

STATE OF NORTH CAROLINA
WAKE COUNTY

L.B., and H.B., on behalf of
themselves and all others similarly
situated, by their parent and
guardian, NICHOLE BALDRIDGE,

Plaintiffs,

v.

CARY PEDIATRIC CENTER, P.A.,
Defendant.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
26CV003573-910
MASTER FILE

**ORDER ON PLAINTIFFS'
OPPOSITIONS TO NOTICE OF
DESIGNATION**

WAKE COUNTY

ROSETTE BARKER, individually on
behalf of her minor children S.B.,
E.B., and on behalf of all others
similarly situated,

Plaintiff,

v.

CARY PEDIATRIC CENTER, P.A.,
Defendant.

26CV004848-910
RELATED CASE

1. **THIS ORDER** addresses two filings made by Plaintiffs L.B. and H.B., on behalf of themselves and all others similarly situated, by their parent and guardian, Nichole Baldrige (Baldrige), and Rosette Barker (Barker; and together with Baldrige, Plaintiffs), individually and on behalf of her minor children, S.B., E.B., and on behalf of all others similarly situated in the above-captioned consolidated cases—(i) the 13 March 2026 filing of *Plaintiffs' Opposition to Notice of Designation* (the Baldrige Opposition) in *L.B. v. Cary Pediatric Center, P.A.* (26CV003573-910;

Wake Cnty.) (Baldrige Class Action); and (ii) the 13 March 2026 filing of *Plaintiffs' Opposition to Notice of Designation* (Barker Opposition; and together with the Baldrige Opposition, the Oppositions) in *Barker v. Cary Pediatric Center, P.A.* (26CV004848-910; Wake Cnty.) (Barker Class Action).¹ (26CV003573-910, ECF No. 8 [Baldrige Opp'n]; 26CV004848-910, ECF No. 9 [Barker Opp'n].)

2. L.B. and H.B., on behalf of themselves by their parent and guardian, Baldrige, and on behalf of the nationwide class, initiated the Baldrige Class Action on 27 January 2026, asserting claims against Defendant Cary Pediatric Center, P.A. (Defendant) for negligence, breach of implied contract, breach of fiduciary duty, invasion of privacy–intrusion upon seclusion, violations of the North Carolina Unfair Trade Practices Act, and unjust enrichment. (26CV003573-910, Class Action Compl. ¶¶ 113–86, ECF No. 3 [Baldrige Compl.].) On 5 March 2026, Defendant timely filed a *Notice of Designation*, (26CV003573-910, ECF No. 7 [Baldrige NOD]), asserting the Baldrige Class Action meets the criteria for designation under N.C.G.S. § 7A-45.4(a)(5). (Baldrige NOD 1.)

3. On 6 March 2026, the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, filed an *Order* designating the Baldrige Class Action as a mandatory complex business case under N.C.G.S. § 7A-45.4(a) and requiring the undersigned to assign the case to a Business Court Judge. (26CV003573-910, Designation Order, ECF No. 1.) On the same date, the Baldrige Class Action was

¹ Because the Court believes the Oppositions are straightforward and easily determined without awaiting responses by the designating parties, the Court enters this Order before any responses have been received.

assigned to the Honorable Adam M. Conrad, Special Superior Court Judge for Complex Business Cases. (26CV003573-910, Assignment Order, ECF No. 2.)

4. On 13 March 2026, Baldrige timely filed the Baldrige Opposition, contending that designation under N.C.G.S. § 7A-45.4(a)(5) is improper. (Baldrige Opp'n 1.)² According to Baldrige, “[t]his case is fundamentally a tort and breach of contract action[,]” and “[t]he mere fact that a data breach occurred does not transform this case into one involving ‘intellectual property.’” (Baldrige Opp'n 3.) Baldrige contends that although subsection (a)(5) references “data and data security,” in this case, “the data breach is not closely tied to any intellectual property disputes.”³ (Baldrige Opp'n 3.)

