

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SARTHAK PATEL,

Plaintiff,

v

Case No. 2020-182510-CB

Hon. Martha D. Anderson

FERAS KHATIB,  
And HVAC HIGH AND LOW INC,

Defendant.

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**OPINION AND ORDER REGARDING BUSINESS COURT JURISDICTION**

On July 24, 2020, the individual Plaintiff filed a Complaint on allegations that Defendants breached the parties' construction agreements by failing to construct restaurant space with a dining area at the commercial property in Farmington, Michigan. The Court observes that Plaintiff has not filed a Notice of Assignment to the Business Court in this matter.

This Court has an obligation to question sua sponte its jurisdiction over the subject matter of an action. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 399; 651 NW2d 756 (2002). Subject matter jurisdiction is determined by the allegations in the pleadings. *Trost v Buckstop Lure Co, Inc*, 249 Mich App 580, 587-588; 644 NW2d 54 (2002).

Business court jurisdiction is limited to actions involving a "business or commercial dispute." MCL 600.8035(3). The statute defines a business or commercial dispute as:

- (i) An action in which all of the parties are business enterprises.
- (ii) An action in which one or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members of a limited liability company or a similar business organization, directors, officers, agents, employees, suppliers, guarantors of a commercial loan, or competitors, and the claims arise out of those relationships.

- (iii) An action in which 1 of the parties is a nonprofit organization, and the claims arise out of that party's organizational structure, governance, or finances. MCL 600.8031(1)(c).

Here, Plaintiff has not provided any factual allegations within the Complaint to support the premise that all of the parties are business enterprises, that Plaintiff is a present or former owner, manager, shareholder, member of a limited liability company or a similar business organization, director, officer, agent, employee, supplier, guarantor of a commercial loan, or competitor of Defendant company, or that one of the parties is a non-profit organization for this case to qualify for business court jurisdiction under MCL 600.8031(1)(c).

The Court does note that the Construction Contract was executed by Defendant company and nonparty Grab Wraps Group LLC, which appears to be Plaintiff's limited liability company. Plaintiff, on behalf of nonparty Hyderabad Café, also entered into a Contract for Services with Defendant company. Yet, neither Grab Wraps Group LLC nor Hyderabad Café are named as parties.

As written, Plaintiff's Complaint does not qualify as a business or commercial dispute under MCL 600.8031(1)(c) or as defined by MCL 600.8035(1). The Court shall provide Plaintiff with an opportunity to file an Amended Complaint to comply with the business court statutes, if warranted, by Wednesday, August 12, 2020, or the case shall be excluded from business court jurisdiction and reassigned to the general civil docket.

**IT IS SO ORDERED.**

7/29/2020  
Date

/s/ Martha Anderson  
Hon. Martha D. Anderson,  
Business Court Judge