

CHARAH v. SEQUOIA SERVS. LLC

19 CVS 5795

NORTH CAROLINA SUPERIOR COURT, GUILFORD COUNTY

September 12, 2019

Reporter

2019 NCBC Motions LEXIS 525 *

CHARAH, LLC, Plaintiff, vs. SEQUOIA SERVICES LLC, Defendant.

Type: Motion

Counsel

Paul J. Peralta, N.C.Bar No. 34622, Moore and Van Allen PLLC, Charlotte, NC, Attorney for Plaintiff, Denis E. Jacobson, N.C. Bar No. 13559, Jeffrey S. Southerland, N.C., Tuggle Duggins P.A., Greensboro, NC, Attorneys for Defendant.

Title

JOINT MOTION FOR RECOMMENDATION OF EXCEPTIONAL CASE DESIGNATION UNDER RULE 2.1

Text

[*1] NOW COME Plaintiff Charah, LLC ("Plaintiff") and Defendant Sequoia Services LLC ("Defendant"), by and through counsel, and pursuant to Rule 2.1 of the North Carolina General Rules of Practice for the Superior and District Courts ("Rule 2.1"), and hereby move that the Court recommend to the Chief Justice of the North Carolina Supreme Court that this case be designated as "exceptional" under Rule 2.1. In support of this motion, the parties respectfully show the Court as follows:

1. This matter involves claims arising from the alleged tortious interference by Defendant with an Employment, Confidentiality, Non-Competition, Non-Disclosure, and Non-Solicitation Agreement (the "Agreement") between Plaintiff and one of its former employees, Stephen Carroll, as well as allegations that the alleged tortious interference constitutes an unfair or deceptive trade practice.

2. The claims in this action were asserted previously in an

earlier lawsuit, Charah, LLC v. Stephen P. Carroll and Sequoia Services LLC. Guilford County File No. 18 CVS 4815 (filed April 25, 2018) (the "Original Action"). Based on allegations in an amended complaint filed in the Original Action, that lawsuit was designated [*2] as a mandatory complex business case on November 7, 2018, and was subsequently assigned to the Honorable Michael L. Robinson, Special Superior Court Judge for Complex Business Cases, for further proceedings.

3. On March 11, 2019, Judge Robinson dismissed the Original Action without prejudice pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure. Prior to the dismissal without prejudice, the parties engaged in extensive discovery, including numerous depositions and the exchange of voluminous documents. The discovery deadline in the Original Action expired on March 1, 2019, prior to entry of the dismissal order.

4. Plaintiff filed this action on May 20, 2019. Along with the Complaint, Plaintiff filed a Notice of Designation of Action as Mandatory Complex Business Case Under N.C. Gen. Stat. § 7A-45.4. On May 30, 2019, the Honorable Louis A. Bledsoe, III, Chief Business Court Judge, entered an Order denying the designation of this action as a mandatory business case under N.C. Gen. Stat. § 7A-45.4(a)(3). That Order further stated, however, that the parties could pursue designation as a Rule 2.1 exceptional case with the Senior Resident Judge.

5. The complexity [*3] and prior history of this case warrant assignment of the case to a single judge under Rule 2.1. The office of the Honorable Michael L. Robinson has indicated that Judge Robinson is willing, and has capacity, to accept assignment of the case on terms to which the parties have agreed. Such an assignment would serve the efficient administration of justice, as Judge Robinson is already familiar with the factual and legal contentions at issue in this case. Moreover, the parties had already engaged in extensive discovery in the Original Action, including both document

discovery and depositions, and Judge Robinson is already familiar with the progress of discovery in the Original Action.

Attorney for Plaintiff

This the 12th day of September, 2019.

WHEREFORE, the parties request that the Court recommend to the Chief Justice of the North Carolina Supreme Court that this case be designated as "exceptional" under Rule 2.1 of the North Carolina General Rules of Practice for the Superior and District Courts and that this case be assigned to the Honorable Michael L. Robinson, Special Superior Court Judge for Complex Business Cases, for any further proceedings.

/s/ [Signature]

Denis E. Jacobson

Attorney for Defendant

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This the 12th day of September, 2019.

/s/ [Signature]

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Joint Motion for Recommendation of Exceptional Case Designation Under Rule 2.1** in the above-entitled action was served upon all other parties to this cause by U.S. Mail, postage prepaid addressed as follows:

Paul J. Peralta

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