

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,

Defendants.

**ORDER DENYING PLAINTIFF'S
MOTION TO REVOKE BUSINESS
COURT DESIGNATION**

1. **THIS MATTER** is before the Court on Plaintiff's Motion to Revoke Business Court Designation (the "Motion") in the above-captioned case. (ECF No. 57.) The Court elects to decide the Motion without a hearing as permitted by Business Court Rule 7.4 and, because the Motion must be denied under this Court's precedent, prior to receipt of Defendants' response.

2. On June 22, 2018, Plaintiff filed her Complaint in Mecklenburg County Superior Court. (ECF No. 4.) On November 8, 2018, Defendants filed a notice of designation pursuant to N.C.G.S. § 7A-45.4(a)(2), basing designation on Plaintiff's claim under the North Carolina Securities Act, N.C.G.S. § 78A-1, et seq ("NCSA"). (ECF No. 13.) The Chief Justice of the Supreme Court of North Carolina designated the case as a mandatory complex business case on November 9, 2018, (ECF No. 1), and the case was assigned to the undersigned on the same day, (ECF No. 2). Plaintiff opposed designation, (ECF No. 18), and the Court issued an order overruling Plaintiff's opposition on December 10, 2018, (ECF No. 19).

3. On February 7, 2019, Plaintiff filed her First Amended Complaint, (ECF No. 31), which Defendants moved to dismiss on March 12, 2019 (“Motion to Dismiss”), (ECF No. 41). After a hearing, the Court granted Defendants’ Motion to Dismiss, in part, on January 15, 2020, and dismissed, among other claims, Plaintiff’s claim under the NCSA. *See Higgins v. Synergy Coverage Sols., LLC*, 2020 NCBC LEXIS 6, at *62–63 (N.C. Super. Ct. Jan. 15, 2020).

4. Plaintiff now argues on the Motion that because the Court has dismissed her NCSA claim—the claim providing the basis for mandatory complex business case designation—the case should no longer continue as a mandatory complex business case in the Business Court. Plaintiff’s argument, however, is foreclosed by prior decisions of this Court.

5. While N.C.G.S. § 7A-45.4(a) permits mandatory complex business case designation on various grounds, neither that statute nor any other permits designation, once ordered, to be withdrawn or revoked. Thus, this Court has held that after mandatory complex business case designation has been ordered, the order on designation is not affected by subsequent filings or court action. *See Gallaher v. Ciszek*, 2020 NCBC LEXIS 19, at *3 (N.C. Super. Ct. Feb. 17, 2020) (overruling opposition to designation where defendant voluntarily dismissed trade secret counterclaim upon which designation was based); *Labarge v. E Recycling Sys., LLC*, 2016 NCBC LEXIS 194, at *4 (N.C. Super. Ct. Sept. 19, 2016) (holding that designation remained proper where the complaint “sufficiently raised a material issue involving trade secrets,” even if the amended complaint did not). As a result,

the Court's dismissal of Plaintiff's NCSA claim provides no basis to revoke mandatory complex business case under section 7A-45.4(a)(2). Plaintiff's Motion must therefore be denied.

6. WHEREFORE, the Court hereby **DENIES** Plaintiff's Motion. This action shall continue before the undersigned as a mandatory complex business case.

SO ORDERED, this the 26th day of February, 2020.

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