5. Similarly, Barker initiated the Barker Class Action on 6 February 2026, asserting claims against Defendant individually, on behalf of her minor children, S.B., E.B., and on behalf of the class, for negligence, negligence per se, unjust enrichment, breach of implied contract, breach of fiduciary duty, and breach of the implied covenant of good faith and fair dealing. (26CV004848-910, Class Action Compl. ¶¶ 117–84, ECF No. 3 [Barker Compl].) On 5 March 2026, Defendant timely filed a *Notice of Designation*, (26CV004848-910, ECF No. 8 [Barker NOD]), asserting the Barker Class Action meets the criteria for designation under N.C.G.S. § 7A-45.4(a)(5). (Barker NOD 1.)

² The Oppositions' page numbers are misnumbered, beginning with page “0.” The Court references the correct page numbers throughout this Order.

³ Plaintiffs quote the former version of subsection (a)(5), which was amended effective 1 December 2025.

6. On 6 March 2026, the Honorable Paul Newby, Chief Justice of the Supreme Court of North Carolina, filed an *Order* designating the Barker Class Action as a mandatory complex business case under N.C.G.S. § 7A-45.4(a) and requiring the undersigned to assign the case to a Business Court Judge. (26CV004848-910, Designation Order, ECF No. 1.) On the same date, the Barker Class Action was assigned to the Honorable Adam M. Conrad, Special Superior Court Judge for Complex Business Cases. (26CV004848-910, Assignment Order, ECF No. 2.)

7. On 13 March 2026, Barker timely filed the Barker Opposition, contending that designation under N.C.G.S. § 7A-45.4(a)(5) is improper. (Barker Opp'n 1.) Other than the first paragraph, the Barker Opposition appears to be an exact duplicate of the Baldrige Opposition. (*See generally* Barker Opp'n; *see also* Baldrige Opp'n.)

8. On 27 February 2026 and 2 March 2026, counsel for Baldrige and Baker, respectively, moved to consolidate their related cases and appoint interim class counsel. (26CV003573-910, Pls.' Unopposed Mot. Consolidate Related Cases & Appoint Interim Class Couns., ECF No. 5; 26CV004848-910, Pls.' Unopposed Mot. Consolidate Related Cases & Appoint Interim Class Couns., ECF No. 10.) The Honorable Adam M. Conrad consolidated the cases on 16 March 2026. (26CV003573-910, Order Mots. Consolidate & Appoint Interim Class Couns., ECF No. 9; 26CV004848-910, Order Mots. Consolidate & Appoint Interim Class Couns., ECF No. 11.)

9. Pursuant to N.C.G.S. § 7A-45.4(e), the undersigned is required to rule by written order on Plaintiffs' objections and to determine whether the actions should be designated as mandatory complex business cases.

10. The Court will address both Oppositions in this Order since the cases have been consolidated, the Oppositions are almost identical, and they raise the same argument regarding designation.

11. Based on the record before the Court, it appears these actions arise out of an alleged data breach that occurred in early 2026 on Defendant's systems that housed personally identifiable information (PII) and protected health information (PHI) of Defendant's pediatric patients. (See Baldrige Compl. ¶¶ 1–3; Barker Compl. ¶¶ 1–2, 4.) According to Plaintiffs, the Qilin ransomware group allegedly exfiltrated an estimated 130 GB of data belonging to several thousand individuals on Defendant's systems. (See Baldrige Compl. ¶ 3; Barker Compl. ¶¶ 4–5.) Baldrige alleges that to date, Defendant has not publicly acknowledged the data breach. (See Baldrige Compl. ¶ 30.)

12. In both cases, Defendant sought mandatory complex business case designation pursuant to N.C.G.S. § 7A-45.4(a)(5). (See Baldrige NOD 1; Barker NOD 1.) Designation under this section is proper if the action involves a material issue related to “[d]isputes involving the rights to or performance of intellectual property, including computer software, software applications, information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies.” N.C.G.S. § 7A-45.4(a)(5).

