

STATE OF NORTH CAROLINA
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
26CV003166-330

ANDREA ANDERSON, individually
and on behalf of others similarly
situated

Plaintiff,

v.

TRIAD RADIOLOGY ASSOCIATES,
PLLC,

Defendant.

**ORDER AND MEMORANDUM OF
DECISION DENYING MOTION TO
CONSOLIDATE AND TO APPOINT
INTERIM CLASS COUNSEL**

1. This matter is before the Court on the “renewed” motion of Andrea Anderson, Jeffrey Robinson, and Tanya Robinson¹ to (i) consolidate this action and various related actions, most of which they are not parties to, and (ii) appoint as interim co-lead putative class counsel (a) an Oklahoma attorney who has not sought admission pro hac vice but purports to have “[p]ro hac vice forthcoming” status and (b) an attorney using a Florida address who seeks to serve as local counsel in this North Carolina case. (ECF Nos. 14, 15).

2. The Court, in the exercise of judicial discretion and consistent with applicable rules and case law of which counsel should be well aware, declines to grant the relief requested and denies the motion.

¹ Only Andrea Anderson is a party to this action. Jeffrey Robinson and Tanya Robinson are plaintiffs in *Robinson v. Ashe Mem’l Hospt’l, Inc.*, 26CV003171-330 (N.C. Super. Ct. Feb. 20, 2026). They have not, however, contemporaneously filed this motion in that case, where they are parties, though Plaintiff’s counsel placed the captions of multiple cases on the motion. Accordingly, the Court considers the motion to the extent it is raised by Anderson and denies the motion without prejudice to the extent it is filed by the Robinsons in this action and not contemporaneously in the action in which they are parties.

3. This case has only just begun, yet it is already fraught with problems generated largely by Plaintiff's counsel and their failure to follow applicable North Carolina statutes, Business Court Rules, and Business Court case law.

A. Background

4. Plaintiff Andrea Anderson filed this putative class action on 20 February 2026. (ECF No. 4).

5. The original complaint was signed by attorney Jean S. Martin of Aylstock, Witkin, Kreis, & Overholtz, PLC in Pensacola, Florida. (ECF No. 4 at 64).

6. Along with attorney Martin, however, the complaint includes in the signature block the names of three additional attorneys—William B. Federman, Jessica A. Wilkes, and Jonathan Herrera of Federman & Sherwood in Oklahoma City, Oklahoma—all listed as “*Attorneys for Plaintiff and the Proposed Class*” but with the designation “*Pro hac vice forthcoming.*” (ECF No. 4 at 64).

7. As confirmed by the records of the North Carolina State Bar,² attorneys Federman, Wilkes, and Herrera are not admitted as members of the North Carolina State Bar or otherwise licensed by the State Bar to practice law in this state.

8. On 19 March 2026, before this matter was designated to the Business Court and assigned to the undersigned judge, Plaintiff filed a “Motion and Memorandum of Law in Support of Motion to Consolidate and Appoint Interim Co-Lead Class Counsel,” seeking, among other things, to have attorney Federman and attorney

² The Court takes judicial notice of the records of the North Carolina State Bar, as a governmental entity whose membership records are not reasonably subject to dispute. N.C. R. Evid. 201(c); *see, e.g., State v. Harwood*, 243 N.C. App. 425, 427 (2015) (taking judicial notice of the “Department of Public Safety website’s offender search results”).

Martin appointed as interim co-lead class counsel in this action. (ECF No. 9).

9. In that motion, signed by attorney Martin, attorneys Federman, Wilkes, and Herrera were designated (along with attorney Martin) as “***Counsel for Plaintiffs Anderson and Robinson***,” even though the Robinsons are not named parties to this action. (ECF No. 9 at 18).

10. Attorneys Federman, Wilkes, and Herrera were also once again designated with the purported status of “***Pro hac vice forthcoming***.” (ECF No. 9 at 18).

11. On 3 April 2026, the same day the present motion was filed with the Court, Plaintiff filed a first amended putative class action complaint. (ECF No. 14).

12. In the amended complaint signed by attorney Martin, attorneys Martin, Federman, Wilkes, and Herrera are listed as “***Attorneys for Plaintiff and the Proposed Class***,” while the three out-of-state attorneys are designated as “***Pro hac vice forthcoming***.” (ECF No. 14 at 58).

