

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

**KOTZ SANGSTER WYSOCKI P.C.,**

**Plaintiff,**

**v**

**Case No. 2019-175392-CB**  
**Hon. James M. Alexander**

**CLIFFORD SITTO,**  
**And ALEXANDER DABISH,**

**Defendants.**

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**OPINION AND ORDER REGARDING BUSINESS COURT JURISDICTION**

On July 22, 2019, Plaintiff filed a Complaint against Defendants on allegations that Defendants have failed to pay the sum of \$43,780.28 for legal services rendered by Plaintiff. Contemporaneous with the filing of the Complaint, 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).

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 either 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)(ii). Rather, Plaintiff has initiated litigation against the individual Defendants for their alleged failure to pay certain attorney fees. Additionally, there are no allegations in the Complaint from which the Court could conclude that jurisdiction is proper under § 8031(1)(c)(i) or (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 is cognizant of Plaintiff's allegation that Defendants do business together under the name Nexus Home Care, Inc. However, that business enterprise has not been named as a party to this 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 Tuesday, August 13, 2019, or

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

**IT IS SO ORDERED.**

July 30, 2019  
Date

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