

STATE OF NORTH CAROLINA  
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
25CV031930-590

PIEDMONT NC LLC, a Delaware  
limited liability company, and PTIC  
LLC, a Delaware limited liability  
company,

Plaintiffs,

v.

WALKER AND ASSOCIATES, INC.  
F/K/A WALKER AND ASSOCIATES  
OF NORTH CAROLINA, INC.,  
a North Carolina corporation,

Defendant.

**ORDER ON DESIGNATION**

1. **THIS MATTER** is before the Court pursuant to the *Determination Order* filed on 29 August 2025 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). (ECF No. 1.)

2. Plaintiffs Piedmont NC LLC and PTIC LLC (together, Plaintiffs) initiated this action on 24 June 2025, asserting claims against Defendant Walker and Associates, Inc. f/k/a Walker and Associates of North Carolina, Inc. (Walker) for breach of contract, breach of implied covenant of good faith and fair dealing, and common law negligence. (*See* Compl. ¶¶ 56–72, ECF No. 2.) On the same date, Plaintiffs filed a Notice of Designation (the NOD), conditionally seeking mandatory complex business case designation pursuant to N.C.G.S. § 7A-45.4(a)(9) and asserting

the case meets the criteria for designation under that statutory provision.<sup>1</sup> (See NOD 2.)

3. Based on the record before the Court, it appears that this action arises out of the alleged breach of a commercial lease. (See NOD 3; *see generally* Compl.) Designation as a mandatory complex business case under section 7A-45.4(a)(9) is proper if the action involves a material issue related to:

Contract disputes in which all of the following conditions are met:

- a. At least one plaintiff and at least one defendant is a corporation, partnership, or limited liability company, including any entity authorized to transact business in North Carolina under Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes.
- b. The complaint asserts a claim for breach of contract or seeks a declaration of rights, status, or other legal relations under a contract.
- c. The amount in controversy computed in accordance with G.S. 7A-243 is at least one million dollars (\$ 1,000,000).
- d. All parties consent to the designation.

4. Business Court Rule (BCR) 2.5, applicable to this case, permits conditional designation under section 7A-45.4(a)(9). *See* BCR 2.5. Under BCR 2.5, a designating party may conditionally file a Notice of Designation “contemporaneously with the complaint, third-party complaint, petition for judicial review, answer, or other responsive pleading.” BCR 2.5. The designating party then has thirty (30) days after service of such pleading to “file a supplement to the conditional Notice of Designation

---

<sup>1</sup> Plaintiffs indicate that the NOD is conditional under subsection (a)(9). (See Notice Designation 2, ECF No. 4 [NOD].)

that reflects consent by all parties to the Notice of Designation.” BCR 2.5. However, a conditional Notice of Designation “is not deemed to be complete until the supplement is filed.” BCR 2.5.

5. Here, Plaintiffs filed the conditional NOD contemporaneously with the Complaint. (*See* NOD 1–3.) On 26 August 2025, Plaintiffs filed a Motion to Extend Time to Supplement Notice of Designation (Motion to Extend) with the Mecklenburg County Clerk of Superior Court, which was granted by the Clerk on 28 August 2025 and purported to extend Plaintiffs’ time to file the supplement to 29 August 2025. (*See* Mot. Extend Time Suppl. Notice Designation, ECF No. 6; *see also* Order, ECF No. 7.) On 29 August 2025, Plaintiffs filed a Supplemental Notice of Designation, indicating that Walker consents to the NOD. (*See* Suppl. Notice Designation, ECF No. 8.) However, more than thirty (30) days have passed since the conditional NOD was served on Walker on 30 June 2025. (*See* Aff. Service, ECF No. 5.) The supplement to the conditional NOD should have been filed no later than 30 July 2025 and is therefore untimely. *See* BCR 2.5.

6. In addition, BCR 2.5 states, “Upon a motion or its own initiative, and for good cause shown, the Court may extend the time period to file a supplement to the conditional Notice of Designation.” BCR 2.5. “Court” is defined as the North Carolina Business Court. *See* BCR 1.4(a). Here, Plaintiffs’ Motion to Extend is ineffective under BCR 2.5 since it was untimely filed and sought entry of an extension order by the Mecklenburg County Clerk of Superior Court, rather than the North Carolina Business Court.

7. Given the failure to satisfy all of the requirements in subsection (a)(9), the Court concludes that designation of this action under section 7A-45.4(a)(9) is improper.

8. Based on the foregoing, the Court concludes 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.

9. 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 designation as a Rule 2.1 exceptional case may be pursued with the Senior Resident Superior Court Judge if deemed appropriate.

10. The Court's ruling is without prejudice to the right of the parties to otherwise seek designation of this matter as a mandatory complex business case as may be permitted under N.C.G.S. § 7A-45.4.

**SO ORDERED**, this the 3rd day of September, 2025.

/s/ Michael L. Robinson  
Michael L. Robinson  
Chief Business Court Judge