

Restatement (Second) of Torts § 774B (1979)

Restatement of the Law - Torts

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Restatement (Second) of Torts

Division Nine. Interference with Advantageous Economic Relations

Chapter 37A. Interference with Other Forms of Advantageous Economic Relations

§ 774B Intentional Interference with Inheritance or Gift

[Comment:](#)

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One who by fraud, duress or other tortious means intentionally prevents another from receiving from a third person an inheritance or gift that he would otherwise have received is subject to liability to the other for loss of the inheritance or gift.

Comment:

a. This Section represents an extension to a type of noncontractual relation of the principle found in the liability for intentional interference with prospective contracts stated in § 766B. It does not purport to cover liability for negligence when the actor, in attempting to effectuate an inheritance or gift, breaches a duty to use reasonable care that he owes to the donee as well as the donor. (Compare §§ 281, 552).

b. Inheritance or gift. “Inheritance” is used to include any devise or bequest that would otherwise have been made under a testamentary instrument or any property that would have passed to the plaintiff by intestate succession. Thus the rule stated here applies when a testator has been induced by tortious means to make his first will or not to make it; and it applies also when he has been induced to change or revoke his will or not to change or revoke it. It applies also when a will is forged, altered or suppressed.

“Gift” is used to include in the broad sense any donation, gratuity or benefaction that the other would have received from the third person. It includes, for example, the designation of the other as a beneficiary under an insurance policy, with which the actor interferes by tortious means.

c. Tortious means. Unlike the liability stated in § 766B, the liability stated in this Section is limited to cases in which the actor has interfered with the inheritance or gift by means that are independently tortious in character. The usual case is that in which the third person has been induced to make or not to make a bequest or a gift by fraud, duress, defamation or tortious abuse of fiduciary duty, or has forged, altered or suppressed a will or a document making a gift. In the absence of conduct independently tortious, the cases to date have not imposed liability under the rule stated in this Section. Thus one who by legitimate means merely persuades a person to disinherit a child and to leave the estate to the persuader instead is not liable to the child.

d. Cause of loss. An important limitation upon the rule stated in this Section is that there can be recovery only for an inheritance or gift that the other would have received but for the tortious interference of the actor. This means that, as in other cases involving recovery for loss of expectancies (see § 912 and Comments), there must be proof amounting to a reasonable degree of certainty

that the bequest or devise would have been in effect at the time of the death of the testator or that the gift would have been made *inter vivos* if there had been no such interference. In many cases this can be shown with complete certainty, as when a will is suppressed or altered after the death or incompetence of the testator. In many others, as when a will is made, revoked or changed during his lifetime, complete certainty is impossible. It is not required. If there is reasonable certainty established by proof of a high degree of probability that the testator would have made a particular legacy or would not have changed it if he had not been persuaded by the tortious conduct of the defendant and there is no evidence to the contrary, the proof may be sufficient that the inheritance would otherwise have been received. The fact that it was the defendant's tortious act that makes it not possible to prove with certainty may be taken into consideration by the court.

e. Remedies. The normal remedy for the conduct covered by this Section is an action in tort for the loss suffered by the one deprived of the legacy or gift. (See § 774A, on damages). If, however, the defendant has himself acquired the benefits of the legacy or gift, he is unjustly enriched at the expense of the plaintiff and a remedy is also afforded in restitution. This may consist of holding the wrongdoer to a constructive trust, imposing an equitable lien or subjecting him to a simple monetary judgment to the extent of the benefits thus tortiously acquired. A statement of the rules governing these equitable remedies may be found in the Restatement of Restitution, especially § 184.

Reporter's Note

This Section is new.

Some earlier cases held that there could be no recovery. *Hall v. Hall*, 91 Conn. 514, 100 A. 441 (1917); *Lewis v. Corbin*, 195 Mass. 520, 81 N.E. 248 (1907); *Hutchins v. Hutchins*, 7 Hill 104 (N.Y.1845). See also *Overlock v. Central Vermont Pub. Serv. Corp.*, 126 Vt. 549, 237 A.2d 356 (1967) (gift).

A substantial majority of the cases now grant recovery in tort for intentionally and tortiously interfering with the expectation of an inheritance or gift. *Peffer v. Bennett*, 523 F.2d 1323 (10th Cir.1975); *Allen v. Leybourne*, 190 So.2d 825 (Fla.App.1966); *Newsom v. Estate of Haythorne*, 125 Ind.App. 276, 122 N.E.2d 149 (1954); *Frohwein v. Haesemeyer* 264 N.W.2d 792 (Iowa 1978); *Kelly v. Kelly*, 10 La. Ann. 622 (1855); *Harmon v. Harmon*, 404 A.2d 1020 (Me.1979); *Hegarty v. Hegarty*, 52 F.Supp. 296 (D.Mass.1943); *Bohannon v. Wachovia Bank & Trust Co.*, 210 N.C. 679, 188 S.E. 390 (1936).

See *Axe v. Wilson*, 150 Kan. 794, 96 P.2d 880 (1939); *Cyr v. Cote*, 396 A.2d 1013 (Me.1979); *Ross v. Wright*, 286 Mass. 269, 190 N.E. 514 (1934); *Brignati v. Medenwald*, 315 Mass. 636, 53 N.E.2d 673 (1944).

The cases seem fully in agreement when the will has been suppressed after the testator's death. *Allen v. Lovell's Adm'x*, 303 Ky. 238, 197 S.W.2d 424 (1946); *Creek v. Laski*, 248 Mich. 425, 227 N.W. 817 (1929); *Morton v. Petit*, 124 Ohio St. 241, 177 N.E. 591 (1931).

See also *McGregor v. McGregor*, 101 F.Supp. 848 (D.Colo.1951) (probate of prior will); *Murphy v. Mitchell*, 245 F. 219, (D.N.Y.1917); 249 F. 499 (1918) (incompetence of testator); *Dulin v. Bailey*, 172 N.C. 608, 90 S.E. 689 (1916) (alteration of will).

Other cases recognize an action for tortious interference with the expectancy of a beneficiary of a policy of life insurance. *Mitchell v. Langley*, 143 Ga. 827, 85 S.E. 1050 (1915); *Munroe v. Beggs*, 91 Kan. 701, 139 P. 422 (1914); *Daugherty v. Daugherty*, 152 Ky. 732, 154 S.W. 9 (1913). But see *Hoelt v. Supreme Lodge, Knights of Honor*, 113 Cal. 91, 45 P. 185 (1896).

Comment c: No liability was found because the interference was not tortious in *Lowe Foundation v. Northern Trust Co.*, 342 Ill.App. 379, 96 N.E.2d 831 (1951) (inducing testator to destroy will); *Ross v. Wright*, 286 Mass. 269, 190 N.E. 514 (1934)

(refusal to perform duty to make transfer in completion of gift); [Marshall v. DeHaven](#), 209 Pa. 187, 58 A. 141 (1904) (persuading testator not to change will).

Comment d: The major causation problem is whether the plaintiff would have received the expectancy but for the tortious interference of the actor.

The will suppression cases, cited under *Comment b*, consistently hold for the plaintiff because there is complete certainty. The other cases require reasonable certainty, though the language varies.

In [Harmon v. Harmon](#), 404 A.2d 1020 (Me.1979), a son and daughter-in-law were alleged to have induced a mother to make a gift to them by fraud and undue influence. Another son sued for tortious interference with his right to inherit and was held to state a good cause of action, though the mother was still alive.

Comment e: Many cases impose a constructive trust when the defendant acquires enrichment through the tortious interference. See [Dixon v. Olmius](#), 1 Cox 414, 29 Eng.Rep. 1227 (1787); [Brazil v. Silva](#), 181 Cal. 490, 185 P. 174 (1949); [Latham v. Father Divine](#), 299 N.Y. 22, 85 N.E.2d 168, rev'g 299 N.Y. 599, 86 N.E.2d 114 (1949).

Cf. [Patey v. Peaslee](#), 101 N.H. 26, 131 A.2d 433 (1957) (constructive trust in favor of heirs when defendant married person of unsound mind who died before the marriage could be annulled); [Pope v. Garrett](#), 147 Tex. 18, 211 S.W.2d 559 (1948) (constructive trust against both the tortfeasors who prevented making of will in favor of plaintiff and against innocent heirs, who inherited too).

See also [Barron v. Stuart](#), 136 Ark. 481, 207 S.W. 22 (1918); [Dowd v. Tucker](#), 41 Conn. 197 (1874); [Monarch v. Koslowski](#), 322 Mass. 466, 78 N.E.2d 47 (1948); [Bohannon v. Trotman](#), 214 N.C. 706, 200 S.E. 852 (1938); [Seeds v. Seeds](#), 116 Ohio St. 144, 156 N.E. 193 (1927); [Blanchard's Heirs v. Blanchard's Heirs](#), 32 Vt. 62 (1859).

See [Evans](#), Torts to Expectancies in Decedent's Estates, 93 U.Pa.L.Rev. 187 (1944); [Page](#), Of Forbidding or Hindring the Testator to Make Another Testament, 1951 Wis.L.Rev. 474; [Comment](#), Tortious Interference with the Expectancy of a Legacy, 32 Me.L.Rev. 529 (1980); [Comment](#), Tort Liability for Interference with Testamentary Expectancies in Decedent's Estates, 19 U.Kan. City L.Rev. 78 (1950).

Case Citations - by Jurisdiction

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U.S.

