

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE
NORTH CAROLINA BUSINESS COURT RULES

Pursuant to Section 7A-34 of the General Statutes of North Carolina, the Court hereby amends Rule 11 and Appendix 1 of the North Carolina Business Court Rules.

* * *

Rule 11. Mediation

11.1. Mandatory mediation. All mandatory complex business cases and cases assigned to a Business Court judge pursuant to Rule 2.1 of the General Rules of Practice are subject to the ~~Revised Rules Implementing Statewide Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions~~ Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions. Although these statewide mediation rules require participation in a mediation utilizing a certified mediator unless the Court orders otherwise on a showing of good cause, the parties may engage in multiple mediated settlement conferences before the same or different mediators.

11.2. Selection and appointment of mediator. The parties should attempt to select a mediator by agreement. The Case Management Report should contain either the parties' agreement or, in the absence of an agreement, each party's nominee of a certified mediator for appointment by the Court. If all parties cannot agree on a mediator, then the Court will appoint a mediator from the list of certified mediators maintained by the North Carolina Dispute Resolution Commission.

11.3. Report of mediator. Within ten days of the conclusion of the mediation, the mediator must mail or e-mail a copy of his or her report to the Court, in addition to filing the report with the Clerk of Superior Court in the county of venue.

11.4. Notification of settlement. The parties are encouraged to keep the Court apprised of the status of settlement negotiations and should notify the Court promptly when the parties have reached a settlement.

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Appendix 1. Notice of Designation Template

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CIVIL ACTION NO.:

JOHN DOE,

Plaintiff,

v.

ABC CORPORATION,

Defendant.

NOTICE OF DESIGNATION

Pursuant to N.C.G.S. § 7A-45.4, [INSERT PARTY] seeks to designate the above-captioned action as a mandatory complex business case. In good faith and based on information reasonably available, [INSERT PARTY], through counsel, hereby certifies that this action meets the criteria for:

_____ Designation as a mandatory complex business case pursuant to N.C.G.S. § 7A-45.4(a), in that it involves a material issue related to:

- _____ (1) Disputes involving the law governing corporations, except charitable and religious organizations qualified under N.C.G.S. § 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies, including disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.
- _____ (2) Disputes involving securities, including disputes arising under Chapter 78A of the General Statutes.
- _____ (3) Disputes involving antitrust law, including disputes arising under Chapter 75 of the General Statutes that do not arise solely under N.C.G.S. § 75-1.1 or Article 2 of Chapter 75 of the General Statutes.
- _____ (4) Disputes involving trademark law, including disputes arising under Chapter 80 of the General Statutes.
- _____ (5) Disputes involving the ownership, use, licensing, lease, installation, or performance of intellectual property, including computer software, software applications,

information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies.

_____ ~~(6)~~(8) Disputes involving trade secrets, including disputes arising under Article 24 of Chapter 66 of the General Statutes.

_____ ~~(7)~~(9) 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 N.C.G.S. § 7A-243 is at least one million dollars (\$1,000,000).
- (d) All parties consent to the designation. [If all parties have not consented, indicate that the Notice of Designation is conditional pursuant to BCR 2.5.]

_____ Designation as a mandatory complex business case pursuant to N.C.G.S. § 7A-45.4(b), in that it is an action:

_____ (1) Involving a material issue related to tax law that has been the subject of a contested tax case for which judicial review is requested under N.C.G.S. § 105-241.16, or a civil action under N.C.G.S. § 105-241.17 containing a constitutional challenge to a tax statute.

_____ (2) Described in subsection (1), (2), (3), (4), (5), or (8) of N.C.G.S. § 7A-45.4(a) in which the amount in controversy computed in accordance with N.C.G.S. § 7A-243 is at least five million dollars (\$5,000,000).

Briefly explain why the action falls within the specific categories checked above and provide information adequate to determine that the case has been timely designated (e.g., dates of filing or service of the complaint or other relevant pleading). If necessary, include additional information that may be helpful to the Court in determining whether this case is properly designated a mandatory complex business case.

Attach a copy of all significant pleadings filed to date in this action (e.g., the complaint and relevant pending motions).

[INSERT DATE AND SIGNATURE BLOCKS]

* * *

These amendments to the North Carolina Business Court Rules become effective on 1 March 2020.

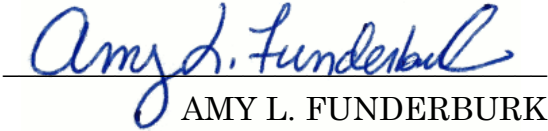
These amendments shall be published in the North Carolina Reports and posted on the rules web page of the Supreme Court of North Carolina.

Ordered by the Court in Conference, this the 26th day of February, 2020.



For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 26th day of February, 2020.



AMY L. FUNDERBURK
Clerk of the Supreme Court