

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

**KHALED TOMA,
And NUHA TOMA,**

Plaintiffs,

v

**Case No. 2019-177056-CB
Hon. Martha D. Anderson**

**PULIN PATEL, KUMAR GIRI,
BRIJ GIRI, JASON PETER,
And AARON ALSTON,**

Defendants.

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On October 2, 2019, the individual Plaintiffs filed the present Complaint against the individual Defendants on the ground that Defendants failed to transfer a 50% ownership interest in non-party Ajax Real Estate Holdings, LLC to Plaintiffs as promised. While Plaintiffs have not filed a Notice of Assignment to the Business Court, Plaintiffs indicate on the face of their Complaint that this matter meets the statutory requirements to be assigned to the Business Court.

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 case, Plaintiffs have not provided any factual allegations within the Complaint to support the assertion that this action qualifies as a business or commercial dispute under any of the provisions set forth above. The Court notes that neither a business enterprise nor a nonprofit organization has been named in this lawsuit. Rather, the individual Plaintiffs have initiated litigation against the individual Defendants on the claim that Defendants have breached the parties' agreement with regard to ownership interest in Ajax Real Estate Holdings, LLC. The Court observes that Ajax Real Estate Holdings, LLC is not named as a party to this lawsuit.

As written, Plaintiffs' Complaint does not qualify as a business or commercial dispute under MCL 600.8031(1)(c) or as defined by MCL 600.8035(1). In its October 14, 2019 Opinion and Order Regarding Business Court Jurisdiction, the Court provided Plaintiffs with an opportunity to file an Amended Complaint by October 28, 2019, or the case shall be excluded from business court jurisdiction and reassigned to the general civil docket.

Plaintiffs have not amended the Complaint within the requisite time frame and 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 this reason, 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.

10/29/2019
Date



Hon. Martha D. Anderson
Chief Circuit Judge Pro Tem

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