

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2018-054012

09/25/2018

HONORABLE CYNTHIA J. BAILEY

CLERK OF THE COURT
A. Wood
Deputy

MALIN COOPER, et al.

JEFFREY L VICTOR

v.

TRESTLE MANAGEMENT GROUP L L C, et al. MICHAEL P OBERT JR.

DENNIS I WILENCHIK
JUDGE BAILEY

MINUTE ENTRY

Courtroom 108-NE

10:00 a.m. This is the time set for Oral Argument re: Defendant K. Hovnanian's Four Seasons at the Manor, LLC and K. Hovnanian's Four Seasons at the Manor II, LLC's Motion to Dismiss filed June 11, 2018. Counsel Jeffrey Victor is present on behalf of Plaintiff Malin Cooper, et al. Counsel Michael Obert Jr. is present on behalf of Defendant Trestle Management Group LLC and Four Seasons at the Manor Homeowners Association. Counsel Dennis Wilenchik is present on behalf of Defendant K Hovnanian's Four Seasons at the Manor LLC and K Hovnanian's Four Seasons at the Manor II, LLC.

A record of the proceedings is made digitally in lieu of a court reporter.

Arguments are presented.

IT IS ORDERED taking this matter under advisement, Ruling as a Later.

10:44 a.m. Matter concludes.

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LATER:

On September 25, 2018, the Court heard oral argument on Defendants K. Hovnanian's Four Seasons at the Manor, LLC and K. Hovnanian's Four Seasons at the Manor II, LLC's Motion to Dismiss, filed June 11, 2018. The Court has read and reviewed Plaintiff's Motion, Defendants, Trestle Management Group, LLC and Four Seasons at the Manor Home Owners Association, Joinder of the Motion to Dismiss, Plaintiff's Response and Defendants K. Hovnanian's Four Seasons at the Manor, LLC and K. Hovnanian's Four Seasons at the Manor II, LLC's Reply. The Court did not consider the non-publically disclosed documents attached to the briefings and therefore denies Plaintiff's request to convert the Motion to Dismiss into a Motion for Summary Judgment.

Rule 8, Ariz. R. Civ. P. requires all legal conclusions be supported by factual allegations. A complaint that states only legal conclusions without supporting factual allegations does not satisfy Arizona's notice pleading standard. See *Cullen v. Auto-Owners, Ins. Co.*, 218 Ariz. 417, 189 P.3d 344 (2008). (A complaint that states only legal conclusions without any supporting factual allegations does not satisfy Arizona's notice pleading standard; failure to comply with Rule 8 is a ground to dismiss the action for failure to state a claim under Rule 12(b)(6). Rule 8 does not permit a trial court to speculate about hypothetical facts that might entitle the Plaintiff to relief).

For the reasons stated in the Motion to Dismiss, as supplemented by the findings on the record, the Court finds that the Complaint failed to state facts to support the legal claims and allegations made and thus does not state claims upon which relief can be granted.

Plaintiff may amend the complaint to allege facts supporting the legal claims contained in the complaint and to address the defects raised in the Motion to Dismiss and the oral argument.

IT IS THEREFORE ORDERED granting the Motion to Dismiss filed June 11, 2018, unless Plaintiff files an amended complaint no later than October 18, 2018 to cure the defects raised.