

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
20 CVS 10452

CRAIG FORSYTHE and TAMMY  
FORSYTHE,

Petitioners,

v.

THE NORTH CAROLINA  
DEPARTMENT OF REVENUE and  
RONALD G. PENNY, in his capacity  
as SECRETARY OF THE NORTH  
CAROLINA DEPARTMENT OF  
REVENUE,

Respondents,

THE NORTH CAROLINA  
DEPARTMENT OF STATE  
TREASURER and DALE R.  
FOLWELL, in his capacity as  
TREASURER OF THE STATE OF  
NORTH CAROLINA,

Respondents,

THE NORTH CAROLINA HOUSE  
OF REPRESENTATIVES and TIM  
MOORE, in his capacity as  
SPEAKER OF THE HOUSE,  
NORTH CAROLINA GENERAL  
ASSEMBLY,

Respondents,

THE NORTH CAROLINA SENATE  
and PHIL BERGER, in his capacity  
as PRESIDENT PRO TEMPORE,  
NORTH CAROLINA GENERAL  
ASSEMBLY,

Respondents.

**ORDER ON DESIGNATION**

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on October 16, 2020 by 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.G.S. § 7A-45.4(b) (the “Determination Order”).

2. Petitioners filed the Petition for Judicial Review initiating this action in Wake County Superior Court on September 16, 2020. Petitioners, however, did not file the Notice of Designation of this case as a mandatory complex business case until October 15, 2020.

3. Under N.C.G.S. § 7A-45.4(d)(1), “[t]he Notice of Designation shall be filed . . . [b]y . . . the petitioner for judicial review contemporaneously with the filing of the . . . petition for judicial review in the action.” The contemporaneous filing requirement of section 7A-45.4(d)(1) is mandatory, and Petitioners’ failure to comply with that requirement renders the Notice of Designation untimely. As a result, the Court determines that this action is not properly designated as a mandatory complex business case in accord with N.C.G.S. § 7A-45.4(d)(1) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases. *See, e.g., MDG Constr. Servs. Ltd. v. MDG Roofing & Contracting LLC*, 2019 LEXIS 80 (N.C. Super. Ct. Apr. 29, 2019) (determining designation was improper when the notice of designation was filed two days after the filing of the complaint).

4. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 10 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.

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

**SO ORDERED**, this the 16th day of October, 2020.

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