

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV001348-590

THAO PHUONG BUI,

Plaintiff,

v.

KHANH NGOC PHAN and GOLDEN
ROOSTER, LLC,

Defendants.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 11 January 2024 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). (Determination Order, ECF No. 1.)

2. Plaintiff Thao Phuong Bui (“Bui”) filed the Verified Complaint (the “Complaint”) initiating this action in Mecklenburg County Superior Court on 11 January 2024, asserting claims against Defendants Khanh Ngoc Phan (“Phan”) and Golden Rooster, LLC (“Golden Rooster”; together with Phan, “Defendants”) for declaratory judgment and breach of Golden Rooster’s Operating Agreement. (*See* Verified Compl. ¶¶ 37–42 [hereinafter “Compl.”], ECF No. 2.) Bui timely filed the Notice of Designation (the “NOD”) on the same day. (Notice Designation [hereinafter “NOD”], ECF No. 3.)

3. Bui contends that designation as a mandatory complex business case is proper under N.C.G.S. § 7A-45.4(a)(1). (*See* NOD 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.”

4. This action arises out of a contract dispute. Bui alleges that she and Phan are 50/50 member-managers of Golden Rooster. (*See* Compl. ¶¶ 1, 12.) In the spring of 2023, Bui alleges that she decided to end her business relationship with Phan, (Compl. ¶¶ 1, 16), and Phan elected to buy Bui’s membership interest in Golden Rooster, (Compl. ¶ 17). However, during the buyout negotiation process, Bui alleges that Phan took several unilateral actions on behalf of Golden Rooster in violation of the Operating Agreement. (*See* Compl. ¶¶ 2, 21–36.) Bui now brings this action to determine whether Phan’s actions constitute a breach of the Operating Agreement and, if so, to obtain a judicial declaration that Phan is “subject to expulsion from membership” in Golden Rooster pursuant to the terms of the Operating Agreement. (Compl. ¶¶ 37–42.)

5. In support of designation under section 7A-45.4(a)(1), Bui argues that “she and [Phan] are co-managing members of Defendant Golden Rooster, LLC, that Phan has breached that company’s [O]perating [A]greement, and that, as a result of such breach, Bui is entitled to a judicial declaration that she may expel Phan from membership in that company.” (NOD 1.)

6. Although the relief requested may involve a determination of the parties' rights under Golden Rooster's Operating Agreement, it is clear that, from a review of the NOD and the allegations in the Complaint, resolution of Bui's asserted claims requires only a straightforward application of contract law principles and does not implicate the law governing limited liability companies under N.C.G.S. § 7A-45.4(a)(1). *See Parker v. Brock*, 2021 NCBC LEXIS 49, at *3–4 (N.C. Super. Ct. May 7, 2021) (declining to designate under (a)(1) where plaintiff sought a determination as to the parties' membership interests in a limited liability company because resolution only required application of contract law principles); *Mayberry v. Baker*, 2021 NCBC LEXIS 40, at *3 (N.C. Super. Ct. Apr. 13, 2021) (same); *Grindstaff v. Knighton*, 2020 NCBC LEXIS 98, at *2–3 (N.C. Super. Ct. Sept. 1, 2020) (declining to designate under (a)(1) where plaintiff's claims involved only breach of contract).

7. Based on the foregoing, the Court determines that this action shall not proceed as a mandatory complex business case under N.C.G.S. § 7A-45.4(a) and thus shall not be assigned to a Special Superior Court Judge for Complex Business Cases.

8. 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 Superior Court Judge.

9. 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 may be provided under section 7A-45.4.

SO ORDERED, this the 12th day of January, 2024.

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