

STATE OF NORTH CAROLINA  
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22 CVS 3857

EPES LOGISTICS SERVICES, INC.,

Plaintiff,

v.

RITA STONE; DANA QUEEN; GBG  
COURIER, INC. d/b/a GUARDIAN  
LOGISTICS SOLUTIONS; and  
CARGO MASTERS, LLC,

Defendants.

**ORDER ON DESIGNATION**

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 24 June 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 Epes Logistics Services, Inc. (“Epes”) filed the Verified Complaint (the “Complaint”) initiating this action in Guilford County Superior Court on 29 March 2022, asserting (i) claims for breach of contract and injunctive relief (confidentiality and non-solicitation) against Defendant Rita Stone; (ii) claims for breach of contract and injunctive relief (confidentiality and non-solicitation) against Defendant Dana Queen (“Queen”); (iii) two claims for injunctive relief and claims for misappropriation of a trade name and tortious interference with contract against Queen and Defendants GBG Courier, Inc. d/b/a Guardian Logistics Solutions (“Guardian”) and Cargo Masters, LLC (“CM”); and (iv) claims for unfair and deceptive

trade practices, tortious interference with customer relationships, and civil conspiracy against all Defendants. (See Verified Compl. ¶¶ 63–132 [hereinafter “Compl.”].) According to counsel for Epes, Guardian and CM were served with the Verified Complaint on 10 May 2022.

3. Epes subsequently filed a Verified Amended Complaint (the “Amended Complaint”) on 25 May 2022, asserting the same eleven claims as those in the Complaint and adding a claim for unfair competition against Queen, Guardian, and CM. (See Verified Am. Compl. ¶¶ 73–150 [hereinafter “Am. Compl.”].) Guardian and CM accepted service of the Amended Complaint by e-mail on 25 May 2022.

4. Guardian and CM filed a Notice of Designation (the “NOD”) on 23 June 2022, contending that designation as a mandatory complex business case is proper under N.C.G.S. § 7A-45.4(a)(1), (5), (8), and (9). (See Notice Designation 1–2 [hereinafter “NOD”].)

5. “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 \*11 (N.C. Super. Ct. Feb. 5, 2016). According to the NOD, Guardian and CM seek designation of this action as a mandatory complex business case based on the allegations of the Amended Complaint. (See NOD 1–2.)

6. “If a party amends a pleading, and the amendment raises a new material issue listed in N.C.G.S. § 7A-45.4(a), any party may seek designation of the action as

a mandatory complex business case within the time periods set forth in subsection 7A-45.4(d).” BCR 2.3(a). The NOD offers four bases for designation: a material issue related to (i) a dispute involving the law governing corporations, partnerships, and limited liability companies pursuant to section 7A-45.4(a)(1); (ii) a dispute involving the ownership, use, licensing, lease, installation, or performance of intellectual property pursuant to section 7A-45.4(a)(5); (iii) a dispute involving trade secrets pursuant to section 7A-45.4(a)(8); and (iv) a contract dispute pursuant to section 7A-45.4(a)(9).<sup>1</sup> (See NOD 1–2.)

7. The claims asserted in the Complaint are either identical to or not materially different from those asserted in the Amended Complaint. (*Compare* Compl. ¶¶ 63–132; *with* Am. Compl. ¶¶ 73–124, 130–50.) Moreover, the only new claim asserted in the Amended Complaint, a claim for unfair competition against Queen, Guardian, and CM, (*see* Am. Compl. ¶¶ 125–29), arises under N.C.G.S. § 75-1.1, which cannot by itself serve as a basis for designation. *See* N.C.G.S. § 7A-45.4(a)(3); *see also* *Vention, Inc. v. JB Hamlet, LLC*, 2021 NCBC LEXIS 86, at \*2 (N.C. Super. Ct. Oct. 1, 2021) (declining to designate under (a)(3) where defendant’s sole basis for designation was an unfair and deceptive trade practices counterclaim arising solely under section 75-1.1). As such, the Complaint was the first pleading to

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<sup>1</sup> The NOD appears to seek designation under (a)(9) by asserting that the allegations in the Amended Complaint include a contract dispute in which “[a]t least one plaintiff and at least one defendant is a corporation, partnership, or limited liability company[.]” (NOD 2.) To qualify for designation under this section, however, the Court notes that the following additional requirements must be met: the pleading must include a claim for breach of contract or declaratory judgment, the amount in controversy must exceed one million dollars, and all parties must consent to the designation. *See* N.C.G.S. § 7A-45.4(a)(9).

raise a possible basis for designation under section 7A-45.4(a), and Guardian and CM should therefore have filed the NOD “within 30 days of receipt of service of the pleading[.]” N.C.G.S. § 7A-45.4(d)(3). Guardian and CM accepted service of the Complaint on 10 May 2022, so the NOD should have been filed on or before 9 June 2022. Given that Guardian and CM did not seek designation until June 23, the Court concludes that designation based on the Amended Complaint is untimely.

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. *Cf. Performance Rehab Assocs., P.C. v. Wolverine Est. Ltd. Fam. Tr. XIV, LLC*, 2022 NCBC LEXIS 4, at \*3–5 (N.C. Super. Ct. Jan. 21, 2022) (determining that designation based on counterclaims was untimely where the counterclaims did not provide a basis for designation not otherwise present in the complaint).

9. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 18 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.

**SO ORDERED**, this the 27th day of June, 2022.

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