

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

NEEDVILLE LITTLE LEAGUE, INC. and	:	No. 21-00801
TULSA NATIONAL LL, INC.,	:	
Plaintiffs	:	
vs.	:	CIVIL ACTION – LAW
	:	
LITTLE LEAGUE BASEBALL, INC.,	:	
Defendant	:	

OPINION AND ORDER

AND NOW, this 28th day of December 2022, the Court hereby issues the following OPINION and ORDER regarding Defendant's Preliminary Objections to Plaintiffs' Second Amended Complaint.

BACKGROUND

The Court summarized the background of this case in its June 24, 2022 Opinion and Order as follows:

"Plaintiffs commenced this matter on August 12, 2021 with the filing of a Complaint containing three counts: Count I, seeking emergency, preliminary, and permanent injunctive relief; Count II, alleging breach of contract; and Count III, asserting equitable estoppel. Plaintiffs' claims arose out of Defendant's refusal to allow them to participate in the 2021 Little League World Series for reasons relating to the COVID-19 pandemic. The background of this case, and the Court's decisions regarding injunctive relief and equitable estoppel, are discussed in detail in this Court's August 17, 2021 Order. Defendant filed a Motion for Reconsideration of the August 17, 2021 Order, but withdrew that Motion following argument and a discussion on the record on December 14, 2021. On that date, the parties agreed that, inasmuch as Counts I and III of the August 12, 2021 Complaint sought

emergency relief that the Court denied in its August 17, 2021 Order, the only remaining operative claim was for breach of contract.

On January 4, 2022, Defendant filed Preliminary Objections to the original Complaint. On January 24, 2022, Plaintiffs filed an Amended Complaint, containing a single count for breach of contract.”

On February 10, 2022, Defendant filed Preliminary Objections to the Amended Complaint. Defendant’s first objection alleged that Plaintiffs’ breach of contract claim was insufficiently specific, in large part because Plaintiffs failed to attach the purported contract or otherwise highlight the relevant portions of the contract. Defendant’s second objection demurred to the claim, averring that Plaintiffs were unable to plead the element of breach as a matter of law.¹

On June 24, 2022, the Court issued an Opinion and Order sustaining Defendant’s first preliminary objection and sustaining in part and denying in part Defendant’s second preliminary objection. The Court ordered Plaintiffs to file an Amended Complaint “that states with specificity 1) which contractual terms... Defendant Breached, 2) how Defendant breached them, and 3) which of Defendant’s actions violated the implied covenant of good faith and fair dealing.” The Court directed Plaintiffs to attach a full copy of the alleged contract to the Second Amended Complaint. The Court further ruled that Plaintiffs had satisfactorily pled that a contract existed and incorporated COVID-19 protocols,

¹ Defendant raised a third objection for failure to appropriately verify the Complaint in accordance with Rule of Civil Procedure 1024; Plaintiffs cured any violation by filing a substituted verification prior to argument on Defendant’s Preliminary Objections.

denying Defendant's demurrer to the extent it contended such allegations failed as a matter of law. The Court agreed, however, that Plaintiffs had not satisfactorily pled a breach of contract due to the lack of specificity in their pleadings.

SECOND AMENDED COMPLAINT AND PRELIMINARY OBJECTIONS

On July 14, 2022, Plaintiffs filed a Second Amended Complaint, reiterating the factual allegations previously pled in the First Amended Complaint. The Second Complaint contains four new exhibits: Exhibit A, Plaintiffs' 2022 charters; Exhibit B, a screenshot of Defendant's Rules and Regulations for 2022; Exhibit C, a July 2021 email from Defendant to all charter teams containing Defendant's 2019 COVID-19 protocols; and Exhibit D, a "Frequently Asked Questions" document Defendant posted online in 2021.² The Second Amended Complaint essentially contends that these documents created the contractual framework by which Plaintiffs agreed to abide, and which they expected Defendant to abide, resulting in damages when Defendant acted in a contrary manner.