U.S.2006. Quot. in sup. While her deceased husband's estate was subject to ongoing proceedings in Texas probate court, widow brought an adversary proceeding against her stepson in her California Chapter 11 bankruptcy case, alleging that he tortiously interfered with a gift she expected from husband. The bankruptcy court granted summary judgment for widow and the district court affirmed. The court of appeals reversed for lack of federal subject matter jurisdiction under the probate exception. Reversing, this court held that the probate exception did not apply. The court reasoned that the tortious-interference claim would not interfere with the probate proceedings, because widow was seeking an in personam judgment against stepson, not the probate or annulment of a will, or to reach a res in the custody of a state court. [Marshall v. Marshall, 547 U.S. 293, 311, 126 S.Ct. 1735, 1748, 164 L.Ed.2d 480.](#)

C.A.2

C.A.2, 2003. Quot. in disc., com. (b) cit. in disc., com. (d) quot. and cit. generally in sup. Intended beneficiary of a United States Postal Service (USPS) letter carrier's life-insurance policy sued the United States under the Federal Tort Claims Act (FTCA), alleging that USPS's employees were negligent in assuming the duty to properly file letter carrier's completed designation-of-beneficiary form that named plaintiff as beneficiary and in breaching that duty. The district court granted summary judgment for government. Vacating and remanding, this court held, inter alia, that plaintiff's claim satisfied the requirement of "injury or loss of property" under the FTCA. The court said that plaintiff's interest in being a beneficiary was sufficiently substantial to qualify as property for the purpose of this tort action, and was not a mere expectancy. [Devlin v. U.S.](#), 352 F.3d 525, 539, 540.

C.A.3

C.A.3, 2007. Cit. in conc. op., com. (e) cit. in conc. op. In employees' action against employers for intentional interference with their ERISA benefits, this court denied plaintiffs' petition for rehearing en banc, after the court affirmed the entry of summary judgment in defendants' favor on the ground that plaintiffs' request for an adjustment of pension records that would create a payment obligation was properly characterized as legal, not equitable, relief and thus was not available as a remedy under ERISA. Calling for Congress or the Supreme Court to revisit the issue, the concurrence opined that the fact that plaintiffs who asserted an interference claim under ERISA could seek injunctive relief or reinstatement, but not make-whole monetary relief of any kind, made for an odd result, since the preferred remedy for the common-law analog of this claim—interference with an expectancy—was money damages. [Eichorn v. AT & T Corp.](#), 489 F.3d 590, 592.

C.A.3, 1988. Cit. in disc. A Delaware woman executed a will naming her step-granddaughter as her principal beneficiary; she later revoked that will and devised the bulk of her estate to her doctor. The district court sitting in diversity dismissed the granddaughter's suit against the doctor, in which she alleged that he had used undue influence and that the decedent had been incompetent, for lack of jurisdiction. Affirming, this court held that the substance of this action for tortious interference with an inheritance would interfere with the probate proceeding and subvert state law, and that adequate relief was available through the state's exclusive statutory remedy for contesting the probate of a will. [Moore v. Graybeal](#), 843 F.2d 706, 710.

C.A.5

C.A.5, 2010. Cit. in sup., cit. in case quot. in sup. Daughters and grandson of decedent sued decedent's live-in caretaker and friend of caretaker who assisted in decedent's care, alleging wrongful death, conspiracy, tortious interference with inheritance, and undue influence. The district court entered judgment on a jury verdict in favor of plaintiffs, finding that defendants caused decedent's death and conspired to do so, and that defendants tortiously interfered with grandson's inheritance. Affirming in part, this court rejected defendants' argument that the jury could only find a tortious interference with respect to property that would have been passed by a will, not through trusts or other mechanisms. To the extent defendants challenged the jury instructions based on the instructions' failure to specifically define the word "devise," defendants failed to make any objections at trial, and the court saw no plain or obvious error in the instructions, which essentially mirrored the elements of tortious interference with inheritance as defined by Restatement Second of Torts § 774B. [Wackman v. Rubsamen](#), 602 F.3d 391, 410.

C.A.5, 1979. Cit. and quot. in ftn. in sup. Plaintiffs brought this diversity action alleging that defendants improperly, systematically, and fraudulently acted to influence testator to revoke a last will and testament in which he had named the plaintiffs as substantial beneficiaries and to execute instead a will for the benefit of defendants. The lower court dismissed the complaint, stating in its order of dismissal that the subject matter of the complaint was a probate matter, and that federal subject matter jurisdiction based on diversity of citizenship is subject to the judge-made exception that federal courts generally will not act in probate matters. This court reversed and remanded, stating that although the district court correctly expressed the rule of this Circuit regarding probate matters in a federal court, this complaint was not a probate matter but instead encompassed an independent tort claim for an intentional interference with an inheritance. Accordingly, this court held that plaintiffs' complaint

was sufficient on its face to confer subject matter jurisdiction in a federal diversity case. [DeWitt v. Duce](#), 599 F.2d 676, 677, appeal after remand 642 F.2d 159, answer to certified question decided 675 F.2d 670 (1981).

C.A.6

C.A.6, 1994. Cit. in sup. and in headnotes, com. (d) quot. in sup. Grandchildren, as residual trust beneficiaries, sued the trustee and executor of the will, alleging, among other claims, tortious interference with expectancy of inheritance. The Ohio federal district court dismissed all claims except this one, and the Ohio Supreme Court, answering the Sixth Circuit's certified question, responded that Ohio did recognize this cause of action. This court affirmed in part, reversed in part, and remanded the district court's dismissal, concluding that a remand was appropriate, since the Ohio Supreme Court had, subsequent to the filing of original complaints in this case, recognized this cause of action, and since the evidentiary record had not been fully explored. The court stated that a fully vested testamentary right was not a prerequisite to maintain this cause of action. [Firestone v. Galbreath](#), 25 F.3d 323, 324, 325, 327, on remand 895 F.Supp. 917 (D. Ohio 1995).

C.A.7

C.A.7, 2008. Quot. in sup. Personal representative of her grandfather's estate in Wisconsin sued her grandfather's lawyer, alleging that defendant tortiously interfered with the grandchildren's anticipated bequests; personal representative later filed a second amended complaint, removing herself and substituting another grandchild/beneficiary, a Minnesota resident, as the sole plaintiff suing on behalf of the estate. The district court dismissed for lack of federal diversity jurisdiction. Affirming, this court held that, since plaintiff was suing expressly on behalf of the estate, just as if personal representative were still bringing the suit, plaintiff lacked diversity under the federal diversity statute, which treated the legal representative of a decedent's estate as a citizen of the same state as the decedent, in this case, Wisconsin, which was also defendant's residence. The court noted that personal representative's refusal to litigate was a mere ploy to try to keep this case alive in federal court. [Gustafson v. zumBrunnen](#), 546 F.3d 398, 401.

C.A.7, 2003. Cit. in disc. Trust grantor's grandson sued grantor's son for tortious interference with his inheritance expectancy, alleging that son's exertion of undue influence on grantor caused her to execute a new will and a new trust naming son the sole beneficiary of her estate. Indiana federal district court granted son's motion to dismiss, holding that grandson's suit fell within probate exception to federal jurisdiction. This court affirmed, holding that probate exception applied despite characterization of this case as a tort action and despite use of an inter vivos trust rather than a traditional will. While wrongful interference with inheritance expectancy was a recognized tort in Indiana, mere labels were not decisive in probate-exception analysis. [Storm v. Storm](#), 328 F.3d 941, 945.

C.A.7, 1999. Cit. in case quot. but dist. Neighbor brought adversary proceeding against Chapter 7 debtor who had submitted a false affidavit in a state-court property dispute between plaintiff and a third party, alleging that debtor's conduct was willful and malicious and made any resulting damages stemming from that conduct nondischargeable. The bankruptcy court dismissed plaintiff's claim, and the district court affirmed. Affirming, this court held, inter alia, that plaintiff's injury was not compensable under Wisconsin law, since debtor was entitled to absolute immunity from liability for damages caused by his false and malicious testimony that was relevant to the property litigation. [Niedert v. Rieger](#), 200 F.3d 522, 526.

C.A.7, 1997. Cit. in disc. A patent attorney sued his former partner for tortious interference with contract, alleging that, when plaintiff refused to pay his share of costs associated with the law partnership's dissolution, defendant told a client to withhold plaintiff's 1% share of the proceeds of a multimillion-dollar settlement in which the partnership had represented the client. The trial court entered judgment on a jury verdict for plaintiff, awarding compensatory and punitive damages. This court affirmed, holding, inter alia, that, although plaintiff had not had any contact with the client, he and defendant were both third-party beneficiaries of the client's agreement with the law partnership regarding distribution of the settlement proceeds. Therefore,

defendant tortiously interfered with plaintiff's contractual rights by directing the client to withhold further payment to plaintiff. [Sufrin v. Hosier](#), 128 F.3d 594, 597.

C.A.9

C.A.9, 2010. Quot. in sup., cit. in case cit. in sup.; cit. in case quot. in ftn. to conc. op. (general cite). Decedent's son filed a proof of claim and adversary proceeding against Chapter 11 debtor/decedent's widow, seeking damages arising from her alleged defamation of him, as well as a determination that her liability to him for defamation was not dischargeable; debtor counterclaimed, alleging tortious interference with her expectation of a gift or inheritance from decedent. The bankruptcy court found in favor of debtor. Reversing and remanding with instructions that judgment be entered in favor of son, this court held that debtor's counterclaim was barred by issue preclusion based on a prior Texas probate action; among other things, the Texas probate court's finding that decedent did not intend to give and did not give to debtor a gift or bequest from his estate or living trust either prior to or upon his death was contrary to debtor's ability to prove that decedent would have given her a substantial inter vivos gift but for son's interference, a necessary element of her counterclaim. The concurrence opined that debtor's counterclaim was also a personal-injury claim if it was a recognized tort, and thus was outside the jurisdiction of the bankruptcy court. [In re Marshall](#), 600 F.3d 1037, 1062, 1069.

