

STATE OF NORTH CAROLINA  
RANDOLPH COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
20 CVS 604

SUSAN DODGE BURKE,  
individually and derivatively on  
behalf of DODGE & ALTAMURA,  
LLP,

Plaintiff,

v.

MATTHEW FRANK ALTAMURA;  
SHANNON LYNCH ALTAMURA;  
GARRETT, WALKER, AYCOTH,  
AND ALTAMURA, LLP,

Defendants,

v.

DODGE & ALTAMURA, LLP,

Nominal  
Defendant.

**ORDER REGARDING PLAINTIFF'S  
APRIL 6, 2020 MOTION AND BRIEFS**

1. THIS MATTER is before the Court following the filing, on April 6, 2020 of Plaintiff's Brief in Support of Plaintiff's Motion for Preliminary Injunction, (ECF No. 9), Plaintiff's Brief in Support of Motion for Appointment of Receiver for Dodge & Altamura, LLP (the "Law Firm"), (ECF No. 10), Plaintiff's Brief in Support of Motion for Expedited Discovery, (ECF No. 11), Plaintiff's Motion for Expedited Briefing/Hearing, (ECF No. 12), and Plaintiff's Brief in Support of Plaintiff's Motion for Expedited Briefing/Hearing, (ECF No. 13).

2. With the exception of Plaintiff's Motion for Expedited Briefing/Hearing and the brief in support thereof, (ECF Nos. 12–13), none of the other briefs submitted by Plaintiff support a separately filed motion, and thus do not comply with Rule 7.2 of

the North Carolina Business Court Rules (“BCRs”). *See* BCR 7.2 (“Each motion must be set out in a separate document.”). Therefore, in the Court’s discretion, all of the briefs, except for Plaintiff’s Brief in Support of Plaintiff’s Motion for Expedited Briefing/Hearing, (ECF No. 13), are subject to being stricken without prejudice subject to refile with a proper separately filed motion.

3. Even as to the Motion for Expedited Briefing/Hearing, (ECF No. 12), and the supporting brief, (ECF No. 13), the Orders entered by Chief Justice Cheri Beasley on March 19 and April 13, 2020 severely limit the Court’s ability to address Plaintiff’s request in the absence of consent by all parties. The relief requested by Plaintiff in her Motion for Expedited Briefing/Hearing and in the submitted briefs, in the opinion of the Court, cannot properly be described as seeking emergency relief.<sup>1</sup> As such, the Court concludes that it may not direct Defendants’ counsel to take any action without their consent in respect to Plaintiff’s requests prior to June 1, 2020 or later in the

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<sup>1</sup> The Supreme Court’s March 13 and 19 administrative orders permit courts, in appropriate circumstances, to consider motions involving emergencies, including potentially requests for a temporary restraining order. The March 13 and 19 orders do not by their express terms permit the consideration of motions for preliminary injunctive relief or any similar types of motions. Notwithstanding that fact, and without deciding the issue here, if the motion and briefs submitted by Plaintiff to the Court on April 6 requested the emergency relief contemplated by the March 13 and 19 orders, the Court might have authority to consider them. Under the current factual scenario, the Court interprets the Supreme Court’s directive as prohibiting this Court from considering now Plaintiff’s request for expedited briefing, discovery, appointment of a receiver, and preliminary injunctive relief in the absence of consent by all parties to consider the matter on an expedited basis. The Court’s conclusion here should not be interpreted as a ruling on the merits of Plaintiff’s motion and briefs or a finding that Plaintiff has not suffered or will not suffer irreparable harm. The parties are encouraged to confer and, if they agree on a schedule for discovery, briefing, and hearing of Plaintiff’s requests for preliminary injunction and to appoint a receiver, to jointly propose a schedule to the Court.

event that the Supreme Court enters further administrative orders extending the stay date.

4. THEREFORE, the Court DENIES the relief requested by Plaintiff in her motion and briefs filed on April 6, 2020 without prejudice to refile in compliance with the BCR and with revised dates consistent with Chief Justice Beasley's Orders that permits the Court to properly consider such requests.

5. The Court stands ready, when permitted by the North Carolina Supreme Court, or sooner if consented to by the parties prior to June 1, 2020, to thoroughly and promptly evaluate these matters. In the meantime, the Court encourages counsel to work collaboratively toward a voluntary resolution of issues relating to removal of property, if any, belonging to the Law Firm, communications with Law Firm clients, and accounting for Law Firm funds.

SO ORDERED, this the 14th day of April, 2020.

/s/ Michael L. Robinson

Michael L. Robinson  
Special Superior Court Judge  
for Complex Business Cases