On August 2, 2022, Defendant filed Preliminary Objections to the Second Amended Complaint. Defendant's preliminary objection is in the nature of a demurrer, contending that despite augmenting their pleading with documentation Plaintiffs have still failed to specify exactly which terms of a contract Defendant

² Plaintiffs note that the 2021 versions of their charters and Defendant's Rules and Regulations are the applicable documents, but aver that these documents are no longer accessible online and have been replaced with the 2022 versions of the documents. Plaintiffs assert that the 2022 versions are materially identical to the 2021 versions of these documents.

breached. Defendant argues that “[t]he only purported contract language referenced in Plaintiffs’ Second Amended Complaint represent the COVID-19 protocols, which [Defendant] unquestionably did not breach.” Essentially, Defendant argues that although Plaintiffs successfully pled that the Rules and Regulations required Defendant to “operate according to... COVID-19 procedures, espoused by the Tournament Committee in Williamsport,” Plaintiffs have not pled a failure of “Tournament officials [to] act[] in concert with the Tournament Committee in Williamsport, nor [of] officials [to] follow[] CDC guidelines for contact tracing and quarantining following positive COVID-19 test results.”³

In response to Defendant’s Preliminary Objection, Plaintiffs argue that the Second Amended Complaint sufficiently identifies specific contractual provisions that Defendant violated, including Defendant’s description of what would happen “In the Event of a Positive Covid-19 Test.”⁴ Plaintiffs assert that they averred facts that if true could establish that Defendant failed to apply its rules or abide by CDC guidelines as it promised it would, to Plaintiffs’ detriment.

At argument, Defendant addressed each of the four Exhibits. Regarding the team charters, Defendant suggested that these were not relevant, except perhaps to the extent they incorporated the tournament rules in Exhibit B. Defendant pointed

³ Defendants also raised a second preliminary objection for failure of the verification to comply with Rule 1024; once again, Plaintiffs filed an amended verification that satisfied Rule 1024 and rendered this preliminary objection moot.

⁴ The Court will address the specific provisions of Exhibits A through D cited by Plaintiffs as violated contractual provisions below.

out that those rules in Exhibit B provided that “[r]evocation of tournament privileges or forfeiture of a tournament game may be decided only by the Tournament Committee at Williamsport,” and generally reserved for Defendant a great deal of discretion in addressing issues that arose in its regional and national tournaments. Defendant noted that Exhibit C, the email to teams concerning the COVID-19 situation, stated that Defendant would “initiate all appropriate quarantine, isolation, and contact tracing procedures,” suggesting that Plaintiffs had not pled that Defendant’s actions were inappropriate and thus in violation of the procedure it promulgated. Regarding Exhibit D, Defendant highlighted its statement that it would follow CDC guidance along with local and national governmental requirements, working with healthcare and government professionals to ensure above all “[t]he health and well-being of [tournament] participants....”

Defendant argued, in essence, that despite Plaintiffs’ citation to numerous portions of documents promulgated by Defendant, they have still not pled specific actions Defendant took that *violated* these provisions. Rather, Defendant argues, the bulk of Plaintiffs’ claims rely on allegations that Defendant failed to follow their own protocol because they disqualified teams without consultation and applied their rules to certain teams and not others in an arbitrary fashion. These allegations, Defendant contends, are vague and without factual support. Defendant contends that to the extent Plaintiffs allege that Defendant promised disqualification decisions would be made on a player-by-player or coach-by-coach basis, but that Defendant

arbitrarily and unexpectedly switched to team-by-team disqualification, language guaranteeing individual decision making is nowhere to be found in any of the documents Plaintiffs cited.

Rather, Defendant argued, the common theme of the documents is that Defendant reserved broad discretion to make decisions “as appropriate” to address an unprecedented, constantly-changing situation, and nothing Plaintiffs pled suggested Defendant failed to do so. Defendant acknowledged the Court must accept Plaintiffs’ factual allegations as true, but stressed that the Court need not accept Plaintiffs’ characterizations of what the contract means, as that is a question of law to be decided by the Court. Ultimately, Defendant urged the Court to recognize the broad discretion Defendant possessed to address the COVID-19 situation, and resist Plaintiffs’ invitation to read specific requirements into the contract that are not actually supported by its language. Defendant argued that mere allegations in retrospect that it could have done some things better are categorically insufficient to support a breach of contract claim.

