

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
22 CVS 6443

DOUG TURPIN and NICOLE
TURPIN,

Plaintiff,

v.

CHARLOTTE LATIN SCHOOLS,
INC.; CHARLES D. BALDECCHI;
TODD BALLABA; DENNY S.
O'LEARY; MICHAEL D. FRENO; R.
MITCHELL WICKHAM;
COURTNEY HYDER; IRM R.
BELLAVIA; PHIL C. COLACO;
JOHN D. COMLY; MARY
KATHERINE DUBOSE; ADAORA A.
ERUCHALU; DEBBIE S. FRAIL;
DON S. GATELY; ISRAEL K.
GORELICK; JOY M. KENEFICK;
KARIM LOKAS; JOHN T.
MCCOY; KRISTIN M.
MIDDENDORF; A. COY MONK IV;
UMA N. O'BRIEN; DAVID A.
SHUFORD; MICHELLE A.
THORNHILL; FLETCHER H.
GREGORY III; TARA LEBDA; and
PAIGE FORD,

Defendants.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 26 April 2022 by the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, directing the undersigned¹ 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).

¹ The Chief Justice of the Supreme Court has designated the Honorable Julianna Theall Earp, Special Superior Court Judge for Complex Business Cases, to make this determination because the Honorable Louis A. Bledsoe, III, Chief Business Court Judge, has a conflict.

2. Plaintiffs Doug and Nicole Turpin (the “Turpins”) filed the Complaint initiating this action in Mecklenburg County Superior Court on 25 April 2022, asserting claims for (i) violations of the North Carolina Unfair and Deceptive Trade Practices Act and fraud against Defendants Charlotte Latin Schools, Inc. (“Latin”), Charles D. Baldecchi (“Baldecchi”), and Todd Ballaban (“Ballaban”); (ii) negligent misrepresentation against Latin and Ballaban; (iii) negligent infliction of emotional distress and slander *per quod* against Latin and Baldecchi; (iv) negligent supervision and retention, breach of contract, and breach of the implied covenant of good faith and fair dealing against Latin; and (v) libel *per quod* against Latin and the Board Defendants.² (See Compl. ¶¶ 87–221.) The Turpins timely filed the Notice of Designation (the “NOD”) on the same day.

3. The Turpins contend that designation as a mandatory 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.”

² The Court shall refer collectively to Defendants Baldecchi, Denny S. O’Leary, Michael D. Freno, R. Mitchell Wickham, Courtney Hyder, Irm R. Bellavia, Phil C. Colaco, John D. Comly, Mary Katherine Dubose, Adaora A. Eruchalu, Debbie S. Frail, Don S. Gately, Israel K. Gorelick, Joy M. Kenefick, Karim Lokas, John T. McCoy, Kristin M. Middendorf, A. Coy Monk, IV, Uma N. O’Brien, David A. Shuford, Michelle A. Thornhill, Fletcher H. Gregory, III, Tara Lebda, and Paige Ford as the “Board Defendants.”

4. This case arises out of a dispute over Latin’s academic curriculum. The Turpins allege that they entered into enrollment agreements with Latin to educate their two children for the 2021–2022 school year. (See Compl. ¶¶ 34–35.) According to the Complaint, several parents of Latin students, including the Turpins, became concerned about alleged changes to Latin’s culture and curriculum. (See Compl. ¶¶ 57–58.) In July 2021, the Turpins allege that a group of parents, including Mr. Turpin, made a presentation to Latin’s Board regarding their concerns. (See Compl. ¶¶ 59–63.) In early September 2021, the Turpins allege that they e-mailed Ballaban, Head of Middle School, to discuss specific concerns about their son’s class. (See Compl. ¶ 72.) The Complaint further alleges that, when Mr. Turpin met with Ballaban and Baldecchi, Head of School, to discuss the situation, Baldecchi instead expelled the Turpins’ children in retaliation for the Turpins voicing their concerns about the perceived changes to Latin’s curriculum and culture. (See Compl. ¶¶ 2, 77–80.) In addition, the Turpins allege that Baldecchi and the Board Defendants attributed false statements to the parents who made the July presentation to the Board, which included the Turpins. (See Compl. ¶¶ 81–85.)

5. In support of designation under section 7A-45.4(a)(1), the Turpins argue that “the action is a dispute between parents who contracted with [Latin], a non-profit corporation organized under Chapter 55A that operates Charlotte Latin School . . . , to receive, but who were denied, any educational services for their two children following Latin’s summary expulsion of the children.” (Notice Designation 3 [hereinafter “NOD”].) The Turpins additionally contend that “this action asserts

many of the same legal claims that were asserted . . . in . . . lawsuits against the Charlotte School of Law . . . in 2017-18, all of which were designated as mandatory complex business cases pursuant to N.C.G.S. § 7A-45.4(a).” (NOD 4.)

6. “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). A pleading does not raise an issue, much less a material one, that involves the law governing corporations under section 7A-45.4(a)(1) merely because one of the parties to the dispute is a non-profit corporation organized under the laws of Chapter 55A. And although the Turpins have alleged a claim of negligent supervision and retention against Latin, (*see* Compl. ¶¶ 165–73), that claim is not a dispute arising under Chapter 55A, (*see* N.C.G.S. §§ 55A-1-01 to -17-05). The Turpins’ argument for mandatory complex business case designation under section 7A-45.4(a)(1) on this basis is therefore without merit.

7. The Court finds the Turpins’ second argument equally unavailing. While it is true that many of the Charlotte School of Law lawsuits asserted legal claims similar to those asserted here, (*see, e.g., Herrera v. Charlotte Sch. of Law, LLC*, No. 17 CVS 1965, 2d Am. Compl. ¶¶ 393–434 (N.C. Super. Ct. Feb. 20, 2017) (asserting claims for violations of the North Carolina Unfair and Deceptive Trade Practices Act, breach of contract, breach of the covenant of good faith and fair dealing, fraud, constructive fraud, intentional misrepresentation, negligent misrepresentation,

unjust enrichment, and punitive damages)), it was not the title of the claims that triggered designation of the cases under section 7A-45.4(a)(1). Rather, it was the fact that the Court was required to address complex issues of corporate structure, governance, and ownership/control in determining the liability of the multiple corporate entity defendants that resulted in the designation of the Charlotte School of Law cases to the Business Court. Here, there is but a single corporate entity defendant and the Court is not faced with any issues involving the law governing corporations or nonprofit corporations, making designation under section 7A-45.4(a)(1) therefore improper. *See Alessi v. Techcom, Inc.*, 2022 NCBC LEXIS 34, at *2 (N.C. Super. Ct. Apr. 25, 2022) (declining to designate under (a)(1) when “the Court is unable to find a single issue involving the law governing corporations, much less a material one”).

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 26 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 27th day of April, 2022.

/s/ Julianna Theall Earp
Julianna Theall Earp
Special Superior Court Judge
for Complex Business Cases