

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 08 CVS 11562

VELOCITY FIBER BROADBAND, LLC,)
)
 Plaintiff)
)
 v.)
)
LANG MANAGEMENT, INC.,)
)
 Defendant.)

**OPPOSITION TO DESIGNATION
AS A MANDATORY COMPLEX
BUSINESS CASE**

NOW COMES Plaintiff Velocity Fiber Broadband, LLC, by and through the undersigned counsel, pursuant to the provisions of N.C. Gen. Stat. §7A-45.4(e), and opposes the designation of the above captioned matter as a mandatory complex business case. In support of its objection, Plaintiff shows the Court as follows:

1. Plaintiff filed the Complaint in this matter on July 1st, 2008 seeking unpaid commissions related to the sale and marketing of telephone, cable television and internet service to a real estate developer. On August 21, 2008 counsel for Defendant designated the matter as a mandatory complex business case.
2. Defendant contends that the case involves the internet, which is a basis for designation as a complex business case. It is Plaintiff's position that the sole issue to be presented to the jury is whether or not Plaintiff sold this service in accordance with the terms of the contract between the parties and if so, what amount of commission it is owed. Nothing in this case requires any type of analysis or interpretation of the law regarding the internet. Rather, it is a commission dispute no different than the sale of any product or service.

3. It is inconceivable to counsel for Plaintiff that the legislature intended that any dispute which peripherally involves the internet should be designated as a complex business case.

4. Defendant cites N.C. Gen. Stat. §7A-45.4(a)(4) as an additional basis for designating this matter as a complex business case. In response to Plaintiff's Complaint seeking unpaid commissions, Defendant filed a Counterclaim asserting misappropriation or threatened misappropriation of trade secrets. Plaintiff has absolutely no idea what trade secrets it could possibly have misappropriated and Defendant's unverified counterclaim provides little detail. Since May 2006 when Plaintiff separated from Defendant it was paid commissions on sales which are not in dispute and never received any demand regarding misappropriated trade secrets.

5. Plaintiff believes that the Business Court, with its continuity and other benefits provides a tremendous benefit in the resolution of complex disputes. Conversely, placing simple contract disputes into the Business Court overburdens it and subverts the legislature's intent in preserving it for truly complex cases involving specific areas of the law.

FOR THE FOREGOING REASONS Plaintiff respectfully requests that the designation of this matter as a mandatory complex business case be denied.

This the 17th day of September, 2008.

MICHAEL W. STRICKLAND & ASSOCIATES, P.A.

By:



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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **Opposition to Designation as Mandatory Complex Business Case** via email addressed as follows:

Scott E. Bayzle, Esquire
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This the 17th day of September, 2008.

MICHAEL W. STRICKLAND & ASSOCIATES, P.A.

By: 

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