C.A.9, 1998. Com. (c) cit. in disc. Relatives of a decedent sued defendants, alleging that defendants intentionally interfered with their expectancy to inherit from their uncle. Plaintiffs alleged that defendants committed fraud to prevent the decedent's attorney from bringing a new will that would have left property to plaintiffs. Oregon federal district court dismissed on the ground that the Oregon Supreme Court would not recognize the tort. This court certified two questions to the Oregon Supreme Court as to whether Oregon recognized the tort of intentional interference with prospective inheritance and what the elements of that tort were. [Allen v. Hall](#), 139 F.3d 716, 717.

C.A.10

C.A.10, 1994. Quot. in disc. Nieces of a decedent who predeceased his wife sued the beneficiaries of the wife's will, alleging intentional interference with inheritance or gift and the prima facie tort of [Restatement \(Second\) of Torts § 870](#). The Kansas federal district court dismissed the suit for lack of subject-matter jurisdiction and for failure to state a claim. Affirming, this court held, inter alia, that the federal district court did not have subject-matter jurisdiction to decide the tort claims alleged against defendants for their actions before and after execution of the wife's will because doing so would interfere with the probate proceedings. It also held that plaintiffs, who were not the wife's heirs at law, failed to state a claim because they did not allege a factual basis establishing their prospective inheritance or any specific inter vivos gift. [Beren v. Ropfogel](#), 24 F.3d 1226, 1229.

C.A.10, 1988. Quot. in ftn. The brother of a decedent sued the beneficiary of the decedent's will, the attorney who drafted the will, and a brokerage firm for, inter alia, intentional interference with inheritance and intentional infliction of emotional distress, based on allegedly fraudulent stock transfers. The trial court granted summary judgment to the attorney and the brokerage firm on all claims. Affirming, this court held, inter alia, that the plaintiff could not bring the claim for intentional interference with inheritance because he had no prospect of inheriting the transferred stock, and that neither the attorney's drafting the will nor the brokerage firm's transferring the stock pursuant to a letter apparently signed by the owner of the stock was conduct sufficiently extreme or outrageous to support a claim for intentional infliction of emotional distress. [McKibben v. Chubb](#), 840 F.2d 1525, 1531.

C.D.Cal.

C.D.Cal.2002. Cit. and quot. in sup., adopted in case cit. in disc., coms. (c) and (d) quot. in disc., Rptr's Note cit. in disc. In adversary proceeding brought by her stepson, Chapter 11 debtor-widow counterclaimed for, in part, tortious interference with her expectancy of an inter vivos gift. Adopting as modified the bankruptcy court's findings of fact and conclusion of law that

stepson tortiously interfered with an inter vivos gift, this court entered judgment for debtor on her counterclaim, positing that Texas law recognized such a cause of action, and holding that the evidence showed that there was a high degree of probability that debtor's husband would have made a gift to debtor, and that stepson's tortious conduct made it impossible to prove with certainty that the gift would have been realized. [In re Marshall](#), 275 B.R. 5, 51-53, vacated and remanded 392 F.3d 1118 (9th Cir.2004).

C.D.Cal.Bkrcty.Ct.

C.D.Cal.Bkrcty.Ct.2000. Quot. in sup., com. (c) cit. in sup., com. (d) quot. in sup. Widow sued stepson for tortious interference with inheritance. Entering judgment for widow, the court held, in part, that widow had established that she most likely would have received half of decedent's assets if not for her stepson's alteration of certain documents and his conspiracy to suppress his father's intended gift to her. [In re Marshall](#), 253 B.R. 550, 559-560, 560.

M.D.Fla.

M.D.Fla.2002. Cit. in sup. Kansas heirs and former conservator of decedent brought diversity action against Florida law firm and attorney for malpractice in administration of decedent's trusts and subtrusts. Denying in part defendants' motion to dismiss, this court held, inter alia, that plaintiffs' allegations that defendants' "gifting strategy" resulted in loss of plaintiffs' inheritance sufficiently stated claim under Kansas law for tort of interference with expected inheritance. [O'Keefe v. Darnell](#), 192 F.Supp.2d 1351, 1360.

S.D.Ohio

S.D.Ohio, 1995. Cit. in headnote, quot. in sup., com. (a) cit. in sup., com. (d) quot. in sup. Potential beneficiary of a family trust brought an action for tortious interference with an expectancy against a law firm and various family entities, claiming that defendants had wrongfully secured the transfer of assets belonging to the family trust's settlor while she was allegedly mentally incompetent and that the assets otherwise would have constituted part of her residual estate, which was bequeathed to the family trust. On remand, the district court granted summary judgment for defendants, holding, inter alia, that plaintiff had not demonstrated that he could prove that he had more than a mere possibility of an inheritance or that there was a reasonable certainty that, but for tortious acts of defendants, that inheritance would have been realized. [Firestone v. Galbreath](#), 895 F.Supp. 917, 918, 927, 930.

E.D.Pa.

E.D.Pa.1978. Tentative Draft 23 cit. in disc. Spec. Note on interference with Noncommercial Benefits cit. in disc. The former local president of a union brought an action under the Labor-Management Reporting and Disclosure Act against the union for his allegedly unlawful suspension and expulsion from the union. The union contended that the action against it should be dismissed for failure to state a claim upon which relief can be granted and because the action is barred by the statute of limitations. The court held that the complaint stated a cause of action against the union. Regarding the statute of limitations claim, the court noted that since the LMRDA contains no statute of limitations of its own, claims under it are governed by the limitations period applicable to the most analogous claims under the law of the forum state. The union contended that the plaintiff's claim fell within a general class of torts relating to personal injury for which the limitations period is two years. The court found that a survey of Pennsylvania law, in light of the defendant's conduct, the plaintiff's injury and the relief requested, disclosed that the closest state law analogy to the plaintiff's LMRDA claim would be an action for interference with business associational ties which would entitle the plaintiff both to damages, including recovery for emotional or mental trauma, and injunctive relief. The court also found that such claims are governed by a six-year statute of limitations. Accordingly, since the plaintiff's cause of

action accrued less than six years prior to the time the suit was instituted, the court held that the action was not time barred. Therefore, the union's motion to dismiss was denied. [Harrison v. American Federation of Labor, etc.](#), 452 F.Supp. 102, 106.

E.D.Pa.1977. ss 766 through 774B which comprise all of Chs. 37 and 37A cit. in disc. § 774B comprises all of Ch. 37A. (T.D. No. 23, 1977). Plaintiff, a closely held Arkansas corporation engaged in interstate trucking, brought an action against a former employee and investors in the former employee's newly acquired corporation for breach of fiduciary duty and diversion of corporate opportunity. The action arose out of the former employee's purchase for himself and the investors, rather than his employer, of an Interstate Commerce Commission certificate of public convenience and necessity of another trucking company. The defendants filed a motion for summary judgment. The court found that where the plaintiff was an Arkansas corporation having its principal place of business in Arkansas and where the defendant former employee entered into that relationship with the corporation in Arkansas and worked out of the corporation's headquarters in that state, Arkansas had predominant jurisdictional concern as to the employee's relationship to the plaintiff, and the employee's fiduciary duties should be determined in accordance with Arkansas law. The court denied the defendants' motion for summary judgment, holding, inter alia, that the scope of the employee's employment responsibilities regarding negotiations with other trucking companies, whether the acquisition of the certificate was a corporate opportunity available to the plaintiff, and whether the investors had actual or constructive notice of the former employee's breach of fiduciary duty all presented issues of fact precluding summary judgment. The court also found that, although the former employee originally negotiated for the purchase of the stock of another trucking company but, not being able to finance the purchase on his own, acquired part of the stock as agent for the investors, the employee was not acting primarily for his own purpose when he executed the documents accomplishing the stock transfer for the purpose of determining any liability of the investors for the employee's breach of fiduciary duty to the plaintiff. [B.J. McAdams, Inc. v. Boggs](#), 439 F.Supp. 738, 745.

M.D.Pa.

M.D.Pa.2013. Adopted in case quot. in sup. Decedent's grandchild, who was co-beneficiary and co-executor of decedent's estate and co-trustee under a trust created by decedent's will, brought claims for, among other things, intentional interference with inheritance against trustee of the trust, alleging that defendant's failure to implement decedent's amended trust prior to her death caused the estate and its heirs to sustain a loss of \$4 million in federal and state taxes. This court granted defendant's motion for judgment on the pleadings as to plaintiff's tortious interference claim, holding that this tort had not been extended beyond the context of interference with a will. The court additionally noted that, even if it were inclined to extend the scope of such claims to include interference with revocable trust schemes, the record was devoid of any fact or allegation establishing that defendant's actions were colored by fraud, misrepresentation, or undue influence, a required element of such claims. [Steele v. First Nat. Bank of Mifflintown](#), 963 F.Supp.2d 417, 426.

Ala.

