

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

NOAH SKYLAR, INC.,

Plaintiff,

v

Case No. 2016-151990-CB  
Hon. Wendy Potts

J.S. EVANGELISTA DEVELOPMENT, LLC,

Defendant.

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**OPINION AND ORDER RE: BUSINESS COURT JURISDICTION**

At a session of Court  
Held in Pontiac, Michigan On  
MAR 31 2016

On March 15, 2016, Plaintiff filed the present Complaint for Foreclosure of Commercial Real Estate Broker's Lien on allegations that Defendant failed to perform its financial obligations under the parties' Commission Agreement. Plaintiff notes in the Complaint that the Court has subject matter jurisdiction for the reason that "even though the amount of damages being sought is less than \$25,000, Insite<sup>1</sup> seeks equitable relief in the form of foreclosure of real property pursuant to the Act." Contemporaneous with the filing of the Complaint, Plaintiff filed a Notice of Assignment to the Business Court – claiming that all of the parties are business enterprises and that this action qualifies as a business or commercial dispute concerning contractual agreements or other business dealings.

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

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<sup>1</sup> Insite Commercial ("Insite") is the d/b/a of Noah Skylar, Inc.

(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” in which the amount in controversy exceeds \$25,000.00. See MCL 600.8035(1) and (3). The phrase “amount in controversy” refers to the amount of damages claimed. *Szyslo v Akowitz*, 296 Mich App 40, 51; 818 NW2d 424 (2012).

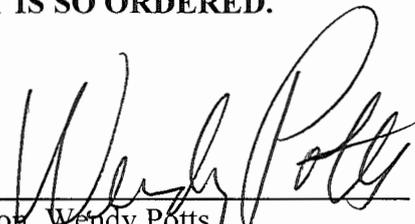
In its Complaint, Plaintiff is seeking equitable relief as well as monetary damages in the amount of \$21,079.21. In consideration of the monetary damages request, this case does not involve a claim for monetary damages exceeding \$25,000.00 as required by MCL 600.8035(1).

For purposes of determining business court jurisdiction only, the Court finds that this action does not qualify as a business or commercial dispute as defined by MCL 600.8035(1). For this reason, this action is excluded from business court jurisdiction and the Court orders the case reassigned to the general civil docket.

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

**IT IS SO ORDERED.**

Dated: **MAR 31 2016**

  
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Hon. Wendy Potts,  
Circuit Court Judge