

STATE OF NORTH CAROLINA  
CUMBERLAND COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
19 CVS 5780

KEITH JAMES GALLAHER; HUGH  
SCOTT CAMERON, II; and KRISTEN  
B. COGGIN,

Plaintiffs,

v.

THOMAS ARTHUR CISZEK and  
CAPE FEAR NEONATOLOGY  
SERVICES, P.A., a North Carolina  
Professional Association,

Defendants.

**ORDER ON DEFENDANTS'  
OPPOSITION TO DESIGNATION**

1. **THIS MATTER** is before the Court on Defendants' Opposition to Designation as a Mandatory Complex Business Case ("Opposition"). (Defs.' Opp'n Designation Mandatory Complex Business Case [hereinafter "Opp'n"], ECF No. 26.)

2. Plaintiffs initiated this action on September 24, 2019, asserting claims for violation of the North Carolina Wage and Hour Act and breach of contract, and requesting that the Court pierce the veil of the corporate defendant. (Compl., ECF No. 3.) On December 16, 2019, Defendants filed counterclaims for breach of contract, misappropriation of trade secrets under the North Carolina Trade Secrets Protection Act, N.C.G.S. § 66-152, et seq. ("NCTSPA") ("Trade Secret Counterclaim"), and wrongful interference with existing and prospective business relations. (Mot. Dismiss, Answer Compl. & Countercls., ECF No. 4.)

3. Plaintiffs timely filed a Notice of Designation ("NOD") on January 15, 2020, arguing that this action meets the criteria for mandatory complex business

designation under N.C.G.S. § 7A-45.4(a)(8) based on Defendants' Trade Secret Counterclaim. (Notice Designation Action Mandatory Complex Business Case Under N.C.G.S. § 7A-45.4 3, ECF No. 5.)

4. This case was thereafter designated as a mandatory complex business case by the Chief Justice of the Supreme Court of North Carolina on January 21, 2020, (Designation Order, ECF No. 1), and assigned to the undersigned on the same day, (Assignment Order, ECF No. 2).

5. On February 14, 2020, Defendants voluntarily dismissed the Trade Secret Counterclaim without prejudice, (Voluntary Dismissal Without Prejudice, ECF No. 27), and contemporaneously filed the Opposition, contending that dismissal of the Trade Secret Counterclaim—the counterclaim on which designation was based—prevented the case from proceeding as a mandatory complex business case under section 7A-45.4(a), (Opp'n 2).

6. The Court finds the Opposition without merit. First, there is no dispute that the Trade Secret Counterclaim, as a claim under the NCTSPA, permits mandatory complex case designation under section 7A-45.4(a)(8). *See* N.C.G.S. § 7A-45.4(a)(8) (providing for designation of “an action that involves a material issue related to . . . [d]isputes involving trade secrets, *including disputes arising under Article 24 of Chapter 66 of the General Statutes*” (emphasis added)). It is also clear that where, as here, a case is “properly designated and assigned to a special superior court judge for complex business cases based on the [pleading] and the NOD, [a party may] not render the designation and assignment improper by subsequent[] filing[s.]” *Labarge*

*v. E Recycling Sys., LLC*, 2016 NCBC LEXIS 194, at \*4 (N.C. Super. Ct. Sept. 19, 2016). Accordingly, because Defendants' dismissal of their Trade Secret Counterclaim has no bearing on the Chief Justice's determination that this case has been properly designated as a mandatory complex business case under 7A-45.4(a), the Court concludes that Defendants' Opposition should be overruled.

7. **WHEREFORE**, for the reasons set forth above, Defendants' Opposition is **OVERRULED**. This action shall continue before the undersigned as an action properly designated as a mandatory complex business case under section 7A-45.4(a)(8).

**SO ORDERED**, this the 17th day of February, 2020.

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