13. After filing the amended complaint, Plaintiff filed the motion currently before the Court, a “Renewed Motion and Memorandum of Law in Support of Motion to Consolidate and Appoint Interim Co-Lead Class Counsel,” which “is substantially similar” to the same document filed in Forsyth County before the matter was designated to the Business Court. (No. 15 at 3 n.1).

14. Unsurprisingly then, the motion (signed by attorney Martin) lists attorneys Federman, Wilkes, and Herrera on the signature block and again designates them as “***Counsel for Plaintiffs Anderson and Robinson***” and “***Pro hac vice forthcoming***.” (ECF No. 15 at 19–20).

15. The “Motion and Memorandum” seeks three distinct sets of relief: (i) consolidation of this case with numerous others, (ii) appointment of attorneys Federman and Martin as interim co-lead class counsel, and (iii) adoption of a proposed “briefing schedule,” though the schedule is primarily for deadlines to file a consolidated putative class action complaint and to set various deadlines for responsive pleadings or motions. (ECF No. 15 at 18–19).

16. As to consolidation, Plaintiff seeks to

consolidate six related cases, *Davis v. Triad Radiology Associates, PLLC*, Case No. 26CV002901-330 (the “*Davis*” Action[]); *Anderson v. Triad Radiology Associates, PLLC*, Case No. 26CV003166-330; *Jeffery Robinson and Tanya Robinson v. Ashe Memorial Hospital, Inc. and Triad Radiology Associates, PLLC*, Case No. 26CV003171-330; *Favro v. Triad Radiology Associates, PLLC*, Case No. 26CV003574-330; *Favro v. Triad Radiology Associates, PLLC*, Case No. 26CV003721-330; and *Turner v. Triad Radiology Associates, PLLC*, Case No. 26CV003726-330[.]

(ECF No. 15 at 3).

17. In the motion, Plaintiff’s counsel represents that “Defense counsel agrees to consolidation but takes no position on appointment of counsel. Counsel for Plaintiff Turner agrees to both consolidation and appointment of the co-lead counsel.” (ECF No. 15 at 19).

18. Though the Robinsons and Anderson are represented by attorney Martin in this action and in the *Robinson* action, respectively, the motion does not reflect the positions of the parties in the other cases in which the named plaintiffs are not represented by attorney Martin, such as the *Davis* and *Favro* cases. As to *Favro*, for example, Plaintiff’s counsel represents only that “[t]he undersigned has not heard

back from either group allegedly representing Ms. Favro,” with no description of consultation efforts other than that someone “contacted” counsel. (ECF No. 15 at 5 n.7).

19. Though this perfunctory statement vaguely describes an effort to confer, the motion lacks sufficient information to permit the Court to discern “the movant’s *reasonable and diligent efforts* to effectuate a consultation” with each party. BCR 7.3 (emphasis added).

20. Only a portion of the relief requested is by consent, and it is therefore not a “consent motion.” Nonetheless, Plaintiff did not file a separate brief in support of the “Motion and Memorandum.” Plaintiff also failed to provide an index of the materials attached to the filing as contemplated by Rule 7.5 of the Business Court Rules.

21. No motions to consolidate have been filed in the other actions with which Plaintiff seeks to have this action consolidated.

22. This action has been pending more than a month. (ECF No. 4).

23. Attorneys Federman, Wilkes, and Herrera have purportedly had pro hac vice motions “forthcoming” for the entirety of that period. (*E.g.*, ECF Nos. 4, 9, 14).

24. Nonetheless, no motions have been filed in this action seeking the pro hac vice admission of attorneys Federman, Wilkes, or Herrera.

25. Moreover, attorneys Martin, Federman, Wilkes, and Herrera are identified as “*Attorneys for Plaintiffs and the Proposed Class*,” with Federman, Wilkes, and Herrera designated as “*Pro Hac Vice Forthcoming*” in at least one other case pending before the Court: *Robinson v. Ashe Mem’l Hosp., Inc.*, ECF No. 4 at 66–67,

26CV003171-330 (N.C. Super. Ct. Feb. 20, 2026).³ Those attorneys also have not filed motions for pro hac vice admission or been admitted pro hac vice in that case—even though it has also been pending more than a month.

26. Though attorney Martin is a member of the North Carolina State Bar, her signature block indicates that her practice is in Pensacola, Florida. While attorney Martin asserts in the motion that she “is a current resident of Winston-Salem,” there is no declaration or affidavit on file confirming this purported fact. (ECF No. 15 at 16).

