

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

KEITH J. MITAN,

Plaintiff,

v

Case No. 19-177288-CB
Hon. James M. Alexander

**TWELFTH ESTATE CONDOMINIUM
ASSOCIATION, ET AL.,**

Defendants.

_____ /

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On October 14, 2019, Plaintiff filed his Complaint against Defendants on allegations including, but not limited to, Defendants' breach of the Association's obligations to maintain the condominium common areas and Defendants' refusal to allow for the examination of the Association's books, records, contracts, and financial statements.

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” and “one of the parties is a nonprofit organization and the claims arise out of that party's organizational structure, governance, or finances.” See MCL 600.8031(1)(c)(ii) and (iii). Plaintiff subsequently filed an Amended Complaint on December 2, 2019.

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). Although this matter appears to fall within the definition of a business or commercial dispute under MCL 600.8031(1)(c)(ii) and/or (iii), the statute excludes certain types of disputes from business court jurisdiction.

Pursuant to MCL 600.8031(3)(k), business or commercial disputes expressly exclude “[I]and contract, mortgage, construction, and condominium lien foreclosure matters and actions involving the enforcement of condominium and homeowners associations governing documents.” The claims raised in Plaintiff’s lawsuit all arise out of Defendants’ alleged violation of the Association’s governing documents and the enforcement of those governing documents. As a result, Plaintiff’s claims are excluded under MCL 600.8031(3)(k).

For these reasons, the lawsuit is excluded from business court jurisdiction and the Court orders the case reassigned to the general civil docket. The case will be coded CZ unless counsel files a stipulated order to change it otherwise. Consequently, the case management conference, currently scheduled for December 20, 2019, is hereby cancelled.

IT IS SO ORDERED.

December 19, 2019
Date

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