

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18 CVS 12548

ARLENE B. HIGGINS,

Plaintiff,

v.

SYNERGY COVERAGE
SOLUTIONS, LLC; SYNERGY
HOLDINGS, LLC; SYNERGY
INSURANCE COMPANY, and their
subsidiaries and affiliates; and
BRUCE A. FLACHS,

Defendants.

ORDER REGARDING DESIGNATION

1. **THIS MATTER** is before the Court on Plaintiff Arlene B. Higgins' Opposition to Designation as a Mandatory Business Case ("Opposition"). (Mem. Opp'n Designation Mandatory Business Case [hereinafter "Opposition"], ECF No. 18.)

2. Plaintiff initiated this action on June 25, 2018, asserting claims for breach of contract, defamation, unjust enrichment, common law fraud, fraud in the inducement, negligent misrepresentation, constructive fraud, an accounting, wrongful termination in violation of the Equal Employment Practices Act, violation of the Age Discrimination in Employment Act, and for violation of the North Carolina Securities Act (i.e., N.C. Gen. Stat. §78A-1, *et seq.*). (See Compl., ECF No. 4.)

3. On November 8, 2018, Defendants timely filed a Notice of Designation (hereinafter "NOD") of this action as a mandatory complex business case under N.C. Gen. Stat. §7A-45.4(a)(2) on the ground that this action involves a material issue relating to a dispute involving securities, including a "dispute[] arising under Chapter

78A of the General Statutes.” (Notice Designation Pursuant N.C. Gen. Stat. § 7A-45.4, ECF No. 13.)

4. The case was designated to the Business Court by the Chief Justice of the Supreme Court of North Carolina on November 9, 2018, (Designation Order, ECF No. 1), and assigned to the undersigned that same day, (Assignment Order, ECF No. 2.)

5. Plaintiff timely filed her Opposition on December 8, 2018, contending that the gravamen of this case, and nearly all of the asserted claims, involve Defendants’ alleged misconduct in connection with Plaintiff’s employment—not securities or the specific facts relating to her securities claim. (Opposition 1–2.) As such, Plaintiff argues that this case does not require the specialized expertise of the Business Court judges and should proceed in the regular division of the Superior Court. (Opposition 2.)

6. Plaintiff misreads section 7A-45.4(a)(2). By pleading a claim under Chapter 78A of the General Statutes, Plaintiff has necessarily caused this action to involve a material issue related to a dispute involving securities under that subsection, as the statute makes plain by its specific reference to Chapter 78A. That the gravamen of this case may rest on other claims with different supporting facts has no bearing on whether the plain language of the statute has been met.

7. The Opposition is therefore **OVERRULED**. The action shall continue as a mandatory complex business case pursuant to section 71-45.4(a)(2) before the undersigned.

IT IS SO ORDERED, this the 10th day of December, 2018.

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