

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

HOME-OWNERS INSURANCE COMPANY,

Plaintiff,

v

Case No. 2016-152380-CB
Hon. Wendy Potts

BLUE CROSS BLUE SHIELD OF MICHIGAN,
ASPLUNDH TREE EXPERT COMPANY,
INDEPENDENCE BLUE CROSS, and
INDEPENDENCE ADMINISTRATORS,

Defendants.

OPINION AND ORDER RE: BUSINESS COURT JURISDICTION

At a session of Court
Held in Pontiac, Michigan

AUG 25th 2016

On June 28, 2016, Plaintiff filed its Second Amended Complaint on allegations that Defendants owe a duty to reimburse Plaintiff for payment of no-fault insurance benefits it made on behalf of Delson James Petrie and that Defendant Asplundh Tree Expert Company engaged in tortious interference with the contract between Plaintiff and Mr. Petrie.

The parties appeared before the Court on August 24, 2016 for a Status Conference, at which time the Court questioned its jurisdiction over the subject matter of this lawsuit. *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)].

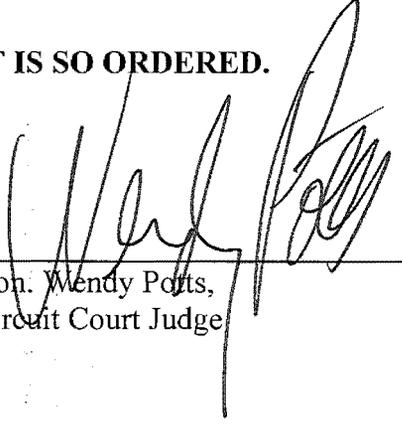
While Plaintiff asserts that this case involves a business or commercial dispute, MCL 600.8031(3) excludes certain types of disputes from business court jurisdiction. Pertinent to this case, motor vehicle insurance coverage disputes are excluded from business court jurisdiction pursuant to MCL 600.8031(3)(1).

As such, this action is excluded from business court jurisdiction and the Court orders the case reassigned to the general civil docket. A Scheduling Order will be issued after the case has been reassigned.

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

IT IS SO ORDERED.

Dated: **AUG 25 2016**



Hon. Wendy Potts,
Circuit Court Judge