

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 28 January 2026 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. 7.)

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. (Compl. ¶¶ 76–94, ECF No. 2.) Fortune Brands filed the first *Notice of Designation* in this case (First NOD) on 7 October 2025, seeking designation of the action as a mandatory complex business case under N.C.G.S. § 7A-45.4(a)(1). (Notice Designation 1, ECF No. 4.) In its *Order on Designation* dated 10 October 2025 (First Order on Designation), the Court concluded that this action was not properly designated under N.C.G.S. § 7A-45.4(a).

See Fortune Brands Innovations, Inc. v. Bleser, 2025 NCBC LEXIS 139, at *5 (N.C. Super. Ct. Oct. 10, 2025).

3. Consequently, this action was not assigned to a Special Superior Court Judge for Complex Business Cases and instead proceeded on the regular civil superior court docket in Judicial District 26.

4. On 29 December 2025, Fortune Brands filed an *Amended Complaint for Injunctive and Other Relief* (Amended Complaint). (ECF No. 8 [Am. Compl.].) Fortune Brands added additional post-litigation facts and two new claims in the Amended Complaint—misappropriation of trade secrets under the North Carolina Trade Secrets Protection Act, alleged in the alternative to its similar claim under the Delaware Uniform Trade Secrets Act, and breach of fiduciary duty. (See Am. Compl. ¶¶ 69–73, 102–14.)

5. Bleser filed the second *Notice of Designation* in this case (Second NOD) on 27 January 2026, contending designation as a mandatory complex business case is proper under N.C.G.S. § 7A-45.4(a)(8). (Notice Designation Complex Bus. Case, ECF No. 9 [2d NOD].) According to Bleser, the Amended Complaint “raises material issues involving trade secrets arising under Article 24 of Chapter 66 of the North Carolina General Statutes.” (2d NOD 4.) Specifically, Bleser asserts that Fortune Brands’ newly added claim for misappropriation of trade secrets under the North Carolina Trade Secrets Protection Act causes the action to be properly designated under subsection (a)(8). (See 2d NOD 4.)

6. As this Court previously explained, 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. *See Fortune Brands*, 2025 NCBC LEXIS 139, at *1. “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.’” *Id.* at *1–2.

7. “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). According to the Second NOD, Bleser seeks designation of this action as a mandatory complex business case based on the allegations of the Amended Complaint, and specifically, Fortune Brands’ contention that Bleser has misappropriated its trade secrets. (See 2d NOD 4.)

8. “If a party amends a pleading, and the amendment raises a new material issue listed in N.C.G.S. § 7A-45.4(a), any party may seek designation of the action as a mandatory complex business case within the time periods set forth in subsection 7A-45.4(d).” BCR 2.3(a). However, this rule “applies only to an action that had not previously qualified under subsection 7A-45.4(a) for designation to the Court.” BCR 2.3(b). According to Bleser, the addition of the new alternative claim under the

North Carolina Trade Secrets Protection Act is enough to satisfy this requirement.

(*See* 2d NOD 4.) The Court disagrees.

9. Designation under subsection (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). While the Court agrees that subsection (a)(8) may otherwise be implicated in this case, Bleser’s designation is untimely.

10. Both the original Complaint and the Amended Complaint allege that Bleser entered into a Non-Compete Agreement and Restricted Stock Unit Agreements during his time at Fortune Brands, which included post-termination restrictive covenants. (*See* Am. Compl. ¶ 44; Compl. ¶ 43.) According to Fortune Brands, Bleser breached the contracts by taking a similar job position with ASSA ABLOY within days of leaving Fortune Brands, soliciting Fortune Brands’ customers, and using or disclosing Fortune Brands’ trade secrets and confidential information. (*See* Am. Compl. ¶¶ 61, 88–91, 98, 106; Compl. ¶¶ 60, 82–84, 91.) Notably, the Amended Complaint is based on the same conduct, the same contracts, and essentially the same underlying facts that were first raised in the Complaint. The only relevant material change or addition between the original Complaint and the Amended Complaint is Fortune Brands’ decision to add North Carolina’s trade secret misappropriation statute as an alternative basis for relief.

