

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2024-090807

01/14/2025

HONORABLE RODRICK COFFEY

CLERK OF THE COURT  
S. Motzer  
Deputy

FAISAL ELHASSAN

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869 E KRISTA WAY  
TEMPE AZ 85284

v.

COVENTRY TEMPE COMMUNITY  
ASSOCIATION, et al.

LORI N BROWN

JUDGE COFFEY

MINUTE ENTRY

The Court has considered Defendant Coventry Tempe Community Association's Motion to Dismiss. No response was filed and the deadline for filing a response has expired. However, Plaintiff previously requested an extension of time until November 25, 2024 to file a response to that Motion. Defendant filed a response to his request for an extension, stating that it did not object to the requested extension of time. November 25, 2024 came and went, but Plaintiff did not file a response to the motion.

As a general policy matter, Rule 12(b)(6) motions to dismiss are not favored under Arizona law. *State ex. rel. Corbin v. Pickrell*, 136 Ariz. 589, 594, 667 P.2d 1304, 1309 (1983). That is especially true when such motions are based on pleading insufficiencies. *E.g., Cagle v. Carr*, 101 Ariz. 225, 227, 418 P.2d 381, 382 (1966); *see generally Rowland v. Kellogg Brown & Root, Inc.*, 210 Ariz. 530, 533, ¶10, 115 P.3d 124, 127 (App. 2005) (reversing summary judgment for defendant and recognizing sufficiency of complaint despite "numerous technical deficiencies in the document"). In ruling on a Rule 12(b)(6) motion to dismiss, the Court will "assume the truth of the well-pled factual allegations and indulge all reasonable inferences therefrom." *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419 (2008). The Court will grant the motion only if the

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plaintiff is not entitled to relief “under any facts susceptible of proof in the statement of the claim.” *ELM Ret. Ctr., LP v. Callaway*, 226 Ariz. 287, 289 (App. 2010), quoting *Mohave Disposal, Inc. v. City of Kingman*, 186 Ariz. 343, 346 (1996). The Court will not “speculate about hypothetical facts that might entitle the plaintiff to relief.” *Cullen, id.* at 420. Nor will the Court “accept as true allegations consisting of conclusions of law, inferences or deductions that are not necessarily implied by well-pleaded facts, unreasonable inferences or unsupported conclusions from such facts, or legal conclusions alleged as facts.” *Jeter v. Mayo Clinic Ariz.*, 211 Ariz. 386, 389 (App. 2005).

The Court finds that Plaintiff has sufficiently pled his claims for: 1) breach of the implied covenant of good faith and fair dealing; and 2) unjust enrichment. Plaintiff’s other claims are not valid legal causes of action. Accordingly,

**IT IS ORDERED** denying in part Defendant’s Motion to Dismiss with regard to Plaintiff’s claims for: 1) breach of the implied covenant of good faith and fair dealing; and 2) unjust enrichment.

**IT IS FURTHER ORDERED** granting in part Defendant’s Motion to Dismiss with regard to all of Plaintiff’s other claims.