Ala.2002. Cit. but not fol. (Erron. cit. as § 744B.) Testator's son brought suit in his capacities as coexecutor, cotrustee, and beneficiary against his brother and family company, alleging, in part, tortious interference with an inheritance. The trial court dismissed the claim. Affirming in part, this court held, inter alia, that, even if a cause of action for tortious interference with an inheritance were recognized as a cause of action under Alabama law, plaintiff made no showing that he suffered any interference with an inheritance. [Kershaw v. Kershaw](#), 848 So.2d 942, 957.

Ala.1982. Cit. in ftn. The plaintiffs brought an action against the defendant bank as executor of the estate of their deceased stepmother. Their complaints alleged that their stepmother had married their father three years before his death, and through fraud and undue influence had prevailed upon their father to leave property to her, rather than to the plaintiffs as their father originally intended. The trial court dismissed the complaints for failure to state a claim. On appeal, the state supreme court affirmed the trial court. The court had never addressed the proposed cause of action for tortious interference with an expectancy in an inheritance; therefore it looked toward other jurisdictions for guidance. The court found that the successful plaintiffs had

alleged more compelling circumstances than were present in this case. The plaintiffs had failed to produce any written evidence of their father's original intent or the alleged fraud. The plaintiffs' action therefore controverted the Statute of Frauds and the Dead Man's Statute. [Holt v. First Nat. Bank of Mobile](#), 418 So.2d 77, 79.

Alaska

Alaska, 1984. Cit. in ftn., Spec. Note cit. in ftn. The owner of an airport terminal sued a city when it did not purchase the terminal pursuant to a legislative appropriation. The state had allocated funds for the development of a municipal airport facility, including the purchase of the plaintiff's terminal. The city refused to buy the terminal at its appraised value. The trial court granted the city summary judgment. On appeal, the owner contended that he was the intended beneficiary of the appropriation grant, that the city was under a statutory duty to purchase the terminal, and that the city tortiously interfered with his prospective economic advantage. This court affirmed. It concluded that, at most, the owner could prove that he was an incidental beneficiary. It held that the city had no statutory duty to buy the terminal, and, while the court recognized the tort of intentional interference with prospective economic advantage, that the owner had failed to make a prima facie case. [Ellis v. City of Valdez](#), 686 P.2d 700, 707.

Ark.

Ark.2001. Quot. but not fol. Contestant excluded from mother's will brought action for civil conspiracy and tortious interference with expected inheritance against mother's attorney and wife of sole beneficiary of will, after appellate court affirmed probate court's decision that will was valid. Trial court dismissed plaintiff's claims. Affirming, this court held, inter alia, that plaintiff had adequate remedy in probate court; therefore, this court would not adopt the tort of intentional interference with inheritance or gift. [Jackson v. Kelly](#), 345 Ark. 151, 157, 44 S.W.3d 328, 331.

Cal.

Cal.1987. Spec. Note quot. in sup. A racing harness driver drove his horse into the path of another horse and struck it with his whip, causing the other horse to break stride. The owner of the victimized horse sued the driver for interfering with his horse's progress in the race, and for conspiring with others to do so. The trial court dismissed the claims for failing to state a cause of action. The intermediate appellate court and this court affirmed, holding that the outcome of a horse race was too inherently speculative for the defendant's alleged interference to be actionable. [Youst v. Longo](#), 43 Cal.3d 64, 233 Cal.Rptr. 294, 301, 302, 729 P.2d 728, 736.

Cal.App.

Cal.App.2012. Quot. in sup., cit. in case quot. in disc., com. (b) cit. in sup., com. (d) quot. in sup. Same-sex cohabitant of intestate decedent brought claims for intentional interference with an expected inheritance (IIEI), deceit by false promise, and negligence against decedent's estranged sister, alleging that defendant interfered with his expected inheritance of one half of decedent's estate by making false promises in order to prevent decedent from signing his will prior to his death. The trial court sustained, without leave to amend, defendant's demurrer and dismissed plaintiff's complaint. Reversing and remanding, this court officially recognized the tort of IIEI as valid in California, and concluded that, while plaintiff's complaint failed to sufficiently allege the IIEI tort because there was no assertion that defendant's tortious conduct induced or caused decedent to take some action that deprived plaintiff of his expected inheritance, plaintiff would be given an opportunity to amend his complaint to correct its defects. [Beckwith v. Dahl](#), 205 Cal.App.4th 1039, 1050, 1055, 1057, 1058, 141 Cal.Rptr.3d 142, 151, 155, 157, 158.

Cal.App.2010. Cit. and quot. but dist., cit. in cases cit. and quot. in disc., coms. (a) and (c) quot. in disc. Testator's son filed a petition in probate court against testator's daughter and son-in-law, alleging that defendants tortiously interfered with his inheritance expectancy by unduly influencing testator to sign a codicil to her will that made million-dollar bequests to defendants' children. The probate court sustained defendants' demurrer without leave to amend. Affirming, this court held that plaintiff had an adequate remedy in probate to assert his fraud/undue-influence claim against defendants, despite the no-contest clause in testator's will; thus, under the circumstances of this case, the court declined to recognize a cause of action in tort for interference with an expected inheritance. The court reasoned, in part, that recognition of such a new tort would undermine important public policies served by no-contest clauses, which were valid and enforceable in California, because availability of the tort would result in no beneficiary ever risking forfeiture based on an unsuccessful challenge in probate to a will or testament containing a no-contest clause. [Munn v. Briggs](#), 185 Cal.App.4th 578, 585, 587, 588, 110 Cal.Rptr.3d 783, 788-790.

Cal.App.1989. Cit. in disc. The proponent of a will into probate sued the husband and wife proponents of a different version of the same testator's will for fraudulent destruction of a testamentary instrument; while the testator was confined to a nursing home, the defendants, who had been named as beneficiaries of the testator's earlier will, came upon and destroyed a subsequent will that wholly excluded them. The trial court entered judgment in favor of the plaintiff. This court affirmed, holding that damages for the fraudulent destruction, concealment, or spoliation of a will were recoverable in tort. [In re Estate of Legeas](#), 208 Cal.App.3d 1516, 256 Cal.Rptr. 117, 120, opinion vacated by 210 Cal.App.3d 385, 258 Cal.Rptr. 858. See case below.

Cal.App.1989. Cit. in disc. After the beneficiaries of a will sued to contest the validity of a subsequent will executed by the decedent, the beneficiaries of the subsequent will counterclaimed for fraudulent destruction of that will, inter alia. The probate court entered judgment on a jury verdict in the fraud action in favor of the counterclaimants. Affirming, this court recognized the existence of an independent tort action for damages caused in the intentional destruction, concealment, or spoliation of a will. [In re Estate of Legeas](#), 210 Cal.App.3d 385, 258 Cal.Rptr. 858, 862.

Del.Ch.

Del.Ch.1980. Cit. in disc. The plaintiff sued her brother, both individually and as successor-trustee of a residuary trust created under the will of their deceased father. Under the second count, the plaintiff asserted a personal claim against her brother individually for interference with her prospective right to inherit from their mother. The defendant moved to dismiss the second count for failure to state a claim. The plaintiff argued that she was suing for an injury done to her own interest, her right that but for the wrongful interference of her brother she would have inherited. The court stated that other courts have allowed recovery where a person can prove that but for the tortious interference of another he would in all likelihood have received a gift or a specific profit from a transaction. The court found that plaintiff's complaint went to a reduction in the amount she felt she was entitled to receive rather than to an actual disinheritance or deprivation of an expected right of any specific amount. The court concluded that an action in tort does not exist where one may receive less than the full amount that he expected to receive under a general bequest of a percentage or a portion of a person's estate. Therefore the court granted the motion to dismiss the second count of the complaint. [Chambers v. Kane](#), 424 A.2d 311, 314.

Fla.

Fla.1981. Cit. in ftn. com. (c) cit. in ftn. An action was brought for wrongful interference with an inheritance. The plaintiffs alleged that the defendants had exercised undue influence over an incapacitated testator, causing him to alter his will to the plaintiffs' disadvantage. The plaintiffs had failed to challenge the will during the probate proceeding, took under it, and brought this action two years later. The trial court applied a state statute that provided that the probate of a will is conclusive of its due execution by a competent testator, free of fraud or duress, and dismissed the plaintiffs' claim. The supreme court affirmed. The statute precluded the plaintiffs from bringing a tort action after they had an opportunity to contest the validity of the will at a probate hearing, but chose not to do so. [DeWitt v. Duce](#), 408 So.2d 216, 218, answer to certified question conformed to 675 F.2d 670 (5th Cir.1982).

Fla.App.

Fla.App.2012. Quot. in sup. Decedent's daughters sued stepmother, alleging conversion and tortious interference with an expected inheritance. At the close of daughters' case-in-chief, the trial court granted a directed verdict and final judgment of dismissal in favor of stepmother on the ground that daughters failed to meet and satisfy the damage element of their prima facie case. Affirming, this court held that, while daughters presented evidence to the jury based on general testimony from decedent's accountant, decedent's friend, and stepmother regarding the value of the allegedly misappropriated assets involved in the litigation, none of the testimony was tied to a legally relevant time period, which deprived the testimony of any probative value. [Saewitz v. Saewitz](#), 79 So.3d 831, 833.

