

STATE OF NORTH CAROLINA  
COUNTY OF PASQUOTANK

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
07 CVS 719

JAMES E. RICHEY and )  
PATRICIA A. RICHEY, )  
 )  
Plaintiffs )

v. )

BRANCH BANKING AND TRUST )  
COMPANY, )  
 )  
Defendant )

**ORDER**

THIS MATTER, designated a mandatory complex business case pursuant to an October 16, 2007 Order of the Chief Justice of the Supreme Court of North Carolina, and assigned to the Honorable John R. Jolly, Jr., Special Superior Court Judge for Complex Business Cases, pursuant to an October 17, 2007 Order of the Senior Special Superior Court Judge for Complex Business Cases, came before the court upon the Plaintiffs' January 4, 2008 Motion to Remove This Case From the Business Court (the "Plaintiffs' Motion"); and

THE COURT, having considered the Plaintiffs' Motion, appropriate matters of record, and the ends of justice, FINDS and CONCLUDES that:

1. This civil action was filed on September 11, 2007, and Defendant was served with the Summons and Complaint on or about September 14, 2007.

2. On October 12, 2007, the Defendant filed a Notice of Designation of Action as a Mandatory Complex Business Case Under N.C. Gen. Stat. § 7A-45.4 (the "Notice of Designation"), and certified that on the same date it served a copy of the same, via United States mail, upon counsel for the Plaintiffs.

3. On January 4, 2008, the Plaintiffs' Motion was filed.<sup>1</sup>

4. Section 7A-45.4 (e) of the General Statutes of North Carolina ("Section 7A-45.4(e)") provides that "[w]ithin 30 days after service of the Notice of Designation, any other party may, in good faith, file and serve an opposition to the designation of the action as a mandatory complex business case."

5. Considering the limitations mandated in Section 7A-45.4(e), and after adding the three days provided for service by mail, pursuant to North Carolina Rule of Civil Procedure 6(e), the Plaintiff had through and including November 14, 2007, to file and serve an opposition to the designation of this action as a mandatory complex business case.

6. Accordingly, Plaintiff's opposition to the designation of this action as a mandatory complex business case was untimely and should be denied.

NOW THEREFORE, based on the foregoing FINDINGS and CONCLUSIONS, the court ORDERS that Plaintiffs' Motion should be, and it hereby is, DENIED.

This the 24th day of January, 2008.

/s/ Ben F. Tennille  
Ben F. Tennille  
Senior Superior Court Judge for  
Complex Business Cases

/s/ John R. Jolly, Jr.  
John R. Jolly, Jr.  
Special Superior Court Judge for  
Complex Business Cases

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<sup>1</sup>Notwithstanding an informal objection (through an e-mail transmission on December 19, 2007) by Plaintiff's counsel to this action's designation as a "mandatory complex business case," the January 4, 2008 Motion was the first filed and served opposition to such designation.