

Charah, LLC v. Sequoia Servs. LLC, 2019 NCBC Order 14.

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE GENERAL COURT OF
JUSTICE
SUPERIOR COURT DIVISION
19 CVS 5795

CHARAH, LLC,

Plaintiff,

v.

SEQUOIA SERVICES LLC,

Defendant.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the Order of the Honorable Cheri Beasley, 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 in accord with N.C. Gen. Stat. § 7A-45.4(a) (the “Determination Order”).

2. Plaintiff filed the Complaint initiating this action in Guilford County Superior Court on May 20, 2019, asserting claims for tortious interference with contract, and unfair and deceptive trade practices under N.C. Gen. Stat. § 75-1.1. Plaintiff timely filed the Notice of Designation (“NOD”) on the same day.

3. Plaintiff contends that designation as a mandatory business case is proper under N.C. Gen. Stat. § 7A-45.4(a)(3) (“7A-45.4(a)(3)”), (NOD 1), which provides for designation of “an action that involves a material issue related to . . . [d]isputes involving antitrust law, including disputes arising under Chapter 75 of the General Statutes that do not arise solely under G.S. 75-1.1 or Article 2 of Chapter 75 of the

General Statutes.” Plaintiff does not seek to base designation on any provision of 7A-45.4(a) other than section 7A-45.4(a)(3).

4. In support of designation, Plaintiff argues that the factual allegations supporting its claims for tortious interference with contract and violation of Chapter 75 satisfy the requirements of section 7A-45.4(a)(3). Plaintiff’s Chapter 75 claim, however, is brought solely under section 75-1.1 and Plaintiff does not reference, invoke, or otherwise seek recovery under any other provision of Chapter 75 in its Complaint. Nor does Plaintiff allege or contend that the current action involves consideration and application of federal or state antitrust law, other than section 75-1.1. As such, designation is improper because Plaintiff’s Chapter 75 claim in this action arises solely under N.C. Gen. Stat. § 75-1.1, there has been no showing that the dispute otherwise involves antitrust law, and Plaintiff has not identified any other basis for designation of this action as a mandatory complex business case. *See Market Am., Inc. v. Doyle*, 15 CVS 9658, Order at 2, ECF No. 36.

5. Based on the foregoing, the Court determines that this action is not properly designated as a mandatory complex business case in accord with N.C. Gen. Stat. § 7A-45.4(a) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases.

6. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 18 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 Judge.

7. The Court's ruling is without prejudice to the right of any other party to seek designation of this matter as a mandatory complex business case as provided under section 7A-45.4.

SO ORDERED, this the 30th day of May, 2019.

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