

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
24CV020659-910

IMPLUS FOOTCARE, LLC,  
Plaintiff,

v.

TODD VORE, BLUE SAN, LLC, H.B.  
SHOES CO., THE MIKE HALE  
COMPANY, RICHARD CHANG,  
MERRICK JONES, MATTHEW  
CARTER, and SHARON FAN,  
Defendants.

**ORDER ON PLAINTIFF'S MOTION  
FOR APPOINTMENT OF DISCOVERY  
REFEREE**

**THIS MATTER** is before the Court on Plaintiff Implus Footcare, LLC's ("Implus") Motion for Appointment of Discovery Referee ("Motion," ECF No. 179).

1. In the Motion, Implus requests that the Court appoint a referee to hear and resolve discovery disputes that are either currently pending or that may arise in the future in this case.

2. Defendants Todd Vore; Blue San, LLC; H.B. Shoes Co.; The Mike Hale Company; Richard Chang; Merrick Jones; Matthew Carter; and Sharon Fan (collectively, "Defendants") oppose the Motion.

3. The appointment of referees in civil actions is governed by Rule 53 of the North Carolina Rules of Civil Procedure, which states in relevant part as follows:

(1) **By Consent.** — Any or all of the issues in an action may be referred upon the written consent of the parties except in actions to annul a marriage, actions for divorce from bed and board, actions for alimony without the divorce or actions in which a ground of annulment or divorce is in issue.

(2) **Compulsory.** — Where the parties do not consent to a reference, the court may, upon the application of any party or on its own motion, order a reference in the following cases:

- a. Where the trial of an issue requires the examination of a long or complicated account; in which case the referee may be directed to hear and decide the whole issue, or to report upon any specific question or fact involved therein.
- b. Where the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect.
- c. Where the case involves a complicated question of boundary, or requires a personal view of the premises.
- d. Where a question of fact arises outside the pleadings, upon motion or otherwise, at any stage of the action.

N.C. R. Civ. P. 53(a)(1)–(2).

4. Although Defendants do not consent to the appointment of a discovery referee, Implus nevertheless contends that the Court possesses the authority to appoint such a referee because the various discovery disputes between the parties constitute a “long or complicated account” under Rule 53(a)(2)a.

5. In response, Defendants maintain that Rule 53 allows them the right to withhold their consent to the appointment of a discovery referee—a right which they have chosen to exercise here. Furthermore, Defendants contend that Rule 53(a)(2)a. is inapplicable in this case since none of the disputes identified in the Motion relate to the examination or interpretation of complex financial or accounting records.

6. Having thoroughly considered the parties’ competing arguments, the Court concludes that none of the above-quoted provisions of Rule 53(a) allowing the appointment of a referee without the consent of all parties applies based on the present record.

**ACCORDINGLY**, Implus’s Motion for Appointment of Discovery Referee is  
**DENIED.**<sup>1</sup>

**SO ORDERED**, this the 12th day of January 2026.

/s/ Mark A. Davis

Mark A. Davis

Special Superior Court Judge for  
Complex Business Cases

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<sup>1</sup> The Court deems it appropriate, however, to remind the parties of their obligation under Rule 10.9 of the Business Court Rules to “engage in a thorough, good-faith attempt to resolve or narrow [a discovery] dispute” prior to seeking court intervention. BCR 10.9(b)(1).