

STATE OF NORTH CAROLINA
BRUNSWICK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
23 CVS 202

BRADFORD AQUATIC GROUP,
LLC,

Plaintiff,

v.

KEVIN BARBER,

Defendant.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 19 June 2023 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 filed the Verified Complaint and Motions for Temporary Restraining Order, Preliminary Injunction, and Expedited Discovery (the “Complaint”) initiating this action in Brunswick County Superior Court on 6 February 2023. In an e-mail to the Business Court Coordinator dated 19 June 2023 and forwarded to all counsel of record, Defendant represented that, according to Plaintiff, he was served with the Complaint on 8 March 2023. Defendant subsequently filed a Designation of Mandatory Business Case (the “NOD”) for this matter on 16 June 2023.

3. The NOD’s basis for mandatory complex business case designation centers on Plaintiff’s claim for misappropriation of trade secrets in the Complaint. Under

N.C.G.S. § 7A-45.4(d)(3), “[t]he Notice of Designation shall be filed . . . [b]y any defendant . . . within 30 days of receipt of service of the pleading seeking relief from the defendant . . . [.]” Defendant’s failure to file his NOD within thirty days of accepting service of the Complaint renders his 16 June 2023 NOD untimely. As a result, the Court determines that this action is not properly designated as a mandatory complex business case in accord with § 7A-45.4(a) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases. *See, e.g., Epes Logistics Servs. v. Stone*, 2022 NCBC LEXIS 66, at *4 (N.C. Super. Ct. June 27, 2022) (determining designation was improper when defendant filed the notice of designation forty-four days after accepting service of the initial complaint).

4. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 13B 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 designation as a Rule 2.1 exceptional case may be pursued with the Senior Resident Superior Court Judge if deemed appropriate.

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

6. The Court also hereby **ORDERS** the Brunswick County Clerk of Superior Court to return the sum of \$1,100.00, which was remitted to the Brunswick County

Clerk of Superior Court by Defendant on 16 June 2023 in compliance with N.C.G.S.
§ 7A-305(a)(2), to Defendant within thirty days of the entry of this Order.

SO ORDERED, this the 19th day of June, 2023.

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