

STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24CV050762-590

PETER LAPORT,

Plaintiff,

v.

BAKKAVOR FOODS USA, INC.,

Defendant.

**ORDER ON PLAINTIFF'S
OPPOSITION TO NOTICE
OF DESIGNATION**

1. **THIS MATTER** is before the Court following the 31 January 2025 filing by Plaintiff Peter Laport (“Laport”) of *Plaintiff’s Opposition to Notice of Designation* (the “Opposition”). (ECF No. 9 [“Opp’n”].)

2. Laport filed the Complaint initiating this action in Mecklenburg County Superior Court on 30 October 2024, asserting claims against Defendant Bakkavor Foods USA, Inc. (“Bakkavor”) for fraud in the inducement, negligent misrepresentation, violation of the North Carolina Wage and Hour Act, breach of contract, breach of covenant of good faith and fair dealing, conversion of Laport’s wages, unjust enrichment, quantum meruit, and unfair and deceptive trade practices. (See Compl. ¶¶ 52–126, ECF No. 3.) Bakkavor timely filed a Notice of Designation (the “NOD”) on 2 January 2025, asserting the case meets the criteria for designation under N.C.G.S. § 7A-45.4(a)(2).¹ (Notice Designation, ECF No. 7 [“NOD”].)

¹ The NOD states that “Bakkavor’s designation of this case to this Court is timely . . . because it is being made within 30 days of its receipt of the Complaint. Although Bakkavor disputes that service was proper, the earliest date upon which it was served with the Complaint was December 5, 2024.” Laport does not object to the NOD on the basis of timeliness.

3. On 3 January 2025, the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, issued an Order designating the case as a mandatory complex business case under N.C.G.S. § 7A-45.4(a) and ordered the undersigned to assign the case to a Business Court Judge. (Designation Order, ECF No. 1.) Thereafter, on 3 January 2025, the case was assigned to the undersigned's docket. (Assignment Order, ECF No. 2.) On 31 January 2025, Laport timely filed his Opposition, contending that designation under N.C.G.S. § 7A-45.4(a) is improper. (Opp'n 1.) According to Laport, the Complaint "does not allege any material issues involving securities and Plaintiff has not asserted any securities claim[s] under Chapter 78A." (Opp'n 1.) Rather, Laport contends he has asserted "related employment and breach of contract claims" and that "[t]he focus of the lawsuit is on the terms of [Laport's] employment, [Bakkavor's] obligations to fulfill promises made in conjunction with [Laport's] employment, and [Bakkavor's] breach of those promises." (Opp'n 1-2.)

4. Pursuant to N.C.G.S. § 7A-45.4(e), the undersigned is required to rule by written order on Laport's objection and to determine whether the action should be designated as a mandatory complex business case.²

5. This action arises out of a dispute between Laport and Bakkavor following Laport's exit from Bakkavor on 17 March 2023. (See Compl. ¶ 46.) Laport alleges that, during his negotiations with Bakkavor in September 2020 to join as an executive

² Because the Court believes that Laport's opposition is straightforward and easily determined without awaiting a response to his objection by the designating party, the Court enters this Order before any response has been received.

officer of the company, representatives and executives of Bakkavor implied to Mr. Laport—both directly and indirectly through his executive recruiter—that he “would earn the option to own Bakkavor shares [of stock] through the [company’s Long-Term Incentive Plan].” (Compl. ¶ 14.) According to Laport, the award of shares was allegedly subject to annual vesting, with immediate ownership rights upon the granting of the award, rather than cliff vesting, with a vesting schedule and service requirements. (Compl. ¶¶ 15–16.) Laport also alleges that he was offered a “sign on bonus” consisting of an award of Long-Term Incentive Plan shares equivalent to fifty percent (50%) of his salary in exchange for his prompt acceptance of the employment offer. (Compl. ¶¶ 31–35.) Laport contends that when he left his position at Bakkavor in March 2023, his request to recover the shares he had allegedly earned was rejected, and Bakkavor and its Remuneration Committee “cited the fact that Mr. Laport was leaving Bakkavor prior to the date by which his LTIP benefits would vest under the LTIP’s 3-year cliff vesting scheme.” (Compl. ¶¶ 46–48.)

