

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2015-002581

06/01/2015

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT  
S. Brown  
Deputy

MANAGEMENT TRUST INC, THE

MARK BAINBRIDGE

v.

CAMBRIDGE ESTATES HOMEOWNERS  
ASSOCIATION

SEAN CANNON

MINUTE ENTRY

The Court has considered the Renewed Motion to Strike Defendant Cambridge Estates Homeowners' Association's Answer to Complaint and Counterclaim and in the Alternative Motion to Dismiss filed March 26, 2015, the Response, filed April 14, 2015, and the Reply, filed April 27, 2015.

The Management Trust renews its Motion to Strike, previously filed in the Justice Court, because the Association's pleadings were not signed by either a licensed attorney or an officer or director of the Association so authorized. The Court finds this issue to be moot, now that an attorney is representing the Association in this Court, and has affirmed the statements set forth in the Answer and Counterclaim. (See Response at 3.)

The Management Trust also seeks dismissal of the Counterclaim for failure to state a claim upon which relief can be granted. A motion to dismiss for failure to state a claim is disfavored, and should be granted only when it appears certain that the non-movant would not be entitled to relief under any state of the facts susceptible to proof. *Fid. Sec. Life Ins. Co. v. State Dep't of Ins.*, 191 Ariz. 222, 224, ¶ 4, 954 P.2d 580, 582 (1998). In considering such a motion, the Court must assume all the material allegations of the complaint to be true. *Turley v. Ethington*, 213 Ariz. 640, 642, ¶ 2, 146 P.3d 1282, 1284 (App. 2006). The question presented by

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a motion to dismiss for failure to state a claim is whether facts alleged in a complaint are sufficient to allow a plaintiff to attempt to prove its case. *Coleman v. City of Mesa*, 230 Ariz. 352, 363, ¶46, 284 P.3d 863, 874 (2012).

Given the standards cited above, and the allegations set forth in the Complaint, the Court finds that the Association has alleged facts sufficient to allow it to attempt to prove its case.

For the foregoing reasons,

**IT IS ORDERED** denying the Motion to Strike.

**IT IS FURTHER ORDERED** denying the Motion to Dismiss.