Union Corrugating Co. v. Viechnicki, 2014 NCBC Order 8.

STATE OF NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 14 CVS 6240
COUNTY OF CUMBERLAND	
UNION CORRUGATING COMPANY, Plaintiff)) ORDER ON OPPOSITION TO) DESIGNATION OF ACTION AS
V.) MANDATORY COMPLEX) BUSINESS CASE
JOEL VIECHNICKI,)
Defendant)

THIS MATTER is before the court on Plaintiff's Amended Motion to Remand and Opposition to Designation of Case as a Complex Business Case pursuant to N.C. Gen. Stat. § 7A-45.4(e) ("Opposition"); and

THE COURT, having reviewed Defendant Joel Viechnicki's ("Defendant") Notice of Designation of Action as Mandatory Complex Business Case Under N.C. Gen. Stat. § 7A-45.4 ("Notice of Designation"), the Opposition, and other appropriate matters of record, FINDS and CONCLUDES that good cause exists to OVERRULE the Opposition for the reasons set forth below.

- 1. In support of designation of this matter as a mandatory business case, Defendant's Notice of Designation relies on subsections (a)(4) and (a)(5), relating to state trademark or unfair competition law, and intellectual property law, respectively, of N.C. Gen. Stat. § 7A-45.4 (the "Removal Statute").
- 2. In support of its Opposition, Plaintiff Union Corrugating Company ("Plaintiff") contends that the claim and factual allegations in its Verified Complaint raise nothing more than a "[s]traightforward contract action" that does not satisfy the criteria for designation.

3. However, Plaintiff's Verified Complaint alleges that Defendant has

disclosed, or inevitably will disclose, Plaintiff's trade secrets. Additionally, Plaintiff

devotes a substantial portion of its Verified Complaint to defining the confidential.

proprietary, and trade secret information it alleges Defendant has misappropriated, or

will inevitably misappropriate. Moreover, Plaintiff bases its breach of contract claim

against Defendant, at least in part, on the violation of "confidentiality obligations owing

to Union" regarding this confidential, proprietary, and trade secret information.³

These allegations in the Verified Complaint raise, and the prosecution of

this action will inevitably involve, material issues related to the existence, protection,

and enforcement of trade secrets. As such, designation of this action as a mandatory

complex business case is consistent with the language and spirit of the Removal

Statute.

NOW THEREFORE, it hereby is ORDERED that Plaintiff Union Corrugating

Company's Opposition to Designation of Action as a Mandatory Complex Business

Case is OVERRULED, and the Amended Motion to Remand is DENIED.

This the 9th day of September, 2014.

/s/ John R. Jolly, Jr.

John R. Jolly, Jr.

Chief Special Superior Court Judge for

Complex Business Cases

¹ Compl. ¶ 51.

² *Id.* ¶¶ 10-26.

³ *Id*. ¶ 64.