

STATE OF NORTH CAROLINA  
POLK COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
25CV000166-740

IN RE: CUSTODIAL ACCOUNT OF  
JOHN ROBERT OLDS CUST FOR  
DAVIS AUSTIN OLDS UGAUTMA

DAVIS AUSTIN OLDS,  
  
Plaintiff,

v.

JOHN ROBERT OLDS II,  
individually, and as Custodian of the  
JOHN ROBERT OLDS CUST FOR  
DAVIS AUSTIN OLDS UGAUTMA  
UNTIL AGE 21, and as Managing  
Member of Cressbrook Investments  
LLC; and CRESSBROOK  
INVESTMENTS LLC,  
  
Defendants.

**ORDER ON OPPOSITION TO  
DESIGNATION AS MANDATORY  
COMPLEX BUSINESS CASE**

1. **THIS MATTER** is before the Court following the 28 July 2025 filing by Plaintiff Davis Austin Olds (Plaintiff) of Plaintiff's *Opposition to Designation as Mandatory Complex Business Case* (the Opposition). (ECF No. 11 [Opp'n].)
2. Plaintiff initiated this action on 16 June 2025, asserting claims against Defendants John Robert Olds II, individually and as Custodian of the JOHN ROBERT OLDS CUST FOR DAVIS AUSTIN OLDS UGAUTMA UNTIL AGE 21, and as managing member of Cressbrook Investments LLC (Mr. Olds), and Cressbrook Investments LLC (Cressbrook; and with Mr. Olds, the Defendants). The Complaint included claims for breach of fiduciary duty, conversion, fraud, constructive fraud, common law fraud, fraudulent representation, fraud in the inducement, fraudulent

conveyance, unfair and deceptive trade practices, piercing the corporate veil, and judicial dissolution. (*See* Compl. ¶¶ 28–72, ECF No. 3 [Compl].)

3. Defendants timely filed a Notice of Designation on 2 July 2025, asserting that the case meets the criteria for designation under N.C.G.S. § 7A-45.4(a)(1). (Notice Designation, ECF No. 8 [NOD].)

4. On 2 July 2025, the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, issued an Order designating the case as a mandatory complex business case under N.C.G.S. § 7A-45.4(a) and ordered the undersigned to assign the case to a Business Court Judge. (Designation Order, ECF No. 1.) Thereafter, on the same date, the case was assigned by the undersigned to the Honorable A. Todd Brown, Special Superior Court Judge for Complex Business Cases. (Assignment Order, ECF No. 2.)

5. On 28 July 2025, Plaintiff filed a notice of voluntary dismissal which dismissed only the claim for judicial dissolution. (Notice Voluntary Dismissal Claim Judicial Dissolution, ECF No. 10.) Plaintiff also filed the Opposition and a supporting brief, contending that designation under N.C.G.S. § 7A-45.4(a) is improper because he dismissed the judicial dissolution claim upon which designation was based, and “even if this matter ever met the statutory requirements for designation as a complex business case, which Plaintiff contests, this action no longer meets such

requirements.”<sup>1</sup> (Opp’n 1; Pl.’s Br. Supp. Opp’n ¶¶ 10–12, ECF No. 12 [Opp’n Br.] )

On 8 August 2025, Defendants filed their Amended Memorandum of Law in Response to Plaintiff’s Opposition to Designation as a Mandatory Complex Business Case (the Response). (ECF No. 15 [Resp.] )

6. Pursuant to N.C.G.S. § 7A-45.4(e), the undersigned is required to rule by written order on Plaintiff’s Opposition and to determine whether the action should be designated as a mandatory complex business case.

7. Based on the record before the Court, it appears that this action arises out of a dispute between father and son with respect to a Uniform Transfers to Minors Act (UTMA) account. (*See generally* Compl.) According to Plaintiff, prior to his twenty-first birthday, Mr. Olds, in his capacity as the custodian of the funds in the UTMA account, transferred almost all of the money in the UTMA account elsewhere—amounting to over \$1 million—due to Mr. Olds’s belief that Plaintiff was “ ‘not yet mature enough, experienced enough, or responsible enough to handle’ the funds.” (Compl. ¶¶ 10, 13–15, 17.) Plaintiff asserts that Mr. Olds “invested” the money in Cressbrook, a North Carolina limited liability company, of which it is alleged Mr. Olds owns fifty-one percent (51%) of the interests and is the managing

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<sup>1</sup> Plaintiff also argues that the North Carolina Business Court offers “specialized judicial expertise on matters relating to corporate law,” this case “does not involve issues warranting the use of this specialized resource,” and “the honorable judges of the Superior Court of the 42<sup>nd</sup> Judicial District of North Carolina are more than capable of adjudicating this matter and should therefore do so.” (Opp’n Br. ¶ 27.) The Court wishes to make clear that designation to the Business Court of a case as mandatory complex business pursuant to N.C.G.S. § 7A-45.4(a)(1) is not an indicator that the case cannot or should not be litigated before a “regular” Superior Court Judge. Rather, the designation in this case, and in most cases designated to the Business Court, is in compliance with the North Carolina Legislature’s directives as contained in N.C.G.S. § 7A-45.4.

member, and Plaintiff owns forty-nine percent (49%) of the interests. (Compl. ¶¶ 20–23.) Plaintiff contends he made multiple requests for the funds, as well as requested a copy of the operating agreement and financial records of Cressbrook, to no avail. (Compl. ¶¶ 18, 24–27.)