Fla.App.2000. Com. (d) cit. in disc. Residual beneficiaries sued devisee for, inter alia, tortious interference with expectancy, alleging that improper inter vivos transfers to defendant caused less property to be available to plaintiffs under the will. The trial court entered summary judgment for defendant. Affirming, this court held, in part, that plaintiffs could not move forward with efforts to impose a constructive trust on the assets to which they claimed entitlement before decedent's personal representative had the opportunity to settle and distribute the estate. [All Children's Hosp., Inc. v. Owens](#), 754 So.2d 802, 806.

Fla.App.1998. Cit. in disc. Nonfamilial beneficiaries under a living testator's prior estate plan sued the beneficiaries under a later estate plan, alleging intentional interference with expectancy. Trial court dismissed plaintiffs' complaint. This court affirmed, holding that proposed beneficiaries in earlier estate plans, such as plaintiffs, should not be permitted to sue the new beneficiaries for mental pain and suffering, and possibly punitive damages, when the testator is alive, competent, and entitled to exercise her own testamentary rights. [Whalen v. Prosser](#), 719 So.2d 2, 4.

Fla.App.1980. Cit. in disc. The plaintiff filed a complaint, alleging that the defendants, by virtue of their position as caretakers of the plaintiff's mother, used their influence over the mother and tortiously interfered with the plaintiff's expected gift of inheritance through a revocable trust. The lower court held that the plaintiff's complaint failed to state a cause of action. On appeal, the court held, inter alia, that the Restatement and other sources recognize the validity of a claim based on tortious interference with an expected gift or bequest, and that the problem was not the existence of a ground of tort liability, but one of satisfactory proof that a loss has been suffered. Accordingly, the lower court decision was reversed and remanded. [Davison v. Feuerherd](#), 391 So.2d 799, 801.

Idaho

Idaho, 2008. Quot. in treatise quot. in disc., com. (b) quot. in treatise quot. in disc. Brother sued sister, seeking to recover costs and attorney's fees that he incurred contesting the validity of a holographic will that sister submitted for probate in connection with their mother's death. The magistrate granted sister's motion to dismiss. The district court reversed. Reversing, this court held, inter alia, that the district court erred in determining that brother stated a claim on which relief could be granted. The court concluded that, even if Idaho recognized a cause of action for attempted interference with expectancy of inheritance, brother failed to prove that he was deprived of an inheritance as required by this tort. [Losser v. Bradstreet](#), 145 Idaho 670, 183 P.3d 758, 763.

III.

III.2013. Cit. in sup. Following testator's death, testator's friend brought a claim for intentional interference with a testamentary expectancy against independent representative of testator's estate, alleging, among other things, that, if not for defendant's wrongdoing, she would have been named as the pay-on-death beneficiary of testator's bank account. The trial court dismissed plaintiff's complaint as time-barred. The appellate court affirmed. Reversing and remanding to the trial court, this court held that plaintiff's complaint was not time-barred, because it was not governed by the six-month statute of limitations for will contests,

but instead by the five-year general statute of limitations for actions to recover the possession of personal property or damages for its detention or conversion. The court explained that plaintiff's tort claim did not contest the validity of the will, but, rather, consisted of a personal action directed at an individual tortfeasor, and the remedy sought was not the setting aside of the will, but a judgment against the individual defendant. [Bjork v. O'Meara](#), 369 Ill.Dec. 313, 986 N.E.2d 626, 631.

Ill.2009. Quot. in sup., subsec. (e) quot. in sup. Hospital, which had been named a beneficiary in testator's prior will, sued pastor who was named sole beneficiary in second will, alleging that pastor had tortiously interfered with an inheritance expectancy by abusing his position of trust and unduly influencing testator to execute a new will. The trial court granted defendant's motion to dismiss; the appellate court affirmed. This court reversed the judgments of the trial and appellate courts, and remanded the case to trial court, holding that the application of the six-month limitation period of the Probate Act of 1975 to a tort claim for intentional interference with expectancy of inheritance contradicted the clear and unambiguous language of the statute and confused the tort with a will contest. The court reasoned that the six-month statutory limitation period applied to a petition to contest the validity of the will, and that a tort claim for intentional interference with inheritance was a personal action directed at an individual tortfeasor and did not contest a will's validity. [In re Estate of Ellis](#), 236 Ill.2d 45, 337 Ill.Dec. 678, 923 N.E.2d 237, 241.

Ill.App.

Ill.App.2010. Cit. in case cit. in sup. Airline's employee brought suit for tortious interference with a prospective business expectancy against airline and its senior security representative, alleging that representative, while investigating employee's workers-compensation claim for injuries sustained on the job with airline, made false statements about plaintiff to plaintiff's other employer that caused other employer to terminate plaintiff's employment. This court affirmed the trial court's grant of summary judgment for defendants and its holding that plaintiff was required to establish that defendants' intentional interference consisted of providing other employer with false—as opposed to truthful—information, which plaintiff did not do. [Atanus v. American Airlines, Inc.](#), 403 Ill.App.3d 549, 342 Ill.Dec. 583, 932 N.E.2d 1044, 1049.

Ill.App.1981. Cit. in disc. and coms. (b) and (d) cit. in disc. The plaintiff, a stepdaughter of the testator, filed an action for malicious interference with expectancy and sought the imposition of a constructive trust based on the defendant's alleged abuse of a confidential relationship. The testator, the natural father of the defendant, made an oral agreement with the plaintiff's natural mother to create identical wills dividing their estate equally between the plaintiff and the defendant. After the plaintiff's mother died, the defendant's father lived with the defendant. He made a new will again dividing the property evenly but later was induced by the defendant to make another will leaving almost all his property to the defendant. The defendant's father died shortly thereafter. The trial court granted the defendant's motion to dismiss on the grounds that the complaint was insufficient in law, and the plaintiff appealed. The higher court, citing the Restatement, concluded that if it could be shown that the defendant had tortiously and intentionally prevented the plaintiff from receiving the inheritance that the plaintiff would otherwise have received, the defendant would be subject to liability. The court found that the defendant had abused her father's dependency on her and that the plaintiff would have received the devise if not for the defendant's abuse of a confidential relationship. The judgment was accordingly reversed. [Nemeth v. Banhalmi](#), 99 Ill.App.3d 493, 55 Ill.Dec. 14, 17, 18, 425 N.E.2d 1187, 1190, 1191, appeal after remand 125 Ill.App.3d 938, 81 Ill.Dec. 175, 466 N.E.2d 977 (1984).

Ind.App.

Ind.App.2004. Quot. in case quot. in sup. Beneficiaries of their deceased aunt's will sued executor of decedent's estate and another beneficiary for tort of interference with an inheritance. The trial court dismissed the complaint. Affirming, this court held that, because plaintiffs' pending will contest and the instant tort action involved substantially the same parties, subject matter, and remedies, the actions were the same, and thus the trial court did not err in dismissing the tort action pursuant to trial rule allowing dismissal of an action on the ground that the same action was pending in another Indiana court. [Keith v. Dooley](#), 802 N.E.2d 54, 57.

Ind.App.1996. Quot. in sup. After filing a will contest, decedent's daughter brought a tort action against her brother, alleging that defendant had interfered with plaintiff's expectancy under the will of the parties' mother. Affirming the trial court's grant of summary judgment for defendant, this court held, inter alia, that Indiana recognized the tort of intentional interference with an inheritance but that the tort was unavailable to plaintiff because the remedies available under the will contest adequately provided for the damages sought in plaintiff's tort complaint. [Minton v. Sackett](#), 671 N.E.2d 160, 162.

Iowa

Iowa, 1992. Cit. and quot. in disc., quot. in diss. op., com. (b) quot. in diss. op., com. (e) cit. in disc. Beneficiary of a will sued other beneficiaries for tortious interference with a bequest. The trial court dismissed on the ground that plaintiff's claim was precluded by his failure to join his tort action with the underlying will contest, and the intermediate appellate court affirmed. Vacating, this court held that the will contest and the tort action were not the same claim or cause of action within the meaning of claim preclusion and thus plaintiff's tort action was not barred. The court reasoned that the two actions involved differences in proof, since in a will contest the testator's intent or mental state was the key issue, while in an intentional-interference case the wrongdoer's unlawful intent to prevent another from receiving an inheritance was the key issue. The dissent argued that plaintiff's tort action should be dismissed because that action and the undue influence claim upon which his prior will contest was based were supported by the same facts and evidence and thus were basically the same claim. [Huffey v. Lea](#), 491 N.W.2d 518, 520, 521, 526.

Me.

Me.1999. Com. (e) cit. in sup. Insurer sought declaration that it was not obligated to defend insured in probate action against him. The trial court entered summary judgment for insurer. Vacating and remanding, this court held that the allegations in the underlying complaint of interference with expectancy of inheritance carried the possibility of a claim for damages for emotional distress, which, if caused by an accident or occurrence within the meaning of the policy, would trigger insurer's duty to defend under the "bodily injury" coverage provisions. [York Ins. Group of Maine v. Lambert](#), 1999 ME 173, 740 A.2d 984, 986.

Me.1998. Quot. in disc., com. (d) quot. in ftn. to conc. op. Individual brought action against his brother, alleging that defendant tortiously interfered with plaintiff's inheritance by inducing their parents to make certain real estate and stock transfers. The trial court entered judgment as a matter of law for defendant, but this court vacated and remanded. On remand, the trial court entered judgment on a jury verdict for plaintiff. Vacating and remanding, this court held that plaintiff was required to prove both the existence and the extent of his expectancy; absent such evidence, the mere fact of the parental relationship would be insufficient to establish a prima facie case of tortious interference with an expected inheritance. Concurrence wrote separately to elucidate the new burden of proof set forth by the court. [Morrill v. Morrill](#), 1998 ME 133, 712 A.2d 1039, 1041, 1042.