27. As attorney Martin has signed each of the complaints in this action and the motion presently before the Court, attorney Martin is the filer who designated attorneys Federman, Wilkes, and Herrera as “*Attorneys for Plaintiffs and the Proposed Class*,” “*Counsel for Plaintiffs Anderson and Robinson*,” and “*Pro Hac Vice Forthcoming*.” Necessarily, she did so either (i) with the consent and permission of those attorneys, even though they are not admitted to practice before the Court, or (ii) without the consent or knowledge of those parties. As addressed below, either circumstance is improper and problematic.

B. Failure to Comply with Business Court Rules

28. The Court first observes that the motion is properly denied because it fails to comply with numerous Business Court Rules.

³ The Court observes that a similar situation exists in many, if not all, of the cases with which Plaintiff seeks to have this action consolidated, with attorney Martin or other North Carolina-licensed counsel apparently serving as a de facto, locally licensed rubber stamp for out-of-state counsel not admitted in North Carolina. The Court will address those situations in due course.

29. Specifically, Rule 7.2 of the Business Court Rules provides in relevant part as follows:

7.2. Form of motion and brief; scope of motion hearing.

Each motion must be filed as a separate document. Unless listed in BCR 7.10, a motion must be accompanied by a brief. The Court has discretion to deny the motion summarily if a required brief is not filed.

BCR 7.2.

30. The filing here is ultimately three separate motions shoehorned into a single filing: (i) a motion to consolidate the cases mentioned above, (ii) a motion to appoint attorneys Federman and Martin as interim co-lead class counsel, and (iii) a motion to establish a “briefing schedule” that would involve far more than briefing, including setting deadlines for the filing of a consolidated class action complaint and a responsive pleading or motion to dismiss. (ECF No. 15 at 18–19).

31. As it represents three distinct motions raised in a single filing, the “Motion and Memorandum” therefore fails to comply with the separate-filing requirements of BCR 7.2.

32. Similarly, BCR 7.3 requires as follows:

7.3. Consultation. Each motion, except one made pursuant to Rules 12, 55, 56, 59, 60, or 65 of the Rules of Civil Procedure, must include a statement reporting whether each party consents, does not object, or objects and intends to file a response to the motion. If a consultation with a party is not possible, then the motion must include a statement that explains the movant’s reasonable and diligent efforts to effectuate a consultation.

BCR 7.3.

33. The motion here reflects consultation with defense counsel and with counsel the plaintiff in the *Turner* case.

34. The motion does not, however, reflect consultation (or efforts to consult) with counsel in the *Davis* matter, even though Plaintiff seeks to consolidate this action with *Davis* and to have *Davis* serve as the lead case.⁴

35. The motion also does not detail “reasonable and diligent efforts to effectuate a consultation” with counsel in the *Favro* matters, simply asserting instead that Plaintiff’s counsel “contacted” counsel in the *Favro* matters but “has not heard back”—with no description of dates, times, indication of how long counsel awaited a response, or other supporting information.

36. Thus, the motion does not comply with the consultation or explanation requirements of Rule 7.3 of the Business Court Rules.

37. Moreover, because the motion is not fully a consent motion and otherwise does not qualify as a motion for which no brief is required, Plaintiff was required to submit a separate supporting brief with the motion—or, more accurately, any of the multiple separate motions that should have been filed. *See* BCR 7.2, 7.10. Plaintiff was also required to provide an index of the exhibits submitted with, and attached to, the filing but failed to do so. BCR 7.5.

⁴ There is also no explanation of why counsel in this action are more qualified than, or should otherwise be designated as co-lead class counsel in lieu of, counsel in the first-filed *Davis* case into which Plaintiff seeks to have this action consolidated.

38. Plaintiff's consolidated "Motion and Memorandum" therefore fails to comply with the Business Court Rules in these respects. *See, e.g.*, BCR 7.2, 7.5, 7.10.⁵

39. Each of these failures, while procedural in nature, is an appropriate basis on which to deny, strike, or otherwise disregard Plaintiff's motion, and the Court will deny the motion accordingly. *See* BCR 7.1(c) ("The Court has discretion to disregard or strike a filing that does not comply with these rules."); BCR 7.2 ("The Court has discretion to deny the motion summarily if a required brief is not filed."); *Castillo v. RRD Fin., LLC*, 2025 NCBC LEXIS 114, at *10 (N.C. Super. Ct. Sept. 3, 2025) (striking and denying partial motion for judgment on the pleadings for failure to comply with Business Court Rules).

