

MICHAEL K. JEANES  
Clerk of the Superior Court  
By Kristal Dear, Deputy  
Date 03/09/2010 Time 16:20:38

Description	Amount
CASE# CV2010-005897	
CIVIL NEW COMPLAINT	301.00
TOTAL AMOUNT	301.00

Receipt# 20408955

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10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

11 **IN AND FOR THE COUNTY OF MARICOPA**

12 **CV2010--005897**

13 PATRICIA W. ALSTON, a married  
14 woman,

No. \_\_\_\_\_

15 Plaintiff,

16 **COMPLAINT**

17 vs.

18 **(Breach of Contract; Breach of**  
19 **Fiduciary Duty and Infliction of**  
20 **Emotional Distress)**

21 PHOENIX COUNTRY CLUB, a non-  
22 profit corporation,

23 **JURY TRIAL DEMANDED**

24 Defendant.

25 Plaintiff, Patricia W. Alston (hereinafter "Alston") for her Complaint alleges as  
26 follows:

27 **PARTIES AND JURISDICTION**

- 28 1. At all relevant times, Defendant Phoenix Country Club (hereinafter "PCC") was a  
non-profit corporation authorized to do, and doing business in Maricopa County,  
Arizona.
2. From its founding until 1994, PCC was an Arizona non-profit corporation, the  
equitable interest holders of which held common stock in that corporation.
3. In 1994, the voting and ownership rights of PCC were changed to active  
memberships.

1 4. Alston is a resident of Maricopa County, Arizona.

2 5. The events referred hereto all occurred in Maricopa County, Arizona, giving rise  
3 to appropriate jurisdiction and venue in Maricopa County, Arizona.

4 **BACKGROUND**

5 6. On December 21, 2005, Alston purchased an active membership Certificate No.  
6 3566 evidencing the ownership of one active membership in the PCC.

7 7. Alston believed there were enhanced golfing privileges provided to the active  
8 members of PCC and, accordingly, she purchased the Certificate of Membership.

9 8. During the Fall of 2007 and Winter of 2008, Alston entered and played in three  
10 Member-Guest tournaments, with three of her women friends as her guests.

11 9. It was obvious to Alston and her guests that they were the only women  
12 participating in the tournaments, and also obvious that many other participants in the  
13 tournaments were put off by having a women's foursome playing with them.

14 10. Although Alston was not advised when she purchased the stock, it apparently was  
15 the tradition that the member tournaments at PCC were for men only.

16 11. After the participation in the member-guest tournaments by Alston and three of  
17 her women friends, Alston began to receive a series of anonymous emails which were  
18 insulting and threatening. These emails related to her participation in the member-guest  
19 tournaments.  
20

21 12. Initial efforts to have the Board of Directors of PCC conduct an investigation to  
22 determine the author of the anonymous emails were unsuccessful.

23 13. On or about May 15, 2008, Alston had, on her own, secured the services of a  
24 computer expert who assured Alston that he could identify the computer from which the  
25 emails were being sent.  
26

1 14. On or about May 28, 2008, Alston spoke with the PCC president, informing him  
2 of the services the computer expert could provide, and requesting that the Board assume  
3 responsibility for the investigation.

4 15. Upon information and belief, at approximately the same time (May, 2008), and  
5 unbeknownst to Alston, other members were, on their own, attempting to discover the  
6 identity of the person sending the anonymous emails.

7 16. On or about the June 1, 2008, the author of the emails identified himself and it was  
8 learned he was a member of the Board of Directors of PCC.

9 17. The activities of this member of the Board of Directors was a cause of much  
10 concern, upset and distress for Alston.

11 18. On information and belief, Alston alleges that some, but not all, of the then-  
12 members of the Board of Directors of PCC knew the identity of the author of the  
13 anonymous emails and took no action. Alston reserves the right, upon discovery of the  
14 names of those Board members, to amend this Complaint and name them personally as  
15 additional Defendants.

16 19. In the Fall of 2008, Alston saw that all of the member tournaments, including the  
17 member-guest tournaments, for play for the golf season running from early September of  
18 2008 through May of 2009, were specifically stated to be for men only, and the member-  
19 guest tournament was re-designated "Men Member-Guest."  
20

21 20. Although Alston requested permission to play in the member-guest tournaments,  
22 she was not allowed to do so.  
23

24 21. Alston was told that all of the member tournaments were restricted to male  
25 members only.

