

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

MICHAEL ZAJAC and DEBORA ZAJAC,

Plaintiffs,

v

Case No. 14-143386-CZ
Hon. Wendy Potts

LOCOMOTIVE ENGINEERS AND
CONDUCTORS MUTUAL PROTECTIVE
ASSOCIATION, INC, et al,

Defendants.

OPINION AND ORDER RE: BUSINESS COURT JURISDICTION

At a session of Court
Held in Pontiac, Michigan
FEB 11 2015

Plaintiffs Michael and Debora Zajac filed this complaint alleging various claims against Michael Zajac's former employer Defendant Locomotive Engineers and Conductors Mutual Protective Association, Inc. (LECMPA) and two of LECMPA's principals Defendants Susan Tukel and Christine Brayanis. Plaintiff Debora Zajac is Michael Zajac's spouse and the complaint does not allege that she has ever had an employment or business relationship with Defendants. Plaintiffs submitted a notice of assignment to business court claiming that this 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, directors, officers, agents, employees, suppliers, or competitors, and the claims arise out of those relationships." See MCL 600.8031(1)(c)(ii). Plaintiffs also claim that this case falls under business court jurisdiction because "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)(iii).

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 1 or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, 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.
- (iv) An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise. [MCL 600.8031(1)(c)]

Defendant LECMPA appears to be a business enterprise as defined by MCL 600.8031(1)(b), and Plaintiff Michael Zajac and Defendants Susan Turkel and Christine Brayanis appear to be LECMPA's present or former owners, managers, shareholders, members, directors, officers, agents, or employees. However, the complaint has no factual allegations supporting the assertion that Plaintiff Debora Zajac is a present or former owner, manager, shareholder, member, director, officer, agent, employee, supplier, or competitor of LECMPA. Although Plaintiffs allege that LECMPA is a nonprofit organization, none of Plaintiffs' claims arise out of its organizational structure, governance, or finances. Instead, Plaintiffs' claims arise out of Michael Zajac's former employment relationship with LECMPA and Debora Zajac's alleged loss of consortium. Because

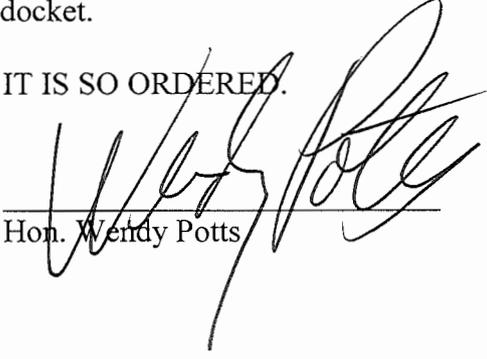
Plaintiffs have not alleged a claim involving organization, governance, or finances of a nonprofit, and Plaintiff Debora Zajac is not business enterprise and is not in one of the relationships listed in MCL 600.8031(1)(c)(ii), this action does not involve a business or commercial dispute.

For all of these reasons, this action is excluded from Business Court jurisdiction and the Court orders the case reassigned to the general civil docket.

IT IS SO ORDERED.

Dated:

FEB 11 2015



Hon. Wendy Potts