

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF OLMDSTED

THIRD JUDICIAL DISTRICT  
CASE TYPE: Contract and Tort

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Center of the American Experiment,

Court File No: 55-CV-22-1586

Plaintiff,

v.

**FIRST AMENDED COMPLAINT**Rochester Golf & Country Club;  
Erin Nystrom,Defendants.

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**INTRODUCTION**

1. Defendant Rochester Golf and Country Club (“RGCC”) materially breached its contract (“Contract”) with Plaintiff Center of the American Experiment (“CAE”) related to CAE’s event scheduled to take place at RGCC on March 15, 2022 (“Event”). Despite no contractual right to do so, and after confirming the Event would take place as recently as the Friday before it, RGCC suddenly and unilaterally canceled CAE’s Event on March 13 at around 4:15 PM.

2. For the Event, CAE had planned to host two local law enforcement officers and a 20-year FBI veteran in order to discuss public safety issues.

3. RGCC cancelled the Event because of a twisted and falsehood-laden Change.org petition spearheaded by Defendant Erin Nystrom and signed by a few politically active club members. There is no mistake as to Nystrom’s malicious intent—she publicly stated on Facebook that her intent was to brand CAE with a “scarlet letter” to prevent CAE from being hosted in the Rochester area, and after she obtained the cancellation, she told a CAE employee via email that “[k]arma’s a bitch.”

4. RGCC later claimed that the cancellation was due to a “rift” in membership. This is a meaningless statement, except when considering the basis for the “rift”—a few politically motivated members willing to hurt CAE by shutting down its ability to speak to interested residents of Rochester.

5. CAE planned the Event based on its contract with RGCC, and devoted weeks of employee time, advertising, and other resources to this Event.

6. RGCC’s arbitrary and capricious cancellation, and Nystrom’s intentional interference with CAE’s contract, have caused damages to CAE. CAE therefore seeks money damages to compensate it for RGCC’s and Nystrom’s wrongful conduct.

### **PARTIES**

7. Plaintiff Center of the American Experiment is a Minnesota nonprofit corporation with its registered office address at 8421 Wayzata Blvd., Suite 110, Golden Valley, Minnesota 55426.

8. Defendant Rochester Golf and Country Club is a Minnesota nonprofit corporation with its registered office address at 3100 Country Club Rd., Rochester, MN 55902.

9. Defendant Erin Nystrom is, upon information and belief, a resident of Olmsted County, Minnesota.

### **JURISDICTION AND VENUE**

10. The Court has personal jurisdiction over the defendants, whose principal place of business is in Minnesota or who reside in Minnesota.

11. Venue is proper because this cause of action arose in Olmsted County, Minnesota, and the Defendants, upon information and belief, reside in Olmsted County.

### **FACTUAL ALLEGATIONS**

12. On February 17, 2022, CAE entered into the Contract with RGCC. A copy of this Contract is attached as Exhibit A.

13. CAE's purpose in entering into the Contract was to host an Event, to which CAE would invite the public to hear speakers present about public safety matters at RGCC facilities.

14. The Event was to be held at RGCC from 10:00 am until 2:00 pm on Tuesday, March 15, 2022, according to the terms of the Contract, which was executed by both parties.

15. Based on the Contract and RGCC's promise to host the Event, CAE devoted weeks of employee time and resources for advertising, booked speakers, sold tickets, created materials for the Event's discussion, and otherwise prepared for the Event.

16. CAE reserved for the Event Olmsted County Sheriff Kevin Torgerson; Rochester Chief of Police James Franklin; and Jeff Van Nest, former FBI agent and CAE Policy Fellow.

17. Given their demanding schedules and responsibilities, it is not easy to assemble a panel like this that includes the county sheriff and the city chief of police.

18. As late as Friday, March 11, 2022, RGCC continued to confirm details with CAE related to the March 15 Event.

19. RGCC suddenly told CAE of its intent to refuse CAE access to RGCC and thus breach the contract for the first time on Sunday, March 13, 2022, at 4:13 pm, less than 48 hours before the event was scheduled to take place.

20. CAE received this information through a conversation between its employee Micah Olson, CAE's Greater Minnesota Coordinator, and Kevin Ehlert, the country club's general manager.