13. According to Defendant, both cases should be designated under subsection (a)(5) because they contain “claims arising out of an alleged data breach.” (*See* Baldrige NOD 1; Barker NOD 1.) Plaintiffs oppose designation contending “[w]hile subsection (a)(5) does reference ‘data and data security,’ the data breach is not closely tied to any intellectual property disputes.” (Baldrige Opp’n 3; Barker Opp’n 4.) However, Plaintiffs’ interpretation of subsection (a)(5) misses the mark.

14. The North Carolina Business Court has heard several similar data breach class action cases over the years designated under N.C.G.S. § 7A-45.4(a)(5), which specifically lists “[d]isputes involving the . . . performance of intellectual property, including computer software, software applications, information technology and systems, [and] *data and data security*[.]” N.C.G.S. § 7A-45.4(a)(5) (emphasis added); *see, e.g., In re Asheville Eye Assocs. Data Incident Litig.* (25CV000809-100; Buncombe Cnty.); *Vernon v. Gaston Coll.* (23CVS3059; Gaston Cnty.); *Williams v. Monarch* (23CVS105; Stanly Cnty.); *Green v. EmergeOrtho, P.A.* (22CVS003533-310; Durham Cnty.); *McManus v. Gerold O. Dry, P.A.* (22CVS001776; Cabarrus Cnty.).

15. By its plain terms, subsection (a)(5) covers not only disputes about intellectual property “rights” but also disputes about intellectual property “performance.” *See* N.C.G.S. § 7A-45.4(a)(5). Moreover, the statute expressly defines the covered disputes to include disputes about the performance of “computer software” and “data security” measures. *Id.*

16. Here, Plaintiffs specifically allege a “ransomware attack and data exfiltration incident” occurred that allowed PII and PHI to be accessed and stolen

from Defendant's systems. (Baldrige Compl. ¶ 27; see Barker Compl. ¶ 38.) Plaintiffs include multiple pages illustrating how Defendant's systems should have been better protected to prevent the alleged data breach. (Baldrige Compl. ¶¶ 34–42; Barker Compl. ¶¶ 53–54, 57, 59–60.) According to Baldrige, Defendant did not protect "Plaintiffs' and Class Members' Personal Information by allowing cyberthieves to access Defendant's computer network and systems which contained unsecured and unencrypted Personal Information." (Baldrige Compl. ¶ 50.) In other words, Plaintiffs allege that Defendant's computer software and systems failed to protect the information. The alleged performance failure that occurred is the type of dispute expressly set forth in the statute. See N.C.G.S. § 7A-45.4(a)(5).

17. Therefore, the Court concludes that both cases have been properly designated under N.C.G.S. § 7A-45.4(a)(5).

18. While not directly relevant to Plaintiffs' objections to designation, and as additional guidance to members of the Bar, the number of unlicensed attorneys that have signed the filings in both actions for Plaintiffs, simply noting "pro hac vice forthcoming," is concerning to the Court. As this Court recently made clear, "[q]uite simply, unlicensed out-of-state counsel should not permit their names, signatures, or other information to be affixed to a pleading or other filing as 'counsel' or 'attorney' for a party with the designation 'pro hac vice forthcoming,' particularly where such a filing pre-dates a motion for pro hac vice admission." *Lexington Ins. Co. v. State of N.C.*, 2026 NCBC LEXIS 3, at *5 (N.C. Super. Ct. Jan. 12, 2026). To date, counsel have not filed pro hac vice motions in either case. If counsel wish to appear before

this Court, they shall file pro hac vice motions as soon as possible. In the future, unlicensed attorneys from other states should not permit their names to be included on pleadings filed before they are admitted to practice before the State Courts of North Carolina. Failure to adhere to this directive may result in the denial of subsequent pro hac vice motions.

19. **THEREFORE**, the Court, in the exercise of its discretion, hereby **ORDERS** that the Oppositions are **OVERRULED**. These actions involve a material issue related to “[d]isputes involving the rights to or performance of intellectual property, including computer software, software applications, information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies[,]” as required by N.C.G.S. § 7A-45.4(a)(5) and shall proceed as mandatory complex business cases before the Honorable Adam M. Conrad.

SO ORDERED, this the 19th day of March, 2026.

/s/ Michael L. Robinson

Michael L. Robinson
Chief Business Court Judge