In reply, Plaintiffs argued that the exhibits they attached clearly constitute a promise from Defendant to all teams, including Plaintiffs, to apply their rules evenly, not changing them on a case-by-case basis unless they were granted an explicit waiver. Although Defendant had significant discretion, Plaintiffs contended, they exercised that discretion capriciously, rather than according to the procedure they had previously laid out. Specifically, Plaintiffs pointed out Defendant’s failure to

conduct contract tracing on their teams following the initial positive tests as violations of the protocol Defendant set forth, representing an arbitrary change of the previously promulgated rules. Plaintiffs further alleged that Defendant permitted other teams with identical situations to advance and violated their promise not to allow local rules to trump national ones, and that these actions constituted further breaches of the contract Plaintiffs and Defendant entered into.

ANALYSIS

A. Relevant Principles of Law

In ruling on preliminary objections in the nature of a demurrer, the Court must determine whether “on the facts averred, the law says with certainty that no recovery is possible.... Where a doubt exists as to whether a demurrer should be sustained, this doubt should be resolved in favor of overruling it.”⁵ In deciding a demurrer, the Court must “accept as true all well-pleaded, material, and relevant facts alleged in the complaint and every inference that is fairly deducible from those facts.”⁶

To bring a breach of contract, a party must plead “(1) the existence of a contract, including its essential terms; (2) a breach of the contract; and (3) resultant damages. Additionally, it is axiomatic that a contract may be manifest orally, in writing, or as an inference from the acts and conduct of the parties.”⁷ The Supreme

⁵ *Weiley v. Albert Einstein Medical Center*, 51 A.3d 202, 208-09 (Pa. Super. 2012).

⁶ *Raynor v. D’Annunzio*, 243 A.3d 41, 52 (Pa. 2020).

⁷ *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 137 A.2d 1247, 1258 (Pa. 2016) (citations and internal quotations omitted).

Court of Pennsylvania has explained that when “a defendant demurs to a complaint and challenges a plaintiff’s right to recovery on the grounds that the contract upon which plaintiff’s claims depend does not mean what the complaint alleges, we look to see whether the contract’s meaning, as set forth in the complaint, is warranted under contract principles.”⁸ In so doing, “unambiguous contracts are interpreted by the court as a matter of law” and “ambiguous writings are [to be] interpreted by the finder of fact.”⁹

B. Relevant Portions of Exhibits

Plaintiffs’ Second Amended Complaint supplemented their previous allegations with four exhibits that they claim form the specific contractual provisions that Defendant violated. Exhibit A consists of both Plaintiff teams’ 2022 charters,¹⁰ which state in relevant part:

⁸ *Insurance Adjustment Bureau, Inc. v. Allstate Ins. Co.*, 905 A.2d 462, 468 (Pa. 2006).

⁹ *Id.* at 469.

¹⁰ As noted above, Plaintiffs contend these charters are materially identical to their 2021 charters, which are unavailable because Defendant has removed them from the internet. Rule of Civil Procedure 1019(i) provides that “if [a] writing or copy [upon which a claim is based] is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.” Plaintiffs’ attachment of the 2022 charters clearly satisfies this Rule.

"2022 LITTLE LEAGUE Certificate of Charter

This certifies that [Plaintiff Team] is an official Little League Program for the 2022 season and agrees to adhere to the rules, regulations, and policies of Little League Baseball, Incorporated. As a proud member of the Little League community, this league believes in the power of youth baseball and softball to teach life lessons that build stronger individuals and communities and will work together as One Team. One Little League.

Issued January 1, 2022 at Williamsport, Pennsylvania."

Each charter is signed by the President and CEO of Little League and indicates it is valid through December 31, 2022.

Exhibit B is a screenshot of Defendant's 2022 Rules and Regulations, which include the following potentially relevant passages:

"Little League affairs are administered by the Little League International Board of Directors. Policies, operating procedures, and controls of the program are carried out by Little League International staff, under the direction of the President and the Executive Committee.

The local league operates under a charter granted annually by Little League. The League is autonomous in the sense of having freedom to elect its own officers, finance its program, and carry on various other related functions, but it must adhere scrupulously to all rules and regulations established by Little League.

...

Responsibility and Chain of Command

It should be clearly understood by Tournament Directors and league presidents that operation of the annual tournaments in Little League come under a different authority and jurisdiction from that normally observed during the playing season. It is, in fact, a whole new ball

game. Once the tournament season starts, authority is vested solely in the Tournament Committee at Williamsport.

