

STATE OF MICHIGAN
COURT OF APPEALS

SOUTHFIELD JEEP, INC., d/b/a SOUTHFIELD
CHRYSLER-PLYMOUTH-JEEP,

UNPUBLISHED
June 29, 2006

Plaintiff/Counter Defendant-
Appellee,

v

PREFERRED AUTO SALES, INC. and MARK
ARMENI,

No. 256014
Macomb Circuit Court
LC No. 03-002718-CK

Defendants/Counter Plaintiffs-
Appellants.

Before: Murray, P.J., and Cavanagh and Talbot, JJ.

PER CURIAM.

On remand from our Supreme Court for consideration as on leave granted, defendant¹ appeals the circuit court's denial of its motion to enter judgment on a district court jury verdict in the amount of \$150,000. See *Southfield Jeep, Inc v Preferred Auto Sales, Inc*, 470 Mich 872; 687 NW2d 294 (2004). We affirm.

In March of 2001, plaintiff filed its complaint against Preferred Auto Sales in district court alleging breach of contract, account stated, fraud, and conversion arising from defendant's failure to pay the purported agreed price of \$6,000 for a 1998 Neon. Plaintiff sought relief in the form of payment, plus exemplary damages, for a total of \$18,000, together with court costs, interest, and attorney fees. Defendant filed a countercomplaint which (1) included Mark Armeni, the purported owner of Preferred Auto Sales, as a counterplaintiff, and (2) alleged defamation and intentional interference with business relationships, particularly with Van Dyke Dodge.² The countercomplaint sought injunctive relief and "damages in an amount that will fairly and

¹ Mark Armeni was dismissed from the case by order of the district court granting plaintiff's motion for summary disposition and that decision was not appealed; therefore, contrary to defendant's brief on appeal, Preferred Auto Sales, Inc. is the only appellant.

² To avoid confusion, the term "plaintiff" in this opinion refers to Southfield Jeep and the terms "defendant" or "defendants" refer to Preferred Auto Sales and/or Armeni.

adequately compensate counter-plaintiff for its damages, including costs and attorney fees.” Subsequently, plaintiff filed its first amended complaint adding Mark Armeni as a defendant.

In November of 2001, defendants moved to transfer the case to circuit court, pursuant to MCR 4.002, on the ground that damages arising from the defamation and business interference were reasonably expected to exceed the jurisdictional limit of \$25,000. Defendants claimed that Van Dyke Dodge not only stopped purchasing cars from defendants, as had originally been the case, but had also stopped selling used cars exclusively to defendants which resulted in a projected loss of more than \$100,000. Plaintiff objected to the transfer primarily claiming that the damages were, at best, speculative. After oral arguments, the court denied the motion to transfer the matter apparently concluding that the case should be mediated and, thus, on its own motion, the court ordered mediation.³

Thereafter, plaintiff filed a motion for summary disposition as to defendants’ claims and the court granted the motion as to Armeni’s individual claims against plaintiff, only. In May of 2003, the case proceeded to jury trial and the jury returned a verdict in favor of defendant with regard to its counterclaim, concluding that defendant suffered damages in the amount of \$90,000 because of the defamation, and \$60,000 because of the interference with its business relationship.⁴ Defendant then “renewed” its motion to transfer the case to circuit court, pursuant to MCR 4.002, for entry of judgment on the jury award of \$150,000. The district court granted the motion and transferred the case to the circuit court. Defendant moved in the circuit court for entry of judgment on the district court jury verdict. After hearing oral argument, the circuit court denied the motion, holding that no authority had been presented that would permit the circuit court to enter a judgment on a district court decision that was in excess of the district court’s jurisdictional limits. Subsequently, defendant filed its application for leave to appeal with this Court, which was denied, and our Supreme Court, in lieu of granting leave to appeal, remanded the matter to us for consideration as on leave granted. See *Southfield Jeep, Inc, supra*.

On appeal, defendant argues that “the circuit court’s refusal to exercise jurisdiction to enter judgment on the district court jury verdict was clearly erroneous and constitutes reversible error.” After review de novo of this question of law, we disagree. See *Polkton Charter Twp v Pellegrum*, 265 Mich App 88, 98; 693 NW2d 170 (2005).

A court must be vested with jurisdiction over the subject matter and the parties before it may act in a case. See 20 Am Jur 2d, Courts, § 71, p 460. Subject matter jurisdiction, which is conferred by the constitution and statutes, has been defined as the right of a court to exercise judicial power over a particular class or kind of cases. See *Clemons v Detroit*, 120 Mich App 363, 372; 327 NW2d 480 (1982), quoting *Joy v Two-Bit Corp*, 287 Mich 244, 253-254; 283 NW 45 (1938). At issue in this case is the jurisdiction of the circuit court and district court. The Michigan circuit court was established by the constitution, which provides:

³ In 2000, MCR 2.403 was amended to refer to “case evaluation” rather than “mediation.” See *Ayar v Foodland Distributors*, 472 Mich 713, 714 n 1; 698 NW2d 875 (2005).