21. RGCC never identified any basis for a contractual right to cancel.

22. John Hinderaker, President of CAE, spoke to Kevin Ehlert on the morning of March 14. Ehlert did not dispute Hinderaker's statement that the contract's force majeure clause did not justify cancellation, nor did he offer any theory on which the club had a right to terminate the contract.

23. There is no provision in the Contract which allowed RGCC to cancel the Event, and RGCC's cancellation constituted a breach of contract.

24. RGCC materially breached the Contract by cancelling it and refusing to allow CAE to hold the Event at RGCC on March 15, 2021.

25. Upon information and belief, RGCC's reason for its intended breach of contract was that Defendant Erin Nystrom and others demanded the cancellation of the Event, including by publishing a petition ("Petition") signed by a number of individuals who are politically opposed to CAE.

26. RGCC claimed in an affidavit that it was cancelling the Event because of a "rift" among members, which is a meaningless statement without reference to the reason for the "rift."

27. Defendant Erin Nystrom created the Petition on the website Change.org. A copy of the Petition is attached as Exhibit B.

28. This Petition was available at the following link: <https://www.change.org/p/cancel-event-for-center-of-the-american-experiment-at-rgcc-on-3-15-21> (last accessed March 14, 2022). However, it appears to have been deleted by its author, Erin Nystrom, after CAE filed this lawsuit.

29. The Petition included a number of false statements about CAE, including the following:

- a. "Rochester Public School Board was met with literal chaos *directly resulting from the rhetoric and action encouraged* among participants of the CAE

luncheon at RGCC” (emphasis added);

- b. The Petition implied that CAE was responsible for “a 41-page request from the local group ‘Equality in Education’ represented by a Minneapolis firm,” related to which there was an “estimated cost to schools and staff and respond to the request [sic] was \$900,000”;
- c. “Negative public school outcomes are *celebrated* on CAE Facebook page”. (emphasis added).

30. Nystrom also admitted in the Petition that she and other members of RGCC demanded that RGCC cancel the Contract with CAE.

31. Nystrom celebrated the cancellation of the Event publicly on Facebook and indicated that her intent in creating the Petition and demanding the Event’s cancellation was to “plan for this organization to now be marked with a scarlet letter and find it very difficult to book an alternative venue in the area.” A screenshot of Ms. Nystrom’s Facebook page and comments celebrating the cancellation of the Event and stating her intent are attached as Exhibit C.

32. Nystrom also published to her public Facebook page a copy of the Petition, which is available on the attached Exhibit C.

33. Nystrom also stated on Facebook that “negative impacts on our public schools directly result[ed] from CAE’s last meeting in June, which disparaged and mislabeled DEI work and teachings of our schools.” Exhibit C. This statement is false.

34. Nystrom also stated on Facebook that “[t]he agenda of Center of the American Experiment is not welcome here.” Exhibit C.

35. Nystrom reiterated her malicious intent in an email to CAE employee Tom Steward at 10:09 PM on March 13, 2022, stating: “Tom..looks like Roch event of Tues will be cancelled.

Don't mess w our kids' schools. Karma's a bitch. Erin Nystrom."

36. These statements demonstrate that Defendant Erin Nystrom maliciously and intentionally induced RGCC to cancel the Event by demanding its cancellation, organizing others to demand the same, and making false statements about CAE.

37. Defendant Nystrom's express intent was to harm CAE.

38. Separate from and in addition to her false statements about CAE, Nystrom engaged in a public relations campaign designed to recruit others to stop CAE from being able to hold events in the Rochester area.

39. Separate from and in addition to her false statements about CAE, Nystrom also specifically demanded that RGCC cancel the Contract, and recruited others, including members of the RGCC, to do so as well.

### **CAUSES OF ACTION**

#### **Count One**

#### **Breach of Contract (Defendant RGCC)**

40. Plaintiff incorporates the preceding paragraphs by reference.

41. To prevail on a breach of contract claim under Minnesota law, CAE must prove formation of a contract, performance of conditions precedent by CAE, and breach of contract by RGCC.

42. The Contract is a contract between CAE and RGCC.

43. CAE performed all conditions precedent under the Contract. RGCC admitted to CAE via its General Manager that RGCC has no defense to its breach of contract based on any failure to perform by CAE or otherwise.

