

IN THE IOWA DISTRICT COURT IN AND FOR DUBUQUE COUNTY

CITY OF DYERSVILLE, IOWA, Plaintiff, vs DUBUQUE COUNTY, IOWA, Defendant.	Case No.
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PETITION AT LAW

COMES NOW the Plaintiff, City of Dyersville, by and through undersigned counsel, and for its cause of action against Defendant Dubuque County, Iowa states:

COMMON FACTS

1. Plaintiff City of Dyersville (“Dyersville”) is a municipality located in Dubuque and Delaware Counties in the State of Iowa.
2. Dubuque County (“County”) is a governmental subdivision of the State of Iowa.
3. On or about December 12, 2022, Dyersville and County entered into a Subrecipient Agreement (the “Agreement”) concerning disbursement of Coronavirus State and Local Recovery Funds from County to Dyersville.
4. The purpose of the Agreement was to provide for the disbursement of funds held by the County to Dyersville for the development of the Field of Dreams ballpark facilities.
5. Pursuant to the terms of the Agreement, Dyersville submitted invoices to the County for payment.
6. From the date of the Agreement through November 29, 2023, Dyersville submitted invoices to the County and requested that each be paid by paper check sent to Dyersville for deposit into Dyersville’s accounts.
7. Pursuant to the terms of the Agreement, all invoices were submitted by Dyersville to the County by email to Stella.Runde@dubuquecountyiowa.gov.
8. At some time prior to November 29, 2023, Dyersville’s municipal email was compromised by a malicious third party.

9. Dyersville had no actual or constructive knowledge of the email compromise.
10. On or about November 29, 2023, Dyersville's City Clerk emailed an invoice and request for payment in the amount of \$524,283.88 to the County pursuant to the terms of the Agreement.
11. Without Dyersville's knowledge, the malicious third party sent a second email, claiming to be Dyersville's City Clerk, asking that the requested payment be made via electronic funds transfer rather than paper check.
12. The third party, still impersonating the Dyersville City Clerk, submitted an application for the requested funds to be paid via electronic funds transfer to an out-of-state bank with no connection to Dyersville or the State of Iowa.
13. Dyersville has historically received numerous payments from the County for various municipal purposes, all of which, prior to the payment at issue in this case, were paid by paper check.
14. Despite never having made an electronic funds transfer payment to Dyersville in the past and despite the fact that the request for payment was to an out-of-state bank with no connection to Dyersville or the State of Iowa, County personnel issued the payment via electronic funds transfer.
15. The County took no action to reach out to anyone in Dyersville to confirm the request for electronic funds transfer or to verify the account into which the funds were to be deposited.
16. The payment requested by Dyersville was instead paid by the County by electronic funds transfer to the malicious third party and the funds were not received by Dyersville.
17. The decision by the County to issue this electronic payment without first confirming the validity thereof is not a discretionary function and is not protected by any governmental tort claims immunity.
18. The amount in controversy exceeds the jurisdictional limits.

COUNT I – BREACH OF CONTRACT

19. Plaintiff City of Dyersville restates and repleads Paragraphs 1 through 18 hereof as though fully set forth herein.
20. The Subrecipient Agreement by and between Dyersville and the County is a valid contract.
21. The Agreement provides in relevant part that Dyersville will submit invoices to the County and that the County will issue payment to Dyersville pursuant to such invoices following review thereof.

22. Dyersville fully performed its obligations under the Agreement.
23. The County breached the Agreement by failing to issue payment to Dyersville as required under the terms of the Agreement.
24. Dyersville has suffered damages in the amount of \$524,283.88 as a direct result of County's breach of the Agreement.

WHEREFORE, Plaintiff City of Dyersville prays for judgment in its favor and against Dubuque County in the amount of \$524,283.88, plus attorneys' fees, and pre-judgment interest thereon at the statutory rate.

COUNT II – NEGLIGENCE

25. Plaintiff City of Dyersville restates and repleads Paragraphs 1 through 18 hereof as though fully set forth herein.
26. Defendant Dubuque County had a duty to exercise reasonable care in its issuance of payments to Dyersville.
27. The County breached its duty of reasonable care by failing to verify the electronic funds transfer with Dyersville before issuing such payment.
28. The County's breach of its duty was the proximate cause of damage to Dyersville in the amount of \$524,283.88.

WHEREFORE, Plaintiff City of Dyersville prays for judgment in its favor and against Dubuque County in the amount of \$524,283.88, plus attorneys' fees, and pre-judgment interest thereon at the statutory rate.

JURY DEMAND

Plaintiff City of Dyersville hereby demands trial to a jury on all matters herein.

Respectfully Submitted,

FUERSTE, CAREW,
JUERGENS & SUDMEIER, P.C.

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