⁴ Because we were not provided transcripts from the trial, it is unclear whether defendant argued to the jury that it was entitled to more than \$25,000 in damages.

The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court. [Const 1963, art 6, § 13.]

The legislature, via its constitutional authority, limited the causes that may be instituted in the circuit court as follows:

Circuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state. [MCL 600.605.]

The district court was established by the legislature and is a court that has been granted exclusive, albeit limited, jurisdiction. Specifically, MCL 600.8301 provides:

- (1) The district court has exclusive jurisdiction in civil actions when the amount in controversy does not exceed \$25,000.00.
- (2) The district court has jurisdiction over civil infraction actions.

In accordance with MCL 600.8301, plaintiff brought its civil action in the district court because it was only seeking damages of \$18,000. Defendant filed a counterclaim, but did not seek to transfer the action to the circuit court until later, when it was purportedly determined that defendant's projected loss would likely exceed the jurisdictional limit of the district court.⁵ The motion to transfer the action was denied by the district court and defendant did not appeal that decision. Instead, the matter proceeded to a jury trial which resulted in a verdict in defendant's favor that exceeded the jurisdictional limit of the district court. Defendant then sought to invoke the jurisdiction of the circuit court for the sole purpose of entering a judgment on the verdict.⁶ Defendant argues, as it did in the circuit court, that MCR 4.002 governs and permits this post-jury verdict transfer of jurisdiction. It does not.

⁵ Defendant also did not amend its counterclaim to specify that it was seeking damages in excess of \$25,000.

⁶ According to one respected treatise, the court rule does not indicate how to handle the situation created when a motion to transfer is denied, but then a verdict is rendered in excess of the district court's jurisdictional limit. Michigan Court Rules Practice (4th ed), p 648.

Indeed, MCR 4.002 governs the transfer of actions from district court to circuit court. The relevant provisions, for purposes of this case, state as follows:

(A) Counterclaim or Cross-Claim in Excess of Jurisdiction.

(1) If a defendant asserts a counterclaim or cross-claim seeking relief of an amount or nature beyond the jurisdiction or power of the district court in which the action is pending, and accompanies the notice of the claim with an affidavit stating that the defendant is justly entitled to the relief demanded, the clerk shall record the pleading and affidavit and present them to the judge to whom the action is assigned. The judge shall either order the action transferred to the circuit court to which appeal of the action would ordinarily lie or inform the defendant that transfer will not be ordered without a motion and notice to the other parties.

(B) Change in Conditions.

(1) A party may, at any time, file a motion with the district court in which an action is pending, requesting that the action be transferred to circuit court. The motion must be supported by an affidavit stating that

(a) due to a change in condition or circumstance, or

(b) due to facts not known by the party at the time the action was commenced, the party wishes to seek relief of an amount or nature that is beyond the jurisdiction or power of the court to grant.

(2) If the district court finds that the party filing the motion may be entitled to the relief the party now seeks to claim and that the delay in making the claim is excusable, the court shall order the action transferred to the circuit court to which an appeal of the action would ordinarily lie.

(C) Conditions Precedent to Transfer.

* * *

If a case is entirely transferred from district court to circuit court and the jury fee was paid in the district court, the district court clerk shall forward the fee to the circuit court with the papers and filing fee under subrule (D). If the amount paid to the district court for the jury fee is less than the circuit court jury fee, then the party requesting the jury shall pay the difference to the circuit court.

(D) Filing in Circuit Court. After the court has ordered transfer and the costs and fees required by subrule (C) have been paid, the clerk of the court from which the action is transferred shall forward to the clerk of the circuit court the original papers in the action and the circuit court filing fee.

(E) Procedure After Transfer. After transfer no further proceedings may be conducted in the district court, and the action shall proceed in the circuit court. The circuit court may order further pleadings and set the time when they must be filed.

The same rules apply to court rule interpretation as apply to statutory interpretation. *In re KH*, 469 Mich 621, 628; 677 NW2d 800 (2004). As has been stated many times,

The primary objective of judicial construction is to ascertain and give effect to the Legislature's intent. The language of the statute is the best source for ascertaining intent. An act must be read in its entirety and the meaning given to one section arrived at after due consideration of the other sections so as to produce, if possible, a harmonious and consistent enactment as a whole. . . . If an act is clear and unambiguous, then judicial construction or interpretation is unwarranted. If a statute is ambiguous or susceptible to two or more constructions that could cause reasonable minds to disagree as to its meaning, the statute must be interpreted. [*Herald Wholesale, Inc v Dep't of Treasury*, 262 Mich App 688, 693-694; 687 NW2d 172 (2004), quoting *Stratton-Cheeseman Mgt Co v Dep't of Treasury*, 159 Mich App 719, 724-725; 407 NW2d 398 (1987) (citations omitted).]

