STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

MAPLE MANOR REHAB CENTER OF NOVI INC.
And MAPLE MANOR NEURO CENTER INC.,

Plaintiffs,

Case No. 16-153967-CB
v **Hon. James M. Alexander**

PROGRESSIVE INSURANCE COMPANY,
WILMA WILSON, RENITA HEBNER, and
LISA WILSON,

Defendants.
_____/

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

On July 13, 2016, Plaintiffs filed their Complaint in which they seek reimbursement for an unpaid medical bill that is due and owing for intensive skilled nursing and subacute care provided to the patient, Wilma Wilson. Contemporaneous with the filing of the Complaint, Plaintiffs filed a Notice of Assignment to 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, directors, officers, agents, employees, suppliers, or competitors, and the claims arise out of those relationships." See MCL 600.8031(1)(c)(ii). Plaintiffs also indicate on the Notice of Assignment that both Maple Manor and Progressive Insurance are business enterprises.

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)].

In the present action, Plaintiffs have not provided any factual allegations within the Complaint to support the assertion that 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. MCL 600.8031(1)(c)(ii). Plaintiffs' allegation concerning the individual defendants is that they personally breached the Novi Admission Agreement for the Maple Manor Rehab Center of Novi Inc. and are ultimately responsible for the payment of Wilma Wilson's medical services and interest as well as attorney fees and costs.

While this matter appears to fall within the definition of a business or commercial dispute under MCL 600.8031(1)(c)(i) for the reason that Plaintiffs and Defendant Progressive Insurance Company are business enterprises, the statute excludes certain types of disputes from business court jurisdiction. Pertinent to this case, insurance coverage disputes in which an insured or an alleged insured is an individual consumer are excluded from business court jurisdiction pursuant

to MCL 600.8031(3)(m). The Complaint indicates that the "[p]atient [Wilma Wilson] is insured by the Insurance Company under assigned Insurance Claim #15-2919242." Since this matter involves an insurance coverage dispute where the insured is an individual consumer, namely Wilma Wilson, this action is expressly excluded from business court jurisdiction.

Thus, the Court orders the case reassigned to the general civil docket.

This case will be coded CZ unless counsel files a stipulated order to change it otherwise.

IT IS SO ORDERED.

July 19, 2016_ __/s/ James M. Alexander_____
Date Hon. James M. Alexander, Circuit Court Judge