

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

TALMER BANK AND TRUST,

Plaintiff,

v

Case No. 2015-150496-CB
Hon. Wendy Potts

ANDRE R. NUNN, SR.,

Defendant.

_____ /

OPINION AND ORDER RE: BUSINESS COURT JURISDICTION

At a session of Court
Held in Pontiac, Michigan On
DEC 10 2015

On December 8, 2015, Plaintiff Talmer Bank and Trust filed the present Complaint, alleging that Defendant Andre R. Nunn, Sr. breached a personal guaranty agreement by failing to perform under the terms of the agreement. Plaintiff submitted with its Complaint a Notice of Assignment to the 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). Specifically, Plaintiff contends that this action stems from a commercial transaction between the parties.

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)].

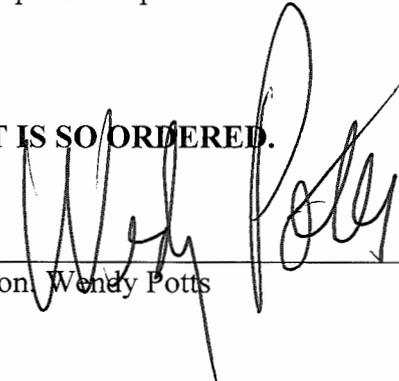
In this case, Plaintiff has not provided any factual allegations within the Complaint to support the assertion that Defendant Andre R. Nunn, Sr. is a business enterprise or is a present or former owner, manager, shareholder, member, director, officer, agent, employee, supplier, or competitor of Talmer Bank and Trust. Due to the fact that Defendant is neither a business enterprise nor a person in one of the relationships listed in MCL 600.8031(1)(c)(ii), this action does not involve a business or commercial dispute. Plaintiff's sole contention here is that Defendant, as an individual, breached a personal guaranty agreement by failing to perform under its terms.

As a result, the Court finds that this action does not qualify as a business or commercial dispute as defined by MCL 600.8035(1) or as claimed by Plaintiff under MCL 600.8031(1)(c)(ii). Moreover, there are no allegations in the Complaint from which the Court could conclude that jurisdiction is proper under § 8031(1)(c)(i), (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:

DEC 10 2015