There will be no waivers, resorting to local rules, or other variation unless granted explicitly from Williamsport. To administer the tournament properly and scale down thousands of teams to two finalists in the limited time afforded by the tournament season is an undertaking requiring considerable discipline. Once the tournament starts, it must proceed without interruption. If protests or disputes occur which cannot be settled by the umpires or Tournament Director through immediate and concise application of the rules, an appeal must be made through proper channels promptly to prevent a major blockage or loss of momentum.

Revocation of tournament privileges or forfeiture of a tournament game may be decided only by the Tournament Committee at Williamsport....”

Exhibit C consists of a July 9, 2021 document, emailed to teams, titled “What Teams can Expect at the 2021 Little League Region and World Series Tournaments.” Relevant portions of Exhibit C read as follows:

“Having the opportunity to play at a Little League Baseball or Softball Region and World Series Tournament is, for many, a once-in-a-lifetime experience. The ongoing challenges the world faces due to the coronavirus pandemic will make the 2021 iterations of these iconic events unlike any other year.

For [teams participating in the regional and national tournaments], Little League International is committed to organizing these events in as safe and responsible manner as possible, with the physical and emotional well-being of all participants and families paramount. Teams are strongly encouraged to have limited to no interaction with any individual outside of their team pod (players, coaches, and manager), and Little League International staff will make every effort to coordinate each team’s time at all tournament locations to provide coordinated schedules for each team.

With the support of the Little League International Pandemic Advisory Commission and guidance from National Jewish Health located in Denver, Colorado, Little League International has created a detailed plan to operate our tournaments this summer. Our staff and volunteers on-site will do everything they can to make your experience memorable, comfortable, and help keep all teams on the field at these tournaments.

Here is what teams can expect at the Region and World Series Tournaments to help mitigate the risk of exposure to COVID-19 and maintain the health and safety of players, coaches and volunteers.

TESTING

All players, managers, coaches and umpires, regardless of vaccination status, will undergo COVID-19 testing upon arrival at their tournament location and will have significantly limited contact from other individuals outside their team until negative tests can be confirmed. Unvaccinated participants will also receive regular COVID-19 tests, every other day, throughout the tournament. Little League International... will work with Spectrum Solutions... to provide tests at no-cost to participants and coordinate testing logistics for each event location to help ensure consistency in results and efficient turnarounds in receiving results.

...

IN THE EVENT OF A POSITIVE COVID-19 TEST

Even with these precautions in place, through no one's fault, a player, coach, or manager may test positive for COVID-19. The health, safety and well-being of every participant is Little League International's paramount concern. In the event of a positive COVID-19 test within a team, Little League International staff, in consultation with its medical advisors, will work efficiently to communicate with the appropriate family members, team contacts, and state health officials, to initiate all appropriate quarantine, isolation, and contact tracing procedures. The Little League International Tournament Committee will assess the team situation to identify if the team has enough players and coaches to proceed with competing in their respective tournament. If the team cannot field nine players, they will be removed from the tournament."

Exhibit D is a webpage entitled "2021 LLWS GENERAL FAQs," which Plaintiffs indicate they included because they shed light on Defendant's reasoning behind and interpretation of its own policies. Relevant portions of Exhibit D read as follows:

"What tournaments will be held in 2021?"

The Little League Baseball... event[] will be held... as scheduled, this August in Williamsport, Pennsylvania.... Based on the recommendation of the 2021 Little League International Pandemic Response Advisory Commission, the Little League International Board of Directors approved an implementation plan that incorporates a series of COVID-19 mitigation measures to hold these tournaments in a healthy, responsible environment.

...

What will the process be if a team member tests positive for COVID-19 during the Region and World Series Tournaments?

Little League International will follow CDC guidelines on testing, quarantining, and contact tracing in regards to a positive COVID-19 test. Little League International will continue to consult with National Jewish Health on testing throughout the tournament. The health and well-being of our participants is paramount, and Little League will do everything in its power to make any participant feel comfortable and supported throughout any isolation period. Little League International will work with appropriate health officials to ensure other team members are safe and healthy."

