

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DIVA NAILS, LLC,
and DIVA NAILS II, LLC,

Plaintiffs,

v

Case No. 2019-173122-CB
Hon. Martha D. Anderson

VAN NGUYEN,

Defendant,

and

GRAND PROMENADE, LLC,

Nominal Defendant.

_____ /

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On April 9, 2019, Plaintiffs (two Michigan limited liability companies) filed a Complaint against an individual, Defendant Van Nguyen, and named Grand Promenade, LLC as a Nominal Defendant¹ in this matter. Plaintiffs' Complaint alleges that Defendant Nguyen entered into a lease with the Nominal Defendant on behalf of Plaintiff Diva Nails, LLC without having any authority to do so.

Contemporaneous with the filing of the Complaint, Plaintiffs filed a Notice of Assignment to the Business Court. However, Plaintiffs' Notice of Assignment fails to indicate how this matter

¹ “[T]he courts will look through and beyond the nominal parties to determine the real parties in interest.” *Longstreet v Mecosta Cty.*, 228 Mich 542, 548; 200 NW2d 248 (1924).

FILED Received for Filing Oakland County Clerk 7/30/2019 3:12 PM

qualifies as a business or commercial dispute as defined by MCL 600.8031(1)(c) and, furthermore, Plaintiffs' Complaint specifically alleges that, as it relates to Plaintiffs and Defendant Nguyen, no qualifying business relationship indeed exists under MCL 600.8031(1)(c)(ii). See Complaint, ¶¶15, 18-21.

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).


Consequently, since Defendant Nguyen does not have a business relationship with either Plaintiff as outlined in MCL 600.8031(1)(c)(ii), the Court finds that this lawsuit does not involve a business or commercial dispute as defined by MCL 600.8031(1)(c). Additionally, there are no allegations in the Complaint from which the Court could conclude that jurisdiction is proper under either MCL 600.8031(1)(c)(i) or MCL 600.8031(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, the lawsuit is excluded from business

court jurisdiction and the Court orders the case to be coded CZ and reassigned to the general civil docket.

IT IS SO ORDERED.

7/30/2019
Date



Hon. Martha D. Anderson
Chief Circuit Judge Pro Tem