

STATE OF NORTH CAROLINA
COUNTY OF VANCE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
14 CVS 1173

JAMES A. MCCARTHY, SR., M.D.,)
Plaintiff,)
)
v.)
)
J. WELDON HAMPTON, M.D. and PREMIER)
WOMEN'S HEALTH PROFESSIONALS, P.A.,)
Defendants.)

ORDER ON OPPOSITION

_____)
J. WELDON HAMPTON, M.D. and PREMIER)
WOMEN'S HEALTH PROFESSIONALS, P.A.,)
Counterclaim-Plaintiffs,)
)
v.)
)
JAMES A. MCCARTHY, SR., M.D. and PWHP)
REALTY, LLC,)
Counterclaim-Defendants.)

THIS MATTER is before the court on Plaintiff's Response and Opposition to Notice of Designation as a Mandatory Complex Business Case ("Opposition"), pursuant to N.C. Gen. Stat. § 7A-45.4(e). For the reasons stated herein, the Opposition is OVERRULED, and this case shall proceed before the Honorable Gregory P. McGuire, as provided in the Assignment Order entered on December 12, 2104.

THE COURT has reviewed Plaintiff's Complaint, Defendants/Counterclaim-Plaintiffs' Notice of Designation of Action as a Mandatory Complex Business Case Under N.C. Gen. Stat. §7A-45.4, the Opposition, and the Reply to the Opposition. The Court FINDS and CONCLUDES as follows.

Plaintiff instituted this action in Vance County on December 1, 2014, bringing various claims related to a North Carolina professional association and a North Carolina limited liability company. Plaintiff seeks to impose a receivership, secure an accounting, and enforce one or more shareholder agreements. These claims fall directly within the scope of N.C. Gen. Stat. § 7A-45.4(a)(1).

Plaintiff nevertheless opposes the designation of this case to the Business Court on the basis that the shareholder agreements at issue include exclusive venue clauses, one providing for venue in Vance County and the other providing for venue in Granville County.

These agreements, however, are of no import. The North Carolina Business Court is not a court of jurisdiction; rather, it is an administrative division of the General Court of Justice. A case assigned to a Special Superior Court Judge for Complex Business Cases as a mandatory complex business case remains pending in the Superior Court in the county in which it originated, absent an order transferring venue.

THEREFORE, IT IS ORDERED that the Opposition is OVERRULED. The undersigned expresses no opinion as to whether claims related to the shareholder agreements with separate venue clauses should proceed as a single consolidated action.

This the 9th day of February, 2015.

/s/ James L. Gale

James L. Gale
Chief Special Superior Court Judge for
Complex Business Cases