44. RGCC materially breached the contract by refusing to allow CAE to host the Event.

45. RGCC's last-minute material breach of the Contract after it had led CAE to believe that the Event was still scheduled to go forward as late as March 11 demonstrates that RGCC breached the covenant of good faith and fair dealing. RGCC acted in bad faith by refusing to fulfill its duties and contractual obligations to CAE based on its ulterior motive of mollifying a radical mob.

46. RGCC's actions damaged CAE. These damages include, but are not limited to: the cost of CAE employee time, and the cost of CAE resources, spent planning the Event, advertising it, selling tickets, and booking speakers.

### **Count Two**

#### **Promissory Estoppel (Defendant RGCC)**

47. Plaintiff incorporates the preceding paragraphs by reference.

48. In the alternative, RGCC's renegeing on its promise to host the Event presents a classic example of promissory estoppel.

49. Under Minnesota law, a plaintiff may establish promissory estoppel which binds the defendant where (1) a clear and definite promise was made to the promisee; (2) the promisor intended to induce reliance, and the promisee in fact did rely on that promise to his or her detriment; and (3) the promise must be enforced to prevent injustice.

50. RGCC made a clear and definite promise to rent the venue for the Event to CAE and to provide lunch for the attendees at the Event.

51. RGCC intended to induce reliance, as it continued to confirm Event details until March 11, and then waited until March 13, a Sunday, after 4:00 P.M. to inform CAE that it would not honor its promise.

52. CAE relied on RGCC's representations to invite speakers, advertise the event,

invite attendees, and sell tickets.

53. Now, the Court must enforce the RGCC's promise to prevent injustice to CAE, as described above, consistent with the general policy of the State of Minnesota that businesses keep their word when others rely on them. *E.g., Cohen v. Cowles Media Co.*, 479 N.W.2d 387, 391-92 (Minn. 1992) ("The reporters who actually gave the promises adamantly testified that their promises should have been honored.").

### **Count Three**

#### **Tortious Interference with Contract**

##### **(Defendant Nystrom)**

54. Plaintiff incorporates the preceding paragraphs by reference.

55. CAE had a Contract with RGCC for the Event.

56. Nystrom knew of the Contract.

57. Nystrom intentionally procured material breach of the Contract by engaging in a public relations campaign designed to recruit others to stop CAE from being able to hold events in the Rochester area, demanding that RGCC cancel the event, recruiting others to do the same, and making false statements about CAE in the Petition and elsewhere. These actions caused the breach of the Contract.

58. Nystrom had no justification for procuring RGCC's breach of the Contract.

59. Nystrom's intentional interference was malicious and based on both false statements and conduct separate from her false statements.

60. Nystrom's intentional interference with CAE's Contract caused damages to CAE.

#### **PRAYER FOR RELIEF**

Plaintiff respectfully requests that the Court grant the following relief:

A. Against Defendant RGCC, an award of nominal, actual, and compensatory damages, in an amount to be proven at trial, in excess of \$50,000;

B. Against Defendant Nystrom, an award of nominal, actual, and compensatory damages, in an amount to be proven at trial, in excess of \$50,000;

C. That Nystrom be held jointly and severally liable with RGCC for her tortious conduct;

D. An award of costs and expenses upon Plaintiff prevailing in this litigation and application for the same;

E. An award of all other relief that the court may deem just, proper, or equitable.  
Respectfully submitted,

**UPPER MIDWEST LAW CENTER**

Dated: April 4, 2022

/s/ James V. F. Dickey

Douglas P. Seaton (#127759)  
James V. F. Dickey (#393613)  
Gregory J. Joseph (#346779)  
8421 Wayzata Blvd., Suite 300  
Golden Valley, Minnesota 55426  
doug.seaton@umlc.org  
james.dickey@umlc.org  
greg.joseph@umlc.org  
(612) 428-7000

*Attorneys for Plaintiff*

**ACKNOWLEDGMENT**

The undersigned hereby acknowledges that sanctions may be imposed under Minn. Stat. § 549.211, subd. 3 against the undersigned for violation of Minn. Stat. § 549.211, subd. 2.

Dated: April 4, 2022

/s/ James V. F. Dickey  
James V. F. Dickey