

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

VALLEY CITY LINEN CO.,

Plaintiff,

v

Case No. 2015-146208-CK  
Hon. Wendy Potts

FOOD VENTURES LLC, d/b/a  
PRIME 10,

Defendant.

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**OPINION AND ORDER RE: DEFENDANT'S MOTION FOR SUMMARY  
DISPOSITION PURSUANT TO MCR 2.116(C)(4)**

At a session of Court  
Held in Pontiac, Michigan

On

~~OCT 13 2015~~

This matter is before the Court on Defendant's Motion for Summary Disposition Pursuant to MCR 2.116(C)(4) Based on Lack of Subject Matter Jurisdiction. The Court is exercising its discretion to decide the motion without a hearing. MCR 2.119(E)(3).

By way of background, the parties entered into a rental service agreement on March 28, 2014, whereby Plaintiff agreed to supply Defendant (as a catering service) with garment and textile rentals in return for timely payment on weekly invoices. On February 12, 2015, Defendant prematurely terminated the parties' rental service agreement. Plaintiff filed this action, asserting that Clause 8 of the parties' rental service agreement provides for damages to Plaintiff in the event of premature termination. Plaintiff is claiming an amount of \$22,301.01 in damages based upon Defendant's premature termination of the agreement. Plaintiff also seeks

\$4,274.54 from Defendant as outstanding debt for a total amount in damages of \$26,575.55 plus interest, costs, and attorney fees.

Defendant now moves for summary disposition under MCR 2.116(C)(4) on the ground that Plaintiff's damages claim does not exceed \$25,000.00 and falls within the exclusive jurisdiction of the district court.

Whether this Court has subject matter jurisdiction over Plaintiff's claims is a question of law. *Yee v Shiawassee County Bd of Comm'rs*, 251 Mich App 379, 399; 651 NW2d 756 (2002). This Court has jurisdiction to hear all civil claims "except where exclusive jurisdiction is given in the constitution or by statute to some other court . . ." MCL 600.605. Under MCL 600.8301(1), district courts have exclusive jurisdiction in civil actions when the amount in controversy does not exceed \$25,000.00.

Subject matter jurisdiction is determined solely by the allegations in the pleadings. "If it is apparent from the allegations that the matter alleged is within the class of cases with regard to which the court has the power to act, then subject-matter jurisdiction exists." *Trost v Buckstop Lure Co, Inc*, 249 Mich App 580, 586-588; 644 NW2d 54 (2002).

In this case, the Complaint alleges that Plaintiff has suffered damages in the amount of \$26,575.55 based upon breach of contract and conversion claims. The Affidavit of Jeff Jeltema, Plaintiff's owner, avers that Defendant owes Plaintiff \$26,757.55 in damages. See Exhibit B of the Complaint. Clause 8 of the rental service agreement - Exhibit A of the Complaint - clearly provides for damages to Plaintiff should Defendant prematurely terminate the contract. On account of Defendant's premature termination of the agreement, Plaintiff maintains that Defendant is required to pay 75% of the average weekly billings in the previous 52 weeks, multiplied by the number of remaining weeks under the term of the contract. Plaintiff offers Exhibit D - "Mobile Payment History"- to argue that the average weekly gross invoiced amount

was \$267.88/week, which would then be multiplied by the remaining 111 weeks and 75% for a total of \$22,301.01. Plaintiff also maintains that Defendant owes \$4,274.54 in past-due payments pursuant to the agreement. Both claims for damages are outlined in Plaintiff's Complaint.

In its reply brief, Defendant argues that the average weekly gross invoiced amount is to be calculated based upon the last 12 months of invoices and not the total average of all invoices as calculated by Plaintiff. Defendant attaches as Exhibit B its own invoice accounting. The Court observes from Plaintiff's Exhibit D that the invoices – utilized for purposes of calculation – do fall within a 12 month period as required by the agreement. In fact, the parties' agreement was in effect for just over one year.

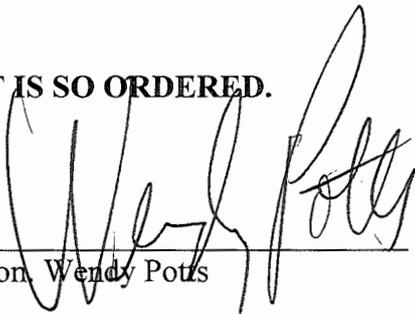
As noted earlier, subject matter jurisdiction is determined solely by the allegations in the pleadings. Upon review of the allegations in the Complaint and as further defined in Plaintiff's response, the Court finds that Plaintiff's specific claim for \$26,575.55 in damages qualifies as an amount in controversy exceeding \$25,000.00 and falls within the subject matter jurisdiction of this Court. Thus, Defendant's Motion for Summary Disposition is denied.

In its counter-motion, Plaintiff seeks partial summary disposition as to Count I – Breach of Contract – of the Complaint pursuant to MCR 2.116(I)(2). In opposition, Defendant contends that it has not admitted liability to anything that would entitle Plaintiff to summary disposition under MCR 2.116(I)(2).

Pursuant to MCR 2.116(I)(2), "if it appears to the court that the opposing party, rather than the moving party, is entitled to judgment, the court may render judgment in favor of the opposing party." *Michigan Mut. Ins. Co. v Dowell*, 204 Mich App 81, 86; 514 NW2d 185, (1994). Here, the Court has determined only that subject matter jurisdiction is proper based upon Plaintiff's allegations within the Complaint. Plaintiff seeks summary disposition as to Count I – Breach of Contract - of the Complaint, which includes allegations that Defendant

breached the rental service agreement for reasons, including but not limited to, its premature termination of the agreement. Plaintiff is seeking relief that extends beyond the scope of the issues raised in Defendant's summary disposition motion and considered by this Court. Further, Plaintiff's counter-motion does not provide any legal analysis or any specific argument other than deference to Defendant's Affidavit and the parties' agreement. The Court finds that Plaintiff is not entitled to summary judgment under MCR 2.116(I)(2) with respect to Count I and hereby denies Plaintiff's counter-motion for partial summary disposition.

**IT IS SO ORDERED.**



Hon. Wendy Potts

Dated:

**OCT 13 2015**