

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

**NTV, INC., D/B/A GOLDSMITH GALLERY,  
And GOLDEN GATE SHOPPING CENTER, LLC.,**

**Plaintiffs,**

**v**

**Case No. 2019-175256-CB  
Hon. James M. Alexander**

**GLENN M. GREENFIELD,**

**Defendant.**

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**OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT**

On July 16, 2019, Plaintiffs filed a Complaint against Defendant on the allegation that Defendant committed legal malpractice during his representation of Plaintiffs. Plaintiffs allege further that Defendant's legal malpractice can be asserted as recoupment to reduce Defendant's claim against Plaintiffs for unpaid attorney's fees and costs that has been raised in a related case. While Plaintiffs filed a Notice of Assignment to the Business Court on July 16, 2019, the delay in filing the Notice of Assignment resulted in this matter being initially assigned to the Honorable Phyllis C. McMillen. The case was then subsequently reassigned to the Business Court.

In their Notice of Assignment to the Business Court, Plaintiffs contend that this case qualifies as a business or commercial dispute as "all of the parties are business enterprises." See MCL 600.8031(1)(c)(i).

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, Plaintiffs have 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 either Plaintiff for this case to qualify for business court jurisdiction under MCL 600.8031(1)(c)(i) or (ii). Rather, Plaintiffs have initiated litigation against the individual Defendant, a licensed Michigan attorney, who Plaintiffs allege has committed malpractice during his legal representation of them. 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 case shall be reassigned to the general civil docket and re-coded NM.

Notably, this case was previously assigned to the Honorable Phyllis C. McMillen. The Court observes, however, that there is a pending civil action between these parties, and arising out of the same transaction or occurrence, that has been assigned to the Honorable Hala Jarbou, namely Case Number 2019-173639-CZ.

**IT IS SO ORDERED.**

July 23, 2019  
Date

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