

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

FEDOR FEDOROV,

Plaintiff,

v

Case No. 2018-170606-CB

Hon. Martha D. Anderson

BODY CONTOUR VENTURES, LLC, ET AL.,

Defendants.

_____ /

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On December 18, 2018, Plaintiff filed the present Complaint on allegations that Defendants breached the parties' respective promissory notes in which Plaintiff is the lender. The case was initially assigned to the Honorable Daniel P. O'Brien. On January 16, 2019, however, Defendant Richard C. Morgan, Jr. filed a Notice of Assignment to the Business Court – claiming that this is a business or commercial dispute because “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.” See MCL 600.8031(1)(c)(ii). Consequently, this matter was reassigned to the Business Court.

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 or 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 any of Defendants for this case to qualify for business court jurisdiction under either MCL 600.8031(1)(c)(i) or (ii). Since Plaintiff is neither a business enterprise nor an individual in one of the relationships listed in MCL 600.8031(1)(c)(ii), this action does not involve a business or commercial dispute. Additionally, there are no allegations in the Complaint from which the Court could conclude that jurisdiction is proper under § 8031(1)(c)(iii). As a result, the Court finds that this action does not qualify as a business or commercial dispute as defined by MCL 600.8035(1). For these reasons, this action is excluded from business court jurisdiction and the Court respectfully orders the case reassigned back to the general civil docket of the Honorable Daniel P. O’Brien.

This case will be recoded CK unless counsel files a stipulated order to change it otherwise.

IT IS SO ORDERED.

February 1, 2019 _____
Date

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