Me.1996. Quot. in ftn., com. (b) quot. in ftn. Son sued brother, among others, for tortious interference with an expected inheritance, maintaining that brother wrongfully induced parents to make certain real estate and stock transfers to himself. The trial court granted brother's motion for judgment as a matter of law on the ground that son failed to prove that parents were intestate at the time of the alleged tortious interference and, thus, was unable to establish an expectancy. Vacating the judgment, this court held that son established an expectancy by demonstrating that he was his parents' child and, consequently, a natural recipient of their bounty. [Morrill v. Morrill](#), 679 A.2d 519, 521, appeal after remand 712 A.2d 1039 (Me.1998).

Me.1995. Cit. in headnotes, quot. in ftn., com. (d) quot. in sup. An only child brought suit for tortious interference with an expected inheritance of his parents' homestead real estate, transferred inter vivos to a family friend, and with his expected inheritance of the balance of the father's estate. Trial court dismissed for lack of standing. This court vacated in part, holding, inter alia, that plaintiff had standing to bring an action for tortious interference with an expected inheritance, because the son could have brought this cause of action before his parents' death. Bringing his claim after their death did not change the nature

of the claim or the quantum of proof necessary to prevail, and it did not affect his standing to bring the claim. [Plimpton v. Gerrard](#), 668 A.2d 882, 883, 885, 886.

Md.

Md.1995. Quot. in disc., com. (a) cit. in disc. Testator's daughter, who was removed as a beneficiary from her father's will when he added his attorney, also his cousin, sued attorney/cousin for conversion and fraud. The trial court granted defendant's motion to dismiss on the ground that plaintiff failed to show that he made any misrepresentations to her. While the case was pending before the Court of Special Appeals, this court granted plaintiff's petition for certiorari, wherein she alleged tortious interference with inheritance and fraud in the procurement of a will. Affirming the dismissal, this court held that plaintiff could not sustain her case absent a showing of undue influence, the foundation of both claims. If she had exhausted her probate remedies and met her burden of proof, the court continued, it might have imposed a constructive trust on defendant's newly acquired property, but there was no evidence here that testator was highly susceptible to defendant's advances or that defendant was able to overwhelm his free agency. [Anderson v. Meadowcroft](#), 339 Md. 218, 661 A.2d 726, 728.

Md.Spec.App.

Md.Spec.App.1999. Cit. and quot. in disc., cit. in case cit. in disc. Testator's two daughters sued will proponent to set aside will and revocable trust, asserting claims of fraud, undue influence, and tortious interference with their expected inheritance. The trial court granted summary judgment for defendant. Reversing on other grounds and remanding, this court declined to recognize the tort of interference with expected inheritance under the circumstances of this case, in which the tortious-interference claim was duplicative of the independent claims based on fraud and undue influence, and was asserted for the sole purpose of obtaining damages, such as punitive damages, not available in equity. [Geduldig v. Posner](#), 129 Md.App. 490, 743 A.2d 247, 255, 256.

Mich.App.

Mich.App.1989. Cit. in sup. A daughter, together with her mother, sued her brother, alleging that he had unduly influenced the mother and, thereby, obtained real property and money from oil and gas leases. The defendant moved to dismiss, claiming that his mother did not wish to pursue the suit and that, therefore, his sister failed to state a cause of action. After the trial court granted the mother's motion to be dismissed as a party, it entered judgment on a jury verdict for the sister. Affirming, this court held, inter alia, that the sister had standing to bring her suit for interference with an expected inheritance. [Estate of Doyle v. Doyle](#), 177 Mich.App. 546, 442 N.W.2d 642, 643.

Mo.App.

Mo.App.2004. Cit. and quot. in sup., cit. in case cit. in sup., coms. (c) and (d) quot. in sup. Trustee bank brought declaratory-judgment suit, seeking determination as to construction and distribution of money from three trusts. Natural children cross-claimed against adoptees, seeking damages for tortious interference with their inheritance expectancy, and adoptees counter cross-claimed against natural children on same grounds. Trial court held that trusts' settlors intended to exclude adoptees from class of lineal descendants, and it found for natural children on cross-claims but awarded no damages. This court reversed in part and remanded, holding that natural children's failure to introduce evidence of damages at trial required reversal of judgment in their favor for failure to prove essential element of their cause of action. [Commerce Bank, N.A. v. Blasdel](#), 141 S.W.3d 434, 452, 453, 456, 457.

Mo.App.2000. Cit. in disc., cit. generally in disc. Grantor's niece sued grantee, seeking to set aside a conveyance of property as obtained by undue influence, or, alternatively, seeking damages for wrongful interference with expectancy of inheritance. A trial court granted the grantee summary judgment, and the appellate court affirmed. Niece brought second suit against grantee

for undue influence and wrongful interference with an expectancy of inheritance. Trial court dismissed niece's suit as frivolous and imposed sanctions against her. Affirming in part, this court held, inter alia, that trial court did not err in finding that sanctions were warranted, because the law concerning niece's claim of interference with expectancy of inheritance had already been settled in Missouri. Furthermore, plaintiff could not avoid sanctions simply by citing the general statement of law in the Restatement (Second) of Torts § 774B. [Brown v. Kirkham](#), 23 S.W.3d 880, 883, 885.

Mo.App.1990. Cit. and quot. in case quot. in disc. In a prior action, the sole heirs of a testatrix successfully contested the testatrix's purported will naming her attorney as the sole recipient of her estate. In the present action, the heirs sued the attorney for tortious interference with their inheritance rights. The trial court sustained the defendant's motion to dismiss the plaintiffs' petition for failure to state a claim. Affirming, this court held, inter alia, that the plaintiffs' petition to obtain costs and expenses in contesting the will and codicil as well as punitive damages for tortious interference with inheritance rights was properly dismissed by the trial court because the plaintiffs achieved the full relief afforded them in their successful will contest in which they were allowed to take under a prior will. [Smith v. Chatfield](#), 797 S.W.2d 508, 509.

Mo.App.1988. Cit. and quot. in sup. An elderly woman created revocable trusts for two beneficiaries. She later pledged the trusts as security for loans on behalf of a friend. The trust money was eventually used by the woman to purchase a car and to pay off the friend's debt. After the woman died, the named beneficiaries sued the woman's friend, alleging that he had exercised undue influence to cause her to revoke their trusts and that he diverted the trust funds to his own use. The trial court entered judgment on jury verdicts for the plaintiffs. Affirming, this court held, inter alia, that the beneficiary of a revocable written trust has a cause of action, at least after the death of the settlor, against a person who, by the exercise of undue influence induces a settlor to revoke the trust and thereby diverts all or part of the trust funds and prevents the beneficiary from receiving that which he would otherwise have received. Through its holding, the court rejected the defendant's contention that the two trusts created by the woman were revocable and that she revoked them, thus depriving the beneficiaries of their standing to sue. [Hammons v. Eisert](#), 745 S.W.2d 253, 257.

Mont.

Mont.1998. Cit. in disc. Testator's adopted daughter contested testator's will and sued the testator's nephew, as the estate's personal representative, alleging tortious-interference with her expectancy. Trial court dismissed the tortious-interference claim. This court affirmed, holding, inter alia, that the trial court did not err in ruling that this case was tried as a claim for undue influence. The court stated that it need not address whether tortious interference with an expectancy would be recognized as a cause of action in Montana. [Hauck v. Seright](#), 290 Mont. 309, 964 P.2d 749, 753.

N.J.Super.App.Div.

N.J.Super.App.Div.2007. Quot. in ftn. Approximately one year after decedent's will was admitted to probate and letters testamentary were issued to decedent's niece, decedent's brothers sued niece, claiming that they were denied their proper shares of decedent's estate as a result of niece's exercise of unspecified undue influence over decedent. The trial court granted summary judgment for defendant. This court affirmed. Noting that plaintiffs failed to challenge the will during the probate proceeding, the court held, as a matter of first impression, that, while New Jersey recognized an independent cause of action for tortious interference with an expected inheritance, such a claim was barred when, as here, plaintiffs failed to pursue their adequate remedy in probate proceedings of which they received timely notice. [Garruto v. Cannici](#), 397 N.J.Super. 231, 240, 936 A.2d 1015, 1021.

N.M.App.

N.M.App.2005. Cit. in case cit. in disc. Daughter sued siblings, alleging, inter alia, that siblings used their control and influence to convince mother to make inter vivos transfers of all of the assets of her estate to siblings and to remove daughter from

her will. The trial court granted summary judgment for defendants, on the basis that, under the state probate code, a probate proceeding on behalf of mother's estate was the only forum for attacking the validity of a testamentary instrument. Reversing and remanding for trial, this court ruled that plaintiff could pursue a civil action for the tort of intentional interference with expected inheritance, holding that where an estate had been depleted so that there could be no remedy in probate, proceeding in a civil action was appropriate. [Peralta v. Peralta](#), 139 N.M. 231, 131 P.3d 81, 82.

