

STATE OF MICHIGAN
IN THE 20TH CIRCUIT COURT FOR THE COUNTY OF OTTAWA
SPECIALIZED BUSINESS DOCKET

414 Washington Street
Grand Haven, Michigan 49417
(616) 846-8320

* * * * *

CONSUMERS ENERGY COMPANY,

Plaintiff,

v

WAVERLY SHORES VILLAGE II, LLC,

Defendant.

**OPINION AND ORDER DENYING
BUSINESS COURT JURISDICTION**

Case No. 16-04722-CB

Hon. Jon A. Van Allsburg

_____ /

At a session of said Court held in the Ottawa County
Courthouse in the City of Grand Haven, Michigan,
on the 29th day of September, 2016.

PRESENT: Honorable Jon A. Van Allsburg, Circuit Judge

This is a declaratory judgment action brought by Consumers Energy Company, seeking a determination that the defendant is bound by law to obtain electrical service from the plaintiff, and may not choose to obtain electrical service from another public utility. Although plaintiff alleges an amount in controversy in excess of \$25,000, its demand for judgment seeks only declaratory and equitable relief. Cf. MCR 2.111(B)(2) (“A complaint ... must contain ... allegations that show the claim is within the jurisdiction of the court...”). Business Court jurisdiction is limited to a subset of those cases otherwise within the jurisdiction of the circuit court, specifically to: “business and commercial disputes in which the amount in controversy exceeds \$25,000.” MCL 600.8035(1).

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



"16004722CZ"

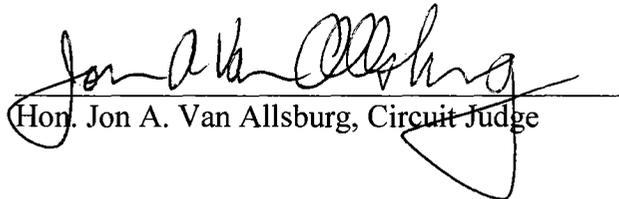
(2002). Subject matter jurisdiction is determined by the allegations in the pleadings. *Trost v Buckstop Lure Co, Inc*, 249 Mich App 580, 587-588; 644 NW2d 54 (2002). Plaintiff makes no allegation that any award of money is sought. Plaintiff's conclusory statement, that "The amount at issue in this case exceeds \$25,000.00," is unsupported by any factual allegation in the complaint, and money damages are not requested in the complaint's demand for judgment. A complaint seeking only declaratory relief therefore is not within the subject-matter jurisdiction of the business court. The Ingham County Business Court has drawn the same conclusion. In *Peachtree Settlement Funding, LLC v The Lincoln National Life Insurance Co.*, Case No. 14-722-CZ (30th Cir., June 17, 2014), the court concluded:

"Had the legislature intended business court jurisdiction to be concurrent with circuit court jurisdiction, it could have included actions for declaratory or injunctive relief to be within business court jurisdiction. Instead, the Legislature only provided for business court jurisdiction over cases where the amount in controversy exceeds \$25,000. This may have been an oversight." *Id.*

This court agrees with the above analysis, but must assume that the Legislature drafted the statute intending this outcome based upon the plain language of the statute. Because the complaint does not allege a business and commercial dispute in which the amount in controversy exceeds \$25,000, the case is not properly assigned to the business court 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.

Dated: September 29, 2016


Hon. Jon A. Van Allsburg, Circuit Judge