

STATE OF NORTH CAROLINA
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
21 CVS 1042

VIENGNAXHONE MIXAYKHAM and
NITA MOBLEY,

Plaintiffs,

v.

BINH SHONN NGUYEN (aka BINH
THANH NGUYEN); STEPHANIE
RUTH REYES; and MY Y HOANG,

Defendants.

**ORDER ON OPPOSITION TO
DESIGNATION AS MANDATORY
COMPLEX BUSINESS CASE**

1. **THIS MATTER** is before the Court on Plaintiffs Viengnakhone Mixaykham (“Mixaykham”) and Nita Mobley’s (“Mobley”; together with Mixaykham, the “Plaintiffs”), Opposition to Designation as Mandatory Complex Business Case (the “Opposition”). (Opp’n Designation Mandatory Complex Bus. Case [hereinafter “Opp’n”], ECF No. 16.)

2. Plaintiffs initiated this action on 16 September 2021, asserting claims for breach of contract, constructive trust, quantum meruit, and malicious prosecution against Defendant Binh Shonn Nguyen, a/k/a Binh Thanh Nguyen (“Nguyen”); conversion against Nguyen and Defendant Stephanie Ruth Reyes (“Reyes”); and breach of an oral partnership agreement and for “temporary orders, injunctions, and permanent restraining orders” against Nguyen and Defendant My Y Hoang (“Hoang”). (See Verified Compl. ¶¶ 24–60 [hereinafter “Compl.”], ECF No. 3.)

3. Service on Nguyen and Reyes was made on 18 February 2022 pursuant to a stipulation between their counsel and counsel for Plaintiffs. Nguyen and Reyes

timely filed a Notice of Designation of Action as Mandatory Complex Business Case Under N.C.G.S. § 7A-45.4(a) (the “NOD”) on 18 March 2022, asserting that this action involves a dispute under section 7A-45.4(a)(1). (Notice Designation Action Mandatory Complex Bus. Case Under N.C.G.S. § 7A-45.4(a) 1 [hereinafter “NOD”], ECF No. 13.) Hoang consented to the designation. (NOD 3.)

4. On 21 March 2022, this case was designated as a mandatory complex business case by the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, (Designation Order, ECF No. 1), and assigned by the undersigned to the Honorable Julianna Theall Earp, Special Superior Court Judge for Complex Business Cases, (Assignment Order, ECF No. 2).

5. Plaintiffs timely filed the Opposition on 18 April 2022, contending that designation of this action as a mandatory complex business case is not proper under section 7A-45.4(a)(1). (Opp’n 1–2.)¹ The Court has concluded that a response is unnecessary, so the matter is now ripe for determination.

6. Section 7A-45.4(c) requires that “[t]he Notice of Designation shall, in good faith and based on information reasonably available, succinctly state the basis of designation[.]” As a result, “the Court may consider all materials reasonably necessary to rule on an opposition to designation.” *In re Summons Issues to Target Corp. & Affiliates*, 2018 NCBC LEXIS 185, at *3 (N.C. Super. Ct. Dec. 4, 2018).

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

¹ Citations to the page numbers of this document refer to the electronic PDF page numbers as there are no page numbers on the pages themselves.

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).

8. Designation under section 7A-45.4(a)(1) 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.”

9. This case arises out of a dispute over the ownership and operation of a nail salon. Plaintiffs allege that Mixaykham and Nguyen, as former spouses, orally agreed to purchase an office condominium and operate a nail salon therein as partners. (*See* Compl. ¶¶ 5–7, 29–34.) Although only Nguyen was listed as the owner of both the company and the real property, Plaintiffs allege that, as part of the oral partnership agreement, Mixaykham and Nguyen “each would own half the equity and assets of the partnership and share equally in any profits or losses[.]” (Compl. ¶¶ 31, 35.) When the marriage ended in 2013, Plaintiffs allege that, although Nguyen continued to share equally in the ownership of the business and office condominium, Nguyen no longer participated in the business and Mixaykham operated the nail salon “as a sole proprietorship.” (Compl. ¶¶ 8–10.) Plaintiffs further allege that, in 2021, Nguyen wrongfully ousted Mixaykham from both the business and the real property, ultimately selling both to Hoang. (*See* Compl. ¶¶ 13, 15–20.)

10. Although Plaintiffs “acknowledge that the Complaint contains an alternative claim for relief under the North Carolina law of partnership[,]” they nevertheless argue that designation under section 7A-45.4(a)(1) is improper because “[t]he issues that may be presented under the partnership claim are not novel or complex, and it is not necessary to bring the specialized resources of the Business Court to resolve [them.]” (Opp’n 1–2.) Plaintiffs additionally contend that “[t]he resources and process in the Superior Court are satisfactory and sufficient to address any legal questions and issues that are expected to arise in this case.” (Opp’n 2.)

11. But Plaintiffs misunderstand the requirements for designation as a mandatory complex business case under N.C.G.S. § 7A-45.4(a)(1). “While a ‘material issue’ related to the law governing [partnerships] is required to support designation under [s]ection 7A-45.4(a)(1), that section does not further require that the issue involve a claim of any particular complexity, involve any threshold minimum amount in controversy, or extend beyond the regular jurisdiction of any Superior Court Judge.” *Donald R. Simpson Family L.P. v. Donald R. Simpson Family L.P.*, 2021 NCBC LEXIS 20, at *5–6 (N.C. Super. Ct. Mar. 9, 2021) (quoting *Barclift v. Martin*, 2018 NCBC LEXIS 5, at *4 (N.C. Super. Ct. Jan. 19, 2018)). Because the complexity of a case has no bearing on whether it has been properly designated as a mandatory complex business case under section 7A-45.4(a)(1), Plaintiffs’ argument fails.

12. The Court additionally notes that Plaintiffs, Nguyen, and Reyes all agree that Plaintiffs’ claims arise from the alleged breach of an oral partnership agreement and that the Court will need to apply the law governing partnerships to determine

the existence and/or the terms thereof. (See Compl. ¶ 29; NOD 2–3; Opp’n 1.) Disputes involving the law governing partnerships, including disputes arising under Chapter 59, “fall[] within one of the categories specified in section 7A-45.4” and the Court therefore concludes that this case was properly designated pursuant to section 7A-45.4(a)(1). *Composite Fabrics of Am., LLC*, 2016 NCBC LEXIS 11, at *25.

13. **WHEREFORE**, the Court, in the exercise of its discretion, hereby **ORDERS** that the Opposition is **OVERRULED**. This 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[]” as required by N.C.G.S. § 7A-45.4(a)(1) and shall proceed as a mandatory complex business case before the Honorable Julianna Theall Earp.

SO ORDERED, this the 20th day of April, 2022.

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