

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MICHIGAN RADIOLOGICAL SOCIETY,

Plaintiff,

v

Case No. 2016-153236-CZ

Hon. James M. Alexander

OMIC, LLC, d/b/a OAKLAND MRI, and  
SUSAN SWIDER,

Defendants.

\_\_\_\_\_ /

**SECOND OPINION AND ORDER REMOVING CASE FROM  
BUSINESS COURT JURISDICTION**

On May 27, 2016, Plaintiff filed the present Verified Complaint for Declaratory and Injunctive Relief on allegations that Defendants are in violation of the Michigan Public Health Code, the Business Corporation Act, the Professional Service Corporation Act, and the Michigan Limited Liability Company Act. Plaintiff is seeking declaratory relief as well as injunctive relief in the form of a temporary and permanent injunction requiring Defendants to cease operation of their business. Contemporaneous with the filing of the Complaint, Plaintiff filed a Notice of Assignment to the Business Court – claiming that all of the parties are business enterprises pursuant to MCL 600.8031(1)(c)(i).

Upon review of Plaintiff's Verified Complaint, the Court observed that Plaintiff was not seeking monetary damages in excess of \$25,000.00. Rather, Plaintiff sought equitable relief in the form of a declaratory judgment and a temporary and permanent injunction against Defendants. As such, the Court issued an Opinion and Order Regarding Business Court Jurisdiction on June 7, 2016, which provided Plaintiff with an opportunity to amend the Verified

Complaint to include a request for monetary damages exceeding \$25,000.00, if warranted, or the case would be excluded from business court.

Plaintiff did not amend the Verified Complaint and as a result, the Court entered an Opinion and Order Removing Case from Business Court Jurisdiction on June 17, 2016. In that Opinion and Order, the Court found that that this action did not qualify as a business or commercial dispute as defined by MCL 600.8035(1) for the reason that the case did not involve an actual claim for monetary damages exceeding \$25,000.00 as required.

Business court jurisdiction is limited to actions involving a “business or commercial dispute” in which the amount in controversy exceeds \$25,000.00. See MCL 600.8035(1). While “amount in controversy” has not been expressly defined in Michigan case law, *Etefia v Credit Technologies, Inc.*, 245 Mich App 466, 475, 628 NW2d 577 (2001), indicates that it is based on the damages claimed.” *Szyszlo v Akowitz*, 296 Mich App 40, 51; 818 NW2d 424 (2012).

Accordingly, the Court excluded the case from business court jurisdiction and the matter was reassigned to the Honorable Daniel Patrick O’Brien on June 17, 2016. Noting that a summary disposition motion is currently pending before Judge O’Brien, the matter was transferred back to this Court pursuant to an Order, dated October 10, 2016. In that Order, Judge O’Brien essentially determined that “this action falls within business court jurisdiction” because “MCL 600.8035(1) was not intended to preclude business matters that seek only equitable relief.”

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).

As stated previously, the phrase “amount in controversy” clearly refers to the amount of damages claimed. *Szyszlo, supra*. Therefore, business court jurisdiction is limited to cases involving actual claims for monetary damages exceeding \$25,000.00 as required by MCL 600.8035(1). In support of the Business Court’s interpretation of MCL 600.8035(1), the Court refers to Local Administrative Order 2013-03, which was entered by the Honorable Nanci J. Grant on May 9, 2013. Local Administrative Order 2013-03 provides that “[t]he Business Court has jurisdiction over business or commercial disputes in which the amount in controversy exceeds \$25,000.<sup>1</sup>”

Consistent with Local Administrative Order 2013-03, Judge Grant, in her capacity as Chief Judge, removed the following case, Celeste Dunn v Commerce MB, LLC/Case Number 13-136361-CH, from Business Court following a determination that the “Business Court does not have jurisdiction over this case as the amount in controversy, as pled in Plaintiff’s complaint, does not exceed the \$25,000 jurisdictional threshold as required by MCL 600.8035(1).”<sup>2</sup> The complaint in the aforementioned case sought declaratory relief and injunctive relief only.

For all of these reasons, this Court respectfully disagrees with Judge O’Brien’s interpretation of MCL 600.8035(1) and finds that this action does not qualify as a business or commercial dispute as defined by MCL 600.8035(1). Therefore, this action is excluded from business court jurisdiction and the Court orders the case reassigned to the general civil docket of the Honorable Daniel Patrick O’Brien.

**IT IS SO ORDERED.**

October 20, 2016  
Date

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

---

<sup>1</sup> MCL 600.8035(1).

<sup>2</sup> See Judge Grant’s October 15, 2013 Order Reassigning Case to the Honorable Phyllis McMillen Pursuant to MCL 600.8035(7).