C. Alleged Contractual Provisions and Breaches

Plaintiffs' Second Amended Complaint summarizes their primary allegation as follows:

"This matter arises out of [Defendant's] arbitrary disqualification of two regional finalist little league teams as a result of false-positive COVID-

19 saliva tests conducted at the Southwest Regional Tournament. Despite having actual knowledge that the test results were false, [Defendant] refused to reinstate the wrongfully disqualified teams into the Little League World Series Tournament and is wrongfully depriving the teams' youth athletes of a once in a lifetime opportunity."¹¹

Plaintiffs contend that in consideration of the various protocols and procedures promulgated by Defendant, the teams "implemented strict procedures to reduce the threat of an athlete or coach contracting COVID-19,"¹² taking numerous steps to minimize the likelihood of a positive case and ensure that any positive players or coaches would be quickly quarantined.¹³ This included "athletes' families chang[ing] their living arrangements so that the competing athlete would be residing with a single parent away from the rest of their household, in an effort to keep their risk of contracting COVID-19 to a minimum."¹⁴

Plaintiffs contend that on August 3, 2021, the day before the Southwest Regional Tournament was scheduled to begin,¹⁵ regional directors "advised all teams of an abrupt and shocking change in their COVID-19 protocols," informing them that "[i]nstead of a positive COVID-19 test result disqualifying a single athlete from competition, [Defendant] was now stating that a positive COVID-19 test would

¹¹ Second Amended Complaint, ¶¶ 2-3. This summary retains some language from the original Complaint, which was filed before the commencement of the 2021 Little League World Series and sought the reinstatement of the Plaintiff teams in addition to damages for breach of contract.

¹² Second Amended Complaint, ¶ 39.

¹³ Second Amended Complaint, ¶ 40-43.

¹⁴ Second Amended Complaint, ¶ 44.

¹⁵ Plaintiff teams were two of eight teams participating in the Southwest Regional Tournament.

result in the entire team being disqualified from the tournament.”¹⁶ Plaintiffs contend that “[t]his policy change was never formally adopted in the COVID-19 protocols available online.”¹⁷

Plaintiffs claim that despite Defendant’s assurances that it would implement testing procedures and limit contact between teams, at the Southwest Regional Tournament Defendant “did not maintain any separation between teams prior to COVID-19 testing,” sent the teams “for COVID-19 testing in a small room with [other teams] and Little League representatives, with no masking or social distancing protocols in place,” and directed players and coaches to self-administer COVID-19 tests without any medical professional present and with no verbal instructions provided.¹⁸ Plaintiffs contend that this last fact contravened the test’s instructions, which “require[d] that they be administered by an adult certified medical professional,” and resulted in many 10-to-12-year-olds opening tests and attempting to collect saliva samples themselves, all in close proximity to each other.¹⁹

Plaintiffs allege that following this testing, “a buffet-style dinner was served to all teams in the same room where testing had occurred,” “[a]ll teams were hosted on the same floor of the hotel with no recommended COVID-19 protocols or enforcement,” and meals the following day were served in a manner resulting in

¹⁶ Second Amended Complaint, ¶¶ 61-62.

¹⁷ Second Amended Complaint, ¶ 63.

¹⁸ Second Amended Complaint, ¶¶ 67-71.

¹⁹ Second Amended Complaint, ¶ 74.

“many teams being forced to share a meal in the same room as others without any COVID-19 protocols in place.”²⁰

Plaintiffs allege that “[i]n the morning of August 6, 2021, all players and coaches self-administered another saliva-based COVID-19 test and provided it to [Defendant].”²¹ Plaintiffs allege that on August 6, 2021, one of Needville’s coaches was informed his August 4, 2021 test was positive, prompting Defendant to disqualify Needville from the tournament.²² That coach immediately self-administered a rapid test and sought a second rapid test and a PCR test from a medical clinic, each of which was negative; Defendant subsequently informed the coach that his August 6, 2021 test was negative.²³

Plaintiffs aver that similarly, Defendant informed one of Tulsa’s coaches at 11:00 a.m. on August 6, 2021 that his August 4, 2021 test was positive, resulting in Defendant disqualifying Tulsa from the tournament.²⁴ Plaintiffs allege that one hour after receiving this result, the coach went to an emergency room and obtained a COVID-19 test, which was negative, and at 2:00 p.m. on August 6, 2021 he informed Defendant that he had obtained the negative test from the emergency

²⁰ Second Amended Complaint, ¶¶ 76-78.