8. Defendants contend Plaintiff’s Opposition is without merit and “inconsistent with previous decisions of this Court that a party cannot defeat jurisdiction . . . through subsequent amendment of its pleadings.”<sup>2</sup> (Resp. 2.)

9. Plaintiff’s Opposition is misplaced. “For a case to be [designated] 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). Defendants sought mandatory complex business case designation pursuant to N.C.G.S. § 7A-45.4(a)(1).<sup>3</sup> (See NOD 1.) Designation under N.C.G.S. § 7A-45.4(a)(1) 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

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<sup>2</sup> Although Defendants’ Response is unpaginated, the Court has counted the pages in order to cite them herein.

<sup>3</sup> Defendants included an alternative request in the NOD for designation under Rule 2.1 of the General Rules of Practice for the Superior and District Courts, which Plaintiff opposes. (NOD 3; Opp’n Br. ¶¶ 13–19.) However, given the Court’s conclusion below, the Court will not address whether Rule 2.1 designation is appropriate in this case.

companies, including disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.” N.C.G.S. § 7A-45.4(a)(1).

10. Prior to filing the voluntary dismissal, the Complaint included—and the NOD was based on—a claim for judicial dissolution of Cressbrook under N.C.G.S. § 57D-6-02, raising a material issue under Chapter 57D of the North Carolina Limited Liability Company Act. *See* N.C.G.S. § 57D-6-02. As such, this action falls within section 7A-45.4(a)(1) and is properly designated as a mandatory complex business case.

11. As this Court has previously held, “neither [N.C.G.S. § 7A-45.4(a)] nor any other [statute] permits designation, once ordered, to be withdrawn or revoked.” *PKT1, LLC v. Vaynberg*, 2022 NCBC LEXIS 72, at \*2 (N.C. Super. Ct. July 5, 2022). “[O]nce a designation order has issued, designation to the Business Court is not affected by subsequent filings or court action.” *Id.* (overruling opposition to designation where voluntary dismissal of plaintiff’s trade secret claim provided no basis to set aside mandatory complex business case designation under N.C.G.S. § 7A-45.4(a)); *see also 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 securities claim upon which designation was based); *Gallaher v. Ciszek*, 2020 NCBC LEXIS 19, at \*2–3 (N.C. Super. Ct. Feb. 17, 2020) (overruling defendants’ opposition to designation where defendants 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) (overruling plaintiffs’ objection to designation where complaint sufficiently raised a material issue involving trade secrets, even if amended complaint did not).

12. Simply put, once a case has been properly designated to the Business Court, a party cannot divest the Court of its authority to hear the case by using gamesmanship—in this case, voluntarily dismissing the claim that was the basis for designation—in an effort to get out of the Business Court. *See PKT1, LLC*, 2022 NCBC LEXIS 72, at \*2.

13. The Court also wishes to clarify that “the Business Court is not a court of separate jurisdiction,” despite the reference to “defeat[ing] jurisdiction” in Defendants’ Response. *Composite Fabrics of Am., LLC*, 2016 NCBC LEXIS 11, at \*26. As this Court explained in *Composite Fabrics*:

The [Business] Court is merely an administrative division of the superior court in the General Court of Justice. A Business Court judge is a special superior court judge who is assigned cases that originate from counties across the state. Just as a special superior court judge may be assigned to matters in any of those counties, when a Business Court judge is assigned to a case that has been designated as a complex business case, whether by a mandatory or discretionary assignment, he is commissioned to preside over that entire case until its conclusion, and he proceeds with the same jurisdiction and authority as any other superior court judge who may be commissioned to hear matters in that case.

*Id.* at \*27. “Subject-matter jurisdiction is measured by the nature of the claims in the case, not by the judge to whom it has been assigned.” *Id.* at \*28.

14. **THEREFORE**, the Court, in the exercise of its discretion, hereby **ORDERS** that the Opposition is **OVERRULED**. This 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[,]” as required by N.C.G.S. § 7A-45.4(a)(1) and shall proceed as a mandatory complex business case before the Honorable A. Todd Brown.

**SO ORDERED**, this the 13th day of August, 2025.

/s/ Michael L. Robinson

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Michael L. Robinson

Chief Business Court Judge