

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV044964-590

AMERICAN PRODUCTS, INC.,

Plaintiff,

v.

KNIGHT HARDWOOD FLOORING
INC.; BENJAMIN MARKOVICH;
BERGEN BLANTON; and CHARLES
N. STINNETT, III,

Defendants.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the *Determination Order* issued on 29 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). (Determination Order, ECF No. 1.)

2. Plaintiff American Products, Inc. (Plaintiff) filed the Verified Complaint and Motions for Temporary, Preliminary, and Permanent Injunctive Relief (the Verified Complaint), thereby initiating this action in Mecklenburg County Superior Court on 27 August 2025. (Verified Compl. Mots. Temp., Prelim., & Permanent Injunctive Relief, ECF No. 2 [Verified Compl.].) Plaintiff asserts claims against Defendants Knight Hardwood Flooring Inc. (Knight), Benjamin Markovich (Markovich), Bergen Blanton (Blanton), and Charles N. Stinnett, III (Stinnett; and collectively, Defendants) for breach of contract as to Markovich, Blanton, and Stinnett (the Employees), tortious interference with contract as to Knight, unfair trade practices

and civil conspiracy as to all Defendants, and punitive damages. (See Verified Compl. ¶¶ 84–110.) On 26 September 2025, Defendants timely filed a Notice of Designation (the NOD) with the Mecklenburg County Clerk of Superior Court, contending that designation as a mandatory complex business case is proper under N.C.G.S. § 7A-45.4(a)(8). (Notice Designation, ECF No. 4 [NOD].) Designation under section 7A-45.4(a)(8) is proper if the action involves a material issue related to “[d]isputes involving trade secrets, including disputes arising under Article 24 of Chapter 66 of the General Statutes.” N.C.G.S. § 7A-45.4(a)(8).

3. Based on the record before the Court, it appears that this action arises out of an employment dispute between Plaintiff and its former employees. According to Plaintiff, the Employees were Plaintiff’s sales representatives prior to their *en masse* exit to join Knight, a competitor of Plaintiff, allegedly breaching their employment contracts. (Verified Compl. ¶¶ 10, 97.) Plaintiff alleges that the Employees specifically violated certain non-competition, non-solicitation, and confidentiality provisions. (Verified Compl. ¶ 10.) Furthermore, Plaintiff seeks “to address Defendant Knight’s continued tortious interference with AmPro’s contractual relationships with its customers and employees, misappropriation of trade secrets, and unfair competition with AmPro.” (Verified Compl. ¶ 10.)

4. In support of designation under section 7A-45.4(a)(8), Defendants argue that “Plaintiff’s first, second, third, and fourth claims for relief each involve material issues regarding disputes involving trade secrets, including disputes arising under Article 24 of Chapter 66 of the General Statutes[.]” (NOD 4.) Specifically,

Defendants point to “alleged violations of contracts restricting the use or disclosure of ‘trade secrets of the Company’ and otherwise improper misappropriation of trade secrets.” (NOD 3–4.)

5. The Court disagrees. “The classic example of a dispute involving trade secrets is one for misappropriation of trade secrets.” *UNOX, Inc. v. Conway*, 2019 NCBC LEXIS 41, at *4 (N.C. Super. Ct. June 28, 2019) (citing N.C.G.S. § 66-153). “Although a claim for misappropriation of trade secrets frequently serves as the basis for designation under section 7A-45.4(a)(8), other types of claims . . . may also qualify for designation under this section ‘when the complaint puts the existence, ownership, or misuse of alleged trade secrets squarely in dispute.’” *Sys. Depot, Inc. v. Clement*, 2022 NCBC LEXIS 48, at *3 (N.C. Super. Ct. May 25, 2022) (quoting *UNOX, Inc.*, 2019 NCBC LEXIS 41, at *4); *see also Cornerstone Health Care, P.A. v. Moore*, 2015 NCBC LEXIS 65, at *7 (N.C. Super. Ct. June 22, 2015) (“[W]hether a case involves the requisite disputes falling within the statutory requirements has not been historically confined to the actual causes of action asserted in a complaint, but has also examined the underlying factual allegations.”). While designation under section 7A-45.4(a)(8) does not depend on “the appearance or absence of magic words—such as ‘trade secret’—in the complaint[,]” *UNOX, Inc.*, 2019 NCBC LEXIS 41, at *7, this Court “has never construed section 7A-45.4(a)(8) so broadly as to permit designation of an action as a mandatory complex business case based on claims involving generalized confidential or proprietary information,” *Sys. Depot, Inc.*, 2022 NCBC LEXIS 48, at *3–4 (cleaned up).

6. Despite one reference to “misappropriation of trade secrets” on the second page of the Verified Complaint, (Verified Compl. ¶ 10), Plaintiff did not bring a claim for misappropriation of trade secrets in this action or adequately allege the existence of information deserving protection as a trade secret. Rather, the Verified Complaint uses general references throughout to “trade secrets and confidential information” in the context of alleged breaches of the restrictive covenants in the Employees’ employment agreements. (See Verified Compl. ¶¶ 17, 20–22, 30, 33–35, 45, 48–50.) Notably, the second and third claims only reference Plaintiff’s “Confidential Information.” (Verified Compl. ¶¶ 91, 97.) Plaintiff’s claims, as pled, put “the existence, ownership, or misuse” of its alleged confidential information, *not* its trade secrets, in dispute. See *Inframark, LLC v. Holder*, 2025 NCBC LEXIS 51, at *6–7 (N.C. Super. Ct. May 9, 2025); *Ferguson Enters., LLC*, 2024 NCBC LEXIS 24, at *4 (N.C. Super. Ct. Feb. 14, 2024); see also *UNOX, Inc.*, 2019 NCBC LEXIS 41, at *4–5.

7. “[T]his Court will not designate a case under section 7A-45.4 ‘merely because the pleadings include factual allegations that arguably might touch upon facts that, when read together with other allegations, might have been a basis for a claim that the plaintiff chose not to allege.’” *UNOX, Inc.*, 2019 NCBC LEXIS 41, at *6–7 (citing *Mkt. Am., Inc. v. Doyle*, 2016 NCBC LEXIS 182, at *4 (N.C. Super. Ct. Feb. 29, 2016)). Accordingly, the Court concludes that this action does not involve a material issue related to disputes involving trade secrets, as required by section 7A-45.4(a)(8).

8. 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.

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 the parties may pursue designation as a Rule 2.1 exceptional case with the Senior Resident Superior Court Judge.

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 provided under section 7A-45.4.

SO ORDERED, this the 3rd day of October, 2025.

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