaintiff's Complaint does not seek relief in the amount of five million dollars or more. Rather, it states that Plaintiff is entitled to recover a sum "in excess of \$25,000." (Compl. ¶¶ 98, 105, 112, 121.) Because Plaintiff's Complaint does not seek relief equal to or in excess of five million dollars, designation under N.C.G.S. § 7A-45.4(b)(2) is not proper.

14. Based on the foregoing, the Court concludes that 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.

15. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 43A 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.

16. The Court's ruling is without prejudice to the right of the parties to otherwise seek designation of this matter as a mandatory complex business case as may be provided under N.C.G.S. § 7A-45.4.

**SO ORDERED**, this the 17th day of March, 2025.

/s/ Michael L. Robinson  
Michael L. Robinson  
Special Superior Court Judge  
for Complex Business Cases