C. Pro Hac Vice Failures and Non-Admitted Counsel

40. Even if it were not procedurally deficient, Plaintiff's motion plainly does not align with applicable statutes and rules governing the practice of law in North Carolina.

41. In short, Plaintiff requests that the Court designate four attorneys as interim co-lead class counsel in this action, yet three of them are not admitted to practice law in North Carolina and have not bothered to file motions for pro hac vice admission. The fourth attorney practices with a Florida-based firm and uses a Florida address yet seeks to serve as local counsel.

⁵ Indeed, though the filing is framed as a "Motion and Memorandum of Law in Support of Motion . . .," there is no standalone motion, and it is unclear why a party would file a "Motion . . . in Support of Motion . . ." The structure of the consolidated filing—common in other states but far less common in North Carolina—strongly suggests that unadmitted, out-of-state counsel is already dictating filings in this case without having been admitted to practice before the Court.

42. The Court will not facilitate the unauthorized practice of law or otherwise reward out-of-state counsel for failing to seek *pro hac vice* admission, and the Court sees no good reason at this time that the lead attorneys for this putative North Carolina class action should be attorneys who are not licensed in the state and have demonstrated a blatant disregard for applicable rules and statutes.

43. Under North Carolina law, to represent a party as counsel of record in a case, an attorney generally must be licensed to do so by the North Carolina State Bar. N.C. Gen. Stat. § 84–4 (“Except as otherwise permitted by law, it shall be unlawful for any person or association of persons, except active members of the Bar of the State of North Carolina admitted and licensed to practice as attorneys-at-law, to appear as attorney or counselor at law in any action or proceeding before any judicial body . . . ; to maintain, conduct, or defend the same, except in his own behalf as a party thereto; or, by word, sign, letter, or advertisement, to hold out himself . . . as being engaged in advising or counseling in law or acting as attorney or counselor-at-law, or in furnishing the services of a lawyer or lawyers . . .”).

44. One exception, however, is that out-of-state attorneys may practice on a limited basis in a specific North Carolina action if they are admitted to practice *pro hac vice* in that action. N.C. Gen. Stat. § 84–4.1.

45. As this Court has repeatedly observed, “it ‘is inappropriate and not in compliance with applicable statutes and rules’ for an attorney to permit or approve his or her name to be included on a signature block with the intent that it designate or denote an appearance as counsel of record before the attorney is licensed by the

North Carolina State Bar or properly admitted pro hac vice.” *Lexington Ins. Co. v. State of N.C.*, 2026 NCBC LEXIS 3, at *5 (N.C. Super. Ct. Jan. 12, 2026) (citations omitted); *Duramax Holdings, LLC v. Brace*, 2025 NCBC LEXIS 143, at *4–5 (N.C. Super. Ct. Oct. 16, 2025); see BCR 3.12 (explaining that, under the Business Court Rules, “[c]ounsel whose names appear on a signature block in a court filing need not file a separate notice of appearance for the action” because appearing in the signature block is sufficient to constitute an appearance before the Court).

46. An attorney’s use of “a ‘pro hac vice forthcoming’ parenthetical or a similar disclaimer beside such an appearance . . . does not resolve this concern,” as, “[b]y its plain terms, section 84-4 does not contemplate or permit such a designation.” *Lexington*, 2026 NCBC LEXIS 3, at *4–5 (N.C. Super. Ct. Jan. 12, 2026) (citing N.C. Gen. Stat. § 84–4).

47. Thus, as the Court has observed, “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.” *Id.* (citations omitted); see also *L.B. v. Cary Pediatric Center, P.A.*, 2026 NCBC LEXIS –, 2026 WL 789649, 2026 NCBC Order 32, at *18 (N.C. Super. Ct. Mar. 19, 2026) (addressing the ineffective and inappropriate “pro hac vice forthcoming” designation).

48. Despite the Court’s repeated cautions that (i) North Carolina does not permit or recognize a “pro hac vice forthcoming” status, (ii) such a designation should

not be used, and (iii) unadmitted attorneys should not hold themselves out, or permit themselves to be held out, as “counsel” or the “attorney” for a party in a pending case until properly admitted pro hac vice by a court, attorneys Federman, Wilkes, and Herrera have been listed as “*Pro Hac Vice Forthcoming*” in this action for more than a month, with nary a pro hac vice motion in sight.