N.M.App.2002. Quot. in case quot. in disc., quot. in case quot. in spec. conc. op. Decedent's niece and nephew sued decedent's accountant for intentional interference with expected inheritance, alleging that accountant exercised undue influence in persuading decedent to execute a new testamentary plan establishing trust to fund Alzheimer's wing at nursing home. Trial court denied defendants' motion for summary judgment. The court of appeals reversed and remanded, holding that prior probate interpleader settlement provided plaintiffs with adequate relief, precluding their bringing a separate action for tortious interference with expected inheritance. Specifically concurring judge maintained that tort remedy should be reserved for circumstances where traditional equity or probate-related claims were inadequate. [Wilson v. Fritschy](#), 132 N.M. 785, 55 P.3d 997, 1000, 1008-1009.

N.M.App.1994. Quot. in part in sup., com. (c) quot. in part in sup. A daughter sued her brother, alleging that he had tortiously interfered with her prospective inheritance from their mother through undue influence. Affirming in part and reversing in part the trial court's entry of judgment for the daughter, this court held that the son had tortiously interfered by using undue influence to get his ailing mother to change ownership of certificates of deposit and savings accounts to exclude the daughter but he had not done so in connection with the mother's earlier conveyance of her house to him. There was testimony, said the court, that the decedent had stated in her lifetime that she wanted her children to share in her estate equally and had previously made inter vivos gifts to both children in nearly identical amounts, so that the daughter's expectancy of inheritance was established. [Doughty v. Morris](#), 117 N.M. 284, 871 P.2d 380, 383, 384, 387.

N.Y.

N.Y.1996. Cit. in headnotes, cit. in sup. Plaintiff, who had been designated a remainder beneficiary under an amendment to a revocable trust but who had been removed as beneficiary under a subsequent amendment executed by the settlor, sued the settlor's trustee, her attorneys, and one of the remainder beneficiaries for allegedly depriving her of her remainder interest in the trust, asserting, in part, a cause of action for tortious interference with prospective inheritance. The trial court dismissed the complaint, and the appellate division affirmed. Affirming, this court held that New York did not recognize a right of action for tortious interference with prospective inheritance and that, in any event, plaintiff failed to plead that the alleged interference was accomplished by some type of independently tortious conduct. [Vogt v. Witmeyer](#), 87 N.Y.2d 998, 999, 642 N.Y.S.2d 619, 619, 620, 665 N.E.2d 189, 189, 190.

N.Y.Surr.Ct.

N.Y.Surr.Ct.1992. Quot. in disc., com. (d) quot. in disc. Daughter raised a claim against her mother's estate in a probate action, alleging that her mother's fraudulent concealment of her father's identity deprived her of the opportunity to establish paternity during her father's lifetime and denied her any inheritance in intestacy. The court granted the estate's motion for summary judgment, holding that claimant's allegations presented nothing more than a bare possibility insufficient to support a cause of action for tortious interference with the right of inheritance. [Matter of Will of Young](#), 156 Misc.2d 301, 592 N.Y.S.2d 905, 907, affirmed 619 N.Y.S.2d 678, 209 A.D.2d 706 (N.Y.1994).

Ohio

Ohio, 1993. Quot. in sup., com. (d) cit. in sup. A federal court of appeals, hearing an appeal by grandchildren who were asserting RICO and Ohio tort law claims as beneficiaries of an inter vivos trust created by their grandmother, certified questions to the

Ohio Supreme Court. This court held that Ohio recognized the tort of intentional interference with expectancy of an inheritance and any person who could prove the elements of that tort could maintain a cause of action. These elements were identified as: (1) an existence of an expectancy of inheritance in plaintiff; (2) an intentional interference by defendant with that expectancy; (3) conduct by defendant involving the interference which is tortious, such as fraud, duress, or undue influence, in nature; (4) a reasonable certainty that the expectancy of inheritance would have been realized, but for defendant's interference; and (5) damage resulting from the interference. [Firestone v. Galbreath](#), 67 Ohio St.3d 87, 88, 616 N.E.2d 202, 203.

Ohio App.

Ohio App.2014. Cit. but dist. (erron. cit. as § 774(B)). Judgment creditor sued corporate judgment debtor's owner and owner's advisor, alleging that defendants tortiously interfered with plaintiff's business expectancy by, among other things, causing debtor to file for bankruptcy protection in order to prevent plaintiff from collecting on the judgment. The trial court granted defendants' motion to dismiss. Affirming, this court held that a cause of action for tortious interference with a business expectancy did not include tortious interference with the collection of a judgment. The court noted that, while the Restatement Second of Torts recognized causes of action for interference with an inheritance and for interference with a current or future contract or business relationship, it did not acknowledge a cause of action for interference with the collection of a judgment. [Coventry Group, Inc. v. Gottlieb](#), 2014-Ohio-213, 7 N.E.3d 611, 614.

Ohio Com. Pl.

Ohio Com. Pl.1997. Cit. and quot. in sup., cit. in headnote, com. (d) cit. and quot. in sup. (Some cites were erroneously cited as § 744B.) Universities sued settlor's attorney for tortious interference with an expected gift, alleging that defendant exercised undue influence over settlor. This court dismissed plaintiffs' tortious-interference claims, holding, inter alia, that because an amendment to the trust agreement was invalid, plaintiffs had suffered no actual loss of their gifts. Therefore, defendant was not liable under plaintiffs' tortious-interference claims. [Lourdes College of Sylvania, Ohio v. Bishop](#), 94 Ohio Misc.2d 51, 703 N.E.2d 362, 363, 370-371.

Or.

Or.1999. Cit. in disc., cit. in ftn. United States District Court for the District of Oregon certified to this court the question whether Oregon recognized a cause of action for intentional interference with prospective inheritance. Answering the question in the affirmative, the court held, in part, that the tort of intentional interference with prospective inheritance was an extension of the tort of intentional interference with prospective economic relations. [Allen v. Hall](#), 328 Or. 276, 974 P.2d 199, 205.

Or.App.

Or.App.2000. Com. (a) quot. in disc. Estate of passenger killed in a car accident sued insurers, seeking uninsured and underinsured coverage for passenger's death. Trial court granted defendants summary judgment, and appellate court affirmed. On remand from the supreme court, this court affirmed, holding, inter alia, that the trial court did not err in dismissing plaintiff's claim for intentional interference with an economic relationship. Plaintiff had alleged that, by misappropriating tortfeasor's insurance coverage, defendants caused plaintiff to settle with tortfeasor, thus interfering with plaintiff's "economic advantages and relations" contained in the lawsuit; the court held, however, that a civil lawsuit was not a business relationship or expectancy for purposes of the tort of intentional interference with economic relations. [Fox v. Country Mutual Insurance Co.](#), 169 Or.App. 54, 7 P.3d 677, 690.

Pa.

Pa.1971. Cit. in ftn. in sup. (T.D. No. 14, 1969). Plaintiff real estate brokers sued defendant college after the college bought a hotel from an owner without having the plaintiff as its agent, even though plaintiff had advised the college that the hotel was for sale. The lower court dismissed the complaint. On appeal, the court held that since the complaint did not assert that the college maliciously intended to deprive the brokers of their commission, the actions of the defendant were privileged and not actionable. The court, however, gave leave to the plaintiff to amend its complaint in regard to the intent of the defendant. [Glenn v. Point Park College](#), 441 Pa. 474, 272 A.2d 895, 899.

Pa.Super.

Pa.Super.2004. Cit. in sup.; cit. and quot. in sup., coms. (a) and (b) cit. in sup. (erron. cit. as § 744B). Decedent's estate sued to recoup from defendant banks financial losses sustained by decedent at the hands of his daughter, alleging conversion. Decedent's son also sought to recover individually on claims of wrongful interference with testamentary expectancies and the right to inherit under Restatement Second of Torts § 774B, citing banks' collective failure to prevent daughter's conduct. Trial court granted defendants summary judgment. This court affirmed, holding, inter alia, that trial court did not err in granting defendants' demurrers to son's individual claim of wrongful interference with testamentary expectancies. Son offered no discussion of intentional conduct ascribed to banks that might satisfy Restatement criteria, and facts alleged suggested mere negligence. [Hollywood v. First Nat. Bank of Palmerton](#), 859 A.2d 472, 474, 476-478.

Pa.Super.2002. Cit. in ftn. Testator's son sued other beneficiaries under will for intentional interference with testamentary expectancy, alleging that defendants interfered with testator's intention to change her will to give plaintiff a share of her estate and marital trust equal to that of his siblings. Affirming the trial court's dismissal of the complaint, this court held, inter alia, that the conditional statement allegedly made by testator that, if her relationship with plaintiff improved, she would adjust her will to leave him an equal share was not a sufficient statement of intent to support a valid expectancy on the part of plaintiff, and thus plaintiff failed to allege sufficiently testator's intent to change her will in his favor. [McNeil v. Jordan](#), 814 A.2d 234, 239.

Pa.Super.2001. Cit. and quot. in disc., adopted in cases cit. in disc. (Erron. cit. as § 744B.) Legatees sued executor of decedent's estate, alleging that defendant's failure to have drawn up as a will certain handwritten documents left by decedent denied them inheritance money and personal property. The trial court dismissed. Reversing in part, this court held, inter alia, that plaintiffs stated a claim for intentional interference with an inheritance, since their factual allegations supported the claim that decedent indicated an intent to change her will to provide a described benefit for plaintiffs. [Cardenas v. Schober](#), 783 A.2d 317, 325.

S.C.

S.C.2001. Cit. in ftn. Allegedly illegitimate child brought claim for conspiracy and intentional interference with inheritance rights against attorneys who represented alleged biological father's estate in wrongful-death action. Trial court dismissed, and appellate court affirmed. Affirming, this court held as a matter of law that attorneys representing estate in wrongful-death action had no independent duty to third parties. The court noted that the tort of intentional interference with inheritance was analogous to the tort of intentional interference with contractual relations, which it had adopted. [Douglass ex rel. Louthian v. Boyce](#), 344 S.C. 5, 10, 542 S.E.2d 715, 717.

