

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

DAVID R. BATTON,

Plaintiff,

v

Case No. 2016-155598-CB
Hon. Wendy Potts

TEC GROUP, INC.,

Defendant.

_____ /

OPINION AND ORDER REMOVING CASE FROM BUSINESS COURT

At a session of Court
Held in Pontiac, Michigan
On

~~NOV 08 2016~~

On October 17, 2016, Plaintiff filed the present Complaint for Declaratory Judgment, wherein he requests this Court to order that all of the books and records of Defendant shall be made immediately available to Plaintiff, as a 22.5% shareholder in Defendant, by digital or electronic access. Contemporaneous with the filing of the Complaint, Plaintiff filed 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).

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).

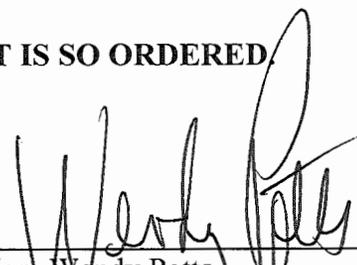
Business court jurisdiction is limited to actions involving a “business or commercial dispute” in which the amount in controversy exceeds \$25,000.00. See MCL 600.8035(1). The phrase “amount in controversy” refers to the amount of damages claimed. *Szyszlo v Akowitz*, 296 Mich App 40, 51; 818 NW2d 424 (2012).

Upon review of Plaintiff’s Complaint for Declaratory Judgment, the Court observes that Plaintiff is not seeking monetary damages in excess of \$25,000.00. Rather, Plaintiff is seeking declaratory relief with respect to digital or electronic access to Defendant’s books and records.

On October 27, 2016, the Court issued an Opinion and Order Re: Business Court Jurisdiction, providing Plaintiff with an opportunity to amend the Complaint for Declaratory Judgment to include a request for monetary damages exceeding \$25,000.00, if warranted, within seven (7) business days from the date of that Opinion and Order or the case shall be excluded from business court jurisdiction.

Plaintiff has not amended the Complaint for Declaratory Judgment and accordingly, 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, the lawsuit is excluded from business court jurisdiction and the Court orders the case reassigned to the general civil docket. The case will be coded CZ unless counsel files a stipulated order to change it otherwise.

IT IS SO ORDERED.



Hon. Wendy Potts,
Circuit Court Judge

Dated: NOV 08 2016