

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JON GREGOR WILCOX,
SCOTT ROBERT WILCOX,
TIMOTHY SCOTT HALL,
On behalf of The TJS partnership,

Plaintiffs,

v

Case No. 2020-181983-CB
Hon. Martha D. Anderson

KIMBERLY WILCOX,

Defendant.

_____ /

OPINION AND ORDER REGARDING BUSINESS COURT JURISDICTION

On June 24, 2020, the individual Plaintiffs filed a Complaint on allegations that the individual Defendant breached the terms of the parties’ Partnership Agreement by failing to remit \$11,707.10 to the partners from the sale of a property located in Madison Heights, Michigan. Plaintiffs are seeking treble damages or \$35,121.30 under their statutory conversion claim. Contemporaneous with the filing of the Complaint, Plaintiffs 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, Plaintiffs have not provided any factual allegations within the Complaint to support the premise that any of the parties are business enterprises or non-profit organizations for this case to qualify for business court jurisdiction under MCL 600.8031(1)(c). However, Plaintiffs allege in Paragraph 4 of the Complaint that the TJS Partnership consists of Plaintiffs, Defendant and the respective wives of Jon Wilcox and Timothy Hall. Yet, the TJS Partnership has not been formally named as a party. 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).

The Court shall provide Plaintiffs with an opportunity to file an Amended Complaint to add the TJS Partnership as a party, in order to comply with the business court statutes, by Thursday, July 23, 2020, or the case shall be excluded from business court jurisdiction and reassigned to the general civil docket.

IT IS SO ORDERED.

7/2/2020

Date

/s/ Martha Anderson

Hon. Martha D. Anderson,
Business Court Judge