²¹ Second Amended Complaint, ¶ 79.

²² Second Amended Complaint, ¶¶ 80-81.

²³ Second Amended Complaint, ¶¶ 83-88.

²⁴ Second Amended Complaint, ¶¶ 91-92.

room.²⁵ Plaintiffs aver that Defendant responded that the subsequent negative test “didn’t matter.”²⁶

Plaintiffs allege that Defendant obtained the positive results from both coaches’ August 4, 2021 tests around 6:00 p.m. on August 5, 2021, but did not inform either coach or team for approximately 18 hours.²⁷ Plaintiffs contend that both reports associated with the positive tests indicated the samples were collected at 9:00 a.m. on August 4, 2021, which is at least six hours earlier than the coaches actually took the tests.²⁸ Plaintiffs note that in both cases “[t]he other state teams, who had been in close contact with” Plaintiff teams from the time of testing on August 4, 2021 to their disqualification on August 6, 2021 “without any COVID-19 mitigation procedures in place, were not disqualified.”²⁹

Plaintiffs contend that Defendant’s actions concerning the coaches’ positive tests were wrongful for numerous reasons, including:

- The teams “had relied to their detriment upon [Defendant’s] posted COVID-19 Protocols... when making their decision to play in [Defendant’s] state programs, when deciding to try out for an all-star team so as to play the Little League World Series, and when committing time, energy and money to advance... to the Southwest Regional Tournament. Had these players, their coaches, and the players’ parents known that [Defendant]

²⁵ Second Amended Complaint, ¶¶ 94-96.

²⁶ Second Amended Complaint, ¶ 97.

²⁷ Second Amended Complaint, ¶¶ 90, 102.

²⁸ Second Amended Complaint, ¶¶ 89, 100. Plaintiffs contend that one Tulsa player’s test indicated he took the test on the morning of August 4, 2021 despite not arriving at the hotel until the following day. Second Amended Complaint, ¶ 101. Plaintiffs contend that these discrepancies “suggest[] defects in the test collection process.” *Id.*

²⁹ Second Amended Complaint, ¶¶ 82, 93.

would change their COVID Protocols in the arbitrary and capricious way that they did on August 3, 2021, [Plaintiffs] would never have considered sending a team to the Tournament”;

- “The disqualification of the [entire team] based on a single positive COVID-19 test was in direct violation of [Defendant's] COVID-19 Protocols”;
- Defendant did not disqualify other teams despite them being in close proximity to Plaintiff teams without COVID-19 mitigation measures; and
- Defendant failed to properly administer the test.³⁰

Ultimately, Plaintiffs aver that in its promulgated protocols, Defendant promised to “assess the team situation to identify if the team has enough players and coaches to proceed with competing in their respective tournament. If the team cannot field nine players, they will be removed from the tournament.”³¹ Plaintiffs contend that Defendant failed to conduct such an assessment or attempt to identify whether Plaintiff teams could proceed, instead disqualifying the teams completely as a result of a single (likely false) positive test pursuant to a revised policy announced on the eve of the tournament, after the teams had spent significant time and money in reliance on the original protocols. This, Plaintiffs contend, was a breach of the contract between Plaintiffs and Defendant. Plaintiffs further assert their belief that “the Southwestern Regional decided upon this disqualification without consultation

³⁰ Second Amended Complaint, ¶ 105.

