

STATE OF NORTH CAROLINA  
BLADEN COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22 CVS 135

CHELSEA TYUS,

Plaintiff,

v.

THE CHEMOURS COMPANY FC,  
LLC; THE CHEMOURS COMPANY;  
E.I. DUPONT de NEMOURS AND  
COMPANY, INC.; E.I. DUPONT  
CHEMICAL CORPORATION;  
CORTEVA INC.; DUPONT DE  
NEMOURS, INC.; ELLIS H.  
MCGAUGHY; AND MICHAEL E.  
JOHNSON,

Defendants.

**ORDER ON DESIGNATION**

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 14 April 2022 by the Honorable Paul Newby, 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(a).

2. Plaintiff Chelsea Tyus (“Plaintiff”) filed the Complaint initiating this action in Bladen County Superior Court on 3 March 2022, asserting claims for (i) trespass to real property, private nuisance, and negligence against Defendants The Chemours Company FC, LLC (“Chemours”), The Chemours Company (“Chemours Company”), E.I. duPont de Nemours and Company, Inc. (“E.I. DuPont”), E.I. duPont Chemical Corporation (“DuPont Corporation”), Ellis H. McGaughy (“McGaughy”), and Michael E. Johnson (“Johnson”); (ii) negligence against Defendants Corteva, Inc. (“Corteva”)

and DuPont de Nemours, Inc. (“DuPont de Nemours”); (iii) violations of the North Carolina Uniform Voidable Transactions Act (“UVTA”) against E.I. DuPont, Corteva, and DuPont de Nemours; (iv) unjust enrichment against Chemours, Chemours Company, E.I. DuPont, and DuPont Corporation; (v) civil conspiracy against Chemours, Chemours Company, E.I. DuPont, Dupont Corporation, Corteva, and DuPont de Nemours; and (vi) negligent failure to warn and battery against all Defendants. (*See* Compl. ¶¶ 159–228. )

3. DuPont de Nemours accepted service of the Complaint on 14 March 2022 and timely filed a Notice of Designation Pursuant to N.C.G.S. § 7A-45.4 (the “NOD”) on 13 April 2022. (*See* Notice Designation Pursuant to N.C.G.S. § 7A-45.4 [hereinafter “NOD”].)

4. This case arises from the alleged “releases, discharges, spills and leaks of . . . toxic chemicals, both past and present, from the Fayetteville Works Facility[.]” (Compl. ¶ 1.) Plaintiff seeks to recover damages as a result of her exposure to these chemicals from the corporate Defendants, all of whom currently or previously own(ed) and/or operate(d) the Fayetteville Works Facility (the “Facility”) or are affiliated with an entity that currently or previously own(ed) and/or operate(d) the Facility, as well as McGaughy and Johnson, the Site Manager and Environmental Manager, respectively, of the Facility during the relevant time period. (*See* Compl. ¶¶ 1, 3–11, 51–69.)

5. DuPont de Nemours contends that designation as a mandatory complex business case is proper under N.C.G.S. § 7A-45.4(a)(1). Designation under this

section is proper if the action involves a material issue related to “[d]isputes involving the law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies, including disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.”

6. In support of designation under section 7A-45.4(a)(1), DuPont de Nemours argues that the Complaint includes allegations that certain of the corporate Defendants engaged in various “corporate transactions, including a spinoff to form a new publicly traded company, a subsequent merger of two publicly traded companies, followed thereafter by a series of business segment and product line realignments and divestitures, all done with the alleged intent of shielding assets.” (NOD 3–4; *see also* Compl. ¶¶ 51–69, 184–91, 199–208, 214–18.) DuPont de Nemours further contends that “allegations regarding the transactions, the alleged reasons for such transactions and the results therefrom, as well as the potential implications from the transactions necessarily implicate the laws governing corporations.” (NOD 4.)

7. “For a case to be certified as a mandatory complex business case, the pleading upon which designation is based must raise a material issue that falls within one of the categories specified in section 7A-45.4.” *Composite Fabrics of Am., LLC v. Edge Structural Composites, Inc.*, 2016 NCBC LEXIS 11, at \* 25 (N.C. Super. Ct. Feb. 5, 2016). But as made plain by a review of the allegations in the Complaint, however, resolution of DuPont de Nemours’s claims only requires application of the law regarding fraudulent conveyances rather than the law governing corporations.

Because claims arising under Chapter 39 are not included in the categories specified in 7A-45.4(a), the Court concludes that DuPont de Nemours's reliance on Plaintiff's allegations of violations of the UVTA, without more, is insufficient to support designation as a mandatory complex business case. *Cf. Consol. Elec. Distribs., Inc. v. Hallmark Lighting, LLC*, 2021 NCBC LEXIS 107, at \*5 (N.C. Super. Ct. Dec. 7, 2021) (declining to designate under (a)(1) based solely on a claim for piercing the corporate veil); *Parker v. Brock*, 2021 NCBC LEXIS 49, at \*4–5 (N.C. Super. Ct. May 7, 2021) (concluding that designation under (a)(1) was improper where resolution of plaintiff's claims required application of contract law rather than law governing LLCs); *Queler v. Pridnia*, 2021 NCBC LEXIS 25, at \* 3–4 (N.C. Super. Ct. Mar. 24, 2021) (declining to designate under (a)(1) where claims of negligent supervision and vicarious liability did not arise under Chapter 55 and were vicarious to central claims for breach of contract and defamation).

8. 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.G.S. § 7A-45.4(a) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases.

9. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 13A 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 the parties may pursue designation as a Rule 2.1 exceptional case with the Senior Resident Judge.

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

**SO ORDERED**, this the 18th day of April, 2022.

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