Tenn.App.

Tenn.App.2000. Quot. in disc., com. (c) cit. in ftn. After death of life tenant who sold the family farm, the remaindermen named in life tenant's husband's will sued life tenant's estate, the executrix, and the beneficiaries named in life tenant's will, asserting that executrix tortiously interfered with their inheritance from life tenant's husband. Trial court, among other orders, dismissed the intentional-interference-with-inheritance claim. This court affirmed in part, holding, inter alia, that plaintiff did not prove the elements of the claim, because executrix engaged in no independently wrongful conduct that caused life tenant to terminate the remaindermen's interest, did not unduly influence life tenant to sell the farm, and did not know of the pertinent provisions in

husband's will or of their legal ramifications. The court did not decide whether Tennessee should adopt this tort. [Fell v. Rambo](#), 36 S.W.3d 837, 849, appeal after remand 2001 WL 585104 (Tenn.App.2001).

Tex.App.

Tex.App.2013. Quot. in case quot. in sup. After decedent's former guardian contested decedent's son's application to probate decedent's will, son counterclaimed for, among other things, tortious interference with his inheritance rights. The trial court granted summary judgment for guardian on son's counterclaim. Affirming, this court held that son failed to raise a genuine issue of material fact as to whether guardian's act of filing a will contest constituted tortious conduct. While son alleged that guardian failed to show that he was a confirmed creditor of decedent's estate and therefore lacked standing to file a will contest, the language of the Texas Probate Code was clear that the filing or contesting in probate court of any pleading relating to a decedent's estate did not constitute tortious interference with inheritance of the estate; thus, guardian's mere filing of a will contest in accordance with her statutory right did not constitute tortious interference with son's inheritance. [In re Estate of Valdez](#), 406 S.W.3d 228, 233, 234.

Tex.App.2010. Quot. in case quot. in sup. Three of decedent's granddaughters filed a will contest alleging, among other things, malicious tortious interference with inheritance by their uncle (decedent's son). The trial court entered judgment on a jury verdict finding that uncle tortiously interfered with granddaughters' inheritance. Affirming, this court held that the evidence was sufficient to enable a reasonable and fair-minded jury to conclude that there was an intended inheritance and that uncle tortiously interfered with it; granddaughters alleged that uncle, in concert with an attorney, established a history of interfering with family inheritances that inured to uncle's benefit at the expense of his sister (granddaughters' mother), and the conflicting and contradictory testimony between uncle and attorney created a reasonable expectation that the jurors would discredit testimony of one or the other. [In re Estate of Russell](#), 311 S.W.3d 528, 535.

Tex.App.2009. Quot. in case quot. in sup. After son filed an application to probate his deceased mother's latest will, another son filed a contest and sued his brother for tortious interference with inheritance rights, inter alia, alleging that the will was the result of undue influence, duress, and fraud. The trial court entered a no-evidence summary judgment against will contestant, and admitted decedent's latest will to probate. Affirming, this court held that the trial court correctly entered judgment against contestant on his claim of tortious interference with inheritance rights. The court concluded that contestant offered no summary-judgment evidence of any damages, because he failed to present more than a scintilla of evidence proving what inheritance or gift he did not receive from decedent as a result of will proponent's alleged tortious conduct. [Urbanczyk v. Urbanczyk](#), 278 S.W.3d 829, 835.

Tex.App.2006. Cit. in case cit. but dist. Heirs under a will that had previously been admitted to probate as a muniment of title sued their fellow heir who had been named independent executor, seeking, among other things, to set aside the will and recover damages for interference with their inheritance rights. After a jury trial, the trial court instructed a verdict against plaintiffs. This court affirmed, holding, inter alia, that plaintiffs' claim of tortious interference with inheritance rights failed because there was no evidence that defendant interfered with anyone's right to receive anything under the will, much less intentionally tried to prevent any particular plaintiff from receiving any specific devise or bequest in the will. [In re Estate of Kuykendall](#), 206 S.W.3d 766, 771.

Tex.App.1998. Quot. in disc. A testator's sister and the sister's three children sued a university for tortious interference with their inheritance rights, among other claims. The trial court granted the university summary judgment. This court affirmed, holding, inter alia, that defendant had disproved at least one of the essential elements of plaintiffs' claim of interference with inheritance rights by proving plaintiffs had no right of expectancy from the testator's will, because by the terms of that will, he did not leave them the municipal bonds. Had the testator not transferred the bonds to the university prior to his death, the university would have received them as intangible property under the will. The sister's children were not named in the will and would have no claim to the estate. [Brandes v. Rice Trust, Inc.](#), 966 S.W.2d 144, 147.

Tex.App.1987. Quot. in sup. A man's children sued the man's second wife, her attorney, and two witnesses for tortious interference with the children's inheritance. This court affirmed a judgment in favor of the children, but reformed the judgment by reducing the damages awarded. The court held that a cause of action for tortious interference with inheritance rights exists in Texas, concluding that one who by fraud or other tortious means intentionally prevents another from receiving from a third person an inheritance is subject to liability to the other for loss of the inheritance, that this rule applies when a will is forged, and that recoverable damages include pecuniary and consequential losses and losses for emotional distress. [King v. Acker](#), 725 S.W.2d 750, 754.

Wash.App.

Wash.App.2014. Cit. in disc. Employee of a subcontractor on a construction project brought a claim for intentional interference with a business relationship against prime contractor and two of its employees, after his subcontractor, acting on defendants' request, removed him from the project and reassigned him with no loss in pay. The trial court granted summary judgment for defendants. Affirming, this court held that plaintiff could not recover damages for emotional harm or speculative reputational harm in the absence of any proof of pecuniary loss. In making its decision, the court noted that, in some states, a similar tort had been recognized for tortious interference with noncommercial activities, including interference with gift or inheritance, but that each of these noncommercial activities involved some element of measurable pecuniary value. [Tamosaitis v. Bechtel Nat., Inc.](#), 327 P.3d 1309, 1314.

Wash.App.2013. Cit. in sup., com. (a) quot. in sup. Insurer brought suit for a declaratory judgment that, pursuant to an insurance policy that excluded coverage for intentional injuries, it had no duty to defend or indemnify insureds against various intentional-tort claims in an underlying case brought against them by family members. The trial court granted summary judgment for insurer. Affirming, this court held, inter alia, that the trial court correctly concluded that insurer had no duty to defend insureds with respect to a claim of tortious interference with expected inheritance in the underlying action. The court noted that, while no Washington case had adopted that tort, other jurisdictions that had adopted it had uniformly held that it was equivalent to tortious interference with an economic relationship, which required intentional interference. [Grange Ins. Ass'n v. Roberts](#), 320 P.3d 77, 90.

Wis.

Wis.1995. Cit. in case cit. in disc. A nonprofit corporation sued other nonprofit corporations, alleging that defendants had wrongfully interfered with an inheritance plaintiff expected from a decedent. Trial court concluded plaintiff lacked standing because its interest was too remote. Intermediate appellate court reversed. This court denied defendants' petition for review, holding that the issue of whether Wisconsin had adopted § 774B of the Restatement, Second, of Torts in a prior case would be better addressed following full factual development of the record in the trial court. [Southern Cross, Inc. v. John](#), 193 Wis.2d 644, 533 N.W.2d 188, 189.

Wis.App.

Wis.App.1992. Cit. in headnote, quot. in sup. and adopted, com. (d) quot. in ftn. A testator's will left nothing to his long-time cohabitant even though he had repeatedly promised her a large legacy in exchange for sexual relations. The testator's cohabitant sued the testator's son for wrongful interference with an expected inheritance, alleging that his intentional and malicious conduct influenced the testator to leave his cohabitant nothing in his will. The trial court dismissed the cohabitant's complaint. Affirming, this court held that, although a cause of action for intentional interference with inheritance did exist, the plaintiff's complaint had alleged no facts which supported the element of a reasonable expectancy of a legacy. The court noted that the plaintiff's services or consideration for the decedent's promise to leave her a legacy were merely meretricious, since the plaintiff's complaint failed to allege services independent of the sexual relationship or that the plaintiff's services enhanced the decedent's estate. [Harris v. Kritzik](#), 166 Wis.2d 689, 480 N.W.2d 514, 515, 517.

Wis.App.1991. Cit. and quot. in sup. A mentally incompetent woman was not referred to in her father's will, which left her father's attorney as the primary beneficiary. The woman's guardian sued the attorney, his law firm/service corporation, and attorney-shareholders in the corporation, alleging that the attorney falsely testified that the decedent was not survived by a child, denying the woman the opportunity to challenge the will. The trial court dismissed the claims. Reversing in part and remanding, this court held, inter alia, the woman's claim against her father's attorney stated a cause of action for intentional tort, and the defendants did not establish a prima facie defense to the claim. The court found that the attorney's intentional misrepresentation to the probate court regarding heirship was not absolutely privileged as a statement made during a judicial proceeding, and affidavits by a physician that the attorney presently suffered from dementia, failed to establish that when he testified, he did not know that the woman survived her father. [Anderson v. McBurney by Stebnitz](#), 160 Wis.2d 866, 467 N.W.2d 158, 161-162, review denied 473 N.W.2d 503 (Wis.1991).

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