

STATE OF NORTH CAROLINA
COUNTY OF JOHNSTON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
16 CVS 1393

CRYSTAL DANIELSON,)
)
 Plaintiff,)
)
 v.)
)
 VERITEXT CORPORATE SERVICES,)
 INC.)
)
 Defendant.)

ORDER ON OPPOSITION

THIS MATTER is before the undersigned on Defendant's Notice of Designation ("NOD"), timely filed on June 10, 2016, Plaintiff's Opposition to Notice of Designation ("Opposition"), timely filed on June 21, 2016, and Defendant's Response to the Opposition, filed on July 6, 2016. The Court concludes the Opposition should be OVERRULED.

The Court must determine whether the action was properly designated as a mandatory complex business case because it involves a material issue regarding the ownership or use of intellectual property within the ambit of N.C. Gen. Stat. § 7A-45.4(a)(5) ("Section 45.4(a)(5)") as the NOD asserts. Plaintiff by her Opposition contends that the Complaint does not raise such a material issue, as the sole issue is whether the Defendant's charges for a copy of a deposition transcript were "reasonable," as required by Rule 30(f)(2) of the North Carolina Rules of Civil Procedure. Defendant contends there is such a material issue because Plaintiff has

asserted that copyright or intellectual property ownership must be considered under the allegations of the case in order to determine such reasonableness.

In resolving disputes regarding designation of mandatory complex business cases, the Court looks beyond the labeling of the claims and examines the underlying factual allegations to determine what material issues exist. *Cornerstone Health Care, P.A. v. Moore*, No. 15-CVS-604, 2015 NCBC LEXIS 65, at *7 (June 22, 2015). Accordingly, the Court has examined the specific factual allegations of the Complaint, as well as the pre-litigation correspondence between the parties, which is attached to the Complaint. Those materials demonstrate that the parties have raised a material issue of whether Defendant is entitled to claim any right in a copy of the deposition transcript in the nature of a copyright, and Plaintiff seeks a declaration in her favor regarding that issue.

The following paragraphs in the Complaint are significant:

- Paragraph 18 alleges that Defendant and other court reporters “do not have any copyright interest in a deposition transcript.”
- Paragraph 19 alleges that Defendant and other court reporters “have no ownership interest or property right in a deposition transcript.”
- Paragraph 27 asks the Court to declare that Defendant “was not entitled to assert an ownership interest in the transcript whereby it could sell it for a profit.”
- Paragraph 30 alleges that Defendant assumed “an ownership right (analogous to a copyright interest)” in the deposition transcript at issue.

The Complaint attaches pre-litigation correspondence, including:

- A February 17, 2016 e-mail, in which Plaintiff inquired whether Defendant claims “a copyright interest or other ownership interest in the transcript.”

- A March 16, 2016 e-mail, in which Defendant replied that, “[t]here is no clear decision on whether a transcript is copyrighted and who owns it but the civil procedure rules all state that the transcript should be purchased from the court reporter/firm.”
- A March 24, 2016 e-mail, in which Plaintiff stated that “[c]ourt reporters have established a practice of custom of interpreting ‘reasonable charges’ to permit them to sell the transcript as if they were selling a document subject to ownership or copyright. Neither is the case with a deposition transcript.”

In sum, Plaintiff asserts no direct copyright claim, but she does ask the Court to declare that Defendant has no ownership or copyright rights, and Defendant has, at least indirectly, asserted such rights. Therefore, the Complaint and its attached exhibits reveal a material issue within the ambit of Section 45.4(a)(5).

Accordingly, the Opposition is OVERRULED, and the case shall proceed as a mandatory complex business case assigned to the Honorable Michael L. Robinson.

This the 16th day of August, 2016.

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