

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PARKER PLACE HOLDINGS, LLC,

Plaintiff,

v

Case No. 2019-171849-CB
Hon. James M. Alexander

MICHAEL W. HOSNER,

Defendant.

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OPINION AND ORDER REGARDING BUSINESS COURT JURISDICTION

On February 13, 2019, Plaintiff filed the present Complaint on allegations that Defendant has failed to pay Plaintiff on the parties' notes and/or loans.¹ On February 14, 2019, Plaintiff 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).

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).

¹ Plaintiff and Defendant executed these notes and/or loans in order to help fund Defendant's business operation.

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 Defendant 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 Plaintiff for this case to qualify for business court jurisdiction under either MCL 600.8031(1)(c)(i) or (ii). Due to the fact that Defendant 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 written, Plaintiff's Complaint does not qualify as a business or commercial dispute as defined by MCL 600.8031(1)(c) or MCL 600.8035(1). The Court notes Plaintiff's allegation that Defendant operates a business, however, that business has not been named as a party to the lawsuit. The Court shall provide Plaintiff with an opportunity to file an Amended Complaint to comply with the applicable business court statutes, if warranted, by Thursday, March 7, 2019, or

the case shall be excluded from business court jurisdiction and reassigned to the general civil docket.

IT IS SO ORDERED.

February 21, 2019

Date

/s/ James M. Alexander

Hon. James M. Alexander,
Circuit Court Judge