

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

JOHN C. KIRKPATRICK,

Plaintiff,

v

Case No. 2019-175507-CB
Hon. James M. Alexander

MINDY L. RICHARDS,
And CHANGESCAPE, INC.,

Defendants.

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On July 29, 2019, Plaintiff filed his Complaint on allegations that the respective Defendants have failed to repay a \$50,000.00 loan and investment monies due to Plaintiff despite his requests and demands. 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).

Here, Plaintiff has not provided any factual allegations within the Complaint to support the premise that all of the parties are business enterprises, that Plaintiff 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 Defendant Changescape, Inc., or that one of the parties is a non-profit organization for this case to qualify for business court jurisdiction under MCL 600.8031(1)(c).

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

IT IS SO ORDERED.

August 14, 2019
Date

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