6. Bakkavor seeks mandatory complex business case designation pursuant to N.C.G.S. § 7A-45.4(a)(2). (See NOD 1.) Designation under this section is proper if the action involves a material issue related to “[d]isputes involving securities, including disputes arising under Chapter 78A of the General Statutes.” N.C.G.S. § 7A-45.4(a)(2).

7. Bakkavor represented in its NOD that designation is proper under N.C.G.S. § 7A-45.4(a)(2) because Laport’s Complaint “presents a complex dispute involving securities.” (NOD 4.) Bakkavor specifically relies on Laport’s allegation in

the Complaint that his share awards in Bakkavor's Long-Term Incentive Plan vested on the grant date which, according to Bakkavor, is contrary to the express rules of the plan. (NOD 3).

8. The Court agrees with Bakkavor that the action is properly designated. Although Laport does not expressly assert a securities claim under Chapter 78A of the North Carolina General Statutes, section 7A-45.4(a)(2) does not require that he do so in order for the action to be properly designated as a mandatory complex business case. *Alessi v. Techcom, Inc.*, 2022 NCBC LEXIS 34, at *4 (N.C. Super. Ct. Apr. 25, 2022).

9. While the Court has routinely refused mandatory complex business case designation under section 7A-45.4(a)(1) where, as here, the dispute involves a straightforward application of contract law principles, *see, e.g., Grindstaff v. Knighton*, 2020 NCBC LEXIS 98, at *2–3 (N.C. Super. Ct. Sept. 1, 2020), designation under subsection (a)(1) is for disputes involving “the law governing” certain business entities. No such “law governing” requirement appears in subsection (a)(2).

10. “[A] tangential relationship between securities and a complaint’s allegations, without more, will not meet the criteria of section 7A-45.4(a)(2).” *Edwards v. Vanguard Fiduciary Trust Co.*, 2018 NCBC LEXIS 251, at *3 (N.C. Super. Ct. July 24, 2018). However, where the “acquisition, disposition, transfer, existence or characteristics of the securities” are at issue, designation under section 7A-45.4(a)(2) is proper. *Talley v. Earth Fare 2020, Inc.*, 2022 NCBC LEXIS 158, at *4 (N.C. Super. Ct. Dec. 12, 2022) (quotations omitted) (holding designation under

subsection (a)(2) was proper where the Court had to determine if plaintiff was entitled to company stock and stock options, under what circumstances, and whether he had received them); *see also Alessi*, 2022 NCBC LEXIS 34, at *3 (concluding designation under subsection (a)(2) was proper where plaintiff's claims required the Court to determine whether he was entitled to securities purportedly triggered due to initiation of a reverse stock split under an employment agreement); *but see Queler v. Pridnia*, 2021 NCBC LEXIS 25, at *5 (N.C. Super. Ct. Mar. 24, 2021) (holding designation under subsection (a)(2) was not proper when dispute involved failure to pay commissions based on the sale of securities and did not focus on the securities themselves).

11. Similar to the instant case, in *Munroe v. Ingersoll-Rand Co.*, the Court held that designation under subsection (a)(2) was proper where plaintiff's claims required "a determination of whether certain security instruments [had] vested under [d]efendant's equity award plans, placing those securities at the core of this action." 2020 NCBC LEXIS 130, at *2–3 (N.C. Super. Ct. Nov. 3, 2020). Laport's claims appear to require a determination of whether the shares at issue have vested under Bakkavor's Long-Term Incentive Plan, placing the securities at the core of this action, much like in *Munroe*. As such, the securities are not tangential to Laport's claims and instead carry the required nexus for designation under subsection (a)(2). *See Alessi*, 2022 NCBC LEXIS 34, at *3.

12. Based on the foregoing, the Court determines that this action is properly designated as a mandatory complex business case under N.C.G.S. § 7A-45.4(a)(2)

and thus is properly assigned to the undersigned as a Special Superior Court Judge for Complex Business Cases.

13. **THEREFORE**, the Court, in the exercise of its discretion, hereby **ORDERS** that the Opposition is **OVERRULED**. This action involves a material issue related to “[d]isputes involving securities, including disputes arising under Chapter 78A of the General Statutes” as required by N.C.G.S. § 7A-45.4(a)(2) and shall proceed as a mandatory complex business case before the undersigned.

SO ORDERED, this the 5th day of February, 2025.

/s/ Michael L. Robinson

Michael L. Robinson
Special Superior Court Judge
for Complex Business Cases