

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV052891-590

FORTUNE BRANDS
INNOVATIONS, INC.,

Plaintiff,

v.

PATRICK BLESER,

Defendant.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the *Determination Order* issued on 8 October 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 Fortune Brands Innovations, Inc. (Fortune Brands) initiated this action on 6 October 2025, asserting claims against Defendant Patrick Bleser (Bleser) for breach of contract and threatened or inevitable misappropriation of trade secrets under the Delaware Uniform Trade Secret Act. (*See* Compl. ¶¶ 76–94, ECF No. 2 [Compl].) The next day, on 7 October 2025, Fortune Brands 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)(1). (*See* Notice Designation 1, ECF No. 4 [NOD].)

3. Based on the record before the Court, it appears that this action arises out of an employment dispute between Fortune Brands and its former employee, Bleser.

According to Fortune Brands, Bleser resigned as its Vice President of PRO Sales and shortly thereafter, began working as Director of Business Development at ASSA ABLOY, a direct competitor of Fortune Brands, violating Bleser’s “contractual and legal obligations to Fortune Brands.” (Compl. ¶¶ 4, 8–10.) Specifically, Fortune Brands seeks to enjoin Bleser from

(1) directly or indirectly breaching his [Employment] Agreements; (2) utilizing or disclosing Fortune Brands confidential and trade secret information; (3) soliciting Fortune Brands’ customers with whom Bleser worked with on behalf of Fortune Brands; and (4) continuing his employment with ASSA ABLOY in his current, directly competitive position.”

(Compl. ¶ 14.)

4. As a preliminary matter, N.C.G.S. § 7A-45.4(d)(1) provides “[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). Here, the NOD was filed a day after the Complaint, and therefore, is untimely. This matter is therefore not properly designated to the Business Court as a mandatory complex business case. *See, e.g., Holly Springs Chamber of Com., Inc. v. Holly Springs Half Marathon*, 2025 NCBC LEXIS 124, at *2–3 (N.C. Super. Ct. Sep. 19, 2025) (determining designation was improper when notice of designation was filed months after filing the complaint); *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 three (3) 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).

5. Even if the NOD had been filed contemporaneously with the Complaint, Fortune Brands’s contention that this case is properly designated under N.C.G.S. § 7A-45.4(a)(1) is misplaced. Designation under this section 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 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). The only bases claimed by Fortune Brands to support designation of this action to the Business Court under N.C.G.S. § 7A-45.4(a)(1) are “misappropriation of trade secrets under Delaware law and breach of the restrictive covenants provisions of several executive employment agreements thus satisfying at least one basis for designation of this case to the North Carolina Business Court.” (NOD 3.) However, the law governing corporations is not implicated by reference to Delaware trade secrets law or the alleged breach of restrictive covenants in executive employment agreements.

6. N.C.G.S. § 7A-45.4(c) requires the notice of designation to “include a certificate by or on behalf of the designating party that the civil action meets the criteria for designation as a mandatory complex business case pursuant to subsection (a) or (b) of this section.” N.C.G.S. § 7A-45.4(c). The Court’s Notice of Designation Template contained in the appendices of the Business Court Rules (BCR)—and used in the NOD in this case—includes the certification on the first page, stating “In good faith and based on information reasonably available, [INSERT PARTY], through counsel, hereby certifies that this action meets the criteria for” BCR App. 1; (*see* NOD 1.)¹ The designating party must then indicate to the Court whether N.C.G.S. § 7A-45.4(a) or (b) applies and the specific subsection implicated. Importantly, the Court will not second-guess a designating party’s choice as to the applicable subsection that the party certifies to in the notice of designation.

7. Given that this case does not involve a material issue related to disputes involving the law governing corporations, this matter is not properly designated to the Business Court as a mandatory complex business case under N.C.G.S. § 7A-45.4(a)(1).

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.

¹ The Notice of Designation Template can also be found on the Business Court’s website. *See Notice of Designation Template*, N.C. Jud. Branch, <https://www.nccourts.gov/courts/business-court/special-information-and-procedures-for-business-court> (last visited Oct. 10, 2025).

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 10th day of October, 2025.

/s/ Michael L. Robinson

Michael L. Robinson
Chief Business Court Judge