

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2023-012338

01/29/2024

HONORABLE KATHERINE COOPER

CLERK OF THE COURT
T. Aird
Deputy

DOUGLAS J CORDANO

STEVEN A COHEN

v.

EDWARD TRENTON ALBARRACIN, et al.

ALICYN MARIE FREEMAN

GEOFFREY G COLLINS
A. DANIEL COUMIDES
QUINTEN T CUPPS
PATRICK GRUCHALA
NO ADDRESS ON RECORD
TESSA KNUEPPEL
CARRIE A LUIKENS
NO ADDRESS ON RECORD
SCOTT CARPENTER
COLE CUMMINS
JUDGE COOPER

RULING RE AMCOR MOTION TO DISMISS

Pending is Defendant AMCOR Property Professional, Inc.'s Motion to Dismiss filed December 4, 2023. The Court has reviewed the Motion, Response, Reply, and Complaint.

The Motion alleges substantially the same deficiencies AMCOR raised in its Motion to Dismiss Merrick Avenue Management's Complaint in CV2023-008406. AMCOR contends that these Complaints have failed to allege a duty owed by AMCOR. The pending Motion to Dismiss argues that no claim can be asserted because the law does not impose a duty on a property management company to an invitee or licensee on private property.

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Cordano's Complaint, however, adequately alleges a claim against AMCOR as the agent of the Defendant Associations who owed a duty to Cordano. Cordano alleges that the Troon Village and Troon Fairways' CC&Rs conferred a duty on the Associations to manage, maintain, repair and replace, and improve the Common areas and to promote "...the health, safety and welfare of the owners,...". See Complaint, ¶¶ 29, 30. Pursuant to this duty, AMCOR was retained to contract to repair and complete the installation of new gates at the entrances of the Troon Community for the safety of members and guests. Complaint, ¶¶ 41-43. AMCOR contracted with Defendant MC General Contracting, LLC to remove and replace the old gates. (See Complaint ¶ 41). Members of the HOA allegedly reported to the Association's Board that the "new" gates did not work properly and, as a result, unauthorized individuals could access the Community. Complaint, ¶45. Accordingly, AMCOR allegedly had knowledge of the defective condition of the gates before the incident occurred. Complaint ¶¶ 44, 48.

Construing the allegations favorably for Cordano, the Court finds the allegations adequate to allege that AMCOR acted as the Association's agent. The scope of AMCOR's agency and whether AMCOR negligently failed to secure the gates are matters to be developed in discovery.

IT IS ORDERED denying AMCOR's Motion to Dismiss.