

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

FOLIAGE CONCEPTS, INC,

Plaintiff,

v

Case No. 2015-146293-CK
Hon. Wendy Potts

LAURENCE GELMAN, et al,

Defendants.

OPINION AND ORDER RE: MOTION TO REMOVE CASE FROM BUSINESS
COURT

At a session of Court
Held in Pontiac, Michigan

MAY 0th 2015

Plaintiff Foliage Concepts, Inc. filed this complaint to foreclose a construction lien on Defendants' residence and seek damages for breach of a landscaping services agreement. Plaintiff submitted with its complaint a notice of assignment to business court claiming that this is a business or commercial dispute because it "involves the sale, merger, purchase, combination, dissolution, liquidation, structure, governance, or finances of a business enterprise." See MCL 600.8031(1)(c)(iv). The Court is exercising its discretion to decide the motion without a hearing. MCR 2.119(E)(3).

The Court has an obligation to take notice of 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

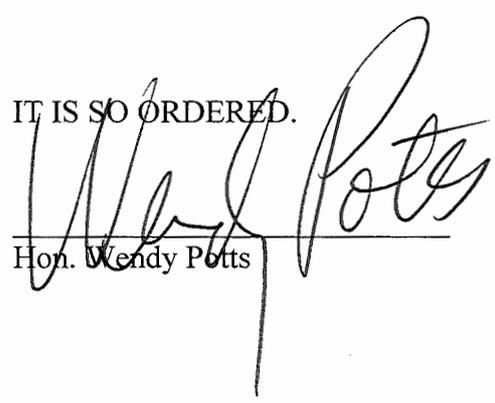
limited to actions involving a “business or commercial dispute.” MCL 600.8035(3). The statute defines a business or commercial dispute as:

- (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)]

Plaintiff did not allege any facts in its complaint to support its claim that this case involves the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise. § 8031(1)(c)(iv). Further, neither the parties nor the claims fall under any of the other categories in § 8031(c).

Because this action does not involve a business or commercial dispute, the Court concludes that it lacks jurisdiction and grants the motion to reassign the case to the general civil docket.

IT IS SO ORDERED.



Hon. Wendy Potts

Dated: MAY 04 2015