26 22. After Alston was told she would not be allowed to play in any member  
27 tournaments during the 2008-2009 golf season, Alston contacted the then-President of  
28

1 PCC. Alston explained to him what had happened and was told that he would check with  
2 the golf committee to determine if there had been a decision made that only men could  
3 play in the member tournaments.

4 23. As promised, the then-President of PCC did check with the golf committee and  
5 reported back to Alston in December 2008 that things were "all set for this year" but  
6 there was a possibility the club could work on changing the rules for the 2009-2010 golf  
7 season.

8 24. Alston then waited for the 2009-2010 golf season.

9 25. In the Fall of 2009, member tournament play for the year was published. All PCC  
10 member tournaments are for men members only. The only organized golfing  
11 opportunities for Alston would be those also available to wives and girlfriends of male  
12 members.

13 26. There are currently 17 member tournaments scheduled at PCC, all of which are  
14 restricted to men. There are no women's member tournaments scheduled, and the only  
15 organized golf play in which Alston may participate would be with the Women's Golf  
16 Association (hereinafter "WGA") at PCC, the same activities provided for the wives and  
17 girlfriends of the male members, and requiring a fee to join the WGA.

18 27. An examination of the Articles of Incorporation and the By-Laws of Phoenix  
19 Country Club, specifically Article VIII(10) of the By-Laws, provides that the Board of  
20 Directors shall be entitled from time to time to adopt "such equitable, uniform and non-  
21 discriminatory rules and regulations" as may be desirable.

22 28. There are no provisions in the Articles of Incorporation or By-Laws of Phoenix  
23 Country Club that would provide or even suggest that a woman member would not be  
24 entitled to participate in membership activities based on the fact that she is a woman.  
25  
26  
27

1 29. At the time of purchase, Alston paid full asking price for her active membership in  
2 PCC and has, at all times, paid the same dues as male members, and has been subjected  
3 to the assessment denominated "capital improvement dues" that all male members have  
4 been required to pay.

5 30. There are many classifications of memberships at PCC, but only one classification  
6 of "Active Members," which are the equity members who share ownership and control of  
7 the club.

8 31. There are no provisions in the Articles of Incorporation or By-Laws that allow  
9 discrimination against active members based on their sex or sexual orientation.

10 32. While the Articles of Incorporation and By-Laws of PCC provide only one class  
11 of Active Members, 600 in number, in practice, there are four categories of Active  
12 Members at PCC, two of the four are as follows:

13 A. Male members who pay membership dues and assessments and are entitled  
14 to enjoy all of the facilities of the club, including participation in club sponsored member  
15 golf tournaments. Their spouses or significant others (girlfriends) may enjoy all of the  
16 facilities of the club, including participation in the WGA, but not in any membership golf  
17 activities.  
18

19 B. Female members (such as Alston) who pay the same membership dues and  
20 assessments as male members and are entitled to enjoy all of the facilities of the club,  
21 except they are not allowed to participate in any member golf activities. Their organized  
22 golf activities are restricted to playing with the WGA, which consists of the wives and  
23 girlfriends of the male members.  
24

25 33. Alston has attempted, on several occasions, to resolve this dispute over this  
26 disparate treatment, but has been completely rebuffed by the Board of Directors of PCC.  
27

28

1 34. On information and belief, Alston alleges that some, but not all, of the current  
2 members of the Board of Directors of PCC have, in determining rules and regulations,  
3 including treatment of active members of PCC, have acted beyond the scope of their  
4 authority and not in compliance with the Articles of Incorporation, By-Laws, Rules and  
5 all governing documents of Phoenix Country Club. Accordingly, these individuals bear  
6 personal liability. Alston reserves the right, upon discovery of the names of those Board  
7 members, to amend this Complaint and name them as additional Defendants in their  
8 personal capacity.  
9

10 **STATEMENT OF CLAIMS**

11 **Count I**

12 **(Breach of Contract)**

13  
14 35. Alston realleges and incorporates by reference the allegations contained in  
15 Paragraphs 1-34 of this Complaint.

16 36. The Board of Directors of Phoenix Country Club has violated its fiduciary duty,  
17 statutory responsibility, and provisions of the Articles of Incorporation and By-Laws in  
18 denying Alston the full benefits and access to the golf activities which she was entitled to  
19 receive based upon her Active Membership ownership.

20 37. As a result of the allegations contained in Paragraph 36, PCC has breached its  
21 contract with Alston and Alston has suffered damages in an amount to be determined at  
22 the trial of this matter.

