

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22 CVS 4235

PKT1, LLC,

Plaintiff,

v.

ALBERT VAYNBERG and  
HUDMED, LLC,

Defendants.

**ORDER ON PLAINTIFF'S  
OPPOSITION TO DESIGNATION OF  
ACTION AS MANDATORY COMPLEX  
CASE AND MOTION TO TRANSFER  
TO WAKE COUNTY SUPERIOR  
COURT**

1. **THIS MATTER** is before the Court on Plaintiff PKT1, LLC's ("Plaintiff") Opposition to Designation of Action as Mandatory Complex Case and Motion to Transfer to Wake County Superior Court (the "Opposition"). (Pl.'s Opp'n Designation Action Mandatory Complex Case & Mot. Transfer Wake Cty. Super. Ct. [hereinafter "Opp'n"], ECF No. 10.) The Court elects to rule on the Opposition without a hearing as permitted by Business Court Rule 7.4 and prior to receipt of Defendant HudMed, LLC's ("HudMed") response because the Opposition must be overruled under this Court's precedent.

2. On 5 April 2022, Plaintiff initiated this action by filing its Complaint in Wake County Superior Court. (*See* Compl., ECF No. 3.) On 14 June 2022, HudMed timely filed a notice of designation pursuant to N.C.G.S. § 7A-45.4(a)(8), basing designation on Plaintiff's claim for violations of the North Carolina Trade Secrets Protection Act (the "NCTSPA"). (Notice Designation Action Mandatory Complex Bus. Case Under N.C.G.S. § 7A-45.4 at 1–2, ECF No. 7.)

3. This case was designated as a mandatory complex business case by the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, on 24 June 2022, (Designation Order, ECF No. 1), and assigned to the Honorable Julianna Theall Earp, Special Superior Court Judge for Complex Business Cases, on the same day, (Assignment Order, ECF No. 2).

4. On 30 June 2022, Plaintiff voluntarily dismissed its claim for violations of the NCTSPA without prejudice, (Voluntary Dismissal Claim Three, ECF No. 9), and also filed its Opposition, (*see* Opp'n). Plaintiff argues that because it has dismissed its NCTSPA claim—the claim providing the basis for mandatory complex business case designation—the case should no longer continue as a mandatory complex business case in the Business Court. (*See* Opp'n 1.) Plaintiff's argument, however, is foreclosed by prior decisions of this Court.

5. Although section 7A-45.4(a) permits mandatory complex business designation on various grounds, neither that statute nor any other permits designation, once ordered, to be withdrawn or revoked. Therefore, this Court has held that once a designation order has issued, designation to the Business Court is not affected by subsequent filings or court action. *See Higgins v. Synergy Coverage Sols., LLC*, 2020 NCBC LEXIS 25, at \*2–3 (N.C. Super. Ct. Feb. 26, 2020) (denying motion to revoke Business Court designation where Court dismissed plaintiff's securities claim upon which designation was based); *Gallaher v. Ciszek*, 2020 NCBC LEXIS 19, at \*3 (N.C. Super. Ct. Feb. 17, 2020) (overruling opposition to designation where defendant voluntarily dismissed trade secret counterclaim upon which

designation was based); *Labarge v. E Recycling Sys., LLC*, 2016 NCBC LEXIS 194, at \*4 (N.C. Super. Ct. Sept. 19, 2016) (holding that designation remained proper where the complaint “sufficiently raised a material issue involving trade secrets,” even if the amended complaint did not). As a result, Plaintiff’s voluntary dismissal of its NCTSPA claim provides no basis to set aside mandatory complex business case designation under section 7A-45.4(a)(8) and the Opposition must be overruled.

6. **WHEREFORE**, the Court, in the exercise of its discretion, hereby **ORDERS** that the Opposition is **OVERRULED**. This action shall continue as a mandatory complex business case before the Honorable Julianna Theall Earp, Special Superior Court Judge for Complex Business Cases.

**SO ORDERED**, this the 5th day of July, 2022.

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