

STATE OF NORTH CAROLINA
BRUNSWICK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
24 CVS 479

RADIANCE CAPITAL
RECEIVABLES EIGHTEEN, LLC,

Plaintiff,

v.

THOMAS R. ROBERTS;
ELIZABETH LOUISE ROBERTS;
JOSEPH Z. FROST; THE ROBERTS
FAMILY TRUST; and BPIM, LLC,
f/k/a Beach Property Investment &
Management, LLC,

Defendants.

ORDER ON DESIGNATION

1. **THIS MATTER** is before the Court pursuant to the Determination Order issued on 17 April 2024 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 accord with N.C.G.S. § 7A-45.4(a).

2. Plaintiff Radiance Capital Receivables Eighteen, LLC (“Radiance”) filed the Complaint initiating this action in Brunswick County Superior Court on 14 March 2024, asserting a claim for civil conspiracy by fraudulent conveyance against Defendants Thomas R. Roberts (“Thomas”), Elizabeth Louise Roberts (“Elizabeth”), Joseph Z. Frost (“Frost”), and The Roberts Family Trust (the “Trust”); and a claim for piercing the corporate veil against Defendant BPIM, LLC (“BPIM”). (See Compl. ¶¶ 18–33.)

3. BPIM represents that it was served with the Complaint on 18 March 2024 and timely filed a Notice of Designation (the “NOD”) on 12 April 2024. (Notice Designation 1, 3 [hereinafter “NOD”].)

4. Radiance brings this action in an effort to collect on a 2015 South Carolina judgment against Thomas that was domesticated and finalized in this State in July 2023. (See Compl. ¶¶ 1, 16.) Radiance alleges that, over the past decade, Thomas has engaged in a series of fraudulent conveyances of real estate in an attempt to shield the properties from the South Carolina judgment. (See Compl. ¶¶ 7, 10–17.) This lawsuit focuses on two of those conveyances. First, Radiance alleges that BPIM, a limited liability company of which Elizabeth is the sole member and Thomas is the sole manager, fraudulently conveyed real estate to the Trust for “no consideration” in December 2020. (See Compl. ¶¶ 5, 13, 31–32.) Radiance then alleges that Thomas caused the Trust to fraudulently convey this same real estate to himself and Elizabeth, “as husband and wife, thereby creating a tenancy by the entireties not subject to [Radiance]’s judgment lien []” with the assistance of attorney Frost in early 2023. (Compl. ¶ 21; see Compl. ¶¶ 15, 32.)

5. BPIM contends that designation as a mandatory complex business case is proper under N.C.G.S. § 7A-45.4(a)(1). Designation under this section is proper if the action involves a material issue related to “[d]isputes involving the law governing corporations, except charitable and religious organizations qualified under 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.”

6. In support of designation under this section, BPIM argues that the action “includes a claim to pierce the corporate veil, or ‘reverse veil piercing,’ seeking to pierce the corporate veil of BPIM, LLC to reach assets allegedly belonging to a former member and current officer of that company; therefore, the dispute involves the law governing limited liability companies under Chapter 57D.” (NOD 3.)

7. However, “[t]his Court has long held that a claim for piercing the corporate veil, standing alone, is insufficient to support mandatory complex business case designation[]” under section 7A-45.4(a)(1). *State ex rel. Stein v. MV Realty PBC, LLC*, 2023 NCBC LEXIS 60, at *5 (N.C. Super. Ct. Apr. 12, 2023) (alterations in original) (quoting *Consol. Elec. Distribs., Inc. v. Hallmark Lighting, LLC*, 2021 NCBC LEXIS 107, at *4–5 (N.C. Super. Ct. Dec. 7, 2021) (collecting cases)). Because Radiance’s claims do not otherwise implicate the law governing limited liability companies, the Court concludes that Radiance’s reliance on the Complaint’s veil-piercing allegations is insufficient to support designation under section 7A-45.4(a)(1).

8. 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.

9. Consistent with the Determination Order, the Court hereby advises the Senior Resident Superior Court Judge of Judicial District 15B 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 the parties may pursue designation as a Rule 2.1 exceptional case with the Senior Resident Superior Court Judge if deemed appropriate.

10. 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 provided under section 7A-45.4.

SO ORDERED, this the 17th day of April, 2024.

/s/ Louis A. Bledsoe, III
Louis A. Bledsoe, III
Chief Business Court Judge