Defendant claims that “[t]he clear language of MCR 4.002, which sets no time limits on transfers of cases to circuit court, clearly permits the action taken by the district court judge in our case.” Defendant’s argument focuses on the phrase “at any time” contained in MCR 4.002(B)(1). But we cannot read “at any time” in isolation; that phrase must be read in conjunction with the remaining provisions of MCR 4.002. *Sweatt v Dep't of Corrections*, 468 Mich 172, 179 n 4; 661 NW2d 201 (2003). Reviewing the entire language, we conclude that MCR 4.002 does provide a time limit on such transfers and that time limit is before trial commences. There are several references to this fact.

First, MCR 4.002(B)(1) mandates that, in support of the motion, an affidavit be provided which states either that a change in condition or circumstance occurred or facts became known after the action was commenced that cause the party to seek relief that cannot be provided in the district court. It is untenable that a jury verdict in excess of the jurisdictional limit is the type of change in condition or circumstance or newly discovered fact that the rule references. Particularly in light of the language of provision (B)(2), which provides that “[i]f the district court finds that the party filing the motion *may be* entitled to the relief the party now seeks to claim,” the court is directed to transfer the case. However, after a jury verdict is rendered, barring its reversal on appeal, the entitlement to relief is no longer speculative. Second, MCR 4.002(B)(1)(b) indicates that a party may file a motion establishing that the party “wishes to seek relief” in excess of the jurisdictional limit, language suggesting that the actual amount awarded is not known at the time the motion seeking transfer is filed.

Third, and especially supportive of our conclusion, is the language of provision (C) which focuses on the jury fee. If a jury fee was paid in the district court, upon transfer to the circuit court, the jury fee is to be forwarded to the circuit court. The payment of a jury fee implies that a jury trial will be conducted, MCR 2.508(D)(1). Clearly, a jury trial would not be conducted in the circuit court when the sole purpose of the transfer is for entry of judgment on a jury verdict rendered in the district court. Fourth, provisions (D) and (E) clearly contemplate

further proceedings occurring in the circuit court; for example, the original papers in the action must be forwarded to the circuit court clerk and the circuit court may order further pleadings. In sum, read in its entirety, in a harmonious and consistent manner, MCR 4.002 does not permit a case that was litigated to a jury verdict in the district court to be transferred to the circuit court solely for the purpose of entering a judgment consistent with that verdict.

Defendant has not presented an explanation as to the jurisdiction it intended to invoke in the circuit court by transferring the case to it post-jury verdict. As discussed above, the constitution vests the circuit court with original jurisdiction, the power to hear and determine civil claims and remedies except where jurisdiction is vested elsewhere or denied, but original jurisdiction was not invoked here—the parties’ rights were fully litigated to a jury verdict in the district court. The circuit court also has appellate jurisdiction but that jurisdiction was not invoked here—the district court never entered a final judgment nor did defendant seek an appeal. The supervisory jurisdiction of the circuit court was also not sought—no complaint for superintending control was filed. Other than its reliance on MCR 4.002, implicating the constitutional grant of “jurisdiction of other cases and matters as provided by rules of the supreme court,” defendant has failed to cite any mechanism by which the circuit court could assert jurisdictional power over this matter. See Const 1963, art 6, § 13.

In fact, the circuit court did not have jurisdiction to enter a judgment on the verdict defendant obtained in the district court. Subject matter jurisdiction is determined at the time the litigation is commenced and depends on the allegations pleaded, including the amount demanded. *Zimmerman v Miller*, 206 Mich 599, 604-605; 173 NW 364 (1919); *Grubb Creek Action Comm v Shiawassee Co Drain Comm’r*, 218 Mich App 665, 668-669; 554 NW2d 612 (1996); *Altman v Nelson*, 197 Mich App 467, 472; 495 NW2d 826 (1992). Once a court acquires jurisdiction its authority continues, subject only to an appellate authority, until the matter is finally and completely resolved. *Schafer v Knuth*, 309 Mich 133, 137; 14 NW2d 809 (1944), quoting *Maclean v Wayne Circuit Judge*, 52 Mich 257; 18 NW 396 (1884). A matter is finally and completely resolved when a judgment is entered—“[a] judgment is defined as the final consideration and determination of a court of competent jurisdiction on the matters submitted to it.” 6A Michigan Pleading & Practice (2d ed), § 42:1, p 235.⁷ In other words, once a court acquires jurisdiction, unless the matter is properly removed or dismissed, that court is charged with the duty to render a final decision on the merits of the case, resolving the dispute, with the entry of an enforceable judgment.

