

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

GEOLOGIC COMPUTER SYSTEMS, INC.,

Plaintiff,

v

Case No. 15-150271-CB
Hon. Wendy Potts

ARNOLD S. WEINTRAUB and
THE WEINTRAUB GROUP, P.L.C.

Defendants.

OPINION AND ORDER RE: BUSINESS COURT JURISDICTION

At a session of Court
Held in Pontiac, Michigan On
SEP 13 2016

On November 20, 2015, Plaintiff filed its Complaint against Defendants on allegations that it has suffered monetary damages as well as non-economic damages on account of Defendants' legal malpractice.

On August 30, 2016, the Honorable Daniel P. O'Brien entered an Order, determining that this matter qualified for business court pursuant to MCL 600.8031 et seq. Judge O'Brien concluded further that the exclusionary provision, namely MCL 600.8031(3)(a), does not pertain to legal malpractice claims. Consequently, this matter was reassigned to the business court docket.

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). Although this matter appears to fall within the definition of a business or commercial dispute under MCL 600.8031(1)(c), the statute excludes certain types of disputes from business court jurisdiction. It is the opinion of this Court that MCL 600.8031(3)(a) excludes all malpractice actions, including legal malpractice actions, from business court jurisdiction.

As such, this Court respectfully disagrees with Judge O’Brien’s interpretation of MCL 600.8031(3)(a). When interpreting a statute, courts must “ascertain the legislative intent that may reasonably be inferred from the statutory language. The first step in that determination is to review the language of the statute itself. Unless statutorily defined, every word or phrase of a statute should be accorded its plain and ordinary meaning, taking into account the context in which the words are used. We may consult dictionary definitions to give words their common and ordinary meaning. When given their common and ordinary meaning, the words of a statute provide the most reliable evidence of its intent.” *Krohn v Home-Owners Ins. Co.*, 490 Mich 145, 156-157; 802 NW2d 281 (2011).

Upon review of the statutory language within provision (3)(a), “[p]ersonal injury actions including, but not limited to, wrongful death and malpractice actions,” the Court observes that the legislature did not specifically limit a malpractice action to a medical malpractice action, as inferred by Judge O’Brien in the August 30, 2016 Order. Rather, the legislature intentionally utilized the broad language - malpractice actions – in order to encompass all types of malpractice actions, including legal malpractice actions. Further, the Court references Black’s Law

Dictionary, which defines malpractice as “[a]n instance of negligence or incompetence on the part of a professional.” *Black's Law Dictionary* (10th ed. 2014). By its common and ordinary meaning as defined by Black’s Law Dictionary (10th ed.), the term malpractice includes negligence or incompetence on the part of an attorney in his or her professional capacity.

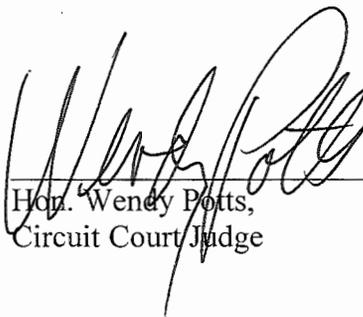
Accordingly, the Court finds that legal malpractice actions such as this lawsuit are excluded from business court jurisdiction under MCL 600.8031(3)(a). Therefore, the Court orders the case reassigned to the general civil docket of the Honorable Daniel P. O’Brien.

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

IT IS SO ORDERED.

Dated:

SEP 13 2016



Hon. Wendy Potts,
Circuit Court Judge