

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF HENDERSON

FUSE 10, LLC,

Plaintiff,

v.

CEDARS LODGE & SPA, L.L.C. and
719NOMAIN LLC,

Defendants.

NOTICE OF DESIGNATION

Pursuant to N.C. Gen. Stat. § 7A-45.4, Fuse 10, LLC (“**Plaintiff**” or “**Lender**”), seeks to designate the above-captioned action as a mandatory complex business case. In good faith and based on information reasonably available, Lender, through its counsel, hereby certifies that this action meets the criteria for:

_____ Designation as a mandatory complex business case pursuant 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.

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

 X 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).
- X (4) In which a general receiver is sought to be appointed pursuant to N.C.G.S. § 1-507.24 for a debtor that is not an individual business debtor as defined in N.C.G.S. § 1-507.20 and has assets having a fair market value of not less

than five million dollars (\$5,000,000), if the party making the designation is either (i) the debtor or (ii) one or more creditors or creditors' duly authorized representatives that assert a claim or claims against the debtor exceeding, in the aggregate, twenty-five thousand dollars (\$25,000) that in each case is not contingent as to liability and is not the subject of a bona fide dispute as to liability or amount. Any creditor or creditor's duly authorized representative that is not a party to the action may join in the notice of designation with the same effect as if such joining creditor or creditor's representative were a party.

Lender has filed its Verified Complaint on 29 May 2026, and contemporaneously filed this Notice of Designation.

Plaintiff Fuse 10, LLC is a Delaware limited liability company and a private lender. (Compl., ¶ 1). Defendants Cedars Lodge & Spa, L.L.C. ("Cedars") and 719NOMAIN LLC ("719NOMAIN") are North Carolina limited liability companies that collectively own eight parcels of land in Henderson County that are being developed as a high-end condominium development (*Id.*, ¶¶ 2-17). The tax value of the eight parcels is in excess of ten million dollars (\$10,000,000.00). (*Id.*, ¶ 21).

In October 2022, Cedars obtained a \$32,000,000 construction loan from Lender. (*Id.* ¶ 18). The loan was guaranteed by 719NOMAIN (among others). (*Id.* ¶ 19). Repayment of the loan was secured by a Deed of Trust, Security Agreement and Fixture Filing which provided Lender with a first priority lien against the development real estate. (*Id.* ¶ 20) The loan maturity date was extended to 31 December 2025, but Defendants failed to pay the loan at maturity. (*Id.* ¶¶ 23, 27)

The buildings on the property are only partially constructed and have been sitting open to the elements since construction work stopped in early 2026. Defendants have attempted, but failed, to obtain additional financing. The general

contractor for the project has sued Cedars and sought foreclosure of a claim of lien for almost \$7 million. A receiver is needed to take over the project, preserve the property and ultimately complete or sell the development for the benefit of creditors, including Lender.

The Verified Complaint seeks as its sole remedy the appointment of a general receiver over Defendants to protect, preserve and maximize the value of the development for all parties in interest. Therefore, this is an action seeking appointment of a general receiver pursuant to N.C.G.S. § 1-507.24 for a corporate entity with assets having a fair market value of more than \$5,000,000, and the party making the designation is a creditor asserting claims against the debtor exceeding, in the aggregate, \$25,000 that is not contingent as to liability and is not the subject of a bona fide dispute as to liability or amount.

Along with this Notice of Designation, counsel for Plaintiff will provide a copy of the Complaint (and its exhibits) to the Chief Justice of the North Carolina Supreme Court and the Chief Business Court Judge when sending the required email notice to the Business Court intake email (NOD.intake@nccourts.org).

This the 29th day of May, 2026.

/s/ William L. Esser IV
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