23 **Count II**

24 **(Breach of Fiduciary Duty)**

25 38. Alston realleges and incorporates by reference the allegations contained in  
26 Paragraphs 1-37 of this Complaint.  
27

1 39. The Board of Directors of PCC owed a fiduciary duty to Alston (as one of the  
2 active equity members (owners) of PCC) to not treat her in any way that was inconsistent  
3 with the Articles of Incorporation and By-Laws of PCC. The Articles and By-Laws  
4 restrict the Board of Directors of PCC in the extent and scope of the exercise of their  
5 responsibilities in the governance of the club's activities.

6 40. Neither the Articles of Incorporation nor the By-Laws of PCC give authority to the  
7 Board of Directors of PCC to bar any active member from participating in membership  
8 activities at the club based on their gender.

9 41. As a result of the allegations contained in Paragraphs 39 and 40, The Board of  
10 Directors of PCC have acted beyond the authority provided for them in the Articles of  
11 Incorporation and By-Laws of PCC, and have breached their fiduciary duty to Alston.

12 42. The Vision Statement for PCC provides in part: "Phoenix Country Club shall also  
13 protect members' equity to insure that the club continues to attract qualified new  
14 members." The Board's illegal and unauthorized treatment of Alston has placed, and  
15 continues to place, in jeopardy the value of the equity members' ownership in PCC, and  
16 specifically has decreased the value of Alston's membership.

17 43. Were Alston to sell her Active Membership, she would be required to disclose her  
18 treatment to any prospective purchaser. Thus, Alston has been damaged by the actions of  
19 the Board in an amount to be determined at the trial of this matter.  
20

21  
22 **Count III**

23 **(Infliction of Emotional Distress)**

24 44. Alston realleges and incorporates by reference the allegations contained in  
25 Paragraphs 1-43 of this Complaint.

26 45. Upon information and belief, Alston alleges some, but not all, of the members of  
27 the then-existing Board of Directors of PCC knew, and/or participated in, and/or  
28

1 encouraged the Board Member in his intentional assault on Alston with the previously  
2 described anonymous emails.

3 46. As a result of the allegations contained in Paragraph 45, Alston has suffered  
4 emotional damages and requests that she be awarded damages for the emotional distress  
5 inflicted upon her by the member of the Board of Directors of PCC, and those complicit  
6 members of the Board, if any there may be, also be held jointly and severally personally  
7 liable for those emotional damages.

8 WHEREFORE, Alston, having stated her claims against PCC, requests that this  
9 Court:

10  
11 A. Enter judgment for Alston and against PCC for breach of its  
12 contractual relationship between them by depriving Alston of her rights as an Active  
13 Member, in an amount to be determined at trial.

14 B. Enter judgment for Alston and against PCC for breach of its  
15 fiduciary duty to Plaintiff, by depriving Alston of her rights as an Active Member, in an  
16 amount to be determined at trial.

17 C. Enter judgment for Alston against PCC for the emotional distress  
18 suffered by Alston as a result of the anonymous emails, later determined to have been  
19 sent by a then-member of the Board of Directors of PCC, in an amount to be determined  
20 at trial.

21  
22 D. Award Alston her attorneys' fees and costs incurred herein.

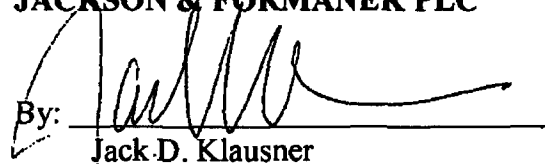
23 E. Award Alston such other and further relief as the Court may deem  
24 proper.

25  
26 Dated this 9th day of March, 2010.



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MICHAEL K. JEANES, CLERK  
BY *H. Seal* DEP  
FILED

10 MAR -9 PM 4: 22

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11 **IN AND FOR THE COUNTY OF MARICOPA**

12 CV2010-005897

13 PATRICIA W. ALSTON, a married  
14 woman,

No. \_\_\_\_\_

15 Plaintiff,

16 **CERTIFICATE RE COMPULSORY**  
17 **ARBITRATION**

18 vs.

19 PHOENIX COUNTRY CLUB, a non-  
20 profit corporation,


21 Defendant.

22 The undersigned certifies that he knows the dollar limits and any other limitations  
23 set forth by the local rules of practice for Maricopa County Superior Court and further  
24 certifies that this case is not subject to compulsory arbitration as provided by Rules 72  
25 through 76 of the Arizona Rules of Civil Procedure.

26  
27 Dated this 9<sup>th</sup> day of March, 2010.  
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