49. Nonetheless, Plaintiff and her counsel now audaciously request that the Court proactively designate attorney Federman and his firm as interim co-lead counsel.

50. The Court will not do so.

51. Under § 84–4.1, even where out-of-state attorneys and their local counsel comply with the statutory requirements for pro hac vice admission, such compliance ‘does not deprive the court of the discretionary power to allow or reject the application.’ N.C. Gen. Stat. § 84–4.1.

52. As Plaintiff acknowledges in her “Motion and Memorandum,” under Rule 42 of the North Carolina Rules of Civil Procedure, “the Court has inherent authority to appoint interim lead class counsel pursuant to its ability to ‘make such orders concerning proceedings [in consolidated cases] as may tend to avoid unnecessary costs or delay.’” (ECF No. 15 at 6 (citing N.C. R. Civ. P. 42)).

53. Just as the Court has the discretion to appoint interim co-lead counsel, however, the Court may deny a request for such a designation, particularly where the attorneys seeking designation would also require admission pro hac vice and are not admitted to practice before the Court. *See* N.C. R. Civ. P. 42(a); N.C. Gen. Stat. § 84–

4.1; *Beard v. N.C. State Bar*, 320 N.C. 126, 129 (1987) (“Through its inherent power the court has authority to do all things that are reasonably necessary for the proper administration of justice.”); *cf. In re Progress Energy S’holder Litig.*, 2011 NCBC LEXIS 45, at *1–2 (N.C. Super. Ct. Nov. 29, 2011) (discussing appointment of interim class counsel).

54. Common sense dictates that attorneys who are not admitted to practice before the Court should not be designated as *lead counsel* for a putative class, even on an interim basis.

55. Accordingly, as attorney Federman has not moved for admission pro hac vice in this action, is not admitted pro hac vice, and otherwise is not licensed by the North Carolina State Bar, the Court determines in its discretion that it is appropriate to deny the request to designate attorney Federman as interim co-lead class counsel.

56. Moreover, given attorney Martin’s voluminous procedural and substantive failures through the proceedings in this short-lived action and other issues raised above,⁶ substantial questions and concerns exist as to whether attorney Martin is an adequate or appropriate individual to serve as lead class counsel in this action pending before the Business Court, even on an interim basis. Given the need for compliance with the Business Court Rules, and under the circumstances of this case

⁶ An attorney serving as local counsel for out-of-state, pro hac vice counsel generally must be “a resident of this State.” N.C. Gen. Stat. § 84–4.1(5). As noted above, while attorney Martin represents that she is a resident of the North Carolina, her signature block reflects a Florida firm and mailing address, and there are no declarations or affidavits of record in this case confirming her residency status—only her unsworn representation to the Court. Under the circumstances of this case, the Court deems such a representation insufficient.

at this time, the Court determines in the exercise of judicial discretion that it is also appropriate to deny the motion as to attorney Martin.

D. Rule 42 Consolidation and Proposed Briefing Schedule

57. Under Rule 42(a) of the North Carolina Rules of Civil Procedure, the Court generally may consolidate multiple actions when they involve a “common question of law or fact.” N.C. R. Civ. P. 42(a).

58. The determination of whether proceedings should be consolidated is left to the trial court’s discretion. *Boone Ford, Inc. v. IME Scheduler, Inc.*, 371 N.C. 345, 347 (2018).

59. Considering the foregoing matters and all other appropriate matters of record, the Court determines in its discretion that it is appropriate to deny without prejudice the motion to consolidate at this time, subject to further consultation among counsel and further documentation of each of the parties’ respective positions, among other things.

60. Because the motion for consolidation is denied and because the motion is otherwise procedurally improper, Plaintiff’s request for the filing of a consolidated class action complaint and for a briefing schedule is also denied accordingly.

E. Order

61. Therefore, in the exercise of judicial discretion, the Court **DENIES without prejudice** the renewed motion to consolidate and to establish a briefing or subsequent filing schedule and **DENIES** the motion to appoint attorneys Martin and Federman as interim co-lead class counsel in this action. (ECF No. 15).

62. If Plaintiff files any future motion to consolidate this action with another action, the motion to consolidate and any supporting documents must be filed in each case proposed to be consolidated and must comply with the Business Court Rules.

SO ORDERED, this 4th day of April 2026.

/s/ Matthew T. Houston

Matthew T. Houston
Special Superior Court Judge
for Complex Business Cases