

STATE OF NORTH CAROLINA  
GUILFORD COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
25CV018285-400

COVENANT CLEARINGHOUSE  
LLC, a Nevada limited liability  
company,

Plaintiff,

v.

D.R. HORTON, INC., a Delaware  
Corporation,

Defendant.

**ORDER ON DESIGNATION**

1. **THIS MATTER** is before the Court pursuant to the *Determination Order* filed on 23 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 accord with N.C.G.S. § 7A-45.4(a). (ECF No. 1.)

2. Plaintiff Covenant Clearinghouse LLC (Plaintiff) initiated this action on 15 August 2025, asserting claims against Defendant D.R. Horton, Inc. (Defendant) for declaratory judgment and breach of declaration (non-payment of capital recovery fees). (See Compl. ¶¶ 16–42, ECF No. 2.) On 18 September 2025, Defendant timely filed a Notice of Designation (the NOD), 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. (See Notice Designation 1–2, ECF No. 7 [NOD].)

3. Based on the record before the Court, it appears that this action arises out of the alleged breach of a Declaration of Covenant (Declaration) recorded on real property in Guilford County, North Carolina. (*See* NOD 2.) The parties dispute the Declaration’s enforceability and alleged rights thereunder. (*See* NOD 2; *see generally* Compl.) Designation as a mandatory complex business case under N.C.G.S. § 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. Defendant’s contention that all four (4) statutory requirements of subsection (a)(9) are met is misplaced. Specifically, it is unclear to the Court how the amount in controversy requirement has been satisfied under section 7A-45.4(a)(9)(c).

5. Plaintiff asserts three (3) counts for declaratory judgment with respect to the Declaration and one (1) count for breach of the Declaration itself. (*See* Compl. ¶¶ 16–42.) However, the Complaint does not provide a way for the Court to determine the monetary value of these claims, other than to assert “the Court should enter judgment against D.R. Horton in an amount to be determined at trial” as to the

breach of the Declaration claim and a request to the Court to “[a]ward the Beneficiaries damages for D.R. Horton’s breach of the Declaration” in the ad damnum clause. (Compl. ¶ 42, Request for Relief.) At most, Plaintiff contends that “[e]ach time D.R. Horton sold a portion of the Property encumbered by the Declaration, it was required to remit 1% of the sales price to Covenant Clearinghouse under the plain and unambiguous contractual terms of the Declaration.” (Compl. ¶ 38.)

6. Defendant attempts to quantify how this case involves an amount in controversy of at least one million dollars (\$1,000,000). (NOD 2 n.1.) According to Defendant, Plaintiff’s declaratory judgment claims for non-monetary relief “seek to establish or enforce an obligation, right, or title . . . specifically, Plaintiff’s right to recoup 1% of the purchase price each time the Property or any portion thereof is sold during the 99-year period following execution and recordation of the Declaration.” (NOD 2 n.1.) Defendant concludes that since (i) the Property was subdivided into many lots on which single-family homes have been or will be constructed, with recent purchase prices for the homes averaging in the mid-\$300,000 range, (ii) these homes “are statistically likely to be sold multiple times over the applicable 99-year period,” and (iii) these homes “are expected to rise in value—perhaps significantly—over that same period[,]” the value of Plaintiff’s claims for declaratory relief “would, standing alone, far exceed the \$1,000,000.00 threshold.” (NOD 2 n.1.)

7. The Court disagrees. “For a case to be certified 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 \*11 (N.C. Super. Ct. Feb. 5, 2016) (emphasis added). Furthermore, in order to satisfy the amount in controversy requirement of N.C.G.S. § 7A-45.4(a)(9), the pleading on which designation is based must provide a path whereby the Court can clearly determine the threshold amount of \$1,000,000 is satisfied. Here, the amount in controversy is simply too uncertain in the Complaint for the Court to conclude that Plaintiff's claims satisfy this requirement. 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 24 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.

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 26th day of September, 2025.

/s/ Michael L. Robinson

Michael L. Robinson  
Chief Business Court Judge