

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

WOLVERINE BANK, a Federal Savings Bank,

Plaintiff,

No. 14-1335-CK

v

HARRY H. HEPLER, an individual,

**ORDER RE: BUSINESS  
COURT JURISDICTION**

Defendant.

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At a session of said Court held in the City of Lansing,  
County of Ingham, State of Michigan, on August 4,  
2015.

PRESENT: Hon. Joyce Draganchuk  
Circuit Judge

A single-count Complaint for enforcement of a personal guaranty was filed in this case on November 25, 2014. The case was not designated for Business Court under MCR 2.118. Contrary to the established procedure of the 30<sup>th</sup> Circuit Court, the Clerk's Office never sent the file to the Business Court judge for review upon case initiation. The file has now been brought to the attention of the Court as possibly being eligible for Business Court.

An action qualifies for Business Court when all of the parties are business enterprises or when one party is a business enterprise and the other party is a present or former owner, manager, shareholder, member, director, officer, agent, employee, supplier, or competitor where the claims arise out of one of those relationships. MCL 600.8031(1).

The individual defendant in this case does not fall under one of the listed relationships. The individual Defendant is a personal guarantor of a commercial loan. He is presumably a member of a limited liability company for whose benefit the loan was obtained. The LLC has filed for bankruptcy protection and is not a party to this action.

If the LLC had been made a party, then the case would qualify for Business Court because at least part of the action included a business or commercial dispute. MCL 600.8035(3). Without the LLC, the case does not meet Business Court jurisdictional requirements.

This situation may not have been anticipated when the Business Court legislation was passed. However, until the Legislature amends the statute to include personal guarantor in the list of individuals, these cases will escape a strict reading of the statute.

The Court would consider taking the case, which is in essence a commercial dispute, into Business Court despite the above if it had not already progressed to the point that it has. The assigned judge has already issued a scheduling order, heard and denied two motions for summary disposition, denied a motion for reconsideration, and has a hearing on a third "renewed" motion for summary disposition scheduled in September. To transfer the case at this stage would create an appearance of impropriety in the case assignment process of this Court.

The Business Court does not have jurisdiction in this case. The case shall remain with the judge to whom it was originally assigned by blind draw.

**IT IS SO ORDERED.**

/s/

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Hon. Joyce Draganchuk  
Circuit Judge

**PROOF OF SERVICE**

I certify that I mailed a copy of the above Order upon all attorneys/parties of record by placing in the first class mail with postage prepaid from Lansing, Michigan on August 4, 2015.

/s/

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Ann M. Baird  
Judicial Assistant