

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

**JOHN C. CARLISLE,
ATTORNEY & COUNSELOR AT LAW,
A PROFESSIONAL CORPORATION,**

Plaintiff,

v

**Case No. 2019-174943-CB
Hon. James M. Alexander**

**RAMASAMI GUNABALAN
A/K/A RAM GUNABALAN, M.D.,**

Defendant.

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OPINION AND ORDER REGARDING BUSINESS COURT JURISDICTION

On July 2, 2019, Plaintiff filed a First Amended Complaint against Defendant on allegations that Defendant has defaulted under the terms of the parties' promissory note. While Plaintiff has not filed a Notice of Assignment to the Business Court, Plaintiff indicates on the face of the Complaint that this is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.

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).

In this matter, 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 MCL 600.8031(1)(c)(i) or (ii). Rather, Plaintiff has initiated litigation as a Michigan professional corporation against the individual Defendant for breaching the parties' promissory note. 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 shall provide Plaintiff with an opportunity to file a Second Amended Complaint to comply with the applicable business court statute by claiming that this promissory note was a business loan. The Second Amended Complaint must be filed by Tuesday, August 6, 2019, or the case shall be excluded from business court jurisdiction and reassigned to the general civil docket.

IT IS SO ORDERED.

July 23, 2019
Date

/s/ James M. Alexander
Hon. James M. Alexander,
Circuit Court Judge