

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

MICHAEL FISHMAN, et al,

Plaintiffs,

v

Case No. 15-147413-CB  
Hon. Wendy Potts

HILLAN HOMES, INC,

Defendant.

---

OPINION AND ORDER RE: BUSINESS COURT JURISDICTION

At a session of Court  
Held in Pontiac, Michigan  
On

~~JUN 15 2015~~

Plaintiffs Michael Fishman and Melissa Scoggin filed this complaint Defendant Hillan Homes, Inc breached a contract to build a residence. Plaintiffs also allege a violation of the Michigan Consumer Protection Act. Neither the complaint nor the notice of assignment to Business Court explain why this case qualifies as a business or commercial dispute under MCL 600.8031(1)(c).

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.

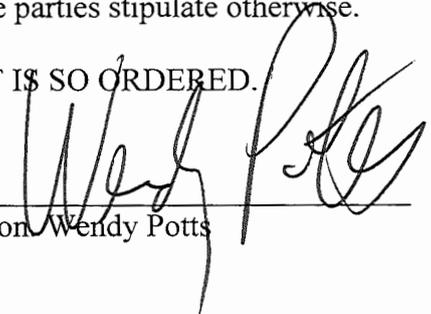
- (ii) An action in which 1 or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, or competitors, and the claims arise out of those relationships.
- (iii) An 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)]

Although Hillan Homes appears to be a business enterprise as defined by § 8031(1)(b), the Plaintiffs are not business enterprises. Thus, jurisdiction is not proper under § 8031(1)(c)(i). Further, Plaintiffs have not alleged that they are Hillan Homes's present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, or competitors, or the claims arise out of those relationships. § 8031(1)(c)(ii). Moreover, there are no allegations in the complaint from which could conclude that jurisdiction is proper under § 8031(1)(c)(iii) or (iv).

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.

The case code will be changed to CZ unless the parties stipulate otherwise.

IT IS SO ORDERED.

  
\_\_\_\_\_  
Hon. Wendy Potts

Dated:

**JUN 15 2015**