

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV008345-910

HOLLY SPRINGS CHAMBER OF
COMMERCE, INC.,

Plaintiff,

v.

HOLLY SPRINGS HALF
MARATHON,

Defendant.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the *Determination Order* issued on 15 September 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 accordance with N.C.G.S. § 7A-45.4(a). (ECF No. 1.)

2. Plaintiff Holly Springs Chamber of Commerce, Inc. (Holly Springs CC) initiated this action on 10 March 2025, asserting claims against Defendant Holly Springs Half Marathon (Defendant) for cancellation of N.C. trademark registration No. T-24574, fraudulent registration, declaratory judgment, motion for temporary restraining order and permanent injunction,¹ and unfair and deceptive trade practices. (See Compl. Mot. Temp. Restraining Ord. Prelim. Inj. ¶¶ 12–40, ECF No. 2 [Compl.].) On 26 March 2025, Defendant filed a Motion to Transfer to Superior Court

¹ The Complaint and Motion for Temporary Restraining Order and Preliminary Injunction (Complaint) lists a request for a temporary restraining order and permanent injunction as the “Fourth Claim for Relief.” (See Compl. 30–38.) However, these are not causes of action, but rather forms of relief.

Division, requesting the case be transferred from District Court to Superior Court in Wake County. (See ECF No. 6.) Defendant later filed its Verified Answer and Counterclaim on 10 April 2025. (See ECF No. 3.) On 2 September 2025, the Wake County Superior Court entered an Order Granting Motion to Transfer to Superior Court Division and Granting Motion to Compel Discovery. (See ECF No. 4.) Ten (10) days later, on 12 September 2025, Holly Springs CC filed a Notice of Designation (NOD) seeking designation of the action as a mandatory complex business case under N.C.G.S. § 7A-45.4(a)(4). (See ECF No. 5 [NOD].)

3. Under N.C.G.S. § 7A-45.4(d)(1), “[t]he Notice of Designation shall be filed . . . [b]y the plaintiff . . . contemporaneously with the filing of the complaint[.]” N.C.G.S. § 7A-45.4(d)(1). The contemporaneous filing requirement of N.C.G.S. § 7A-45.4(d)(1) is mandatory. See *BITCO Gen. Ins. Corp. v. SAS Retail Servs., LLC*, 2024 NCBC LEXIS 89, at *1 (N.C. Super. Ct. July 3, 2024). As a result, to the extent Holly Springs CC seeks designation to the Business Court based on the claims contained in its Complaint, it did not comply with the controlling statute. The NOD should have been submitted contemporaneously with the filing of the Complaint. The fact that the case was originally initiated in District Court, not Superior Court, is of no moment. Cases filed in the District Court division may be designated to the Business Court to the same extent, and under the same circumstances, as cases initiated in the Superior Court division.

4. Here, the NOD was filed months after the Complaint and, therefore, is untimely.² See, e.g., *BITCO Gen. Ins. Corp.*, 2024 NCBC LEXIS 89, at *2 (determining designation was improper when notice of designation was filed one (1) day after filing of the complaint); *Shah v. Ahmed*, 2023 NCBC LEXIS 26, at *1–2 (N.C. Super. Ct. Feb. 13, 2023) (determining designation was improper when notice of designation was allegedly filed four (4) months after the filing of the complaint); *Shenzhen Ruobilin Network Tech. Co. v. ChannelAdvisor Corp.*, 2022 NCBC LEXIS 144, at *1–2 (N.C. Super. Ct. Nov. 30, 2022) (determining designation was improper when notice of designation was filed thirty-three (33) days after the filing of the complaint). Therefore, this matter is not properly designated to the Business Court as a mandatory complex business case.

5. 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.

6. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 10 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

² Alternatively, Defendant could have filed the NOD “within 30 days of receipt of service of the pleading seeking relief from the defendant[.]” N.C.G.S. § 7A-45.4(d)(3). Such was the case in *Miller v. Redgoose, L.L.C.*, 2024 NCBC LEXIS 16, at *1–2 (N.C. Super. Ct. Jan. 30, 2024), where defendants filed their answer and counterclaims (including a motion to transfer) and the notice of designation at the same time. However, neither occurred in the current case.

may be pursued with the Senior Resident Superior Court Judge if deemed appropriate.

7. 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 19th day of September, 2025.

/s/ Michael L. Robinson

Michael L. Robinson
Chief Business Court Judge