The district court was vested with exclusive jurisdiction in this case. See MCL 600.8301. Although defendant did not clearly plead the amount in controversy,⁸ the countercomplaint was filed in the district court by defendant, who was in the best position to know its damages; therefore, it can be presumed that the amount in controversy did not exceed \$25,000 at the time the action was commenced. At some later point in the litigation, defendant requested that the

⁷ See, also, 46 Am Jur 2d, Judgments, § 1, p 381 (“A judgment is a judicial action of the court. It is the court’s official decision with respect to rights and obligations of the parties to a lawsuit, with respect to the claims involved, or upon matters submitted to it in a proceeding.”)

⁸ Defendant’s prayer of relief requested “damages in an amount that will fairly and adequately compensate counter-plaintiffs for their damages.”

matter be transferred to the circuit court pursuant to MCR 4.002. The district court denied the motion and defendant did not challenge or otherwise appeal the order. This failure to appeal leads to the conclusions that defendant either (a) acquiesced in the district court's decision that the damages did not exceed the jurisdictional limit, or (b) chose to forfeit any amount in excess of the jurisdictional limit because it is well-settled in Michigan law that a district court cannot enter a judgment that exceeds that limit and there is no published case law on the issue of transferring a case to another court post-jury verdict merely for entry of a judgment. See *Zimmer v Schindehette*, 272 Mich 407, 409; 262 NW 379 (1935); *Brooks v Mammo*, 254 Mich App 486, 494; 657 NW2d 793 (2002); *Krawczyk v DAIE*, 117 Mich App 155, 163; 323 NW2d 633 (1982), rev'd in part on other grounds 418 Mich 231 (1983). In any event, whether the district court erroneously denied defendant's motion to transfer the matter to circuit court is not an issue in this appeal, defendant having failed to challenge the decision in the circuit court. See MCR 7.203(B); see, also, *Brooks, supra*; *Hopp Mgt Co v Rooks*, 189 Mich App 310, 313; 472 NW2d 75 (1991). Thus, we must assume without deciding that the matter was properly adjudicated in the district court.

After a jury trial was conducted and a verdict reached, the district court could not relinquish or abandon its duty to render a judgment in accordance with the verdict, subject to its jurisdictional limit, by transferring the matter to the circuit court. See, e.g., MCR 2.514(B). The circuit court did not have lawful jurisdiction to enter a judgment on a case that it did not adjudicate. Without such authority, any judgment the circuit court entered would be void. See *Todd v Dep't of Corrections*, 232 Mich App 623, 628; 591 NW2d 375 (1998). This conclusion is reasonable because the entry of judgment is not merely a ministerial task; rather, it is the manifestation of the court's decision regarding the rights and obligations of the parties as supported by the pleadings and competent evidence. See 46 Am Jur 2d, Judgments, § 2, p 383. The circuit court, which did not preside over this matter, would not be in a position to render such a decision.

The result we reach today is not only consistent with the law, but promotes the effective and efficient administration of justice and use of judicial resources. Relevant considerations include, but are not limited to (1) the recognition that there are advantages and disadvantages associated with litigating a case in the district court, instead of the circuit court, and litigants are fully aware of these differences and presumably choose the forum that is most suitable; (2) the consideration that transfer of an action to the circuit court solely for the ministerial purpose of entering judgment on a district court verdict would thrust onto that court a mere rubberstamping duty that is the antithesis of its tenor in our judicial system, as well as cumbersome to its operations; (3) the rejection of an apparent attempt by a party, in essence, to forum shop *after* the jury has rendered its verdict and in an effort to avoid the jurisdictional limit of the district court; (4) the recognition that there are procedural problems associated with the entry of a final judgment by a court that did not preside over the matter including, for example, the determination of which court would decide posttrial motions; (5) the respect for the fact that a defendant in a matter brought in the district court has the expectation that the degree of monetary liability to which it could be exposed is limited by statute to \$25,000, and proceeds accordingly in light of this risk; and (6) the recognition that allowing a successful party to recover a greater monetary damage award than it pleaded is patently unfair and inconsistent with the general policy that damage awards are compensatory, not punitive, in nature.

In conclusion, when a party invokes the jurisdiction of the district court and litigates the case to a jury verdict without properly challenging that jurisdiction, the party cannot avoid the jurisdictional limit of the district court by seeking entry of a final judgment in the circuit court. To the contrary, the district court is the only court with jurisdiction to enter a judgment on the verdict, within its jurisdictional limit, and such jurisdiction cannot be relinquished in favor of the circuit court for the purpose of avoiding the jurisdictional limit.

Affirmed.

/s/ Christopher M. Murray

/s/ Mark J. Cavanagh

/s/ Michael J. Talbot