³¹ Second Amended Complaint, ¶ 112; Exhibit C.

with the Tournament Directors in Williamsport,” in violation of Defendant’s promise that “[t]here will be no waivers, resorting to local rules, or other variation unless granted explicitly from Williamsport,” which they claim constitutes a second breach.³² Finally, Plaintiffs contend that other teams competing for a place in the Little League World Series were subject to different rules, and that Defendant “did perform contact tracing for positive individuals for other teams in the same competition” but not for Plaintiff teams.³³ Plaintiffs assert that Defendant tacitly approved of “regional tournament directors... appear[ing] to implement waivers of rules when they desired, or implement[ing] concocted ‘rules’ that had never actually been adopted by [Defendant].”³⁴ Plaintiff contends that the resultant application of Defendant’s rules, regulations, and COVID-19 policy to different teams in different manners was arbitrary and violated the implied duty of good faith and fair dealing inherent in the contract between Plaintiffs and Defendant.³⁵

D. Discussion

To summarize, Plaintiffs essentially allege three breaches of contract:

1. Defendant promised to conduct individual assessments, disqualify players but not whole teams, and make efforts to allow teams to continue as long as they had enough players and coaches, but failed to do so and instead disqualified Plaintiff teams after single, likely false, positive tests.

³² Second Amended Complaint, ¶¶ 115, 121; Exhibit B.

³³ Second Amended Complaint, ¶ 118-119.

³⁴ Second Amended Complaint, ¶ 122.

³⁵ Second Amended Complaint, ¶ 117.

2. Defendant promised that all deviations from promulgated guidelines in regional and national tournaments could only come from Defendant's directors, but instead allowed local or regional officials to implement their own rules in precisely the manner that Defendant's rules and regulations forbid.
3. Defendant promised that all of its policies would apply evenly to all teams participating in the regional and national tournaments but instead applied vastly different standards to teams in identical situations, allowing some to continue playing but disqualifying Plaintiff teams, and in doing so violating the duty of good faith and fair dealing owed to Plaintiffs.

Defendant argues that none of these promises are found in the materials which Plaintiffs allege constitute the contract. This is especially true, Defendant contends, in light of the documents' repeated reservation of discretion to address the serious, unprecedented COVID-19 situation as Defendant believed was appropriate.

The Court finds that Plaintiffs have sufficiently pled their claim for breach of contract to survive demurrer. Plaintiffs pointed out specific language in rules, regulations and procedures promulgated by Defendant that states that in the event of a positive COVID-19 test, Defendant would "work efficiently to communicate with the appropriate family members, team contacts, and state health officials, to initiate all appropriate quarantine, isolation, and contact tracing procedures," removing teams if they "cannot field nine players...." Plaintiffs aver that they spent money and altered their behavior in reliance on this representation, and that had they known it would be changed hours before their arrival at the regional tournament to a policy of

blanket disqualification they would not have acted as they did. Plaintiffs also averred that based on materials Defendant issued, they relied on Defendant to prevent regional and local officials from imposing non-uniform standards across the various regional tournaments, but that Defendant allowed exactly that sort of variation to Plaintiffs' detriment. It is clear that Defendant retained discretion to address individual circumstances as they arose in order to prioritize the health and safety of players, coaches, and their families, and Defendant will not incur liability for making choices that in retrospect were sensible but less than optimal. At this stage, however, Plaintiff alleges that Defendant's application of its own rules, regulations and procedures was arbitrary and uneven, and that Defendant did conduct contact tracing and mitigation efforts in other nearly identical situations, evidencing that their treatment of Plaintiffs was unfair and in bad faith.

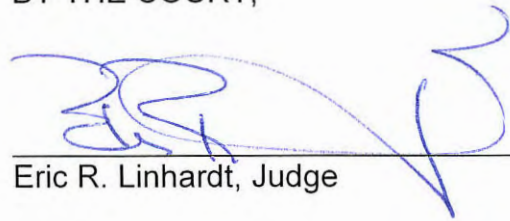
The Court concludes that it cannot say as a matter of law that Plaintiffs cannot demonstrate breach of contract. Plaintiffs are therefore entitled to proceed to discovery on these claims. Defendant may answer the allegations with evidence demonstrating the reasoning that went into the disqualification of Plaintiffs' teams. On the face of the Complaint, however, the Court finds that Plaintiffs have sufficiently specified contractual provisions and pled facts that could support a finding of breach of contract.

ORDER

AND NOW, for the foregoing reasons, the Court OVERRULES Defendant's remaining preliminary objection to Plaintiffs' Second Amended Complaint. Defendant shall file an Answer to the Second Amended Complaint within twenty (20) days of the date of this Order.

IT IS SO ORDERED this 28th day of December 2022.

BY THE COURT,



Eric R. Linhardt, Judge

ERL/jcr

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