11. Because Bleser’s basis for designation is based on the same conduct first set forth in the Complaint, and the original Complaint included a claim for

misappropriation of trade secrets, the Amended Complaint does not “raise[] a new material issue” to provide a basis for designation under subsection (a)(8) that is different from that in the Complaint. BCR 2.3(a); *see Meridian Renewable Energy LLC v. Birch Creek Dev., LLC*, 2025 NCBC LEXIS 56, at *4 (N.C. Super. Ct. May 16, 2025) (concluding designation based on the amended complaint was untimely where claims in the complaint and amended complaint were either identical or not materially different); *Epes Logistics Servs., Inc. v. Stone*, 2022 NCBC LEXIS 66, at *3–4 (N.C. Super. Ct. June 27, 2022) (same); *see also Merritt v. S&S Mgmt. Grp., LLC*, 2022 NCBC LEXIS 37, at *5 (N.C. Super. Ct. Apr. 28, 2022) (concluding designation was untimely under subsection (a)(8) where counterclaims and grounds for designation were based on the same conduct at issue in the complaint). Where the claims are either identical or not materially different in the complaint and the amended complaint, designation must be based on the complaint in order to be considered timely, as the complaint is the first pleading to raise a material issue that falls within one of the categories under N.C.G.S. § 7A-45.4(a). *See Forsyth Tucker Sports Constr., LLC v. Tucker*, 2025 NCBC LEXIS 171, at *3–5 (N.C. Super. Ct. Dec. 15, 2025) (similarly concluding designation based on a counterclaim was untimely when the issue that formed the basis for designation under subsection (a)(1) was first raised in the complaint); *Hubquarter Landing Townhome Owners Ass’n, Inc. v. Toh*, 2025 NCBC LEXIS 169, at *4–8 (N.C. Super. Ct. Dec. 12, 2025) (similarly concluding designation based on a third-party complaint was untimely when the

issue that formed the basis for designation under subsection (a)(1) was first raised in the complaint).

12. Although it is not entirely clear from reviewing the docket on Enterprise Justice when Bleser accepted service, it was no later than 27 October 2025 when Bleser's counsel filed a *Notice of Appearance*. (Notice Appearance, ECF No. 10.) As Bleser accepted service of the Complaint no later than 27 October 2025, the Second NOD should have been filed on or before 26 November 2025. Given that Bleser did not seek designation until 27 January 2026, the Court concludes that designation based on the Amended Complaint is untimely for purposes of N.C.G.S. § 7A-45.4(a)(8).

13. The Court also wishes to clarify several procedural shortcomings in this case. First, the Court issued its First Order on Designation on 10 October 2025 following receipt of the First NOD, leaving Bleser more than ample time to timely file the Second NOD based on subsection (a)(8), and certainly within thirty (30) days of service of the Complaint. *See generally Fortune Brands*, 2025 NCBC LEXIS 139, at *1–5.

14. Second, despite Fortune Brands bringing a new claim for breach of fiduciary duty, Bleser does not raise this claim as a basis for designation in the Second NOD. (See Am. Compl. ¶¶ 110–14.) As explained in the First Order on Designation, the Court will not second-guess a party's basis for designation or assume a basis which might otherwise appear in a pleading but is not expressly claimed by the designating

party as the basis for designation to the Business Court. *See Fortune Brands, 2025 NCBC LEXIS 139, at *4.*

15. Lastly, Bleser filed the Second NOD on 27 January 2026 at 4:47 P.M. with the Mecklenburg County Clerk of Superior Court but waited to email the undersigned and the Chief Justice of the Supreme Court until after 5:00 P.M., which constitutes the next day for filing purposes. BCR 3.6. Therefore, as an additional basis for denial of Bleser's request for Business Court designation, the Second NOD did not comply with the contemporaneous service requirement in N.C.G.S. § 7A-45.4(c).

16. 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.

17. 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.

18. 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 4th day of February, 2026.

/s/ Michael L. Robinson

Michael L. Robinson
Chief Business Court Judge