

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
26CV008889-910

INDEPENDENCE
INFRASTRUCTURE COMPANY,
LLC and HOSTED AMERICA, LLC,

Plaintiffs/
Counterclaim
Defendants,

v.

VIEW CAPITAL MANAGEMENT,
LLC; VIEW WIRELESS
INFRASTRUCTURE FUND, LP;
VIEW DIGITAL
INFRASTRUCTURE
FUND, LP; AMERICAN FIBER
INFRASTRUCTURE, LLC; and
AMERICAN FIBER
INFRASTRUCTURE II, LLC,

Defendants/
Counterclaim
Plaintiffs.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the *Determination Order* filed on 2 June 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. 1.)

2. On 5 March 2026, Plaintiffs Independence Infrastructure Company, LLC and Hosted America, LLC (together, Plaintiffs) filed the *Verified Complaint* (Complaint), thereby initiating this action in Wake County Superior Court. (Verified Compl., ECF No. 2 [Compl.]) Plaintiffs assert claims against Defendants View

Capital Management, LLC, View Wireless Infrastructure Fund, LP, View Digital Infrastructure Fund, LP, American Fiber Infrastructure, LLC, and American Fiber Infrastructure II, LLC (collectively, Defendants) for declaratory judgment and breach of contract–injunction. (See Compl. ¶¶ 186–99.)

3. On 6 April 2026, Defendants filed their *Answer, Defenses, and Counterclaims* (Counterclaims). (Answer, Defenses, & Countercls., ECF No. 6 [Countercls.].) On 6 May 2026, Plaintiffs filed a *Conditional Notice of Designation* (CNOD), conditionally seeking mandatory complex business case designation pursuant to N.C.G.S. § 7A-45.4(a)(9). (Conditional Notice Designation, ECF No. 8 [CNOD].)

4. Based on the record before the Court, it appears that this action arises out of a failed investment venture between the parties involving telecommunications infrastructure projects in North Carolina and Texas. (See *generally* Compl.)

5. Designation as a mandatory complex business case under N.C.G.S. § 7A-45.4(a)(9) is proper if the action involves a material issue related to:

Contract disputes in which all of the following conditions are met:

- a. At least one plaintiff and at least one defendant is a corporation, partnership, or limited liability company, including any entity authorized to transact business in North Carolina under Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes.
- b. The complaint asserts a claim for breach of contract or seeks a declaration of rights, status, or other legal relations under a contract.
- c. The amount in controversy computed in accordance with G.S. 7A-243 is at least one million dollars (\$ 1,000,000).

d. All parties consent to the designation.

6. If a designating party lacks the consent of all parties to satisfy the requirement in N.C.G.S. § 7A-45.4(a)(9)(d), Business Court Rule (BCR) 2.5 permits the designating party to conditionally file a notice of designation “contemporaneously with the complaint, third-party complaint, petition for judicial review, answer, or other responsive pleading.” BCR 2.5. The designating party then has thirty (30) days after service of the pleading “to file a supplement to the conditional Notice of Designation that reflects consent by all parties to the Notice of Designation.” BCR 2.5. A conditional notice of designation “is not deemed to be complete until the supplement is filed.” BCR 2.5.

7. According to Plaintiffs, the CNOD is timely because it is based on Defendants’ Counterclaims and it was filed within thirty (30) days of service of the Counterclaims. (*See* CNOD 4–5.) On 29 May 2026, Plaintiffs filed their *Supplement to the Conditional Notice of Designation* (Supplement), notifying the Court that all parties (i) consent to designation under N.C.G.S. § 7A-45.4(a)(9) and (ii) agree that all four (4) statutory requirements of subsection (a)(9) have been met. (*See* Suppl. Conditional Notice Designation 1, ECF No. 12 [Suppl.].) The Court disagrees, at least insofar as it relates to the amount of money in controversy.

8. “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). “[I]n order to satisfy the amount in controversy requirement of N.C.G.S. § 7A-45.4(a)(9), the pleading on which designation is based must provide a path whereby the Court can clearly determine the threshold amount of \$1,000,000 is satisfied.” *Covenant Clearinghouse LLC v. D.R. Horton, Inc.*, 2025 NCBC LEXIS 125, at *4 (N.C. Super. Ct. Sep. 26, 2025) (concluding the amount in controversy was too uncertain in the complaint to satisfy the amount in controversy requirement).

9. Here, although based on the Counterclaims, the CNOD points to the Complaint to satisfy the amount in controversy requirement under subsection (a)(9). (See CNOD 3). Plaintiffs cite to N.C.G.S. § 7A-343(3) and “in good faith estimate that the declaratory and injunctive relief sought in [the Complaint] would establish, enforce, or avoid an obligation, right or title with a value of at least one million dollars [(\$1,000,000)].” (CNOD 3.) However, if Plaintiffs wished to base designation off the Complaint, N.C.G.S. § 7A-45.4(d) requires that they file a notice of designation contemporaneously with the Complaint, not more than sixty (60) days after the Complaint was filed. See N.C.G.S. § 7A-45.4(d)(1).

10. Plaintiffs further confuse the subsection (a)(9) analysis by quoting to parts of the Counterclaims that involve an amount in controversy that “‘exceed[s] \$25,000’ and is ‘far more than \$40,000.’” (CNOD 4). The Court’s review of the Counterclaims does not point to claims that satisfy the one-million-dollar (\$1,000,000) amount in controversy requirement. (See Countercls. ¶¶ 76–97.) Rather, Defendants allege damages that “in any event exceed \$25,000” and ask for an unspecified amount of monetary damages in the Prayer for Relief. (Countercls. ¶¶ 80, 97, Prayer.) It is

unclear to the Court how the amount in controversy requirement of one million dollars (\$1,000,000) is satisfied under subsection (a)(9) based on the Counterclaims.

11. Given the failure to satisfy all of the statutory requirements for designation, the Court concludes that designation of this action under N.C.G.S. § 7A-45.4(a)(9) is improper.

12. 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.

13. Consistent with the *Determination Order*, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 10 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.

14. 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 10th day of June, 2026.

/s/ Michael L. Robinson
Michael L. Robinson
Chief Business Court Judge